A Commentary on Zād al-Mustaqni'

Imām al-Hajjāwi's (d.968 H.) Classical Guide to the Hanbali Madhab



Shaykh Ṣāliḥ ibn Fawzān al-Fawzān

ب اتا

"The house of al-Arqam is the house of Islam" Al-Hakim (d. 403 H.) in *al-Mustadrak Ala al-Sahihayn* (6185)

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A Commentary on Zād al-Mustaqni'

By Shaykh Sālih ibn Fawzān

[A translation of the first two volumes of his work: Sharh al-Mukhtasar 'alā Matn Zād al-Mustaqni'. A commentary on the classical guide to the Hanbalī madhab by Imām Mūsā al-Hajjāwī. Included herein is the Book of Worship, the Book of Jihād and the Book of Food.]

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Volume two

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يصحُّ اقتداءُ المأموم بالإمام في المسجدِ وإنْ لم يَرَهُ ولا مَنْ وراءَه إذا سمعَ التكبيرَ، وكذا من خارجَه إن رأى الإمامَ أو المأمومين إذا اتّصلتْ الصفوفُ

It is valid for the *ma'mūm* to follow the *imām* within the *masjid* even when the former does not see the latter or those behind him, as long as they can hear his *takbīr*. This also applies to those who are outside the *masjid* provided that they can see the *imām* or some of the *ma'mūm* and the rows are connected.

"Section": This section elaborates the laws pertaining to the following of the *imām* by the *ma'mūm*. In what circumstance is it valid and in what circumstances is it not?

"The ma'mum following the imam is valid": If the ma'mum is inside the masjid.

"Even when the former does not see the latter or those behind him, as long as they can hear his *takbīr*": This is because they are all inside the *masjid*. The Companions used to pray behind the Prophet $\frac{1}{2}$ and they could not see him as there was a mat erected behind him. The Prophet $\frac{1}{2}$ used to pray night prayers in a sheltered structure. The Companions used to come and pray behind him though they could not see through the mat shelter.¹ This proves that if there

¹ Reported by al-Bukhārī (1/186), (8/34) and Muslim (2/188) narrated by Zayd ibn Thābit, who said that the Prophet 🕱 made a structure by using the leaves of date trees or of mats. The Messenger of Allah 🕱 went out to pray in it. People followed him and came to pray with him. Then they again came one night and waited (for him), but the Messenger of Allah 🕱 delayed in

is a barrier between the *imām* and the *ma'mūm* within the *masjid*, then it is inconsequential.

"This also applies to those who are outside the *masjid* provided that they can see the *imām* or some of the *ma'mūm*": If the *ma'mūm* is outside the *masjid* due to it being filled up, then his following the *imām* becomes invalid without two conditions: Firstly, he should be able to see the *imām* or those praying behind the *imām* (i.e. those who can see him). Secondly, the rows must be linked [without gaps in between]. This is because following the *imām* would be an impossible task if he can neither see the *imām* or those praying behind him.

وتصحُّ خلفَ إمام عالٍ عنهم

متن

It is valid if the *imām* prays on an elevated ground while the *ma'mūm* is not.

"It is valid if the *imām* prays on an elevated ground while the *ma'mūm* is not": If the *imām* stands to pray on a higher ground than those following him in the prayer, then there are two scenarios:

First scenario: There is at least one *ma'mūm* praying alongside the *imām* on the higher ground. It is permissible in this scenario, even when the elevation is great. It is as if the *imām* and some *ma'mūm* are praying on a higher floor while the rest of those following the prayer are on the lower floor.

Second scenario: If there is not even a single $ma'm\bar{u}m$ praying alongside the $im\bar{a}m$ on the higher ground, then a slight elevation – not more than an upper arm's length like the height of a bench, a step of the *minbar* (pulpit) or some such tool – is pardoned. The Prophet $\frac{1}{26}$ prayed with his Companions while he was on top of the pulpit. He went up and down.²

مَنَ وَيُكَرَهُ إذا كَانَ العلقُ ذراعاً فأكْثَرَ كإمامتِه في الطَّاقِ، وتطوُّعِه موضعَ المكتوبةِ إلا مِنْ

coming out to them. And when he did not come out, they raised their voices and threw pebbles at the door. The Messenger of Allah ﷺ came out in anger and said to them, "By what you have been constantly doing, I was inclined to think that it (prayer) might become obligatory for you. So you must observe prayer (optional) in your houses, for the prayer observed by a man in the house is better, except an obligatory prayer."

2 Reported by al-Bukhārī (1/105-106), (2/11) and Muslim (2/74) from the narration of Ibn Sa'd.

حاجةٍ، وإطالةُ قُعودِه بعد السَّلام مستقبلَ القِبْلَةِ

It is disliked if the elevation is more than the length of a *dhirā'a*³ like the *imām* leading the prayer from the chamber. The Sunnah prayers prayed at the same position as the obligatory prayers unless there is a necessity. To prolong sitting facing the *qiblah* after saying the *taslīm*.

This is the explanation of the disliked acts which the *imām* should not do. They are:

First: "It is disliked if the elevation is more than the length of a *dhirā'a*": The act of being on a higher ground that is more than the length of a *dhirā'a* above the *ma'mūm*. The Prophet \approx said, "If a man leads the prayer, let him not stand on a higher ground than those following him."⁴ Meaning higher than the length of a *dhirā'a*, which can be concluded by looking at the *ahadīth* pertaining to this issue.

Second: "Like the *imām* leading the prayer from the chamber": Similarly, leading the prayer from the *mihrāb* (chamber) is also disliked. When the *imām* enters the *mihrāb*, some of the followers will not be able to see him. The *imām* is to be followed, hence he should pray outside the *mihrāb* so that the followers are able to see him.

The *mihrāb* was included as a feature of the *masjid* by earlier generations because it indicated the *qiblah*. There is no harm including it in the *masjid*. Some students of knowledge are opposed to including it as a feature in the *masjid*. They claim that it is an innovation and they oppose the building of minarets too. They claim that the minarets are an innovation. However this is not the case because there are advantages in including these two features in the *masjid*. Moreover, there is no prohibition in including these features. Without these features, the *masjid* would not be distinguished from the houses or the wine stores.

They adopted these features for reasons that are now apparent to our eyes. These efforts of our fore-bearers from the Muslims should not be opposed. The features came with advantages aided by non-prohibition.

³ Dhirā'a in Arabic is from the elbow to the tip of the middle finger. See al-Lisān (8/92).

⁴ Reported by Abu Dawūd (598) from the narration of Hudayfah.

Third: "The Sunnah prayers prayed at the same place as the obligatory prayers": It is disliked for the *imām* to pray his Sunnah prayers at the same place that he performs his obligatory prayers. If he does so, people might think that the obligatory prayer has not ended. He who came late for the prayer will be confused. The Prophet $\frac{1}{26}$ said, "Let not the *imām* pray at the spot where he performs his obligatory prayer until he leaves there."⁵

"Unless there is a necessity": Unless the *imām* has no choice but to perform his Sunnah prayers on the very spot he prayed the obligatory one. In this case, it is not disliked. For example, when a *masjid* is overcrowded, he may pray at the spot where he prayed the obligatory prayers. It must be pointed out that acts that are disliked are not deemed to be so if there is a necessity.

Fourth: "To prolong sitting facing the *qiblah* after saying the *taslīm*": It is disliked to keep facing the *qiblah* after the *taslīm* for the obligatory prayer and not face the *ma'mūm* instead. Doing so is against the Sunnah. The Prophet $\frac{1}{2}$ used to make the *taslīm* and then seek forgiveness of Allah thrice. He would continue with the supplication, "*Allahumma anta al-salām, wa minka al-salām, tabārakta ya dhal jalali wal ikrām.*" (O Allah you are al-Salām and from you is *salām*, exalted are you, possessor of majesty and honour.)⁶ He would read this whilst facing the *qiblah* and then he would turn around to face the Muslims or he would stand up and leave.

من فإنْ كان ثَمَّ نساءٌ لبِثَ قليلاً لِينْصر فْنَ، ويُكرَهُ وقوفُهم بين السَّواري إذا قَطَعْنَ الصُّفوف

If he has the intention to leave, let him hold back until the women leave. It is disliked for the *ma'mūm* to make a row where the pillars are such that the rows are disjointed.

"If he has the intention to leave, let him hold back until the women leave": If the *imām* has a habit of leaving immediately after the prayer or he has an important errand, it is permissible for him to do so. However, if there are women in the congregation, he should stay back until they leave. This will also allow him to check on the other men to prevent a mixing of men and women while leaving. The mixing of both genders only gives rise to *fitnah*.

⁵ Reported by Abu Dawūd (616) and Ibn Mājah (1428) from the narration of al-Mughīrah ibn Shu'bah.

⁶ Reported by Muslim (2/94) from the narration of Thawbān.

"It is disliked for the *ma'mūm* to make a row where the pillars are such that the rows are disjointed": The objective is to form rows that are joint and not form rows that have gaps in between them. The exception to this rule may arise due to over-crowding in the *masjid*. If there is no place available, then the *ma'mūm* may form a row that flanks the pillars.



ويُعْذَرُ لتَرْكِ مُجْمَعةٍ أو جماعةٍ مريضٌ

متن

He who is ill is excused from attending Friday prayer and the congregational prayers.

"Section": This section elaborates upon the factors which excuse one from attending the Friday prayer and congregational prayers. The $d\bar{i}n$ is easy, all praise be to Allah. He says: {**He has chosen you and has not placed upon you in the religion any difficulty.**}⁷

We have discussed that congregational prayer is mandatory. It is impermissible for a man to neglect praying in a congregation unless he has an excuse that is in accordance to Islamic legislation. It is not his prerogative to choose to pray in congregation or to do so at home.

To pray in congregation is an individual obligation unless he has a valid excuse recognised by Islam which prevents him from going to the *masjid*. Allah says: {He has chosen you and has not placed upon you in the religion any difficulty.}

These excuses are:

First: "He who is ill": One who has an illness which prevents him from attending the congregational prayer or the Friday prayer. Hence, he is pardoned

7 Al-Hajj: 78

and allowed to pray at his home. The evidence for this is the saying of the Prophet \underline{m} : "There is no prayer for he who hears the call [to prayer] and does not respond to it except if he has an excuse." He was asked: "What is this excuse?" The Prophet \underline{m} replied, "Fear or illness."⁸

When the Prophet $\frac{1}{2}$ was taken ill, he ordered Abu Bakr $\frac{1}{2}$ to lead the prayers.⁹ The Prophet $\frac{1}{2}$ lay bedridden in his house due to the injuries sustained when he fell off his horse.¹⁰ This is the proof that illness is an excuse for missing the Friday prayer and congregational prayers.

ومُدافعٌ أَحَدَ الأَخْبِثَيْن، ومَنْ بحضرةِ طعامٍ محتاج إليه، وخائفٌ من ضياعِ مالِهِ أو فَواتهِ أو ضَررٍ فيه متن

He who has an urgent need to urinate or defecate, he who is served food and has a need for it and he who fears that his wealth will be lost, pilfered or damaged.

Second: "He who has an urgent need to urinate or defecate": If one has an urgent need to answer the call of nature, it is a valid excuse for him to miss the congregational prayers and Friday prayer for he will not be able to concentrate on his prayer while in this state. He should use the toilet, make ablution and then join in the congregational prayer with the rest. If it has concluded, then he is excused for the Prophet \cong said, "There is no prayer for whom food has been served and those who have an urgent need to relieve themselves of the two impurities."¹¹

Third: "He who is served food and has a need for it": When he is served food while he is hungry or he is longing for food, then he should satisfy his need. This is because going for the prayer in this condition would be futile for he will be thinking about food during the prayer. One is required to attend the prayer while his mind is free of any preoccupation. Only then can he concentrate on his prayer and be involved spiritually in it. The Prophet \cong said, "There is

⁸ Reported by Abu Dawūd (551) and Ibn Mājah (793) from the narration of Ibn 'Abbās.

⁹ Reported by al-Bukhārī (1/169, 182-183) and Muslim (2/22-23) from the narration of 'Aishah.

¹⁰ Reported by al-Bukhārī (1/177, 186-187, 203) and Muslim (2/18) from the narration of Anas ibn Mālik.

¹¹ Reported by Muslim (2/78-79) from the narration of 'Aishah.

no prayer for whom food has been served." And he \approx said, "When dinner is served, begin with it."¹² I.e. eat it without delay.

Four: "And he who fears that his wealth will be lost, pilfered or damaged": If he fears that his wealth will be lost, stolen or there is imminent peril, then he should safeguard it. Muslims are commanded to preserve our wealth and not let it go to waste.

One who fears that his relative will perish, one who fears that he may be harmed or fears the *sultān*, one who is chased by his debtor when he has nothing to give, one who fears losing a travel companion, one who is very sleepy, one who may be harmed by rain, mud and very cold wind on a moonless night.

Five: "One who fears that his relative will perish": Due to an illness and there is no one else to care for the ailing person except him. Since the sick relative needs him, he is excused from the congregational prayers and can perform it where he is tending to the ill person.

Six: "One who fears that he may be harmed": He fears that he will be harmed if he goes to the *masjid*. If it rains and he and his clothes get soaked, he might fall ill. Hence, he may pray at his home so as to avoid the harm.

Seven: "Or fears the *sultān*": He fears that the *sultān* will harm him if he were to be seen. He may pray at his home. The Prophet \cong said, "One should not harm or be harmed."¹³ Also Allah says: **{And has not placed upon you in the religion any difficulty.}**¹⁴

Eight: "One who is chased by his debtor when he has nothing to give": If

¹² Reported by al-Bukhārī (1/171), (7/107) and Muslim (2/78) from the narration of Anas ibn Mālik and 'Aishah.

¹³ Reported by Ahmad (1/313) and Ibn Mājah (2341) from the narration of Ibn 'Abbās.

¹⁴ Al-Hajj: 78

he has debts that are unpaid and he is in dire straits, then he may pray at his home. Especially if his debtors are hounding him for the payment. This is a valid excuse to miss congregational prayers. However, if he has the means to repay the debt, then he is a procrastinator who no longer has a valid excuse to miss the prayers at the *masjid*.

Nine: "One who fears losing a travel companion": If by going to the *masjid* a person may be left behind by a travel companion, then it is permissible for him to pray wherever he is and not lose that companion. It is not permissible for a Muslim to travel alone.

Ten: "One who is very sleepy": If he is overcome by sleep, then he may pray at his home and then go to sleep since it will be futile for him to attend prayers at the *masjid* while he is sleepy. Not only will it be difficult for him, he will not be able to concentrate on the prayer as well.

Eleven: If it rains and he fears that he might fall ill if he gets wet by it, then he may pray at his home to avoid this.

Twelve: "One who may be harmed by rain": If he has fear due to extremely cold weather, then it is a valid excuse for him to pray at his home. The cold weather might be harmful to his health and it is also a difficult task attending prayer at the *masjid* during a cold period.

The proof for the last two excuses is that the Prophet $\frac{1}{20}$ used to order the caller of prayer to say on a cold or rainy night, "Pray O people, in your dwellings."¹⁵ Ibn 'Abbās $\frac{1}{20}$ used to do this and he was refuted as a result. He said, "One better than me did this (referring to the Messenger of Allah $\frac{1}{20}$). And I dislike ordering you to come out and expose you to the slippery surface and dirt."¹⁶

<u>Thirteen</u>: "Mud": That is, muddy ground between him and the *masjid* which he must cross over. In this case, he may pray at his home based on the narration by Ibn 'Abbās.

Fourteen: "And very cold wind on a moonless night": If this cold wind is harmful to him if he leaves for the *masjid*, then it is a valid excuse for him to

¹⁵ Reported by al-Bukhārī (1/163) and Muslim (2/147) from the narration of Ibn 'Umar. 16 Reported by al-Bukhārī (1/160) and Muslim (2/148).

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pray at his home.

باب صلاة أهل الأعذار CHAPTER: PRAYER OF THOSE WITH EXCUSES

تَلزمُ المريضَ الصلاةُ قائماً، فإن لم يستطعْ فقاعداً، فإن عَجزَ فعلى جَنْبِه، فإن صلَّى مُستلقياً من ورجُلاه إلى القِبْلةِ صَحَّ

A sick person is obliged to pray standing up. If he is unable to do so, he may sit down and pray. If he is unable to even do that, he may pray on his side. If he lies down, then his feet should face the *qiblab*.

"Chapter: Prayer of those with excuses": Prayer is the second commandment of Islam. It is the foundation of Islam and the first thing to be questioned about on the Day of Judgement. So long as a Muslim is sane, then it is obligatory upon him or her to perform the obligatory prayers. It is not excused for any reason whatsoever. A person should pray it according to his ability. Allah says: **{So fear Allah as much as you are able.}**¹⁷ Those who have a valid excuse, should pray to the best of their ability.

There are three types of people with valid excuses: The sick, the traveller and those who are afraid.

<u>First</u>: The sick and it is said above, "A sick person is obliged to pray standing up." This is if he is able to stand. The evidence for this is the ayah: **{Stand before Allah, devoutly obedient.**}¹⁸

Standing whilst praying the obligatory prayers is a pillar (rukn). The prayer is

¹⁷ Al-Taghābun: 16

¹⁸ Al-Baqarah: 238

invalid if one does not do so while having the capacity to stand.

"If he is unable to do so, he may sit down and pray": He may sit down to pray only because he is incapable of standing.

"If he is unable to even do that, he may pray on his side": Preferably on the right side while facing the *qiblab*. He gestures with his head to indicate bowing and prostration, and the prostration is distinguished by bending the head lower when compared to the bowing.

"If he lies down, then his feet should face the *qiblab*": This is based on another version of the hadīth that states, "A sick person is obliged to pray standing up. If he is unable to do so, he may sit down and pray. If he is unable to even that, he may pray on his side,"¹⁹ where the following was added, "If he lies down, then his feet should point to the *qiblab*."²⁰

He gestures to indicate bowing and prostration where he bends his head lower to indicate prostration. If he is unable to gesture, then he blinks his eye to indicate both movements. If he gains or loses the ability to gesture in either way while praying, he adopts the method appropriate for his current condition.

"He gestures to indicate bowing and prostration where he bends his head lower to indicate prostration": He bends his head to indicate bowing and says, "Subhāna rabī al-azīm" (glory be to my Lord, the Most Exalted). He then bends his head to indicate prostration and says, "Subhāna rabī al-a'lā" (glory be to my Lord, the Most High). He bends his head lower for prostration than for bowing. Allah says: **{So fear Allah as much as you are able.}**²¹

"If he is unable to gesture, then he blinks his eye": If he is unable to gesture

21 Al-Taghābun: 16

¹⁹ Reported by al-Bukhārī (2/60) from the narration of 'Imrān ibn Hussain.

²⁰ Reported by al-Dāraqutnī in *al-Sunan* (2/42-43) and al-Bayhaqī in *al-Sunan al-Kubrā*' (2/307-308) from the narration of 'Alī ibn Abu Tālib.

with his head, then he should gesture with the eyes. However, the correct view is that he should not gesture with the eyes.²² There is no evidence for this action. The hadīth includes the words, "And he gestures with his head to indicate *ruku*' and *sujūd*."²³

"If he gains or loses the ability to gesture in either way while praying, he adopts the method appropriate for his current condition": Similarly, if he commences his prayer while standing up then he becomes unable to stand, he may sit down to complete the prayer. The same is the case for the opposite, if he commences the prayer sitting down due to an illness and subsequently gains the strength to stand and pray, then he is obliged to stand up to complete the prayer.

وإن قَدَرَ على قيام وقُعودٍ دونَ ركوعٍ وسجودٍ أَوْمَأَ بركوعٍ قائماً وبسجودٍ قاعداً، ولمريضٍ الصلاةُ مستلقياً مع القُدْرةِ على القيام لمداواةٍ بقولِ طبيبٍ مسلم متن

If he is able to stand and sit but cannot make *sujūd* and *ruku*', he can gesture the *ruku*' whilst standing and the *sujūd* whilst sitting. The sick person can pray lying down though he is able to stand so as to receive treatment as advised by a Muslim doctor.

"If he is able to stand and sit but cannot make *sujūd* and *ruku*', he can gesture the *ruku*' whilst standing and the *sujūd* whilst sitting": If he is able to stand but cannot make *ruku*', he can do so standing up by tilting his head down. Since he is able to stand, he must do so in prayer. As for *ruku*', gesturing with the head shall suffice. If he is unable to make *sujūd*, he may sit and gesture his head towards the ground to indicate *sujūd*.

"The sick person can pray lying down though he is able to stand so as to receive treatment as advised by a Muslim doctor": If the sick person is able to stand but a Muslim doctor orders that he lie down to receive treatment, then he should follow the doctor's orders. It becomes permissible for him to pray in a supine position. He may gesture with his head to indicate *ruku*' and *sujūd*.

The condition that the doctor be a Muslim is due to the fact that prayer is an act of worship in Islam of which disbelievers will not place emphasis upon.

²² This is the *madhab* of Imām Abu Hanīfah and a narration is attributed to Imām Ahmad. Shaykh al-Islam ibn Taymiyyah preferred this view. See *al-Ikhtiyārāt al-Fiqhiyyah* (p. 72). 23 This is part of the hadīth narrated by 'Alī which was mentioned earlier.

ولا تصحُّ صلاتُه في السفينةِ قاعداً وهو قادرٌ على القيامِ، ويصحُّ الفرضُ على الراحلةِ خشيةَ التأذِّي بالوحلِ لا للمرض

.....

His prayer on board a ship prayed in a sitting position while he has the capability to stand becomes invalid. Obligatory prayers prayed on board a vehicle are valid if one fears getting mud-stained but not due to illness.

"His prayer on board a ship prayed in a sitting position while he has the capability to stand becomes invalid": This is because a ship is exactly like a room. Praying a complete prayer normally can be achieved on board it.

"Obligatory prayers prayed on board a vehicle are valid if one fears getting mud-stained but not due to illness": Obligatory prayers in general are not allowed to be prayed on vehicles unless there is a valid excuse. An example of an excuse would be that the ground is flooded after a heavy downpour and if one prayed on the ground he would be soaked by the water. In this scenario, he may pray on the vehicle.

In a hadīth narrated by Ya'la ibn Murrah, the Prophet \mathfrak{Z} was with his Companions on a journey. It rained and the ground was wet. So he \mathfrak{Z} ordered that the *adhan* be called and the *iqāmah* was pronounced. The Prophet \mathfrak{Z} led the prayer while seated atop his camel and the rest of the Companions followed him in prayer.²⁴ This was done only because of a dire need and a predicament they faced.

"But not due to illness": It is not permissible to pray on a vehicle due to an illness unless he would be unable to climb back onto the vehicle if he were to climb down to perform his prayer. In this situation, it is permissible for him to pray while atop his vehicle.

²⁴ Reported by Ahmad (4/173) and al-Tirmidhī (411).



متن

من سافر سفراً مباحاً أربعةَ بُرُدٍ سُنَّ له قَصْرُ رُباعيَّةٍ ركعتينِ

Whosoever travels on a permitted journey the distance of four *burud*, it is a Sunnah for him to shorten the four *rakāt* prayers to two *rakāt*.

"Section": This is the second section relating to concessions due to excuses.

"Whosoever travels": Now we move on to excuses pertaining to travelling. Allah, the Most High, said to His Prophet 3: **{And when you travel throughout the land, there is no blame upon you for shortening the prayer.}**²⁵

The meaning of *darabtum* in the above *ayab* means to embark upon a journey. The traveller can shorten prayers consisting of four *rakāt* to two *rakāt*. However, *maghrib* should not be shortened for it is the daytime *witr* and the *fajr* prayer also remains as it is.

The Messenger \cong used to shorten the prayer throughout the course of his journeys from the point he left Madīnah until he returned.

The traveller should only shorten his prayer if the following two conditions are present:

First: "Permitted journey": The journey must be in accordance to Islamic legislation. If it involves matters that are prohibited in Islam, for example, he

²⁵ Al-Nisā: 101

who travels to visit graves, then it is deemed a forbidden travel. This kind of journey may lead to *shirk* (ascribing partners to Allah). Another example is if one travels to engage in decadence and immorality in other countries. This is tantamount to a sinful travel. In both examples, the concession to shorten the prayer is revoked.

Second: "The distance of four *burud*²⁶": This is the lower limit for what constitutes a journey (*safar*). Four *burud* is a distance travelled in two days which is equivalent to two *marhalah*. The Prophet Ξ said, "A woman who believes in Allah and the Last Day is not permitted to travel a distance of two days unless she is with a *mahram* (male relative)."²⁷

The Prophet set the limit for what constitutes a journey in which a woman must be accompanied by her *mahram* as a distance travelled in two days. This limit defines what a journey is technically. Anything short of that is not considered a journey. Two *marhalah* are equivalent to eighty kilometres. A journey is measured in distance and not time. If one travels eighty kilometres in an hour, he may shorten his prayers.

So we can conclude that the Prophet had intended forty kilometres of travel per day when he set two days as the limit for a journey. Which makes a total of eighty kilometres. Shortening prayers on a journey less than this distance is not permitted for it is not considered a journey [in the technical sense related to shortening the prayer].

"It is a Sunnah for him to shorten the four *rakāt* prayers to two *rakāt*": This is an elaboration of the ruling for shortening prayers. It is considered as Sunnah by the majority of scholars.²⁸ Shortening of the prayers (*qasr*) is not *wājib*. If one decides to pray the full prayer during his journey, it is valid. Allah says: {And when you travel throughout the land, there is no blame upon you for shortening the prayer.}²⁹ The word *junāhun* (there is no blame) in this ayah indicates choice which means that it is not *wājib*.

²⁶ It is the plural of *barid* which is equivalent to twelve miles. So four *burud* is approximately forty miles (in Hashemite metric measurements). See *al-Lisān* (3/86).

²⁷ Reported by al-Bukhārī (3/25, 26) and Muslim (4/102) from the narration of Abu Sa'īd al-Khudrī.

²⁸ See al-Insāf (2/314).

²⁹ Al-Nisā: 101

إذا فارقَ عَامِرَ قَرْيتهِ أو خِيامَ قَومهِ

If he departs from the buildings of his city or the tents of his clan.

"If he departs from the buildings of his city": This is the third condition for shortening the prayer, that is, one must depart from the buildings. A journey is not deemed as one if he does not depart the buildings of his city. If he is within the confines of the city, then it is not considered a journey even though he is on the move with an intention to travel. The word *safar* in Arabic means, "Going away from dwellings." The Prophet $\frac{1}{5}$ used to shorten his prayers only when he left the city up until the point he entered the city.³⁰

"Buildings of his city": This is in reference to the dwelling places of the city.

"Or the tents of his clan": If they are nomadic tent-dwellers, then this replaces buildings with regards to the condition for shortening prayers.

The fourth condition is that one should make the intention to shorten his prayer when he does the *takbīratul ihrām*. Let us recap the four conditions for shortening prayers:

Firstly: The journey must be a distance of at least two days travel.

Secondly: The journey must be for a permissible purpose.

Thirdly: The journey should take him beyond dwelling places of his city.

Fourthly: Intention to shorten the prayer must be made while doing the *tak-bīratul ihrām*.

متن

متن

وإنْ أَحرمَ حَضَراً ثم سافرَ أو سَفراً ثم أقامَ أو ذَكرَ صلاةَ حضرٍ في سفرٍ أو عَكْسَها

If he made the *takbīratul ibrām* as a resident then travels, or as a traveller and then he reached his city, or if he remembered during his journey that he missed a prayer as a resident or vice versa.

³⁰ Authenticated by the hadīth narrated by Anas ibn Mālik as reported by Muslim with the words, "The Prophet **z** used to shorten his prayers after traveling three miles (three *farāsikh*)."

The following scenarios indicate when a traveller should pray the full prayer and they are eleven in total:

First: "If he made the *takbīratul ihrām* as a resident then travels": This refers to the instance where one makes the *takbīratul ihrām* with the intention of a resident and then travels whilst still in that prayer. An example would be when a ship is still in the vicinity of his land and after he made the *takbīr* the ship left his land. In this case, the individual should perform the prayer in full for he had intended it as a resident, not having left his land.

Second: "Or as a traveller and then he reached his city": The ruling for the opposite situation is similar to the above. If he made the *takbīratul ihrām* while still on a journey but reached his city before he concluded the prayer. He should also pray it in full and not shorten it. An example would be when a plane lands at the local airport while he is still praying. He must perform his prayer in full.

Third: "Or if he remembered during his journey that he missed a prayer as a resident": It is not permissible for him to shorten this prayer, rather he prays it during his journey in full and it is mandatory to do so in this manner. This is because what is taken into consideration is the obligation of that prayer and not the time in which it is performed.

Four: "Or vice versa": That is, he remembers after the completion of his journey that he had missed a prayer. In this situation, he must perform it in full. This is because what is taken into consideration in this situation is the performance of the prayer and not the time in which it was due. The *asl* is that it is performed completely, thus one must return to the *asl*.

أو ائتمَّ بمُقيم أو بمن يشكُّ فيه، أو أحرم بصلاةٍ يَلزمُه إثْمَامُها ففسَدتْ وأعادَهُ

متن

Or if he has to pray in full if lead by a resident in prayer, if he is unsure if the *imām* [is a resident or traveller], or if he made an intention to pray in full but it was nullified and he repeated the prayer.

Five: "Or if he has to pray in full if lead by a resident in prayer": The author explains other instances where the prayer has to be performed by the traveller in its complete state. When a traveller prays behind an *imām* who is a resident

then he should follow the actions of the *imām* by performing the full prayer. The Prophet $\frac{1}{28}$ said, "Verily the *imām* is to be followed, so do not contradict him."³¹

When Ibn 'Abbās & was asked about it, he replied, "This is the Sunnah."³² In this statement he is referring to the Messenger's Sunnah of the traveller performing the full prayer behind the resident. When 'Uthmān & performed the prayers in full at Mina even as the other Companions preferred to shorten the prayer, they prayed it in full when lead by 'Uthmān. Amongst the Companions who did so was Ibn Mas'ūd &.³³

<u>Six</u>: "If he is unsure if the *imām* [is a resident or traveller]": He should perform the prayer in full in this situation for the *asl* is that the prayer is to be performed fully.

Seven: "Or if he made an intention to pray in full but it was nullified and he repeated the prayer": That is, he repeated the prayer while on a journey. Since he had prayed the initial prayer as a resident and it was nullified, repeating it should be in full too, his current journey notwithstanding. This is because the repayment has to be in the form of the initial prayer.

أولم يَنوُ القَصْرَ عند إحرامِها، أو شكَّ في نيَّته، أو نوى إقامةً أكثرَ من أربعةِ أيامٍ، أو ملاَّحاً من معه أهلُه لا يَنُوي الإقامةَ ببلدٍ لزمَهُ أن يُتِمَّ

If he did not intend to shorten it during the *takbīratul ibrām*, if he is in doubt of his intention, if he intended staying put in his destination for more than four days, or if he is a sailor whose family travel with him and who does not intend to stay put in any one place. These people must perform the prayer in full.

Eight: "If he did not intend to shorten it during the *takbīratul ibrām*": A traveller who does not intend to shorten the prayer during the *takbīr* but rectifies his intention later on still has to offer the full prayer. He must do so since one of the conditions for the shortening was not present: the intention at the point

³¹ Reported by al-Bukhārī (1/184) and Muslim (2/19) from the narration of Abu Hurairah.

³² Reported by Ahmad (1/216).

³³ Reported by al-Bukhārī (2/35) and Muslim (2/146) from the narration of Ibn Mas'ūd.

of the takbīratul ihrām.

However, the correct view, *inshāllah*, is that he may shorten his prayer for he is in the state of traveling. Furthermore, there is no evidence that stipulates that the shortening of prayer requires a specific intention during the *takbīratul ihrām*.³⁴

<u>Nine</u>: "If he is in doubt of his intention": I.e. he is confused if he intended shortening of the prayer or not at the point of the *takbīratul ihrām*. In this situation, he must offer the prayer in full for the default intention is to pray it in its original form.

<u>**Ten</u>: "If he intended staying put in his destination for more than four days": Can a traveller shorten his prayer if he stays put at his destination? The answer is elaborated below:</u></u>**

Firstly: If he intends less than four days, then he may shorten his prayer for he has not violated the limits that constitute a journey. The basic principle is that a traveller may shorten the prayer.

Secondly: If he decides to take up residence at his destination for an unlimited number of days and he is residing so as to achieve an objective from his journey that he does not know when it will come to fruition, then he may shorten his prayer even if he has to remain a long time at that city. This is possible because he did not set out with a fixed number of days in mind for his journey. In fact, he had only intended to achieve the objective of his journey and satisfy his need.

Thirdly: If he intended to reside more than four days, then he must perform his prayers in full for the resident is obliged to perform the complete prayer without shortening. The Prophet $\frac{1}{20}$ arrived at Makkah for the Farewell Hajj on the morning of the fourth of Dhul Hijjah. He stayed at al-Abtah on the fourth, fifth, sixth and seventh. These make up four days. On the eighth or what is known as the day of *tarwiyah*, he moved on to Mina. He used to shorten his prayer throughout this period.

This is proof that if one intends to reside for a period of four days, he may

³⁴ See al-Mughni (3/119).

A Commentary on Zād al-Mustaqni

shorten his prayer. For any period more than four days, he must perform the prayers in full. We have set four days as the limit for it was the example set by the Messenger $\frac{1}{50}$ during the Farewell Hajj. Some people cite that the Prophet $\frac{1}{50}$ shortened his prayer for more than ten days during the Conquest of Makkah.³⁵ However, he had not intended a fixed number of days for his journey. Also during this period he was performing reconnaissance of the enemies in preparation for the Battle of Hunayn.

Similarly, he spent twenty days in Tabūk and shortened the prayers throughout this period.³⁶ This was a reconnaissance expedition just like the Makkah expedition. He had gone to Tabūk to battle the Romans. Upon reaching there, he began to assess the enemy's tactics and strength and could not decide when to begin the offensive against the enemy. He had not determined to stay a certain number of days, it was a reconnaissance period with no set duration.

We say that if one stays to fulfil a need and is not sure when the stay will end, then he may shorten his prayer.

Eleven: "Or if he is a sailor whose family travel with him and who does not intend to stay put in any one place. These people must perform the prayer in full": There are two situations for this:

- (i) If he has a country where he has lived in for some years, then he may shorten his prayer in his journeys; even if it is for a long period of time. He is more worthy of this concession as compared to he whose journey takes much less time for the hardship endured in longer journeys is greater. If he resides in his country, then he must perform prayers in full and fast. He should also pay back the fasts that he missed in Ramadān.
- (ii) He is a nomad who has never intended a country of residence. If he has his family with him in the boat, then the boat is considered a home for him. He must not shorten his prayer for he is not considered a traveller. *Qasr* (shortening the prayer) and breaking of the fast are concessions made available to those who embark on a journey and

³⁵ Reported by Abu Dawūd (1229) from the narration of 'Imrān ibn Hussain. It was also reported by al-Bukhārī (2/53) from the narration of Ibn 'Abbās.

³⁶ Reported by Ahmad (3/295) and Abu Dawūd (1235) from the narration of Jābir ibn 'Abdullah.

then come to reside in a foreign land.

If there are two routes for a journey and he chose the longer route, or if he remembered that he missed a prayer while he is on the journey, he may shorten his prayer. If he is held back and had not intended to reside or must reside there until such a time that the objectives of travel are achieved, without an intention to reside, then he may shorten his prayer indefinitely.

"If there are two routes for a journey and he chose the longer route": There are two routes, one of which is too short for shortening prayers. He chose the longer route so as shorten his prayer in the journey. This is permitted. He is not obliged to choose the shorter route.

"Or if he remembered that he missed a prayer while he is on the journey": I.e. a prayer that had been due while he was on the same journey but forgot and had to pay back the prayer. If he does so while still on the journey, he shortens it for the prayer would have been shortened had he performed it when the prayer was due. This is in contrast to one who misses a prayer in a journey and remembers of it only after he returned to his country. In this case, he must perform it in full.

"If he is held back": This scenario was discussed earlier in the elaboration of the conditions that necessitate a traveller to perform the prayer in full.



يجوز الجمع بين الظُّهرين وبين العشاءينِ في وقتِ إحداهما في سفرِ قصرٍ، ولمريضٍ يَلْحقهُ من بتركِهِ مشقَةٌ

It is permissible to combine the two afternoon prayers and the two night prayers at the time when either one is due in addition to shortening it in the journey. The ill person, who will face hardship without combining the prayers, may do so too.

"It is permissible to combine the two afternoon prayers and the two night prayers at the time when either one is due": Combining of prayers performed at the time when either one is due is a concession under Islamic legislation.

There is a $q\bar{a}$ 'idah (principle) to mention here: He who is entitled to shorten his prayer is entitled to combine his prayer also. The reverse is not true. That is, not all who are entitled to combine the prayers are entitled to shorten it. This is because the concession for combining prayers is more expansive than the concession for shortening it.

One is allowed to perform both prayers during the time when either one is due. The *zuhr* prayer can be performed with the 'asr prayer at the time of *zuhr* (*jama*' *al-taqdīm*) or at the time of 'asr (*jama*' *al-t*'*akhīr*). Maghrib prayer can be performed with '*ishā* prayer at the time of maghrib (*jama*' *al-taqdīm*) or at the time of '*ishā* (*jama*' *al-t*'*akhīr*). He has the liberty to choose that which is most convenient for him during three situations:

First: During a journey.

Second: While afflicted with an illness which makes it difficult for him to pray the obligatory prayers in their stipulated times.

Third: During times of heavy downpour and in muddy conditions.³⁷ It is permissible for one to combine the two night prayers when it rains heavily or when the ground is muddy.

The difference between the rules of combining prayers and shortening the prayer: Shortening of prayer is *mustahab* (recommended) while combining prayers is *mubah* (allowed). The latter is neither recommended nor disliked (*makrūh*). For this reason the author said that it is permissible and did not use the word *mustahab*.

"In addition to shortening it in the journey": This falls under the first category where combining of prayers is permitted.

He who is entitled to shorten his prayer may combine it as well. He does what is convenient for him and so can choose between *jama' al-taqdīm* or *jama' alt'akhīr*. The Prophet \cong used to combine the prayers when the first of the two prayers was due. He did so before the journey began. This was *jama' al-taqdīm*. However, if he set out before the first of the two prayers was due, he would delay the first prayer and combine it with the second one on its time. This was *jamā' al-t'akhīr*. He did so because it was convenient for him.

"The ill person, who will face hardship without combining the prayers, may do so too": This falls under the second category in which combining prayers is permitted.

If one is afflicted with a sickness that makes it difficult for him to observe the prayers in their stipulated time, then he may combine them. However, this is not applicable to one who has an ordinary illness by which he feels no hard-ship in performing the prayers at their given times. Hence, it is not permissible for him to combine his prayers.

³⁷ It mentions in *al-Lisān* that muddy conditions are thick mires in which cattle become trapped. (11/723)

وبين العشاءين لمطرٍ يبلُّ الثيابَ ولوحلٍ وريحٍ شديدةٍ باردةٍ

متن

And combine both the night prayers due to rain that drenches the clothes, muddy conditions, strong winds that are cold.

This falls under the third category in which combining prayers is permitted. There are three factors for this situation:

First: "And combine both the night prayers due to rain that drenches the clothes": Light rain that does not drench the clothes is not included and so combining prayers during light rain is not permissible for there is no harm caused by such a rain. Some brothers, may Allah guide them, start combining prayers as soon as they witness a small amount of rain. This is not permissible for there is no reason for a concession.

Second: "Muddy conditions": That are a result of rainfall. Since this unfavourable condition serves as a barrier for one to go to the *masjid*, he may combine the prayers. If the ground is dry and there is no muddy condition (e.g. if the route is paved) or if there is no rainfall, then one must not combine prayers.

Third: "Strong winds that are cold": If a strong cold wind blows and people are afraid to leave their homes and pray at the *masjid*, they may combine both the night prayers. The condition is that the wind must be both cold and strong on a dreary night.

Even if he were to pray at home or at the *masjid* which he can get to via a covered walkway, he may choose to perform *jama' al-taqdīm* or *al-t'akhīr*, whichever is convenient.

"Even if he were to pray at home or at the *masjid* which he can get to via a sheltered walkway": I.e. he may combine *maghrib* and '*ishā* prayers in this situation. A person faces no harm while praying at home or if his path to the *masjid* is sheltered. Nevertheless, he may combine them for the concession is for all people in general without exception.

"He may choose to perform *jama*' al-taqdīm or al-t'akhīr, whichever is convenient": The better option will be that which is more convenient for him. The Prophet $\underline{\mathbb{X}}$ used to combine prayers in all the above situations, that is, during an illness, while on a journey and when there was a heavy downpour of rain.

If a person combines prayers at the time of the earlier prayer, the conditions are: Having an intention to combine prayers whilst saying the *takbīratul ihrām*, not to leave a gap between the two prayers except the time needed to say the *iqāmah* or perform a brief ablution. It is nullified if one performs Sunnah prayers (*rawātib*) in between the two obligatory prayers and the excuses for the concession must be present at the beginning of the prayers and at the first *taslīm*.

"If a person combines prayers at the time of the earlier prayer, the conditions are": When one performs *jama' al-taqdīm*, there are three conditions:

Firstly: "Having an intention to combine prayers while saying the *takbīratul ibrām*": One must have the intention to combine the prayers at the start of the first prayer.

Secondly: "Not to leave a gap between the two prayers except the time needed to say the *iqāmah* or perform a brief ablution": Both prayers should be performed in quick succession. It is called *jama*' (combining) for this reason. If one leaves a gap in between the two prayers or if he prays *nawāfil* prayers in between the two prayers, the attribute of combining prayers is lost.

The Prophet $\frac{1}{80}$ and his Companions prayed *maghrib* prayers at Muzdalifah, secured their animals and then prayed *'ishā* when combining both the prayers.³⁸

³⁸ Reported by al-Bukhārī (1/41, 56), (2/200) and Muslim (4/70, 73) from the narration of Usamah ibn Zayd, that he said, "The Messenger of Allah proceeded from 'Arafah, and as he approached the creek of a hill, he got down (from his camel) and urinated, and then performed a light ablution. I said to him, 'Prayer.' Whereupon he said, 'The prayer awaits you (at Muzdalifa).' So he rode again, and as he came to Muzdalifa, he got down and performed ablution well. Then the *iqāmah* was pronounced for the prayer, and he observed the sunset prayer. Then every person made his camel kneel down there, and then the *iqāmah* was pronounced for the '*isha* prayer and

This is proof that a small gap in between the two prayers is inconsequential.

"It is nullified if one performs Sunnah prayers (*rawātib*) in between the two obligatory prayers": This action will negate the attribute of combining prayers.

Thirdly: "And the excuses for the concession must be present at the beginning of the prayers and at the first *taslīm*": The excuses that entitle one to perform the concession of combining prayers must be present during the beginning of both prayers and at the *taslīm* of the earlier prayer. If the excuses are not present while a person is combining prayers, then it is nullified.

وإن جمع في وقت الثانية اشترط نية الجميع في وقت الأولى ، إن لم يضق عن فعلها ، متن واستمرار العذر إلى دخول وقت الثانية

If a person combines the prayers at the time when the second prayer is due, then the conditions are: That he has an intention to combine prayers when the first prayer is due, he does not have time-constraints to perform it and that the excuses that validate the concession are present until the second prayer is due.

"If a person combines the prayers at the time when second prayer is due, then the conditions are": There are three conditions when *jama*' *al-t*'*akhīr* is performed:

<u>First</u>: To have the intention at the time of the first prayer that *jama*' will be performed later. If one does not make the intention at this time, then combining the prayers becomes invalid. The Prophet \mathfrak{B} said, "Verily all actions are by intentions and verily for each person is what he intended."³⁹

Second: "He does not have time-constraints to perform it": He must not be hard-pressed for time to perform *jama*' when the earlier prayer is due. In the event that time is a constraint, he is obliged to perform the earlier prayer in its time.

he observed it, and he (the holy Prophet) did not observe any prayer (either *sunan* or *nawāfil*) in between them."

³⁹ Hadīth which is agreed upon (*muttafaqun alayb*) from the narration of 'Umar. Reported by al-Bukhārī (1/1) and Muslim (6/48).

Third: "And that the excuses that validate the concession are present until the second prayer is due": If the excuses are lifted before the second prayer is due, then combining the prayers is not valid. One must perform the prayers as normal i.e. the earlier prayer is read in its time as normal.



وصلاةُ الخوفِ صحَّتْ عن النبيِّ ﷺ بصفاتٍ كلها جائزة

The prayer during times of fear is authentically proven by the actions of the Prophet **ﷺ** in many forms, all of which are permissible.

"Section": Last but not least of the prayers with concession is, "The prayer during times of fear," i.e. how prayer is performed during times of fear (*salāt al-khawf*).

"Fear": This is the antonym of safe. One fears the enemy. Since prayer cannot be forgone in any situation, it is prayed to the best of one's ability during times of fear. The obligation for men to perform the prayer in congregation cannot be forgone also. Hence, one performs even *salāt al-khawf* in congregation which underscores the obligation of prayer in congregation for men. If it is mandatory during times of fear, what more during times of peace and security?

However, some additional actions and movements are permissible when performing *salāt al-khawf*. Moving to and fro and back and forth are necessary in performing this prayer which are not allowed in the normal congregational prayer. The essential question then arises: Why do some people claim that congregational prayer is not *wājib*?

This is a big mistake. The foremost evidence to it being *wājib* is *salāt al-khawf*. If congregational prayers were not *wājib*, then it would have been pardoned for *salāt al-khawf*.

متن

"The prayer during times of fear is authentically proven by the actions of the Prophet $\frac{1}{8}$ in many forms, all of which are permissible": The author quotes Imām Ahmad here, who said, "The prayer during times of fear is authentically proven by the actions of the Prophet $\frac{1}{8}$ in many forms, all of which are permissible. However, I prefer the hadīth narrated by Sahl."⁴⁰

Salāt al-khawf has been performed in six or seven different forms by the Prophet \mathfrak{A} . All these forms are authentic and permissible. The variation occurred due to the varying circumstances. The Prophet \mathfrak{A} prayed in a particular form best suited to each situation. Such is the mercy of Allah \mathfrak{A} upon the Muslims for He makes it easy for our Ummah to practice the din.

Fear is induced in three situations:

<u>First</u>: When facing the enemy but without close combat. Two armies, the Muslim army and the disbeliever's army face each other but there is no battle between them.

Second: The two armies meet and engage in close combat. This is worse than the former situation.

Third: While fleeing from the enemy.

In the first situation where the armies face each other without doing battle, one of two scenarios must occur: (i) The enemy is in the direction of the *qi-blab*. (ii) The enemy is not in the direction of the *qiblab*. This is termed by the jurists as the "second option." That is, the enemy is in a direction other than the direction of *qiblab*.

In the first scenario, when the enemy is between the Muslims and the *qiblab*, the Muslim army form two rows in the prayer. The *imām* makes the *takbīratul ihrām* for all of them. The rest of them follow the *imām* in standing for prayer while being observant of the enemy and making *ruku*' whilst keeping watch for any enemy movements. In making *sujūd*, the first row follows the *imām* whereas the second row remains standing watching over the enemy. When the *imām* and the first row have done two *sujūd* and stand up for the second *rakāt*, the second row proceeds to make the two *sujūd* after which they move forward

⁴⁰ See al-Mughni (2/223) and al-Insaf (2/347).

to take over their place right behind the *imām*. The first row steps backwards to take up position as the second row. The whole *rakāt* is repeated as in the first, the *imām* and both rows make *ruku*' and when the *imām* makes *sujūd*, the first row follows him while the second row stands guard. As soon as they sit for the *tashahud*, the second row makes the two *sujūd* and joins them for the *tashahud*. The two rows make *taslīm* together after the *imām*.

If the enemy is not in the direction of the *qiblah*, then there are a few methods to perform *salāt al-khawf*:

First: The Muslim army is divided into two groups. The *imām* prays the first *rakāt* with one group. The other group stands guard by facing the enemy and does not partake in the prayer at this point. When the *imām* rises for the second *rakāt*, he stays still while the first group completes the second *rakāt* by themselves concluding the prayer with the *taslīm*. They then depart to take up the second group's position as guards, watching the enemy. This frees the second group to join in the prayer with the *imām*. They perform one *rakāt* together. When the *imām* sits for the *tashahud*, he keeps still. The second group rises to perform their second *rakāt*. Once they join the *imām* in the *tashahud*, he makes *taslīm* and the second group makes the *taslīm* along with him.

We note that the first group made *takbīratul ihrām* with the *imām* and completed the first *rakāt* with him and went on to complete the second *rakāt* by themselves. The second group prayed the *imām*'s second *rakāt* along with him and went on to perform their second *rakāt* by themselves, concluding the prayer with the *taslīm* together with the *imām*. There is a fair division of the prayer between the two groups in this method.

This method is described in the hadīth $dh\bar{a}t al-raq\bar{a}'a$ which was narrated by Sahl \clubsuit ,⁴¹ which was preferred by Imām Ahmad which he considered to be in correlation with the words of Allah: {And when you are among them and lead them in prayer, let a group of them stand [in prayer] with you and let

⁴¹ Reported by al-Bukhārī (5/146) and Muslim (2/214) and the wording from Muslim is, "The Prophet $\frac{1}{26}$ prayed during times of danger and divided them (the people) behind him in two rows. He then led those who were near him in one *rakat*. Then he stood and remained standing until those who were in the second row offered one *rakat*. Thereafter they came forward and those who were in front of them (in the first row) stepped backward. The Prophet $\frac{1}{26}$ led them in one *rakat* of prayer. He sat down until those who were in the second row completed one *rakat*. He then uttered the salutation."

them carry their arms. And when they have prostrated, let them be [in position] behind you and have the other group come forward which has not [yet] prayed and let them pray with you, taking precaution and carrying their arms.}⁴²

Second: The *imām* prays with the first group both the *rakāt* and concludes the prayer by making the *taslīm*. The *imām* then prays two more *rakāt* with the second group, who were initially keeping guard and concludes with the *taslīm*. Hence, the *imām* prays twice; the first prayer is obligatory for him while the second prayer is *naff*. We can surmise from this method that a person with an intention to pray an obligatory prayer can be led by an *imām* who has an intention to pray a *naff* prayer.

<u>Third</u>: The *imām* prays two *rakāt* with the first group. They make *taslīm* themselves and depart while the *imām* rises for the third *rakāt*. The second group joins the *imām* for the third and fourth *rakāt* and they conclude the prayer together with the *taslīm*. Hence, the *imām* performs the prayer in its complete form of four *rakāt* while the two groups prayed two *rakāt* each in the shortened form.

The second situation which induces fear is when both armies battle in close combat with their weapons, all the while running back and forth. Given this chaotic situation, each has to pray individually when the prayer time approaches, performing it to his best ability.

The third situation which induces fear is when one is fleeing the enemy. A person may pray riding his animal or while walking. They may do so facing the *qiblab* or elsewhere. Allah says: **{And if you fear [an enemy, then pray] on foot or riding.}**⁴³

Prayer can be performed in this manner when fleeing from the enemy, floods, wild animals or when hunting down the enemy where he might lose track of the enemy if he were to stop to perform the prayer. Therefore, he prays while running after the enemy and he may face the *qiblab* or elsewhere when he does this. He gestures with his head to indicate *ruku*' and *sujūd*.

⁴² Al-Nisā: 102

⁴³ Al-Baqarah: 239

These are the methods of performing *salāt al-khawf* for the three situations which induce fear. All of these methods are permissible and every method is suited for a different circumstance that a Muslim might have to face.

From the conditions for *salāt al-khawf*. The battle must be a permissible one. If it is not permissible, then *salāt al-khawf* cannot be performed during it.

Having said this, we must note that waging war against Muslims who disobey the Muslim leader and who are intent on rebelling or robbing and they renegade to fight against the Muslims is permissible. This battle is taken up as self-defence to fend off the evil actions of these people.

ويُستحَبُ أن يَحملَ معه في صلاتِها من السِّلاحِ ما يَدْفعُ به عن نفسِهِ ولا يُثقلهُ كسيفٍ متن ونحوه

It is recommended that he arm himself while performing prayer so that he may protect himself. The weapon should not distract him nor weigh him down, for example, a sword or the like.

"It is recommended that he arm himself while performing prayer so that he may protect himself. The weapon should not distract him nor weigh him down": Allah ﷺ emphasises this safety precaution in these words: {And let them take their precautions and their arms.}⁴⁴

"For example, a sword or the like": He may carry a sword or a small rifle. That is, anything that will help a Muslim defend himself and other Muslims. Arming oneself in this manner does not affect the validity of the prayer in any way.

44 Al-Nisā: 102

باب صلاة الجمعية CHAPTER: THE FRIDAY PRAYER

"Chapter: The Friday Prayer": The status of the Friday prayer is great.

"Friday": This is called *al-jumu'ah* in Arabic. It is said that it is called this because Allah gathered (*jama'a*) mankind by completing the creation of the entire human race on this day. It is also mentioned that it is called *al-jumu'ah* because a great number of Muslims gather on this day to offer the prayer in all the countries. Another explanation for its name is that there is a lot of goodness accumulated or gathered on this day due to its great significance and status.⁴⁵

Friday is without doubt the best day of the week. Its superiority to the other days of the week is akin to the superiority of the month of Ramadān from the rest of the months. Friday is also known as "sayyid al-ayyām" (the best day) in Arabic. The Messenger $\frac{1}{26}$ said, "The best day in which the sun rises is Friday. On this day Ādam was created and on this day he descended from Paradise. The final hour shall take place on this day. There is an hour on this day in which a servant, a Muslim will not encounter, and he invokes Allah while he stands in prayer asking Him for something, except that He shall grant it to him."⁴⁶

There is a period of time on Friday in which all invocations are answered just

⁴⁵ See: Zād al-Ma'ād by Ibn al-Qayyim (1/366).

⁴⁶ Reported by Muslim (3/6), al-Tirmidhī (491), al-Nasa'ī (3/89) and Ahmad (2/401, 402, 418 and 512) from the narration of Abu Hurairah. Some of them reported it in full while others reported it partially.

as Ramadān contains the Night of Power (Laylat al-Qadr). Friday is a magnificent day which Allah ﷺ presented to the Muslim Ummah and not to the disbelievers. He designated this day as a day of worship for the pious servant. The Jews chose Saturday while the Christians chose Sunday but Allah chose Friday for the Muslims, which is the best day of the week. This is from the mercy and bounties of Allah upon the Muslims.

The Jews and Christians envy nothing more than the Muslims ownership of Friday for Allah excluded them from it and offered it to the Muslims. It is indeed a significant day and the 'Eid day of the week. Friday has great merits, most of which were mentioned by Imām ibn al-Qayyim in his book $Z\bar{a}d$ al- $Ma'\bar{a}d$.'⁴⁷

Some authors have written books solely on the subject of the merits of Friday. There is *al-Lum'ah fī Fadā'il Yawm al-Jum'ah* by al-Hāfiz al-Suyūtī. This fact clearly highlights the significance of this day, its merit and the vast goodness it contains. Friday was singled out for the nation of Muhammad \cong , which is a great blessing for this nation.

تَلْزُمُ كلَّ ذَكَرٍ حُرٍّ، مُكلَّفٍ، مسلمٍ، مستوطنٍ ببناء اسُمه واحدٌ ولو تَفَرَّق، ليس بينه وبين المسجدِ أكثرُ من فَرْسَخ متن

It is incumbent upon all males who are free, mature, Muslim, resident of one country, even if they are separated and the distance between him and the *masjid* is not more than one *farsakb*.

The following are the conditions that make the Friday prayer wajib:

First: "It is incumbent upon all males": It is not wajib for women.

<u>Second</u>: "Free": That he is a free person. If he is a bonded servant, then it is not $w\bar{a}jib$ upon him. This is because he is a helper to his master and so Allah has pardoned him as a result and made the Friday prayer non-mandatory for him.

Third: "Mature": The young are therefore excluded as are those who have attained puberty but are bereft of intellect. The Prophet $\frac{1}{2}$ said, "The pen is lifted

⁴⁷ See Zād al-Ma'ād (1/366)

for three: The sleeping person until he awakens, the child until he attains puberty and the insane until he becomes sane." 48

Fourth: "Muslim": The Friday prayer is not $w\bar{a}jib$ for a disbeliever just as all the other acts of worship are not $w\bar{a}jib$ for him so long as he is in the state of *kufr* (disbelief). These acts become $w\bar{a}jib$ if he embraces Islam.

Fifth: "Resident": It is not *wājib* for the traveller to perform the Friday prayer. The desert/rural-dwellers are excused from the Friday prayer as well. The Bedouins who lived on the outskirts of Madīnah during the time of the Prophet $\frac{1}{2}$ were not ordered by him to attend the Friday prayer. This point brings to focus the practice of some educators who choose to perform the Friday prayer at rural or desert areas. In fact, it is mandatory for them to pray the *zuhr* prayer unless there are residents among them. In this case, they may perform Friday prayer as the permissibility arises due to the presence of residents among the congregation. The Prophet $\frac{1}{2}$ went on numerous journeys though there are no reports of him performing the Friday prayer during any of these journeys.

"Of one country": If the country is called a single name. That is, it can be fenced together along its border.

"Even if they are separated": Or if they are separated into regions provided that they fall under a single name.

"And the distance between him and the *masjid* is not more than one *farsakb*": If one is outside of his country's borders by a distance less than three miles, then the Friday prayer is $w\bar{a}jib$ upon him. If he is more than three miles away from his country and the *adhān* is not audible to him, then he is excused from performing the Friday prayer.

من ولا تجبُ على مسافر سَفَرَ قَصْر ولا عبد ولا امرأةٍ، ومن حضرَها منهم أجزأتْه ولم تنعقدُ به، ولم يصحَّ أن يَؤُمُّ فيها، ومَنْ سقطتْ عنه لعذرٍ وجبتْ عليه إذا حَضرَها وانعقدتْ به

It is not wajib for the traveller who is entitled to shorten his prayer, the slave and women although it is permissible for them to attend it. They are however excluded from the congregation tally. It is not permissible for them to

⁴⁸ Reported by Abu Dawūd (4403) from the narration of 'Alī ibn Abu Tālib.

lead the Friday prayer. He who is excused from the Friday prayer due to a valid reason must perform it if he does manage to attend it and he is included in the tally.

The following people need not perform the Friday prayer:

<u>First</u>: "It is not wajib for the traveller who is entitled to shorten his prayer": The traveller who is not entitled to shorten his prayer must perform the Friday prayer for he is like a resident.

Second: "The slave": The bonded slave is not required to attend the Friday prayer for he is a helper for his master.

Third: "Women": The Friday prayer is only wajib for men.

"Although it is permissible for them to attend it": Hence, they need not offer the *zuhr* prayer if they do attend the Friday prayer.

"They are however excluded from the congregation tally": One of the conditions of the Friday prayer is that at least forty people must make up the congregation. Travellers, women and slaves cannot be included in this tally.

"It is not permissible for them to lead the Friday prayer": It is a matter well known that a woman cannot lead a congregation of men. The point here is that even the traveller and the slave should not be the *imām* for the Friday prayer as they are not from amongst the people that the prayer is *wājib* upon.

However, the correct opinion and that which is held by most scholars is that the traveller and the slave may assume the position of $im\bar{a}m$ for the Friday prayer as there is no evidence to prove otherwise.⁴⁹

"He who is excused from the Friday prayer due to a valid reason must perform it if he does manage to attend it and he is included in the tally": If the Friday prayer is *wājib* upon him by default but he is pardoned from it due to valid excuses such as illness or fear, then the prayer becomes *wājib* again if he does

⁴⁹ This is the *madhab* of Imām Abu Hanīfah and Imām al-Shāfi'ī. Imām Mālik agreed with them with regards to the traveller. See *al-Muqnī* (1/244) and *al-Insāf* (2/368).

manage to attend it. This is because he was only pardoned from the Friday prayer as a concession to lighten his burden which is forfeited once he is able to attend the prayer. He can lead the Friday prayer as the *imām* and can be included in the congregation tally. This is due to the fact that the prayer is *wājib* upon him by default.

If a person prays *zubr* before the *imām* instead of the Friday prayer while it is *wājib* for him, then it is invalid. It is valid for whom the Friday prayer is not *wājib*. However, it is better to do so after the *imām* has concluded the Friday prayer. It is not permissible for one to travel on a Friday after *zawāl* (after the sun's zenith).

"If a person prays *zuhr* before the *imām* instead of the Friday prayer while it is $w\bar{a}jib$ for him, then it is invalid": The Friday prayer is the obligatory prayer on Friday afternoon. The *zuhr* prayer replaces it only if the Friday prayer is missed. So it is not permissible for a man to perform *zuhr* when it is still within the time of the Friday prayer. He can do so only after the time of the Friday prayer has lapsed. If he does perform *zuhr* before the *imām*'s prayer, then this individual's prayer is invalid as the time of the Friday prayer has not yet lapsed.

"It is valid for whom the Friday prayer is not wajib. However, it is better to do so after the *imām* has concluded the Friday prayer": If the Friday prayer is not wajib for a person, for example a woman, a slave or a traveller, he may perform *zubr* as soon as it is due. They can do so even if the congregation have not yet performed the Friday prayer. However, it is better to wait until the Friday prayer is concluded so that one steers clear from controversy.

"It is not permissible for one to travel on a Friday after *zawāl* (after the sun's zenith)": If one travels on Friday before *zawāl*, this is permissible. However, it is best not to do so until after performing the Friday prayer. When it is time for the Friday prayer, i.e. when the sun has set from its zenith, then it is not permissible for him to begin the journey until after performing the Friday prayer.



يشترطُ لصِحَتِها شروطٌ ليس منها إذنُ الإمام. أحدُها: الوقتُ: وأولُه أولُ وقتِ صلاةِ من العيد، وآخرُهُ آخرُ وقتِ صلاةِ الظُهَرِ فإن خَرجَ وقتُها قبلَ التَّحريمة صلُّوا ظهراً وإلا فجُمعة

There are conditions that validate it. The *imām*'s permission is not one of them. Firstly: The timing, its earliest time is like the earliest time of the 'Eid prayer and its latest time is like the latest time of *zubr* prayer. If the time elapses before one makes *takbīratul ibrām*, then he must perform the *zubr* prayer.

"Section": This section further elaborates on the conditions that validate the Friday prayer. We have already seen the mandatory conditions.

"There are conditions that validate it. The *imām's* permission is not one of them": Seeking the permission of the Muslim ruler is not a condition for performing the Friday prayer. This is because the Companions prayed it in various circumstances but did not seek the permission of the Prophet $\frac{1}{26}$. However, the advice of the *mufti* of the country and his council should be sought to determine if all the conditions which validate the Friday prayer are present. The conditions are:

"Firstly: The timing": If one prays the Friday prayer before it is due, it is invalid. This is based on the *ayah* where Allah says: **{Indeed, prayer has been**

decreed upon the believers a decree of specified times.}⁵⁰

"Its earliest time is like the earliest time of the 'Eid prayer and its latest time is like the latest time of *zuhr* prayer": The earliest time when the Friday prayer can be performed is, according to the Hanbalī *madhab*, the time when the 'Eid prayer is performed.⁵¹ This means when the sunrise is established. According to the *madhab*, performing it during the time of the *duha* prayer is also acceptable. In the hadīth, the people used to perform the Friday prayer with the Prophet \mathfrak{B} . When they returned, no shadow fell on the walls which provided shade.⁵² Another hadīth mentions that the people did not take their noon siesta or their lunch until after performing the Friday prayer.⁵³ They did not water the animals except after performing the Friday prayer.⁵⁴ These ahadīth prove that it is permissible to expedite the Friday prayer even before *zawāl*.

The majority of scholars are of the view that: "The timing for Friday prayer does not begin except after the sun has set from its zenith (*zawāl*)."⁵⁵

This was also reported by Imām Ahmad. The Prophet $\frac{1}{28}$ used to perform the Friday prayer after the sun set from the zenith. As for the narrations mentioning that some Companions saw no shadows on walls while returning after the prayer, or that they did not have lunch, take the afternoon nap nor water⁵⁶ the animals except after performing Friday prayer, this is only an expediting of the prayer to its earliest time such that it is of less burden to the people. This is not an evidence to show that they performed the Friday prayer before *zawāl*.

The reference in the hadīth, "The walls do not have shadows that can provide shade,"⁵⁷ does not mean that there was no shadow at all. It means that the

⁵⁰ Al-Nisā: 103

⁵¹ See al-Kāfī (1/215).

⁵² Reported by al-Bukhārī with this meaning (5/159) and Muslim (3/9) from the narration of Salmah ibn al-Akwa'.

⁵³ Reported by al-Bukhārī with this meaning (2/17), (8/77) and Muslim (3/9) from the narration of Sahl ibn S'ad.

⁵⁴ Reported by Muslim (3/8), Ahmad (3/331) and al-Nasā'ī (3/100) from the narration of Jābir ibn 'Abdullah.

⁵⁵ See al-Mughnī (3/159).

⁵⁶ Camel, buffalo or donkey. See al-Lisān (2/619).

⁵⁷ Mentioned previously.

shadow was not vast enough to provide shade for them.

"If the time elapses before one makes *takbīratul ibrām*, then he must perform the *zuhr* prayer": The Friday prayer has been performed in its time if the *takbīratul ibrām* at least is said before the time for the prayer elapses. If as soon as making the *takbīr*, the time elapses, he is considered to have had performed the prayer in its time. If the time elapses before he makes the *takbīr*, then he has missed the Friday prayer and can only perform *zuhr* as a replacement.

متن

الثاني: حضورُ أربعينَ من أهل وجوبها

Second condition: Attendance of forty men upon whom the Friday prayer is *wājib*.

The second condition without which Friday prayer is invalid is the, "Attendance of forty men upon whom the Friday prayer is $w\bar{a}jib$." Only this amount of men is considered to be a congregation. An individual or two cannot perform the Friday prayer.

Scholars differ in opinion as to whether it is valid if more than two people offer Friday prayer. There are more than twenty one different opinions regarding this issue which are all mentioned by al-Hafiz ibn Hajar in his book *Fath al-Bārī*.⁵⁸ Below are some examples:

First: Friday prayer is not valid without forty people attending it⁵⁹ based on the words of Jābir 4, who said, "The Sunnah was that for every forty men that gathered, there was a Friday prayer." He was referring to the Sunnah of the Messenger **#**. As'ad ibn Zurārah 4, performed the Friday prayer with his companions who made up a congregation of about forty men.

Second: The Friday prayer is valid if the congregation consists of twelve men as the Messenger \cong used to give a sermon before the prayer. A caravan arrived there and they were in need of goods and needed to trade. When this came to the attention of the people, they left the Prophet while he was still giving

⁵⁸ Fath al-Bārī (2/423).

⁵⁹ It is mentioned in *al-Insāf*, "It is the *madhab* of Imām Ahmad without doubt and most of his companions are of this view. He also mentions that Friday prayer requires only three people, a view preferred by Shaykh Taqī al-Dīn." (2/378)

his sermon. Only twelve men remained. The Messenger $\frac{1}{80}$ continued his sermon and later the prayer. Allah then revealed the ayah: {But when they saw a transaction or a diversion, [O Muhammad], they rushed to it and left you standing. Say, "What is with Allah is better than diversion and than a transaction, and Allah is the best of providers."}^{60 61}

<u>Third</u>: Only three men are needed to successfully perform the Friday prayer. This view is justified by the fact that three people make up a group or congregation. So one of them gives the sermon while the other two listen to it.

This is the correct view which was preferred by Shaykh al-Islam ibn Taymiyyah⁶² as well as many other scholars of hadīth and *da'wah*. The remaining views are not substantiated with evidence from the Sunnah.

متن الثالث: أن يكونوا بقرية مستوطنين. وتصحُّ فيها قاربه البُنْيانَ من الصَّحراءِ، فإنْ نَقَصُوا قبل إثْمَامِها استأنفوا ظُهراً

Third condition: They are in the city where they reside in. It is valid if performed near dwellings in the desert. If the congregation diminishes before the prayer is performed, it should be replaced with the *zubr* prayer.

The third condition without which Friday prayer is invalid is that, "They are in city where they reside in." They must be residents and not travellers. Friday prayer is not wajib for the traveller. The Prophet Ξ never once performed the Friday prayer on his journeys and he did not command the Bedouins living on the outskirts of Madīnah to come perform Friday prayer for they were considered non-residents.

"It is valid if performed near dwellings in the desert": Since it is similar of sorts to an urban setting, the Friday prayer is valid if prayed in an area where people inhabit even if it is far from the city. As'ad ibn Zarārah & prayed it with his companions at a district which was outside the borders of Madīnah.

⁶⁰ Al-Jumu'ah: 11

⁶¹ Reported by al-Bukhārī (2/16), (71, 73) and Muslim (3/9, 10) from the narration of Jābir ibn 'Abdullah.

⁶² See al-Iktiyārāt al-Fiqhiyyah (pp. 119-120) and al-Insāf (2/378).

As for those far from dwellings, such as those praying in the desert and on excursions there, it is not valid for them to pray the Friday prayer.

"If the congregation diminishes before the prayer is performed, it should be replaced with the *zuhr* prayer": That is, the numbers diminish below what is prescribed as the minimum congregation for the Friday prayer. Hence, they have to perform *zuhr* prayer instead of the Friday prayer.

Whosoever prays one *rakāt* with the *imām* he may go on to complete it as the Friday prayer. If he prays less than that however, he must complete it as *zuhr* prayer provided that he had made the intention to perform the *zuhr* prayer.

"Whosoever prays one *rakāt* with the *imām* he may go on to complete it as the Friday prayer": I.e. he joins in the prayer as a *masbūq* (one who joins in late for the congregational prayer). If he joins in the Friday prayer before the *imām* raises his head from the *ruku*' position of the second *rakāt*, then he has attained the Friday prayer and should complete another *rakāt* after the *imām*'s *taslīm*.

"If he prays less than that however, he must complete it as *zuhr* prayer": If he joins in the prayer when the *imām* has already risen from the *ruku*' position [in the second *rakāt*], then he must join in the prayer with an intention to perform *zuhr* prayer. When the *imām* pronounces the *taslīm*, he stands up to pray four *rakāt* of *zuhr* prayer.

This is based on the hadīth where the Prophet \mathbb{Z} said, "He who joins in the Friday prayer and prays one *rakāt*, should make up one more *rakāt* and his prayer will be complete."⁶³

"Provided that he had made the intention to perform *zuhr* prayer": It is a pre-requisite that he makes the intention to perform *zuhr* before joining in with the *imām* in the prayer. If he makes the *niyyah* for the Friday prayer even though he missed the second *rakāt*, then it is considered a *naft* prayer. He has

⁶³ Reported by al-Nasā'ī (1/274) (3/112) and Ibn Mājah (1121) from the narration of Abu Hurairah.

to pray another four rakat of zuhr once more.

ويُشترطُ تقدُّمُ خُطبتين، من شَرْطِ صحَّتِهما: حَمْدُ اللهِ تعالى، والصلاةُ على رسولِ الله ﷺ

متن

Another condition is that the two sermons must precede the prayer. The pre-requisite for the two sermons are: Praising Allah 38 and sending salutations upon the Messenger of Allah 38.

This is the fourth condition without which the Friday prayer is invalid, "The two sermons must precede the prayer." If the sermons are not delivered before the Friday prayer, it becomes invalid as the Prophet 3 never performed the prayer without delivering the two sermons. The two sermons act as a replacement for two *rakāt* as the Friday prayer in its *asl* is four *rakāt*, just like the *zubr* prayer. Since the two sermons are delivered, we pray only two *rakāt* for the Friday prayer. Allah says: {O you who have believed, when [the *adban*] is called for the prayer on the day of Jumu'ah [Friday], then proceed to the <u>remembrance of Allah</u> and leave trade. That is better for you, if you only knew. And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed. But when they saw a transaction or a diversion, [O Muhammad], they rushed to it and left you standing. Say, "What is with Allah is better than diversion and than a transaction, and Allah is the best of providers."]⁶⁴

The words *dhikr Allah* (remembrance of Allah) in the ayah refer to the sermon which is proof that they are a condition without which the Friday prayer is null and void. The sermons have prerequisites which must be observed. If any of these prerequisites are ignored, the sermon becomes invalid which in turn nullifies the prayer, for indeed the two sermons and the prayer are inter-dependent. Nullifying one will lead to nullification of the other.

There are eight prerequisites for the sermons:

First: "The two sermons must precede the prayer": They must be delivered before the prayer. If the sermons, or one of them are delivered after the prayer, then this is not valid.

Second: Two sermons must be delivered. If only one is delivered, then they are

⁶⁴ Jumu'ah: 9-11

both null and void.

Third: "Praising Allah \mathfrak{B} ": The sermon should begin with the praise of Allah as the Prophet \mathfrak{B} used to start his sermon with it. If an *imām* starts to deliver his sermon with some other phrase, the sermon is null and void as this contradicts the way our Prophet \mathfrak{B} delivered his sermon. "*Alhamdulillāh*" is the correct phrase for the praise as this is found in the Qur'ān. Here are a few examples:

[[All] praise to Allah (alhamdulillāhi), Lord of the worlds.]65

{[All] praise is [due] to Allah , who created the heavens and the earth and made the darkness and the light. Then those who disbelieve equate [others] with their Lord.}⁶⁶

{[All] praise is [due] to Allah, to whom belongs whatever is in the heavens and whatever is in the earth, and to Him belongs [all] praise in the Hereafter.}⁶⁷

{All praise is due to Allah, the Originator of the heavens and the earth.}⁶⁸

We find this term being repeated in the Noble Qur'ān. And the Prophet $\frac{1}{2}$ used to say, "Alhamdulillāh" and his way is the best. Saying, "Ahmadullah", or "Nahmudullaha wa nasta'īnuhu" (these are other forms of praising Allah) were not used by the Messenger $\frac{1}{2}$.

Fourth: "And sending salutations upon the Messenger of Allah ﷺ": We are duty-bound to send salutations upon the Messenger ﷺ. Allah commands us to send peace and blessing upon the Prophet ﷺ saying: [Indeed, Allah confers blessing upon the Prophet, and His angels [ask Him to do so]. O you who have believed, ask [Allah to confer] blessing upon him and ask [Allah to grant him] peace.]⁶⁹

⁶⁵ Al-Fātihah: 1

⁶⁶ Al-An'ām: 1

⁶⁷ Saba':1

⁶⁸ Fātir: 1

⁶⁹ Al-Ahzāb: 56

Since the sermon is invocation to and glorification of Allah it is fitting to send salutations upon the Prophet **%** when delivering it.

Fifth: To say the two declarations of faith (*shahādatayn*) before sending salutations upon the Prophet **3**. We say, "*Ashadu an lā ilaha illa allāhu wahdahu lā sharīka lahu, wa ashadu anna muhammadan 'abduhu wa rasūlahu.*" This is followed by the salutations upon the Prophet **3** as it must always be preceded by the declaration of his message. This is the preferred view of Shaykh al-Islam.⁷⁰

Sending peace and blessings on the Prophet is to be done at the beginning of the sermon. In recent times however, it is being said at the conclusion of the sermon. This style is unprecedented. In fact, the sermon should conclude with *istighfār* (seeking forgiveness) as mentioned by Ibn al-Qayyim in his book $Z\bar{a}d$ al- $M\bar{a}'d'$.⁷¹ The Prophet ended his sermons with *istighfār*. The preacher (*khatīb*) says, "I say these words of mine and I seek forgiveness of Allah for me, you and all Muslims." The salutations upon the Prophet # should be sent at the beginning of the sermon, after the *shādatayn*, this is the correct place according to the *Shari'āh*.

وقراءةُ آيةٍ And the recitation of verses.

متن

Sixth: "And the recitation of verses": That is ayat of the Qur'an which are appropriate to the sermon topic. The preacher may select some ayat or even a single ayah which is related to the topic of the sermon. The Prophet \underline{x} used to read many ayat of the Qur'an when he delivered the sermon on Fridays.

The Qur'ān is a warning and a reminder. Therefore he $\frac{1}{28}$ used to read many *ayāt* from it during the sermon. If one does not even recite one ayah of the Qur'ān throughout the sermons, they are considered null and void as this contradicts the actions of the Prophet $\frac{1}{28}$ who used to read *ayāt* of the Qur'ān in his sermons so much so that he would read Sūrah Qaf in its entirety. One of the female companions said, "I memorised Sūrah Qaf by just listening to the Messenger recite it on the pulpit every Friday."⁷²

⁷⁰ See al-Iktiyārāt al-Fiqhiyyah (p.120).

⁷¹ See Zād al-Ma'ād (1/187).

⁷² Reported by Muslim (3/13), Ahmad (6/463) and Abu Dawūd (1100) from the narration of

والوصيةُ بتقوى الله عزَّ وجلّ، وحضورُ العددِ المُشترَطِ

متن

And to remind the people to fear Allah 38 and to ensure that the size of the congregation fulfils the condition.

Seven: "And to remind the people to fear Allah ﷺ": The *imām* says, "To proceed. O people! Fear Allah ﷺ (*Amā ba'd*, *yā ayuhannās*, *itaqullāh ta'ālāh*)." This is because the word "fear" embodies all the good characteristics. Hence, the sermon should not be void of this command to fear Allah. It was the practice of the Prophet \gtrsim to do so for each sermon.

Eight: "And to ensure that the size of the congregation fulfils the condition": So that the sermon is valid. We saw earlier that the least number for the prayer is three people. One of them delivers the sermon while the other two listen to it. If he delivers it and there is none to listen to it, then it is invalid; even if people join in later while the sermon is in progress.

These are the conditions for the validity of the sermon during Friday prayer. The sermon is not an ordinary speech. It is speech with specific conditions. All sermons should correspond to the properties of the Prophet's sermons which have been recorded and preserved by the Muslims. If a person gives a sermon disregarding any of these conditions, or decides to speak off the cuff just to fill up the time allocated to him, it demeans the occasion. His speech is also not deemed a sermon. If the sermon is invalid, then the prayer becomes nullified too. If his speech is not in agreement with these conditions, then the sermon is null and void and in extension the prayer as well.

The matter is very serious. Friday sermons play a crucial role which calls for our attention and focus and we must study the laws pertaining to it. Sermons are not ordinary speeches delivered atop the pulpit. Instead they bear a distinct structure which was the mark of the Prophet **3**.

ولا تُشترَطُ لهما الطهارةُ، ولا أن يتولاهُما من يتولَّى الصَّلاةَ. ومن سُننِهما أنْ يخطُبَ على متن مِنبِ أو موضع عالٍ

To have *tahārah* is not a pre-requisite for both sermons. One who leads the prayer need not necessarily deliver them. The Sunnah of the two sermons

Umm Hisham bint Harith ibn al-Nu'mān.

are: They should be delivered atop a pulpit or an elevated ground.

"To have *tahārah* is not a pre-requisite for both sermons": I.e. he may deliver the sermons without *tahārah*, although being in a state of cleanliness is better.

"One who leads the prayer need not necessarily deliver them": It can be done by separate individuals. However, it is better for the *imām* leading the prayer to deliver the sermons.

The recommended sunan (supererogatory) acts of the two Friday sermons:

"The Sunnah of the two sermons are: They should be delivered atop a pulpit or an elevated ground": This is so that the preacher can be seen by the people, it is an ideal method to project information and it was done this way by the Prophet . The Messenger used to lean against a date palm trunk when he delivered the sermons. Later on, a pulpit was built and he used to deliver the sermons from it.⁷³

This is evidence to prove that it is a Sunnah to deliver sermons atop a pulpit or something that is raised. However, the sermons are valid if one delivers it on level ground as was the practice of the Prophet $\frac{1}{2}$ before the pulpit was built.

ويسلِّم على المأمومينَ إذا أَقبلَ عليهم ثم يجلِسُ إلى فراغ الأذان

متن

He greets those gathered for prayer when he faces them. He then sits until the *adhān* is concluded.

"He greets those gathered for prayer when he faces them": Among the Sunnah acts of the two sermons are: To send greetings of *salām* to the *ma'mūmīn* as soon as he climbs atop the pulpit. He does this by facing the people and saying, "*Assalāmu'alaykum wa rahmatullāhi wa barakātuh*." The Prophet Ξ used to do this.⁷⁴

"He then sits until the *adhān* is concluded": It is a Sunnah for the preacher to

⁷³ Reported by al-Bukhārī (4/237) and al-Tirmidhī (505) from the narration of Ibn 'Umar.

⁷⁴ Reported by Ibn Mājah (1109) from the narration of Jābir ibn 'Abdullah. This was mentioned by Abdul Razzāq in *al-Mussanaf* (5281 and 5282).

A Commentary on Zād al-Mustaqni

sit while atop the pulpit until the *adhān* is concluded. Bilāl \ll used to call the *adhān* while the Messenger \ll sat waiting. This is the *wājib adhān* regarding which Allah mentions in the ayah: {O you who have believed, when [the *adhān*] is called for the prayer on the day of Jumu'ah [Friday], then proceed to the remembrance of Allah and leave trade. That is better for you, if you only knew.}⁷⁵

This was the only *adhān* called for the Friday prayer during the lifetime of the Prophet \mathbb{Z} which indicates that the prayer is due. As for the first *adhān* (called before the specified time for *zuhr* prayer), it was introduced during the lifetime of 'Uthmān \clubsuit the third of the rightly-guided caliphs. When the Muslim population increased, Madīnah expanded to accommodate them. Since the Muslims became busy in their work and trade, 'Uthmān \clubsuit felt that they should be reminded of the Friday prayer early so they would have ample time to get ready for it. Furthermore, the second *adhān* was performed with the *khatīb* (the preacher), so it was not loud and not many people could hear it. Even, if they heard it, there was not much time for them to leave their work or business and ready themselves to attend the prayer.

'Uthman the commanded that the *adhān* be called on the streets so that the people of Madīnah would hear it. This act is a Sunnah of the rightly-guided caliph. The Prophet mentioned, "Incumbent upon you is my Sunnah and the Sunnah of the rightly-guided caliphs."⁷⁶ He did this act with the approval and support of the Companions who were from among the Muhājirīn and Ansār.

Anyone who claims that this act is an innovation is an ignoramus who knows next to nothing about the Sunnah. It is not an innovation but a Sunnah brought about by a rightly-guided caliph. This Sunnah was endorsed by the Muhājirīn and the Ansār and this Sunnah has been practiced by all Muslims to our present time. Those who claim that it is an innovation in fact do not know what is Sunnah or *bid'ab* (innovation).

ويجلِسُ بين الخُطبتين، ويخطُب قائماً، ويعتمدُ على سيفٍ أو قوسٍ أو عصاً، ويقصِدُ تِلْقاءَ وجْههِ، ويقصُرُ الخُطبَةَ، ويدعو للمسلمين متن

⁷⁵ Al-Jumu'ah: 9

⁷⁶ An excerpt from a lengthy hadīth. Reported by Ahmad (4/126), Abu Dawūd (4607) and al-Tirmidhī (2676) from the narration of al-'Irbādh ibn Sāriyah.

He sits between the two sermons and stands to deliver them. He may lean on a sword, a bow or a staff. He faces ahead, shortens the sermon and supplicates for the Muslims.

"He sits between the two sermons": It is a Sunnah that the preacher sits between the two sermons as was the practice of the Prophet g.⁷⁷

"And stands to deliver them": This is a Sunnah for both sermons. The Prophet **ﷺ** stood to deliver the sermons. Allah says: **{But when they saw a transaction** or a diversion, **[O Muhammad]**, they rushed to it and left you standing.}⁷⁸ That is, while he was delivering the sermon. This is an evidence to show that standing is a Sunnah when delivering the sermons of the Friday prayer. It is best and closer to perfection that one stands to deliver the sermons if he is capable of it.

"He may lean on a sword, a bow or a staff": This is yet another Sunnah of the sermon. This was practiced by the Prophet 紫 who used to lean on the bow sometimes and on a staff at others.⁷⁹ This aided him in standing throughout the sermon which in turn made it easy for him to deliver the sermon.

It is perfectly acceptable if the preacher does not lean on a thing. He should not gesture with his hands while delivering the sermon. Instead, he should be still and not make unnecessary movements.

"He faces ahead": This is also a Sunnah of the Friday sermon. The preacher should not swing his head from left to right but rather look ahead. The Prophet \mathfrak{Z} , did not shift his head to the right or to the left while delivering the sermon. As for those attending the Friday prayer, they should face the preacher. The Companions used to look intently at the Messenger of Allah \mathfrak{Z} when he delivered the sermon⁸⁰ so as to focus and benefit from it.

⁷⁷ Reported by Muslim (3/9) from the narration of Jābir ibn Samrah.

⁷⁸ Al-Jumu'ah: 11

⁷⁹ Reported by Ibn Mājah (1107) from the narration of Sa'd ibn Ä'idh who said, "If the Messenger of Allah 56 delivered a sermon while at the battlefield, he leaned on a bow. At other times, he leaned on a staff."

⁸⁰ Reported by Ibn Mājah (1136) from the narraton of 'Adī ibn Thābit who related it from his father who said, "When the Prophet 🕱 stood on the pulpit, his Companions faced him."

A Commentary on Zād al-Mustaqni

"Shortens the sermon": This is another Sunnah of the Friday sermon. The Prophet $\underline{\mathbb{R}}$ used to deliver short sermons and commanded others to do likewise. He $\underline{\mathbb{R}}$ said, "When a person shortens his sermons and lengthens his prayer, it reflects his high level of understanding." Referring to his understanding of the *din*. He also said, "Lengthen the prayer and shorten the sermon."⁸¹

The people innovate in our present times by lengthening the sermons and making the prayers brief; a direct contrast of the Sunnah which the Prophet 3 had commanded. Not only do they lengthen the sermons, they are lackadai-sical when it comes to implementing the pre-requisites of the sermon to such an extent that its validity is in doubt and in extension the Friday prayer itself.

We must bear in mind the command of the Prophet $\frac{1}{26}$. So the preacher should deliver a concise yet meaningful sermon. It should not be so brief that none understands it and it should not be too lengthy that it bores the listeners. The listeners should be pleased with the sermon. It should not be so verbose to the extent that it is both tiring and unpleasant to the listeners.

The preacher should himself focus on the sermon and the topic discussed in it, making it brief and delivering only the essential information. He must deliver it in a lucid fashion without reducing its impact. It should not be an ordinary speech but instead should sway the hearts of the listeners, making them listen to it attentively.

"And supplicates for the Muslims": This is a Sunnah of the Friday sermon. This is because the Muslims are in need of supplication. The preacher supplicates for their well-being, their guidance, their enlightenment and their steadfastness in practicing their din. He also supplicates that Allah rectifies both their religious and worldly affairs. This is a great task due to the Muslims being assembled. The congregation replies to the supplication by saying "amīn". It is assumed that the supplications will be granted.

The preacher supplicates for the well-being of the Muslim ruler.⁸² His well-being will pave the way for the well-being of his countrymen. The preacher invokes Allah to rectify the ruler's affairs, for his steadfastness, his enlightenment and guidance. This is a good deed on the part of the preacher and the Muslims

⁸¹ Reported by Muslim (3/12) and Ahmad (4/263) from the narraton of 'Ammār.

⁸² See al-Mughnī (3/181).

who reply with "amin" to the supplication for the ruler.

Imām Ahmad said, "If we know that an invocation will be surely granted, then we would invoke for the ruler." Imām Ahmad uttered this even as the ruler during his lifetime was causing him great distress and harm. This is an advice from Imām Ahmad, left behind as a legacy for the Muslims. If Allah guides the ruler and makes him righteous, the masses will benefit and their well-being can be assured.

Some people dislike supplicating on behalf of the rulers. They consider it flattery and ingratiating oneself to the ruler. They go on and on with these kinds of comments which reflects their ignorance or vain desires. Some of these people are envious of the rulers and may also have hatred for them. Some others are plain ignorant. Supplicating for the Muslim ruler is an act enjoined by generations of Muslims for therein lays much benefit for Islam and the Muslims.



والجمعةُ ركعتانِ يُسنُّ أن يَقْرأَ جهراً في الأُولى بالجُمعة وفي الثانيةِ بالمنافقين

The Friday prayer consists of two *rakāts*. It is a Sunnah to recite aloud Sūrah al-Jumu'ah and al-Munāfiqūn in the first and second *rakāt* respectively.

"Section: The Friday prayer consists of two *rakāts*": The Friday prayer is two *rakāt* which is agreed upon by all Muslims.⁸³ This is what the Prophet $\frac{1}{28}$ prescribed for us. 'Umar $\frac{1}{48}$ said, "Friday prayer is two *rakāts*, which is the complete prayer and not the shortened form. Indeed the one who belies this shall be unsuccessful."⁸⁴

"It is a Sunnah to recite aloud": The two *sūrahs* are read aloud after reciting aloud Sūrah al-Fātihah for the Friday prayer, the two 'Eid prayers, the prayer seeking rain and the eclipse prayer. The recitation in all of these prayers is to be done aloud, regardless of them being prayed during the day.

This is so as to let the Muslims in attendance listen to the Book of Allah as this will touch their hearts. This is the advantage of reading the *ayāt* aloud.

"Surah al-Jumu'ah and al-Munāfiqūn in the first and second *rakāt* respectively": After reciting al-Fātihah, the *imām* should read portions from the Qur'ān that are convenient to him. However, it is better to read in the first *rakāt* Sūrah al-Jumu'ah as this *sūrah* emphasises the importance of attending the Friday

متن

⁸³ See al-Ijmā' by Ibn al-Mundhir (p. 38).

⁸⁴ Reported by Ibn Mājah (1/338).

prayer. In this *sūrah*, Allah commands us to remember Him, reminding us of His favour when he sent the Messenger $\frac{1}{8}$ saying: {It is He who has sent among the unlettered a Messenger from themselves reciting to them His verses.}⁸⁵

The word *al-umiyin* actually refers to people who are illiterate. This great Prophet \mathfrak{B} was sent to these people and the magnificent Qur'ān was sent to them. These are the greatest bounties of Allah upon this Ummah.

{Reciting to them His verses and purifying them and teaching them the Book and wisdom - although they were before in clear error.} I.e. before the Messenger ﷺ was sent to them they were worshipping idols and engaged in licentious acts. Allah removed them away from this evil condition and gave them Islam. As a result, they became the best of creations. They used to be the worst of mankind. With the coming of the Messenger ﷺ they became the best of mankind. This yet again is the greatest blessing upon the Muslims.

This *sūrah* refutes the Jews who are adverse to Islam and who deny the message of the Messenger of Allah $\underset{\sim}{\cong}$ with these words: {Say, "O you who are Jews, if you claim that you are allies of Allah , excluding the [other] people, then wish for death, if you should be truthful."}⁸⁶

Their claim is, "We are the allies of Allah and we are the children of Allah. We are also the chosen people while the rest of mankind are our servants who lay below our feet."

Allah refutes them saying: {But they will not wish for it, ever, because of what their hands have put forth.}⁸⁷

For they know themselves to be disbelievers who are in falsehood. They know that when they meet Allah, they will end up in the Hellfire. Knowing this, they do not wish for death.

There is a warning in Sūrah al-Munāfiqūn against hypocrisy (nifāq). The sūrah

⁸⁵ Al-Jumu'ah: 2

⁸⁶ Al-Jumu'ah: 6

⁸⁷ Al-Jumu'ah: 7

describes the characteristics of the hypocrite as the Friday prayer was attended by the *munāfiqūn*. This *sūrah* was read so that the hypocrites would hear it and repent to Allah for their hypocrisy and to warn the Muslims regarding hypocrisy.

At the end of the *sūrah*, there is a warning against flouting the remembrance of Allah. He says: **{O you who have believed, let not your wealth and your children divert you from remembrance of Allah.}**⁸⁸

This great *sūrah* warns against hypocrisy, encourages one to ready himself for the Hereafter. It commands us to remember Allah, which keeps the heart alive and it commands us to obey Him.

The *imām* may also recite Sūrah al-A'lā in the first *rakāt* and Sūrah al-Ghāshiyah in the second *rakāt*. These two *sūrahs* command us to obey Allah. They elaborate the way of the pious: **{He has certainly succeeded who purifies himself. And mentions the name of his Lord and prays.}**⁸⁹

This *sūrah* relates the way the pious draw close to Allah and the way of the evil-doers. It warns against prioritising the worldly life over the life of the Hereafter. It is indeed a great *sūrah*.

Sūrah al-Ghāshiyah is similar to it. Allah explains the events that mankind shall face on the Day of Judgement, that they will be divided into two groups, and what each group shall go through on that Day: {[Some] faces, that Day, will be humbled. Working [hard] and exhausted. They will [enter to] burn in an intensely hot Fire. They will be given drink from a boiling spring. For them there will be no food except from a poisonous, thorny plant. Which neither nourishes nor avails against hunger. [Other] faces, that Day, will show pleasure. With their effort [they are] satisfied. In an elevated garden.}⁹⁰

At the end of the *sūrab*, Allah lets man reflect on the signs of Allah found in the creations: {Then do they not look at the camels - how they are created? And at the sky - how it is raised? And at the mountains - how they are erected? And at the earth - how it is spread out? So remind, [O Muhammad]; you

⁸⁸ Al-Munāfiqūn: 9

⁸⁹ Al-A'lā: 14-15

⁹⁰ Al-Ghāshiyah: 2-10

are only a reminder. You are not over them a controller.}⁹¹

وتَحَرُّمُ إقامتُها في أكثر من موضع من البلدِ إلا لحاجةٍ، فإن فَعَلُوا فالصحيحةُ ما باشَرَها الإمامُ أو أَذِنَ فيها، فإَن استويا في إذن أو عدمه فالثانية باطلة، وإن وقعتا معاً أو جُهِلَت الأولى بَطَلَتَا

متن

It is forbidden to be held in more than one place in an area unless there is a necessity. If done so, it is only valid when the *imām* himself attends it or if he gives permission for it. If two Friday prayers are equal in terms of being given permission or the lack of it, then the later prayer is considered invalid. If it is conducted at the same time or it is unknown when the first prayer was performed, then both the prayers are invalid.

"It is forbidden to be held in more than one place in an area unless there is a necessity": This is because the objective of the Friday prayer is to gather the residents of an area at a single *masjid*. This was the practice during the lifetime of the Prophet #. They gathered at the Prophet's *masjid* and prayed as a single congregation. If it is possible to gather all residents of the area in one *masjid*, then it becomes *wājib* to do so. If a second or third session of the Friday prayer needs to be performed, it may be done so provided that the area is large and has an expansive territory.

"If done so, it is only valid when the *imām* himself attends it or if he gives permission for it": If many Friday prayers are performed within an area unnecessarily, then only the Friday prayer that was performed with the permission of the *imām* or to which he attended is valid. The permission of the *imām* mentioned here is sought if repetition of the Friday prayer is unprecedented. Repetitions of Friday prayer cannot be held except with Islamic rulings being issued from the authorised body which will determine if there is a need or not.

"If two Friday prayers are equal in terms of being given permission or the lack of it, then the later prayer is considered invalid. If it is conducted at the same time or it is unknown when the first prayer was performed, then both the prayers are invalid": That is, both the prayers which are performed without a need are permitted by the *imām* or lacking it. Only the prayer performed first from among the two prayers is valid. This is because the obligation to perform

⁹¹ Al-Ghāshiyah: 17-22

the Friday prayer ceases with the performance of the first prayer. The second Friday prayer is invalid, hence they must perform the *zuhr* prayer instead. However, if both prayers are held at the same time or if the timing sequence is unknown, such that some say the first prayer is valid while others say the second is valid, then both prayers are invalid. This is because one claim does not have an advantage over the other. The people must perform the *zuhr* prayer instead of the Friday prayer except when there is sufficient time still available to perform the Friday prayer. In this case, they may perform the Friday prayer.

وأقلُّ السُّنَّةِ بعد الجمعة ركعتان، وأكثرُها ستٌّ

متن

And the least number is two *rakāt* of Sunnah prayer after the Friday prayer and the most is six *rakāts*.

There are no *rātibah* prayers before the Friday prayer. This is in contrast to *zuhr*, which has *rātibah* prayers before and after it.

However, one may perform Sunnah prayers as many units as are convenient to him once he enters the *masjid* when attending the Friday prayer. These units of prayers are general Sunnah prayers called *nafl mutlaq*. He may perform these prayers and busy himself with the remembrance of Allah and recitation of the Qur'ān while waiting for the arrival of the *imām*. It is best for him to continuously offer units of *nafl mutlaq* from his entry into the *masjid* until the arrival of the *imām*.

"And the least number is two units of Sunnah prayer after the Friday prayer": This is by way of consensus. The Prophet $\frac{1}{2}$ used to pray two *rakāt* of Sunnah prayer at his home.⁹²

"And the most is six *rakāts*": Performing four *rakāt* with two *taslīms* has been reported in a hadīth.⁹³ And performing six *rakāt* has also been reported, with the *taslīm* performed after every two *rakāt*. The most complete and perfect deed would be to pray six *rakāt* of it, the middle would be four *rakāt* and then the least would be two *rakāt*. This is what is authentically narrated regarding the *rātibah* prayers after the Friday prayer.

⁹² Reported by al-Bukhārī (2/16) and Muslim (3/17) from the narration of 'Abdullah ibn 'Amr. 93 Reported by Muslim (3/16) from the narration of Abu Hurairah who said, "The Prophet ***** said, 'If one of you performs Friday prayer, let him perform four *rakāt* after it."

It is best for a person to perform two units of *rātibah* prayer if he performs it at his home as was the practice of the Prophet \underline{x} . If one decides to pray at the *masjid*, then he should pray four or six *rakāt*.

ويسنُّ أن يغتسل لها-وتقدم- ويتنظف ويتطيب، ويلبس أحسن ثيابه

متن

It is from the *sunan* of Jumu'ah (Friday) to take a bath, which we have discussed, clean himself, apply perfume and wear his best clothes.

"It is from the *sunan* of Jumu'ah (Friday) to take a bath, which we have discussed, clean himself": These are Sunnah acts of Friday. Having a bath (*ghusl*) was discussed earlier on in the book, in the Book of *Tahārah*. Having a bath on Friday is a strongly recommended Sunnah (*mu'akkadah*). Some scholars claim that it is $w\bar{a}jib$,⁹⁴ based on the hadīth, "Taking a bath on Friday is $w\bar{a}jib$ upon all those who have reached puberty."⁹⁵

However, the majority of the scholars are of the opinion that it is either *musta-hab* (recommended) or Sunnah *mu'akkadah*. They substantiate this with the hadīth of the Prophet $\underline{*}$: "He who performs *wudū* on the day of Jumu'ah, in it is blessing. He who performs *ghusl*, this is better."⁹⁶ This hadīth proves that taking a bath is better, hence it is not *wājib*. The majority of the scholars are of this view.

Imām ibn al-Qayyim said, "If he is soiled by dirt or his body has a foul smell, then it is $w\bar{a}jib$ for him to take a bath so that this foul smell, which is caused by perspiration, is removed. If his body does not have a foul smell or perspiration, then it is only *mustahab* that he take a bath."⁹⁷

This is because Friday is a day when people come together and so it is incumbent upon us to prepare for it by taking a bath, applying perfume and wearing clean and fine clothes. Friday is the 'Eid day of the week, when Muslims gather. Hence he should adorn himself, groom himself well and smell nice.

97 See Zād al-Ma'ād (1/376-377).

⁹⁴ See al-Mughnī (3/224-225).

⁹⁵ Reported by al-Bukhārī (1/217), (2/3, 6) and Muslim (3/3) from the narration of Abu Sa'īd al-Khudrī.

⁹⁶ Reported by Abu Dawūd (354), al-Nasā'ī (3/94) and al-Tirmidhī (497) from the narration of Samrah.

"Apply perfume": Apply the best perfume he has in anticipation of the day of 'Eid and enjoyment.

"And wear his best clothes": He should adorn himself with the best clothes he has, which is appropriate for this great day.

متن

ويبكر إليها ماشياً، ويدنو من الإمام

He arrives early, walking to the masjid and sits close to the imām.

"He arrives early": It is *mustahab* that one arrives early for the Friday prayer. However, this etiquette is lost amongst the people nowadays. Even those living beside the *masjid* and even the students of knowledge do not arrive early and are amongst the last to arrive. Due to this lax approach, goodness is being deprived. Muslims are duty bound to arrive early for the Friday prayer.

The Prophet \approx said, "Whoever comes [to the *masjid*] in the first hour, it is as if he sacrificed a camel. Whoever comes at the second hour, it is as if he sacrificed a cow. Whoever comes at the third hour, it is as if he sacrificed a horned ram. Whoever comes at the fourth hour, it is as if he sacrificed a chicken. Whoever comes at the fifth hour, it is as if he sacrificed a chicken. Whoever comes at the fifth hour, it is as if he sacrificed a chicken whoever comes at the fifth hour, it is as if he sacrificed a chicken whoever comes at the fifth hour, it is as if he sacrificed an egg."⁹⁸ After the fifth hour, there is no sacrifice. Hence Muslims should try and gain rewards by arriving early at the *masjid* for the Friday prayer.

"Walking": I.e. towards the *masjid*. Every footstep that he takes towards it is recorded. If the *masjid* is far away and there is a need to use transport, then he may do so. However, he must do his level best to walk to the *masjid* for it is better to possess humility and unpretentiousness in walking to the *masjid* for the sake of Allah.

"And sits close to the *imām*": It is *mustahab* that he sits as close as he can to the *imām* as virtues regarding this act on a Friday have been reported. The closest of people to Allah on the Day of Judgement, the Day of increase will be those who were the earliest to attend the Friday prayer. These people shall visit the Creator 36 every Friday. The earliest to meet Allah and the closest to Him will be those who were the earliest to come to the *masjid* for the Friday prayer. Those who came late for the prayer will be the last to be with Allah 36.

⁹⁸ Reported by al-Bukhārī (2/3) and Muslim (3/4) from the narration of Abu Hurairah.

متن ويقرأ سورة الكهف في يومها ويكثر الدعاء والصلاة على الـنبي ﷺ، ولا يتخطّى رقاب الناس إلا أن يكون إماماً أو إلى فُرْجة، وحَرُم أن يقيمَ غيره فيجلسَ مكانَه إلا من قَدَّم صاحباً لـه فجلس في موضع يحفظه لـه

To read Sūrah al-Kahf on Friday, to increase in $du'\bar{a}$ and in sending salutations upon the Prophet $\frac{\pi}{2}$, not skip over the necks of people except if he is the *imām* or if there is a gap. It is prohibited to ask someone who is already seated at a spot to move from it so that he may sit there unless it is a person he sent to reserve the spot on his behalf.

"To read Sūrah al-Kahf on Friday": It is *mustahab* to read Sūrah al-Kahf on Friday as there are *ahadīth* which mention the virtues of doing so.⁹⁹ Though the [authenticity] of these *ahadīth* is not devoid of discussion, when they are brought together they support the virtues of reciting the *sūrah* on Fridays.

"To increase in *du'a*": As Friday is a day of significance. The Prophet $\frac{1}{26}$ informed us that there is a particular hour on Friday in which a Muslim shall not come by, while standing in prayer engaged in the invocation of Allah and asking Him something, except that it shall be granted.¹⁰⁰ However, the particular time period is unknown. Allah concealed it so that the Muslims would put great effort throughout the whole day in invoking Him, so that the Muslims would engage in the remembrance of Allah throughout the day so that they receive immense rewards.

"And sending salutations upon the Prophet #": It is also *mustahabb* that one increases sending Allah's blessings upon the Prophet. This is a right he has upon us. It is also an injunction of Allah. He says: **{O you who have believed, ask** [Allah to confer] blessing upon him and ask [Allah to grant him] peace.}¹⁰¹

"Not skip over the necks of people": It is prohibited to step across the shoulders of people already seated. A man entered the *masjid* while the Prophet $\frac{1}{2}$ was delivering the sermon and started to cross over the shoulders of those

⁹⁹ Reported by al-Hākim (2/368), al-Bayhaqī (3/249) from the narration of Abu Sa'īd al-Khudrī who heard the Prophet 🕱 say, "Whoever reads Sūrah al-Kahf on Friday, it shall be a radiance for him for the period between the two Fridays."

¹⁰⁰ Reported by al-Bukhārī (2/16), (7/66), (8/105) and Muslim (3/5) from the narration of Abu Hurairah.

¹⁰¹ Al-Ahzāb: 56

A Commentary on Zād al-Mustaqni

seated. The Prophet addressed him saying, "Sit down! Indeed you are late and you are harming others."¹⁰² I.e. "Not only are you late but you harm others by crossing over the shoulders of those already seated."The correct etiquette is to sit wherever one finds an empty place, even if it is at the back of the *masjid*. He had squandered his chance to sit in the front by being late for the prayer.

"Except if he is the *imām* or if there is a gap": It is prohibited to step over the shoulders of those already seated while trying to find a place at the front of the *masjid* except in two cases:

<u>First</u>: If one was the *imām* and there is no other way to the pulpit except through the congregation.

Second: If he notices an empty spot in the row ahead, he may move forward to fill up the gap in the row. The others are in error as they left a gap and for not having filled up the row properly.

"It is prohibited to ask someone who is already seated at a spot to move from it so that he may sit there": If someone else sat at the spot where he normally sits at the *masjid* for the Friday prayer or other than it, the one who is already seated has more right to it than the other person. Whoever sits at a place first is more worthy of the spot.¹⁰³

"Unless it is a person he sent to reserve the spot on his behalf": If he had dispatched his friend, servant or one of his children to reserve the spot for him, then there is no problem in asking him to move from the spot so that he can sit there. This is because the one who was already sitting at the spot was his representative.

وحَرُم رفعُ مُصَلَّى مفروش ما لم تَخْضر الصلاة، ومن قام من مكانه لعارض لَحِقَهُ ثم عاد إليه قريباً فهو أحقُّ به متن

To remove a prayer mat placed to reserve a spot is prohibited until the prayer commences. One who leaves his spot due to a predicament he faces

¹⁰² Reported by Abu Dawūd (1118), al-Nasā'ī (3/103) and Ahmad (4/188, 190) from the narration of 'Abdullah ibn Basr and by Ibn Mājah (1115) from the narration of Jābir ibn 'Abdullah. 103 Reported by Abu Dawūd (3071), al-Bayhaqī in *al-Sunan* (6/142) and al-Tabarānī in *al-Mu'jam al-Kabīr* (1/280) from the narration of Asmar ibn Mudhris.

has a right over that spot if he returns to it in a short while.

"To remove a prayer mat placed to reserve a spot is prohibited until the prayer commences": Placing a mat to reserve a spot in the *masjid* requires elaboration:

If a person places the mat to reserve his spot, leaves the spot to fulfil a need and returns to it in a short while, then he has the right over that spot and is most worthy of it. However, if he places the mat to reserve his spot and then leaves the *masjid* without a valid reason, then he has no right over that spot.¹⁰⁴

"One who leaves his spot due to a predicament he faces has a right over that spot if he returns to it in a short while": If he has to fulfil a need that forces him to leave his spot and his intention is that he will return promptly, then he has the priority to that spot.

If one enters the *masjid* while the *imām* is delivering the sermon, he should not sit down until he prays two *rakāt* of concise prayer. Talking while the *imām* is delivering the sermon is prohibited, except the *imām* or those spoken to by the *imām*. It is permissible before and after the sermon.

"If one enters": I.e. for the Friday prayer.

"While the *imām* is delivering the sermon": The Friday sermon.

"He should not sit down until he prays two *rakāt* of concise prayer": The prayer in this circumstance should be brief. The Prophet $\frac{1}{26}$ ordered a man who entered the *masjid* while he was delivering the sermon to pray two *rakāt* of prayer.¹⁰⁵ This is evidence that this prayer is legislated in Islam and that one should not sit down until after performing this prayer. However, he should perform a brief prayer so that he may listen to the sermon.

¹⁰⁴ It is mentioned in *al-Iktiyārāt al-Fiqhiyyab*, "If he placed his mat on the ground but did not sit on it, then he has no rights over the spot. Others can remove his mat. This is the most common view among the scholars." (p. 81)

¹⁰⁵ Reported by al-Bukhārī (2/15) and Muslim (3/14, 15) from the narration of Jābir ibn 'Abdullah.

"Talking while the *imām* is delivering the sermon is prohibited": Below are some of the etiquettes while the sermon is being delivered:

One: If one enters the *masjid* while the *imām* is delivering the sermon, he must offer two units of prayer before sitting down.

Two: There should be no talking during the two sermons. In fact, it is wajib to listen attentively to them.

These etiquettes underscore the importance of the Friday sermons. It is incumbent on both the preacher and the congregation to ensure the effectiveness of the sermons. The preacher should present the points of the sermon topic clearly, and ensure that it conforms to the *Shari'ah*. He should include in it the praise of Allah and His glorification, the *shahādatayn* and salutations upon the Prophet \mathfrak{B} . He delivers it in such a manner that rattles the heart and recites *ayāt* of the Qur'ān in it that are associated with the sermon topic.

A sermon is not a normal speech spoken atop the pulpit or a speech that does not address the concerns of the people. In fact, a sermon topic tackles the issues of the masses and their needs. It rectifies the errors of the society and informs of Islamic issues which many of its members are unaware of, especially the issues pertaining to creed ($aq\bar{i}dah$). The preacher takes great effort to explain the creed for it is the *asl* (foundation) of the *din*. Being in a state of ignorance and error in relation to creed is tantamount to tainting one's faith and may lead to its loss. So the preacher emphasises it and warns the listeners about the matters that tarnish the creed as there are a lot of misconceptions among the people regarding the creed.

The preacher should try to ensure that he delivers a high quality sermon that affects the people as how the Prophet $\frac{1}{20}$ used to deliver his sermons. His eyes would turn blood-shot, he would raise his voice, and he would increase in emotion. His manner was to the extent that it seemed that he was warning the army, "[The enemy is to attack you] in the morning and in the evening!"¹⁰⁶ This is the way of the preacher (*khatīb*).

As for the listeners, their duty is to be silent and pay attention to the preacher. They should not be preoccupied with anything else. They should not fidget

¹⁰⁶ Reported by Muslim (3/11) from the narration of Jābir ibn 'Abdullah.

or fiddle with their hands. They should listen attentively to the sermon. The Prophet $\frac{1}{26}$ forbade talking while the preacher is delivering the sermon. He said, "Whoever says 'sab' on Friday while the *imām* is delivering the sermon, indeed has squandered. He who fiddles with a pebble has squandered. There is no Friday prayer for he who has squandered."¹⁰⁷ The Prophet $\frac{1}{26}$ also said, "He who talks on the day of Jumu'ah while the *imām* is delivering the sermon is like a donkey which carries volumes of books."¹⁰⁸ That is, he is present for the prayer but has gained nothing. Hence, he is like a donkey which carries books but does not benefit from them.

This yet again highlights the importance of the sermons and the functions played by the preacher and the listeners. If the members of the congregation talk while the *imām* is delivering the sermon, then their reward for the prayer is lost, though one is not required to repeat the prayer. This is a great loss indeed which receives scant attention from the people. This is the reason why many attend the prayer only after the sermon has been concluded. Even when they arrive at the *masjid* early, they pay no attention to the preacher and do not know what he is talking about.

This is akin to the attitude of the hypocrites. Allah says: {And among them, [O Muhammad], are those who listen to you, until when they depart from you, they say to those who were given knowledge, "What has he said just now?"}¹⁰⁹

They do not know what the preacher said in his sermon. It is wajib for the Muslim to attend the sermon, be silent, listen and grasp its content.

"Except the *imām* or those spoken to by the *imām*": That is, speaking is not allowed while the sermon is being delivered. The exceptions are: Firstly, the *imām* who is allowed to talk if he has to alert the congregation about a thing that concerns them.

Secondly, the members of the congregation may speak if the *imām* asks them a question. The Prophet asked the man who entered the *masjid* and sat, "Have you prayed two *rakāt*?" To which the man said, "No." The Prophet then said,

¹⁰⁷ Reported by Ahmad (1/93) and Abu Dawūd (1051) from the narration of 'Alī.

¹⁰⁸ Reported by Ahmad (1/230) from the narration of Ibn 'Abbās.

¹⁰⁹ Muhammad: 16

A Commentary on Zād al-Mustaqni

"Get up and pray two *rakāt*."¹¹⁰ The Prophet asked the man a question and he replied to it. This happened in the midst of the sermon. Talking was allowed as there was a need for it.

In another similar incident, a man entered the *masjid* while the Prophet $\frac{3}{2}$ was delivering the sermon. He complained to the Prophet about the drought, the lack of rain and the needs of the Muslims. He requested that the Messenger $\frac{3}{2}$ invoke for rain on behalf of the Muslims. The Messenger $\frac{3}{2}$ raised his hands and invoked to Allah for rain. While he was invoking, clouds formed and spread in the sky. It rained soon after and all of them went out into the rain. Rain water flowed on the ground and the rain lasted for a week. The man entered the *masjid* the next Friday and requested that the Messenger invoke Allah to hold back the rain. The excessive rain was causing much harm to the Muslims. The Prophet $\frac{3}{2}$ raised his hands and invoked Allah to make the sky cloudless.¹¹¹

"It is permissible before and after the sermon": Speaking is allowed before the sermon and after it has concluded. Speaking is only forbidden during the sermon. It is even allowed during the break in between the two sermons when the *imām* sits down to rest momentarily. However, it is better for the Muslims to busy themselves whilst they are in the *masjid* with the remembrance of Allah rather than engage in a conversation.

¹¹⁰ Reported by al-Bukhārī (2/15) from the narration of Jābir ibn 'Abdullah.

¹¹¹ Reported by al-Bukhārī (2/15, 36, 37), (4/236) and Muslim (3/25) from the narration of Anas ibn Mālik.

باب صلاة العيدين CHAPTER: THE TWO 'EID PRAYERS

"Chapter: The Two 'Eid Prayers": The chapter on the Friday prayer is followed by the chapter on the two 'Eid prayers. The connection between them is quite obvious. People gather for the two 'Eid prayers like they gather for the Friday prayer. These prayers are common in that they consist of two sermons, are two *rakāt*. However, the 'Eid prayers have different rules and conditions from the Friday prayer.

Are the 'Eid prayers *wājib* in the communal sense or personal sense, or are they Sunnah prayers?

The scholars hold three opinions:

First: They are wajib communally (kifayab).¹¹² If some people of the community perform it, the others in that community are absolved of the duty. However, if none performs the two 'Eid prayers, than the whole community has sinned. If they colluded with each other to wilfully abandon performing these prayers, then they must be fought against (to rectify them). Such a punitive action is taken due to the fact that these prayers are famous signs of Islam.

Just as if the *adhān* or the *iqāmah* are abandoned on purpose during the prayer, then a military campaign shall be waged against this group of people who have neglected a communal obligation.

¹¹² It is mentioned in *al-Insāf*, "This is the view of the Hanbalī *madhab* which is endorsed by most of its scholars." (2/420)

<u>Second</u>: They are an obligation upon every Muslim (*fard 'ayn*). This is the view held by the Hanafī *madhab* and the preferred view of Shaykh al-Islam ibn Taymiyyāh.¹¹³

<u>Third</u>: They are Sunnah.¹¹⁴ This view is held by the majority of the scholars. They base this view on the incident where a man asked regarding the five obligatory prayers and the Prophet $\frac{1}{28}$ explained to him regarding them. The man then asked, "Am I obliged to perform any other prayer?" The Prophet $\frac{1}{28}$ replied, "No, except that which you want to offer of supererogatory prayers."¹¹⁵ This hadīth is proof that there is no obligatory prayer except the five daily prayers. A further evidence would be the Prophet's saying, "Five prayers were written [as obligation] by Allah in a day and night."¹¹⁶

The following ayah is a proof from the Qur'ān: **{Indeed, prayer has been de-creed upon the believers a decree of specified times.}**¹¹⁷ The word "*kitāban*" in this ayah means *fard* (obligatory). This is proof that apart from the five daily prayers, all other prayers are *naff*, the 'Eid prayers included. This is the view of the majority of the scholars.

Shaykh al-Islam ibn Taymiyyah preferred the second opinion, that 'Eid prayers are an obligation upon every Muslim (*fard 'ayn*). It is also the *madhab* of Imām Abu Hanīfah. This is because this was the action of the Prophet $\frac{1}{28}$ and he was consistent in performing it to the extent that menstruating women and women who secluded themselves within their homes were ordered to attend the 'Eid prayer, though the menstruating women kept away from the prayer area.¹¹⁸ This is proof that it is *wājib* and this is a clear and strong view.

The 'Eid prayers are connected with the two 'Eid festivals i.e. the performance of the 'Eid prayer is due to the day of 'Eid. The word 'Eid refers to something

116 It is an excerpt from the hadīth mentioned earlier.

117 Al-Nisā: 103

¹¹³ See al-Iktiyārāt al-Fiqhiyyah (p. 123).

¹¹⁴ View held by Imām Mālik and a large number of the Shāfi'ī scholars. See *al-Mughnī* (3/253).

¹¹⁵ Reported by al-Bukhārī (1/81), (3/235) and Muslim (1/31) from the narration of Talha ibn Ubaydillah al-Taymī.

¹¹⁸ Reported by al-Bukhārī (1/99), (2/26, 28) and Muslim (3/20) from the narration of Umm 'Atiyah.

that recurs and repeats itself weekly like Friday or yearly like 'Eid al-Fitr and 'Eid al-Adhā. The plural for 'Eid is *a'yād* in Arabic.¹¹⁹

'Eid is divided into two types:

'Eid zamānī: 'Eid in relation to time, such as 'Eid al-Fitr and 'Eid al-Adhā.

'*Eid makānī*: 'Eid in relation to place. Referring to places where Muslims gather for worship, such as the holy sites and Masjid al-Harām, where Muslims gather every year during the Hajj pilgrimage.

When the Prophet $\frac{1}{2}$ arrived at Madīnah, the ignorant people were commemorating many festivals which they invented themselves. Some remnants of those festivals still linger to this day. Each and every individual brought forth a festival that was to his own taste and liking. He $\frac{1}{2}$ noticed that the people of Madīnah celebrated two days in particular, the day of *nayrūz* and *mihrajān*. The Prophet $\frac{1}{2}$ said, "Verily Allah has replaced these two festivals with another two festivals for you that are better than them, 'Eid al-Fitr and 'Eid al-Adhā."¹²⁰ The Messenger abolished the festivals of the days of ignorance and ordered that these two festivals of Islam be celebrated.

The Muslims do not have any other festival except the two days of 'Eid. If some people commemorate a festival other than these two: such as those who celebrate '*Eid al-Mawlid*, a coronation,¹²¹ a day of victory, a day of migration etc. All of these are considered festivals of *jāhiliyyab* (ignorance).

If anyone takes these festivals as a form of worship or as being associated with Islam, then this is an innovation. An example of this is the celebration of *Mawlid al-Nabi*. If one does not consider these festivals as forms of worship, then it is said that he is imitating the ways of the ignorant people, the disbelievers and the polytheists. Examples would be the memorials and other such commemorations.

Such practices are considered as imitating the way of the disbelievers and it

¹¹⁹ See al-Mutla' (p. 108).

¹²⁰ Reported by Ahmad (3/103), (3/178), Abu Dawūd (1134) and al-Nasā'ī (3/179) from the narration of Anas ibn Mālik.

¹²¹ Celebrations that mark the crowning of the new monarch or head of state.

contradicts the Prophet's command, "Verily Allah has replaced these two festivals with another two festivals for you." Hence, any addition of festivals is prohibited.

Any additional festival or celebration deemed to be a means by which to draw closer to Allah is classified as an innovation, and all innovations attributed to the *din* are wayward. An example would be Mawlid al-Nabi. The Prophet 3 said, "Verily, every new matter is an innovation and every innovation is astray."¹²² He 3 also said, "He who does a deed that was not commanded by me will be rejected."¹²³

In conclusion, the Muslims do not have a festival besides the two 'Eid festivals of 'Eid al-Fitr and 'Eid al-Adhā. Both these festivals are commemorated at the end of a pillar of Islam. 'Eid al-Fitr is celebrated after the completion of the pillar of fasting during the month of Ramadān. 'Eid al-Adhā is celebrated after the pillar of Hajj, after the standing at 'Arafah, the greatest rite of Hajj. The two days of 'Eid display our gratitude to Allah ﷺ and the glorification of Allah for the bounties that He bestowed upon the Muslims in the way of fasting during Ramadān and the Hajj pilgrimage to the Bayt al-Harām. The 'Eid celebrations are an open display of Islam and one of the famous signs of Islam. Thus, the two 'Eid days are not merely ends towards meaningless celebrations nor are they celebrations merely for amusement.

متن

وهي فرضُ كفايةٍ، إذا تركها أهلُ بلد قاتلهم الإمامُ

It is *fard al-kifāyab*. If all the people in a country abandon it, the *imām* shall punish them.

"It is *fard al-kifāyah*": I.e. the two 'Eid prayers are a communal obligation. If some people perform it, the others are absolved of the duty to do so. This is a view of Imām Ahmad.

Fard al-kifāyah is well-known. If some people fulfil the obligation, the others are absolved of this obligation and it is only Sunnah for them to perform that

¹²² This is an excerpt from a hadith reported by Ahmad (4/126), Abu Dawūd (4607) and al-Tirmidhī (2676) from the narration of al-'Irbādh ibn Sāriyah.

¹²³ Reported by al-Bukhārī (3/241) and Muslim (5/132) with different wording. Narrated by 'Aishah.

act of worship. If none fulfils the obligation, then the whole community is held accountable and it becomes a sin upon all of them. The objective of such an obligation is its fulfilment, not who fulfils it.

The difference between *fard al-kifāyah* and *fard al-'ayn* (personal obligation):

Fard al-kifāyah: The objective is its fulfilment, not focussing on which Muslim fulfils it.

Fard al-'ayn: The objective is its fulfilment and that all Muslims fulfil it. Hence the act of worship must be accomplished and it is each and every individual's duty to fulfil it. An example would be the five daily prayers and the Friday prayer.

"If all the people in a country abandon it, the *imām* shall punish them": That is if they wilfully abandon it or conspire to not perform it. In this case, the *imām* shall persecute the people as the 'Eid prayers are a famous sign and symbol of Islam. The Muslim leader shall be responsible to safeguard the symbols of Islam such that they are not desecrated nor made a mockery of.

وقتُها كصلاة الضُّحى، وآخرُه الزوالُ، فإن لم يعلم بالعيد إلا بعده صلَّوا من الغد

متن

Its time is similar to the *duhā* prayer and the timing ends at *zawāl*. If 'Eid is not declared or is unknown until after *zawāl*, then the prayer is scheduled for the next day.

"Its time is similar to the *duhā* prayer and the timing ends at *zawāl*": The timing for the 'Eid prayers starts when it is time for the *duhā* prayer, that is, when the sun rises from the horizon a distance equal to the length of a spear. There is no optional prayer before this time. It ends with the entry of *zuhr* at the time of *zawāl* (just after the sun displaces from its zenith).

The evidence for this timing is the hadīth of Abu Umayr ibn Anas ibn Mālik al-Ansārī 48, from his uncles from the Ansār who said, "The crescent moon of the month of Shawwāl was not visible to us so we fasted. Some people came to us that afternoon and informed the Prophet 38 that they had spotted the crescent moon the night before. The Prophet 38 ordered us to break our fast A Commentary on Zād al-Mustaqni

and perform the 'Eid prayers the next day."124

This is evidence to show that the 'Eid prayers are not performed after zawal. If it was permitted, the Prophet \cong would have ordered to do so on the day of 'Eid itself. The fact that he delayed it until the next day proves that if the timing for the prayer lapses, then the prayer is not to be performed on that day.

"If 'Eid is not declared or is unknown until after zawal, then the prayer is scheduled for the next day": If 'Eid is not declared or is unknown, as when the crescent moon is only sighted after zawal, then they must delay the prayer until the next day. They perform it during its time but with the intention that it is a replacement (qada) for the 'Eid prayer they missed the day before.

The Sunnah is to perform it in an open ground.

وتُسنُّ في صحراء

The place for the 'Eid prayers:

متن

"The Sunnah is to perform it in an open ground": It is the Sunnah to perform these prayers away from the buildings, as was the practice of the Prophet 3who went with the people to perform the 'Eid prayer outside the borders of Madīnah.¹²⁵ Since the 'Eid prayers are an evident symbol of Islam it is better displayed when the people move to an open area to perform them.

Except Masjid al-Harām and Masjid al-Aqsa. 'Eid prayers should be performed in these two *masjids* for they are more virtuous than the surrounding places. This was also the practice during the lifetime of the Prophet 3. The people of Makkah did not go out to an open ground to perform these prayers. They prayed at Masjid al-Harām, where the sacred Ka'bah is. Similarly, the 'Eid prayers were performed at Masjid al-Aqsa and not at an open ground. This was the practice of the Companions after the conquest of Bayt al-Maqdis.

In other lands though, it is Sunnah to pray at an open ground near dwellings

¹²⁴ Reported by Ahmad (5/58) from the narration of Abu Umayr ibn Anas.

¹²⁵ Reported by al-Bukhārī (2/22, 149), Muslim (3/20) from the narration of Abu Sa'īd al-Khudrī who said, "Verily, the Messenger of Allah ﷺ went out to the prayer area on the day of 'Eid al-Adhā and 'Eid al-Fitr and the first thing he did was to perform the prayer."

so that it will not be difficult for people to get to that area. A distant location may burden them. The Prophet $\frac{1}{28}$ used to hold the prayers at a ground close to the Madīnah gate. If circumstances require them to pray within the *masjid*, then they are allowed to do so.

وتَقْدِيمُ صلاة الأضحى وعكسُه الفطر، وأكلهُ قبلها، وعكسُه في الأضحى إن ضحَّى

متن

To expedite the prayer of al-Adhā and the opposite for al-Fitr. To eat before al-Fitr and the opposite for al-Adhā if one is planning to offer a sacrifice.

"To expedite the prayer of al-Adhā": It is *mustahabb* to expedite the prayer on 'Eid al-Adhā, praying it at the earliest time. This is to facilitate those planning to offer the sacrifice. Another reason is that on 'Eid al-Adhā, it is *mustahabb* to eat only after the prayer and sacrifice is done. He then eats the meat from the sacrificial animal as was the practice of the Prophet¹²⁶ \cong and as in the ayah: **{So pray to your Lord and sacrifice [to Him alone.]**¹²⁷

"And the opposite for al-Fitr": On the day of 'Eid al-Fitr however, the prayer is delayed. The *imām* delays the prayer so that it facilitates the handing out of the prescribed alms (*sadaqah al-fitr*) which has to be fulfilled before the 'Eid prayer.

"To eat before al-Fitr": It is Sunnah to eat before the 'Eid al-Fitr prayer as the Prophet $\frac{1}{28}$ used to eat dates before going out to perform the prayer.¹²⁸ Allah says: {He has certainly succeeded who purifies himself. And mentions the name of his Lord and prays.}¹²⁹

In the above *ayāt*, "*tazakkā*" precedes "*al-salāh*". The meaning of "*tazakkā*" in this ayah, according to some of the *mufassirīn*, refers to the prescribed alms given out on the day of 'Eid (*sadaqah al-fitr*). These *ayāt* prioritise the giving out of *sadaqah al-fitr* before the performance of the 'Eid prayer.

Eating before the 'Eid al-Fitr prayer is to make it known that one is not fasting on that day, lest people think he was fasting until the prayer was performed.

¹²⁶ Reported by Ahmad (5/352, 353) from the narration of Buraydah ibn al-Hasīb.

¹²⁷ Al-Kawthar: 2

¹²⁸ Reported by al-Bukhārī (2/21) and Ahmad (3/126) from the narration of Anas ibn Mālik. 129 Al-A'lā: 14-15

وتكره في الجامع بلا عذر

متن

It is disliked to perform the prayer at a *masjid* without an excuse.

"It is disliked to perform the prayer at a *masjid* without an excuse": If there is a valid excuse, like rain, cold weather or if there is no open ground available nearby, then the prayer can be performed at a *masjid*. The Prophet \cong prayed an 'Eid prayer at his *masjid* on a rainy day.¹³⁰

If there are no excuses whatsoever, it is disliked to perform the prayer at the *masjid*. The objective is for the people to be seen and the outward display of the masses. This is the reason it is performed at an open ground which accentuates the display of this symbol of Islam.

ويُسن تَبْكيرُ مأموم إليها ماشياً بعد الصبح، وتأخرُ إمام إلى وقت الصلاة على أحسن هيئة؛ من إلا المعتكفَ ففي ثياب اعتكافه

It is Sunnah for the *ma'mūm* to go to the prayer ground early. He walks there immediately after the *fajr* prayer. The *imām* however, delays his arrival. It is Sunnah to attend the prayer in the best outfit except for the one who had spent the night at the *masjid* in *i'tikāf*. He may wear that which he wore the night before.

"It is Sunnah for the *ma'mūm* to go to the prayer ground early": It is Sunnah for the *ma'mūm* to walk to the prayer ground to perform the 'Eid prayer immediately after *fajr* prayer. This is so that he can engage in the remembrance of Allah whilst waiting for the prayer to begin, so that he gains more reward. Furthermore, it is encouraged to compete in doing good. The *imām* delays his arrival until it is time for the prayer as was the practice of the Prophet 3.¹³¹

"He walks there immediately after the *fajr* prayer": This is best, so that his footsteps are recorded and rewarded as is done for other prayers as well. It is *mustahabb* that a person walk to the *masjid* to perform the obligatory prayers,

¹³⁰ Reported by Abu Dawūd (1160), Ibn Mājah (1313) from the narration of Abu Hurairah who said, "The people were drenched by rain on the day of 'Eid during the lifetime of the Prophet $\frac{1}{26}$ and so he performed it at the *masjid*."

¹³¹ An authentic hadīth reported by al-Bukhārī (2/22, 149) and Muslim (3/20) from the narration of Abu Sa'īd al-Khudrī.

reaching there early as Allah informs us in the Qur'ān: {Indeed, it is We who bring the dead to life and record what they have put forth and their traces.}¹³²

According to one *tafsir* of this ayah, the word "traces" ($\bar{a}th\bar{a}rahum$) mentioned in the *ayah* refers to the strides one takes whilst walking to the *masjid*. Another interpretation is that this refers to the good, pious deeds one leaves behind after his death. The ayah encompasses both interpretations.¹³³

And there is no fault in driving a vehicle there if walking would bring difficulty, if the distance is too far or he is too old or sick to walk there. However, if he is strong and able to do so then it is better for him to walk to the open ground for the 'Eid prayer, even though he may be the Sultan or a person of high status. The Prophet $\frac{1}{26}$ who is the best of creation and the leader of the Muslims walked to perform the 'Eid prayer.¹³⁴

"It is Sunnah to attend the prayer in the best outfit": It is *mustahabb* that one wears the finest clothes he possesses to the prayer. He should wear the finest perfume he has and ensure he is clean, for the 'Eid prayer is a grand gathering which deserves some preparation on his part. The Prophet $\frac{1}{2}$ used to adorn himself on the day of 'Eid, wearing a special outfit for the occasion.¹³⁵

The *salaf* used to do likewise, wearing the best clothes they had on the day of 'Eid. This is one way of honouring the day and a means for spreading cheer and happiness.

One should not wear worn-out clothes or clothes that have a bad odour. If he is poor and is not able to afford fine clothes, then he should wear garments according to his means but should ensure that the clothes are clean and washed before he wears them. Indeed everyone is able to wear clean clothes, regardless if he is rich or poor.

¹³² Yasin: 12

¹³³ See al-Jāmi' li Ahkām al-Qur'ān by al-Qurtubī (1/15).

¹³⁴ Reported by Ibn Mājah (1295) from the narration of Ibn 'Umar with them based on the actions of the Prophet.

¹³⁵ Reported by Ibn Khuzaymah in his *Sabih* (1766) and al-Bayhaqī in *al-Sunan* (3/280) from the narration of Jābir ibn 'Abdullah who said, "The Prophet \underline{x} had a robe that he used to wear only on the two days of 'Eid and on Fridays."

"Except for the one who had spent the night at the *masjid* in *i'tikāf*. He may wear that which he wore the night before": I.e. he leaves the *masjid* to join in with the 'Eid prayer wearing the clothes which he wore whilst performing *i'tikāf* in the *masjid*. Doing so prolongs the remnants of piety [of having performed *i'tikāf*].

متن

متن

ومن شَرْطِها: استيطانٌ، وعددُ الجمعة، لا إذنُ إمام

Among its conditions are: Residency, having a congregation size similar to that of the Friday prayer. Seeking the permission of the *imām* is not a condition.

"Among its conditions are: Residency": Residency is from the conditions that make it wajib for one to attend the 'Eid prayer. This condition is similar to that of the Friday prayer. Hence, it is not wajib for a traveller to attend the prayer, nor for the desert dwellers who are not residents where the prayer takes place. During the lifetime of the Prophet $\frac{1}{2}$ the desert dwellers used to live on the periphery of Madīnah. He $\frac{1}{2}$ neither ordered them to attend the 'Eid prayers nor the Friday prayer. He himself did not perform these 'Eid and Friday prayers whilst he was on a journey. He $\frac{1}{2}$ stood at 'Arafah on a Friday and did not perform the Friday prayers. Likewise on the day of 'Eid al-Adhā, he was at Mina and did not perform the 'Eid prayer. This is evidence to show that these prayers are not wajib for the traveller, the desert dweller who isn't a resident and whoever is in a similar situation. These prayers are wajib only upon those who are permanent residents of a place.

"Having a congregation size similar to that of the Friday prayer": This is a condition for the validity of the 'Eid prayer. The prayer becomes valid if there are at least three people who make up the congregation.¹³⁶

"Seeking the permission of the *imām* is not a condition": As was mentioned in the Chapter of Friday Prayer, seeking the *imām*'s permission is not a condition for the validity of these prayers. If all other conditions are met, the 'Eid prayer can be conducted even without consulting the *imām*.

136 See al-Iktiyārāt al-Fiqhiyyah (p. 79).

It is Sunnah to return via a different route. The two *rakāt* are performed before the sermon.

"It is Sunnah to return via a different route": It is *mustahabb* for those who have attended the 'Eid prayer to return home via a different route as was the practice of the Prophet 3. It is said that the wisdom of this practice is that the places trodden will bear witness to the act of worship and the remembrance of Allah performed by the person on that day. It is also said that the Prophet practiced this as his people wanted to meet him and speak to him and they loved to see him 3. Hence, the Prophet 3 walked to perform the 'Eid prayer on a route and returned home using another route so as to fulfil this need of his people.

"The two *rakāt* are performed before the sermon": The 'Eid prayer consists of two *rakāt* and this is the consensus.¹³⁷ The sermon is delivered after the prayer which is in contrast to the Friday prayer where the sermon is delivered before the prayer. This was the action of the Prophet 3. This is because the sermon is a condition for the validity of the Friday prayer whereas it is a Sunnah for the 'Eid prayer. Hence it is delivered after the prayer.

It is an innovation to deliver the sermon before the 'Eid prayers. This innovation was practiced by some rulers during the Umayyad caliphate. They were strongly refuted as it contradicted the Sunnah of the Messenger 3 and the Sunnah of the rightly-guided caliphs. Ibn 'Umar narrates that the Prophet 3delivered the sermon after the prayer as did Abu Bakr, 'Umar and 'Uthmān.¹³⁸

Takbīr is said six times in the first *rakāt*, after the *istiftāh*, before *ta'awwuthu* and the recitation. In the second *rakāt* it is said five times before the recitation. The hands are raised for each *takbīr*.

"Takbir is said six times in the first rakat after istiftah and before ta'awwuthu

¹³⁷ See al-Mughnī (3/265).

¹³⁸ Reported by al-Bukhārī (2/22, 23), Muslim (3/20), Ahmad (2/12, 38), al-Nasā'ī (3/183), al-Tirmidhī (531) and Ibn Mājah (1276) without mentioning 'Uthmān.

A Commentary on Zād al-Mustaqni

and the recitation. In the second *rakāt* it is said five times before the recitation": The *takbīr* is said during the prayer and the sermon as 'Eid is a day of glorification of Allah, Who mentions about 'Eid al-Fitr thus: {For you to complete the period and to glorify Allah for that [to] which He has guided you; and perhaps you will be grateful.}¹³⁹ And about 'Eid al-Adhā: {And mention the name of Allah on known days over what He has provided for them of [sacrificial] animals.}¹⁴⁰

The glorification of Allah is expressed outwardly during the two days of 'Eid, especially in the two 'Eid prayers and in the sermon. After making the *tak-bīratul ihram* in the first *rakāt*, one makes an additional six *takbīr*. He makes a total of five *takbīr* in the second *rakāt*. It is also said that the first *rakāt* consists of seven *takbīr* and the second *rakāt* five *takbīr*. Both descriptions have been authentically reported from the Messenger 3.¹⁴¹ It is best that one method is performed sometimes and the other method at others. If only one method is utilised, then there is no harm in it.

"The hands are raised for each *takbīr*": As is done during the obligatory prayer and the funeral prayer. This was the practice of the pious predecessors. They raised their hands whilst saying the *takbīr* in the 'Eid prayer.

ويقول: الله أكبر كبيراً، والحمد لله كثيراً، وسبحان الله بكرةً وأصيلاً، وصلَّى اللهُ على من محمد النبيِّ وآله وسلم تسليماً كثيراً، وإن أحبَّ قال غيرَ ذلك. ثم يقرأ جَهْراً بعد الفاتحة بـ(سَبِّح) في الأولى، وبـ(الغاشية) في الثانية

He says, "Allahu akbar kabīran, wa alhamdulillahi kathīran, wa subhānallahi bukratan wa asīlan. Wa sallallahu 'alā muhammadin an nabiyya wa 'alā ālihi wa sallam taslīman kathīran." If he so desires, he may say something other than this. He then recites loudly Sūrah al-A'lā after al-Fātihah in the first rakāt and Sūrah al-Ghāshiyah in the second.

That is, to read this in between the takbirs.

¹³⁹ Al-Baqarah: 185

¹⁴⁰ Al-Hajj: 28

¹⁴¹ The second description was reported by Ahmad (2/180), Abu Dawūd (1151, 1152), Ibn Mājah (1278) and al-Dāraqutnī (2/48) from the narration of 'Amr ibn Shu'aib from his father who narrated from his grandfather.

"He says, 'Allahu akbar kabīran, wa alhamdulillahi kathīran, wa subhānallahi bukratan wa asīlan. Wa sallallahu 'alā muhammadin an nabiyya wa 'alā ālihi wa sallam taslīman kathīran.": Saying, "Subhānallah, wal hamdulillah, wa lā ilāha illallahu Allahu akbar," instead of the above is also good.

If he is silent and does not recite any *dhikr* in between the *takbīr*, there is no harm.

"He then recites loudly Sūrah al-A'lā after al-Fātihah in the first *rakāt* and Sūrah al-Ghāshiyah in the second": The recitation in the 'Eid prayers is done aloud just like in the Friday prayer. This was the practice of the Prophet $\frac{1}{26}$. The reason for this is that these prayers are attended by a great number of Muslims and when the *ayāt* are recited aloud, it serves as a reminder for them when they hear it.

The *imām* reads Sūrah al-A'lā in the first *rakāt* after Sūrah al-Fātihah. In the second *rakāt*, he recites Sūrah al-Ghāshiyah. It is also recommended to read Sūrah Qaf in the first *rakāt* and Sūrah al-Qamar in the second *rakāt*.

It is permissible for the *imām* to recite other *sūrahs* from the Qur'ān for Allah says: **{So recite what is easy [for you] of the Qur'ān.}**¹⁴²

However, reciting Sūrah al-A'lā and al-Ghāshiyah is the Sunnah. In these *sūrahs*, Allah mentions resurrection and the events of the Day of Judgement. The gathering of Muslims on the day of 'Eid is like the gathering in the Hereafter (*al-hashr*) and reciting these *sūrahs* remind the Muslims of this inevitable gathering that will take place on the Day of Judgement.

متن فإذا سلَّم خطب خُطبتين كخُطبتي الجمعة، يستفتح الأولى بتسع تكبيرات، والثانية بسبع، يحثُّهم في الفطر على الصدقة، ويبين لهم ما يُخرجون، ويرغبُهم في الأضحى في الأضحية ، و يُبين لهم حكمها

He delivers the two sermons, similar to the Friday sermons, immediately after making *taslīm*, making nine *takbīr* in the opening of the first sermon and seven *takbīr* in the second. He urges them on al-Fitr to the giving of alms, elaborating on its rulings. He enjoins in al-Adhā the sacrificial slaughter,

¹⁴² Al-Muzammil: 20

A Commentary on Zād al-Mustaqni

detailing its rulings.

"He delivers the two sermons, similar to the Friday sermons, immediately after making *taslīm*, making nine *takbīr* in the opening of the first sermon and seven *takbīr* in the second": He makes nine *takbīr* in the first sermon because 'Eid is a day of glorification of Allah. The Muslims are encouraged to say the *takbīr* along with the *imām*. The second sermon consists of seven *takbīrs*. The *takbīr* is done before the sermon is commenced with the "Alhamdulillāh".

If an *imām* commences the sermons with "*Alhamdulillāh*" without saying the *takbīr*, there is no harm in it. However, it is better precede with the *takbīrs*.

"He urges them on al-Fitr to the giving of alms, elaborating on its rulings": The topic of the sermon on the day of 'Eid al-Fitr is about alms-giving. He elaborates on its rulings, the different types of alms that can be given, its limits, to whom it should be given and the time to give it. Not centring the sermon on this topic contradicts the guidance of the Prophet $\frac{1}{8}$.

"He enjoins in al-Adhā the sacrificial slaughter, detailing its rulings": Similarly, on 'Eid al-Adhā the *imām* delivers a sermon that elaborates upon the rulings pertaining to sacrificial slaughter, adding that it was the Sunnah of Prophet Ibrahim 34 and the Sunnah of Prophet Muhammad 3. Hence it should not be abandoned. The *imām* explains the types of animals that can be offered for the sacrifice, clarifying the bodily defects the animals must be free from. He informs the listener how to distribute the sacrificial meat.

It is a contradiction to the Sunnah if one makes the sermon topic totally unrelated to the 'Eid. The *imām* mentions in his sermon that haughtiness in dressing should be avoided. He reminds the congregation to lower their gaze for the day of 'Eid is a day of adornment and glitter, when the finest clothing is worn.

He encourages the listeners to give alms, to be kind to the poor and the needy for among the congregation there are bound to be those who are less fortunate.

The *imām* warns them to avoid amusement and play, reminding them that the day of 'Eid is a day of eating, drinking and remembrance of Allah. That is, after having spent time in worship and obedience to the Creator, they should never

engage themselves in transgression and sin, which is the way of the ignorant and rebellious. They make the day of 'Eid a day of merry-making, cheer and perversion. There is even inter-mingling and promiscuity between men and women. This is an act of ingratitude of the blessings endowed upon them and a desecration of the sanctity of signs of Allah.

Indeed there can be fun-filled activities which have no sinful elements in them. An example would be to practice sword fighting and combat training like the Abyssinians who practiced with their spears within the compound of Masjid al-Nabawī. However, spending the day of 'Eid in amusement and play, by hiring musicians to play music, inter-mingling of sexes and neglecting prayers is forbidden.

These are means by which the signs of Allah are desecrated. This is a good example of one following up a good deed with an evil deed. *Wa lā hawla wa lā qūwata ilā billāh*.

والتكبيراتُ الزوائدُ والذكرُ بينها والخُطبتان سُنَّة

متن

The additional *takbīrs*, the *dhikr* in between the *takbīrs* and both sermons are Sunnah.

"The additional *takbīrs*, the *dhikr* in between the *takbīrs*": The additional *tak-bīrat*¹⁴³ in the beginning of the two *rakāt* of the 'Eid prayers and at the start of the two sermons are Sunnah. If one does not say it, the prayer is still valid as is the sermon. Similarly, the *dhikr* mentioned in between the *takbīrat* is Sunnah. There is no harm in not saying it.

"And both sermons are Sunnah": The two sermons of the 'Eid prayers are also Sunnah, in contrast to the two sermons of the Friday prayer. The 'Eid prayers are valid without the sermons. However, to deliver the sermons is much better for the occasion is one where Muslims gather and they are in need of advice and reminder. They can also be advised on the obligations that are upon them. The congregation of such large numbers is an opportunity for *da'wah* and inviting to the path of Allah and His remembrance.

Hence, it is inappropriate for the *imam* to abandon the sermons of the 'Eid

¹⁴³ Plural of takbir.

prayers though they may not be $w\bar{a}jib$. The Prophet $\underline{*}$ said when he concluded the prayer, "We shall deliver the sermon. Whosoever wants to sit [to listen to the sermon] do remain seated. Those who want to leave may do so."¹⁴⁴ If the sermons were $w\bar{a}jib$, leaving before listening to the sermons would not have been permitted.

متن

ويُكره التنفلُ قبل الصلاة وبعدها في موضعها

Performing *nafl* prayers before and after the 'Eid prayer is disliked at the open ground.

"Performing *nafl* prayers before and after the 'Eid prayer is disliked at the open ground": One should immediately sit upon reaching the prayer area. This is if it is performed at an open ground.

One should not pray after the 'Eid prayer if it is held at a *masjid* lest the people come to believe that this is part of the 'Eid prayer. The Prophet $\frac{1}{2}$ went out to the open ground and prayed two *rakāt* of 'Eid prayer. He did not perform *nafl* prayer before or after it¹⁴⁵ and his is the best example $\frac{1}{2}$.

If one prays the 'Eid prayers at the *masjid*, the scholars have differing views pertaining to whether he should offer the *tahiyat al-masjid* prayer (prayer to honour the *masjid*) when he enters it or if he should just sit down.¹⁴⁶ Some of them state that he should sit down straight away while others say that he should perform *tahiyat al-masjid* prayer before sitting down. Both are permissible, so one should not refute he who sits down upon entering the *masjid* and neither should one refute he who prays two *rakāt* of *tahiyat al-masjid* before sitting down.

ويسنُّ لمنْ فاتَتْه أو بعضَها قضاؤُها على صِفتها، ويسنُّ التكبيرُ المطلقُ في ليلتي العيدين، متن وفي فِطْرٍ آكد، وفي كل عشر ذي الحجة

It is Sunnah for he who misses the 'Eid prayer or part of it to make it up according to its attributes. It is Sunnah to make *takbīr al-mutlaq* the night

¹⁴⁴ Reported by al-Nasā'ī (3/185) from the narration of 'Abdullah ibn al-Sā'ib.

¹⁴⁵ Reported by al-Bukhārī (2/23), Muslim (3/21) from the narration of 'Abdullah ibn 'Abbās. 146 See *al-Insāf* (2/432) and *Muntahā al-Irādāt* (1/369).

before the two days of 'Eid. The *takbīr* is more specified for 'Eid al-Fitr. On 'Eid al-Adhā, it is said throughout the first ten days of Dhul Hijjah.

"It is a Sunnah for he who misses the 'Eid prayer or part of it to make it up according to its attributes": He does so as an individual or performs it in congregation. He must remember to include the additional *takbīrat* and the *dhikr* in between the *takbīrat*. He recites aloud in the prayer just like the 'Eid prayer he missed. This is because the prayer that is made up must resemble the prayer that was missed. Similarly, if one misses part of the 'Eid prayer, he prays with the *imām* what is left of the prayer and then stands up after the *imām's taslīm* to complete whatever he missed. He does this according to how the 'Eid prayer is performed.

"It is Sunnah to make *takbīr al-mutlaq* the night before the two days of 'Eid": For 'Eid al-Fitr, the timing for *takbīr al-mutlaq* (general *takbīr*) starts from when the crescent moon is sighted up until the *imām* starts delivering his sermon. The *takbīr* is said in the *masjids*, along the streets, the houses, at the shops and at the workplaces. The *takbīr* is made pervasive and it is repeated often. The meaning of *mutlaq* is something that is done without a specific timing or place.

"The *takbīr* is more specified for 'Eid al-Fitr": As compared to 'Eid al-Adhā. Allah says about al-Fitr: **{And [wants] for you to complete the period and to glorify Allah for that [to] which He has guided you.}**¹⁴⁷ This is at the completion of Ramadān.

"On 'Eid al-Adhā, it is said throughout the first ten days of Dhul Hijjah": *Tak-bīr mutlaq* is performed from the first day of Dhul Hijjah until *fajr* prayer of Yawm al-'Arafah, which is the ninth of Dhul Hijjah. This is for those who are not performing Hajj. They start to say the specific *takbīr* from the *fajr* prayer onwards.

As for those who are performing Hajj, they only start saying the specific *takbir* after the *zuhr* prayer on the tenth of Dhul Hijjah or what is known as Yawm al-Nahr (Day of Sacrifice). This is due to the fact that they would be engaged in saying the *talbiyah* until that time.

¹⁴⁷ Al-Baqarah: 185

A Commentary on Zād al-Mustaqni

The *takbir* on the night before 'Eid al-Fitr is more specific than the *takbir* on the night before 'Eid al-Adhā as defined by Allah in the ayah: {And [wants] for you to complete the period and to glorify Allah for that [to] which He has guided you.}¹⁴⁸

The first ten days of Dhul Hijjah are very significant days. Allah makes a vow upon these days in the Qur'ān. He says: **{I swear by the daybreak. And the ten nights.}**¹⁴⁹ These are the first ten nights of Dhul Hijjah. The very fact that Allah makes a vow upon these days shows their significance for He does not make a vow upon a thing except that it is highly important. Hence we conclude that these ten days are very important.

In a hadīth, the Prophet $\frac{1}{26}$ said, "There are no days in which deeds are better and dearer to Allah than these ten days." The Companions asked, "O Messenger of Allah, even better than *jihād* in the path of Allah?" He $\frac{1}{26}$ replied, "Even better than *jihād* in the path of Allah, except for one who went out [for *jihād*] with his soul and money but returned with neither."¹⁵⁰

It is *mustahabb* to draw closer to Allah by doing pious deeds in these blessed ten days. Likewise, it is *mustahabb* to fast these days and repeat the *takbīr* often on these ten days and nights. The Companions used to make the *takbīr* on these ten days.¹⁵¹ This is considered from the pious deeds. Fasting, performing prayers, saying the *takbīr*, giving alms and other such activities are from the pious deeds.

The specific *takbīr* is said at the end of every obligatory prayer in congregation, starting from *fajr* prayer on the day of 'Arafah and for those performing Hajj it starts from *zubr* prayer on Yawm al-Nahr until '*asr* prayer of the

¹⁴⁸ Al-Baqarah: 185

¹⁴⁹ Al-Fajr: 1-2

¹⁵⁰ Reported by al-Bukhārī (2/24), Ahmad (1/224, 338), Abu Dawūd (2438), al-Tirmidhī (757) and Ibn Mājah (1727) from the narration of Ibn 'Abbās.

¹⁵¹ Added as an appendix by Imām al-Bukhārī in his *Sabīb* (2/24) from the deeds of Ibn 'Umar and Abu Hurairah. They used to go out to the market on the ten days of Dhul Hijjah and say the *takbīr* and the people used to make the *takbīr* along with them.

last day of the days of tashriq.

"The specific *takbīr* is said at the end of every obligatory prayer in congregation": If one prays individually, then saying the *takbīr* after the prayer is not legislated for him. As soon as the *taslīm* is made, the *imām* and the *ma'mūm* say the *takbīr* in unison. It is called *al-takbīr al-muqayyid* (specific *takbīr*) because a time is specified, in this case after every obligatory prayer performed in a congregation. *Nafl* prayers are excluded. There is no *takbīr* after *nafl* prayers as there is no evidence of such a practice from the predecessors. However, there is proof for it being said after obligatory prayers.¹⁵²

"Starting from *fajr* prayer on the day of 'Arafah": That is, the non-pilgrims make *al-takbīr al-muqayyid* beginning from the *fajr* prayer on the day of 'Arafah, on the ninth of Dhul Hijjah until '*asr* prayer on the thirteenth of Dhul Hijjah.

"And for those performing Hajj it starts from *zuhr* prayer on Yawm al-Nahr until 'asr prayer of the last day of the days of *tashriq*": The pilgrims however only begin saying *al-takbīr al-muqayyid* after *zuhr* prayer on Yawm al-Nahr which is the tenth of Dhul Hijjah. They continue saying the *takbīr* until 'asr prayer on the third day of *tashrīq*, which is the thirteenth of Dhul Hijjah. The delay in them saying the *takbīr* is due to them being engaged in *talbiyah*.

If one forgets the *takbīr*, then he should make it up as long as he has not spoken or left the *masjid*. It is not a Sunnah to say the *takbīr* after the 'Eid prayer. The *takbīr* comes in pairs, '*Allahu akbar allahu akbar lā ilāha illallahu*, wallahu akbar allahu akbar wa lillahil hamd.'

"If one forgets the *takbīr*, then he should make it up as long as he has not spoken or left the *masjid*": He who prays in a congregation, be it the *imām* or follower, but forgets to say the *takbīr al-muqayyid* after the prayer, he should

¹⁵² Reported by al-Dāraqutnī (2/49) and al-Bayhaqī (3/315) from the narration of Jābir who said, "The Prophet $\frac{1}{2}$ used to say the *takbīr* on the day of 'Arafah from the *fajr* prayer. He ceased doing so after the '*asr* prayer on the last day of the days of *tashrīq*." Bayhaqī classified this hadīth as weak.

say it if he remembers it soon afterwards. If there is a big time gap then its time has lapsed. It cannot also be said if he nullifies his ablution. Hence, he may make it up if two conditions are met:

<u>One</u>: If the time gap is not too long.

Two: If his ablution is still valid.

"It is not a Sunnah to say the *takbīr* after the 'Eid prayer": Even though 'Eid prayers are a communal obligation, there is no *takbīr* after its conclusion. This is because there is no evidence to prove that this was practiced.

"The *takbīr* comes in pairs": As follows, "*Allahu akbar allahu akbar lā ilāha illallahu, wallahu akbar allahu akbar wa lillahil hamd.*" This was the *takbīr* of the Prophet \underline{x} .¹⁵³

¹⁵³ Reported by al-Dāraqutnī (2/50) from the narration of Jābir ibn 'Abdullah.

باب صلاة الكسوف

CHAPTER: PRAYER OF THE SOLAR ECLIPSE

"Chapter: Prayer of the Solar Eclipse": The prayer for the solar eclipse (*salāt al-kusūf*) is a Sunnah *mu'akkadab*. Some scholars consider it *wājib* as it was a command of the Prophet 3.¹⁵⁴

Al-kusūf (with the letter <u>kaf</u>) and <u>al-khusūf</u> (with the letter <u>kha</u>) are used to describe the solar and lunar eclipse. The terms can be used to describe both the solar and lunar eclipse though some claim that <u>al-khusūf</u> is only used to describe the solar eclipse and <u>al-kusūf</u> is only used to describe the lunar eclipse. The former opinion, that they are interchangeable, is correct.¹⁵⁵

In an eclipse, the brightness disappears from the sun and moon. Allah created them both so as to facilitate His servants. He made the moon reflect light while the sun was made as a burning lamp. Their brightness is very significant to mankind. If the brightness of both the sun and the moon disappears forever, mankind will feel its adverse effects and one fears that a great calamity shall ensue.

Both the solar and lunar eclipses are caused by a reason well-known to astronomers. The solar eclipse occurs when the moon's orbit brings it to the same position as the sun. The moon is below the sun at that point and the sun's rays are blocked from reaching the earth. It occurs only at the end of month, name-

¹⁵⁴ Reported by al-Bukhārī (2/42-43) and Muslim (3/27) from the narration of 'Aishah who heard the Prophet $\frac{1}{26}$ say, "The sun and the moon are two signs of Allah. They are not eclipsed on account of anyone's death or on account of anyone's birth. So when you see that, declare His greatness, supplicate to Allah, perform prayer, and give alms."

¹⁵⁵ See al-Mutla' (p. 109) and al-Dar al-Naqi (1/383) and al-Misbah al-Munir (pp. 231, 732).

ly the twenty ninth and thirtieth days. This is when the moon's orbit crosses paths with the sun, coming in between it and the earth.

As for the lunar eclipse, it occurs when the reverse happens. That is, the earth's orbit brings it between the sun and the moon. The sun's rays are blocked from reaching the moon. This occurs only on the fourteenth or fifteenth night of the month known in Arabic as "*laylat al-abdār*." When the sun and the earth cross paths, the earth's shadow falls on the moon and that is when a full lunar eclipse is observed. There are partial lunar eclipses on occasion. Astronomers can calculate when the eclipse will occur and so they make it known to the general public before it occurs.

Though it may be calculated and notified in advance, there is no doubt that it is a harbinger for a calamity or that harm is to befall the inhabitants of the earth. The change in brightness may trigger an adverse effect. Hence, a true believer receives it with much anxiety and fear. The Prophet \cong said, "The sun and the moon are two signs of Allah. Allah put fear into His servants by it. So if you see either eclipse, perform the prayer and invoke until what may befall you is removed."¹⁵⁶

When a solar eclipse occurred during the lifetime of the Prophet $\frac{157}{25}$ he left his house in fear, taking long strides that were straining his lower garment.¹⁵⁷ There is a worry that the final hour is nigh and that mankind shall be afflicted with a calamity or punishment during an eclipse. The Muslims invoked Allah to remove that which is hindering the light.

The prayer for solar eclipse is an emphasised Sunnah (Sunnah *mu'akkadab*) which was performed by the Prophet 3.158 He ordered the Muslims to perform likewise and the Muslims have made this their practice ever since. Some scholars derive the injunction to perform this prayer from the following Qur'ānic ayah: {And of His signs are the night and day and the sun and moon. Do not prostrate to the sun or to the moon, but prostate to Allah,

¹⁵⁶ Reported by al-Bukhārī (2/42, 44), Ahmad (5/37) and al-Nasā'ī (3/124, 126) from the narration of Abu Bakrah.

¹⁵⁷ This is an established command of the Prophet ﷺ as mentioned in the hadīth narrated by Abu Bakrah (ibid).

¹⁵⁸ Reported by al-Bukhārī (2/45) and Muslim (3/34) from the narration of 'Abdullah ibn 'Abbās. Many other narrations support this.

who created them, if it should be Him that you worship.}¹⁵⁹ The scholars said, "The meaning of prostration is the prayer of solar eclipse." It is a fact that this prayer is a well established Sunnah, which was clearly evident from the sayings and actions of the Prophet $\frac{1}{32}$. It is a Sunnah *mu'akkadah*.

تسنُّ جماعةً وفرادَى إذا كسف أحدُ النيِّريْن، ركعتين يقرأ في الأولى جهراً بعد الفاتحة سورةً طويلةً، ثم يركعُ طويلاً، ثم يرفعُ ويُسَمِّع ويحمِّدُ، ثم يقرأُ الفاتحةَ وسورةً طويلةً دون الأولى، ثم يركعُ فيطيلُ وهو دون الأوَّلِ، ثم يرفعُ ثم يسجدُ سجدتين طويلتين، ثم يصلي الثانية كالأولى لكن دونها في كل ما يفعلُ، ثم يتشهدُ ويُسلِّم

متن

It is Sunnah to perform the eclipse prayer in a congregation or individually when either eclipse occurs. It consists of two *rakāt* and in the first *rakāt* the *imām* recites aloud a long *sūrab* after al-Fātihah. Then he makes *ruku*' and prolongs it. He returns to the standing position saying *tasmī*' and *tahmīd* and begins reciting al-Fātihah followed by another long *sūrab*, shorter than the first. He makes *ruku*' again prolonging it but not as long as the first *ruku*'. He returns to the standing position and then makes *sujūd* twice prolonging them both. He proceeds to perform the second *rakāt* similarly. However, he performs it quicker than the first *rakāt*. After reading the *tashahud*, he concludes the prayer with the *taslīm*.

"It is Sunnah to perform the eclipse prayer in a congregation or individually": It is better to perform it in congregation as was the practice of the Prophet $\underline{*}$. He went out to offer the prayer with his Companions in the *masjid*. Hence, it is Sunnah to pray in congregation. It is better to perform it in the *masjid* as well. However, it is permissible to perform it individually based on the general statement of the Prophet $\underline{*}$, "So if you see either eclipse, perform the prayer and invoke."

"When either eclipse occurs": When the brightness of the sun or the moon disappears.

"It consists of two *rakāt*": It is a consensus that the eclipse prayer consists of two *rakāt*. The *ruku*', standing after *ruku*' and *sujūd* are done twice in each *rakāt*.

"In the first rakāt the imām recites aloud": It is mustahabb to recite aloud in

¹⁵⁹ Fussilat: 37

the eclipse prayer, even if it is performed in the afternoon. Reciting the *ayāt* aloud allows the *ma'mūm* to listen to it. In fact, one recites it aloud even when he is performing the prayer individually as the Prophet $\frac{1}{2}$ used to recite aloud.¹⁶⁰

"A long *sūrah*": The *sūrah* is unspecified, so one may read any *sūrah* that is long. It is said in the hadīth narrated by 'Aisha, "Similar to Sūrah al-Baqarāh."¹⁶¹ This is so that the *imām* can prolong the standing.

"Then he makes *ruku*' and prolongs it": Making it similar in length to the standing.

"He returns to the standing position saying *tasmī*' and *tahmīd*": Saying, "Sami' allahu liman hamidah" and then, "Rabbanā wa laka al-hamd..."

"And begins reciting al-Fātihah followed by another long *sūrah*, shorter than the first": The *imām* reads a shorter *sūrah* than the first.

"He makes *ruku*' again prolonging it but not as long as the first *ruku*": This *ruku*' is much quicker when compared to the first.

"He returns to the standing position": Saying, "Sami' allahu liman hamidah" and then, "Rabbanā wa laka al-hamd."

"And then makes *sujūd* twice prolonging them both": Prolonging them as long as the *ruku*'.

"He proceeds to perform the second *rakāt* similarly. However, he performs it quicker than the first *rakāt*. After reading the *tashahud*, he concludes the prayer with the *taslīm*": He performs the second *rakāt* and concludes the prayer with the *tashahud* followed by the *taslīm*.

Hence, the eclipse prayer is of two *rakāt* that consist of four *ruku*' and *sujūd*. Each *rakāt* consists of two *ruku*' and *sujūd*. This is the established method of performing the prayer for the solar eclipse.¹⁶²

¹⁶⁰ Reported by al-Bukhārī (1/49) and Muslim (3/29) from the narration of 'Aishah.

¹⁶¹ Reported by al-Bukhārī (2/42-43) and Muslim (3/27).

¹⁶² See al-Mughni (3/323).

It was mentioned, "There are three *ruku*' in every *rakāt*. So, the total for the prayer is six *ruku*'."¹⁶³

It was also mentioned, "There are four *ruku*' in every *rakāt*. So, the total for the prayer is eight *ruku*'."¹⁶⁴ Another view is that there are five *ruku*' in each *rakāt*, which makes it a total of ten *ruku*' for the prayer.¹⁶⁵

These methods have all been reported¹⁶⁶ but the most established and preferred is the first method, i.e. that it consists of two *rakāt* and in each *rakāt* there are two *ruku*' and *sujūd*. Hence the total for the prayer is four *ruku*' and *sujūd*. This was the way the Prophet $\frac{1}{20}$ performed the prayer and he did so once as he witnessed only a single eclipse during his lifetime and it was a solar eclipse.

This proves that the Messenger \underline{x} had chosen to pray one of these methods for surely he could not have prayed the eclipse prayer repeatedly. It is said that these variances were performed by him \underline{x} . However this assumption is baseless and not possible as he only performed this prayer once. So we must choose one of them and the most preferred is the first method. The four *imāms* preferred this method too. The other methods are considered weak and are not preferred.

The condition (qā'idah) held by the scholars of hadīth is:

If there are *ahadith* that contradict each other, then they will focus on the chain of narrators, preferring that which is most authentic in comparison to the others. If two chains of narrators are equally authentic, then an attempt will be made to reconcile the contents of the two *ahadith* if it is possible. If not,

166 See al-Mughnī (3/329).

¹⁶³ Reported by Muslim (3/31) from the narration of Jābir ibn 'Abdullah who said, "There was an eclipse of the sun during the life of the Messenger of Allah $\frac{1}{2}$ on the day his son had passed away. The people began to say that there was an eclipse on account of the death of Ibrāhīm. The Prophet $\frac{1}{2}$ stood up and led the people in prayer performing six bows and four prostrations."

¹⁶⁴ Reported by Muslim (3/34) from the narration of Ibn 'Abbās who said, "The Messenger of Allah prayed eight *ruku*' with four *sujūd* during a solar eclipse."

¹⁶⁵ Reported by Ahmad (5/134), Abu Dawūd (1182) from the narration of Ubay ibn K'ab who said: An eclipse of the sun took place during the time of the Messenger of Allah $\frac{1}{25}$ The Prophet $\frac{1}{25}$ led them in prayer. He recited one of the long *sūrahs*, bowing five times and prostrating himself twice. He then stood up for the second *rakāt*, recited one of the long *sūrahs*, bowed five times, prostrated himself twice, then sat where he was facing the *qiblah* and made the supplication untill the eclipse was over."

one hadith will be identified as the more preferred of the two.

متن

فإن تجلَّى الكسوفُ فيها أتمَّها خفيفةً

When the eclipse emerges, the prayer is expedited.

The time for the solar eclipse is when the sky darkens until when the eclipse ceases. Conducting the eclipse prayer based solely on the information given by astronomers is not permitted, even if the information given by them is precise to the minute of the occurrence of the eclipse. This is because the Prophet 3 associated the prayer with the visual presence of an eclipse.¹⁶⁷ In the event that it is noticed, the prayer is offered. If not, then no action is taken.

"When the eclipse emerges, the prayer is expedited": That is, the prayer is hastened as the timing for the eclipse shall lapse along with it. However, the prayer should not be abruptly aborted even as the sky clears.

Inversely, if the prayer is concluded before the end of the eclipse, the prayer should not be repeated. The Muslims should engage in invocation and seeking forgiveness from Allah.

وإن غابت الشمسُ كاسفةً أو طلعتْ والقمرُ خاسفٌ، أو كانت آيةً غيرَ الزَّلْزَلَةِ لم يُصلِّ من

If the sun sets during a solar eclipse, it rises when there is a lunar eclipse or when a natural disaster other than an earthquake occurs, no prayer is performed.

"If the sun sets during a solar eclipse": No prayer is offered as there is no benefit to doing so.

"It rises when there is a lunar eclipse": If there is sunrise while a lunar eclipse is occurring, no prayer is offered for the lunar eclipse as the moon has lost its importance with the rising of the sun. The moon benefits us only in the night. The protagonist of the day is the sun.

"Or when a natural disaster other than an earthquake occurs": If an earth-

¹⁶⁷ Reported by al-Bukhārī (2/42) and Muslim (3/28) from the narration of 'Aishah.

quake occurs, the earth shakes which strikes fear in the hearts of men, there is a high level of destruction and high death tolls. In this scenario, it is Sunnah to perform a prayer for the occurrence of the earthquake as was done by the Companions.¹⁶⁸ Allah is invoked during this calamity until this natural disaster ceases.

No prayer is legislated for natural disasters other than an earthquake, like a frightful thunder storm and severe sand storm. Offering a prayer during these occurrences has not been recorded by the pious predecessors. It has been recorded that some Companions prayed during an earthquake. There is no evidence that they prayed for any other natural disaster apart from an earthquake.

However, it is legislated that the Muslims invoke Allah during a thunder storm, sand storm or any disaster or sign that is frightening. One invokes Allah to remove the calamity from the Muslims.

وإن أتى في كل ركعة بثلاث ركوعاتٍ أو أربعٍ أو خمس جاز

متن

It is permissible for one to perform three, four or five *ruku*'in each *rakāt*.

"It is permissible for one to perform three, four or five *ruku*' in each *rakāt*": That is, a total of six, eight or ten *ruku*' for the eclipse prayer. This is permissible as there are *ahadīth* that prove its permissibility.¹⁶⁹

However, the narration that we mentioned earlier is preferred though other narrations are not to be refuted. It is also permissible to perform the eclipse prayer like any ordinary *nafl* prayer with just one *ruku*' in each *rakāt*.

¹⁶⁸ Reported by 'Abdul Razzāq (4929) from the narration of Ibn 'Abbās and al-Bayhaqī (3/343) from the narration of 'Alī.

¹⁶⁹ Mentioned previously.

باب صلاة الاستسقاء CHAPTER: PRAYER FOR RAIN

إذا أجدبت الأرضُ وقَحَطَ المطرُ

When the ground is dry and there is a drought.

"Chapter: prayer for rain": *Al-istisqā*' is an Arabic word that refers to asking for water and seeking rain.¹⁷⁰

The rain prayer is performed when:

"When the land is dry": This is when the land is without vegetation, grass or pasture.

"And there is a drought": There has been no rainfall for a long period of time.

Given this situation, the rain prayer is performed to seek from Allah that He quenches the earth with water. *Al-istisqa*' is an old Sunnah which was practiced by the Prophets. Mūsa sought water from Allah: {And [recall] when Mūsa prayed for water for his people, so We said, "Strike with your staff the stone."}¹⁷¹

Similarly, Sulaymān 🕮 sought rain for his people and our Prophet Muhammad 🕿 also did so. *Al-istisqā*' is an old Sunnah practiced by many prophets. Seeking rain brings about humility towards Allah and submission to Him.

متن

¹⁷⁰ See al-Mutla' (p. 110) and al-Dar al-Naqī (1/286).

¹⁷¹ Al-Baqarah: 60

One asks for Allah's forgiveness when seeking rain.

Rain is held back due to the sins of the slaves as explained in the hadīth, "A nation that refuses to pay mandatory tithe on their wealth shall be deprived of raindrops from the sky."¹⁷² One of the reasons for the scarcity of rain is due to the people: {And [Allah revealed] that if they had remained straight on the way, We would have given them abundant provision. So We might test them therein. And whoever turns away from the remembrance of his Lord He will put into arduous punishment.}¹⁷³ When men transgress the commandments of their Creator, especially withholding of *zakāt*, verily, Allah shall punish them. There can be rainfall but the earth will not sprout vegetation. Allah says: {How We poured down water in torrents. Then We broke open the earth, splitting [it with sprouts]. And caused to grow within it grain, and grapes and herbage, and olive and palm trees, and gardens of dense shrubbery, and fruit and grass, [As] enjoyment for you and your grazing livestock.}¹⁷⁴ When the rain is held back, the earth stops growing vegetation.

صلَّوها جماعةً وفُرادَى، وصفتُها في موضعها وأحكامها كعيد

متن

It can be prayed in congregation or individually. In terms of location and rules, it is like the 'Eid prayer.

- 1. He 🕱 went out with the people and prayed with them. He delivered the sermon and supplicated for rain afterwards. This is the most established way to offer the prayer.
- 2. He \approx supplicated for rain during the sermon of the Friday prayer. The people replied to it by saying "*amīn*".
- 3. He 🕱 supplicated for rain, neither in a prayer nor during a Friday sermon.

¹⁷² Reported by Ibn Mājah (4019) and al-Tabarānī in *al-Kabīr* (12/446). Both *ahadīth* were narrated by Ibn 'Umar.

¹⁷³ Al-Jinn: 16-17

^{174 &#}x27;Abasa: 25-32

¹⁷⁵ Zād al-Ma'ād (1/456-458).

"It can be prayed in congregation or individually": It is best prayed in congregation as was the example set by the Prophet $\frac{1}{26}$ and it is the best way to ensure that Allah answers the supplication.

Residency is not a condition for this prayer. The traveller may perform the rain prayer.

"In terms of location": Like the 'Eid prayer, the rain prayer is performed in an open ground. It is also similar to the 'Eid prayer in terms of its rulings. The rain prayer consists of two *rakāt* with additional *takbīrs*. The recitation is recited aloud in the prayer and *takbīr* is said in the beginning of each *rakāt*.

"Like the 'Eid prayer": There is no *nafl* prayer before or after the rain prayer at the open ground just like the 'Eid prayer.

وإذا أراد الإمامُ الخروجَ لها وعظَ الناسَ وأمرَهُم بالتوبة من المعاصي والخروج من المظالم من وتَرْكِ التَّشَاحنِ، والصيام والصدقة، ويَعِدُهم يوماً يَخْرجون فيه، ويَتنظَّف ولا يَتطيَّب، ويخرج متواضعاً متخشِّعاً متذلِّلاً متضرِّعاً، ومعه أهلُ الدِّين والصلاح والشيوخ والصبيان المميِّزون

When the *imām* decides to perform the prayer, he warns and orders them to seek Allah's forgiveness for their sins, to avoid injustice and enmity. He orders them to observe their fasts and give charity. A day is set for the prayer for them to go out to the ground. They cleanse themselves but do not apply perfume. They go out to the ground in a humble manner, afraid and in meekness. There will gather therein the people of *dīn*, the righteous, the old and the young who have reached a discerning age.

"When the *imām* decides to perform the prayer, he warns and orders them to seek Allah's forgiveness for their sins, to avoid injustice and enmity. He orders them to observe their fasts and give charity": Before going out to perform *al-istisqa*', it is *mustahabb* that the *imām* or the leader of the Muslims order the people to seek repentance for their sins, give charity and help the needy. These acts facilitate rainfall and ensure that the supplications are answered. Hence, the *imām* orders the people to do so verbally or through a written text. This text is then circulated among the people and it is also read out in the *masjids* in the days leading up to the performance of the rain prayer. These actions are

mustahabb for they are beneficial in the build up of the actual prayer.

These actions mentioned above are a means to an end, this being the acceptance of the supplication for rain. For example, the invocation of a fasting person is readily answered. Returning properties to their rightful owners also facilitates the acceptance of supplications.

"A day is set for the prayer for them to go out to the ground": A day is fixed for the rain prayer so that people know when to go out to the open ground for the prayer.

"They cleanse themselves but do not apply perfume": They leave to the prayer in a physically pure state as this is *mustahabb* wherever people congregate. All bad odour should be removed but they should not apply perfume like how they would for the 'Eid prayer. Furthermore, they should not wear their finest clothes as one would wear to the 'Eid prayer. People should congregate for the rain prayer in total humility and meekness towards Allah. They go out to the prayer wearing ordinary clothes.

"They go out to the ground in a humble manner, afraid and in meekness": As exemplified by the Prophet 養. He went out to the ground in a humble manner and in submission to Allah 嫣. He did not go there wearing his finest clothes.¹⁷⁶

This was the way the Messenger of Allah, the best of mankind \mathfrak{B} , prepared for *al-istisqa*'. He went to the prayer ground in a simple way and highlighted the plight of the poor and needy.

"There will gather therein the people of $d\bar{i}n$, the righteous": When these people are among the congregation, there is a better chance that the supplications will be answered. For this reason, 'Umar requested 'Abbās, due to him being the Prophet's uncle, to supplicate to Allah on their behalf while they responded with "*amin*." This is called *tawassul*, a petition through a righteous person to answer the supplication. *Tawassul* through the supplication of a righteous person is legislated in Islam.

'Umar & said, "O Allah! We used to make tawassul to You through our proph-

¹⁷⁶ Reported by Ahmad (1/230, 269, 355), al-Tirmidhī (558, 559) and al-Nasā'ī (3/156) from the narration of 'Abdullah ibn 'Abbās.

et and You gave us rain."177

متن

That is, the Companions used to ask the Prophet $\underline{3}$ to invoke Allah on their behalf during his lifetime. After his death, they made the same request through his uncle.

"The old": The elderly. Their supplications are better accepted by Allah.

"And the young who have reached a discerning age": These children do not have sins and so their supplications are more apt to be accepted once they reach the age of discernment (*mumayiz*).

وإن خرج أهلُ الذِّمَّةِ منفردين عن المسلمين لا بيوم لم يُمنعوا

The *dhimmis* should not be forbidden from going out to another place on the same day as the Muslims.

"The *dhimmis* should not be forbidden from going out to another place on the same day as the Muslims": The *dhimmis* are the Jews and Christians living amongst the population in a Muslim land who pay the *jiziyah*. They do not go out to the prayer ground with the Muslims.

However, if they decide to go out to another location, then they should not be stopped from doing so. This is because they have a need for rain as well. Allah provides sustenance to all his creations, the disbelievers and the Muslims. The disbelievers may engage in supplication for rain but they should not be at the location where the Muslims gather for the rain prayer.

The disbelievers are not designated a specific date to go out to the ground to pray for rain. Rather, they should go out on the same day as the Muslims but to another location. This is so that people will not assume that the rain came about because of the disbelievers' invocation if it rains on that day. This will only bring trials and chaos. This will be avoided if both the Muslims and the disbelievers go out to supplicate for the rain on the same day.

¹⁷⁷ Reported by al-Bukhārī (2/24), (5/25).

وقراءةَ الآياتِ التي فيها الأمرُ به، ويرفع يديه فيدعو بدعاء النَّبي ﷺ

Then the *imām* prays with the people and then delivers one sermon which commences with *takbīr* just like the sermon of the 'Eid prayer. He seeks repentance often during the sermon and recites *ayāt* that make mention of repentance. He then raises his hands and supplicates with the supplication of the Prophet **%**.

"Then the *imām* prays with the people": This is an established Sunnah. That is, the *istisqa*' prayer is performed before the sermon. The people of knowledge also practiced this.¹⁷⁸

"Then delivers one sermon which commences with *takbīr* just like the sermon of the 'Eid prayer": *Al-istisqa*' comprises of only one sermon. This sermon encompasses the supplication, seeking of repentance and the offering of reminders.

"He seeks repentance often during the sermon and recites *ayāt* that make mention of repentance": For example, Allah says to Nūh: {And said, "Ask forgiveness of your Lord. Indeed, He is ever a Perpetual Forgiver. He will send [rain from] the sky upon you in [continuing] showers. And give you increase in wealth and children and provide for you gardens and provide for you rivers."]¹⁷⁹ And also His words in Sūrah Hūd: {And O my people, ask forgiveness of your Lord and then repent to Him. He will send [rain from] the sky upon you in showers and increase you in strength [added] to your strength. And do not turn away, [being] criminals.]¹⁸⁰

He recites these two *ayahs* and other *ayāt* from the end of Sūrah al-Baqarah wherein there is a supplication and mention of seeking forgiveness.

"He then raises his hands and supplicates": This is exclusive to the sermon of the rain prayer. Raising the hands in supplication during the sermons of the Friday prayer and the 'Eid prayer is an innovation in the *din*.

"With the supplication of the Prophet 32": He makes the supplication that the

¹⁷⁸ See al-Mughnī (3/336).

¹⁷⁹ Nūh: 10-12

¹⁸⁰ Hūd: 52

Prophet $\frac{1}{2}$ made when he sought rain. This is because it is more readily accepted by Allah. However, if he makes a different supplication that is in agreement with the Qur'ān and the Sunnah, then it is permissible.

ومنه: (اللهم اسقنا غيثاً مغيثاً) إلى آخره، وإن سُقُوا قبل خروجهم شكروا الله وسألوه من المزيدَ من فضله، وينادي لها: الصلاة جامعة

From them: "Allahumma isqinā ghaythan mughīthan," until the end. If it starts raining before they leave for the grounds, they should thank Allah and seek more of His bounties. The prayer is announced with the words, "Al-salāta jāmi'atan."

"From them: 'Allahumma isqinā ghaythan mughīthan,' until the end":

[Some of the supplications that have been transmitted are:]

"Allahumma isqinā ghaythan mughīthan hanīan marīan sahhan ghadaqan mujallalan 'ājilan ghayra ājil, allahumma isqinā al-ghaytha wa lā taj'alnā min alqānitīn" (O Allah! Give us rain which will replenish us, abundant, fertilising and profitable, not injurious, granting it now without delay. O Allah, give us rain and do not make us among the despondent).¹⁸¹

"Allahumma aj'al mā anzaltahu qawwatan lanā 'alā tā'atika, wa balāghan ilā hīnin" (O Allah! Make what You have sent down a strength for us to obey You and as a satisfaction for a time).¹⁸²

"Allahumma isqi 'abādaka wa bilādaka wa bahāimaka, wa anshur rahmataka, wa ahya baladaka al-mayt" (O Allah, give water to Your slaves and Your country and Your animals, and spread Your mercy, and give life to Your dead land).¹⁸³

"Allahumma suqya rahmatin lā suqyā 'athābin, wa lā hadmin, wa lā balāin, wa lā gharraqin" (O Allah! A shower of mercy, not a shower of punishment, destruc-

¹⁸¹ Imām al-Shāfi'ī mentions this in his book *al-Umm* (1/251) in relation to the hadīth of Ibn 'Umar. See *al-Talkhīs al-Habīr* (2/201). Hadīth reported by Abu Dawūd (1169) from the narration of Jābir.

¹⁸² Part of a hadith reported by Abu Dawud (1173) from the narration of 'Aishah.

¹⁸³ Reported by Abu Dawūd (1176) from the narration of 'Abdullah ibn 'Amr ibn al-'Ās without the wording, "*wa bilādika*."

tion, trial or a drowning).¹⁸⁴

Repentance is sought very often as well as supplications that were established by the Prophet \mathfrak{B} . This represents one's earnest following of the Messenger \mathfrak{B} and it is also the most affective in bringing about rain. It is permissible for the *imām* to read a supplication other than these, provided that it is based on the Qur'ān and the Sunnah.

"If it starts raining before they leave for the grounds, they should thank Allah and seek more of His bounties": If a day was scheduled for the Muslims to go to the open ground to perform the rain prayer but it rains before they go there, they may cancel their trip. This is because the objective, that is rainfall, has been achieved. However, they should thank Allah and glorify Him for the rain.

"The prayer is announced with the words, '*Al-salāta jāmi'atan*": This term is a call that urges the people to join in the prayer. There is dispute as to whether saying this is warranted. The Prophet $\frac{1}{26}$ did not do so when he conducted the rain prayer. This call to alert the people was legislated only for the eclipse prayer.

Seeking permission from the *imām* is not a condition for the rain prayer. It is a Sunnah to stand in the rain as it starts to fall as well as to expose his baggage and clothes to the initial rain drops.

"Seeking permission from the *imām* is not a condition for the rain prayer": Just as seeking the *imām*'s permission is not a condition for the Friday prayer. This is because the reason why the people conduct the rain prayer is a genuine need. The supplication is legislated as is the prayer; even when the *imām*'s permission is not sought.

"It is a Sunnah to stand in the rain as it starts to fall": It is *mustahabb* when it begins to rain to stand in the open and allow the water to meet one's body

¹⁸⁴ Reported by Imām al-Shāfi'ī in his Musnad (1/173) from the narration of al-Muttalib ibn Hantab and it is a *marfu*' report.

and head. The water is blessed as Allah says, **{And We have sent down blessed** rain from the sky,}¹⁸⁵

The Prophet 3% also said, "It (the rain) is recently created by its Lord."186

"As well as to expose his baggage and clothes to the initial rain drops": The word "*rihlih*" (baggage) refers to "*athātha*" (furniture). The baggage and clothes are exposed in such a manner due to the blessing and purity contained in the rain. The rain water is *tahūr*. Allah says: {And We send down from the sky pure water.}¹⁸⁷

وإن زادت المياه وخيف منها سُنَّ أن يقول: اللهم حوالَيْنا ولا علينا، اللهم على الظِّرابِ مِن والآكام وبطونِ الأودية ومنابتِ الشجر، رَبَّنَا وَلا تُحَمِّلْنَا مَا لا طَاقَةَ لَنَا بِهِ

If the rainfall is heavy and it causes fear, it is Sunnah to say, 'Allahumma hawalaynā wa lā 'alaynā. Allahumma 'alā al-zurāb wa al-ākām wa butun al-awdiya wa manabit al-shajr. Rabbanā wa lā tuhammalnā mā lā tāqata lanā bihi.'

If the rain becomes a downpour and it is feared that it shall harm the people, they should invoke Allah to remove the calamity from them and to bring back the sun. The Prophet $\frac{1}{26}$ was delivering a sermon on Friday when a man entered the *masjid* and said, "O Messenger of Allah! Wealth is destroyed and the paths have been swept away. Invoke to Allah that he withhold the rain from us." The Prophet $\frac{1}{26}$ raised his hands and said, "Allahumma hawalaynā wa lā 'alaynā. Allahumma 'alā al-zurāb wa al-ākām wa butun al-awdiya wa manabit al-shajr" (O Allah! Around us and not on us. O Allah! On the plateaus, on the mountains, on the hills, in the valleys and on the places where trees grow).

No sooner did he finish invoking than the sky cleared and the sun appeared. The people went out walking in the sun.¹⁸⁸ This is known as *al-istishā'a*.

¹⁸⁵ Qaf: 9

¹⁸⁶ Reported by Muslim (3/26) and Ahmad (3/133, 267) and Abu Dawūd (5100).

¹⁸⁷ Al-Furqān: 48

¹⁸⁸ Reported by al-Bukhārī (2/35, 36) and Muslim (3/24) from the narration of Anas ibn Mālik.

"Allahumma hawalaynā wa lā 'alaynā (O Allah! Around us and not on us)": That is, "Make the rain fall near to us so that we may benefit from it. And do not send it on us in such a manner that it harms our crops or it harms the people due to excess."

"Allahumma 'alā al-zurāb": Al-zurāb refers to raised areas of the earth.

"Wa al-ākām": This refers to the small mountains as they have grassy pastures where animals graze.

"Wa butun al-awdiya": On the valley beds. The valley is like a river. During monsoon season, water flows through its bed. This water that flows through the valley benefits the earth and the creatures of that habitat. The animals drink from it while the earth stores it in its deep recesses.

"*Wa manabit al-shajr*": On the places where trees grow. That is, large trees like the *talhi* tree and the *sadr* tree as these are very beneficial.

"Rabbanā wa lā tuhammalnā mā lā tāqata lanā bihi": "Our Lord do not impose upon us that which we have not the strength to bear." Examples being floods and rising water levels.

كتاب الجنائىز THE BOOK OF FUNERALS

"The Book of Funerals": The word *janāzah* refers to the deceased.¹⁸⁹ The plural is *janā'iz*. There are certain laws pertaining to the deceased that everyone should know. Hence the author has dedicated this chapter for this topic.

The goodly nature of Islam ensures that the deceased person is properly taken care of. In fact, even before death approaches, we visit that person and urge him to say the *shahādah*. As soon as he passes on, his clothes are removed and he is wrapped in a sheet such that he is fully covered. The body is washed and then shrouded. The funeral prayer is conducted and then he is buried in the grave.

The great care and attention offered to the deceased is a testament to the comprehensiveness of this *din*, praise be to Allah. The Muslim is well looked after in life as well as after death. Once he is buried in the grave, the attendees seek forgiveness on his behalf and pray that Allah makes him steady when questioned in the grave. The dead is visited on occasion and greeted with the *salām* at every visit. There remains thereafter the duty to ensure that the grave is safe from any harm, desecration or vandalism.

All this leads us to conclude that this *din* is complete and comprehensive for both the living and for dead. A Muslim is much valued by Allah so much so that even his lifeless corpse is respected. He is not treated like a carcass of an animal, thrown out and not glanced at again.

¹⁸⁹ See Lisān al-'Arab (5/324) and al-Mutla' (p. 113).

It is incumbent upon Muslims to reflect on death before they are seized by it. The Prophet $\frac{1}{26}$ urged Muslims to reflect on the *destroyer of desires*.¹⁹⁰ He was evidently referring to death. They should ponder much about death so that they are driven to make preparations for the final departure. They should not neglect themselves or the Hereafter. A person who constantly remembers death will definitely sin or transgress less. He will channel his energy in obeying Allah, thus preparing for his death.

When a person disregards death, he tends to become lackadaisical. He will immerse himself in sin, wrong doing and procrastinate from repentance. When he steps into sin, he tends to assume that he has a long life to live. Hence, repentance becomes something that he will pay attention to later. He is blind to the notion that death is looming and that his life span has already been determined. He forgets that repentance will not avail when death arrives. Therefore, a Muslim must make preparations for his death always as his ordained time may come when he least expects it. When one prepares for it and constantly reminds himself of death, he will increase his pious deeds and never fail to make repentance when he falls into sin.

Among the Islamic etiquettes are: Visiting the ill and making supplication for their recovery. The ailing is reminded to make repentance and if he is terminally ill, then he is reminded to prepare a will. The sick is also warned not avoid injustice.

This *din* is a complete *din* that encourages its followers to prepare themselves for the inevitable, that they bring forth deeds for themselves [in preparation for the Day of Recompense]. It warns its followers to eschew all that is detrimental to oneself and all acts which warrant a punishment in this world and in the Hereafter. This inherent providence in Islam is of great value to the Muslim.

In conclusion, there are laws pertaining to the *janāzah* which are legislated by Islam and it is $w\bar{a}jib$ upon all Muslims to be well versed in this. Only then can they carry out the necessary actions when there is a death in the family. To highlight this, the jurists call this chapter the book of funerals (*janā'iz*).

¹⁹⁰ Reported by Ahmad (2/292), al-Tirmidhī (2307), al-Nasā'ī (4/4) and Ibn Mājah (4258) from the narration of Abu Hurairah.

تُسَنُّ عيادةُ المريض، وتذكيُره التوبةَ والوصيةَ

متن

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It is Sunnah to visit the sick and to remind him to repent and to write his will.

<u>Firstly</u>: It is a Sunnah to think of death and to keep reminding ourselves about it.

Secondly: If a Muslim falls sick, it is Sunnah to visit him. This act is one of the best deeds in Islam. It also serves to inform the visitor of the gravity of the illness and visiting him helps console him. The sick can also benefit from the reminders mentioned by those who visit him. In fact, both the visitor and the sick person benefit from this act.

"It is Sunnah to visit the sick": This is a right upon every Muslim for another Muslim.

"And to remind him to repent": That is, to remind him to avoid being unjust and do away with sins before death approaches.

"And to write his will": If he has any dues or money owed to others, then he must record it down in a will. The Prophet 霙 said, "It is not proper that a Muslim spends two nights without having his will by his head."¹⁹¹

In his will, he writes that which is owed to him and that which he owes others. The writing of the will is $w\bar{a}jib$ upon Muslims. However, to bequeath a third of his wealth or less is only *mustahabb*. If a person has a great amount of wealth, then it is *mustahabb* that he bequeaths some of it to be given away as charity upon his death. He can bequeath within the limits set by the Prophet 3 that is a third of his wealth or less: a fifth, sixth or a tenth. Provided it is lesser than a third of his wealth. The Prophet 3 said, "A third, and a third is a large amount."¹⁹²

وإذا نزل به سُنَّ تعاهدُ بَلِّ حَلْقِه بهاءٍ أو شرابٍ، ويُنَدِّي شفتيه بقطنة، وتلقينه لا إله إلا متن

456

¹⁹¹ Reported by al-Bukhārī (2/4) and Muslim (5/70) from the narration of 'Abdullah ibn 'Amr. 192 Reported by al-Bukhārī (2/103) (5/87), (7/80-81) and Muslim (5/71) from the narration of S'ad ibn Abī Waqqās.

الله مرةً، ولم يزدْ على ثلاث إلا أن يتكلم بعده فيُعيد تلقينه برفق

When he is in the throes of death, it is a Sunnah to quench his throat with water or other drinks and wet his lips with a moist piece of cotton. He is instructed to say, '*Lā ilāba illallab*' once but not more than thrice except if he speaks afterwards, then *talqīn* (prompting) is resumed gently.

"When he is in the throes of death, it is a Sunnah to quench his throat with water or other drinks": That is, he is about to die. It is a Sunnah for those present at that moment to quench his thirst as his throat will become dry due to imminent death. The throes of death will be lightened if he is given water.

"And wet his lips with a moist piece of cotton": The cotton is moistened with water. His lips will become very dry due to the severity of the pain experienced just before death.

"He is instructed to say, 'Lā ilāha illallah": This is known as talqīn, and it is of great importance as it is performed to ensure that these will be the dying individual's last words. The Prophet $\frac{1}{28}$ said, "Make talqīn to your dying." He was referring to those who are present when one is about to die. He carried on, "[Encourage them to say] 'Lā ilāha illallah,' for he whose last words are lā ilāha illallah shall enter Paradise."¹⁹³ The shahādah is uttered to the dying person in the hope that these will be his last words before death seizes him.

"Once": It should not be repeated many times such that it annoys him. It will relax him during the severe situation. One makes the *talqīn* in a gentle manner. Once the dying person says the *shahādah*, the *talqīn* is stopped. However, if the dying person does talk after saying the *shahādah*, the *talqīn* is repeated.

"But not more than thrice except if he speaks afterwards, then talqin (prompting) is resumed gently": One must not instruct the dying person with the words, "Say *lā ilāha illallah.*" Rather, one should just mention the *shahādah* without instructing him. This is because these instructions might burden him. There is a chance that he might repeat it if one says *lā ilāha illallah* without an imperative tone. However, if the dying person starts talking afterwards, then *talqīn* is repeated.

¹⁹³ Reported by Muslim (3/37) from the narration of Abu Hurairah, it is a *marfū*' report. Also reported by Ahmad (5/233), Abu Dawūd (3116) from the narration of Ibn Jabal.

ويقرأ عنده (يـس)، ويوجهه إلى القبلة، فإذا مات سُنَّ تغميضُه، وشدُّ لحييه وتليينُ من مفاصله

Sūrah Yasīn is read in his presence. He is placed to face the *giblab*. When he dies, it is a Sunnah to close his eyes, tie his jaw shut and to loosen his joints.

"Sūrah Yasīn is read in his presence": The hadīth which recommends the reading of Sūrah Yasīn for a person who is nearing death is a weak (da'if) narration.¹⁹⁴ It is best not to read anything as there is no evidence to support such a deed. However, if one recites the Qur'ān based on the above-mentioned hadīth, then he is not be refuted. We need to understand that the hadīth is not authentic and so it is best not to recite in such a manner.

"He is placed to face the *qiblah*": In accordance to the saying of the Prophet \mathfrak{Z} , "The Ka'bah is a *qiblah* for the living and the dead among you."¹⁹⁵

"When he dies, it is a Sunnah to close his eyes": When he dies, those around him should immediately close his eyes. This is because the eyes start to protrude after death. The Prophet $\frac{1}{28}$ said, "Verily, the eyes follow the soul when it departs,"¹⁹⁶ and so his appearance will appear defaced. Hence, we are ordered to close the deceased person's eyes as soon after death as possible, that is to close the eyelids over the pupils. The Prophet $\frac{1}{28}$ did likewise for Abu Salamah when he died.¹⁹⁷

"Tie his jaw shut": Similarly, the mouth of the deceased starts to open up after death. It is *mustahabb* to tie the jaw together in order to shut the mouth.

"And to loosen his joints": So that rigor mortis can be delayed. One should shake the hands and feet of the corpse to delay it from becoming stiff, which will make washing it difficult.

¹⁹⁴ Reported by Ahmad (5/26, 27), Ibn Mājah (1448), Ibn Hibbān (3002), al-Hākim (1/565) and al-Bayhaqī (3/383) from the narration of Ma'qal ibn Yasār, it is a *marfū*' narration.

¹⁹⁵ Reported by Abu Dawūd (2875), al-Nasā'ī (7/89), al-Hākim (4/259-260) from the narration of Umayr ibn Qatādah.

¹⁹⁶ Reported by Muslim (3/38), Ahmad (6/297) and Abu Dawūd (3118) from the narration of Umm Salamah.

¹⁹⁷ An excerpt from a hadīth referenced earlier.

وخلعُ ثِيابه، وسترُه بثوب، ووضعُ حديدةٍ على بطنه، ووضعُه على سريرٍ غسله متوجهاً متن منحدرا نحو رجليه

The clothes are removed and a robe is used to cover him. A piece of metal is placed on the stomach. He is placed on the washing stretcher facing the *qiblah* with his body tilted up slightly.

"The clothes are removed and a robe is used to cover him": The clothes of the deceased are removed quickly as the clothes will expedite decay of the body. Only the undergarments are left intact. A fresh robe is worn on him.

"A piece of metal is placed on the stomach": To counter the bloating of the stomach that occurs after death, a heavy object is placed on his stomach.

"He is placed on the washing stretcher": So as to prepare the corpse for the *ghusl*.

"Facing the *qiblah* with his body tilted up slightly": The body is placed so that it faces the direction of the *qiblah*. The corpse is raised up slightly such that the head and the chest are higher than the feet. This is to help expel the waste matter in the body so that the deceased can be thoroughly cleaned.

وإسراعُ تجهيزه إن مات غير فجأة، وإنفاذُ وصيته، ويجب في قضاء دينه

متن

Funeral rites should be expedited unless the death was sudden. His will should be executed and his debts must be paid off.

"Funeral rites should be expedited unless the death was sudden": It is *mustahabb* that the funeral preparations are completed promptly. The rites i.e. washing the corpse, shrouding, prayer and the carrying of it to the cemetery should be expedited. The Prophet $\frac{1}{8}$ forbade the delay of the funeral rites.¹⁹⁸ However, it can be delayed if the death was sudden and there is a delay in the arrival of the guardian of the deceased or if death cannot be pronounced. Sometimes, the person has just fainted or lost consciousness. Funeral rites must not be

¹⁹⁸ Reported by Abu Dawūd (3109) from the narration of Hussain ibn Wuhūh who said, "When Talhah ibn al-Barā' was ill, the Prophet 🕱 visited him and said, 'I do not observe except that Talhah is nearing death, so permit me and expedite. Verily, the corpse of a Muslim should not be kept back with his family."

A Commentary on Zād al-Mustaqni

expedited when there is a doubt as to whether a person is dead or alive.

Nowadays, there is a lot of delay, especially in cases of unnatural death where a post mortem is ordered to rule out foul play. It is important to rule this out as identifying and solving a crime is essential to security and safety of the citizens of a country. Hence, this worthy objective permits the delay in the funeral rites.

"His will should be executed": From the duties that are to be carried out for the deceased is the execution of his will. It is to be executed by the nominee quickly such that the dead person can get the rewards of it without delay.

"And his debts must be paid off": If the dead person owed debt and he had left wealth behind, then the next of kin should make arrangements for it to be settled using this wealth. This is so that he may be cleared of the rights owed to others. Indeed the soul of the deceased is mortgaged against the debt it owed in life.

"The martyr is forgiven all deeds except the debt he owes to others."¹⁹⁹ The Prophet $\frac{1}{28}$ said, "A Muslim's soul is attached to his debt until it is paid off."²⁰⁰ So one must try to pay off his debt as soon as possible."

The debt should be settled from the money or property left behind by the deceased. In fact the debt should be settled even before the inheritance is distributed and before the will is executed. If he did not leave behind money or property, then it is *mustahabb* for his relatives or fellow Muslims to settle his debts on his behalf. This is to free the deceased soul from the burden of debt.

¹⁹⁹ Reported by Muslim (6/38) and Ahmad (2/220) from the narration of 'Abdullah ibn 'Amr ibn al-'Ås, it is a *marfū*' report.

²⁰⁰ Reported by Ahmad (2/440), al-Tirmidhī (1079) and Ibn Mājah (2413) from the narration of Abu Hurairah.



غسلُ الميت وتكفينُه والصلاةُ عليه ودفنهُ فرضُ كفاية

متن

Washing the corpse, shrouding it, praying for it and burying it are all *fard kifāyab*.

"Washing the corpse, shrouding it, praying for it and burying it are all *fard kifāyah*": These four acts come under the funeral laws. They are a communal obligation upon the Muslims. If some of those in the community carry it out, the others are absolved of the obligation. However, it remains a Sunnah for the others to partake in these acts.

If the minimum number of people legislated for the act don't carry it out, then it is a sin upon the whole community. This is because these acts are wajib duties upon a Muslim for another Muslim. *Fard kifāyah* focuses more on fulfilling the act itself, not at those who partake in it.²⁰¹

Fard 'ayn (personal obligation) focuses on the fulfilment of the act along with those who partake in it. This is the difference between the two.²⁰²

وأَوْلى الناس بغسله وِصيُّه ثم أبوه ثم جَدُّه ثم الأقربُ فالأقربُ من عَصَباتِه ثم ذوو متن أرحامِه، وبأَنثى وَصِيَّتُها ثم القربي فالقربي من نسائها

Priority for washing the corpse is given to: He who was named in the will

²⁰¹ See al-Tamhīd by al-Isnawī (p. 74).

²⁰² See Jam' al-Jawāmi' with annotations by al-Bannānī (1/182).

of the deceased, then his father, then his grandfather followed by the nearer relatives and so on from the paternal line and then the relatives from the maternal line. The female is washed by the one mentioned in her will followed by the nearer female relatives.

"Priority for washing the corpse is given to: He who was named in the will of the deceased": If the deceased had mentioned a particular person in his will pertaining to the act of washing his body after death, then this person has the first priority of doing so.

"Then his father": If no one was nominated by the deceased, then it becomes a duty upon the relatives of the deceased. The priority is based according to how close a relative is to the deceased. The closest relative is one's father.

"His grandfather": Since he is also like a father to the deceased.

"Followed by the nearer relatives and so on from the paternal line": The son, then the son's son, then the brother, followed by the brother's son, then the uncle, then the uncle's son and so on and so forth. The priority is based on how close they are to the deceased.

"And then the relatives from the maternal line": Next in priority to the relatives from the paternal side are those relatives from the maternal line. Examples would be maternal uncles.

"The female is washed by the one mentioned in her will": I.e. the one mentioned from amongst the women. She has the first priority. If no one was mentioned in the will, then the female relatives shall wash the body.

"Followed by the nearer female relatives": For example: her mother, grandmother, sister, paternal auntie, maternal auntie and so on and so forth. A female should only be washed by another female. Men are not allowed to wash a dead woman's corpse and vice versa.

ولكل واحد من الزوجين غسلُ صاحبه

متن

One is allowed to wash the body of his or her dead spouse.

"One is allowed to wash the body of his or her dead spouse": A wife can wash the body of her dead husband and vice versa. The evidence for this is derived from the incident where 'Alī & washed the corpse of Fātimah.²⁰³ The Prophet <code>\$told</code> 'Aishah thus, "If you die before me, I shall wash your body."²⁰⁴ A further example: Asmā bint 'Umays washed the body of her deceased husband, Abu Bakr al-Siddīq .²⁰⁵ This is yet another proof that a spouse may wash his or her dead partner's body in preparation for burial. Apart from the spouses, no male should wash the dead body of a female and vice versa.

Similarly the master may wash his dead bondmaid and a man or woman may wash the body of a child who is less than seven years old only. If a man dies amongst woman or vice versa, they need only perform dry ablution on the corpse just as when an ambiguous hermaphrodite dies.

"Similarly the master may wash his dead bondmaid": This is because she is like a wife to the master. It is permissible for him to copulate with the bondmaid. In this respect, she is like a wife to him.

"A man or woman may wash the body of a child who is less than seven years old only": The evidence for this is the incident where the Prophet's $\frac{1}{2}$ son passed away. Ibrāhīm ibn al-Rasūl was washed by some women.

"If a man dies amongst woman or vice versa, they need only perform dry ablution on the corpse just as when an ambiguous hermaphrodite dies": If a man dies and there are only women with him and his wife is not amongst them, then the women must not wash him. They may perform dry ablution on him with dust.

Similarly, if a woman dies and there are only men with her and her husband is not amongst them, then she should not be washed since there is a valid excuse.

²⁰³ Reported by al-Bayhaqī (3/396).

²⁰⁴ Reported by Ahmad (6/228), Ibn Mājah (1465), Abu Ya'lā (4579), al-Dāraqutnī (2/74) and al-Bayhaqī (3/378) from the narration of 'Aishah.

²⁰⁵ Reported by Ibn Abī Shaybah (2/455) and 'Abdul Razzāq (6118, 6123) and al-Bayhaqī (3/397).

A dry ablution with dust is performed. This is because dust is a replacement for water where the latter cannot be used for some reason or another.

An ambiguous hermaphrodite is someone whose gender is impossible to distinguish, i.e. possessing both the female and male sexual organs and the bodily features do not give away a specific gender orientation. If this person dies, dry ablution is performed on the body as the individual's gender is unknown. Since there is a large extent of ambiguity, this course of action is taken and there is a valid reason for not using water in this case.

متن

ويحرم أن يغسل مسلمٌ كافراً أو يَدفِنَه، بل يُوارى لعدم من يُواريه

It is forbidden for a Muslim to wash a disbeliever's body or to bury it but he may inter the body if there is no one else who will do it.

"It is forbidden for a Muslim to wash a disbeliever's body or to bury it": Muslims cannot act as guardians for a disbeliever. The disbeliever's relatives should act as one. The Muslim should not wash the disbeliever, shroud him, pray for him nor bury him. The people of his own religion or his sons should do the necessary rites for the disbeliever upon his death.

However, if there is none to bury the corpse, then the Muslim may dig a hole in a place other than a Muslim cemetery and bury him in it.

"But he may inter the body if there is no one else who will do it": The Muslim may conceal the body of the disbeliever if no one else comes forward to do so as no human corpse should be left exposed on the ground. This is because all humans, even the disbeliever have dignity. Hence an attempt must be made to conceal the body into the ground. Allah says: {Then He causes his death and provides a grave for him.}²⁰⁶

Man being assigned a grave is from the blessings of Allah for all of mankind. He has not given him a similar fate like that of a dog, lion or bird.

وإذا أخذ في غسله سَتَر عورِتَه وجرَّده، وسَتَره عن العيون.ويكره لغير مُعِينٍ في غسله متن حضورُه، ثم يرفع رأسه إلى قُرْب جلوسه ويعصر بطنه برفق

206 Abasa: 21

When the dead person is washed, care should be taken to cover his *awrah* when removing his clothes. He should be shielded from the view of the public. Those not involved in the process should not witness the washing as it is disliked. The dead person's head is raised up until the body is nearly in a sitting position and then the stomach is lightly rubbed.

The following are the rulings pertaining to washing the deceased Muslim: The person involved in the washing of the corpse must remove the clothes from the dead person but should place towels or cloth to cover his *awrab*. The body should be washed in a private room and not where it is exposed to the prying eyes of the people.

"To cover his awrah": The private parts.

"When removing his clothes": So as to pour water over the body.

"He should be shielded from the view of the public": By conducting the washing in a private room or a tent. It should not be conducted in a public area where everyone can see the body.

"Those not involved in the process should not witness the washing as it is disliked": Those not involved in the washing process should not be allowed in the room or tent. [The one who washes,] he who shifts the body or pours water for the person washing are those involved in the process. He who does not have a role to play should not be permitted in the room so as to safeguard the privacy of the dead person.

"The dead person's head is raised up until the body is nearly in a sitting position": When washing the body, the first thing to do is to raise his head such that the body is nearly in a sitting position so that his stomach contents may flow out.

"And then the stomach is lightly rubbed": This pressing of the stomach will help encourage the flow of the stomach contents from the body.

مَنَ ويكثر صَبَّ الماء حينئذ، ثم يلفُّ على يده خِرْقةً فينجيه ولا يحلُّ مسُّ عورةٍ مَنْ لـه سبعُ سنين، ويستحـب أن لا يمسَّ سائره إلا بخرقة ثم يوضئه ندباً، ولا يدخل الماء في فيه ولا

Copious water is poured at this time. A cloth is wrapped around the washer's hand so that he can clean the body's private parts. It is not permitted to directly touch the *awrab* of the dead person if he is seven years of age or older. It is *mustahabb* that the rest of the body is touched only by means of a cloth. It is allowed to perform ablution to the body thereafter, though water is not poured into his mouth or nose. A wet cloth wrapped around a finger is placed between his lips and his teeth are rubbed with it. The nostrils are similarly cleaned. Water should not be poured into these openings.

"Copious water is poured at this time": So that the stomach contents can be washed away.

"A cloth is wrapped around the washer's hand so that he can clean the body's private parts": This is done once the stomach contents are removed. The washer places his cloth-wrapped hand inside the cloth covering the private parts. Water is poured over the private parts so that the openings are thoroughly cleaned.

"It is not permitted to directly touch the *awrah* of the dead person if he is seven years of age or older": A cloth must be wrapped around the hands while washing the body.

"It is *mustahabb* that the rest of the body is touched only by means of a cloth": It is preferred that a cloth is wrapped around the hand throughout the whole process of washing the body.

"It is allowed to perform ablution to the body thereafter": That is, after cleaning the private parts. The ablution is similar to that performed for a prayer.

"Though water is not poured into his mouth or nose. A wet cloth wrapped around a finger is placed between his lips and his teeth are rubbed with it. The nostrils are similarly cleaned": The body shall decay quickly if water is introduced into the body via the mouth or the nose.

The ablution continues with the washing of the face and hands. The head is

wiped and the feet are washed just as a living person would perform ablution.

متن ثم ينوى غسله ويسمي، ويغسل برغوة السِّدُر رأسـه ولحيتـه فقـط، ثم يغسل شقّـه الأيمن ثم الأيسر

The intention is made for the washing, then the name of Allah is mentioned. Only the head and the beard are washed with a broth made from lotus (*sidr*) leaves. Then the right side of the body is washed followed by the left side.

"The intention is made for the washing": After the private parts are cleaned and the ablution is completed, the washer makes the intention to wash the body as this process is an act of worship. Acts of worship are futile without an intention as the Prophet $\frac{1}{2}$ said, "Verily all deeds are by intentions and for every man is what he intended."²⁰⁷

"Then the name of Allah is mentioned": According to the Prophet's saying, "There is no ablution for he who does not mention the name of Allah upon it."²⁰⁸ The washing is a cleaning process similar to ablution.

"Only the head and the beard are washed with a broth made from lotus (*sidr*) leaves": He starts by washing the head like a living person would when taking a bath. This includes the face and the beard. The washer may use cleaning agents like *sidr* leaves, saltwort $(al-ushnān)^{209}$ or soap. Nowadays shampoo is used for the hair and beard so that it effectively removes dirt and bad smell.

"Then the right side of the body is washed followed by the left side": Similar to how a living person would perform a bath. Starting with the right side in cleansing oneself is preferred and *mustahabb*.

متن ثم كمله ثم لاثاً يُمرُّ في كل مرة يَدَه على بطنه، فإن لم ينق بثلاث زِيْدَ حتى ينقى ولو جاوز السبع، ويجعل في الغسلة الأخيرة كافوراً

²⁰⁷ Reported by al-Bukhārī (1/2, 21), (3/190) and Muslim (6/48) from the narration of 'Umar ibn al-Khattāb.

²⁰⁸ Reported by Ahmad (4/70), (5/183), al-Tirmidhī (25, 26) and Ibn Mājah (398) from the narration of Sa'īd ibn Zayd.

²⁰⁹ A plant of the goosefoot family, which typically grows in salt marshes. It is rich in alkali and its ashes were formerly used in soap-making.

Then the entire body. Washing all the parts thrice, rubbing his hand against the stomach for each time he is washed. If washing him thrice does not achieve total cleansing, it can be repeated more until he is fully cleansed, even if it is seven times or more. Camphor is added in the last wash.

"Washing all the parts thrice": The Prophet \mathfrak{B} ordered the women who washed his son to, "Wash him with water mixed with *sidr* leaves thrice or more if you think it is necessary."²¹⁰ Washing thrice is a limit. However, it can be surpassed if full cleansing is not achieved. The body can be washed up to seven times or more.

"Rubbing his hand against the stomach for each time he is washed": So that the stomach contents can be fully removed.

"If washing him thrice does not achieve total cleansing, it can be repeated more until he is fully cleansed, even if it is seven times or more": If washing the body thrice does not achieve the goal, then it can be washed even more. This is according to the saying of the Prophet , "... Thrice or more if you think it is necessary." So the body is cleansed without any limitation until it is totally cleansed.

"Camphor is added in the last wash": Added to the water. Camphor is sweet-smelling and makes the body firm. Camphor is well-known among herbalists and those who practice traditional healing.

والماء الحار والأشنان والخلال يُستعمل إذا احتيج إليه

متن

And hot water and saltwort. A toothpick is used if it is necessary.

"Hot water": Hot water is not to be used for the washing process as this will make the body soft. Warm water should be used instead of hot water and cold water. Hot water can only be used if the body has dirt upon it that can only be removed by it and nothing else.

"Saltwort": Similarly, saltwort should not be used unless there is a need for it. If the body has dirt upon it that can only be removed by saltwort, soap or any

²¹⁰ Reported by al-Bukhārī (2/93, 94, 95) and Muslim (3/47) from the narration of Umm 'Atiyah.

other cleansing agent, then it may be used.

"A toothpick is used if it is necessary": If the washer feels that the deceased needs to have his teeth cleaned, then the toothpick can be used to remove impurities stuck in between the teeth. It should be done only if the need arises. If not, the toothpick is not used.

His moustache is trimmed and his nails are clipped. His hair should not be combed. The body is patted dry with a towel. A female's hair is braided into three plaits and left to fall behind her back.

"His moustache is trimmed and his nails are clipped": If he has a long moustache, it is trimmed. It should not be left as it is. This is to implement the Sunnah even in death. His long finger and toe nails are clipped. Both the trimming of the moustache and the clipping of the nails is a Sunnah for the living as well as for the dead. If the nails and moustache are not long then they are left as they are.

"His hair should not be combed": Instead it should be left as it is.

"The body is patted dry with a towel": The body should not be wet and moist when the shrouding takes place.

"A female's hair is braided into three plaits and left to fall behind her back": As braiding the hair is a common habit among women. Umm 'Atiyah and her companions braided the hair of Zaynab, the daughter of the Prophet $\frac{1}{2}$, in three and let the plaits fall behind her back. She said, "We braided her hair into three plaits and we let them fall down her back."²¹¹

If there is a discharge from the body even after seven washes, the flow is

²¹¹ Reported by al-Bukhārī (2/95) and Muslim (3/48).

stemmed with cotton. If the discharge does not stop, strong clay is used to stem the flow. The area of discharge is washed thereafter followed by an ablution. If there is a discharge after the body is shrouded, then no more cleansing is done.

"If there is a discharge from the body even after seven washes, the flow is stemmed with cotton. If the discharge does not stop, strong clay is used to stem the flow": If there is discharge from his privates after the seventh wash, then the openings are covered with cotton to stem the flow. If cotton is not effective, strong clay is used.

"The area of discharge is washed thereafter followed by an ablution": If there is a discharge after the *ghusl*, then the ablution is repeated and not the *ghusl*.

"If there is a discharge after the body is shrouded, then no more cleansing is done": When all of the necessary steps are taken to stem the flow of the discharge, the body is shrouded. However, if discharge is seen afterwards, no more cleansing is required and the body is left as it is. This is because all preventive steps were taken, praise be to Allah.

ومُحْرِمٌ ميتٌ كحي: يُغسل بهاء وسِدْر، ولا يُقَرَّبُ طيباً، ولا يلبس ذَكَرٌ نَحِيْطاً ولا يغطى من رأسه ولا وجه أنثى.ولا يغسَّل شهيد مَعْرَكَةٍ

The laws that apply to a pilgrim apply even when he dies in the state of *ihrām*. He is washed with water and lotus leaves but perfume should not touch the body. The male pilgrim should not be made to wear stitched clothes nor should his head be covered. A woman's face should not be covered as well. The body of the martyr felled at battle is not washed.

"The laws that apply to a pilgrim apply even when he dies in the state of *ihram*. He is washed with water and lotus leaves but perfume should not touch the body. The male pilgrim should not be made to wear stitched clothes nor should his head be covered. A woman's face should not be covered as well": A pilgrim who dies is made to adhere to the same rules as a living pilgrim. All prohibitions which take effect when in the state of *ihrām* apply to the pilgrim who dies while in that state. Examples would be the prohibition to apply perfume, cover the head and wearing of stitched garments. In fact, the pilgrim is buried wearing the clothes of *ihrām*. A man was standing in 'Arafah with the Prophet

32. He suddenly fell from his mount and it trampled him to death. The Prophet 35 said, "Shroud him in his clothes." He was wearing the garments of *ihrām* at 36 the time. "... Do not apply perfume to him nor cover his head. Verily he shall 36 be raised on the Day of Judgement saying the *talbiyyab*."²¹²

This is the evidence to prove that a pilgrim is buried in his *ihrām* clothes if he dies while in the state of *ihrām*. The prohibitions of the state of *ihrām* must still be observed. He is washed and shrouded in his *ihrām* garments with the head uncovered. He is prayed over as normal and buried in the state of *ihrām*.

That which was left incomplete by his death need not be completed by someone else on his behalf. This is because he died while trying to complete his pilgrimage. Furthermore the Prophet $\frac{1}{26}$ did not order anyone to complete the remaining rites of Hajj on behalf of the deceased. This is proof that Hajj is not completed on behalf of one who dies as a pilgrim.

As for a woman, it is permissible for her to wear stitched clothes as the prohibition is not legislated for them. However, she must not wear the face veil or gloves.

"The body of the martyr felled at battle is not washed": As for he who is martyred in the battlefield, fighting to exalt the word of Allah, his body is not washed. It is better that he is buried with his bloody wounds. Neither is he shrouded. He is buried wearing the clothes he had on when he was martyred. No prayer is offered for him as martyrdom is sufficient for him: {And never think of those who have been killed in the cause of Allah as dead. Rather, they are alive with their Lord, receiving provision.}²¹³ {And do not say about those who are killed in the way of Allah, "They are dead." Rather, they are alive, but you perceive [it] not.}²¹⁴

There are those who are martyred but not at the battlefield, for example those who die of plague, a woman who dies at childbirth, or those who die suddenly in a fire, by drowning or when a building collapses on them. These people are also martyrs but they are not accorded the same status of the martyr who died

²¹² Reported by al-Bukhārī (2/96), (3/22) and Muslim (4/25) from the narration of 'Abdullah ibn 'Abbās.

²¹³ Āli 'Imrān: 169

²¹⁴ Al-Baqarah: 154

in the battlefield, nor do the laws apply. Hence, those from this category of martyrs are washed, shrouded and the prayer is offered for them.

This is because there are two types of martyrs:

The martyr of the world and the Hereafter: The example of this would be the martyr who is killed in battle.

The martyr of the Hereafter: This is who the Prophet $\frac{1}{26}$ classified as a martyr. They are the martyrs of the Hereafter. However, they are considered only as the dead in this world. Therefore they are washed, shrouded and the *janāzah* prayer is offered for them, yet they shall find the reward for their martyrdom with Allah 36. For this reason, the first type is distinguished as a martyr killed in battle.

And likewise if he is unjustly killed, then he is buried in his blood-stained clothes, unless if he was in a state of *janābab*. After the sword and leather is removed from his body. If his garments were taken from someone else, then he is shrouded in other clothes. No prayer is offered for them. If he falls from his mount, his dead body is found in the battlefield without any wounds, he is carried away and then eats or succumbs to his wounds after a customarily long time, then he is washed and the prayer is offered for him.

"If he is unjustly killed": Similarly, the one killed unjustly is accorded the rewards of a martyr.

"Unless if he was in a state of *janābah*": I.e. when he was killed. In this case, the martyr who dies on the battlefield is washed for the state of *janābah* and not for his death.

"If his garments were taken from someone else, then he is shrouded in other clothes": He must be shrouded in a fresh pair of clothes and not left naked.

"If he falls from his mount": He falls from his mount while in the battlefield fighting for the sake of Allah and dies as a result. In this case, he is not considered a martyr and his body is washed. He is shrouded and prayer is offered for him.

"His dead body is found in the battlefield without any wounds": He is also not considered as a martyr as there is no evidence that he was killed.

"He is carried away and then eats": He is wounded on the battlefield and carried away to a safe place where he dies of his wounds. He is also not considered to be a martyr and so his death is treated as an ordinary one.

"Or succumbs to his wounds after a customarily long time": He is not considered a martyr. However, if he dies of his wounds while being transported to a safe place, then he is considered to be a martyr killed at battle.

A dead foetus which is at least four months old is washed and prayer is offered for it. Whenever washing of a body is impossible, dry ablution is performed. If the washer sees an imperfection, then he should keep it to himself.

"A dead foetus which is at least four months old is washed and prayer is offered for it": If the dead foetus that is purged from the womb due to miscarriage is four months old, then the soul has been breathed into him. The foetus is treated as one who requires a *janāzah*. He is washed, shrouded, a prayer is offered for him and he is buried just like an older person. However, if the foetus is less than four months old, it is assumed that his soul has not been breathed into him. It is sufficient to wrap the foetus in a cloth and bury it.

"Whenever washing of a body is impossible, dry ablution is performed": If a body is badly burnt or if it is in an advanced stage of decay, it is not washed as this will only cause more damage to the body. In these situations, dry ablution is performed on the body similar to the dry ablution of a living person who is incapable of using water. "If the washer sees an imperfection, then he should keep it to himself": If the washer notices that the deceased shows signs of happiness, goodness or radiance upon his face, then he should let others know of it. However, if he sees signs to the contrary, he should keep it to himself and not let anyone know. He who hides the deficiencies of a Muslim, Allah will hide his deficiencies in this world and in the Hereafter. The deceased should not be slandered with words such as, "I saw upon him this or that."



يجب تكفينُه في مالِه مَقدَّماً على دَيْنٍ وغيرِه، فإن لم يكن لـه مالٌ فعلى من تلزمه نفقتُه، إلا الزوجَ لا يَلْزمه كفن امرأتِهِ متن

The dead person's money should be allocated for buying the shroud even before his debts are settled or used for any other reason. If he did not leave behind any money, then those who are responsible for his welfare should pay for the shroud, though the husband need not pay for the wife's shroud.

"The dead person's money should be allocated for buying the shroud even before his debts are settled or used for any other reason": It is wajib that the shroud is brought using the money left behind by the deceased. It has a higher priority than settling his debt. This is because preparing for the burial of the deceased is more important than settling his debt, executing his will or giving out donations that he had stipulated before his death. When the man fell off his mount at Arafāh and died, the Prophet $\frac{1}{28}$ said, "Shroud him in his clothes,"²¹⁵ and did not probe as to whether this man had debt or not. This proves that shrouding him has a higher priority than the other matters.

Similarly, when Mus'ab ibn 'Umayr and Hamzah ibn 'Abdul Muttalib & were martyred in the battle of Uhud, they were shrouded in the clothes they were wearing.

A living bankrupt person who is indebted to people should be fed and his

²¹⁵ Reported by al-Bukhārī (2/96), (3/22) and Muslim (4/25) from the narration of 'Abdullah ibn 'Abbās.

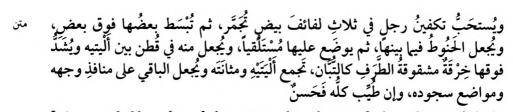
needs fulfilled before his money is distributed amongst his debtors. This is because these basic needs are essential for his life and so they are given priority over the settlement of his debt.

Thus the shroud should be bought with his own money even if he has left behind an amount just enough to buy it.

"If he did not leave behind any money, then those who are responsible for his welfare should pay for the shroud": If he did not leave behind any possessions or wealth and does not own a shroud, it becomes $w\bar{a}jib$ upon those who are charged with his daily welfare while he was alive (for example his father, son or others from the male line) to buy the shroud on his behalf. If he does not have any relatives or they are not able to afford a shroud, then he is supplied with a shroud bought from the national treasury. If the national treasury is unable to do so, then it is $w\bar{a}jib$ upon any Muslim who knew the deceased when he was alive to come forward and supply it. This is a communal obligation (*fard kifayab*) which when carried out by an individual, absolves the rest of the community of that obligation.

"Though the husband need not pay for the wife's shroud": The husband is charged with the welfare of his wife whilst she is alive. However if she dies, he is not responsible for buying the shroud for her. Instead, her relatives, for example her father, grandfather, her nephew or others from the male line should buy it. The reasoning behind this view is that welfare has a correlation with companionship and this companionship ceases with the death. Therefore there is no reason for him to provide the shroud for his wife.

Another view by Imām Ahmad which is corroborated by some of the scholars is that the husband is obliged to provide the shroud for the wife as it is a duty of a husband to his wife.



It is mustahabb to shroud the man in three layers of white sheets of cloth.

The sheets are smoked in scent and then laid spread out one on top of the other. Embalming scents $(ban\bar{u}t)$ are placed in between the layers. He is placed on top of the sheets in a supine position. The embalming scent is also placed in a cotton cloth between the buttocks and its loose ends are tied up with a string that resembles a loincloth to gather the buttocks and the privates. The remainder of the scent is placed near the face and the places which come into contact with the ground when making prostration. If the whole body is scented then it is good.

Having explained the laws pertaining to the shrouding process and who should carry it out, the author shifts to the topic of how it is performed.

"It is *mustahabb* to shroud the man in three layers of white sheets of cloth. The sheets are smoked in scent and then laid spread out one on top of the other": The minimum size of the cloth used as a shroud should be enough to cover the whole body, male or female. This is *wājib*. Anything bigger is just *mustahabb*.

The male is shrouded in three layers of cloth as was the Prophet As in the hadīth of 'Aishah, "The Prophet was shrouded in three cotton sheets from Suhūliyah,²¹⁶ which did not include a shirt or a turban."²¹⁷

One layer of cloth is spread out on the ground and another cloth is spread out on top of it, followed by the third layer. The deceased is then placed on top of it in a supine position. The right side of the top-most layer is placed on him followed by the left side. The same is done with the other two layers. The sheets should be longer than the person so that the ends can be tied up above his head and below his feet with a piece of cloth. The same is done at the middle of the body so that the layers will not unfurl. When the deceased is placed in the grave, these ties should be removed.

It is *mustahabb* to apply scent upon the shroud. It can be smoked in frankincense (*bukhūr*) or sprinkled with perfumed water so that it smells sweet and pleasant.

It is mustahabb to shroud the body of a female in five outfits: The qamis i.e. the

²¹⁶ This is an attribution to Sahuwal, a city in Yemen. There are other views regarding this. See *al-Nihāyat fī Gharīb al-Hadīth* of Ibn Athīr (2/347).

²¹⁷ Reported by al-Bukhārī (2/95-97) and Muslim (3/49).

long outer garment that covers the body, the *izār* i.e. waist gown worn under the robe, the scarf on her head, and the two layers of cloth wrapped around the robe, waist gown and the scarf. This is the Sunnah.

"White": White cloth is *mustahabb* to be used as a shroud. The Prophet $\frac{1}{28}$ said, "Wear white clothes and shroud your dead in it."²¹⁸

However, it is permitted to use cloth of other colours though white is the best as the Prophet $\frac{1}{2}$ instructed such. He was also shrouded using three layers of white cotton cloth.²¹⁹ Allah would not have chosen anything but the best for his Prophet $\frac{1}{2}$.

"Embalming scents ($han\bar{u}t$) are placed in between the layers. He is placed on top of the sheets in a supine position. The embalming scent is also placed in a cotton cloth between the buttocks and its loose ends are tied up with a string that resembles a loincloth to gather the buttocks and the privates. The remainder of the scent is placed near the face and the places which come into contact with the ground when making prostration": The embalming scent known as $hun\bar{u}t$ is placed in between the sheets of cloth. Scent is placed on a piece of cloth that is then draped around the private parts and rear end and tied to the sides of the hip like a loincloth. This is to prevent any flow of any excretion from the body and it serves to cover the *awrah* of the deceased as well.

Scented cotton is also placed on his eyes, mouth and the areas that touch the ground when making prostration like the palms, forehead, nose, knees and the tips of the feet. This is in honour of these parts of the body. This is the process of scenting the body and the method in which to put it in the shroud and the body. This act is a Sunnah.

"If the whole body is scented then it is good": Referring to the body of the deceased. This is the best method, and it was carried out by some of the Companions.²²⁰

²¹⁸ Reported by Ahmad (1/231, 247), Abu Dawūd (3878), al-Tirmidhī (994) and al-Nasā'ī (8/149) from the narration of 'Abdullah ibn 'Abbās.

²¹⁹ Mentioned previously.

²²⁰ Reported by 'Abdul Razzāq in his Musannaf (7140) that Ibn 'Umar used to scent the bodies with musk scattering all of the them.

متن ثم يُرَدُّ طرفُ اللِّفَافةِ العُليا على شِقِّه الأيمنِ ويُرَدُّ طرفُها الآخرُ فوقه، ثم الثانية والثالثة كذلك ويُجعل أكثرُ الفاضلِ على رأسِه، ثم يَعْقِدُها، وتُحُلُّ في القبر، وإن كُفِّن في قميص ومئزر ولِفَافة جاز.وتُكَفَّنَ المرأةُ في خمسة أثواب: إزار وخِمار وقميص ولِفَافتين، والواجبُ ثوبٌ يَسْتر جميعَه.

Then the edge of the top-most layer is placed over the right side of his body followed by the edge of the opposite side being placed above it, and this is repeated with the second and third layers. An excess margin of the cloth is allowed above the head which is then brought together and tied. This knot is released when the deceased is placed inside the grave. It is permissible to shroud the body in a robe and a waist gown with a cloth wrapped around it. A female is shrouded in five garments: the waist gown, the veil, the robe and two layers of clothed wrapped around all of this. It is *wājib* to shroud the entire body.

This has already been explained.



السُّنَّة أن يقوم الإمامُ عند صدره وعند وسطها، ويكبِّر أربعاً، يقرأ في الأولى بعد التَّعوُذِ من الفاتحةَ

It is Sunnah for the *imām* to stand at the position of the chest for a male and at the middle for a female. Four *takbīrs* are pronounced. He says the *ta'wudb* and then al-Fātihah is read after the first *takbīr*.

"Section": After explaining the shrouding method, the author proceeds to elaborate on the funeral prayer. This prayer must be performed for it is a right of a Muslim except the martyr as was discussed earlier. It is binding on Muslims to offer the prayer for a dead Muslim except the martyr as the prayer is an intercession and an invocation for the dead.

Such is the compassion and goodwill enjoined in our great din. Al-Imām ibn al-Qayyim mentions in his book $Z\bar{a}d$ al-Ma' $\bar{a}d^{221}$ that the guidance of the Prophet Ξ pertaining to the funeral rites is the best and most holistic guidance one can receive. He Ξ used to visit the sick, encouraging him to say the *shahādah* when death was inevitable, to correct his state after death by closing his eyes and mouth and removing his dirty clothes.

He is covered such that his *awrah* does not show and then washed. He is later shrouded. Muslims stand in rows to offer the prayer for him. They invoke Allah to shower mercy and forgiveness upon him. These acts are manifestations of the compassion and good will that are integral parts of our *dīn*.

²²¹ Zād al-Ma'ād (1/498).

He is carried to the cemetery, given last respects and then buried well. They visit the grave on occasion and supplicate for the deceased. This is the true spirit shown in our magnificent din and no other religion is as holistic and complete like it.

"It is Sunnah for the *imām* to stand at the position of the chest for a male and at the middle for a female": The position of the *imām* during the *janāzah* prayer is to stand at the level of the deceased's chest if it is a male. It is claimed that he should stand at the deceased's head. This view is preferred.²²²

If the deceased is a female, then the *imām's* position is at the middle of the body. This was where the Prophet $\frac{1}{2}$ stood as *imām* of the *janāzah* prayer for a female.²²³ He either stood at the position of the chest or head if the deceased was a male. This is the Sunnah.

It must be mentioned that if the *imām* stood in any position, the prayer is still valid. However, that which was described is best.

"Four *takbīrs* are pronounced": The *imām* says the *takbīratul ihrām*, then the *ta'awudh*. He says the *basmallah* and then recites Sūrah al-Fātihah without the *duā' al-istiftah*. This is because the *janāzah* prayer should always be brief.

He then says the second *takbīr*. Now he sends salutations upon the Prophet $\frac{1}{2}$ and Ibrāhīm. This is followed by the third *takbīr* which is where he supplicates for the deceased. The fourth and final *takbīr* is then said and the prayer is concluded with one *taslīm* to the right only.

This is the *janāzah* prayer which consists of praises to Allah in the form of Sūrah al-Fātihah, salutations upon the Prophet \underline{x} and then supplication for the deceased. It must be pointed out that the supplications that begin with praises to Allah and then sending salutations for the Prophet \underline{x} are readily accepted. Thus this is the manner in which it is prayed over the deceased.

Four *takbīrs* is the number that is well established in scholarly circles. In fact it is a matter of consensus amongst the scholars. If the *imām* makes three *takbīrs*,

²²² See al-Insāf (2/516).

²²³ Reported by al-Bukhārī (2/111-112), Muslim (3/60) from the narration of Samrah ibn Jundub.

A Commentary on Zād al-Mustaqni

the prayer is invalid.²²⁴ There are differences of opinion regarding the issue of saying more than four *takbīrs*.²²⁵ It is claimed that the *janāzab* prayer consists of five *takbīrs*. Some say six *takbīrs* while others say that it consists of seven *takbīrs*. However, the *ahādīth* and the consensus of the Muslims point to the authenticity of making four *takbīrs*. Those views that increase upon four are all disputable.

In fact, some scholars refute the views that mention more than four *takbīrs*. Their evidence is that the Prophet $\frac{1}{26}$ said four *takbīrs* when he prayed for Najāshī, the king of Abyssinia.²²⁶ This incident is reported in the *Sahīb*. Also, the Prophet only performed four *takbīrs* when he offered the *janāzab* prayer for other than Najāshī. Hence, the Sunnah is established along with the consensus of the scholars and the views stating that the number is more than four are differed over.

The student of knowledge should not actively pursue or seek extraordinary views or differences in opinion. This will only serve to confuse the general masses if it is conveyed to them, as we see some students of knowledge doing. This is not permitted. They must adopt that which the Ummah has collectively agreed upon and those acts which are well-established amongst the people.

Imām al-Nawawi said, "There were those among the Companions who used to say four *takbīrs* and those who said more than that. However, the generation that came after them drew a consensus that only four *takbīrs* should be pronounced in the *janāzah* prayer."

The student of knowledge does not seek out differences in opinion and extraordinary views that will confuse and disorientate the masses.

"He says the *ta'wudh* and then al-Fātihah is read after the first *takbīr*": It has been reported that the Prophet $\frac{1}{2}$ used to read Sūrah al-Fātihah as did the Companions. It is reported in *al-Sahih* that Ibn 'Abbās $\frac{1}{2}$ read it aloud. He reasoned, "So that people will know that it is Sunnah."²²⁷

²²⁴ See al-Mughni (3/410), (3/447).

²²⁵ Ibid.

²²⁶ Reported by al-Bukhārī (2/92), Muslim (3/54) from the narration of Abu Hurairah.

²²⁷ Reported by al-Bukhārī (2/112).

By "Sunnah", he does not mean that it is *mustahabb* but that it was the way of the Prophet $\frac{1}{2}$. The pious predecessors used to term that which the Prophet was reported to have done as the Sunnah.

ويُصلِّي على النبي * في الثانية كالتشهد، ويدعو في الثالثة فيقول: اللهم اغفر لحيِّنا وميِّتنا، وشاهدِنا وغائبنا، وصغيرِنا وكبيرِنا، وذكرنا وأَنثانا، إنك تَعْلَم مُنقلَبنا ومَثْوانا، وأنت على كل شيء قَدير، اللهم مَنْ أحييته منا فأحيه على الإسلام والسُّنَّة، ومن توفيته فَتَوفَّه عليهما، اللهم اغفرْ له وارحْه وعافِهِ، واعفُ عنه وأكرمْ نُزُلَه، ووسِّعْ مُدخَلَه واغسلْه بالماء والثلج والبرد، ونقَّه من الذنوب والخطايا كما ينقى الثوبُ الأبيضُ من الدَّنَس، وأبدلُه داراً خيراً من داره، وزوجاً خيراً من زوجه، وأدخلُه الجنة، وأعَذْه من عذاب القبر وعذاب النار، وافْسَحْ له في قبره ونَوَّرْ له فيه

متن

The imām sends salutations upon the Prophet $\frac{1}{26}$ (similar to that in tashabud) after the second takbīr. He supplicates after the third takbīr saying, "Allahumma ighfir lahiyyanā wa mayyatinā, wa shāhidinā wa ghā'ibinā, wa saghīrinā wa kabīrinā, wa dhakaranā unthānā, innaka ta'lam munqalabanā wa mathwānā, wa anta 'alā kulla shayin qadīr, allahumma man ahyaytahu minnā fa'ahyihi 'alā Islami wa al-sunnati, wa man tawaffaytahu minna fatawaffahu 'alayhimā, allahumma aghfir lahu warhamnahu wa 'āfihi, wa'fu a'nhu, wa awsi' mudkhalahu, waghsilhu bilmā'i wa al-thalji wa al-bardi, wa naqqahi min al-dhunūb wa al-khatāyā kama yunaqqā al-thawbu al-abyadu min al-danasi. Wa abdilhu dāran khayran min dārihi, wa zawjan khayran min zawjihi, wa afsih lahu fi qabrihi wa nawwir lahu fīhi."

(O Allah, forgive those of us who are living and those of us who are dead, those of us who are present and those of us who are absent, our young and our old, our male and our female. Verily you are knowledgeable of our return and abode, and you are over everything powerful. O Allah, to whosoever of us You give life grant him life as a follower of Islam upon the Sunnah, and whomsoever of us You take in death take him in death as a follower of Islam upon the Sunnah. O Allah! Forgive him, have mercy upon him. Give him peace and absolve him. Receive him with honour and make his grave spacious. Wash him with water, snow and hail, cleanse him from sins and faults as is cleaned a white garment from impurity. Requite him with an abode more excellent than his abode, with a mate better than his mate, enter him into Paradise, save him from the trial of the grave and torment of Hell, and A Commentary on Zād al-Mustaqni

make his grave wide for him with light therein.)

متن

"The *imām* sends salutations upon the Prophet $mathbb{R}$ (similar to that in *tashahud*)": As he would do in the final tashahud of obligatory prayer, "Allahumma salli 'alā Muhammad wa 'alā āli Muhammad kamā salayta 'alā āli Ibrāhīm. Wa bārik 'alā Muhammad wa 'alā āli Muhammad kamā bārakta 'alā āli Ibrāhīm innaka hamīdun majīd." (O Allah, exalt the mention of Muhammad and the family of Muhammad as you exalted the family of Ibrāhīm. You are Praised and Glorious. O Allah, bless Muhammad and the family of Muhammad as You blessed the family of Ibrāhīm. You are Praised and Glorious.)

"He supplicates after the third *takbīr*": After glorifying Allah and after sending salutations upon the Prophet $\frac{1}{22}$ he makes the supplication mentioned above.²²⁸

It is permissible to make any other supplication which is convenient for him. The objective is to supplicate for the deceased, seeking forgiveness and mercy for him. We beseech Allah to permit him into Paradise and spare him from the Hellfire. This supplication though has been authentically reported from the Prophet $\frac{1}{2}$ and hence the author mentions it here. It is the best and most beneficial for the deceased.

وإن كان صغيراً قال: اللهم اجعلْه ذخراً لوالديه وفَرَطاً وأَجْراً وشفيعاً مجاباً، اللهمَّ ثَقِّلْ به مَوازينهما، وأعْظِمْ به أجورهما وأَلْحِقْه بصالح سَلَفِ المؤمنين، واجعله في كفالة إبراهيم، وَقِهِ برحمتك عذابَ الجحيم. ويقف بعد الرابعة قليلاً، ويسلِّم واحدةً عن يمينه، ويرفع يديه مع كلِّ تكبيرةٍ

If the deceased is a child, he says: "Allahumma aj'alhu dhukhran liwālidayhi, wa faratan wa ajran wa shaf ī'an mujāban, allahumma thaqqal bihi mawāzīnahumā, wa a'zim bihi ajūrahumā, wa alhiqhu bisālih salafi al-muminīn, wa aj'alhu fī kafālati Ibrāhīm, waqihi birahmatika 'adhāba al-jahīm." He should pause for a short moment after the fourth takbīr and then make taslīm once to the right side. He raises his hands with every takbīr.

"If the deceased is a child": That is, a child who has not reached puberty. Forgiveness is not sought for the child as the child does not have any sins. Instead

²²⁸ Reported by Ahmad (2/368), Abu Dawūd (3201), al-Tirmidhī (1024) and Ibn Hibbān (3070) from the narration of Abu Hurairah.

the supplication mentioned by the author is read. It means, "O Allah! Make him an asset for his parents. A forerunner and he whose intercession is answered. O Allah! Magnify their reward and make him weigh heavily in their scales [of good]. Make him join the righteous of the believers. Place him in the care of Ibrāhīm. Save him by Your mercy from the torment of hell."

"Make him an asset for his parents": Allah shall forgive the parents' sins if they are patient despite losing their child. Allah makes this incident a means of goodness for them.

"A forerunner"- The word "*al-faratu*" is used by the Arabs for the person who brings water to the travellers who arrive at a destination. He is the first to welcome them and quench their thirst. The Prophet $\underline{\#}$ said, "I am the forerunner to the *hawdh* (pool)."²²⁹

Muslims supplicate to Allah that the child is a forerunner to Paradise ahead of his parents and that he intercedes with Allah 36 for both of them.

"Place him in the care of Ibrāhīm": Since he is a child, he requires a guardian and so Ibrāhīm **368** will be his guardian.

"He should pause for a short moment after the fourth *takbīr*": Once the supplication is concluded, he makes the fourth *takbīr*. He pauses for a while before making the *taslīm*. *Taslīm* is a must as this is a prayer and the Prophet Ξ said, "The prayer commences with *takbīr* and ends with *taslīm*."²³⁰

"And then make *taslīm* once to the right side": It is authentically reported that the Prophet $\frac{1}{2}$ made only one *taslīm* to his right.²³¹ Some scholars hold the view that the *taslīm* should be made twice, one on each side.²³² Doing so is acceptable though making the *taslīm* once is more authentic.

²²⁹ Reported by al-Bukhārī (8/148), (9/58) and Muslim (7/68) from the narration of 'Abdullah ibn Mas'ūd.

²³⁰ Reported by Ahmad (1/123, 129), Abu Dawūd (61, 618) and al-Tirmidhī (3) from the narration of 'Alī.

²³¹ Reported by al-Dāraqutnī (2/72, 77), al-Hākim (1/360) and al-Bayhaqī in Sunan (4/43) from the narration of Abu Hurairah.

²³² See Muntahā al-Irādāt (1/312).

A Commentary on Zād al-Mustaqni

"He raises his hands with every *takbīr*": Doing so is from the Sunnah of the *janāzah* prayer just as it is a Sunnah in the prayer seeking rain and 'Eid prayers.

وواجبُها: قيامٌ وتكبيراتٌ، والفاتحةُ والصلاةُ على الـنبي ﷺ، ودعوةٌ للميت، والسلامُ

The *wājib* acts are: Standing, the four *takbīrs*, al-Fātihah, salutations upon the Prophet **\$\$**, supplicating for the deceased and the *taslīm*.

There are six *wājib* acts in the *janāzah* prayer:

متن

<u>First</u>: "Standing": Since it is an obligatory prayer, standing to perform it is a must unless there are legal excuses that prevent one from doing so. He may sit down to pray.

Second: "Four *takbīrs*": If a person makes less than four *takbīrs*, the prayer is invalid.

<u>Third</u>: "Al-Fātihah": The Prophet \cong said, "There is no prayer for he who does not read the opening chapter of the Book,"²³³ Since the *janāzah* prayer is a *salāh* and since the Prophet read this *sūrah* when performing the prayer, it is *wājib*. Ibn 'Abbās read it aloud so that, "People will know that it is the Sunnah."²³⁴ It has been reported that a large number of the Companions of the Prophet read it during the *janāzah* prayer. As we mentioned before, this is part of the etiquette of making a supplication (i.e. al-Fātihah contains praise and glorification of Allah). Any supplication that commences with the praise and glorification of Allah is more readily answered.

Fourth: "Salutations upon the Prophet **ﷺ**": This is also part of the etiquette of making a supplication. It becomes more endearing to Allah and He answers the supplication because of the salutation said upon the Prophet.

<u>Fifth</u>: "Supplicating for the deceased": If a person performs the *takbīrs*, recites al-Fātihah, sent salutations upon the Prophet $\frac{1}{20}$ but did not supplicate for the deceased, then his prayer is invalid. The main objective of the prayer is to make supplication for the dead person. We reiterate that if supplication for the de-

²³³ Reported by al-Bukhārī (11/192) and Muslim (2/8, 9) from the narration of 'Ubādah ibn al-Sāmit.

²³⁴ Reported by al-Bukhārī (2/112).

ceased is left out, then the prayer is invalid as the person has not achieved the very objective of the prayer.

Sixth: "And the *taslīm*": If he left the prayer without making *taslīm*, then the prayer is invalid. The Prophet $\frac{1}{2}$ said, "The beginning of the prayer is the *takbīr* and the end is the *taslīm*."²³⁵ The Prophet $\frac{1}{2}$ and his Companions used to make the *taslīm* to conclude the *janāzah* prayer.

ومن فاته شيءٌ من التكبير قَضَاه عـلى صِفَتِهِ

Whoever misses any of the *takbīrs*, must make up for it with similar properties.

"Whoever misses any of the *takbīrs*": If a person joins in late with the *janāzah* prayer, he should make whatever *takbīrs* are left along with the *imām*. Once the *imām* concludes the prayer with the *takbīr*, he makes up the *takbīrs* that he missed. The *takbīrs* are performed as one does while in the prayer. If he missed one *takbīr*, he makes up for one and if he missed more than that, he makes up for that number of *takbīrs* after the *taslīm*. He also reads after a particular *takbīra takbīra*, then he makes up for this *takbīr* after the *taslīm* of the *imām*. He then proceeds to read Sūrah al-Fātihah.

"Must make up for it with similar properties": That is, he must perform it as how he would do when praying the *janāzah* prayer with the *imām*. The point is to observe the sequence of what is read after each *takbīr*. However, if he fears that the deceased will be carried away for burial, he simply makes up for the missed *takbīrs* without reading anything in between them and concludes with the *taslīm*.

ومن فاتتْه الصلاةُ عليه صلَّى على قبره وعلى غائبٍ بالنِّية إلى شهر

متن

متن

If a person misses the *janāzab* prayer for the deceased, it may be prayed at his grave site and if he is absent from the country, for a period of one month.

"If a person misses the janāzah prayer for the deceased, it may be prayed at

²³⁵ Reported by Ahmad (1/123,129), Abu Dawūd (61, 618) and al-Tirmidhī (3) from the narration of 'Alī ibn Abu Tālib.

A Commentary on Zād al-Mustaqni

his grave site": That is, he missed the funeral prayer before the deceased was buried. In this case, he may pray at the deceased's grave. The evidence for this is that the Prophet $\frac{1}{20}$ performed the *janāzah* prayer for the woman who used to tidy the *masjid*. He was not informed of her death because those who knew thought that it was inconsequential. When the Prophet asked after her, they replied that she died and was buried the night before. He asked, "Why did you not inform me?" He then asked someone to guide him to her grave and offered the *janāzah* prayer for her there.²³⁶

In another incident, the Prophet 35 stopped whilst passing by a freshly dug grave. He then offered the *janāzah* prayer for that person as he had not performed it before the burial.²³⁷

He stood in front of the grave, facing the direction of the *qiblab* whilst offering the prayer (i.e. the grave was between him and the *qiblab*). The prayer had all the attributes of the *janāzab* prayer that is performed when the deceased is above the ground.

"And if he is absent from the country": The word absent refers to one who died in a distant land. The residents of his country shall offer the *janāzah* prayer for him or upon his grave if he was already buried in a faraway country. There are differences among the scholars pertaining to whether the *janāzah* prayer is offered for him at his place of residence:²³⁸

<u>The first view</u>: The *janāzah* prayer is not offered for a person who died in a distant land. Instead it is offered at the place where he died. There were many people who died outside of Madīnah during the lifetime of the Prophet $\frac{1}{28}$ but he did not offer the *janāzah* prayer for them as he was satisfied that the Muslims offered it at the place of their demise.

<u>The second view</u>: The *janāzah* prayer can be offered at the country of origin, even when the death occurs overseas. The incident where the Prophet \cong of-

²³⁶ Reported by al-Bukhārī (1/124) and Muslim (3/56) from the narration of Abu Hurairah.

²³⁷ Reported by al-Bukhārī (1/217), (2/92, 109) and Muslim (3/55) from the narration of 'Abdullah ibn 'Abbās.

²³⁸ See *al-Mughni*' (3/446) and *al-Insāf* (2/533). Shaykh al-Islam's preferred view was that the *janāzah* prayer should be offered in the absence of the body only if it was never offered anywhere. See *al-Ikhtiyārāt al-Fiqhiyyah* (p. 87).

fered the janāzah prayer for al-Najāshi is evidence for it.239

The third view: If the person is a layman and not of high status, then it is sufficient that the *janāzab* prayer is offered for him at the place of demise. The prayer is not offered at his hometown. If we decide to offer the prayer for every Muslim who dies overseas, then we will be constantly offering *janāzab* prayers as there are so many Muslims in this world. So many deaths occur every minute. Hence, if the *janāzab* prayer is offered for the deceased, it need not be repeated elsewhere.

However, if he is a man of status and significant to Islam, like a scholar, a *sultān* or the leader of the Muslims, then the *janāzah* prayer is offered in his hometown or elsewhere even if he died in another country. This is in honour of his service to Islam such that he may receive more rewards through the many Muslims who sincerely supplicate to Allah on his behalf whilst performing the *janāzah* prayer.

The Prophet \underline{x} offered the *janāzah* prayer over al-Najāshi even though he died in Abyssinia. This was due to his great contribution to Islam. When the Muslims migrated to his country, al-Najāshi welcomed them and was hospitable to them though he was a Christian. He heard the Qur'ān from them and subsequently embraced Islam. He had written correspondence with the Messenger of Allah \underline{x} . He had a position in Islam and due to this significance the Prophet \underline{x} offered the prayer for him. The *janāzah* prayer in absence of the body (*salāt al-ghayb*) can be offered for the one who is of great importance in Islam such as the scholar, the Muslim leader and the commander of the Muslim army that wages war for the sake of Allah. *Salāt al-ghayb* is offered for them so that it will add to their rewards and in honour of their sacrifice for Islam. As for the general masses among the Muslims, it is not offered for the reasons we mentioned before. Perhaps this is the best of the three views.

"For a period of one month": Salāt al-ghayb and the janāzah prayer offered at the grave can be performed for a period of one month. It was reported that the latest such prayer offered by the Prophet $\frac{1}{26}$ for the deceased was within a month of the person's death. It was reported that he offered the prayer at the grave of Umm Sa'd ibn 'Ubādah one month after her death and this is the

²³⁹ Reported by al-Bukhārī (2/92) and Muslim (3/54) from the narration of Abu Hurairah.

A Commentary on Zād al-Mustaqni

longest period reported from him.²⁴⁰

To offer *salāt al-ghayb* or the *janāzah* prayer at the grave after the one month period is baseless as there is no evidence to prove its permissibility. Imām Ahmad said, "The latest such period that I have been informed of is a month." This is probably due to the fact that the body would have disintegrated after being buried for a month and in most cases almost nothing would be left of it.

متن

ولا يُصلِّي الإمام على الغالِّ ولا على قاتل نفسهِ

The *imām* does not offer the prayer for the one who steals from the war booty or for he who commits suicide.

Janāzah prayer is offered for every Muslim, even for a fāsiq who had not practiced Islam when he was alive. In fact, this non-practicing Muslim is given priority for the janāzah prayer as he is in dire need of forgiveness from Allah. However, the supreme *imām* and his deputy should not offer the *janāzah* prayer for some criminals as a form of deterrent against those crimes.

"The *imām* does not offer the prayer for the one who steals from the war booty": This refers to the undistributed treasures seized from the enemy after a battle. This theft is among the most abominable sins. Allah says: **{It is not [attributable] to any prophet that he would act unfaithfully [in regard to war booty]. And whoever betrays, [taking unlawfully], will come with what he took on the Day of Resurrection.}**²⁴¹

The Prophet 3% informed us that he who steals from the war booty shall carry it with him on the Day of Judgement, "If it was a sheep, then he shall bear the sheep. If it was a camel, then he shall bear the camel on his neck and it will be making noise. Regardless if the animal be a cow or a sheep, it will be making its noise."²⁴²

²⁴⁰ This hadīth is narrated with a complete (*mawsūl*) chain and a broken (*mursal*) chain of narrators at the level of the Companions. The former was reported by al-Bayhaqī (4/48) while the latter was reported by al-Tirmidhī (1038) from the narration of Sa'īd ibn al-Musayyib.

²⁴¹ Āli Imrān: 161

²⁴² Reported by al-Bukhārī (2/14), (3/209) and Muslim (6/11) from the narration of Abu Hamīd al-Sā'idy in the incident where Ibn al-Lathabiyah had used the money given in charity.

He will be carrying it as a form of humiliation. Neither the *imām* nor his deputy should offer the prayer for him though the rest of the Muslims shall offer it. He should not be buried without being offered the *janāzah* prayer as he is not a disbeliever.

"Or for he who commits suicide": This is another type of crime that is abhorred. Allah has forbidden anyone to take his or her own life. The Prophet \$\$ said, "A man took his own life. Allah said, 'My slave has pre-empted Me regarding his life which makes Hellfire mandatory for him."²⁴³

The *janāzah* prayer is not offered by the supreme *imām* and his deputy for he who commits suicide. This is to serve as a deterrent for the others not to do this vile act. However, the rest of the Muslims should offer the prayer for the deceased and not deprive him of it.

ولا بأس بالصلاة عليه في المسجد

متن

It is permissible to offer the *janāzah* prayer at the *masjid*.

"It is permissible to offer the *janāzah* prayer at the *masjid*": This is because the Prophet $\frac{1}{26}$ offered the *janāzah* prayer for Ibn Baydā at the *masjid* as was narrated by 'Aishah.²⁴⁴ The Companions offered the prayer for Abu Bakr and 'Umar $\frac{1}{2}$ at the *masjid*.²⁴⁵

However, it is better to offer the prayer outside the *masjid*. There was a place called Musalā al-Janā'iz where the *janāzah* prayers used to be offered during the lifetime of the Prophet $\frac{1}{28}$. It is better to allot a place outside the *masjid* where the *janāzah* prayers are offered. If there is no such place allocated, then it may be offered at the *masjid*.

²⁴³ Reported by al-Bukhārī (4/208) and Muslim (1/74) from the narration of Jundub ibn 'Abdullah al-Bajalī with the wording, "There was a man before your time who had a gaping wound. He took his knife and slashed his hand and bled to death. Allah said, 'My slave has pre-empted Me with regards to his life. I forbid Paradise for him."

²⁴⁴ Reported by Muslim (3/63).

²⁴⁵ Reported by 'Abdul Razzāq in his *Musannaf* (6576) from the narration of Hishām ibn 'Arwah who said that his father saw people leaving the *masjid* to attend a *janāzah* prayer. He then said, "What are these people doing? Abu Bakr's *janāzah* prayer was only offered at the *masjid*." He also reported the narration of Ibn 'Umar who said, "'Umar's *janāzah* prayer was offered at the *masjid*." (6577)



يُسَنُّ التَّرْبيعُ في حَمْله، ويُباح بين العَمودين، ويُسَنُّ الإسراعُ بها، وكونُ المشاةِ أمامَها من والركبان خلفها، ويكره جلوسُ تابعها حتى توضع، ويُسجَّى قبرُ امرأةٍ فقط

It is Sunnah for four people to carry the deceased. It is permissible for two people to carry him. It is Sunnah to hurry whilst carrying him. Those who are walking should go ahead of him and those who are riding on a mount behind. Those who follow the procession should not sit down until the body is laid in the ground as it is disliked. Only the grave pits of women are covered. *Al-lahd* is better than the burial hole.

"Section": What remains of the rites is the burial itself. Allah says: {Then He causes him to die, then assigns to him a grave.}²⁴⁶

This is a blessing of Allah upon mankind as He did not render our corpses like the carcass of an animal which is left on the face of the earth to decay. Instead, we are well preserved and then buried in graves. This only underscores the fact that the life of man does not end with death like that of the animals. There is another realm awaiting for him. Death is but a transit in a journey. A transit that takes one from the realm of this world to the realm of *al-barzakh* (life of the grave). It is called *al-barzakh* in Arabic as it alludes to a partition or barrier. Allah says: **{Between them is a barrier [so] neither of them transgresses.}**²⁴⁷ That is, there is a *barzakh* (barrier) between the two seas. The two seas will not mix with one another. Likewise, the grave is a barrier: **{And before them is a**

246 'Abasa: 21

247 Al-Rahman: 20

barrier until the day they are raised.}²⁴⁸ That is, there will be a barrier between this world and the Hereafter.

There exists another realm after death. Hence, we are preserved and buried in anticipation of it. Even if man is reduced to dust and bones in the grave, he shall be resurrected on the Day of Judgement: {He says, "Who will give life to bones while they are disintegrated?" Say, "He will give them life who produced them the first time; and He is, of all creation, Knowing."}²⁴⁹

Man will be re-created from decayed flesh and dust. Allah is able to do anything. The grave is a blessing endowed upon mankind and his corpse is treated much better than the carcass of dogs and lions.

The deceased has to be transported from the place of demise to the cemetery. Therefore, the author mentions the method to do it. The deceased is placed on a bed or stretcher and carried on the shoulders of men.

"It is Sunnah for four people to carry the deceased. It is permissible for two people to carry him": Each of the four men should carry the corner poles. Two men can do it. One places both corner poles on both sides of his shoulders while the other does the same on the opposite end. It is *mustahabb* that the people carrying the deceased are rotated so that one and all gets the chance and reward of this act.

The men should also switch between corner poles. That is, if he is carrying the right poles at the front, he should switch over to the left. When that is done, he moves to the rear poles, switching between the two. This is to be done only if it is convenient to do so.

If there is a large crowd with not much space, then he may carry it all the way to the grave remaining at the same position. It is better to carry the deceased upon the shoulders even if the distance to the cemetery is far. This is very rewarding for those who are carrying the body and those walking alongside them.

However if there is a need for the body to be transported in a vehicle then it

248 Al-Mu'minūn: 100 249 Yasīn: 78-79 is okay. An example being that the distance is very far, though we must state again that if it is possible to carry the body upon the shoulders then it is the best option. This is because it makes the funeral a means of attaining reward for the carriers of the body and the procession who follow it.

"It is Sunnah to hurry while carrying him. Those who are walking should go ahead of him and those who are riding on a mount behind": The walking speed should be moderate. They should not walk too slowly nor too fast. They should not jog to the cemetery as it will adversely affect the deceased's body. They should not stroll casually too as this is the practice of the innovators in the present era. The Prophet $\frac{1}{26}$ said, "Hurry with the body and if he was pious, you are expediting him to goodness and if he was otherwise, the sooner you will remove the burden off your shoulders."²⁵⁰ Hence, the walking speed should be moderate.

Those following the body on the journey to the cemetery should not yell and cause a uproar whilst walking there as the innovators do. Shouting " $L\bar{a}$ ilāha illallah", reciting supplications and chanting in a raised voice are not permissible. There should be no yelling or shouting when the body is being transported. There should be silence and calmness instead. Those riding the mounts should be at the rear of the contingent and those walking should be ahead of them. The Companions used to do so in this manner.²⁵¹ Burning torches should not be used whilst transporting the body unless there is a need for a light source. The presence of fire is disliked during this penultimate stage of the funeral rites.

There are three types of people who bid farewell to the deceased:

First: Those who offer the *janāzah* prayer and then depart.

Second: Those who offer the prayer and follow the body until it is laid in the grave and then depart.

²⁵⁰ Reported by al-Bukhārī (2/108) and Muslim (3/50) from the narration of Abu Hurairah.

²⁵¹ Ibn al-Qayyim mentioned in Zad al-Ma'ad (1/5117): "The Prophet \mathfrak{B} used to follow the bier to the cemetery, walking ahead of it, every time he offered the *janāzah* prayer. This was the Sunnah of the rightly-guided caliphs also." This has also been reported in a number of narrations by 'Abdul Razzaq in his *Musannaf*.

Third: Those who offer the prayer, follow the body until it is laid in the grave and wait for the burial to be over, remaining to seek forgiveness for the deceased and then depart.

The third type is the best. He who offers the prayer for the deceased, follows the body to the cemetery. Waits for the burial to be over and then seeks forgiveness from Allah on behalf of the deceased and supplicates for him to be firm when the questioning begins. This is the best way to honour our dead and brings forth the most reward for the one doing so. Those who partake in the funeral rites albeit partially, are rewarded based on the extent of their participation. Allah says: {**Surely Allah does not waste the reward of the good-do-ers.**}²⁵²

"Those who follow the procession should not sit down until the body is laid in the ground as it is disliked": The Prophet $\frac{1}{25}$ forbade those who follow the procession to sit down until the body is placed on the ground.²⁵³ One may sit before the burial is done, however as long as the body is being carried, those who follow it to the cemetery should not sit down.

"Only the grave pits of women are covered": The grave is covered until the body is placed therein. It is covered to respect the woman's *awrah*. As for the grave of men, it is not covered. 'Alī 🚓 saw a group of people curtaining off the grave of a dead man. He took the curtain away from them saying, "This is only done for women."²⁵⁴

"*Al-lahd* is better than the burial hole": *Al-lahd* is the burial pit that includes a tapered hole at the bottom of it. It is tapered to the side facing *qiblah*. The taper is the length of the grave and should fit the body. *Lahd* in Arabic means to lean towards. This is due to the fact that the deceased is tilted facing the *qiblah*. The burial hole is the pit dug to bury the body without the tapering.

It is better to include the taper at the bottom of the pit as the Prophet's grave included it. The city of Madīnah used to have a person who dug the burial hole and another who dug *al-lahd*. The people use to say: "He who arrives first at

²⁵² Hud: 115

²⁵³ Reported by al-Bukhārī (2/107) and Muslim (3/57) from the narration of Abu Sa'īd al-Khudrī.

²⁵⁴ Reported by al-Bayhaqī in al-Sunan al-Kubrā (4/54).

the burial site shall dig that which he specialises in." The first to arrive was he who digged *al-lahd* and so the Prophet's grave had a taper at the bottom of the burial hole.²⁵⁵

This is proof that *al-lahd* is better as Allah chose it for His Prophet 3 who said in a hadith, "*Al-lahd* is for us and the burial hole is for them."²⁵⁶

However, burying a Muslim in a burial hole is permissible, especially if the circumstances permit only that. If the grave walls cave in and do not stay in place, then a burial hole is dug and the walls are lined with baked clay or bricks such that the hole is still big enough to place the body in. A taper cannot be constructed in such a hole. If the walls are firm, digging *al-lahd* is better.

ويقول مُدخِلُه: بسم الله وعلى مِلَّة رسول الله، ويضعه في لحُده على شِقِّه الأيمنِ مستقبلَ مِن القِبلة، ويُرفعُ القبرُ عن الأرض قَدر شِبْر مُسَنَّباً

The person who lowers the body into the grave says, "*Bismillabi wa 'alā millati rasūli allabi*." Then the body is placed on its right side facing the *qiblab*. The grave is raised by a hand span from the ground level with the apex in the middle.

"The person who lowers the body into the grave says": The above mentioned means, "In the name of Allah and on the creed of the Messenger of Allah," and it is said whilst placing the body in the *lahd*. It can be interpreted as, "In the name of Allah, we place you in the grave and according to the creed of the Messenger of Allah, we bury you."

"Then the body is placed on its right side facing the *qiblah*": In the position that a person sleeps. It is *mustahabb* that one sleeps on his right side. The Sunnah of the dead is similar to the Sunnah of the living. To face the deceased in the direction of the *qiblah* is *wājib* whilst placing him on the right side is only *mustahabb*. The Prophet Ξ said regarding the Ka'bah: "It is the *qiblah* for your living and dead."²⁵⁷

²⁵⁵ Reported by Ahmad (3/139) and Ibn Mājah (1557) from the narration of Anas ibn Mālik. 256 Reported by Abu Dawūd (3208), al-Tirmidhī (1045), al-Nasā'ī (4/80) and Ibn Mājah (1554) from the narration of 'Abdullah ibn 'Abbas.

²⁵⁷ Reported by Abu Dawūd (2875), al-Nasā'ī (7/89) and al-Hākim (4/259-260) from the narration of 'Umayr ibn Qatādah.

"The grave is raised by a hand span from the ground level": When the body is placed in the *lahd* as described above, the *lahd* is concealed with bricks placed on the edge of the taper. Gaps between the bricks are covered up with clay and clods of earth. It is so tightly packed that it should prevent earth falling atop of the body. Later, earth is thrown into the grave to complete the burial.

The grave is raised from ground level by a span of the hand so that it can be identified as a grave and not desecrated. If the grave was level to the ground, none would know of its existence there and it might be stepped upon and the ground might even be dug up a second time. This displays the wisdom behind raising the grave by a hand span.

The Prophet's $\underline{3}$ grave was also raised by a hand span from the ground,²⁵⁸ a practice he carried out for his Companions as well. However, it should not be raised more than a hand span as the Prophet $\underline{3}$ forbade it. It symbolises veneration and paves the way for *shirk*. The ignorant ones may be endeared to it. Hence, the grave should never be raised more than a hand span.

Building a structure atop the grave is worse. The Prophet $\frac{1}{26}$ forbade this.²⁵⁹ He $\frac{1}{26}$ informed us that this was the habit of the Jews and Christians and this habit led them into associating partners with Allah in worship.²⁶⁰

Therefore, no structures should be built atop a grave and the grave itself should not be raised more than a hand span from the ground level. It is a kind of veneration which leads to *shirk*. The Prophet $\frac{1}{2}$ said, "Do not leave any grave that is raised but level it."²⁶¹ That is, raised by more than a hand span.

"With the apex in the middle": The middle of the grave is made higher than both the ends. This is so that rain water does not collect atop the grave but flows off it. The grave might be affected if water collects atop of it.

²⁵⁸ Reported by Ibn Hibbān (6635) and al-Bayhaqī (3/410) from the narration of Jābir.

²⁵⁹ Reported by Muslim (3/61, 62), Ahmad (3/295), Abu Dawūd (3225), al-Tirmidhī (1052) and al-Nasā'ī (4/86) from the narration of Jābir.

²⁶⁰ Reported by al-Bukhārī (66/63-64) and Muslim (2/66) from the narration of 'Aishah.

²⁶¹ Reported by Muslim (3/61), Ahmad (1/96, 128), Abu Dawūd (3218) and al-Nasā'ī (4/88) from the narration of 'Alī ibn Abī Tālib.

ويُكره تجصيصُه والبناءُ والكتابةُ والوطءُ عليه، والاتكاءُ إليه

متن

Plastering the grave or to set inscriptions on it are disliked as is erecting a structure atop of it, sitting, treading or leaning on it.

These acts were forbidden by the Prophet ﷺ at the grave as it will pave the way for people to associate partners with Allah or will amount to desecrating the grave. These acts are:

First: Plastering the grave is prohibited. The word *yukrahu* (disliked) was considered by the predecessors as referring to prohibition. Graves are plastered with gypsum, caustic lime or other materials in order to decorate it. Since it is overindulgence and promotes ignorant people's reliance on the grave, it is forbidden. If a grave is nondescript like the rest of the graves in the cemetery, it will not be enshrined nor considered significant compared to other graves.

Second: To set inscriptions on the grave is prohibited. The name of the deceased, the date of demise or even ayat of the Qur'ān or supplications should not be inscribed unto the grave. In fact nothing at all, not even letters should be inscribed upon the grave. The Prophet $\frac{1}{26}$ forbade this practice.²⁶²

"Plastering the grave or to set inscriptions on it are disliked as is erecting a structure atop of it, sitting, treading or leaning on it": All of these acts are forbidden. Plastering as well as any other modification to the grave that gives a similar affect is forbidden.

Third: Erecting a structure atop of the grave is extremely dangerous. Erecting a dome or room above the grave shall pave the way for *shirk*. Past generations were destroyed due to the practice of erecting structures atop the graves of the pious and righteous servants of Allah. When Umm Salamah related what she had seen in Abyssinia of Christian churches and the images they contained to the Prophet \cong he said, "When a pious servant died in their midst, they built a temple atop of his grave and drew images upon it. They are the worst of creation to Allah."²⁶³ Hence the Muslims were prohibited from doing likewise as this leads to *shirk*.

²⁶² Reported by al-Tirmidhī (1052), al-Nasā'ī (4/86) from the narration of Jābir. There is a similar hadīth in Muslim but the forbiddance of inscription on the grave is not mentioned.
263 Reported by al-Bukhārī (6/63-64) and Muslim (2/66) from the narration of 'Aishah.

Fourth: Sitting and standing upon the grave is forbidden. It is tantamount to sacrilege. The grave should not be trod upon either. The din of Islam is a moderate and just one. The guidance it provides pertaining to the grave is like the guidance it provides for all other aspects of the din. The moderate approach it promotes strikes a balance between respect of the grave and its neglect. Plastering the grave, setting inscriptions on it, adorning it with lamps or electric flash lights are overindulgence that leads one to *shirk*.

Sitting atop the grave, stepping and leaning on it and striking it with an object are means of disrespecting the deceased. The rights accorded to the dead Muslim are similar to that of the living person. Therefore it is not permissible to desecrate the grave or to harm it in any way. Instead it should be well-maintained. This is the justice propagated in Islam. The grave is not venerated or desecrated. It should be given the respect that is in between overindulgence and desecration and between excessive upkeep and total neglect. This is the guidance offered by Islam with regards to graves.

Some people venerate the grave by decorating it with inscriptions and a cover just like the covering on the Ka'bah. They leave coin boxes there for people to donate money into. Wordings are written on pieces of paper and cloth which are sold to those who visit the grave. People buy it in the hope these scraps of paper and cloth will help to fulfil their needs or repel evil from them. These are examples of *shirk* at its worst form (*shirk akbar*). Those who have these false beliefs leave the fold of Islam. These are grave worshippers who exist in abundance nowadays just as they were present in the past. This perseverance upon the graves does not seem to disappear and Allah's refuge is sought! Associating partners with Allah, overindulgence and excessiveness are all acts of falsehood.

On the other hand, there are those who desecrate the graves and have no qualms doing so. They strike at the graves with objects, dump rubbish on them, let sewage flow over them and other such despicable acts. This is sacrilege of the graves and brings disrepute to the deceased. The Prophet $\frac{1}{28}$ said, "It is better for one of you to sit on heated coal which eats into his clothes and reaches the skin than to sit atop a grave."²⁶⁴

There is a group of people who level the graves and build houses on this land. Some others cultivate the land and divide it into plots to create farms or into

²⁶⁴ Reported by Muslim (3/66) from the narration of Abu Hurairah.

plots of landed property. All of these matters from the desecration of graves are forbidden in Islam as is the veneration and overindulgence with regards to the graves.

The cemetery should be fenced along its periphery so that there is no trespassing by people or animals. The area should be supervised so that there is no illegal dumping carried on the land. This is the guidance that Islam offers to the Muslim which is the true guidance that is moderate and just. It is a guidance that pervades all facets of man's life that liberates him from overindulgence as well as apathy.

ويَحْرُم فيه دفنُ اثنين فأكثر إلا لضرورة، ويجعل بين كل اثنين حاجزٌ من تراب

متن

Burying two or more bodies in one grave is forbidden except in emergency cases. A partition of dust or soil is made separating the bodies.

"Burying two or more bodies in one grave is forbidden except in emergency cases": Among the rules of burial is that each body is allotted a grave. The same spot should not be dug up again to bury another unless the previous corpse has totally disintegrated into the earth and there is nothing left of him. In this case, it is permissible to bury another body at that very spot. If however any parts of his skeleton are present, then no burial should be carried out at that spot. The general rule is that a grave should not be dug up expressly to bury another body. This will crush the corpse already in the grave and constricts his space. Since he is the predecessor, the grave is rightfully his. The grave is the abode of the deceased which was endowed to him.

The *asl* is that only one body is buried in each grave as was the practice of the Prophet $\frac{1}{28}$, when he carried out burials in the Baqi' cemetery. He never buried two or more bodies in one grave at Baqi'. Doing so is forbidden unless there is a dire need to do so or in times of emergency. The Prophet $\frac{1}{28}$ buried two or more bodies in one grave after the Battle of Uhud. Many Companions were martyred in that battle and there were countless wounded. Most of those who survived were too weak to dig up a separate hole for each martyred companion. Therefore, the Prophet $\frac{1}{28}$ ordered them to place two or three of those who were martyred in a single grave²⁶⁵ so as to lift the burden from the Muslims. This was only due to the predicament they were in. In times of peace and se-

²⁶⁵ Reported by al-Bukhārī (2/115) from the narration of Jābir ibn 'Abdullah.

curity, he ﷺ did not bury more than one body in a grave.

"A partition of dust or soil is made separating the bodies": When it becomes necessary to bury two or three bodies in one grave, they should not be placed in a manner where they come into contact with each other. Instead, a partition made of earth is made between them so that they are separated and confined to their own personal space.

ولا تُكره القراءةُ على القبر، وأيُّ قُربةٍ فَعلها وجعلَ ثوابها لميتٍ مسلمٍ أو حيٍ نفعه ذلك Reading at the grave is not disliked. All pious deeds that are done and dedicated to the Muslim who is alive or deceased, benefits that person.

متن

After the burial process is completed. It is recommended for the Muslims to stand near the grave facing the *qiblab* and supplicate for the deceased to be firm when the questioning begins. They also invoke Allah's forgiveness on his behalf. When the burial of one of the Companions was complete, the Prophet $\frac{1}{2}$ said, "Seek Allah's forgiveness for your brother and ask that he be made firm for he is being questioned now."²⁶⁶ That is, questioned by the two angels.

Allah said to His Prophet, {And never offer prayer for any one of them who dies and do not stand by his grave.}²⁶⁷ This ayah refers to praying for the hypocrites after their burial. This is proof that the Muslims should stand at the grave of the deceased and supplicate for him. This is Sunnah and a duty Muslims accord to each other. Authentic reports mention that the Messenger of Allah sought forgiveness for the deceased and supplicated that Allah make him firm during the questioning and he $\frac{16}{20}$ ordered the Muslims to do likewise.

"Reading at the grave is not disliked": Nothing has been reported from the Prophet 耄 pertaining to the recital of the Qur'ān at the grave. He 耄 said, "Whoever invents something new in our affair that which is not a part of it will have it rejected."²⁶⁸ He also said, "Beware of the innovations in this affair."²⁶⁹ Hence according to the Sunnah, the Qur'ān should not be recited

²⁶⁶ Reported by Abu Dawūd (3221) from the narration of 'Uthmān ibn Affān.

²⁶⁷ Al-Tawbah: 84

²⁶⁸ Reported by al-Bukhārī (3/241) and Muslim (5/132) from the narration of 'Aishah.

²⁶⁹ Reported by Ahmad (4/126), Abu Dawūd (4607) and al-Tirmidhī (2676) from the narration of al-'Irbād ibn Sāriyah.

A Commentary on Zād al-Mustaqni

while the deceased is being buried nor after the burial. This is an act often practiced by the innovators who gather together and recite the Qur'ān at the grave. They even come back to the grave to repeat this ritual time to time. This is a clear innovation which does not benefit the deceased.

"All pious deeds that are done and dedicated to the Muslim who is alive or deceased benefit that person": The general truth is that the deceased will only benefit from the good deeds he did while he was alive. Allah says: **{And that man shall have nothing but what he strives for.}**²⁷⁰

Unless there is evidence to prove that another person's deed will benefit the deceased. The Prophet $\frac{1}{26}$ said, "When the son of Adam dies, all his deeds are severed except three. The charity he gave, the knowledge with which he benefited others and the pious son who supplicates for him."²⁷¹ The *waqf* endowment shall remain after him. The knowledge he distributed, the students whom he taught or the books that he authored shall exist after his death, bringing forth rewards. Also his righteous son who supplicates to Allah on his behalf benefits him even after death. These survive him and benefit after death based on the hadīth.

Whenever the Prophet $\frac{1}{2}$ used to pass by graves he would supplicate for them, which will be explained in detail later.

Graves are visited so as to supplicate for the deceased. This is legislated in Islam. This supplication benefits the deceased as there is evidence for it.

Giving charity on behalf of the deceased does benefit him. There is evidence for this too. S'ad mentioned to the Messenger of Allah \cong that his mother had passed away and she had not spoken to him. Had she spoken she would have bequeathed a sum for charity. S'ad then asked, "Can I give charity on her behalf?" The Prophet \cong replied, "Give charity on behalf of your mother."²⁷²

The same applies to performing Hajj and 'Umrah for the deceased. There is evidence to show its permissibility. The Prophet 🕱 said, "Perform Hajj and

²⁷⁰ Al-Najm: 39

²⁷¹ Reported by Muslim (5/73), Ahmad (2/372), Abu Dawūd (2880), al-Tirmidhī (1376) and al-Nasā'ī (6/251) from the narration of Abu Hurairah.

²⁷² Reported by al-Bukhārī (2/127), (2760) and Muslim (3/81) from the narration of 'Aishah.

'Umrah on behalf of your father."²⁷³ It includes the first mandatory Hajj or the optional Hajj.

There is evidence to prove that these acts can be performed and the rewards dedicated to the deceased. However, we must avoid dedicating any act for which there is no evidence to prove its permissibility. In fact no action is to be done and credited to Islam without evidence from the Qur'ān and Sunnah of the Prophet 3.

ويُسن أن يُصنَع لأهل الميت طعامٌ يبعثُ به إليهم ويُكره لهم فعلُه للناس

متن

It is Sunnah to prepare meals for the bereaving family and deliver it to them. It is disliked that the bereaving family provide food for the people.

"It is Sunnah to prepare meals for the bereaving family and deliver it to them": To care for the bereaving family after the burial is completed is something legislated in Islam. Since they are afflicted with a loss, it is legislated for the Muslim community to look after their immediate needs as a way towards consoling their misery. One may prepare meals for the family according to their needs for they will be too distraught to think of cooking for themselves. When news reached the Prophet \sharp of Ja'far ibn Abi Talib's \clubsuit demise, he said, "Prepare for the family of Ja'far their meals for indeed they will be preoccupied."²⁷⁴ That is, with grief. Meals are prepared according to the needs of the bereaved family. Excessive preparation is not necessary as the evidence alludes to this. Doing so results in wastage which is prohibited in Islam.

We have observed that in some countries food is brought to the bereaving family by many people, so much so that the food begins to pile up. The family would not have need for so much food and there is no reason for the people to prepare that much food. This is sheer wastage. Instead the meals prepared should be restricted to the amount required for the bereaving family. This is the guidance shown in the Sunnah.

"It is disliked that the bereaving family provide food for the people": As there

²⁷³ Reported by Ahmad (4/10-12), Abu Dawūd (1810), al-Tirmidhī (930) and al-Nasā'ī (5/117).

²⁷⁴ Reported by Ahmad (1/205), Abu Dawūd (3132), al-Tirmidhī (998) and Ibn Mājah (1610) from the narration of 'Abdullah ibn Ja'far.

is no report of this from the Sunnah of the Prophet 38. In fact, this contradicts the Sunnah which ensures that others prepare meals for the bereaved rather than the opposite.

Apart from preparing meals for the bereaved family, it is Sunnah to send them condolences. It is Sunnah to do so before or after the burial, when you meet the bereaving family member at his home, on the street, at the *masjid* or cemetery. It is Sunnah to say, "*Ahsana allahu 'azā' aka, wa jabara allahu musībataka, wa ghafara li mayyatika.*" (May Allah make perfect your bereavement, replace your misery and forgive your departed.)²⁷⁵

As mentioned in various *ahādīth*. This condolence comprises of supplication for the living and the deceased. There is also care and concern for the bereaving family. Setting aside a holiday for mourning, turning flags upside down and wearing only black clothes are acts of the days of ignorance and thus forbidden.

The bereaving family members should not discontinue their jobs. Instead they should carry on with their work and their effort to make a living. If he has a store, then he should open for business as usual. Those who are employed should not miss their work schedule. Death should be understood as a natural process Allah has set in humans. However, if one quits his job to sit at home mourning, it displays sorrow. Whereas carrying on with his normal daily work routine is actually a manifestation of his patience and forbearance.

²⁷⁵ This hadith has a mawquf chain of narration as reported by al-Tabarānī in al-Mu'jam al-Kabīr (22/96) from the narration of Sanān, the mawlab of Wāthilah.



تسن زيارة القبور إلا للنساء

متن

It is Sunnah to visit the graves except for women.

"Section": This section is related to the laws pertaining to the dead in relation to visiting their graves. They have rights that should be fulfilled by their Muslim brethren. Since they are confined to the grave, the rest of the Muslims should supplicate for them and send *salām* upon them.

"It is Sunnah to visit the graves": The Prophet $\frac{1}{26}$ said, "Visit the graves for it reminds you of the Hereafter."²⁷⁶

Visits to the graves can be classified into two types: (i) visits that are legislated in Islam, (ii) and visits that are innovations in Islam.

The visit that is legislated in Islam is carried out to for the purpose of sending *salām* to the people of the graves and supplicating for them. It also serves as a self-reminder. However, the visit that is an innovation in Islam is carried out expressly for a vested interest namely to be blessed by, to seek help from and in devotion to the graves. These types of visits are strictly forbidden in Islam.

"Except for women": It is not a Sunnah for women to visit the grave as the Prophet Ξ said, "The women who visit the graves are cursed as are those who

²⁷⁶ Reported by Muslim (3/65), Ahmad (5/356, 359), Abu Dawūd (3235) and al-Tirmidhī with his own wording (1054) from the narration of Buraydah ibn al-Hasīb.

build *masjids* and lamps on top of graves." This hadīth was reported by Imām Ahmad with a chain of trusted narrators²⁷⁷ as pointed out by the author.

If an act invokes curse, then it is surely forbidden. It alludes to the fact that it is indeed a major sin. Women visiting the graves is a major sin. They should not do so as women are naturally weak. If she were to see her son's grave or her relative's grave, she will be adversely affected. Perhaps it might make her wail in despair. Furthermore, the woman is *awrab*. What if she goes there and thugs loitering there seize the opportunity to attack her? Women should not visit the graves for the Prophet $\frac{1}{26}$ forbade them to do so. A believing woman will refrain from doing something that the Prophet $\frac{1}{26}$ has forbidden.

Some lay people or those who claim to have knowledge say that it is permissible for women to visit the graves. We reply to them with the words of the Prophet $\frac{1}{20}$, "The women who visit the graves are cursed." Some others say that there are disputes among the scholars in this issue. We reply to them by pointing out that a scholar's opinion should not be give precedence over the Prophet's words. We shall not subject ourselves to the disputes. We shall adhere to the words of the Messenger $\frac{1}{20}$, "The women who visit the graves are cursed." The hadīth is authentic with a chain of trusted narrators.

If they claim that 'Aishah had visited the grave of her brother 'Abdul Rahmān,²⁷⁸ we reply to them that this was an action by a companion of the Prophet in contradiction to his $\frac{1}{20}$ words. We can conclude that 'Aishah did not know of the hadīth that forbade women from visiting graves. She did it on her own accord. Perhaps she knew of the hadīth but thought she was exempt from the prohibition. This was her own formulated judgement (*ijtihād*) to visit the grave. However, the evidence is based on the sayings of the Prophet, not the *ijtihād* of a companion or others.

If they quote Umm 'Atiyah who said, "We were prohibited from visiting graves but this prohibition was not binding upon us."²⁷⁹ We reply that we suffice with her statement, "We were prohibited from visiting graves." Perhaps her saying, "This prohibition was not binding upon us" was an *ijtihād* on her part. Just as

²⁷⁷ Reported by Ahmad (1/229), Abu Dawūd (3236), al-Tirmidhī (320), al-Nasā'ī (4/94-95) and Ibn Mājah (1575) from the narration of 'Abdullah ibn 'Abbās.

²⁷⁸ Reported by al-Tirmidihi (1055), 'Abdul Razzāq (6711) and al-Hākim (1/176).

²⁷⁹ Reported by al-Bukhārī (2/99), Muslim (3/47).

'Aishah's *ijtihād* cannot be given precedence over the sayings of the Prophet 案, Umm 'Atiyah's *ijtihād* cannot be used as evidence for the permissibility of women visiting graves.

If they argue that the Prophet's exhortation to visit graves is general and so includes women as well, we reply that the word " $z\bar{u}r\bar{u}$ " (visit [plural, masculine form]) in the hadīth is specific for the male gender. Furthermore, in the hadīth which forbids women, the word " $z\bar{a}$ 'irāt" (feminine form of visitor) is specific for the female gender.

They might quote the incident when the Prophet $\frac{1}{20}$ passed by a woman who sat crying by the grave. He addressed her saying, "O slave of Allah! Be patient..."²⁸⁰ but he did not forbid her from visiting the grave. He $\frac{1}{20}$ only told her not to despair. We reply by saying that this incident preceded the hadīth that forbids women from visiting graves in terms of chronological order. Later on, the permissibility was abrogated.

The hadīth, "The women who visit the graves are cursed," is the determining factor of this whole dispute. That is, for those who are seeking the truth. Those seeking perversion will not be satisfied with this hadīth. Every time you confront them with it, they circumvent. The solution to the dispute is the hadīth of the Prophet $\frac{1}{28}$. Allah says: **{And if you disagree over anything, refer it to Allah and the Messenger, if you should believe in Allah and the Last Day.** That is the best [way] and best in result.}

The prohibition for women to visit graves encompasses all. Be it the grave of the Prophet $\frac{1}{20}$ the graves of the Companions or that of others, they are forbidden to visit them for the hadīth does not exempt any particular grave. Hence it is a total prohibition.

متن ويقول إذا زارها أو مَرَّ بها: السلام عليكم دارَ قوم مؤمنين، وإنـا إن شاء الله بكم للاحقون، يرحم اللهُ المُسْتقدِمِين منكم والمستأخِرين نسَّال الله لنا ولكم العافية، اللهم لا تحرمُنا أجرَهم، ولا تَفْتِنَّا بعدَهم، واغفرْ لنا ولهم

²⁸⁰ Reported by al-Bukhārī (2/93, 99) and Muslim (3/40,41) from the narration of Anas ibn Mālik.

²⁸¹ Al-Nisā: 59

When visiting or passing by the grave, say, "Al-salāmu 'alaykum dāra qawmin mu'minīn, wa innā inshā'allāhu bikum lalāhiqūn, yarhamu Allāhu al-mustaqdimīna minkum wa al-musta'khirīn, nas'alu allāha lanā wa lakum al-'āfiyah. Allāhumma la tahrimna ajrahum wa lā taftinnā ba'dahum wa-ghfir lanā wa lahum." (Peace be upon you, inhabitants of the dwellings who are of the community of the believers. If Allah wills we shall join you. May Allah show mercy on those who departed from the early and those of the last generation. We ask strength from Allah for us and for you. O Allah, do not deprive us of their reward and do not put us to trial (after them), forgive us and them.)

This supplication has been reported authentically from the Messenger $32.^{282}$ Why did the Prophet 32 say, "If Allah wills" when death is inevitable as is the joining with the deceased?

The answer to this question is that perhaps it was included to seek the blessings of Allah as in the ayah: **{You shall most certainly enter the Sacred Masjid, if Allah wills, in security.}**²⁸³

It is also said that the words were included in the hope that one will die whilst being a Muslim as no one knows what is destined for him.

ويجوز البكاء على الميت وتُسَنُّ تعزيةُ المصابِ بالميت ويَحرمُ النَّدْبُ والنِّياحةُ وشَقُّ الثوب من ولَطْمُ الخدِّ ونحوه

It is Sunnah to send condolences to the bereaving family. It is permissible to cry for the deceased but mourning, wailing, tearing of clothes, slapping of cheeks and the like is forbidden.

"It is Sunnah to send condolences to the bereaving family": This point has been explained.

"It is permissible to cry for the deceased but mourning, wailing, tearing of clothes, slapping of cheeks and the like is forbidden": Sorrow cannot be con-

²⁸² Reported by Muslim (3/63, 64) and Ahmad (6/221).

²⁸³ Al-Fath: 27

tained by man. The Prophet $\frac{1}{28}$ also wept.²⁸⁴ However, what should be contained is loud wailing for the deceased. One may recall the deceased's goodness when he wails and laments at his passing. This reflects a lack of patience and is a deed that was prevalent during the days of ignorance (*jāhiliyah*).

Mourning may be in a verbal form like when one raises his voice in lament or it could be in a physical form like when one slaps his own cheeks, tears clothes that he is wearing and uttering mournful words of *jāhiliyah*. These acts are all major sins in Islam.

There is a severe warning for those who wail for the deceased. The Prophet $\frac{1}{28}$ said, "The deceased is tortured in the grave when he is wailed for his death."²⁸⁵ It is the deceased who suffers as a result of the wailing. Hence, wailing and excessive mourning should be avoided at all costs.

²⁸⁴ Reported by al-Bukhārī (2/105) and Muslim (7/86) from the narration of Anas ibn Mālik, who recounted the Prophet's sadness when his son, Ibrāhīm, was in the throes of death. When asked why he was crying the Prophet $\frac{1}{2}$ said, "O Ibn Awf, this is mercy," And added, "Verily the eyes tear and the heart is broken but we only say what pleases our Creator. We are saddened by your departure O Ibrahim.

²⁸⁵ Reported by al-Bukhārī (2/103) and Muslim (3/41) from the narration of 'Umar ibn al-Khattāb.

كتاب الزكاة THE BOOK OF ZAKĀT

"The Book of $Zak\bar{a}t$ ": After elaborating on the laws of prayers, which is the second pillar of Islam, the author shifts his focus to the next pillar which is $zak\bar{a}t$ (mandatory tithe). $Zak\bar{a}t$ is always mentioned alongside prayer in the Book of Allah. It has been mentioned in this manner eighty-two times in the Qur'an. This underscores the importance of $zak\bar{a}t$ in Islam.

The linguistic meaning of $zak\bar{a}t$ is purification.²⁸⁶ Allah says: {He it is Who raised among the unlettered a Messenger from among themselves, who recites to them His verses and purifies them.}²⁸⁷

That is, purify them from disbelief and bad manners. An *athar*²⁸⁸ mentions that, "*Zakāt* (purification) of the ground is achieved when it is dried."²⁸⁹ That is, when it is made moist with impurities, drying it in the sun will cleanse it.

The term *zakāt* may also refer to growth and an increase as it literally increases someone's wealth even as he gives his money away.²⁹⁰ The Prophet \cong said,

289 Reported by Ibn Abi Shaybah in his Musannaf (1/59) with a mawquf chain of narrators.

290 Mentioned in *al-Matla*'. The technical definition is, "A specific thing given away in a specific amount from a specific sum of monies for a specific group of people." (p. 122)

²⁸⁶ See Lisān al-'Arab (14/358).

²⁸⁷ Jumu'ah: 2

^{288 &}quot;*Al-Athar*: It is specific to what was attributed to other than him \mathbb{Z} , such as the Companions, the Tabi'in or those who came after them." See A Commentary on the Poem al-Bayquniyyah (p. 59).

The Book of Zakāt

"The amount given away in charity does not decrease (a person's) wealth."²⁹¹ It in fact increases it. Therefore, *zakāt* is defined as purification from physical as well as spiritual filth and impurity. It is also defined as growth, an increase and a blessing.

There are different types of *zakāt*:

First: Purification of the soul. Allah says: **{And the soul and Him Who proportioned it. Then He inspired it to understand what is right and wrong for it. He will indeed be successful who purifies it.}²⁹² Purifying the soul from shirk, disbelief, sin and bad manners. Allah also says: {Take alms out of their wealth, you would cleanse them and purify them thereby.}**²⁹³ The soul is to be purified of miserliness and greed.

Second: Purification of the physical self. The body is cleansed by giving *zakat al-fitr* in the month of Ramadān. The Prophet $\underline{*}$ made it obligatory stipulating the amount, "A *sa*' of staple food that could be wheat, dates, barely or cheese [made obligatory] upon the young and old, male and female, free man and slave."²⁹⁴ This is the *zakāt* for the physical self.

Third: Zakāt on wealth. This type of zakāt is a pillar from the pillars of Islam. It is closely associated with the prayer. Allah has made it an obligation upon all Muslims after the *hijrah* (migration) of the Prophet \mathfrak{Z} to Madīnah. It is a great obligation with much significance in Islam.

The Prophet $\frac{1}{26}$ said to Mu'ādh ibn Jabal $\frac{1}{26}$ before he was dispatched to Yemen, "Verily, you are going to meet the People of the Book. So the first thing you should invite them to is to declare that there is none worthy of worship except Allah and that Muhammad is the messenger of Allah. If they accept it, inform them that Allah has made it an obligation upon them the five prayers in a day and night. If they accept it, inform them that Allah has made it an obligation

²⁹¹ Reported by Ahmad (4/231) and al-Tirmidhī (2325) from the narration of Abī Kabshah al-Anmārī. It is reported in Muslim (8/21) from the narration of Abu Hurairah.

²⁹² Al-Shams: 7-9

²⁹³ Al-Tawbah: 103

²⁹⁴ Reported by al-Bukhārī (2/161, 162) and Muslim (3/69) from the narration of Abu Sa'īd al-Khudrī.

A Commentary on Zād al-Mustaqni

upon them charity which is collected from their rich and given to their poor."295

Zakāt was made obligatory on Muslims only after the migration of the Prophet \mathbb{Z} who insisted that the Muslims abide by this injunction. He \mathbb{Z} sent out messengers to collect the *zakāt* from the wealthy and sent evaluators to the plantations to approximate the potential value of wealth so as to calculate the *zakāt* due on the owners.

All this effort highlights the importance of $zak\bar{a}t$. It is $w\bar{a}jib$ upon the leader of the Muslims to take it seriously and implement it, ensuring that all Muslims upon whom $zak\bar{a}t$ is due comply. He should not be lackadaisical about this obligation.

He who refutes the obligation of $zak\bar{a}t$ has disbelieved in Islam and is considered an apostate. This is because he has belied Allah and His messenger. Furthermore, it is essential that every Muslim know that $zak\bar{a}t$ is an obligation in the $d\bar{n}$. It may arise that a Muslim assumes that $zak\bar{a}t$ is something good and so it is *mustahabb*. Hence, he who wishes can pay $zak\bar{a}t$ and he does not wish to do so need not pay $zak\bar{a}t$. Such an assumption will make him a disbeliever in Islam and he is considered an apostate.

However, he who accepts that it is obligatory but refuses to pay the zakāt due to miserliness, then the obligation of zakāt is reiterated to him. The leader of the Muslims must ensure that he complies with this obligation. If he still refuses, the leader of the Muslims takes it from him forcibly and reprimands him for his failure to oblige. If those who refuse to pay zakāt have military might, the leader of the Muslims shall wage war against them to make them comply with the obligation. Abu Bakr al-Siddīq \Rightarrow and the Companions battled those who refused to pay zakāt until they submitted to the laws of Islam and paid their due. Again, this highlights the importance of this great obligation.

Zakāt belongs to the poor and the other categories of people mentioned by Allah: {Zakāt expenditures are only for the poor and for the needy and for those employed to collect [zakāt] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by

²⁹⁵ Reported by al-Bukhārī (2/130, 158-159) and Muslim (1/38) from the narration of 'Abdullah ibn 'Abbās.

Allah. And Allah is Knowing and Wise. 3296

Zakāt is not paid out because it is recommended or because it is charity, but it is $w\bar{a}jib$ on the wealth of the rich and it is distributed to the poor and the rest of the categories of people. One has no choice to pay or not to pay, {And from their properties was [given] the right of the [needy] petitioner and the deprived.}²⁹⁷ It is an obligation and so one must pay the zakāt.

تجبُ بشروطٍ خمسةٍ: حرية، وإسلام، وملك نصاب، واستقراره ومُضِيُّ الحولِ

متن

It becomes *wājib* with five conditions: A free person, Islam, attaining *nisāb*, established ownership and possessing it for a year.

Zakāt becomes mandatory when there are five conditions present:

<u>First</u>: A free person. A slave need not pay *zakāt* even if he has in his possession wealth. His wealth belongs to his master. *Zakāt* is $w\bar{a}jib$ on the free person who has wealth equivalent to or more than the fixed *nisāb*.

Second: Islam. Zakāt is not mandatory upon a disbeliever. That is, it is not demanded of him as long as he is a *kafir*. This is because paying *zakāt* is an act of worship. As such, it is accepted only from a Muslim. If he embraces Islam, it is not necessary for him to pay the *zakāt* that he had missed out on while he was a disbeliever. He needs to pay *zakāt* for the year he became Muslim and onwards.

Third: Attaining the *nisāb*. *Nisāb* is a fixed amount on which *zakāb* is due. If one has less than this amount, he need not pay *zakāt*. *Nisāb* differs according to the type of wealth. Silver currency and cash has a *nisāb*. Gold has its own *nisāb*. Camel, sheep and cows have differing *nisābs*. The produce from the land has its own *nisāb*.

Hence, the *nisāb* corresponds with the type of wealth or property. This will be explained in detail soon. He who does not attain the fixed amount called *nisāb* for any of these types of wealth or property need not pay *zakāt*.

²⁹⁶ Al-Tawbah: 60

²⁹⁷ Al-Dhariyāt: 19

Fourth: Established ownership. When the fruits and grains begin to yield or ripe, *zakāt* becomes $w\bar{a}jib$ upon them. However, it does not become $w\bar{a}jib$ until this fact is established. So if the trees and plants have just been planted, *zakāh* is not $w\bar{a}jib$ at this time as he does not know what amount he will harvest, if ever at all. If an evil occurs to the crops before the harvest, which was not brought about due to the carelessness of the owner, then *zakāt* is not $w\bar{a}jib$ upon him as he did not attain the wealth he was expecting. His wealth was not established.

<u>Fifth</u>: Possessing it for a year, that is, the wealth is in one's possession for twelve months. As the Prophet $\frac{1}{28}$ said, "There is no *zakāt* except on wealth that has been preserved for a year."²⁹⁸ I.e. from the time he gained the wealth.

Except *zakāt* on the produce from land. Exceptions to this are the offspring of cattle and the profit from trade, even if they do not attain *nisāb*. The fiscal year is counted from the source of these two that has attained *nisāb*. If it has not attained *nisāb*, then it is combined.

The condition that wealth be possessed for a year is not applicable for the following:

<u>First</u>: Zakāt on the produce from land. This is wealth on which a tenth should be given as zakāt. For grains and fruits, zakāt is due during the time of harvest even if it has not been a year since the last time he paid zakāt. Allah says: **{And pay the due of it on the day of its reaping}**²⁹⁹

Second: The offspring of cattle are exempt from the one year possession rule. One year of possession for the offspring runs concurrently with the adults'. That is, if the offspring is just born, $zak\bar{a}t$ is paid on the offspring along with that of the adults if the latter has attained *nisāb*. If its *nisāb* is not attained, then the fiscal year is calculated from when the *nisāb* amount is reached with the birth of the offspring. If for example, an offspring is born to cattle that

²⁹⁸ Reported by al-Tirmidhī (631) and al-Dāraqutnī (2/90) and al-Bayhaqī (4/104) from the narration of 'Abdullah ibn 'Amr.

²⁹⁹ Al-An'ām: 141

The Book of Zakāt

have reached *nisāb* within the fiscal year, the *zakāt* for the offspring is paid at the end of the year even though it has not been alive for one whole year. This is because the year of possession for the offspring is calculated in tandem with the adults'.

Third: Profit from trade. The fiscal year of this is calculated based on the invested capital. If the invested capital has attained *nisāb* and there is a profit in the trade, then $zak\bar{a}t$ is paid for both capital and profit.

However, if the profit is delayed a short while then the $zak\bar{a}t$ for the profit is due along with the capital when the latter has been in possession for a year. If the profit will only be had at the end of the year, then it is not to be considered for a separate year. Instead the year for profit runs concurrent with the invested capital, provided that the latter has attained *nisāb*. If the invested capital falls short of *nisāb*, then it is to be combined with the profit and the year begins only afterwards. After one year of combining the capital and profit, the *zakāt* for the total amount is paid.

He who has given out loans or share in the dowry or other such wealth which he loaned out to a solvent or insolvent debtor, must backdate the payment of *zakāt* when he comes into possession of it.

"He who has given out loans or share in the dowry or other such wealth which he loaned out to a solvent or insolvent debtor, must backdate the payment of *zakāt* when he comes into possession of it": *Zakāt* is *wājib* on money that is in the possession of a person or that is in the hands of others in the way of debt. This is because ultimately the money belongs to him. If a year has lapsed after giving out the loan, he must pay *zakat* for it if the debtor is solvent and settles the debt or otherwise. This is because there is a high probability that the debtor will settle the debt shortly if not already settled. However, what if the debtor is insolvent and is unable to pay off the debt? Since the creditor is unsure if the debtor will ever return his money, he need not pay *zakāt* for that debt as long as it is being owed by that insolvent debtor. The creditor pays *zakāt* for the debt once it is returned to him. Likewise is the case if the money is owed by someone possessing wealth who is delaying the repayment to the extent that the creditor does not know if he will be repaid or not.

The scholars differ as to the period of which the $zak\bar{a}t$ payment is backdated.³⁰⁰ Some scholars are of the view that he must backdate the payment for the entire period of the loan.

Some others are of the opinion that he backdates the payment of *zakāt* for only one year. That is, the year the loan was returned. Some scholars claim that a fresh year starts from the day the loan is returned. Hence, he needs to pay the *zakāt* only after twelve months. This is because the creditor has no guarantees when he will get his money back if it is ever returned at all. The preferred view, *inshallah*, is the second view which states that he backdates the payment of one year as *zakāt* for the loan. That is, the year in which the loan is returned to him.

ولا زكاةَ في مالِ مَنْ عليه دينٌ ينقص النِّصاب ولو كان المالُ ظاهراً. وكفارةٌ كَدَينٍ

Zakāt need not be paid on an amount when subtracting his debt from it decreases the amount to less than the *nisāb*. This applies to observable property as well. Expiration is like debt.

"Zakāt need not be paid on an amount when subtracting his debt from it decreases the amount to less than the *nisāb*": We mentioned earlier regarding the creditors. Now we shall discuss about the debtors. That is, he has wealth but is also in debt. Some scholars say: If paying off his debt reduces the amount to less than the *nisāb*, he need not pay *zakāt*. If otherwise, *zakāt* is *wājib* for him on the amount that is left after paying off the debt.³⁰¹ There is no *zakāt* on the amount paid off as debt.

Another opinion that is the ruling in present times is: He must pay *zakāt* for the total amount regardless of whether some of it is used to pay off his debt.³⁰² The Prophet $\frac{1}{26}$ commanded that *zakāt* be paid from the wealth. He did not seek details like if the owner was indebted or not.

"This applies to observable property as well": That is, the amount that reduces below the *nisāb* after the debt settlement includes observable property and not

متن

³⁰⁰ See al-Mughni (4/270).

³⁰¹ See al-Insāf (3/24).

³⁰² This is the view of Imām al-Shāfi'ī and others. See al-Mughni (1/263).

The Book of Zakāt

just cash. This is if based on the first view. Examples of observable property are: agricultural produce, livestock and other tradeable commodities. Non-observable property refers to money.

"Expiation is like debt": Expiation that has to be fulfilled by a person is like the debt which he owes. The rules for both are similar for expiation is a debt to Allah. If in carrying out his expiation the amount on which $zak\bar{a}t$ is due decreases below the *nisāb*, then there is no $zak\bar{a}t$ for it. This is based upon the first view.

If he has young offspring as livestock, the fiscal year is calculated from the day they attain the value of the *nisāb*.

"If he has young offspring as livestock, the fiscal year is calculated from the day they attain the value of the *nisāb*": Zakāt is wājib on livestock which attain the value of the *nisāb*; the age of the animals notwithstanding. The fiscal year is calculated from when the animals attain the value of *nisāb*. The Prophet $\frac{1}{28}$ said, "Account for the newborn lamb but do not take it from them."³⁰³ This is evidence for the fact that *zakāt* is paid for young livestock.

And if the amount decreases below the *nisāb* during the course of the fiscal year or if he sold a thing or replaced what he had for another, as long as he did not intend to disrupt the fiscal year so as to evade the payment of *zakāt*. There is no disruption to the fiscal year if he replaces his possession with something similar.

"And if the amount decreases below the *nisāb* during the course of the fiscal year or if he sold a thing or replaced what he had for another, as long as he did not intend to disrupt the fiscal year so as to circumvent the payment of *zakāt*": If in an unexpected turn of events one's wealth decreases below the *nisāb* or is totally lost during the year, then there is no *zakāt* on the wealth. This is due to

³⁰³ Reported by Mālik in *al-Muwattā* (p. 179) and al-Bayhaqī in *al-Sunan* (4/100) from the sayings of 'Umar ibn al-Khattāb.

the absence of the condition which makes *zakāt wājib*: the attainment of the *nisāb*.

Similarly, if he were to sell his property during the course of the year, he is not required to pay *zakāt* on it as he no longer owns it. However, *zakāt* is to be paid for the amount received if it attains the *nisāb* and remains in his possession for a year.

If he replaces his possessions with something else, for example if an owner of sheep that have attained the *nisāb* decides to sell it in exchange for camels. As the *nisāb* for sheep and camel varies there is a possibility that the camels he brought do not reach the *nisāb*. In this case the owner now does not have to pay *zakāt* on the camels he owns. This is valid provided that his intention was not to evade *zakāt*. Having this intention will make it *wājib* for him to pay *zakāt* on the value of the camels. This is because circumvention does not absolve the rights due to the people.

"There is no disruption to the fiscal year if he replaces his possession with something similar": If he replaces one type of cattle for something similar, then the fiscal year is not disrupted. It will not begin over at the date of the latest purchase.

وتجب الزكاة في عين المال، ولها تعلقٌ بالذمة، ولا يعتبر في وجوبها إمكان الأداء ولا بقاءً من المال، والزكاةُ كالدَّين في التَّرِكة

Zakāt is wājib in the same form as that of the wealth. It is a liability. However, a zakāt mandate does not necessarily mean the ability to pay zakāt nor the presence of wealth. Zakāt is like debt liable on inheritance.

"Zakāt is wājib in the same form as that of the wealth. It is a liability. However, a zakāt mandate does not necessarily mean the ability to pay zakāt": Zakāt is paid in the form of the wealth. The Prophet \cong said, "One sheep for every forty sheep."³⁰⁴ Zakāt is a liability. For example, if the wealth is destroyed after zakāt became due on it. If the wealth was still in his possession when it was destroyed, then zakāt must be paid for it. In the case of unripe dates or grains, they are not in his possession figuratively. Hence, if they are destroyed before

³⁰⁴ Reported by Abu Dawūd (1568), al-Tirmidhi (621) and Ibn Mājah (1805) from the narration of 'Abdullah ibn 'Umar.

The Book of Zakāt

harvesting, *zakāt* need not be paid. We have elaborated on this point when we discussed established property earlier on.

If the wealth, on which $zak\bar{a}t$ was due, was in his possession when it was destroyed, then he has to pay $zak\bar{a}t$ for it as liability was established when a year had lapsed from the point the wealth attained the *nisāb*. It is considered a debt he owes as he delayed the payment of $zak\bar{a}t$ after it became $w\bar{a}jib$.

It was incumbent upon him to expedite the payment of $zak\bar{a}t$ without procrastination so that no unforeseen circumstances impeded him in discharging this obligation. $Zak\bar{a}t$ was $w\bar{a}jib$ upon him before it was destroyed. Hence, it is not absolved with the loss of his wealth provided that it was in his possession.

"Nor the presence of wealth": As we have mentioned, the presence of the wealth is not a condition for $zak\bar{a}t$. If it is destroyed, $zak\bar{a}t$ is still $w\bar{a}jib$ upon it as the liability was established. It is now considered to be a debt he owes.

"*Zakāt* is like debt liable on inheritance": If a person dies before paying the *zakāt*, it has to be paid off from the money he has left behind just like the debt he owes. This is because debt owed by the deceased is divided into two: [(i) debts to Allah and (ii) debts to the people.]

Debt owed to Allah such as $zak\bar{a}t$, expiations and vows. It is $w\bar{a}jib$ to pay this off from the wealth left behind even before his will is executed and the inheritance is distributed. This is similar to the debt owed to people. Therefore the author mentions, " $Zak\bar{a}t$ is like debt liable on inheritance." Both types of debt must be paid off from the wealth left behind by the deceased even before the execution of his will and distribution of the inheritance.

باب زكاة بهيمة الأنعام CHAPTER: ZAKĀT ON LIVESTOCK

"Chapter: Zakāt on livestock": There are four types of wealth upon which zakāt is wājib:

First: Gold and silver and that which serves a similar purpose like paper currency.

Second: Livestock. They are camels, cows and sheep.

Third: Tradeable commodities.

Fourth: Produce from the land of grains and fruits.

The author begins with livestock, that is camels, cows and sheep because it was the wealth commonly possessed by the Arabs, though cows were an exception. However the Prophet \mathfrak{F} informed Mu'ādh \mathfrak{F} of *zakāt* pertaining to cows when he was dispatched to Yemen.³⁰⁵ This was because cows were commonly possessed by those living in Yemen.

متن

تجب في إبلٍ وبقرٍ وغنم إذا كان سائمةً الحول أو أكثره

Zakāt is wājib upon camels, cows and sheep if it was let to graze for a year or the better part of it.

³⁰⁵ Reported by Ahmad (5/230, 233), Abu Dawūd (1576), al-Tirmidhī (623) and al-Nasā'ī (5/25, 26) from the narration of Mu'ādh.

The Book of Zakāt

"Zakāt is wājib upon camels, cows and sheep if it was let to graze for a year or the better part of it": The author begins with the zakāt on camels. Zakāt is wājib on livestock specifically. They are camels, cows and sheep. These are livestock whose meat and milk are permitted for consumption. Allah says: {Lawful for you are the animals of grazing livestock.}³⁰⁶

Zakāt is not wājib on the rest of the livestock like donkeys, horses and mules unless they are traded by being bought and sold. In this case, they are classified as a tradeable commodity.

Zakāt becomes wājib on livestock under two conditions:

First: When *nisāb* is attained.

<u>Second</u>: When the livestock are left to graze for a year or the most part of it. If the livestock are kept in the pen or stalls half a year or more, then $zak\bar{a}t$ is not $w\bar{a}jib$ on them as they are not left to graze.

متن

A one year old she-camel (called *bint mukhādin*) is given as *zakāt* for owning twenty five camels. Anything less than twenty five, one gives a sheep as *zakāt* for every five camels. If one owns thirty six camels, then a two year old she-camel (called *bint labūn*) is given as *zakāt*. For every forty six camels, a three year old she-camel (called *hiqqab*) is given as *zakāt*. If the number reaches sixty one camels, then a four year old she-camel (called *jadba'b*) is given. When the number reaches seventy six, two she-camels in their second year (*bint labūn*) are given as *zakāt*. If there are ninety one camels, then two she-camels in their third year (*hiqqab*) are given as *zakāt*. If there are one hundred and twenty one camels, then the *zakāt* is three she-camels in their second year. Above this number, a two year old she-camel is given for every subsequent forty camels and a three year old she-camel for every subsequent fifty camels.

³⁰⁶ Al-Mā'idah: 1

A Commentary on Zād al-Mustaqni

"A one year old she-camel (called *bint mukhādin*) is given as *zakāt* for owning twenty five camels. Anything less than twenty five, one gives a sheep as *zakāt* for every five camels": The lowest *nisāb* for camels is five and the *zakāt* due is a sheep. For ten camels the *zakāt* due is two sheep and so on. Once it reaches twenty five camels, the *zakāt* shifts from sheep to camels. A one year old she-camel is given away as *zakāt*. This type of camel is called *bint mukhād* as her mother is probably pregnant with her sister at this stage. The word *mukhād* means pregnant.

"If one owns thirty six camels, then a two year old she-camel (called *bint labūn*) is given as *zakāt*": At this stage, the mother has already given birth to the camel she was pregnant with and so she can be milked. The two year old she-camel is thus called *bint labūn*. *Laban* means milk.

"For every forty six camels, a three year old she-camel (called *hiqqab*) is given as *zakāt*": She is called *al-hiqqatun*. At this age, she is able to mate and is strong enough to carry loads and be ridden.

"If the number reaches sixty one camels, then a four year old she-camel (called *jadha'h*) is given": At this age camels will start losing their teeth.

"When the number reaches seventy six, two she-camels in their second year (*bint labūn*) are given as *zakāt*": This is self-explanatory.

"If there are ninety one camels, then two she-camels in their third year (*hiqqab*) are given as *zakāt*": We have described this type of she-camel earlier.

"If there are one hundred and twenty one camels, then the $zak\bar{a}t$ is three she-camels in their second year": After ninety one camels, there is no change in $zak\bar{a}t$ until the number gets to one hundred and twenty one. Three *bint labūn* are given as $zak\bar{a}t$ at this point.

"Above this number, a two year old she-camel is given for every subsequent forty camels and a three year old she-camel for every subsequent fifty camels": If we say a person has two hundred camels. Based on this calculation he must pay in *zakāt* four she-camels in their third year.



ويجبُ في ثلاثينَ من البقر تبيعٌ أو تبيعةٌ، وفي أربعين مُسِنَّةٌ، وفي ستين تبيعان، ثم في كل ثلاثينَ تبيعٌ، وفي كل أربعينَ مُسِنَّةٌ، ويُجزئ الذَّكَرُ هنا وابنُ لبونٍ مكانَ بنتِ مَخَاضٍ، والذكر إذا كان النصاب كله ذكورًا متن

It is *wājib* to give as *zakāt* a male or female calf that is one year old for every thirty cows and for every forty cows a two year old cow. For sixty cows, two male or female calves in their first year are given as *zakāt*. If the number of cows surpasses sixty, then for every thirty cows, a one year old male calf and for every forty cows, a two year old cow is given. It is permissible to give in *zakāt* a male calf and to give an *ibn labūn* instead of a *bint mukbādin*. Males are given as *zakāt* if the *nisāb* consists of only males.

"Section": We have mentioned that the Arabs did not mostly possess cows. The people of Yemen reared cows. When we mention Arabs, we refer to the Arabs of the Arabian Peninsula. These Arabs did not know how to capitalize on cow farming and concentrated their efforts on camel farming. Most Arabs were like that. When the Prophet $\frac{1}{2}$ sent Mu'ādh $\frac{1}{2}$ to Yemen, he explained to Mu'ādh the *zakāt* obligation upon cows³⁰⁷ as the Yemenis were cow farmers.

"It is *wājib* to give as *zakāt* a male or female calf that is one year old for every thirty cows and for every forty cows a two year old cow. For sixty cows, two male or female calves in their first year are given as *zakāt*. If the number of cows surpasses sixty, then for every thirty cows, a one year old male calf and for every forty cows, a two year old cow is given": A male calf which is one year old

³⁰⁷ See earlier footnote.

is known as *al-tabī*' and a female calf is *al-tabī*'*ah*. They are called so because they follow the mother wherever she goes. Either one can be given as *zakāt*.

If the number of cows surpasses sixty, a standard $zak\bar{a}t$ is given. That is, for every thirty cows, a one year old male calf and for every forty cows a cow that is two years old.

[There are three situations when a male animal is given as *zakāt*.]

Firstly: "It is permissible to give in *zakāt* a male calf." Either a male or female calf may be given as *zakāt*.

Secondly: "To give an *ibn labūn* instead of a *bint mukhādin*." This is acceptable when the latter is not available. The male camel that is two year old is bigger in size. Furthermore, the male camel i.e. *ibn labūn* is older and bigger than the female camel mentioned here. *Ibn labūn* is two years old whereas *bint mukhā-din* can be as young as one year old.

Thirdly: "Males are given as *zakāt* if a person only possesses males." If a person has only male camels, the sheep he has are all male, then he gives male animals as *zakāt*. If he only has bulls, then a year old male calf or a two year old bull is given as prescribed.



متن ويجبُ في أربعينَ من الغنم شاةٌ، وفي مائةٍ وإحدى وعشرينَ شاتانِ، وفي مائتينِ وواحدةٍ ثلاثُ شياهٍ، ثم في كل مائةٍ، شاةٍ

It is *wājib* to give one sheep for every forty sheep. When the number of sheep reaches one hundred and twenty one, two sheep are given. When it reaches two hundred and one, three sheep are given as *zakāt*. When that number is surpassed, one sheep is given for every hundred sheep.

"Section": After explaining the *zakāt* obligation on camels and cows, the author begins to elaborate on the *zakāt* on sheep.

"It is *wājib* to give one sheep for every forty sheep": According to the command of the Prophet \cong who said, "One sheep for every forty."³⁰⁸

"When the number of sheep reaches one hundred and twenty one, two sheep are given": There is no *zakāt* after forty until one hundred and twenty one sheep are possessed. Two sheep are given at this number. The gap between forty and one hundred and twenty sheep where *zakāt* is not *wājib* is known as *al-waqas*. *Zakāt* is payable when the number of sheep reaches one hundred and twenty one. If a person has eighty sheep, then he pays one sheep as *zakāt*. The same applies if he has one hundred sheep, one hundred and ten sheep or one hundred and twenty sheep. When he has one more than this, he pays two sheep as *zakāt*.

³⁰⁸ Reported by Abu Dawūd (1568), al-Tirmidhī (621) and Ibn Mājah (1805) from the narration of 'Abdullah ibn 'Umar.

"When it reaches two hundred and one, three sheep are given as $zak\bar{a}t$ ": This is the maximum *nisāb* for sheep. There is no $zak\bar{a}t$ payable after one hundred and twenty one sheep until the number reaches two hundred and one. $Zak\bar{a}t$ payable for this number is three sheep. If the number surpasses this, then a fixed rate of one sheep for every hundred sheep is payable as $zak\bar{a}t$. So for example if he has three hundred sheep, he pays three sheep and for four hundred sheep he pays four sheep as $zak\bar{a}t$ and so forth.

متن

والخُلْطةُ تُصيِّر المالَين كالواحد

In a partnership two separate possessions are deemed as one.

"In a partnership": I.e. of livestock, two separate possessions are considered as one. Partnership is divided into two types as explained by the scholars: (i) the determinate partnership (ii) and the mixed partnership.

The determinate partnership is where each partner knows what he owns.

The mixed partnership is where the possessions of each partner are not known and are mixed together.

Both kinds of partnership render the possessions as a single form of wealth. If for example, a man has thirty nine sheep and another has one sheep. $Zak\bar{a}t$ is payable if they enter into a partnership as the total number of sheep now is forty. Hence one sheep should be paid as $zak\bar{a}t$. However, each partner pays proportionate to his share of the partnership. The sheep owned by each of the two men would not have been liable for $zak\bar{a}t$ had they not entered into a partnership. Only when they decided to form a partnership did the number of sheep become forty and so $zak\bar{a}t$ is $w\bar{a}jib$ based on the total number of sheep.

Partnership has its disadvantages, as in the case illustrated above, and it has advantages. If two men had forty sheep each and they enter into a partnership, both of them need only pay one sheep as *zakāt*. If they were individual owners, they each would have to pay a sheep as *zakāt*.

The mixed partnership has three conditions:

First: They are all kept in the same yard or pen where the sheep live together.

Second: They are milked in the same yard or stall where they are milked to-gether.

Third: They are herded on the same land where they roam and graze from the same pasture. The herdsmen should also be the same ones looking after all of the sheep.

All these conditions must be present to validate the partnership.

باب زكاة الحبوب والشمار CHAPTER: ZAKĀT ON GRAIN AND FRUITS

تجب في الحبوب كلِّها، ولو لم تكن قُوتاً، وفي كل ثمر يُكال ويُدَّخر كتمر وزبيب Zakāt is wājib on all grains, even if it is not foodstuff. Zakāt is wājib on all fruits that are measured and stored like dates and raisins.

"Chapter of Zakāt on Grains and Fruits": This is the third type of wealth upon which zakāt is $w\bar{a}jib$. It includes all types of grains like wheat, barley, corn and millet. It includes all grains that are consumed or are stored. Zakāt is also $w\bar{a}-jib$ on fruits like dates, raisins and all other fruits that are consumed or stored. Allah says: {And give its due (zakāt) on the day of its harvest.}³⁰⁹ He also says: {O you who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth.}³¹⁰

"Even if it is not foodstuff": Zakāt is wājib on grains that are stored, even if they are not foodstuff. As long as they are stored for some benefit, zakāt must be paid on it. Examples of these grains would be fruit pits and stones, cress and fenugreek seeds and other such grains which are stored but are not consumed for nourishment but have other uses. Nevertheless, zakāt has to be paid on these grains as long as they are stored for benefit.

"Zakāt is $w\bar{a}jib$ on all fruits that are measured and stored": I.e. those that are weighed on a scale and are stored for future use. Zakāt is not $w\bar{a}jib$ on fruits that are not weighed. Similarly it is not $w\bar{a}jib$ on fruits that are weighed but

متن

³⁰⁹ Al-An'ām: 141

³¹⁰ Al-Baqarah: 267

cannot be stored as it is not possible to dry them so that they can be stored and preserved for future use. An example of something perishable would be apples. *Zakāt* is not *wājib* on them.

متن ويعتبر بلوغُ نِصاب قدره ألفٌ وستُّائةِ رطلٍ عراقيٍ، وتُضَمُّ ثمرةُ العامِ الواحدِ بعضُها إلى بعض في تكميل النِّصاب، لا جِنْسٌ إلى آخر

The *nisāb* is attained when it weighs one thousand and six hundred Iraqi *ratl*. The fruit yield of a whole year is combined to make up the *nisāb*. Different types are not mixed together.

"The *nisāb* is attained when it weighs one thousand and six hundred Iraqi ratl":³¹¹ Zakāt becomes wājib on fruits and grains when the *nisāb* is attained as we have discussed before. The *nisāb* for it as explained by the Prophet Ξ is five *awsuq*. A *wasq* is equivalent to sixty *sā*' as per the Prophet's *sā*'. He Ξ said, "There is no *zakāt* on a quantity which is less than five *awsuq*."³¹²

If a *wasq* is sixty $s\ddot{a}$, so five *awsuq* will be three hundred $s\ddot{a}$ as per the Prophet's $s\ddot{a}$. This is the *nisāb* for grains and fruits.

"The fruit yield of a whole year is combined to make up the *nisāb*": For example, if a man has many types of dried dates. It is well-known that there are variants in dried dates. Hence, he combines the various types of dried dates together for they are all classified as dried dates. $Zak\bar{a}t$ is paid if the combined weight attains the *nisāb*. Similarly, there are variant types of grapes. These are combined together and if the *nisāb* is attained, $zak\bar{a}t$ becomes $w\bar{a}jib$ on it.

Other examples are barley and wheat. Their different types are combined together and *zakāt* is paid if the *nisāb* is attained.

"Different types are not mixed together": Different types of things are not to be combined. For example, barley should not be mixed with wheat as they are different grains altogether.

³¹¹ Translator's note: One Iraqi *ratl* is equivalent to 406.25 grams according to Imām Abu Hanīfah and 382.5 grams according to the majority of the scholars.

³¹² Reported by al-Bukhārī (2/133, 134) and Muslim (3/66) from the narration of Sa'īd al-Khudrī with a narration traceable to the Prophet 赛.

ويعتبر بلوغُ نِصاب قدره ألفٌ وستُّبائةِ رطلٍ عراقي، وتُضَمُّ ثمرةُ العام الواحدِ بعضُها من إلى بعض في تَكميل النِّصاب، لا جِنْسُ إلى آخر، وَيُعتبر أنْ يكون النِّصَاب مملوكاً له وقتَ وجوب الزكاة، فلا تجب فيها يَكْتسبه اللَّقاط أو يأخذه بحصاده، ولا فيها يجتنيه من المباح كالبُطْم، والزَّعْبَل، وبِزْرِ قُطُونا ولو نبت في أرضه

The *nisāb* must be in his possession when the *zakāt* becomes $w\bar{a}jib$. It is not $w\bar{a}jib$ on left over grain or that which is given to the harvester. *Zakāt* is not $w\bar{a}jib$ on what one gathers lawfully like terebinth, cotton plant and cotton-seed even if it grows on his land.

"The *nisāb* must be in his possession when the *zakāt* becomes $w\bar{a}jib$ ": This is when the grains grow hard and the fruits start ripening. If he gained possession only after the grains grew hard and fruits ripened as when he rented the land or he has left over grains after harvesting or other reasons, then *zakāt* is not $w\bar{a}jib$. This is because he came to possess the grains and fruits after *zakāt* became $w\bar{a}jib$.

"It is not *wājib* on left over grain or that which is given to the harvester": Or that which fell to the ground during harvesting. These are not accounted for as he came to possess them only after the *zakāt* became *wājib*.

"Zakāt is not wājib on what one gathers lawfully": From the vegetation or fruits one collects from open ground or wilderness. There is no zakāt on this type fruit and vegetation because they are different from harvested produce. Allah says, {And pay the due of it on the day of its reaping.}³¹³ Hence what he gathers from open desert like firewood and grass does not warrant zakāt.

"Like terebinth, cotton plant and cotton-seed": These are seeds and fruits that are consumed or useful to man.

"Even if it grows on his land": This is because it is comparable to pasture which, although it grows on the land owned by a person, $zak\bar{a}t$ is not liable upon it. Allah has not included it amongst the things that warrant $zak\bar{a}t$.

³¹³ Al-An'ām: 141



متن بجب عُشْرُ ما سُقي بلا مُؤْنَة، ونِصْفُه معها، وثلاثةُ أرباعِهِ بهما، فإنْ تفاوتـا فبأكثرهما نفعاً، ومع الجهل العُشْرُ

A tenth is *wājib* on the produce where irrigation is natural. Half of this sum is *wājib* if irrigation is aided and three quarters of the sum if it is both natural and aided. The *zakāt* is based on how the land is predominantly irrigated. If one is ignorant about this, then a tenth is paid as *zakāt*.

"Section": In this section, the author explains the amount payable as *zakāt* for grains and fruits.

"A tenth is wajib on the produce where irrigation is natural": That which flows to the date palms and cultivation unaided like water from the river and rain water. A tenth of the yield is given as zakat. This is due to the fact that the owner did not have to invest in irrigating the land.

"Half of this sum is $w\bar{a}jib$ if irrigation is aided": If the land is irrigated by a waterwheel which pumps water into the land where there are date palms, grapes and other cultivation, then half that sum of natural irrigation is payable as *zakāt*. This is because the owner invested in buying the equipment and had to pay other expenses pertaining to it. An element of justice prevails here as he receives a rebate on the *zakāt* due to the money spent on irrigation. Hence he give half of a tenth of the yield. That is, a twentieth.

"And three quarters of the sum if it is both natural and aided": If in the course

of the year the land is naturally irrigated half of the time and manually irrigated during the rest, then three quarters of a tenth is payable as *zakāt*.

"The *zakāt* is based on how the land is predominantly irrigated": If it is irrigated naturally half of the year and manually the rest, then three quarters of a tenth of the yield is paid as *zakāt*. However, if the land benefits from natural irrigation more than manual irrigation, for instance, then the *zakāt* is in accordance to the irrigation method that is predominant. In this case it is natural irrigation, so it warrants a tenth of the yield. If the land was manually irrigated most of the year, then the *zakāt* will be a twentieth of the yield.

"If one is ignorant": I.e. as to which irrigation method was more predominant. In this case, he must resort to the default *zakāt* payment of a tenth of the yield.

متن

وإذا اشتدَّ الحَبُّ وبدا صلاحُ الثمرِ وجبت الزكاة

When the grains grow hard and the fruits ripen, zakāt becomes wājib.

This is an explanation as to when zakāt on grains and fruits becomes wājib.

"When the grains grow hard": Zakāt is not wājib before this.

"And the fruits ripen": This is when the fruits turn red or yellow or when the grapes taste sweet and are fit for consumption. Zakāt is wājib at this juncture as they are at man's perusal at this stage.

However, if the grains are destroyed before they grow hard, before the fruits ripen or they are harvested or plucked before this, then the owner is not liable for *zakāt* on this produce.

ولا يستقرُ الوجوب إلا بجعلها في البَيْدر، فإن تَلِفتْ قبله بغير تَعَدِّ منه سقطتْ من

And *zakāt* does not become *wājib* until the grains are on the threshing floor. If the grains are destroyed before this, not arising due to the owner's neglect, then *zakāt* is not liable.

"And *zakāt* does not become *wājib* until the grains are on the threshing floor": We discussed at the beginning of this chapter that possession of the produce

is a condition for $zak\bar{a}t$. It becomes $w\bar{a}jib$ only when the grains grow hard and the fruits ripen. One cannot claim to possess the grains and fruits unless he has complete control over it. That is, when the dates are in the trough and the stalks are at the threshing floor. Only at this stage is $zak\bar{a}t$ $w\bar{a}jib$. If the produce is destroyed before this by means of natural disaster then there is no $zak\bar{a}t$ liable on the owner even if the grains have grown hard and the fruits have ripened.

If they are destroyed after total possession was achieved and if the destruction was not caused by the owner's negligence such as a wildfire or a thunderstorm, $zak\bar{a}t$ need not be paid. This is because he had no control over the situation. However, if the destruction was due to his carelessness and negligence, then he is liable to pay $zak\bar{a}t$ as it was destroyed after he had total possession of the produce.

"If the grains are destroyed before this, not arising due to the owner's neglect, then $zak\bar{a}t$ is not liable": That is, before the grains are brought to the threshing floor and not resulting from the owner's negligence but due to a natural disaster. Destruction resulting in his negligence will render him liable for $zak\bar{a}t$ on the destroyed grains and fruits.

ويجب العُشْرُ على مستأجر الأرض

متن

متن

Paying a tenth as *zakāt* is *wājib* upon the leaseholder of a land.

"Paying a tenth as *zakāt* is *wājib* upon the leaseholder of a land": *Zakāt* is *wājib* on the cultivated land. It is payable by him who has leased the land, not its owner.

Honey when taken from one's possession or from uncultivated lands a weight equivalent to one hundred and sixty Iraqi *ratl*, a tenth is to be paid as *zakāt*.

"Honey when taken from one's possession or from uncultivated lands a weight equivalent to one hundred and sixty Iraqi *ratl*, a tenth is to be paid as $zak\bar{a}t$ ": Scholars differ regarding $zak\bar{a}t$ on honey. The majority of the scholars are of

the opinion that there is no *zakāt* on honey. Some of them are of the view that *zakāt* is *wājib* on honey, citing 'Umar \clubsuit having collected *zakāt* on it.³¹⁴

The *nisāb* for honey is ten *qirāb* (containers) which total to one hundred and sixty Iraqi *ratl*.

The evidence provided by the majority of the scholars that $zak\bar{a}t$ is not $w\bar{a}jib$ on honey is that it is not included in the ayah: {And from that which We have produced for you from the earth.}³¹⁵ And the ayah: {And give its due ($zak\bar{a}t$) on the day of its harvest.}³¹⁶

The evidence given by scholars that $zak\bar{a}t$ is payable on honey is that 'Umar $zak\bar{a}t$ from honey dealers. The *nisāb* is one hundred and sixty Iraqi *ratl* or ten *qīrab*.

The correct view and Allah knows best is that there is no zakāt on honey.

متن

والرِّكَاز: ما وُجد من دَفْنِ الجاهلية، وفيه الخُمسُ قليله وكثيره

Rikāz is buried treasure dating from the days of ignorance. A fifth is given as *zakāt* for small or large quantities of it.

"*Rikāz* is buried treasure dating from the days of ignorance. A fifth is given as *zakāt* for small or large quantities of it": *Rikāz* means buried treasure that dates back to the pre-Islamic era.³¹⁷ If someone finds gold or silver that is buried in the ground that belonged to the disbelievers who pre-dated Islam, then it belongs to the finder. He pays a fifth of the value to the state treasury. The rest is his to keep.

If the treasure belonged to Muslims, then the rule is that of *al-luqata* (lost and found). If the buried gold and silver has marks on it indicating that the owners are Muslims, it is not permissible for the finder to keep it. Its description should be made evident to everybody and it should be advertised for a year.

³¹⁴ Reported by Ibn Abī Shaybah in *al-Musannaf* (2/373) and 'Abdul Razzāq in his *Musannaf* (6969 and 6970).

³¹⁵ Al-Baqarah: 267

³¹⁶ Al-An'ām: 141

³¹⁷ See al-Sihāh (3/880).

If the owners do not come to retrieve it, then he may take limited ownership of it.

Marks on the gold and silver allows one to know whether it belonged to the disbelievers or Muslims. If a *dirham* coin had Islamic script embossed on it revealing the identity of the *sultān* who ruled during that time, then it is considered a treasure belonging to the Muslims.

If it is noted that the *dirhams* were minted during the Abbasid or Umayyad caliphates, then the treasure is given to the state treasury. The rule is similar to that of possessions found that do not have an owner.

There are three scenarios when a person finds buried treasure:

First: If it is treasure that belonged to people dating back to the days of ignorance, then it is considered *rikāz* and the rules of *rikāz* apply.

<u>Second</u>: If it belongs to the early Muslims of whom none exist at present, then the rule of a lost object without an owner applies. The treasure is handed over to the state treasury.

Third: If it belongs to a contemporary Muslim, then the rules of *al-luqata* (lost and found) applies.

باب زكاة النقديين CHAPTER: ZAKĀT ON GOLD AND SILVER

يجب في الذهب إذا بَلَغَ عشرين مثقالاً، وفي الفضَّة إذا بلغتْ مائتي دِرْهم رُبْعُ العُشْرِ منهما من Zakāt is wājib́ when gold weighs twenty mithqāl and on silver when it is equivalent to two hundred dirhams. A quarter of a tenth of these values are paid as zakāt.

"Chapter: Zakāt on Gold and Silver": Gold and silver are also known as *naq-dayn* in Arabic. Gold and silver refers to all that serves a similar function to how paper currencies are used in the present era.

"Zakāt is wājib when gold weighs twenty mithqāl and on silver when it is equivalent to two hundred dirhams. A quarter of a tenth of these values are paid as zakāt": The nisāb of gold is twenty mithqāl and the nisāb of silver is one hundred and forty mithqāl⁸¹⁸ which is equivalent to two hundred dirhams in Islamic terms. If one has property of gold or silver that attains the nisāb, then zakāt is wājib and a quarter of a tenth or simply one-fortieth is to be paid. That is, 2.5% of it.

Twenty *mithqāl* is equivalent to eighty two grams approximately. The value of it is approximately eleven and a half Saudi pounds. Two hundred dirhams of silver is one hundred and forty *mithqāl* which is equivalent to five hundred and ninety five grams approximately.

³¹⁸ See al-Mughnī (4/209).

ويُضَمُّ الذهبُ إلى الفضَّة في تكميلِ النِّصابِ وتُضَمُّ قيمةُ العروضِ إلى كلٍ منهما

Gold and silver are combined together to attain the *nisāb*. The value of tradeable commodies is combined with gold and silver.

"Gold and silver are combined together to attain the *nisāb*": If he has some gold and silver and combining both attains the *nisāb*, then he must pay $zak\bar{a}t$ on it as they are considered as similar in terms of wealth and they both serve the same purpose. Does he have to pay $zak\bar{a}t$ if he has many types of paper currencies which attain *nisāb* when combined?

Yes. Paper currencies are similar to mineral wealth. The *nisāb* of silver is fifty-six Saudi riyals or its equivalent. Hence he may calculate if his paper currencies attain the *nisāb*. In this case, he has to pay *zakāt*.

"The value of tradeable commodities is combined with gold and silver": If he has tradeable goods which have not attained the nisab and he has gold or silver, then he combines the value of all of these together. This is because they are all parts of his wealth.

متن

متن

Men are allowed to wear silver rings, have silver pommel for a sword and tie a silver girdle and the like.

"Men are allowed to wear silver": It is permissible for men to wear silver of the following:

First: "Rings": A Muslim male may wear a silver ring as the Prophet **ﷺ** used to wear it.³¹⁹ Gold rings are forbidden for men.

Second: "Pommel": This is a rounded knob on the end of the handle of a sword. It is also allowed to embroider the sword and its sheath with silver. The Companions used to own swords that had silver pommels or pommels with silver embroidered on the sides.

Third: "Girdle": This is a belt which is called hisāyah in Arabic. This belt has

³¹⁹ Reported by al-Bukhārī (7/202) from the narration of Ibn 'Umar.

pouches wherein things can be put. It is permissible to embroider it with silver if it is used by men.

"And the like": Where the use of silver is necessary. Examples would be like wearing a watch or spectacles which have silver parts. Small quantities of it is not an issue.

متن

ومن الذهب قَبِيْعَةُ السيف، وما دعتْ إليه ضرورةٌ كأنْفٍ ونحوِه

And gold pommel of a sword and whatever is required in case of an emergency.

"And gold": I.e. the use of gold which is permitted. Its use is very limited as compared to silver. The use of gold is forbidden for men and is allowed only where evidence points to an exception. These are:

First: "Gold pommel of a sword": This was a practice of the Companions.

Second: "Whatever is required in cases of dire need": That is, only the use of gold will alleviate the problem. An example being if a nose is severed, then a nose made of gold can be used to replace it. This is because unlike silver, gold does not rust.

<u>Third</u>: Another example would be using a gold tooth. This is permissible if a person needs to replace his teeth. Gold is used as it is resistant to rust. Silver placed in the mouth will rust and corrode due to the prevalent moisture.

متن

ويباح للنساء من الذهب والفضة ما جرتْ عادتُهن بلُبْسه ولو كَثُر

It is permissible for women to wear gold and silver what is customary, even if is a lot.

"It is permissible for women to wear gold and silver": This is in accordance to the injunction of Allah: {[Do they then like for Allah] a creature who is brought up in adornments (wearing silk and gold ornaments, i.e. women), and in dispute cannot make herself clear?}³²⁰ This is in reference to women.

³²⁰ Al-Zukhruf: 18

Women should adorn themselves with jewellery. Even the women who lived during the lifetime of the Prophet $\frac{1}{20}$ used to adorn themselves with gold and silver. The Prophet $\frac{1}{20}$ addressed them saying, "O womenfolk! Give charity even if it be your jewellery."³²¹

"What is customary, even if is a lot": Wearing of gold and silver is permissible for woman as long as it confines to what is normal or customary for a Muslim woman to wear. Examples of the types of jewellery would be silver or gold rings, necklaces, anklets and any other piece of jewellery that is customary for a Muslim woman to wear. The Prophet $\frac{1}{2}$ said regarding gold and silk, "... [They are] forbidden for the males of my nation and permissible for the womenfolk."³²² This is because it is necessary for a woman to adorn herself especially with jewellery. Hence it is permissible for women provided that it does not reach an extravagant level.

There is no *zakāt* for jewellery that is meant for personal use or that which is lent out. If it is for renting or meant as savings or it is forbidden, then *zakāt* is payable on jewellery.

"There is no *zakāt* for jewellery that is meant for personal use or that which is lent out": It is permissible for women to adorn themselves with gold and silver jewellery when it is worn as an ornament to beautify herself and to please her husband. There is no *zakāt* for it even if the *nisāb* is attained. This is because it is considered as something that is for daily use like clothes, houses and vehicles. Hence it is not an investment but becomes a necessity. This is the *madhab* of most of the scholars.³²³

However, if jewellery is used as a tradeable commodity or as savings or investment, then $zak\bar{a}t$ becomes $w\bar{a}jib$ on it. The most preferred view, with the will of Allah, is that there is no $zak\bar{a}t$ payable on jewellery that is used as ornaments

³²¹ Reported by al-Bukhārī (2/150) and Muslim (3/180) from the narration of Zaynab, the wife of 'Abdullah ibn Mas'ūd.

³²² Reported by Ahmad (4/394, 407), al-Tirmidhī (1720) and al-Nasā'ī (8/161) from the narration of Abu Mūsa al-Ash'arī.

³²³ This is the view of Imām Mālik and al-Shāfi'ī. See al-Mughnī (4/220) and al-Insāf (3/138).

for personal use only. Otherwise, a poor woman will have only two choices: she has to give up her jewellery or she must obtain a debt to pay the *zakāt* on her jewellery. This is a great burden. Alternatively, her husband or guardian pays the *zakāt* on her behalf though he is not obliged to do so.

Zakāt becomes wājib in the following situations:

First: "If it is for renting or meant as savings": If jewellery is in possession but not for personal use or it is used as a tradeable commodity during festivals or special occasions. It is also considered to be an investment or as savings where it is possessed until the price of gold or silver rises and then the jewellery is sold off for a better price than the purchase price. This is akin to using it as a tradeable commodity. Hence *zakāt* is payable for this jewellery when it has been in possession for a year and the *nisāb* is attained. *Zakāt* becomes wājib on the jewellery as it is neither for personal use nor used often.

Second: "Or it is forbidden": I.e. if it is used in a forbidden manner such as a *kohl* container, pencil or incense-holder.

Third: If the jewellery worn is not customarily worn by women i.e. it is in a manner leading to extravagance.

Therefore, the issue of jewellery, which has been discussed in detail can be compressed into one preferred view: The view of the majority of scholars which states that items of jewellery which are ornaments for personal use are exempt of *zakāt*. It is considered as an item of daily use such as clothing, houses and vehicles. This is the view of many of the scholars from the *salaf* and *khalaf*.

When jewellery is used for trade and as an investment or it is a piece that is not customary to Muslim women, then *zakāt* is *wājib* on these items of jewellery based upon the original principle (*asl*): *Zakāt* is *wājib* on gold and silver. Only items of jewellery used as ornaments for personal use are exempt from *zakāt*.

باب زكاة العروض CHAPTER: ZAKĀT ON TRADEABLE COMMOD-ITIES

"Chapter: Zakāt on Tradeable Commodities": The fourth type of wealth upon which zakāt is wājib is the tradeable commodity. It is called 'urūdh in Arabic which literally means "display". However in the context it refers to al-sila'tu (commodity). It is called 'urūdh because it is displayed during the transaction and it is said, "We call it such because it is displayed and then it disappears."³²⁴ Zakāt is wājib upon it based upon the ayah: {And from their properties was [given] the right of the [needy] petitioner and the deprived.}³²⁵ And the ayah: {And those within whose wealth is a known right, for the petitioner and the deprived.}³²⁶

Tradeable commodities are considered to be income. Hence, the Prophet $\frac{1}{2}$ commanded that *zakāt* be paid on commodities that are traded.

The majority of scholars consider *zakāt* to be *wājib* on tradeable goods. In fact some scholars consider it an *ijma*'.³²⁷

إذا مَلَكها بفعله بنيَّة التجارة وبلغت قيمتُها نِصاباً زَكَّرٍ قيمتَها، فإن ملكها بإرْبْ أو متن بفعل بغير نية التجارة ثم نواها لم تَصِرْ لها

If, by way of his actions, he possesses it with the intention of doing trade

³²⁴ See al-Dār al-Naqī (340/1).

³²⁵ Al-Dhāriyāt: 19

³²⁶ Al-Ma'ārij 24-25

³²⁷ See al-Ijmā' by Ibn al-Mundhir (p. 45).

with it, he must pay *zakāt* on its value if the *nisāb* is attained. If he inherits it or possesses it without the intention to trade with it and later changed his intention to do so, then the intention is not concurrent.

We now study the conditions which make *zakāt* mandatory on tradeable commodities. They are:

First: "If, by way of his actions, he possesses it": "His actions" refers to performing trade, buying and selling or labour of which he is paid for. Therefore possessing it without any action on his part, like a gift or inheritance is excluded in this condition.

Second: "With the intention of doing trade with it": That is to have an intention to sell the commodity. However, if he possesses it through his actions without an intention to sell the commodity but rather it was for his personal use, then $zak\bar{a}t$ need not be paid on it. This is because personal use is not trade.

Third: The commodity or the value in monetary terms from its sale should be in his possession for a year.

"He must pay *zakāt* on its value": He must pay one-fortieth of the total value of the commodity as *zakāt* provided that the commodity has reached the *nisāb* of gold or silver.

"If he inherits it or possesses it without the intention to trade with it and later changed his intention to do so, then the intention is not concurrent": If he had possessed the commodity for personal use then he changed his mind and decided to sell it, then there are two opinions regarding when he should pay *zakāt*:

First: The fiscal year does not start with the intention which in fact comes much later than physically possessing the commodity. The fiscal year starts at the sale of the commodity. If he retains the amount generated from the sale for a year, then $zak\bar{a}t$ should be paid. This is the view preferred by the author.

Second: The fiscal year begins when he intended to sell the commodity. This is because the commodity became tradeable with the change in intention from personal use to trade. Therefore, *zakāt* became *wājib* on it at that point. This is

the most correct opinion.

متن وتُقوَّم عند الحول بالأَحَظِّ للفقراء من عَيْنِ أو ورق، ولا يُعتبر ما اشتُريَتْ به، وإن اشترى عَرَضَاً بِنِصابٍ من أثبانٍ أو عروض بنَى على حَوَّلِه، وإن اشتراه بسائمةٍ لم يَبْنِ

The bigger portion of the *zakāt* should be allotted to the poor given that the commodities have been in possession for a year. It may be given as commodities or its equivalent value in monetary terms. The purchase price of the commodity should not be taken into account. If goods are bought with cash or by trading in similar goods, then its term carries on at the point of purchase. If it was bought with livestock, the term does not carry on.

"The bigger portion of the *zakāt* should be allotted to the poor given that the commodities have been in possession for a year. It may be given as commodities or its equivalent value in monetary terms": This section explains how *zakāt* on commodities is given. We learnt earlier that *zakāt* is given in the same form as the wealth. For example, *zakāt* given on sheep is a sheep itself and the *zakāt* for currency is from its like. The *zakāt* for produce of the land should be from the produce.

Tradeable commodities are set aside for selling. Therefore $zak\bar{a}t$ need not be given from the commodities itself. Instead, an equivalent value in terms of cash may be given as $zak\bar{a}t$; which is one-fortieth or 2.5% of the total value if the *nisāb* has been attained and the commodities have been in possession for a year.

"The purchase price of the commodity should not be taken into account": In fact the price of the commodity should be valued at the end of the fiscal year. *Zakāt* should be given based on the price of the commodity, which could have risen, remain unchanged or fallen, at that time.

"If goods are bought with cash": That is with currency, gold or silver.

"Or by trading in similar goods": I.e. trading through barter.

"Then its term carries on at the point of purchase": That is, throughout the year.

A Commentary on Zād al-Mustaqni

If he bought the commodities during the last month of the fiscal year with cash which was in possession throughout the year, then $zak\bar{a}t$ is still payable. This is because the commodities are a replacement for the cash and the same rule applies to the commodity as with cash in this instance.

For example, if one has a hundred riyals for eleven months and in the last month he bought some goods with that money. The cash has now been converted to a commodity. We say that $zak\bar{a}t$ must be paid for the commodities bought with the cash which was in the possession of the owner for eleven months; that is the hundred riyals. Hence, this amount warrants $zak\bar{a}t$ on it even though it was not maintained as cash for a whole fiscal year. The cash was converted to a commodity in the last month and therefore it has to be accounted for and $zak\bar{a}t$ must be paid on it.

Similarly, if he purchases commodities with cash and then replaces these commodities with another set of commodities which are similar in nature, then he has to pay $zak\bar{a}t$ on the cash with which he bought the initial commodities. This is provided that the original commodities have been in his possession for one year.

"If it was bought with livestock, the term does not carry on": This is because currency and livestock are not considered to be of similar nature. This is because livestock are not commodities nor are they a currency. Furthermore, the rules of $zak\bar{a}t$ pertaining to livestock differ from the rules of $zak\bar{a}t$ upon currency and commodities. For example, if he has five camels and just before the completion of a fiscal year, he bought tradeable commodities in exchange for the five camels. We say: In this instance, the fiscal year begins with the purchase of the commodities which were bought with the intention of trading. The time the camels were in the possession of the owner is disregarded and is not factored into the fiscal year nor is $zak\bar{a}t$ paid on the camels as they were in possession for less than a fiscal year.

باب زكاة الفطير CHAPTER: ZAKAT AL-FITR

"Chapter: Zakat al-Fitr": Zakāt means charity. It is called such as it purifies i.e. it is derived from the Arabic word for purify. That is, it purifies the object on which the zakāt is paid. It purifies it and increases it.³²⁸

"Zakat al-Fitr": This is zakāt that is paid due to fitr. Fitr here refers to the blessed month of Ramadān. Allah has made it wājib upon each and every Muslim to pay this zakāt at the end of this month as charity.

We have studied about *zakāt* on wealth thus far. *Zakat al-fitr* is *zakāt* on the self. Hence, it is compulsory on the rich as well as the poor that is able to pay it. It is compulsory on the free person and the slave, the young and old, male and female. This is because it is *zakāt* on the body and self.

It is *wājib* for every Muslim who has a *sa*' in excess of his food and the food of his family and his basic needs on the day of 'Eid and its night.

Zakat al-fitr is wājib, i.e. it is obligatory. The evidence for this is Allah's words: **{He has certainly succeeded who purifies himself, and mentions the name of his Lord and prays.}**³²⁹ "Purifies" in this ayah refers to the payment of zakat al-fitr. "Prays" refers to the 'Eid prayer. This ayah proves that zakat al-fitr is

329 Al-A'lā: 14-15

³²⁸ See Lisān al-'Arab (14/358) and al-Mutlā' (p. 122).

legislated in Islam.

From the Sunnah there are many authentic *ahādīth* that prove it. One example would be the narration of Ibn 'Umar \clubsuit who said, "The Messenger of Allah made the giving of *zakat al-fitr* obligatory on every Muslim, male or female, free person or slave, young or old."³³⁰

His saying, "The Messenger of Allah made it obligatory (*farada rasūl allah*)" is proof that *zakat al-fitr* is legislated in Islam. It proves that it is an obligation and not just a recommended act.

"It is *wājib* for every Muslim": Regardless of his or her gender or status. It is also an indication that disbelievers are exempt of this obligation at the end of Ramadān, even though they possess physical bodies (as this tithe is *wājib* upon every Muslim "body"). This is because *zakāt al-fitr* is an act of worship (*'ibādab*) which is futile when performed by those who disbelieve.

"Who has a *sa*' in excess of his food and the food of his family and his basic needs on the day of 'Eid and its night": *Zakat al-fitr* is obligatory on a Muslim under the following condition: That he has an excess of food than what he, his family and those who are under his charge require for the day and night of 'Eid. If there is extra food, he needs to give it away as *zakat al-fitr*. If one does not have any excess food after fulfilling his needs, the needs of his family and of those who are under his charge, then he need not pay this *zakāt*. This is due to the absence of the condition which makes *zakat al-fitr* obligatory. Allah says: **{So fear Allah as much as you are able.}**³³¹ And He says: **{And has not placed upon you in the religion any difficulty}**³³²

متن

Having debt is not an excuse for not giving *zakat al-fitr* unless it is being sought.

"Having debt is not an excuse for not paying zakat al-fitr": If a person has a

³³⁰ Reported by al-Bukhārī (2/161, 162) and Muslim (3/68) from the narration of 'Abdullah ibn 'Umar.

³³¹ Al-Taghābun: 16

³³² Al-Hajj: 78

debt but he has enough to pay zakat al-fitr, then he should give zakat al-fitr and not cite his debts as an excuse for failing to do so. It is an obligation upon him to give zakat al-fitr unlike the case of zakāt on wealth. Zakāt on al-māl (wealth) is not required if the wealth does not attain nisāb after subtracting the debt owed.

"Unless it is being sought": If the creditor is actively seeking the repayment of the debt and the debtor only has enough money to pay it off, then he is not required to give *zakat al-fitr*. This is because he will have nothing left to give as *zakat al-fitr*. What he owns becomes the property of the creditor by default.

فيخرج عن نفسه ومسلم يمونه ولو شهر رمضان

متن

He gives *zakāt al-fitr* on himself and on behalf of the Muslims who are under his welfare, even if it is only during the month of Ramadān.

"He gives *zakāt al-fitr* on himself and on behalf of the Muslims who are under his welfare": He gives *zakāt* on himself first and then on his dependants for example his children, spouse and parents and his next of kin. He must give on behalf of all those under his welfare. However, he must commence with paying the *zakāt* for himself first as this is the higher priority.

"Even if it is only during the month of Ramadān": This is to highlight an extraordinary situation. One's family is under his charge throughout and their welfare is taken care by him always. Hence there is no doubt that he must pay *zakat al-fitr* for them. However, there are two views regarding giving *zakat al-fitr* for those who come under one's charge during Ramadān specifically, as a result of his kindness: Firstly, it is said that it is $w\bar{a}jib$ as they are under his welfare. Secondly, it is said that it is only *mustahabb* and not an obligation. The preferred view, and Allah knows best, is that it is not $w\bar{a}jib$ to give *zakāt* on behalf of those who come under his charge only during Ramadān. This is because their welfare during the month of Ramadān is only charity and he is not duty-bound to provide for them.³³³

متن فإن عجز عن البعض بدأ بنفسه، فامر أته، فرقيقه فأمه، فأبيه، فولده، فأقرب في ميراث If he is unable to give for some of them, he starts by giving it on himself, his

333 A narration from Imām Ahmad which was preferred by Ibn Qudāmah. See al-Insāf (3/168).

spouse, mother, father and his son and so on according to who is eligible to receive his inheritance.

"If he is unable to give for some of them, he starts by giving it on himself, his spouse, mother, father and his son and so on according to who is eligible to receive his inheritance": If he has the means, he is duty-bound to give *zakāt* on himself and on behalf of his spouse, parents and children as they are his dependents.

However, if he does not have the means and can only afford to give *zakat al-fitr* for some of his dependants, then he should start giving *zakāt* on himself followed by his spouse, as she is attached to him, followed by his children, as they depend on him for welfare, followed by his parents. He begins giving *zakat al-fitr* on behalf of his mother followed by his father.

A man once said to the Prophet $\frac{1}{2}$, "I have a dirham." The Prophet $\frac{1}{2}$ replied, "Spend it on yourself." The man then said, "I have another." To which the Prophet $\frac{1}{2}$ replied, "Spend it on your wife." He added, "I have another." The Prophet $\frac{1}{2}$ then said, "Spend it on your children." The man stated that he had another. The Prophet $\frac{1}{2}$ said, "Spend it on your parents." When the man said that he had another dirham, the Prophet told him, "You are more knowing."³³⁴ I.e. he was more knowledgeable as to what to do with it. Hence, he begins by giving *zakāt* for himself then for his dependants, prioritising them as mentioned above.

The slave's portion of a sa' is collectively given by his masters. It is mustahabb on the foetus. It is not $w\bar{a}jib$ for the husband to give on behalf of his estranged wife. It is permissible to pay the zakat al-fitr on himself if it is $w\bar{a}jib$ upon him and without the prior consent of the head of the family or guardian even though it is the duty of the latter to pay it on his behalf.

"The slave's portion of a sa' is collectively given by his masters": That is, if the

³³⁴ Reported by Ahmad (2/251,471), Abu Dawūd (1691), al-Nasā'ī (5/62) and Ibn Hibbān (4219) from the narration of Abu Hurairah.

slave is co-owned by many masters. Zakat al-fitr is wājib upon the slave. However it is the duty of the master to pay it on his behalf. If he is jointly owned by many masters, then the sa' of staple food is to be collectively given by them proportionate to their stake in the slave.

"It is *mustahabb* on the foetus": I.e. to give the *zakat al-fitr*. This is the unborn child still in the womb. 'Uthmān \clubsuit had ordered this.³³⁵ Hence, it is *mustahabb* to give *zakat al-fitr* on behalf of the foetus.

"It is not *wājib* for the husband to give on behalf of his estranged wife": This is because the estranged wife is longer under the welfare of her husband due to their separation. *Zakat al-fitr* is directly linked with the relationship of dependency hence it is not *wājib* for the husband to give *zakat al-fitr* on behalf of his estranged wife.

"It is permissible to pay the *zakat al-fitr* on himself if it is *wājib* upon him and without the prior consent of the head of the family or guardian even though it is the duty of the latter to pay it on his behalf": That is, he does not wait for the guardian to give it on his behalf. Instead he gives it by himself. This is permissible as *zakat al-fitr* is essentially *wājib* upon the individual. It is only borne by the guardian due to the issue of dependency.

It becomes *wājib* at sunset on the night of *al-Fitr*. Whoever embraces Islam, takes possession of a slave, marries a woman or has a newborn after this night need not pay the *zakat al-fitr* due on them. He must do so if the above scenarios happen before this night.

The time when *zakat al-fitr* becomes $w\bar{a}jib$: "It becomes $w\bar{a}jib$ at sunset on the night of al-Fitr," on the last day of Ramadān. When the sun sets and the new moon is sighted, it is the first night of the month of Shawwāl. On this night, the charity of *al-fitr* becomes $w\bar{a}jib$.

It does not become wajib on the first of the month of Ramadan or at the

³³⁵ Reported by Ibn Abī Shaybah (2/432) that 'Uthmān used to give *zakat al-fitr* on behalf of the foetus.

A Commentary on Zād al-Mustaqni

middle of it. If a person was to die before sunset on the night of al-Fitr, he does not owe anything. On the other hand, if his demise is after sun set on the night of al-Fitr, his family should pay *zakat al-fitr* on his behalf as it was *wājib* upon him.

"Whoever embraces Islam": That is, after sunset on the night of al-Fitr, it is not $w\bar{a}jib$ that he pays the charity of al-Fitr. This is because the time when paying the *zakāt* was $w\bar{a}jib$ has lapsed.

"Takes possession of a slave": Similarly, if he had bought the slave or he was given as a gift after sun set on the night of al-Fitr, then *zakāt* is not *wājib* upon the slave.

"Marries a woman": If a man makes the marital contract with a woman after sunset on the night of al-Fitr, *zakāt* need not be paid on his wife due to the lapse of time wherein *zakāt* was *wājib*.

"Or has a newborn": *Zakat al-fitr* is not *wājib* on the newborn baby if he or she is born after sunset on the night of al-Fitr.

"He must do so if the above scenarios happen before this night": For example, if a person possesses a slave before sunset on the night of al-Fitr, even marginally, it is *wājib* for him to pay *zakat al-fitr* on the slave. This is because it was within the time wherein the *zakāt* was *wājib*.

ويجوز إخراجها قبل العيد بيومين فقط، ويوم العيد قبل الصلاة أفضل، وتكره في باقيه، متن ويقضيها بعد يومه آثهاً

It is permissible to pay *zakat al-fitr* two days before 'Eid though paying it just before prayer on the day of 'Eid is better. Paying it at other times is disliked. If he fails to do so, it should be paid on a later date and it is considered a violation.

The times in which *zakat al-fitr* is paid can be categorised into four:

The permissible time: "It is permissible to pay *zakat al-fitr* two days before 'Eid": It is permissible to pay this *zakāt* a day or two days before 'Eid. A person may pay *zakāt* on the twenty eighth or twenty ninth day of Ramadān. This

is based on the notion that whatever is performed nearer to the fixed date, it adopts the rules pertaining to the fixed date. The Companions used to give out *zakat al-fitr* a day or two before 'Eid.³³⁶ This is because it is much more convenient for the people to do so in this manner. Furthermore, the *zakāt* was given out only slightly earlier.

However, the giving of *zakat al-fitr* earlier than the twenty eighth is not permissible. This is even before the time wherein *zakāt* becomes $w\bar{a}jib$ and so the prohibition. Moreover, there is no precedence of it being paid that early.

<u>The best time</u>: "Paying it just before prayer on the day of 'Eid is better": That is, before one sets out for the 'Eid prayer. This is the best time to pay *zakat al-fitr*.

<u>The acceptable time</u>: The rest of the 'Eid day. It is permissible if a person delays giving *zakat al-fitr* until after 'Eid prayer. However, he is missing out on the better methods.

"Paying it at other times is disliked": Delaying the giving of *zakat al-fitr* until after the 'Eid prayer is acceptable. However, it is disliked. This is because a better time was forgone.

<u>Making up for a violation</u>: If the $zak\bar{a}t$ is not given throughout the day of 'Eid, then one still has to pay it the next day. Missing it on its day is not considered as having discharged one's duty in its time and he is considered a violator for delaying the giving of $zak\bar{a}t$.

"If he fails to do so, it should be paid on a later date and it is considered a violation": Violation of giving *zakat al-fitr* begins with the end of the day of 'Eid. It can be given the day after 'Eid. The fulfilment is now considered a penalty $(qad\bar{a})$ and is a sin due to the delay in giving the *zakat al-fitr*.

³³⁶ Reported by al-Bukhārī (2/162), "Ibn 'Umar used to give it to those who would accept it and they used to give it a day or two before 'Eid al-Fitr."



ويجب صاعٌ من بُرٌّ، أو شعير، أو دقيقهما، أو سويقهما، أو تمر، أو زبيبٍ، أو أَقِطٍ، فإن عَدِمَ من الخمسة أحسن الخمسة أجسزاً كسلً حَسبٌ وثمِر يُقتات، لا معيبٌ، ولا خبزُ

It is *wājib* to give a *sa*' of wheat or barley, its flour or paste, dates, raisins or cottage cheese. If these five are unavailable, then any grains or dried produce that are storable but no imperfect food and bread must be given as *zakāt*.

"It is *wājib* to give a *sa*' of wheat or barley, its flour or paste, dates, raisins or cottage cheese": This is detailing what should be given as *zakat al-fitr* and the quantity that is *wājib*. They are storable food that is common in a country. Each country shall give as *zakat al-fitr* the storable food that is prevalent in their country.

For this reason, the Prophet $\frac{36}{20}$ mentioned a variety of foodstuff that can be given as *zakat al-fitr*. He said, "A *sa*' of wheat, a *sa*' of barley, a *sa*' of dates or a *sa*' of raisins, a *sa*' of cottage cheese."³³⁷

This is because the staple food of each country varies. Some consume wheat as their staple food while others only eat barley. Dates are also considered staple food in some countries as are raisins and cottage cheese. This is normally consumed by the rural people or Bedouins. The Prophet 🕿 mentioned a variety of foodstuff as people and their preferential foods vary. This is proof that the peo-

³³⁷ Reported by al-Bukhārī (2/161) and Muslim (3/69) from the narration of Abu Sa'īd al-Khudrī.

ple of a specific country should give the staple food prevalent in their country as *zakat al-fitr*. This is a leniency from Allah for the Muslims.

"If these five are unavailable, then any grains or dried produce that are storable": Other food items, besides these five foods, which are staple food in a country may be given as *zakat al-fitr*. Examples would be rice, pearl millet or its powdered form. These are acceptable as *zakat al-fitr* as they are staple foods in some countries. Some scholars claim that it is not permissible to give other than the five foods mentioned in the hadīth as *zakāt* except when they are unavailable. Hence the author mentions it here. "Then any grains or dried produce that are staple food" I.e. foods which are stored.

The correct opinion is that foods that are staple other than the five mentioned in the hadith are permissible to be given as *zakat al-fitr* even if these five foods are available in a country.³³⁸

"Dried produce": Such as dates and raisins, which are staple foods in some countries.

"No imperfect food": It is not allowed to give wheat, dates, raisins, cottage cheese or any other staple food which are not safe for consumption or have some sort of inherent blemish in them. These foods have less benefit and are not valued by middle-income families. These foods are not to be given as *zakat al-fitr* as *zakāt* has to be pure. The food given as *zakat al-fitr* must be of an intermediate grade. It need not be of the highest quality or a low-grade food which is disliked by most people. Dates containing mothworms, wheat and barley with insects in them and infested produce or grains which can cause diseases should not be given as *zakat al-fitr*.

"And bread must be given as *zakāt*": Bread is not given as *zakat al-fitr*. This is because bread is a perishable good and is safe for consumption only for a short period. The recipient cannot do as he pleases with it unlike wheat, barley, dates, raisins or cottage cheese. These five foods can be sold or be consumed. The recipient can also give it away as a gift. Bread on the other hand has a limited shelf life and so it is not appropriate to be given as *zakat al-fitr*.

Note: We would like to highlight an issue that is discussed heavily. This issue

³³⁸ See al-Mughni (4/292-293).

is about giving money as *zakat al-fitr*. This is not permissible as it is contradictory to the command of the Prophet 38.

The Prophet $\frac{1}{28}$ commanded that only foodstuff be given as *zakat al-fitr* and not only did he stipulate a *sa*' as its quantity, he $\frac{1}{28}$ also mentioned the variety of foods that can be given as *zakat al-fitr*. The variance was due to the difference in food tastes and has no relation to the monetary value of the food. Furthermore, money was never mentioned with regards to *zakat al-fitr* even though the usage of money was prevalent during the lifetime of the Prophet $\frac{1}{28}$. He had steered clear of giving money as *zakat al-fitr* and instructed the Muslims to give specific foodstuff instead.

Moreover, the needy will be in need of foodstuff on the day of 'Eid so that they can rejoice and eat and drink with the rest of the people. Money will not serve this purpose unless he goes to buy these from the stores which most probably will be shut on the day of 'Eid or stocks will be extremely limited during that day. Hence, he will not benefit from cash on that day. However, if he is given food as *zakat al-fitr*, he may use it immediately for the day of 'Eid is a day of feasting. The poor are in need of food and this is the reason for the Prophet's words, "Enrich them and detract them from asking on this day."³³⁹

There is wisdom in giving the variety of foods mentioned in the hadīth and other staple foods. It is a convenience for the people, it attains the objective of feasting on the blessed day of 'Eid. It is an official holiday and so work is disrupted such that he cannot earn a living on that day. Thus buying food with his earnings on the day is not possible, provided that shops are open. The likely scenario is that they are not open and so he rejoices when people offer him *zakat al-fitr* which will fulfil his needs for the day. Giving money defeats this purpose and goes against the wisdom behind the legislation of giving food as *zakat al-fitr*.

This is an important point which is the view of most of the scholars including Imām al-Shāfi'ī, Ahmad and Malik, may Allah have mercy on them. Imām Abu Hanīfah, may Allah have mercy on him, allowed the giving of money as *zakat al-fitr*.³⁴⁰ However, this contradicts the evidence and making inde-

³³⁹ Reported by al-Dāraqutnī (2/152-153) and al-Bayhaqī (4/175) from the narration of Ibn 'Umar. See also *Fath al-Bārī* (3/375).

³⁴⁰ See al-Mughnī (4/295).

pendent judgement when evidence is available is not permissible. When Imām Ahmad was asked about giving the financial value of the food and that some scholar had ruled in its favour. He replied, "They neglect the words of the Messenger of Allah and adopt the views of some person!" It is *wājib* that we act according to the evidence that is available.

The wisdom that we have mentioned regarding *zakat al-fitr* comes about if we act upon the evidence that is available. Otherwise, the wisdom is lost. The stipulated quantity to be given as *zakat al-fitr* is one *sa'* of the Prophet's *sa'*. *Sa'* refers to scooping four handfuls of the food using both hands. A scoop of this nature is called a *mudd*. Hence a *sa'* is equivalent to four *amdād* (plural for *mudd*) which in metric terms is equivalent to three kilograms approximately.³⁴¹

ويجوز أن يُعطيَ الجماعة ما يَلْزمُ الواحدَ، وعكسُه

متن

It is permissible to give a group of people a single person's charity and vice versa.

"It is permissible to give a group of people": I.e. a group of people who are needy.

"A single person's charity": Which is one *sā*', which is the *zakat al-fitr* of one person, can be given to a group consisting of poor people. These people must share it among themselves. One can also give his *zakat al-fitr* to his family members who are needy. There is nothing wrong in doing so.

"And vice versa": One may choose to give to a single person what is due upon a group. For example, the *zakat al-fitr* of five people may be given to a single person as there is no maximum limit concerning how much can be given as *zakat al-fitr*. The only condition is that it be given to the needy, regardless if it is an individual or a group.

³⁴¹ See Mawsū'ah Wahdāt al-Qiyās al-'Arabiyyah wa al-Islamiyyah (p. 258).

باب إخراج الزكاة CHAPTER: PAYMENT OF ZAKĀT

متن

يجب على الفور مع إمكانهِ، إلا لضرورة

It is *wājib* to pay it immediately if one is able; except when prevented by circumstance.

"Chapter: Payment of *Zakāt*": That is, *zakāt* on wealth. We return to this as the chapter is regarding *zakāt* of which *zakat al-fitr* is a type.

"It is wajib to pay it immediately": It should be paid immediately after the completion of a year. There should be no unnecessary delay in the payment of zakat. Allah says: {And give zakat.}³⁴² This is a command. The *asl* (foundational principle) of a command is that it is carried out instantly. Delaying it is not permitted unless there is evidence to the contrary. Immediate payment allows one to discharge his duty as it may trouble his conscience if not. It is wajib for him to expedite the payment of zakat and free himself of the responsibility. He should strive to do so whenever possible.

"If one is able": If he is unable to pay immediately, for instance if the money is lost or if he cannot find a needy person in his location and thus he delays the payment in order to seek out the needy people who are deserving of receiving *zakāt*. The delay was due to a valid reason and therefore it is allowed.

"Except when prevented by circumstance": Except when a predicament prevents the immediate payment of *zakāt*. He may delay until the predicament is

³⁴² Al-Baqarah: 110

lifted and then pay the zakāt without any further delay.

If he refuses to pay and denies that it is *wājib*, he has disbelieved while he knows the ruling. *Zakāt* is taken from him by force and he is executed. If he refuses to pay due to his miserliness, then it is taken from him and he is reprimanded.

"If he refuses to pay": He refuses to pay *zakāt* due to his denial that it is *wājib*. Even if he pays *zakāt* but claims that it is non-mandatory, he has also disbelieved because of it. He has rejected Allah, the Messenger of Allah \cong and the community of Muslims. He has belied a fundamental Islamic law that has to be known by all Muslims. Hence, there is no doubt regarding his apostasy. However, he is not proclaimed as a disbeliever for there is a slim chance that he was unaware of the ruling pertaining to *zakāt*. In this case, he is taught that *zakāt* is one of the pillars of Islam and that it is obligatory upon Muslims. If he still maintains that it is not an obligation even after being made aware of it, he is proclaimed an apostate. He is given an opportunity to repent failing which he is executed because of his apostasy.

"Zakāt is taken from him by force and he is executed": It is taken from him by force as zakāt is the right of the poor and the needy. His obligation to pay zakāt is not absolved due to his refusal to pay it nor is the right of the poor and needy absolved as a result of his refusal. If he continues to refuse to pay even after being made aware of its obligation and the evidence to support it, then zakāt is forcibly taken from him and he is executed if he does not repent to Allah.

"If he refuses to pay due to his miserliness, then it is taken from him and he is reprimanded": If he refuses to pay $zak\bar{a}t$ due to his miserliness, even though he admits that it is an obligation upon him, then he is urged to pay it. If he does not do so, then the ruler shall forcibly take it from him as $zak\bar{a}t$ is an obligation upon him which is due for the benefit of others. The ruler resorts to seeking justice against the transgressor. He seeks the rights of the poor from the transgressor's wealth, which he refused as a result of his miserliness.

A Commentary on Zād al-Mustaqni

"And he is reprimanded": He is punished for not paying zakat with a jail sentence, flogging or other forms of punishment. This is because he has gone against Allah and His Messenger by committing a sin. Hence he is reprimanded as a deterrent measure.

If a powerful person admits that *zakāt* is *wājib* but refuses to pay due to his miserliness, then he must be fought against until he pays. Abu Bakr al-Siddīq \Rightarrow and the Companions who were with him waged war on those who refused to pay *zakāt* after the death of the Prophet \clubsuit . He fought them until the *zakāt* was paid. This is because *zakāt* is from the pillars of Islam and an apparent symbol. Furthermore, it is a right of the poor and needy to receive it.

A painful torment lies ahead for those who refuse to give *zakāt*. Allah says: {And those who hoard gold and silver and spend it not in the way of Allah give them tidings of a painful punishment. The Day when it will be heated in the fire of Hell and seared therewith will be their foreheads, their flanks, and their backs, [it will be said], "This is what you hoarded for yourselves, so taste what you used to hoard."}³⁴³ This passage refers to those who refuse to pay *zakāt* for gold and silver. As for those who refuse to pay *zakāt* for camels, cows and other livestock, "Those animals will be brought on the Day of Resurrection and they will trample him with their hooves and bite him with their mouths. As often as the last of them passes him, the first of them would be made to return during a day the extent of which would be fifty thousand years, until judgment is pronounced among the servants."³⁴⁴

Those who refuse to pay the *zakāt* for gold and silver will have it heated in the fire of hell, then their foreheads and their sides and their backs shall be branded with it, as mentioned in the *ayāt* above. This will take place on a day which has the duration of fifty thousand years. The punishment is continuously meted out until all of mankind has been judged by Allah to enter either Paradise or Hellfire.³⁴⁵

Another punishment for refusing to pay *zakāt* on gold and silver is, "His wealth will be made into a bald snake full of venom and it will curl around his

³⁴³ Al-Tawbah: 34-35

³⁴⁴ Reported by Muslim (3/70-71) from the narration of Abu Hurairah.

³⁴⁵ Reported by Muslim (3/70-71) from the narration of Abu Hurairah.

body and bite him, injecting venom for a duration of fifty thousand years."346

Allah says: {And let not those who [greedily] withhold what Allah has given them of His bounty ever think that it is better for them. Rather, it is worse for them. Their necks will be encircled by what they withheld on the Day of Resurrection.}³⁴⁷

The Prophet \mathfrak{B} explained that the encircling mentioned in the ayah above is the clinging of the snake to one's body as described in the hadīth above. This is the torment if one refuses to pay *zakāt*. We seek refuge in Allah from it.

وتجب في مالِ صبي ومجنونٍ، فيخرجُها وليُّهما، ولا يجوز إخراجها إلا بنيَّةٍ، والأفضلُ أن متن يُفرِّقها بنفسه، ويقوُّل عند دَفْعها هو وآخذُها ما وَرَد

It is $w\bar{a}jib$ upon the wealth of a child and the mentally ill. The guardian pays it on their behalf. It is not permissible to pay $zak\bar{a}t$ without the intention. It is best that he distributes it by himself while both the giver and recipient utter phrases that have been reported.

"It is *wājib* on the wealth of a child and the mentally ill": *Zakāt* is *wājib* on the child's wealth as well as that of the lunatic. One who has not attained puberty is termed a child. A mentally ill individual is one who is possessed or has lost his senses. *Zakāt* is *wājib* on both of these two categories of people because it is connected with wealth and does not depend on the intellect or maturity of the person giving it.

"The guardian pays it on their behalf": On behalf of the child and the mentally ill.

"It is not permissible to pay *zakāt* without the intention": The giving of *zakāt* is an act of worship. All acts of worship are considered null and void without an intention as mentioned by the Prophet in the hadīth, "Verily all deeds are with intention and verily for each person is what he intended."³⁴⁸ For instance, if a

³⁴⁶ Reported by al-Bukhārī (2/132), (6/49) from the narration of Abu Hurairah.

³⁴⁷ Āli 'Imrān: 180

³⁴⁸ Reported by al-Bukhārī (1/2, 21), (3/190), (5/72), (7/4), (8/175), (9/29) and Muslim (6/48) from the narration of 'Umar ibn al-Khattāb.

man gave away money or food to the poor as charity and he did not intend it as $zak\bar{a}t$. If he decides to change his intention after having distributed the money or food, then this is not permissible. The intention should have been made at the time of distribution, not later. An act of worship is not valid without *niyyah* (intention) at the time it is executed.

"It is best that he distributes it by himself": This is to ensure that the money or food reaches the genuinely poor and needy. Furthermore, greater rewards can be earned when one distributes the *zakāt* himself. This distribution is also an act of worship and is a means of drawing closer to Allah. In fact, Allah commands the person giving *zakāt* to do so himself and not to appoint others to do so on his behalf. He says: **{And give zakāt.}**³⁴⁹ He should manage the distribution of his *zakāt* himself so that he can reassure himself that it was carried out completely. He will also be able to remove any fear that some portion of the *zakāt* remained undistributed. He will be sure that it reached deserving recipients as outlined in Islamic law. This is the best way to ensure the discharge of one's duty pertaining to *zakāt* with the added benefit of being rewarded for the hard work exerted. The distribution of *zakāt* is a pious deed.

It is however permissible to appoint someone else to do it on one's behalf. He may seek the help of a Muslim who is very able in distributing $zak\bar{a}t$ to the needy. This is because $zak\bar{a}t$ is the distribution of wealth which permits others to represent him in carrying out the act.

"While both the giver and recipient utter phrases that have been reported": It is *mustahabb* that the giver and the recipient utter the supplications that have been authentically reported from the Messenger of Allah $\underset{i}{\ll}$. The recipient in this case can refer to the deputies sent by the ruler to collect *zakāt* on behalf of the state. It is *mustahabb* for the giver to say, "*Allahumma ij'alhāh maghnaman wa lā taj'alhāh maghraman*" (O Allah! Let it be a means towards riches and do not let it be a means towards debt).³⁵⁰ The recipient says, "*Taqqaballala allahu minka mā a'tayt bāraka laka fīmā abqayt wa ja'alahu laka tahūran*" (May Allah accept what you have given and may He bless that which remains with you. May He purify it for you).

³⁴⁹ Al-Baqarah: 110

³⁵⁰ Reported by Ibn Mājah (1797) from the narration of Abu Hurairah and it is a $marf\vec{u}$ narration.

The Prophet $\underset{\sim}{3}$ used to supplicate and seek Allah's blessing for those who gave charity.³⁵¹ Allah said: **{Take [O Muhammad], from their wealth a charity by which you purify them and cause them increase, and pray for them.**}³⁵² "Pray for them" here means to supplicate for them. Prayer in linguistic terms is in fact supplication. So one should supplicate that the giver's charity is accepted by Allah and that He blesses him for it. One should also seek Allah's forgiveness for them. This is the Sunnah.

والأفضلُ إخراجُ زكاةِ كلِّ مالٍ في فقراءِ بلدهِ، ولا يجوزُ نَقْلُها إلى ما تُقْصَر فيه الصلاةُ فإن فعل أُجْزأتْ، إلا أن يكونَ في بلدٍ لا فقراءَ فيه فيفرِّقها في أقرب البلاد إليه، فإن كان في بلدٍ ومالُه في آخر، أخرج زكاة المال في بلده، وفطرتُه في بلدٍ هو فيه

It is best to distribute *zakāt* on wealth to poor people who are his countrymen. It is not permissible to distribute it in areas where shortening of the prayer comes into effect. If one does so, it is nevertheless accepted. Unless he lives in a country where there are no needy folk. He may distribute it in the nearest country to him. If he lives in a country and his wealth is in another country, he should distribute *zakāt* on the wealth in its country of location while *zakat al-fitr* is distributed in the country of his residence.

"It is best to distribute *zakāt* on wealth to poor people who are his countrymen": They have more right to it as they have personally seen the wealth due to them. They have the priority to receive the *zakāt* of their countryman. Mu'ādh \Rightarrow narrated a hadīth of the Prophet \cong where this is emphasised. He said, "Inform them that Allah has made it obligatory upon them to give charity which is taken from their rich and given to their poor."³⁵³ So the basic instruction is to give *zakāt* on wealth to fellow Muslim countrymen who are needy.

"It is not permissible to distribute it in areas where shortening of the prayer comes into effect. If one does so, it is nevertheless accepted. Unless he lives in a country where there are no needy folk. He may distribute it in the nearest country to him": It is permissible to give it in a neighbouring land where the shortening of prayer does not come into effect due to its close proximity. So

³⁵¹ Reported by al-Bukhārī (2/159), (8/90, 95-96) and Muslim (3/121) from the narration of 'Abdullah ibn Abī Awfā.

³⁵² Al-Tawbah: 103

³⁵³ Reported by al-Bukhārī (2/130, 158), (5/205-206) and Muslim (1/37) from the narration of Ibn 'Abbās.

close that they may even be considered as one land. Distributing the wealth in a land where shortening of prayers comes into effect (i.e. the prayer would be shortened if the individual travelled there) is not allowed. One may do so if he has no other choice as when there are no needy folk where he lives or the neighbouring lands so much so that he has to distribute it in a faraway country. Transferring *zakāt* to distant countries where there are needy folk is permitted if no better alternative is available. However, if there are needy folk within his country, he must give priority to them when distributing *zakāt*.

"If he lives in a country and his wealth is in another country, he should distribute *zakāt* on the wealth in its country of location while *zakat al-fitr* is distributed in the country of his residence": That is, those whose wealth has attained the *nisāb* or more than that. Hence it becomes obligatory for them to give two types of *zakāt*: the *zakāt* due on wealth and *zakat al-fitr*. The latter is distributed in the country in which he resides for this is most apt for this type of *zakāt*. *Zakāt* on wealth on the other hand is distributed in the country in which it is located for his wealth is based there.

ويجوز تعجيلُ الزكاة لحولَين فأقل، ولا يُستحب

Paying *zakāt* in advance is permissible for a two-year period or less but not recommended.

"Paying *zakāt* in advance is permissible for a two-year period or less but not recommended": *Zakāt* is not *wājib* until after the completion of a year as mentioned by Allah: {And give its due on the day of its harvest.}³⁵⁴ That is, when one possesses the wealth for a whole year. It is permissible to give *zakāt* before the completion of a year. This is known as "*ta'jīt*" in Arabic. It is permissible to make the *zakāt* payment in advance before even possessing the wealth for a whole year if there is a dire need to do so. The Prophet $\frac{1}{2}$ received the *zakāt* of two years in advance from his uncle al-'Abbās.³⁵⁵

متن

³⁵⁴ Al-An'ām: 141

³⁵⁵ Reported by Abu Ubayd in *al-Amwāl* (1885) from the narration of 'Alī ibn Abī Tālib which was also reported by Ahmad (1/104), Abu Dawūd (1624), al-Tirmidhī (678) and Ibn Mājah (1795).

باب CHAPTER: [THE EIGHT CATEGORIES OF RE-CIPIENTS]

أهلُ الزكاةِ ثمانيةٌ

متن

There are eight groups of people who can receive zakāt:

"Chapter": After discussing the laws of $zak\bar{a}t$, it is appropriate that the author now mentions the different groups of people who are deserving recipients of $zak\bar{a}t$. Allah mentions them in the Qur'ān. Therefore, it must be given to these groups of people that Allah has singled out as worthy of $zak\bar{a}t$. Giving to any others will nullify the $zak\bar{a}t$ and he shall still be held liable for it. Hence, this chapter is an important one, not least for the fact that the task of identifying the rightful recipients was not left to the Prophet \mathfrak{Z} but instead Allah did so. Therefore, one must strictly adhere to this injunction and distribute $zak\bar{a}t$ to the deserving ones only.

"There are eight groups of people who can receive $zak\bar{a}t$ ": As mentioned in Sūrah Tawbah, ayah sixty: {Zakāt expenditures are only for the poor and for the needy and for those employed to collect [$zak\bar{a}t$] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveller - an obligation [imposed] by Allah. And Allah is Knowing and Wise.} It is not permissible to distribute $zak\bar{a}t$ to other than these eight groups ($asn\bar{a}f$) of people. This is because Allah has limited the distribution to only these groups of people and no one else through the use of the word "*innamā*" (only for) in this ayah.

Al-fuqarab are those who do not have anything or who possess an amount which does not amount to half of their basic needs. *Al-masakīn* are those who possess enough to meet most of their basic needs or have at least half of it. *Al-'āmilūn 'alayba* are those who enforce and preserve *zakāt*.

The first group: "*Al-fuqarab* are those who do not have anything or who possess an amount which does not amount to half of their basic needs": These are the poor. Allah mentions them first with regards to those deserving of $zak\bar{a}t$. It is distributed to them so that they can fulfil their basic needs for a year. {**Zakāt expenditures are only for the poor.**}^{356 357}

The second group: "*Al-masakin* are those who possess enough to meet most of their basic needs or have at least half of it": It is the plural of *al-miskin* which refers to the needy. They are those who have means but their needs outweigh their means. They are better off financially than the *fuqarab*. Zakāt should be given to them so that they can fulfil their basic needs for a year.

The third group: "Al-'āmilūn 'alayha are those who enforce and preserve $zak\bar{a}t$ ": They are the officials entrusted to collect $zak\bar{a}t$ on behalf of the ruler from those upon whom it is $w\bar{a}jib$. These officials must be paid for their work and the ruler shall pay it to them. One must not appoint himself as a $zak\bar{a}t$ official or receive this appointment from other than the ruler himself. The ruler or the head of state must appoint the $zak\bar{a}t$ officials so that it can be collected formally from those upon whom it is $w\bar{a}jib$. The officials are also responsible for distributing the funds to the rightful recipients once approval is received from the ruler to do so. These are the tasks entrusted to the $zak\bar{a}t$ officials.

If any of these officials is a rich man, then he is given a salary commensurate to the work he exerts. This is because this category of *zakāt* is not measured based on the recipient's wealth, it is a salary for the work he exerts as a *zakāt* official.

³⁵⁶ Al-Tawbah: 60

³⁵⁷ See *al-Jāmi' al-Ahkām al-Qur'ān* by al-Qurtubī (8/106) and *Tafsīr al-Qur'ān al-'Azīm* by Ibn Kathīr (2/378).

متن

والرابع: المؤلَّفةُ قلوبُهم ممن يُرْجَى إسلامُه، أو كَفُّ شرِّه، أو يُرْجَى بعطيتهِ قوةُ إيهانه

Fourthly: To bring hearts together or to attract the hearts of those they wish would embrace Islam or to neutralise one's evil or to strengthen one's faith with this gift.

The fourth group: "To bring hearts together": The word *ta'lif* means bringing together [and one of its forms is *mu'allaf*, meaning composer]. It is the opposite of the word *tanfir* which means alienation. *Zakāt* is given to these groups of people so as to attract them to Islam. This is an important task in Islam. *Zakāt* is given to them proportionate to the impact Muslims intend to make upon them.

This group is divided into various types: Muslims with weak faith are given $zak\bar{a}t$ to strengthen it. The Prophet \mathfrak{Z} used to give $zak\bar{a}t$ to those who had just embraced Islam but were not whole-heartedly practicing it. He gave it to them to strengthen their faith such that Islam became more endearing to them through this wealth.

Some of them said: "Muhammad gives me *zakāt* even though I hate him the most among men. He kept giving it until he became the most beloved of men to me."

Some others claimed that they embraced Islam only for the *zakāt* money that they were entitled to receive. But no sooner did they receive it than Islam became dearer to their hearts than this world and whatever it contains.

"To attract the hearts of those they wish would embrace Islam": $Zak\bar{a}t$ is given to the disbelievers the Muslims hope will embrace Islam. These individuals should already gravitate towards Islam and want to embrace it. Wealth from $zak\bar{a}t$ is given to entice him further. Once he embraces Islam, he shall taste its sweetness and feel for himself its goodness.

The *zakāt* is a means to entice him to embrace Islam. Money from *zakāt* is given to this person proportionate to the requirements needed to make the end objective, his embracing of Islam, a success.

Similarly, zakāt is given to a disbeliever who is comparable to the giver in every

way. This may entice the disbeliever to enter the fold of Islam. If he does so, Islam shall be the dearest thing to his life. This is because they fled from Islam having had no exposure to it, nor any knowledge regarding it. Once they have a first-hand account of it, they treasure Islam and all doubts and fears that they had regarding it vanish. Thus the giving of *zakāt* to these individuals will spur them on to the truth of Islam.

"Or to neutralise one's evil": $Zak\bar{a}t$ is given to the disbelievers who are not in favour of Islam. This is to neutralise his enmity. He may decide not to harm Muslims due to the $zak\bar{a}t$. To neutralise the disbelievers evil is necessary and warranted when there is imminent danger. $Zak\bar{a}t$ is given so that a truce is achieved between the disbelievers and Muslims. The amount given will be proportionate to the magnitude of the evil posed by the disbeliever.

متن

والخامس: الرِّقاب، وهم المكاتبون، ويفكُّ منها الأسيرُ المسلمُ

Fifth: Freeing slaves, that is, those who are known as *al-mukātabūn* and *zakāt* is used to free Muslim prisoners.

The fifth group: "Freeing slaves, that is, those who are known as *al-mukātabūn*": The singular form is *al-makātib*. They are the slaves who ransom themselves from their masters by paying a sum of money in instalments known as *al-nu-jūm*.³⁵⁸ When he pays the full sum, he shall be freed from his master and is considered a free man thereafter. Islam encourages the manumission of slaves. Due to their perseverance to free themselves from the bonds of slavery, *al-makātib* have been given the rights to receive *zakāt*. The Muslims help him to pay off the instalments owed to his master so that he may be freed. Allah says: {And those who seek a contract [for eventual emancipation] from among whom your right hands possess - then make a contract with them if you know there is within them goodness and give them from the wealth of Allah which He has given you.}³⁵⁹

Among the groups Allah mentions who may receive $zak\bar{a}t$ is: {For freeing the captives or slaves.}³⁶⁰ That is, those who strive to ransom themselves from the bonds of slavery to achieve freedom.

³⁵⁸ See al-Lisān (12/570).

³⁵⁹ Al-Nūr: 33

³⁶⁰ Al-Tawbah: 60

The Book of Zakāt

"And *zakāt* is used to free Muslim prisoners": Under the category of slaves comes the issue of Muslim prisoners who are incarcerated by the disbelievers. If a Muslim is imprisoned by the disbelievers and a ransom is requested. Then *zakāt* is given to the Muslim prisoner to facilitate his release. The *zakāt* given is proportionate to the request made by the disbelievers.

السادس: الغارِمُ لإصلاحِ ذات البَيْنِ ولو مع غنيٍ، أو لنَفْسِه مع الفقر

متن

Sixth: Those who fall into loss whilst trying to rectify a situation; even if he is rich or those who have personal debt due to poverty.

The sixth group: Those in debt. There are two categories of debtors:

First: "Those who fall into loss whilst trying to rectify a situation": There is a dispute between two Muslim tribes for example and it is feared that the tensions will escalate, which might lead to a violent confrontation. Dispute and parting between Muslims should be avoided. Given this scenario, some good willed people may enter the fray and offer money to the alleged victims to try to rectify the situation. These good willed people should not be left to pay this amount from their own pockets. This is because it is not fair and it will lead to the abandonment of this practice. Instead *zakāt* money is used and only in proportion to the amount raised as debt.

"Even if he is rich": He may still receive *zakāt* money to settle the debt to rectify a societal predicament. This is because the debt is not a personal one but it is used to rectify the community at large.

Second: "Or those who have personal debt due to poverty": Zakāt is given to those who have debt but do not have the means to settle it when it is being sought from them. In this case, zakāt money can be used to help him but only to settle the debt incurred by him. Money from zakāt can only be used if the person who has debt is a poor man and is unable to settle it. If he is rich and is able to settle his own debts, then money from zakāt cannot be used.

Some debtors incur debts amounting to one hundred thousand of a given currency or more whilst their salary is only ten thousand a month approximately. A study should be undertaken to see if he capable of paying off his own debts from his income. If he is wealthy, money from *zakāt* cannot be used. However, if his income is just sufficient for his basic needs and he cannot afford to settle his debt, then money from *zakāt* is used only so much that is necessary to settle his debt.

It may come to the fore that the debtor accumulated his debts as a result of engaging in forbidden or vile acts. Should money from *zakāt* be used to help him settle his debt in this case?

We say: The answer must be elaborated. If he had engaged in forbidden and vile acts but has since repented, then money from *zakāt* may be given to him to help him settle his debt. This is a form of support for his repentance and to free him of his responsibilities. However, if he has not repented and is continuously engaged in the transgressions, then he is not given money from *zakāt* as it is tantamount to endorsing and encouraging his evil actions.

متن

السابع: في سبيل الله: وهم الغزاةُ المتطوعةُ الذين لا ديوان لهم

Seventh: Giving to those in the path of Allah. They are soldiers who do not have an income nor are they paid by the state.

The seventh group: "Those in the path of Allah": This refers to those who fight *jihād*. The *mujāhid* is offered *zakāt* in the form of weapons and as financial support for him and his children. It is offered to him provided that he is not receiving a salary from the state. He is not offered *zakāt* if he is in paid employment by the state as he cannot be classified as one deserving of *zakāt*.

Hence, the author says, "They are the soldiers who do not have an income nor are they paid by the state."

الثامن: ابنُ السبيلِ المسافرُ المنقَطَع به دون المُنْشِئِ للسفرِ من بلده، فيُعْطَى قَدْرَ ما يوصلُه إلى بلده، ومن كانَ ذا عيال أَخَذَ ما يكفيهم متن

Eighth: A stranded traveller who has no provisions, this does not include the traveller who just started his journey from his country. He is given an amount of money that is sufficient for him to return to his country. He is given extra if he has his family with him.

The eighth group: "A stranded traveller who has no provisions": That is, he

The Book of Zakāt

does not have enough to fend for himself because his provisions were lost, stolen or depleted. Hence he is unable to carry on with the journey nor is he able to return to his country. So this person deserves $zak\bar{a}t$; even if he is a rich man in his country. He is given provision or money from the $zak\bar{a}t$ that will suffice him until he returns to his country.

This traveller is also known as *ibn al-sabīl*. Literally meaning "son of the path." It projects an idea that he is duty-bound to embark on this journey as a child is duty-bound to his or her father.

"This does not include the traveller who just started his journey from his country": This person is not given *zakāt* as he is not in need of any help yet. Hence, he is not a deserving recipient of *zakāt*.

"He is given extra if he has his family with him": The stranded traveller who brought his family along with him on his journey shall receive a larger amount of *zakāt* so that he can provide for his dependents as well.

ويجوزُ صَرْفُها إلى صنفٍ واحد، ويُسنُّ إلى أقاربه الذين لا تَلْزَمه مَؤُنَّتُهُمْ

It is permissible to give to one particular category of people. It is a Sunnah to give to relatives as long as they are not amongst those whom he is legally required to maintain.

"It is permissible to give to one particular category of people": Among the eight groups mentioned in ayah sixty of Sūrah al-Tawbah. The author states here that it is not a must that one distributes his *zakāt* to all the eight groups of people. In fact, he may choose one group and give his *zakāt* to those in that group.

The evidence for this is the incident when the Prophet $\frac{1}{26}$ dispatched Mu'ādh to Yemen, he instructed him saying, "Inform them that Allah has made obligatory the giving of charity which is taken from the rich amongst them and given to the poor amongst them."³⁶¹ He $\frac{1}{26}$ did not mention any other groups who rightly deserve *zakāt* except the poor. Hence, this is proof that it is permissible to limit one's *zakāt* to only a particular group.

³⁶¹ Reported by al-Bukhārī (2/130, 158), (5/205-206) and Muslim (1/37) from the narration of Ibn 'Abbās.

A Commentary on Zād al-Mustaqni

"It is a Sunnah to give to relatives as long as they are not amongst those whom he is legally required to maintain": It is Sunnah on the one giving the $zak\bar{a}t$ to give it to his needy relatives as the reward for it is doubled. He is rewarded for giving the $zak\bar{a}t$ and is rewarded again for forging ties of kinship. This is provided that his relatives are not amongst his dependants. If their welfare is his duty, then he must not give $zak\bar{a}t$ to them. In fact, he must provide for them from his wealth. If he were to give them $zak\bar{a}t$, it is as if he is preserving his wealth and this is forbidden.

Those whom he is legally required to maintain are those needy relatives from whom he will inherit a portion of their estate upon their death. He cannot give $zak\bar{a}t$ to these relatives.

He has to support these relatives and provide for them from his wealth as relatives look after the welfare of their family members who cannot fend for themselves and who do not have an income. Hence he must maintain his relatives from whom he will inherit due to Islamic inheritance laws or due to communal ties. When mentioning the remuneration of the women who nurses a baby, Allah says: **{And upon the [father's] heir is [a duty] like that [of the father].}**³⁶² The inheritor of one's estate takes on the role of the father in paying the woman who nursed the child. This is in essence connected to the inheritance he shall receive if the father of the child were to die.

If he distributed his *zakāt* to any one of the eight groups of people, then it is accepted. However, giving to his needy relative whom he is not legally-bound to maintain and from whom he will not inherit is the best and most rewarding.

362 Al-Baqarah: 233



متن ولا تُدفع إلى هاشمي ومُطَّلِبِيٍّ ومَواليهما، ولا إلى فقيرة تحت غَنيٍّ مُنفقٍ، ولا إلى فرعهِ وأصلهِ، ولا إلى عبدٍ وزوج

Zakāt is not given to the Hāshemi clan, the Muttalib clan and their mawāli. It is also not given to a poor woman who is supported by a rich person or to one's descendants or elders. Nor to one's slave or [the wife paying for her] husband.

"Zakāt is not given to": These are the categories of people to whom zakāt should not be given:

<u>First</u>: "The Hāshemi clan": Those who belong to the Hāshemi clan who enjoy ties of lineage with the Prophet. He \approx said, "Verily, it is not appropriate to give charity to Muhammad and the family of Muhammad."³⁶³ He was referring to his relatives, that is, the families of 'Abbās and Abu Tālib.

Second: "The Muttalib clan": The family of Muttalib ibn Abd Manaf. The Prophet $\frac{1}{28}$ said, "Verily they have not parted from us during ignorance or in Islam."³⁶⁴ They were even included in the group that was ostracised and cut off from the rest of the community during the time of the Prophet $\frac{1}{28}$.

³⁶³ A portion of a lengthy hadīth reported by Muslim (1072), Abu Dawūd (2985), al-Nasā'ī (5/105) and Ahmad (4/166) from the narration of 'Abdul Muttalib ibn Rabī'ah ibn al-Hārith.

³⁶⁴ Reported by Ahmad (4/81), al-Nasā'ī (7/130, 131) and Abu Dawūd (2980) from the narration of Jābir ibn Mut'am.

<u>Third</u>: "And their *mawāli*": The *mawāli* (plural of *mawlah*) of the Hāshemi and Muttalib clans. They are those manumitted slaves of these two clans. The Prophet $\underline{\mathfrak{B}}$ said, "The *mawlah* of a nation belongs to that nation."³⁶⁵

Fourth: "It is also not given to a poor woman who is supported by a rich person": Since the woman is not in need of $zak\bar{a}t$, she cannot be a recipient of it. However, if she has a husband who does not provide for her, then she is given $zak\bar{a}t$ regardless if her husband is rich or poor. This is to avert harm from the woman.

<u>Fifth</u>: "Or to one's descendants": Such as his children, grandchildren and great grandchildren. This is because the welfare of his descendants is his duty. Therefore it is an obligation on him to provide for them.

Sixth: "Or elders": Such as his father and grandfathers as their welfare is an obligation upon him.

<u>Seventh</u>: "Nor to one's slave": $Zak\bar{a}t$ should not be given to one's own slave as the master is obliged to provide for his slave.

<u>Eighth</u>: "[The wife paying for her] husband": A woman must not give her $zak\bar{a}t$ to her spouse as he is duty-bound to provide for her. So, her $zak\bar{a}t$ must be returned to her.

متن

وإن أعطاها لمن ظَنَّه غيرَ أهلٍ فبان أهلاً أو بالعكس لم يُجزئُه، إلا لغني ظنَّه فقيراً

If a person gives *zakāt* to one whom he doubts to be a rightful recipient but it is later proven otherwise or vice-versa, then his *zakāt* is not valid. Except if it was given to a rich man who is thought to be poor.

"If a person gives $zak\bar{a}t$ to one whom he doubts to be a rightful recipient but it is later proven otherwise": $Zak\bar{a}t$ is invalid in this scenario as the giver of $zak\bar{a}t$ is unsure about the status of the recipient and so there is a blemish in his intention when he paid the $zak\bar{a}t$.

"Or vice-versa, then his zakāt is not valid": That is, he paid his zakāt to some-

³⁶⁵ Reported by Ahmad (4/340) from the narration of Rifā'ah ibn Rāfi. It is also reported by al-Nasā'ī (5/107) from the narration of Abī Rāfi'.

The Book of Zakāt

one whom he thought was a rightful recipient but he finds out later that he is not. The $zak\bar{a}t$ becomes invalid as a result. This is because a person's status is quite obvious and thus claiming ignorance is ruled out. Since the person who received the $zak\bar{a}t$ was undeserving of it, the giver has not given the due justice to the act of obligatory charity.

"Except if it was given to a rich man who is thought to be poor": This scenario is an exception as the financial status of a person is normally not clear to others. The Prophet $\underline{*}$ gave *zakāt* to two strong men saying, "If you desire, I shall give it to both of you though no portion should be had by the rich and those able to earn a living."³⁶⁶ He mentioned this as there are no tell-tale signs to distinguish the rightful recipient from one who is not. Poverty is imperceptible to one and all.

متن وصدقةُ التطوع مستحبةٌ، وفي رمضانَ وأوقاتِ الحاجات أفضلُ، وتُسَنُّ بالفاضلِ عن كفايتِهِ وكفاية مَن يَمُونُه، ويَأْثَمُ بِما يُنَقِّصُهَا

The voluntary charity is *mustababb*. It is more meritorious during Ramadān and times of need. It is Sunnah upon him who has more than his own basic needs and that of his dependants. It is a sin if it diminishes these basic needs.

"The voluntary charity is *mustahabb*": This refers to charity that is non-obligatory. The author shifts to the discussion of this form of charity after having elaborated upon *zakāt*. In fact, all obligatory acts have a similar optional act legislated alongside them. For example, obligatory prayers and Sunnah prayers, obligatory charity and desired charity. There are obligatory and Sunnah fasts as well as obligatory and Sunnah pilgrimages. The wisdom behind this is to perfect and to rectify flaws in the obligatory acts of worship by performing the Sunnah acts of worship of a similar nature.

Allah urges the giving of voluntary charity in many *ayat* of His Noble Book. The Prophet $\frac{1}{8}$ said, "Verily, charity extinguishes the Lord's anger and averts an evil death."³⁶⁷

³⁶⁶ Reported by Ahmad (4/224), Abu Dawūd (1633), al-Nasā'ī (5/99) and al-Dāraqutnī in his *Sunan* (2/119) from the narration of 'Abdullah ibn 'Adi ibn al-Khiyār who narrated from two men who narrated from the Prophet $\frac{1}{3}$.

³⁶⁷ Reported by al-Tirmidhī (664) and Ibn Hibbān in his Sahih (8/103) from the narration of

It can be given at any time. It is more recommended and meritorious during specific times such as:

"During Ramadān": Ibn 'Abbās 🞄 said, "The Messenger of Allah 🕱 used to be the most generous of men and he was the most generous during Ramadān when he used to meet Jibrīl."³⁶⁸

"And times of need": It is more recommended and meritorious in times of need. Allah says: **{Or feeding on a day of severe hunger.}**³⁶⁹ Charity during critical times fulfils the dire needs of the less fortunate. It goes towards feeding the hungry and clothing the nude. Ultimately, it satisfies the requirements of the needy.

"It is Sunnah upon him who has more than his own basic needs": Only he who has more than what is required for his basic needs and the basic needs of his dependants should give voluntary charity. He satisfies his needs first and the needs of his dependants. If there is a surplus afterwards, he may give it in charity. The Prophet $\frac{1}{28}$ said, "The upper hand is better than the lower hand and begin from the members of your household. The best of charity is that which is given from a surplus."³⁷⁰

"It is a sin if it diminishes these basic needs": If giving charity diminishes his ability to provide for himself and his family the basic needs and it leads to them being harmed, then it is a sin to give charity. The Prophet 🕱 said, "Ne-glecting one's own dependants is reason enough for a man to commit a sin."³⁷¹

It is *wājib* for one to provide for himself and his dependants whilst voluntary charity is only *mustahabb*. A mandatory act should be given priority over a recommended act.

Anas. This hadīth has a weak chain of narration.

³⁶⁸ Reported by al-Bukhārī (1/4), (3/33), (4/37) and Muslim (7/73), al-Nasā'ī (4/125) and Ahmad (1/288, 363, 366) from the narration of 'Abdullah ibn 'Abbas.

³⁶⁹ Al-Balad: 14

³⁷⁰ Reported by Ahmad (2/278, 402, 476, 524) from the narration of Abu Hurairah.

³⁷¹ Reported by Ahmad (2/160, 193, 194) and Abu Dawūd (1692) from the narration of 'Abdullah ibn 'Amr.



"Book of Fasting": Having explained *zakāt* in the last chapter, the author proceeds to discuss the third pillar of Islam which is fasting. To fast in the month of Ramadān is among the fundamentals of Islam.

Fasting in linguistic terms means to refrain or holding back³⁷². A person who refrains from speaking is called *sā'im* in Arabic. It means "he who is fasting". As Allah said to Maryam: {Indeed, I have vowed to the Most Merciful <u>abstention (*sawman*)</u>, so I will not speak today to [any] man.}³⁷³

Similarly, one who refrains from walking is known as *sā'im* as mentioned in the poem:

A horse is fasting while another bolts, Billowing dust. The other just chews its reins.

"A horse is fasting" means that it refrains from running.

The technical definition of fasting is: to refrain from eating or drinking and other things that can nullify the fast, with the intention, from the second dawn until dusk (sunset).³⁷⁴

There are two types of fasts:

373 Maryam: 26

³⁷² See Tahdhīb al-Lugha by al-Zuhrī (12/259).

³⁷⁴ See al-Mutla' (p. 145) and al-Dāraqutnī (1/355).

Obligatory fasts: Such as fasting in the month of Ramadān, fasting for emancipation and fasting due to a vow.

<u>Supererogatory fasts</u>: Such as fasting on Monday and Thursday of each week, three days every month, six days in the month of Shawwāl and other Sunnah fasts.

Fasting in Islam requires one to forego his desires to eat and drink, have sexual intercourse with his wife and other such desires. In this there is a form of test for the slave. Man is often overpowered by his desires and evil insinuations of the soul. When he fasts, he refrains from the things that are dearest to him and which he may be in need of. Examples would be eating and drinking and other such deeds. He foregoes these desires out of obedience to Allah. Allah says in the *hadīth al-qudsi*, "Fasting is for Me and I shall reward it. He leaves his desire, food and drink for My sake. The one who fasts experiences joy twice: joy when breaking the fast and joy when he meets his Creator. The odour of the fasting person's mouth is more fragrant to Allah than musk."³⁷⁵

The fasting person is thus distinguished. Similarly fasting itself is an act of worship far distinguished from other deeds. One of the distinguishing factors of fasting is its nature of secrecy and [the attributes of the believer that derive from this secrecy], foremost from them being the fear of Allah and the obedience to Him in subjugating one's temptations and desires.

متن

يجب صومُ رمضانَ برؤيةِ هلالهِ

Fasting in the month of Ramadān becomes obligatory at the sighting of the crescent moon.

"Fasting in the month of Ramadān becomes obligatory": This is the only obligatory fast legislated in Islam. There are no obligatory fasts except the fasts in the month of Ramadān as explained in the ayah: **{O you who believed, prescribed upon you is fasting as it was decreed upon those before you that you may become righteous.}**³⁷⁶

³⁷⁵ Reported by al-Bukhārī (3/31, 34), (9/175) and Muslim (3/157, 158) from the narration of Abu Hurairah.

³⁷⁶ Al-Baqarah: 183

The word "*kutiba*" in the above ayah means that it has been made obligatory. Allah also says: {The month of Ramadān [is that] in which was revealed the Qur'ān, a guidance for the people and clear proofs of guidance and criterion. So whoever sights [the new moon of] the month, let him fast it; and whoever is ill or on a journey - then an equal number of other days. Allah intends for you ease and does not intend for you hardship and [wants] for you to complete the period and to glorify Allah for that [to] which He has guided you; and perhaps you will be grateful.}³⁷⁷

Fasting the month of Ramadān is an obligation upon all Muslims who have reached the age of puberty and are of sound mind. It is the commandment of Allah. One without a valid excuse must fast in this month. If he has a valid reason not to fast such as illness or traveling on a journey or other such excuses, then he should make up for the missed fasts on days outside of Ramadān.

"At the sighting of the crescent moon": Fasting in Ramadān becomes obligatory when two conditions are present:

Firstly: At the sighting of the crescent moon. Allah says: **{They ask you (O Muhammad) about the new moons. Say, "They are measurements of time for the people and for Hajj."**}³⁷⁸ Allah has made the new moon appear at fixed times as a measurement for acts of worship. When to begin fasting during Ramadān is known from the new moon. If a trustworthy Muslim sights the new moon, it is obligatory on all Muslims to fast the next day. The Prophet **ﷺ** said, "Fast when it is sighted and end the fast when it is sighted."³⁷⁹ Hence, it is obligatory to fast upon sighting the crescent moon.

Secondly: Fasting during Ramadān becomes obligatory after the completion of thirty days of Shabān. The Prophet $\frac{1}{28}$ said, "If the sky is overcast, then estimate the period."³⁸⁰ That is, the sky is overcast or is affected with haze such that sighting the new moon is impossible. In this scenario, the Muslims should wait until thirty days of the month of Shabān have passed and then begin fasting. In another hadīth it is mentioned, "If the sky is overcast, then take Shabān

³⁷⁷ Al-Baqarah: 185

³⁷⁸ Al-Baqarah: 189

³⁷⁹ Reported by al-Bukhārī (3/34-35) and Muslim (3/124) from the narration of Abu Hurai-rah.

³⁸⁰ Reported by al-Bukhārī (3/33, 34) and Muslim (3/122) from the narration of Ibn 'Umar.

A Commentary on Zād al-Mustaqni

as thirty days."381

It is not permissible to calculate the beginning of fasting by depending upon astronomical calculations. This is not prescribed by Allah and was not legislated by the Prophet . He linked the start of fasting with the sighting of the new moon saying, "Fast when it is sighted and end the fast when it is sighted."

Hence, fasting commences when two conditions are present: When the new moon is sighted and when thirty days of Shabān have passed, in accordance to the narrations mentioned above.

Astronomical calculations are not permissible with regards to fasting as it is a human invention which may err sometimes and be accurate at other times. None can be correct at all times. The Prophet $\frac{1}{26}$ did not command us to depend on it to determine the beginning of fasting in the month of Ramadān. Instead, he ordered us to sight the crescent moon. The method of sighting is by direct eyesight or by using telescopes and other such equipment. Using these tools does not transform the nature of the method to something other than sighting. They are simply means to aid the sighting. Using telescopes to sight the new moon is not a controversial issue. However, it is not mandatory to use it.

فإنْ لم يُرَ مع صَحْوِ ليلةِ الثلاثين أصبحوا مُفطرين، وإن حال دونه غيمٌ أو قَتَرٌ فظاهرُ من المذهب يجبُ صومُه، وإن رُؤي نهاراً فهو لِلَيلةِ المقبلةِ

If the new moon is not sighted on the thirtieth night, though the sky is clear, then they should not fast the next day. If clouds or haze block the sighting, then the *madhab* is explicit that fasting is $w\bar{a}jib$. If the new moon is seen during the day, then it is counted as the sighting for the night that follows.

"If the new moon is not sighted on the thirtieth night, though the sky is clear, then they should not fast the next day": It was discussed that fasting is made $w\bar{a}jib$ by the sighting of the new moon. There is no dispute among the scholars regarding this issue. If the new moon is not sighted on thirtieth night of Shabān when the sky is clear and there is nothing that impedes the sighting of the new moon, then there is no dispute again that the Muslims should not fast

³⁸¹ Reported by al-Bukhārī (3/34-35) and Muslim (3/124) from the narration of Abu Hurai-rah.

the following day (being the thirtieth day of Shabān). The fact that the new moon was not sighted the night before is evidence for not fasting.

"If clouds or haze block the sighting": If the new moon is not sighted on the thirtieth of Shabān due to cloudy skies or haze, then there is a difference in opinion among the scholars regarding the course of action for the following day. The day is known as Yawm al-Shak or the "doubted day" for it could be the last day of Shabān or the first day of Ramadān. It is assumed that the moon had appeared the night before but was blocked by unfavourable weather conditions.

Most scholars opine that people should not fast the next day³⁸² based on the hadīth of the Prophet $\frac{1}{36}$: "Fast when it is sighted and end the fast when it is sighted. If the sky is overcast, then estimate the period." And in another narration, "If the sky is overcast, then take Shabān as thirty days." The word "estimate" in the earlier hadīth is understood as a directive to not fast on the thirtieth day of Shabān as the new moon was not sighted the previous night. Hence, fasting on the doubted day is forbidden with an intention to do so as an obligatory fast of Ramadān. The Prophet $\frac{1}{36}$ said, "Do not hasten Ramadān by fasting a day or two before it."³⁸³ 'Ammār $\frac{1}{66}$ said, "He who fasts on the doubted day has indeed disobeyed Abu Qāsim (i.e. Muhammad) $\frac{1}{26}$."³⁸⁴

"The *madhab* is explicit that fasting is $w\bar{a}jib$ ": A group of the people of knowledge are of the view that it is $w\bar{a}jib$ to fast on the day of doubt which falls on the thirtieth of Shabān. Their reasoning behind this is because as the sky was unclear, there was an impediment to its sighting. Therefore Muslims should fast. This is the explicit view of the *madhab* of Imām Ahmad, which is concurred upon by a group from the people of knowledge.³⁸⁵ However, the preferred view is that it is forbidden to fast on the day of doubt.

The sighting of the moon is only done in the absence of the sun i.e. during the night.

385 See al-Ikhtiyārāt al-Fiqhiyyah (p. 159).

³⁸² See al-Mughni (4/330).

³⁸³ Reported by al-Bukhārī (3/35-36) and Muslim (3/125) from the narration of Abu Hurai-rah.

³⁸⁴ Reported by Abu Dawūd (2334), al-Tirmidhī (686), al-Nasā'ī (4/153) and Ibn Mājah (1645).

A Commentary on Zād al-Mustaqni

"If the new moon is seen during the day": That is, after the sun has passed its zenith, then it is counted as the sighting of the moon for the following day. However, if it is sighted during the daytime but before the sun reaches its zenith, then the new moon is considered as that of the night before.

If the residents of a country sight it, then it is binding upon the rest of the people to fast. They fast if it is sighted by a just person; even if it is a female. If they began fasting based on one person's sighting and do not see the new crescent moon after thirty days, or they had begun fasting when the sky was overcast, then they should not break their fast. A person should fast if he sighted the new moon of Ramadān by himself and his sighting was rejected or if he sights the new moon of Shawwāl.

"If the residents of a country sight it, then it is binding upon the rest of the people to fast. They fast if it is sighted by a just person": It is not a pre-requisite that all the people must sight the new moon in order for fasting to become obligatory the next day. It is sufficient for one Muslim who is just to sight it. His or her sighting makes it binding upon the rest of the Muslims to fast the next day. Ibn 'Umar \Rightarrow informed the Prophet \equiv that he had sighted the moon. The Prophet \equiv ordered all Muslims to fast relying on this information that arrived from a lone individual.³⁸⁶

"Even if it is a female": A Muslim female's sighting is also accepted as the Prophet $\frac{1}{8}$ said, "Fast when it is sighted and end the fast when it is sighted."³⁸⁷ The Prophet $\frac{1}{8}$ did not mention a minimum number of people for the moon sighting to be accepted. He had ordered the Muslims to fast relying upon the sighting of just one person, Ibn 'Umar, as in the above hadīth.

"If they began fasting based on one person's sighting and do not see the new crescent moon after thirty days": In this situation the people should err on the

³⁸⁶ Reported by Abu Dawūd (2342), Ibn Hibbān (3447), al-Dāraqutnī (2/156), al-Hākim (1/423) and al-Bayhaqī (4/212).

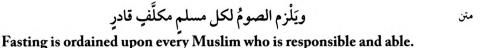
³⁸⁷ Reported by al-Bukhārī (3/34-35) and Muslim (3/124) from the narration of Abu Hurai-rah.

side of caution and continue the fast for it is an act of worship. This is because one person's sighting cannot be definite when it comes to beginning or ending the fasting month. Perhaps its sighting was misconstrued by the person. This is in contrast to if two or more people sight the new moon. A joint sighting is guaranteed and can be relied upon.

"Or they had begun fasting when the sky was overcast, then they should not break their fast": That is, they began fasting on the day of doubt based on the previously mentioned position in the Hanbalī *madhab*. If they do not sight the new moon even after fasting for thirty days, then they should not end their fast. They must assume that they had fasted a day prior to the beginning of Ramadān.

"A person should fast if he sighted the new moon of Ramadān by himself and his sighting was rejected": I.e. rejected by the Muslim authority or judge who consider this person's character or testimony not reliable enough to base such a decision upon. Hence they do not depend on his sighting of the new moon. Nevertheless, he should fast even if the people are ordered not to fast. He should do so as he had sighted the moon.

However, the correct opinion is that it is not binding upon him to fast as he is a member of the Muslim community.³⁸⁸ He need not fast by himself as his sighting was not accepted by them. The Prophet $\frac{1}{28}$ has said, "Your fast is along with their fast."³⁸⁹ And, "Fasting is on the day when all the people fast and al-Fitr is the day when all people end their fast."³⁹⁰



"Fasting is ordained": The following are the conditions that make fasting obligatory:

First condition: "Upon every Muslim": The first pre-requisite is Islam. Fast-

³⁸⁸ The preferred view of Shaykh al-Islam ibn Taymiyyah. See al-Insāf (3/277).

³⁸⁹ Reported by 'Abdul Razzāq (7304), al-Dāraqutnī (2/164) and al-Bayhaqī (4/252) from the narration of Abu Hurairah.

³⁹⁰ Reported by al-Tirmidhi (697) from the narration of Abu Hurairah.

ing like all other acts of worship is accepted only with the condition of being a Muslim. Even if a disbeliever fasted from dawn and then embraced Islam later in the day, his fast is invalid for that day as part of it was performed without this pre-requisite. Acts of worship performed by non-Muslims are not valid as Allah says: **{And We will regard what they have done of deeds and make them as dust dispersed.}**³⁹¹

Second condition: "Responsible": The second pre-requisite is that the person should have attained puberty and be of sound mind. It is not obligatory for a pre-pubescent child to fast as he is excused as we see from the words of the Prophet \mathfrak{B} , "The pen has been lifted from three..."³⁹² And of the three mentioned is, "A child until he reaches maturity." The pen mentioned in the hadīth is metaphorical and refers to obligation.

Similarly, it is not obligatory for one who has attained puberty but is not of sound mind to fast, such as the insane or the severely intellectually challenged person as long as he is in this condition. In fact, all other acts of worship are not obligatory for him as the Prophet $\frac{1}{28}$ has said, "The insane until he becomes sane."³⁹³

Third condition: "Able": The third pre-requisite is that the mature Muslim must also be able to fast. Those unable to fast, like the sick are exempted from the obligation. They are actually exempt from fasting in the month of Ramadān if they are terminally ill. However, if there is hope of recovery, then they should make up for the missed fasts on other days. Those terminally ill and the elderly need only feed a poor person for every fast that was missed. They need not make up the fast. Allah says: **{And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day].}**³⁹⁴

وإذا قامتْ البينةُ في أثناء النهار وجبَ الإمساكُ والقضاءُ على كل من صار في أثنائه أهلاً لوجوبه، وكذا حائضٌ ونفساءُ طَهُرَنَا ومسافرٌ قَـدِم مُفطراً متن

³⁹¹ Al-Furqān: 23

³⁹² Reported by Ahmad (1/140, 158), Abu Dawūd (4399-4402), al-Tirmidhī (1423) and Ibn Mājah (2042) from the narration of 'Alī.

³⁹³ Ibid.

³⁹⁴ Al-Baqarah: 184

If the obligation to fast is made apparent in the middle of the day, all who are obliged to fast should begin to do so and then make up this fast on another day. It also applies to women who are just now free from menses or post-natal bleeding and the traveller who returns to his city when he is not fasting.

"If the obligation to fast is made apparent in the middle of the day, all who are obliged to fast should begin to do so and then make up this fast on another day": If news of the moon's sighting is delayed until after sunrise and the people only find out during the middle of the day, then they should fast the rest of the day. This fast should be made up on another day as an obligatory fast that was missed. Even though their fast is not complete, they are instructed to fast the remaining part of the day in deference to the day time of Ramadān.

"It also applies to women who are just now free from menses or post-natal bleeding and the traveller who returns to his city when he is not fasting": These people who had valid reasons to miss their fasts should begin their fast during the remaining part of the day when their excuse expires. A menstruating woman should start fasting as soon as she is free of her menses, even if it is in the middle of the day. Similarly, a person who was ill should start fasting once he has recovered even if he had not been fasting from dawn. A traveller who returns back to his city is not considered as a person upon a journey any longer. Hence his excuse to not fast has expired. In this instance, he should fast the remaining part of the day in deference to the prohibitions that are in place during the daytime of Ramadān. These people should make up for the missed fast on another day for their fasting was incomplete.

ومـن أفطـر لِكِبَرٍ أو مــرض لا يُرجى بُرْؤُه أَطْعم لكلِ يوم مسكيناً

متن

He who does not fast due to old age or an illness from which recovery is not foreseen should feed a poor person for each day that he missed his fast.

We have seen thus far that fasting becomes an obligation on the first day of Ramadān upon all mature Muslims who are able to do so. There are two categories of people who are unable to fast:

<u>First</u>: Those unable to fast presently but may regain capability in the future. They may miss their fasts but must make up for it on other days. Allah says: **(So whoever among you is ill or on a journey [during them] - then an equal number of days [are to be made up].}**³⁹⁵ It is permissible for the traveller and those afflicted with an illness to miss their fasts in Ramadān. However, they should make up for it on other days.

Second: "He who does not fast due to old age or an illness from which recovery is not foreseen should feed a poor person for each day that he missed his fast": That is, those unable to fast presently or in the future as there is no hope of physical recovery like the aged and the terminally ill. They need only pay the *fidyah* in replacement of the missed fasts and not repeat them as the first category do. *Fidyah* is paid by feeding a poor person half a *sa*' of food for each day that a fast was missed. This is equivalent to one and a half kilograms. Allah says: **{And upon those who are able [to fast but with hardship] - a ransom [as substitute] of feeding a poor person [each day].}**³⁹⁶ That is, they are unable to fast due to their old age or illness without hope of a cure. Hence, they feed a poor person for each fast that they missed.

He may choose to feed the poor person for the days that he missed his fast or combine the days and feed the poor at one time. He may decide to break it up into a few days as per his convenience. He may also choose to feed one poor person or a group of them. Praise be to Allah, the injunction to perform the *fidyah* is quite flexible.

It is Sunnah to refrain from fasting for an ill person if he is harmed by it and for a traveller who is permitted to shorten his prayer. A person who made the intention to fast while he was in his city and then travelled later in the day, he may break his fast.

"It is Sunnah to refrain from fasting for an ill person if he is harmed by it": As commanded by Allah: **{And has not placed upon you in the religion any difficulty.}**³⁹⁷

³⁹⁵ Al-Baqarah: 184 396 Al-Baqarah: 184

³⁹⁷ Al-Hajj: 78

"And for a traveller who is permitted to shorten his prayer": Similarly, a traveller who has travelled a distance which allows him to shorten the prayers that consist of four *rakāt*, it is *mustahabb* for him to break his fast. It is better that he does not fast during his journey. Evidence for this is the above-mentioned ayah of the Qur'ān and the instruction of the Prophet \gtrsim who said, "Verily Allah loves that His concessions are utilised as much as He hates the violation of His prohibitions."³⁹⁸

Having said this, if an ill person or a traveller decides to fast, it is valid. This is according to the majority of the scholars.³⁹⁹ However, it is better that he breaks his fast for the Prophet ﷺ has said, "It is not from piety that one fasts during the journey."⁴⁰⁰

"A person who made the intention to fast while he was in his city and then travelled later in the day, he may break his fast": If he intended to fast while he was in the city of his residence and then fasted from dawn only to travel later in the day, then he is allowed to break his fast. This is because he has achieved the concession of the traveller about whom Allah says: {And whoever is ill or on a journey, then an equal number of other days.}⁴⁰¹ It is better if he completes the fast despite his journey. If he does break his fast, he should do so only after leaving his land as he cannot be considered a traveller while being at close proximity to his land.

If a pregnant woman or a nursing mother fears for her own safety, then she has to only make up for the fast that she missed. If she fears for the safety of her child, then she must make up for the fasts and feed the poor for each fast that she missed."

"If a pregnant woman or a nursing mother fears for her own safety, then she

³⁹⁸ Reported by Ahmad (2/108), Ibn Hibbān in his *Sahīh* (2742) from the narration of 'Abdullah ibn 'Umar.

³⁹⁹ See al-Mughnī (4/347).

⁴⁰⁰ Reported by al-Bukhārī (3/44) and Muslim (3/142) from the narration of Jābir ibn 'Abdullah.

⁴⁰¹ Al-Baqarah: 185

A Commentary on Zād al-Mustaqni

has to only make up for the fast that she missed": Both of these women may refrain from fasting as they come under the concession mentioned in the verse: **{And upon those who are able [to fast but with hardship] - a ransom [as substitute] of feeding a poor person [each day].}**⁴⁰² If they fear that fasting is detrimental to their own health, they need only make up for the missed fasts. There is no dispute among the scholars on this issue.

"If she fears for the safety of her child, then she must make up for the fasts and feed the poor for each fast that she missed": In this case, in addition to making up for the missed fasts, the women must also pay the *fidyah*. Hence, a pregnant woman and a nursing mother need not give *fidyah* if they fear for their own safety in the event that they fast. On the other hand, they must make up for the missed fasts and feed the poor for every fast that they missed if the reason was that they feared that only the child's health would be at peril if they observed the fasts.

In summary, the following people may break their fast during Ramadan:

First: An ill person whose is expected to recover soon but finds it difficult to fast due to his illness.

Second: The traveller who travels a distance that permits him to shorten the prayers.

Third: The pregnant woman who fears that fasting is detrimental to her own health or the health of the foetus.

Fourth: The nursing mother who fears that fasting is detrimental to her own health or the health of her infant.

Fifth: A person who is terminally ill.

Sixth: The aged who is not senile yet is unable to fast.

All of these categories of people must make up for the fasts that they miss except those who are terminally ill and the aged. They need only give the *fidyah*

⁴⁰² Al-Baqarah: 184

as a replacement for the fasts.

If a person had intended to fast but lost his sanity or fell unconscious throughout the day without regaining consciousness even for a brief moment, then his fast becomes invalid. However the fast of one who sleeps throughout the day is valid. He who fell unconscious need only make up his fast.

"If a person had intended to fast but lost his sanity or fell unconscious throughout the day": That is, he began fasting from dawn but later fell unconscious throughout the day or he lost his sanity until dusk, then his fast is nullified. This is because he had lost his mind and losing one's mind sets one free of any obligation. The Prophet $\frac{1}{25}$ said, "The pen has been lifted from three." And he mentioned among them, "The lunatic until he becomes sane."⁴⁰³

"Without regaining consciousness even for a brief moment": However, if he was to regain consciousness during the course of day and had regained sanity even for a short period of time, then his fast becomes valid. This is because the brief moment that he gained consciousness or regained his sanity is sufficient to validate his intention to fast. He who does not regain consciousness throughout the day or remains without sanity until sunset, his fasting is invalid since he has lost his intention to fast.

"However the fast of one who sleeps throughout the day is valid": Sleeping throughout the day does not nullify fasting as sleep does not affect one's sanity or his capacity to think rationally. Sleep is less potent than the loss of consciousness or sanity.

"He who fell unconscious need only make up his fast": There is no expiation for missing his fast as he did not nullify his fast on purpose.

⁴⁰³ Reported by Ahmad (6/100, 101, 144), Abu Dawūd (4398) and al-Nasā'ī (6/156) from the narration of 'Aishah.

النهار قبل الزوال وبعدَه

It is *wājib* to specify the intention to fast the night before fasting each day of the obligatory fast. However it is not required to specify that an obligatory fast will be fasted. Intention for supererogatory fasts can be made in the day before the sun sets from its zenith and thereafter.

"It is wajib to specify the intention to fast the night before fasting each day of the obligatory fast. However it is not required to specify that an obligatory fast will be fasted": Having an intention to fast is among the conditions that validate fasting during the day. The Prophet $\frac{1}{26}$ said, "Verily actions are by intentions and verily for a person is what he intended." If a person abstained from food and drink and other things prohibited during fasting throughout the day without an intention to fast, then it is not regarded as a fast. He is not rewarded for his abstention due to an absence of intention.

There are two situations pertaining to fasting:

The first situation: If the fast is an obligatory one like the fasts of Ramadān, the fasts of vows and the fasts of expiation, then the time period within which the intention to fast must be made commences at the beginning of the preceding night and ends at the arrival of dawn. This is to ensure that the whole day is included in the intention to fast and no part of the day is excluded. The Prophet $\frac{4}{5}$ said, "There is no fast for him who did not make an intention the night before."⁴⁰⁴

<u>The second situation</u>: "Intention for supererogatory fasts can be made in the day before the sun sets from its zenith and thereafter": If one wants to fast a voluntary fast, then his making of the intention during the day does not nullify the fast. If he does not eat or drink during the day and has not made his intention except during the day, then his voluntary fast is valid. The evidence for this is the incident where the Prophet $\frac{1}{28}$ entered his house and asked, "Is there any food?" And they answered that there was no food. So he $\frac{1}{28}$ said, "Verily I am fasting then."⁴⁰⁵ The permissibility of making the intention to fast the voluntary fasts during the day is illustrated in this hadīth as the Prophet $\frac{1}{28}$

⁴⁰⁴ Reported by Ahmad (6/287), Abu Dawūd (2454), al-Tirmidhī (730) and al-Nasā'ī (4/196) from the narration of Hafsah.

⁴⁰⁵ Reported by Muslim (3/159), Ahmad (6/49, 207) from the narration of 'Aishah.

did so during the daytime. *Nafl* (voluntary) acts of worship are more flexible than the obligatory ones.

ولو نوى: إن كان غداً من رمضان فهو فَرْضي لم يُجزئه، ومن نوى الإفطارَ أَفْطر

متن

If a person makes an intention to fast if the following day may be the first of Ramadān, which is an obligatory fast, then it is invalid. He who makes an intention to break his fast, has indeed broken his fast.

"If a person makes an intention to fast if the following day may be the first of Ramadān, which is an obligatory fast, then it is invalid": He tells himself that he will fast if the following day is the first day of Ramadān and if it is not, then he will regard it as a *nafl* fast. This intention will render his fast invalid if the following day is indeed Ramadān. This is because there is ambiguity when making the intention which is not permissible as is the case for adding a conditional clause.

"He who makes an intention to break his fast, has indeed broken his fast": For example, a person is performing an obligatory fast such as the fasting within Ramadān or other similar fasts, e.g. making up for the missed fasts of Ramadān, fasts of vow and fasts of expiation. Later in the day, he makes an intention to discontinue his fast. With this intention, he has effectively nullified his fast, even if he goes on to abstain from food and drink and all other things that invalidate the fast until dusk. This is due to the severing of his intention. Obligatory fasts are only valid when the *niyyab* (intention) is continuously maintained. Hence a person's fasting is nullified by him merely having an intention to break the fast.

Voluntary fasts however are not nullified by an intention to break the fast alone. These fasts can only be invalidated by eating or drinking or the other things that invalidate a fast. This is because voluntary acts of worship are more flexible. Furthermore, a voluntary fast is valid even when the intention to fast is made during the daytime as we discussed earlier. If his intention to fast is disrupted and restored once again, his voluntary fast remains valid.

باب ما يفسد الصوم ويوجب الكفارة CHAPTER: THINGS THAT NULLIFY A FAST AND WHICH MAKE EXPLATION WĀJIB

من أكل أو شرب، أو اسْتَعَطَ، أو احْتَقَنَ أو اكْتَحَلَّ بها يصل إلى حَلْقه، أو أَدْخل إلى من جوفه شيئاً من أي موضع كان غير إِحْليله

He who eats, drinks, snuffs, has an injection, uses *kohl* which reaches his throat or inserts objects into his body via any of the bodily openings except the urethra.

"Chapter: Things that nullify a fast and which make explation *wājib*": There are nullifiers of fasts which can be divided into two categories:

First: That which nullifies the fast but no expiation is necessary.

Second: That which nullifies the fast but expiation is necessary. This category will be discussed at a later point *inshallah*.

We will first discuss regarding that which nullifies the fast but does not require expiation:

"He who eats, drinks, snuffs, has an injection, uses *kohl* which reaches his throat or inserts objects into his body via any of the bodily openings except the urethra."

This category can be further sub-divided into: (i) Things which enter the body, (ii) things which exit the body.

Things which enter the internal body:

"He who eats, drinks": When one eats and drinks deliberately, his fast is nullified as mentioned by Allah in the ayah: {And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night]. Then complete the fast until the sunset.}⁴⁰⁶

Fasting is from dawn to dusk and one who is fasting should abstain from eating and drinking. If he does eat and drink deliberately, his fast is nullified. However, if he eats or drinks forgetting that he is fasting, then his fast is still valid. The Prophet $\frac{1}{28}$ said, "Let he who forgets [that he is fasting] and eats or drinks continue to fast for indeed it is Allah who has given him food and drink."⁴⁰⁷ Similarly, if a person is forced to eat or drink, then his fast is still valid. This is because an act that is forced upon a person is not attributed to him as he had no say in consuming the food and drink. It was coerced upon him. Thus, the fast is valid.

"Snuffs": This is akin to eating and drinking. All that enters one's internal body falls under this category. Foreign objects inserted via body openings which lead to the internal body like the nose and mouth nullify the fast. Things that reach a person's throat or the stomach also nullify the fast. This is the case if the individual does so deliberately and fully conscious that he is fasting. This is because it is tantamount to eating and drinking.

Similarly, hypodermic needles that pump nutrients into the vein are substitutes for food and drink to the body. If he is administered these nutrients when he is fasting, has not forgotten it and has it in his mind and was not coerced into being administered it, then his fast becomes invalid. This is because the nutrients act as a food source.

"Has an injection": Some scholars state that when a person is injected medicine intravenously, it enters the blood stream thereby reaching the internal bodily system. Injections administered to the intramuscular and subcutaneous regions do not nullify fasting as they do not reach the internal bodily system. However, avoiding them until night is best.

406 Al-Baqarah: 187

⁴⁰⁷ Reported by al-Bukhārī (3/40) and Muslim (3/160) from the narration of Abu Hurairah.

"Has an injection, uses *kohl* which reaches his throat or inserts objects into his body via any of the bodily openings": Using *kohl* or eye drops and nose drops may lead the contents to enter the trachea. This happens often as the taste is noted in the throat. If a fasting person does so deliberately and it reaches the throat which is confirmed if he tastes it, then his fast is nullified. However, if he does so forgetfully or is coerced to do so, then it does not affect the validity of his fast.

"Except the urethra": This is known as *al-ihlīl* in Arabic. Introducing a foreign object into the urinary tract does not nullify the fast as medicine administered into it does not lead to the internal bodily system.

If a person vomits, masturbates, ejaculates pre-seminal fluid or sperm after sexual intercourse, keeps looking at something which causes sperm to flow out, does cupping or has cupping done on him until blood is seen, then the fast is nullified if these things are done deliberately and while fully aware that he is fasting. It is not nullified if he does these things forgetting that he is fasting or if he is coerced into doing them.

The second sub-category:

Things which exit the body:

"If a person vomits": Things that are discharged from the body, for example vomit. If one does so voluntarily, then his fast is nullified. Involuntary vomiting however does not nullify a fast.

"Masturbates, ejaculates pre-seminal fluid or sperm after sexual intercourse and keeps looking at something which causes sperm to flow out": Other kinds of discharge that nullify a fast are ejaculation due to sexual intercourse, heavy fondling or masturbation, which is known as the hidden sin. A fast nullified by ejaculation during sexual intercourse also requires the person to give expiation for the deed. This will be discussed shortly.

"Does cupping or has cupping done on him until blood is seen": Another

means of one's fast being nullified is by performing cupping (*hijāmah*). Blood is extracted from the body by cups that have a vacuum. *Hijāmah* is popular with the Arabs and has been cited in prophetic medicine. If blood-letting occurs via cupping, venesection or a newly-invented method that creates a suction in an emergency or as blood donation, then fasting becomes nullified.

When the Prophet $\frac{1}{28}$ saw a man who was having cupping performed on him while he was fasting, he said, "The one performing the cupping and the one on whom cupping is performed have nullified their fasts."⁴⁰⁸ This hadīth proves that *hijāmah* nullifies fasting. Any procedure that is similar to cupping such as the suction of blood that occurs during blood donation or dialysis will nullify a fast. Drawing small amounts of blood, a blood test for example, does not nullify the fast as it is not like cupping which involves copious amounts of blood. The fast is not nullified if a person undergoes a molar tooth extraction while he is fasting and bleeding occurs as a result of it. This is because the bleeding was not deliberate and it is not considered the same as cupping.

Why did the Prophet say, "The one performing the cupping and the one on whom cupping is performed have nullified their fasts?" The one on whom cupping is performed has his fast nullified because of the bleeding of his body that was caused by the suction. As for the one who performed the cupping, his fast is nullified because he had extracted blood which would have otherwise provided strength to the body.

"Then the fast is nullified if these things are done deliberately and while fully aware that he is fasting. It is not nullified if he does these things forgetting that he is fasting or if he is coerced into doing them": If one does things like eating, drinking, introducing a foreign object into the internal body or had cupping performed on him while he was fully aware that he was fasting, then his fast is nullified. This is because his actions were deliberate and he did not have a valid excuse for doing so. If however he does these things whilst being unaware that he is fasting, then his fast is valid as the Prophet $\frac{1}{8}$ said, "Let he who forgets [that he is fasting] and eats or drinks continue to fast for indeed it is Allah who has given him food and drink." Allah says in the Qur'ān: **{And there is no blame upon you for that in which you have erred but [only for] what your**

⁴⁰⁸ Reported by Ahmad (4/123, 124), Abu Dawūd (2368, 2369) from the narration of Shadād ibn Aws.

hearts intended.}⁴⁰⁹ He also says: {Our Lord! Do not impose blame upon us if we have forgotten or erred.}⁴¹⁰ The Prophet ﷺ said, "My nation is forgiven for their mistakes, forgetfulness and that which is coerced upon them."⁴¹¹

أو طار إلى حَلْقِه ذبابٌ أو غُبارٌ، أو فَكَّر فأنزلَ أو احْتلم أو أصبح في فيه طعامٌ فَلَفَظَهُ، مَن أو اغتسل، أو تَمَضْمَضَ أو اسْتَنْثَر أو زاد على الثلاث، أو بالغَ فدخل الماءُ في حَلْقِه لم يَفْسُدُ صومُه، ومن أكل شاكًاً في طلوع الفجر صحَّ صومُه، لا إن أكل شاكًاً في غروب الشمس، أو مُعتقِداً أنه ليلٌ فَبَانَ نهاراً

If a fly or dust enters his throat, if he imagines something and seminal fluid flows as a result or he has a wet dream, if he wakes and food happens to be in his mouth and he spits it out, he takes a bath or gargles his mouth, draws water into the nose and does it more than three times or exaggerates while doing so such that water enters his throat, then his fasting is not nullified. The fast of one who ate while unsure of the arrival of dawn, is valid. However, if he ate while being unsure if the sun has set or he is convinced that it is night and later realises that it is daytime, then his fast is nullified.

We have discussed things that nullify a fast, such as eating, drinking, masturbation, cupping and other such matters that enter the internal body or which the body discharges. The author now mentions things that do not nullify the fast due to their inevitability i.e. due to the person's inability to prevent them.

Among the things mentioned is smoke or dust entering the throat. When a person passes by an open fire and the smoke enters his throat, his fast is not affected by it. This is because it was involuntary.

"If a fly or dust enters his throat": These do not nullify the fast.

"If he imagines something and seminal fluid flows as a result": That is, he imagines sexual encounters or fantasises about women, which causes seminal fluid to flow. This does not nullify the fast as it was involuntary. Thoughts and fantasies occur suddenly and they are inevitable.

⁴⁰⁹ Al-Ahzāb: 5

⁴¹⁰ Al-Baqarah: 286

⁴¹¹ Reported by Ibn Hibbān (7219), al-Dāraqutnī (4/170-171), al-Bayhaqī (7/356) and al-Hākim (2/198) from the narration of 'Abdullah ibn 'Abbās.

"Or he has a wet dream": When seminal fluid flows while he is asleep, his fast is not nullified. This is because a wet dream is involuntary. He must however perform the ritual bath to cleanse himself of *janābah* (the state of greater impurity).

"If he wakes and food happens to be in his mouth and he spits it out": This will not nullify his fast as the mouth is still considered a part of the external bodily system. If he swallows the food deliberately however, his fast is nullified.

"He takes a bath or gargles his mouth, draws water into the nose and does it more than three times or exaggerates while doing so such that water enters his throat, then his fasting is not nullified": If water enters the throat in a manner which is not done deliberately, then his fast is not affected. Examples would be bathing, gargling the mouth, drawing water into the nose and expelling it. This is because there was no deliberate intention to consume water. If he had this intention while doing these acts that cause water to reach the throat, then he is adjudged to have drunk water and his fast is nullified. For this reason, the Prophet \mathbb{Z} said, "And exert when drawing water into the nose and expelling it unless you are fasting."⁴¹² He \mathbb{Z} forbade the fasting person from exerting the drawing of water into the nose due to the chance of it going into the throat.

"The fast of one who ate while unsure of the arrival of dawn": And he was not informed by anyone that he had actually eaten after dawn. In this case, his fast is valid as the default consideration is the prevalence of night until proven otherwise.

"However, if he ate while being unsure if the sun has set": And he was not informed by anyone that the sun had set. In this case, the fast is nullified as the default consideration is the prevalence of day until proven otherwise.

"Or he is convinced that it is night and later realises that it is daytime, then his fast is nullified": That is, the individual ate since he was sure that night time had arrived but it dawns upon him later that it was in fact still daytime. His fast is nullified in this case. However, if he is not informed by anyone that it is daytime, then the default consideration is the prevalence of night as we have discussed above.

⁴¹² Reported by Ahmad (4/32, 33, 211), Abu Dawūd (142), al-Tirmidhī (788) and al-Nasā'ī (1/66) from the narration of Laqīdh ibn Sabrah.



متن

ومن جامَعَ في نهار رمضانَ في قُبُلٍ أو دُبُرٍ فعليه القضاءُ والكفَّارةُ ومن جامَعَ في نهار رمضانَ في قُبُلٍ أو دُبُرٍ فعليه القضاءُ والكفَّارةُ ومن Auring ومن ما ي

He who has vaginal or anal sex during the day in the month of Ramadān will have to make up the fast for that day and carry out expiation.

Now we will discuss the second category of the nullifiers of fasting, acts for which expiation is necessary:

"Section": We mentioned that there are two categories of nullifiers of the fast: (i) Nullifiers that require the person to only make up the fast. (ii) Nullifiers that require the person to make up the fast and also carry out explain for it. This nullifier is to have sex during the day in the month of Ramadān.

"He who has vaginal or anal sex during the day in the month of Ramadān will have to make up the fast for that day and carry out expiation": If a person had sex during the day in the month of Ramadān while he was fasting, then he must make repentance to Allah for this sin as he has desecrated the sanctity of the fast and transgressed the bounds of Allah. It is wajib for him to make up the fast as it was nullified by sexual intercourse. It is also wajib for him to offer a heavy expiation. He must manumit a Muslim slave. If there are no slaves available, then he must fast consecutively for two months. If he is unable to do so, then he must feed sixty poor people.

A man came to the Prophet 🕱 and said, "O Messenger of Allah, I am destroyed, I am destroyed." He asked, "And what has destroyed you?" The man re-

plied, "I had sex with my wife during the day in Ramadān while I was fasting." The Prophet said to him, "Can you afford to manumit a slave?" He replied, "No." The Prophet asked again, "Are you able to fast consecutively for two months?" He replied, "No." The Prophet then asked, "Can you afford to feed sixty poor people?" He replied, "No." So the Prophet told him to sit down and he sat. A basket of dates was received by the Prophet at this time. The Prophet said to the man, "Take this and give it as charity."⁴¹³

This is evidence to prove that offering explation is $w\bar{a}jib$ upon the person who has intercourse during the day in the month of Ramadān. This explation is similar to that which is exacted for committing "zihār" (likening a wife to one's mother⁴¹⁴) which is mentioned by Allah thus: {And those who pronounce zihār from their wives and then [wish to] go back on what they said - then [there must be] the freeing of a slave before they touch one another. That is what you are admonished thereby; and Allah is Acquainted with what you do. And he who does not find [a slave] - then a fast for two months consecutively before they touch one another; and he who is unable - then the feeding of sixty poor persons.}⁴¹⁵

If he engaged in copulation with his wife without penetration or a woman is forced to have intercourse or if he had intended to fast whilst travelling on a journey and broke his fast with intercourse, then expiation is not required.

415 Al-Mujādilah: 3-4

⁴¹³ Reported by al-Bukhārī (3/41, 42, 210) and Muslim (3/138, 139) from the narration of Abu Hurairah.

⁴¹⁴ Editor's note: Ibn Taymiyyah said regarding this matter in his Majmü' (34/5) "If what he meant was you are to me like my mother or my sister in terms of honour (or respect, family ties or without any particular intention behind the statement), then he does not have to do anything, but if what he meant was likening her to his mother or sister in terms of marriage, then this is *zihār* and he has to do the same as the one who divorces his wife by *zihār*." Furthermore he states (34/6), "If he meant when he said, 'You are like my mother to me' was that he would refrain from physical relations with her which are forbidden in the case of the mother, then this is *zihār* and he is obliged to do what the man who divorces his wife by *zihār* is obliged to do. It is not permissible for him to have intercourse with her until he has offered the explation for *zihār*, namely freeing a slave. If that is not possible then he must fast for two consecutive months. If he cannot do that then he must feed sixty poor persons."

This an elaboration of the types of sex that do not require expiation when performed during the day in the month of Ramadān.

First: "If he engaged in copulation with his wife without penetration": Heavy fondling and sexual foreplay which causes ejaculation are examples of this form of sex. A fasting person need only make up for the fast for the day and no expiation is necessary. This is because he had not engaged in sex per se. Expiation is only *wājib* when penetration occurs.

Second: "Or a woman is forced to have intercourse": In this case, she does not have to offer expiation as the intercourse was not voluntary on her part. In fact she was coerced into it. A person who is forced to commit an act is considered as not having committed it. Hence, she need not offer expiation.

Third: "Or if he had intended to fast whilst travelling on a journey and broke his fast with intercourse, then expiation is not required": A traveller who fasts in Ramadān and then has sex whilst fasting, there is no expiation required from him if he is still on his journey as travelling is a circumstance that allows one not to fast. The same is the case if one breaks his fast with food or drink.

وإن جامع في يومين، أو كرَّره في يوم ولم يُكَفِّر فكفارةٌ واحدةٌ في الثانية، وفي الأولى، ثِنْتان، من وإن جامع ثم كَفَر ثم جامع في يومه فكَفَّارةٌ ثانيةٌ

If a person has sexual intercourse in two days or performs it multiple times in a day and he has not made expiation, then he does so once after the second example and twice after the first example. If he had sexual intercourse and made expiation immediately only to have sexual intercourse again, then he must repeat the expiation.

"If a person has sexual intercourse in two days or performs it multiple times in a day and he has not made expiation, then he does so once after the second example and twice after the first example": If he performs intercourse multiple times in a day, he need only offer it once after the final session.

"If he had sexual intercourse and made expiation immediately only to have sexual intercourse again, then he must repeat the expiation": This is the case even if both sessions were performed in one day. However, if he had performed sex over a period of days, then he has to offer expiation for each day that he

had sex for each day is an independent devotion that he has to expiate for since it was desecrated.

متن وكذلك من لَزمه الإمساكُ إذا جامع، ومن جامع وهو مُعافى ثم مرض أو جُنَّ أو سافر لم تَسْقُط

Similar is the case if he upon whom fasting becomes obligatory during the day has sexual intercourse afterwards and he who has sexual intercourse while fasting but was later allowed to break his fast due to illness, lunacy or travel, is not discharged of expiation.

We have discussed earlier that if clear signs appear in the middle of the day to confirm fasting, or if a traveller who did not fast returns back to his city, or if a child attains puberty, or a person attains sanity in the middle of the day, or a menstruating woman becomes free of her menses during the daytime, they must fast the rest of the day.

"Similar is the case if he upon whom fasting becomes obligatory during the day has sexual intercourse afterwards": That is, the individual has intercourse after proceeding to fast the rest of the day. In this case, he must offer expiation just as one would offer expiation when he desecrates the fast he maintained from dawn with sexual intercourse.

"And he who has sexual intercourse while fasting but was later allowed to break his fast due to illness, lunacy or travel, is not discharged of expiation": If he fasted from dawn and performed sex while he was fasting but later went on to break his fast due to a valid excuse, then he must offer expiation. This is because the desecration of the fast occurred prior to him gaining the valid excuse. Hence, he is not discharged of the expiation.

Expiation is only exacted if sex is performed by one fasting during the day in the month of Ramadān. The expiation is the manumission of a slave, if that is not possible fasting two months consecutively and if that is also not possible feeding sixty poor people. If this too is not possible, then one is discharged of the expiation.

A Commentary on Zād al-Mustaqni

"Expiation is only exacted if sex is performed by one fasting during the day in the month of Ramadān": Expiation is not $w\bar{a}jib$ on any other nullifiers or violations. If one eats and drinks deliberately during the day in Ramadān or does some other act that nullifies his fast, it would suffice him to make up the day by fasting on another day. He does not have to offer expiation for nullifying his fast as the Prophet $\frac{1}{20}$ only ordered that expiation be exacted upon the individual who performs sex while fasting in the month of Ramadān.

"The explation is the manumission of a slave, if that is not possible fasting two months consecutively and if that is also not possible feeding sixty poor people. If this too is not possible, then one is discharged of the explation": This is the order of explation for performing sex during the day in the month of Ramadān. It is similar to the explation for committing *zihār*. Allah says: {And those who pronounce *zihār* from their wives and then [wish to] go back on what they said - then [there must be] the freeing of a slave before they touch one another. That is what you are admonished thereby; and Allah is Acquainted with what you do. And he who does not find [a slave] - then a fast for two months consecutively before they touch one another; and he who is unable - then the feeding of sixty poor persons.}⁴¹⁶

The Prophet $\frac{1}{8}$ commanded the man who came to him seeking atonement for having had sex during the day in Ramadān to explate for his sin by doing one of these acts in the same order of priority.

The question arises: What if one is not able to manumit a slave, fast consecutively for two months or feed sixty poor people? Will the expiation be absolved? Is he discharged of it?

There are two views to this issue. The author appears to gravitate to the view that it is absolved and the person need not explate for his deed. The Prophet $\frac{1}{2}$ did not tell the man that he still had the duty to explate for his deed after having excused him of all the acts of explation. This is proof that it was absolved.

The second view of the scholars is that it remains a responsibility upon the person to expiate himself from the deed as and when he is able to do so.⁴¹⁷

⁴¹⁶ Al-Mujādilah: 3-4

⁴¹⁷ See al-Insāf (3/323).

The preferred view, and Allah knows best, is that it remains a responsibility upon the individual to expiate himself. This is because it is a debt due to Allah and all debts remain due upon a person until such a time when he is able to settle it. Indeed the Prophet $\frac{14}{5}$ said, "Settle Allah's dues for He is more deserving of the settlement."⁴¹⁸

⁴¹⁸ Reported by al-Bukhārī (3/32), (9/125) from the narration of 'Abdullah ibn 'Abbās.

باب ما يكره ويستحب وحكم القضاء

CHAPTER: WHAT IS DISLIKED, THAT WHICH IS RECOMMENDED AND THE RULES PERTAIN-ING TO MAKING UP THE FAST

متن	لْعُ النُّخامةِ، ويُفْطِر بها فقط إن وصلتْ إلى حَلْقِه، ويُكره عِلْكٍ قويٍ، وإن وَجَد طَعْمَهُما في حَلْقه أفطر، ويَحْرُم	يكره جَمْعُ رِيْقِهِ فيبتلعه، ويَحْرُمُ بَ ذوقُ طعامَ بلا حاجة، ومَضْغُ العلْكُ الْتَحَلَّا إِن بَلَهَ . يَقَه
		العجلك المتحس إن بلغ ريسه

Amassing saliva and swallowing it is disliked. It is forbidden to swallow phlegm and the fast is nullified only if he swallows phlegm after it reaches his mouth. Tasting food unnecessarily is disliked as is chewing upon strong plant resin or Arabic gum. The fast is nullified if he tastes it in his throat. That which melts is forbidden when swallowed along with saliva.

The author explained thus far that nullifiers of fast are of two categories: that which requires explained and that which does not. In this chapter, he elaborates upon the matters that are disliked while fasting but do not nullify the fast.

"Amassing saliva and swallowing it is disliked": A person who is fasting should not collect his saliva and then swallow it. It is akin to drinking. However, it does not nullify the fast. It is disliked as it is an infringement to the fast.

"It is forbidden to swallow phlegm and the fast is nullified only if he swallows phlegm after it reaches his mouth": The phlegm in the throat when expelled to the mouth should be spat out. If he swallows it deliberately, his fast is nul-

lified as the phlegm had reached his mouth which is equivalent to him having consumed something. If the phlegm is swallowed without a deliberate action upon his part, then his fast is valid.

"Tasting food unnecessarily is disliked": Though it is permissible when the need arises. It is allowed as long as no swallowing of food takes place when one tastes it. Tasting of food without valid reason is disliked but will not render the fast invalid.

"As is chewing upon strong plant resin or Arabic gum. The fast is nullified if he tastes it in his throat": A person who is fasting should not chew on strong plant resin which is also known as Arabic gum as some of it can dissolve into the saliva and enter the throat. Furthermore, chewing it results in the amassing of saliva. As mentioned earlier, swallowing amassed saliva is disliked.

"That which melts is forbidden when swallowed along with saliva": Arabic gum that is soluble or that which melts easily is most disliked. This is because it easily dissolves and enters the throat. If one chews it and tastes it in his throat, then his fasting is nullified.

متن

متن

Kissing is disliked if it arouses him sexually.

"Kissing is disliked if it arouses him sexually": If kissing his wife stimulates him sexually and arouses him, then it is disliked. This is because it may lead to an ejaculation due to the arousal. It is disliked for the young adult. The elderly who is not sexually aroused by kissing his wife may do so. The Prophet $\frac{1}{2}$ used to kiss his wives while he was fasting. This is because he $\frac{1}{2}$ could control his desires as mentioned by 'Aishah, "He used to have control over temptations."⁴¹⁹

ويجب اجتنابُ كذبٍ وغِيْبةٍ وشَتْم It is *wājib* to avoid telling lies, backbiting and using vulgarities.

"It is *wajib* to avoid telling lies, backbiting and using vulgarities": These are things forbidden for the one fasting but they do not render the fast invalid.

⁴¹⁹ Reported by al-Bukhārī (3/38-39) and Muslim (3/135) from the narration of 'Aishah.

A Commentary on Zād al-Mustaqni

They are nullifiers in essence only. An example would be backbiting ($gh\bar{i}bah$). When one speaks ill of his Muslim brother in a manner which the latter may dislike, he has engaged in backbiting. Slandering (*namīmah*) is the act of spreading defamatory remarks amongst people. Using vulgarities, cursing and other similar articulations must be avoided. All of the above mentioned deeds are forbidden for Muslims whether one is fasting or not. They are definitely graver sins when one is fasting as they deplete the reward so much so that nothing remains. What remains is lethargy, thirst and hunger only. The Prophet \mathfrak{A} said, "He who does not avoid ill speech, the actions related to it and ignorance, Allah does not require that he refrain from his food and drink."⁴²⁰

These actions and speech are always prohibited, not just in the month of Ramadān or when one is fasting. However, the heinousness of these deeds is heightened when one is fasting. It may not just lessen the rewards of fasting, it may deplete it completely. The Prophet $\frac{1}{2}$ had described fasting as a shield,⁴²¹ meaning a protection. Hence any shield which is riddled with holes is of no use to the owner as it does not protect him from the arrows shot by the enemy.

If the shield is strong and well-crafted, then he is protected from the enemies' weapons. Similarly, a fast that is free of backbiting, slander and all other forms of ill speech and vulgarities will protect him from Allah's punishment. If the fast is tarnished by backbiting, slandering, vulgarities and curses, then his fast will not spare him from sin or the punishment of Allah.

Even when he is cursed or scolded, the person who is fasting should not reciprocate though responding in kind is permissible. Allah says: {And the retribution for an evil act is an evil one like it, but whoever pardons and makes reconciliation - his reward is [due] from Allah.}⁴²² And He says: {And whoever avenges himself after having been wronged - those have not upon them any cause [for blame.]}⁴²³

Qisās (revenge) is permitted if one verbally abuses you. You may retort with similar speech. However, the person who is fasting should not do so even if he

⁴²⁰ Reported by al-Bukhārī (3/33), (8/21) from the narration of Abu Hurairah.

⁴²¹ Reported by al-Bukhārī (3/31) and Muslim (3/157) from the narration of Abu Hurairah, which is a *marfū* report.

⁴²² Al-Shūrā: 40

⁴²³ Al-Shūrā: 41

is cursed or sworn at. Instead, he should say, "Verily I am fasting, verily I am fasting." 424

وسُنَّ لمن شُتِمَ قولُه: إني صائم

متن

It is Sunnah for him who is sworn at to say, "Verily I am fasting."

The author states here that this is a Sunnah or *mustahabb* for the one who is sworn at, verbally abused or cursed. Surely these vile words hurt the feelings of the person who is targeted. There is no doubt that Allah has permitted a retort in kind (*qisās*) saying: {And the retribution for an evil act is an evil one like it, but whoever pardons and makes reconciliation - his reward is [due] from Allah.}⁴²⁵

This ordainment includes retribution of all forms, be it a killing, injury or verbal abuse. It is permissible for the person who is fasting to respond with a similar verbal abuse for it is *qisās* and it is only fair. However, if the individual is patient and does not retort to the verbal abuse, it is better. Allah says: **{But whoever pardons and makes reconciliation - his reward is [due] from Al-lah.}** This is intended as a universal address. Hence, the advice is more apt for him who is fasting. It is *mustahabb* for him to say instead, "Verily I am fasting." To impress upon the other party that his refrain from a retort is due only to his fast so that its sanctity is preserved.

His saying, "Verily I am fasting," does not allude to boasting about the fact that he is fasting. In fact, saying so is to his advantage as a bad deed is averted. He says so not in conceit, but to eschew evil and sin by reminding himself of his present status as one who is fasting. If a retort to verbal abuse is not permitted, imagine the prohibition of initiating the swearing and cursing whilst one is fasting. Verily, "The believer is not one who defames, nor is he obscene nor foul"⁴²⁶ in all aspects. Whilst he is fasting, he is more cautious in avoiding any ill speech as it will erode the reward of the fast and render it of no value. It is not permissible for a Muslim to start swearing and cursing at people and verbally abuse them while he is fasting. It not only depletes the reward of his

⁴²⁴ Reported by al-Bukhārī (3/31) and Muslim (3/157) from the narration of Abu Hurairah. 425 Al-Shūrā: 40

⁴²⁶ Reported by Ahmad (1/404, 416) and al-Tirmidhī (1977) from the narration of 'Abdullah ibn Mas'ūd.

A Commentary on Zād al-Mustaqni

fast but it also adds to his sins due to the use forbidden language.

وتأخيرُ سحور وتعجيلُ فِطْر على رُطَب، فإن عَدِمَ فَتَمْرٌ، فإن عَدِمَ فهاءٌ، وقولُ ما وَرَدَ مَن One should delay the *subūr* and hasten to break the fast with *rutub*. If nothing else is available, then with dates and if dates are not available then with water. He then says what has been transmitted.

"Hasten to break the fast": It is *mustahabb* for the person who is fasting to hasten to break his fast as soon as the sun has set. The Prophet $\frac{1}{28}$ said, "When the night descends from there and day retreats to there and the sun sets, the fasting person should break his fast."⁴²⁷ This is in accordance to the command of Allah that Muslims break their fast at the stroke of night fall. He says: **{And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night]. Then complete the fast until the sunset.}**⁴²⁸

Night begins with the setting of the sun and so one should hasten to break his fast in accordance to Allah's command. He should not try to exceed that which is prescribed for a particular form of worship. The evidence above serves as a refutation for those who delay breaking their fast claiming that it is a sign of their love of goodness and which signifies their piety. It is in fact the action of the innovators who break their fast only after the stars become apparent in the sky. It is a sign of their waywardness and is contrary to the Sunnah. The most beloved worshippers of Allah hasten to break their fast.⁴²⁹

"With *rutub*": *Rutub* are dates in the early stage of ripening. If they are not available, then he may break his fast with *tamr* (dried dates). If this is not available, then he may break his fast with water. The Prophet $\frac{1}{2}$ used to break his fast with *rutub*. If *rutub* were not available, he would eat dried dates. If even dry dates were not available, he would sip a small quantity of water.⁴³⁰

⁴²⁷ Reported by al-Bukhārī (3/46) and Muslim (3/132) from the narration of 'Umar ibn Khattāb.

⁴²⁸ Al-Baqarah: 187

⁴²⁹ Reported by Ahmad (2/237, 329) and al-Tirmidhī (700) from the narration of Abu Hurairah.

⁴³⁰ Reported by Ahmad (3/164), Abu Dawūd (2356) and al-Tirmidhī (696) from the narration of Anas ibn Mālik.

Dates, whether fresh or dry, are very beneficial if eaten on a stomach empty of food and drink. Hence, one should eat them first when breaking the fast. It has medical properties of great value aside from being the best dessert. Its sweetness is compared to the sweetness of faith by Ibn al-Qayyim in his book $Z\bar{a}d$ al-Ma' $\bar{a}d$.⁴³¹ There are benefits to eating fresh and dried dates when breaking the fast from an Islamic perspective. If dates are not available, he may break his fast by drinking plain water first. Water is pure and there are medical benefits in drinking it on an empty stomach too. This has been proven by doctors. Hence, these are *mustahabb* only. It is perfectly fine for one to break his fast with other than dates and water. He may consume any foodstuff or fruit when breaking the fast as this is permissible. However, it is better to start the *iftār* with dates and water as they have medical benefits and benefits from the Islamic perspective.

One should not have a lavish spread of foodstuff for *iftār* and then go on to eat to his stomachful. Doing so is not only medically harmful, it also makes one lethargic and he may shun prayers as a result. What is worse is that some people sit at the table that has a vast variety of food laid on it and they become too engrossed over the food, delaying joining the congregational prayer. At times they miss the congregational prayer altogether. Missing the congregational prayer is forbidden. Since all means to a prohibited end are themselves prohibited, eating excessively is forbidden. He should have a light *iftār* so that it does not take up much time. Therefore, he would not have to miss the congregational prayer.

"Delay the *suhūr*": It is *mustahabb* to delay the *suhūr* (pre-dawn meal) such that one has this meal at the end of the night when dawn is imminent. Allah, the Most High and Dignified, says: **{And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night]. Then complete the fast until the sunset.]⁴³² The Prophet \frac{1}{28} used to delay the** *suhūr* **until dawn. Those who consume their** *suhūr* **early contradict the Sunnah. They have this meal and then go to sleep, thereby missing the congregational** *fajr* **prayer. Most often, they do not wake up for** *fajr* **prayer and perform it after its prescribed time. These people behave in contrary to the Sunnah by delaying their** *suhūr***. A more heinous crime is to miss congregational prayer and to perform it outside its prescribed time while they are fasting. And Allah's protection is**

⁴³¹ See Zād al-Ma'ād (2/50-51).

⁴³² Al-Baqarah: 187

A Commentary on Zād al-Mustaqni

sought.

There is no doubt that sins and doing forbidden acts are more harmful when one is fasting. It is wajib that these people refrain themselves from doing these terrible deeds. Perhaps they may not earn a single reward from their fasts for they deplete their rewards by committing evil deeds and sinful acts. They become the greatest losers in the end.

The Prophet \mathfrak{Z} said, "That which distinguishes our fasts from the fasts of the people of the book is the eating of *suhūr*."⁴³³ Will only eating foodstuff be considered as *suhūr* or can one just have a drink for *suhūr*?

Consuming good, healthy food before dawn is permissible. However, one should have a meal that will assist him in fasting throughout the day to supplement the calories that he needs. Restricting oneself to just a drink or something similar will not be of much benefit during the day when he is fasting, although the Sunnah of *suhūr* is achieved by this minimal consumption.

متن

ويُستحَبُّ القضاءُ مُتتابِعاً، ولا يجوز إلى رمضانَ آخَرَ من غير عذرٍ

It is *mustahabb* to fast consecutively when making up for the fasts that were missed. It is not permissible to leave them off until the next Ramadān unless there is a valid excuse.

After having elaborated upon the etiquettes and the recommended acts of fasting, the author proceeds to explain the rules pertaining to the making up of missed fasts.

Fasts that were missed in the month of Ramadān due to a valid excuse such as illness, travel, menses and post-natal bleeding must be made up on other days. Those possessing good reasons to break their fast during the day in the month of Ramadān which are legislated as valid excuses in Islam, are obliged to make up the fast in the days outside of Ramadān. Allah says: **{But whoever among you is sick or on a journey, then [he shall fast] a [like] number of other days.**}⁴³⁴

⁴³³ Reported by Muslim (3/130, 131) and Ahmad (4/197, 202) from the narration of 'Amr ibn 'Ås.

⁴³⁴ Al-Baqarah: 184

"It is *mustahabb* to fast consecutively when making up for the fasts that were missed. It is not permissible to leave them off until the next Ramadān unless there is a valid excuse": If one missed fasts during Ramadān, it is *mustahabb* to make up the missed fasts immediately after Ramadān. It is also *mustahabb* that he fasts them consecutively. It is permissible though to delay them to a time closer to the following Ramadān. If he delays making up the missed fasts to just before the following Ramadān, then it becomes *wājib* upon him to fast the rest of the days to make up for the missed fasts of the previous Ramadān. This is to prevent him from beginning the fasts for the proceeding Ramadān whilst he still has not made up for the missed fasts of the previous Ramadān.

However, if time is not of the essence, he has a free choice to expedite or delay making up for the missed fasts although expediting them is better. This is because expediting displays an enthusiasm to perform acts of worship and zeal towards obeying Allah's commands. It also shows that he is keen to fulfil his responsibilities. Indeed, man does not know what awaits him. Therefore, if there is a window of opportunity, one should resort to accomplish his obligations towards Allah. In this light, it becomes *wājib* upon him to hasten to fulfil the missed acts of worship.

It is also permissible to stagger the days in which one wishes to make up the missed fasts. However, doing so on consecutive days is better as it is means of hastening towards the obedience of Allah. Furthermore, doing so allows him ample time to achieve his target.

متن

If he does so, then he is obliged to make up the missed fasts and feed the poor for each day of the missed fasts.

"If he does so, then he is obliged to make up the missed fasts and feed the poor for each day of the missed fasts": If he delays making up for the missed fasts until the start of the following Ramadān, he should fast that month and then hasten to make up for the fasts missed in the previous Ramadān. He is not excused for the fasts that he has not made up. Self-retrospection is called for at this juncture to identify the reason for the delay in making up for the missed fasts. If there was no valid excuse for his action, then he is sinful for this delay. There are two ways to remedy this: **Firstly:** He should make up for the missed fasts from the previous Ramadān. His obligation will not be fulfilled without it, even though many years have passed.

Secondly: He must offer an expiation. He should feed a poor person for each day a fast was missed as expiation for delaying to make up for the missed fasts without a valid excuse.

If a person had a valid excuse for example a journey or he had an illness due to which he was permitted to refrain from fasting, and both the journey and illness were prolonged such that it caused him to delay making up the missed fasts until the arrival of the following Ramadān. In this case, it is perfectly fine for him to delay it as there is a valid excuse. Once the present Ramadān is over, he only has to make up for the missed fasts. Expiation is not wajib upon him.

وإن مات ولو بعد رمضان آخر، وإن مات وعليه صوم أو حجُّ أو اعتكاف أو صلاةُ نذرٍ متن استُحِبَّ لوليِّه قضاؤُه

Even if he dies after the following Ramadān and if he dies before fulfilling a fast, Hajj, *i'tikāf* or prayers of vow, it is *mustahabb* that his guardian do so on his behalf.

"Even if he dies after the following Ramadān": This underscores the fact that missed fasts remain an obligation upon a person even after the arrival of another Ramadān after the one in which he missed fasts. If there was no valid reason for the delay in making up for the missed fasts, he is obliged to offer expiation by feeding a poor person for each day of missed fasts. He must also make up for the fasts that he missed. If he were to die before making up for the missed fasts, the poor people must be fed with the money he left behind. According to the tenets of the *Sharī'ah*, his guardian need not fast on his behalf for the days he missed fasting.

"And if he dies before fulfilling a fast, Hajj, *i'tikāf* or prayers of vow": If he died before fulfilling a fast, a pilgrimage or an *i'tikāf* he had vowed to perform, then it shall remain an obligation upon him even after death. It is a debt he owes to Allah 36.

"It is mustahabb that his guardian do so on his behalf": His guardian or more

specifically his next of kin should perform these $w\bar{a}jib$ acts on behalf of the deceased. The Prophet $\frac{1}{28}$ said, "He who died without fulfilling a fast he had vowed to do, it shall be fulfilled by his guardian."⁴³⁵

⁴³⁵ Reported by al-Bukhārī (3/45) and Muslim (3/155) from the narration of 'Aishah.

باب صوم التطوع CHAPTER: SUPEREROGATORY FASTS

"Chapter: Supererogatory Fasts": Having provided details of the obligatory fast, the author moves on to discussing the supererogatory prayer. Allah has supplemented each obligatory act of worship with a supererogatory act similar to it. This is a bonus reward and it serves to fill any shortcomings that might occur in the performance of the obligatory acts of worship. Obligatory prayers are supplemented by *nafāwil* prayers, *rawātib* prayers and *tahajjud* prayers. Obligatory fasts are supplemented by supererogatory fasts which add to the goodness of a magnificent act of piety.

يسن صيامُ أيام البيضِ، والاثنين والخميس وستِ من شوال، وشهـر المحرَّم، وآكدُه العاشرُ ثم التاسَعُ، وتسعِ ذي الحجة، ويومِ عَرَفَةُ لـغير حـاج بها، وأفضلُه صومُ يومٍ متن وفطرُ يوم

It is Sunnah to fast on *ayyām al-bīdb*, Mondays and Thursdays, six days in Shawwāl, the month of Muharram, the most prominent of which is the tenth and then the ninth, the first nine days of Dhul-Hijjah and the day of 'Arafah for non-pilgrims. The best is to fast every other day.

There are a variety of voluntary fasts as mentioned by the author. Each of the types is substantiated by evidence from the Qur'ān and the Sunnah. They are:

First: "It is Sunnah to fast on *ayyām al-bīdh*": This means "the white days". It refers to fasting three days in a month. It is so termed as it is *mustahabb* to fast the middle three days of the month, thirteenth, fourteenth and fifteenth, which coincide with the appearance of the full moon. Since the night is lit

brightly by the full moon, it is called "the white days". If a person fasts earlier or later days of the month, it is acceptable and similar rewards are earned. However, fasting on the thirteenth, fourteenth and fifteenth is better.

Second: "Mondays and Thursdays": I.e. fasting these two days every week. The Prophet $\underline{\mathbb{X}}$ used to fast these two days. The deeds of the slave are presented to Allah on these two days and so, as mentioned in the hadīth,⁴³⁶ it is *mustahabb* to be in a state of fasting when one's deeds are presented to the Almighty.

Third: "Six days in Shawwāl": The Prophet $\frac{1}{26}$ said regarding fasting six days in the month of Shawwāl, "Whoever fasts the month of Ramadān and supplements it by fasting six days in Shawwāl, it is as if he fasted the whole year."⁴³⁷ That is, as if he fasted voluntarily for the entire year. Fasting the month of Ramadān is equivalent to fasting ten months. Fasting six days in Shawwāl is equivalent to fasting two months (sixty days). Hence, it adds up to twelve months; which is a year. It is *mustahabb* to fast six days in the month of Shawwāl regardless if one fasts at the start of the month, in the middle, or at the end of the month.

Fourth: "The month of Muharram": That is, the voluntary fasts in this month. The Prophet $\frac{1}{2}$ used to urge his Companions to fast as many days as they could in the month of Muharram for it is a significant month.

"The most prominent of which is the tenth and then ninth": The tenth of Muharram is known as Ashūrā. A great event took place on this day. Fir'awn and his people were drowned and Mūsa 329 and his people were rescued on this day. It is *mustahabb* to fast on this day. The Prophet 38 said, "Fasting on the day of Ashūrā, as I seek Allah's recompense, shall expiate the sins of the past year."⁴³⁸ The Prophet 38 fasted on this day and commanded others to do likewise. When he 38 arrived in Madīnah, he observed that the Jews were fasting on this day and so he enquired to them regarding it. They replied that it was the day that Allah dignified Mūsa and his people and humiliated Fir'awn and his people. Mūsa fasted on this day as a sign of gratitude to Allah and

⁴³⁶ Reported by al-Tirmidhī (747), Ibn Mājah (1740) from the narration of Abu Hurairah.

⁴³⁷ Reported by Ahmad (5/417, 419) and Muslim (3/169) from the narration of Abu Ayūb al-Ansārī.

⁴³⁸ Reported by Muslim (3/167) from the narration of Abu Qatādah al-Ansārī.

therefore the Jews fasted on the day as a sign of gratitude to Allah. On hearing this, the Prophet $\frac{1}{28}$ said, "We have more right to Mūsa than you." He then fasted this day and commanded others to fast it as well.⁴³⁹ When the Prophet $\frac{1}{28}$ was informed that the Jews fast on this day, he said, "Differ with them. Fast another day before or after it."⁴⁴⁰ He $\frac{1}{28}$ also said, "If I am alive next year, I shall fast the ninth and the tenth."⁴⁴¹ Hence it is *mustahabb* to fast on the tenth of Muharram along with a day before it or after it so as to distinguish ourselves from the Jews.

Fifth: "The first nine days of Dhul-Hijjah": It is *mustahabb* to fast these days as the Prophet $\frac{1}{8}$ said, "There are no days wherein pious deeds are more esteemed and beloved to Allah than these ten days." It was asked, "O Messenger of Allah, not even fighting in the cause of Allah?" He replied, "Not even fighting in the cause of Allah?" He replied, "Not even fighting in the cause of Allah, except that of a man who went out [to fight] with his soul and his wealth but returned with nothing."⁴⁴² Fasting is considered a pious deed on these nine days. In fact, fasting is among the best deeds as elaborated by the Messenger of Allah $\frac{1}{8}$ in many narrations.

Sixth: "And the day of 'Arafah for non-pilgrims": The Prophet $\frac{1}{28}$ said regarding fasting on the day of 'Arafah, "Fasting on the day of 'Arafah shall expiate the sins of the past year and the year following it."⁴⁴³ However, fasting on this day is only *mustahabb* for non-pilgrims. Those performing Hajj are not recommended to fast as they stand at the plains of 'Arafah. In fact, it is better for them to refrain from fasting, thereby following the example of the Prophet $\frac{1}{28}$. He stood at the plains of 'Arafah and did not fast. This was so that he would have sufficient energy to spend that day making invocation to Allah. Hence, it is not a Sunnah for pilgrims to fast on the day of 'Arafah.

<u>Seventh</u>: "The best is to fast every other day": Those who wish to supplement the six types of encouraged fasts that are mentioned above may fast every other day. It is a *mustahabb* act to fast one day and refrain from fasting the next day

⁴³⁹ Reported by al-Bukhārī (3/57), (4/186) and Muslim (3/150) from the narration of 'Abdullah ibn 'Abbās.

⁴⁴⁰ Reported by Ahmad (1/241) and Ibn Khuzaymah (2095).

⁴⁴¹ Reported by Muslim (3/151).

⁴⁴² Reported by al-Bukhārī (2/24) and Ahmad (1/224) from the narration of 'Abdullah ibn 'Abbās.

⁴⁴³ Reported by Muslim (3/167) from the narration of Abu Qatādah al-Ansārī.

and then fast the following day. The Prophet ﷺ said, "The best of fasts is the fast of Dawūd ﷺ who used to fast every other day."⁴⁴⁴

One should not continue fasting such that he fasts the whole year without breaking his fast. This was forbidden by the Prophet 3. When a man said, "As for me, I shall fast and never break my fast." The Prophet 3 replied, "As for me, I fast and I break my fast. Whoever dislikes my Sunnah is not from me."⁴⁴⁵ The Prophet 3 also said, "There is no fast for him who fasts throughout the whole year (i.e. continuously)."⁴⁴⁶ And in another route, "There is no fast and there is no breaking of the fast."⁴⁴⁷

ويُكره إفرادُ رجبٍ والجمعة والسبت والشكّ بصوم

متن

To single out the month of Rajab for fasting is disliked as is fasting on Friday, Saturday and the day of doubt.

We shall now discuss the fasts that are disliked as legislated in Islam. They are as follows:

First: "To single out the month of Rajab": Or to single out particular days during this month for fasting is not permissible. However, one may fast some days of Rajab as he would do in other months. If he has made it his habit to fast *ayyām al-bīdh*, then he may fast these three days in Rajab as he would do in the rest of the months. If it is habit to fast Mondays and Thursdays every week, then he should carry on with this habit even in the month of Rajab. It is only impermissible to designate to the month of Rajab significance where one fasts exclusively therein.

Second: "Friday": To fast Friday individually is disliked. This is because Friday is the 'Eid day of the week. However, one may fast Friday consecutively with other days.

⁴⁴⁴ Reported by al-Bukhārī (2/63) and Muslim (3/165) from the narration of 'Abdullah ibn 'Amr ibn al-'Ās.

⁴⁴⁵ Reported by al-Bukhārī (7/3) and Muslim (4/129) from the narration of Anas ibn Mālik where he narrates the incident.

⁴⁴⁶ Reported by al-Bukhārī (3/53) from the narration of 'Abdullah ibn 'Amr ibn al-'Ās.

⁴⁴⁷ Reported by Muslim (3/167).

Third: "Saturday": Fasting Saturday individually is disliked for it is the Sabbath of the Jews. However, it is permissible to fast on Saturday along with other days consecutively. The correct opinion however, is that it is permissible to fast Saturday alone for the hadīth which forbids it is unauthentic.⁴⁴⁸

Fourth: "And the day of doubt": I.e. it is disliked to fast on this day. The correct opinion is that it is forbidden to fast on this day as the Prophet ﷺ forbade fasting a day or two before Ramadān.⁴⁴⁹ 'Ammār 忐 said, "Whosoever fasts the day wherein there is doubt (regarding the arrival of Ramadān), has defied Abu al-Qāsim (the Messenger of Allah) 蹇."⁴⁵⁰

ويحرمُ صومُ العيدين وأيام التَّشْريق ولو في فرض، إلا عن دمِ مُتعةٍ وقِـرَانٍ

It is forbidden to fast on the two days of 'Eid; not even the obligatory fasts. Likewise, it is forbidden to fast on the days of *tashrīq* unless one has to fast as a penalty when performing *mut'ah* or *qirān* pilgrimage.

The following are prescribed as forbidden fasts:

متن

First: "It is forbidden to fast on the two days of 'Eid": 'Eid al-Fitr and 'Eid al-Adha. It is *wājib* to refrain from fasting on both of these days. He who fasts on these two days has disobeyed Allah and His Messenger. These are days of eating, drinking and the remembrance of Allah.

"Not even the obligatory fasts": The making up of obligatory fasts is forbidden during these two days as are fasts of vow. Both obligatory and voluntary fasts are not permitted during the days of 'Eid.

Second: "The days of *tashriq* unless one has to fast as a penalty when performing *mut'ah* or *qirān* pilgrimage": It is forbidden to fast on the days of *tashriq* i.e. the eleventh, twelfth and thirteenth of Dhul Hijjah. The Prophet # said, "The days of *tashriq* are days of eating, drinking and the remembrance of Allah."⁴⁵¹

⁴⁴⁸ It is mentioned in *al-Insāf*, "Shaykh Taqī al-Dīn preferred the view that fasting Saturday alone is permissible and most scholars are of this view too." (3/347)

⁴⁴⁹ Reported by al-Bukhārī (3/35, 36) and Muslim (3/125) from the narration of Abu Hurai-rah.

⁴⁵⁰ Reported by Abu Dawūd (2334), al-Tirmidhī (686) and al-Nasā'ī (4/153).

⁴⁵¹ Reported by Muslim (3/153) from the narration of Nubayshah al-Hadhali.

The only exceptions to this are the pilgrims who perform the *tamattu* and *qirān* forms of Hajj and were not able to sacrifice. Allah says: {Whoever performs 'Umrah followed by Hajj [offers] what can be obtained with ease of sacrificial animals. And whoever cannot find (or afford such an animal) - then a fast of three days during Hajj.}⁴⁵²

If the pilgrim did not fast the three days before the day of 'Arafah then he must do so on the days of *tashrīq*. This is based on the hadīth narrated by 'Aishah who said, "Women were not permitted to fast on the days of *tashrīq* except to fulfil the penalty of *mu'tah* and *qirān*."⁴⁵³ Other types of fasts, regardless if they are obligatory or voluntary fasts, are completely disallowed during the days of *tashrīq*.

ومن دخل في فرضٍ موسَّعٍ حَرُم قَطْعُه

It is forbidden to prematurely severe an obligatory act of worship while performing it given that there are no time constraints for accomplishing it.

"It is forbidden to prematurely severe an obligatory act of worship while performing it given that there are no time constraints for accomplishing it": For example the obligatory prayer at its earliest prescribed time, making up a missed fast when there are no time constraints or while performing an act of vow. Severing an obligatory act mid-way is not permitted without a valid excuse. Severing the obligatory act is tantamount to violating a mandatory pact whilst the pact calls for the completion of the task.

There is no obligation on completing a *nafl* act nor must it be made up if severed except for Hajj.

"There is no obligation on completing a *naft* act": There is no obligation that one must complete a voluntary act of worship. If a person commences a voluntary fast and then desires to cease fasting in the middle of the day, he is permitted to do so. Let us assume that he was invited to a wedding feast or something of that nature took place which entices him to break his voluntary متن

متن

⁴⁵² Al-Baqarah: 196

⁴⁵³ Reported by al-Bukhārī (3/56).

fast prematurely. There is nothing wrong in him breaking his fast before completing it. This is because he has sole prerogative over *nafl* acts of worship as mentioned in the hadīth, "If he wishes, he may complete it and if he wishes he may break the fast."⁴⁵⁴ He has a similar choice pertaining to the *nafl* prayers. He may abruptly stop praying and is not obliged to complete the prayer.

"Nor must it be made up if severed": He is not obliged to make up for the voluntary act that he performed incompletely. If, for example, he fasted a voluntary fast and then had sexual intercourse in the day. This is permissible as he is allowed to break his fast abruptly by eating, drinking or having sexual intercourse. If he had sexual intercourse, he need not make up the voluntary fast nor offer an expiation.

"Except for Hajj": This refers to a voluntary pilgrimage. He is obliged to complete it if it was severed by sexual intercourse. If, for example, he had sexual intercourse before the first *tahallul*, then his pilgrimage becomes nullified. He must sacrifice an animal as *fidyah* (penalty) and make up for the pilgrimage the following year.

Laylat al-Qadr is anticipated during the last ten nights of Ramadān. It most probably falls on the odd dates. It is expected to be the twenty seventh night. He supplicates during these nights with transmitted supplications.

"Laylat al-Qadr is anticipated during the last ten nights of Ramadān. It most probably falls on the odd dates. It is expected to be the twenty seventh night": Allah has made in the month of Ramadān a night better than one thousand nights and it is called Laylat al-Qadr. Allah said, {Indeed, We sent the Qur'ān down during the Night of Decree. And what can make you know what is the Night of Decree? The Night of Decree is better than a thousand months.}⁴⁵⁵ And he said, {Indeed, We sent it down during a blessed night.}⁴⁵⁶ This refers to Laylat al-Qadr and that it falls in Ramadān. However, He has not informed

⁴⁵⁴ Reported by al-Bukhārī (3/31) and Muslim (3/46) from the narration of 'Aishah with regards to fasting on the days of Ashūrā.

⁴⁵⁵ Qadr: 1-3

⁴⁵⁶ Dukhān: 3

us of the exact night that it will occur. The wisdom behind this is so that Muslims will strive to achieve its reward throughout all the nights of Ramadān, thus assuring himself of Allah's reward. He who strives to achieve the rewards of Laylat al-Qadr each night of Ramadān will indeed earn it eventually. For this, he stands in prayer throughout the whole month of Ramadān and is rewarded double-fold. He receives the rewards of standing in prayer each night of Ramadān and on top of that earns himself the rewards of the Night of Power. In which part of the month will Laylat al-Qadr occur? This is not a matter that can be said with full conviction as it might occur during the first ten nights, the middle ten nights or the last ten nights of Ramadān.

However, it is anticipated to occur during the last ten nights of Ramadān for the Prophet $\frac{1}{28}$ used to actively expect it then. He even used to make *iktikāf* at the *masjid* during the last ten nights of Ramadān⁴⁵⁷ and strive hard in standing for prayer in these nights more than any other nights.⁴⁵⁸ Therefore this is an apparent proof that Laylat al-Qadr was greatly anticipated during the last ten nights of Ramadān. The twenty seventh night is the night in which the Night of Power is most anticipated based on evidence that cites that Laylat al-Qadr most probably occurs on this night.

Imām Ahmad was of the opinion that it most probably occurs on the twenty seventh night.⁴⁵⁹ It may occur on any of the last ten nights: the twenty first, twenty third or the twenty seventh nights. However the twenty seventh is the most likely.

"He supplicates during these nights with transmitted supplications": One should strive to make supplications during Laylat al-Qadr for it is a night in which all supplications are answered. It is *mustahabb* to supplicate a particular $du\bar{a}$ during the last ten nights. It was narrated by 'Aishah that she asked the Prophet $\frac{1}{8}$, "O! Messenger of Allah, what should I say if I chance upon the Night of Power?" He replied, say, "*Allahumma innaka 'afuwwun tuhibu al-'afwa fa'fu 'anni*." (O Allah, verily you are forgiving and love forgiveness, so forgive me.)⁴⁶⁰ It is recommended to repeat this $du\bar{a}$ ' often during the last ten nights

⁴⁵⁷ Reported by al-Bukhārī (3/62) and Muslim (3/174) from the narration of 'Abdullah ibn 'Umar and 'Aishah.

⁴⁵⁸ Reported by Muslim (3/176) from the narration of 'Aishah.

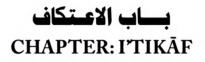
⁴⁵⁹ See al-Insāf (3/355).

⁴⁶⁰ Reported by Ahmad (6/171, 182), al-Tirmidhī (3513), al-Nasā'ī under "Deeds done in the

A Commentary on Zād al-Mustaqni

in which the Night of Power is anticipated.

morning and night" (872) and Ibn Mājah (3850).



"Chapter of *l'tikāf*": *l'tikāf* (retreating in the *masjid*) is a deed associated with the month of Ramadān. *l'tikāf* is permissible throughout the year but it is especially meritorious during the month of Ramadān. The Prophet $\frac{1}{2}$ used to do *i'tikāf* during the last ten days of Ramadān in an effort to gain the abundant rewards of Laylat al-Qadr.

I'tikāf in linguistic terms refers to residing or staying put at a place. Anyone who stays at a place and has an intention to be there indefinitely is considered to be a *mu'takif* (someone who does *i'tikāf*).⁴⁶¹

As for the technical definition, it is the act of staying or residing in the *masjid* day and night to worship Allah.⁴⁶² He secludes himself in the *masjid* so that he may focus solely on the worship of Allah; performing *dhikr*, reading the Qur'ān and other acts of worship. He frees himself from the distractions of the worldly life and withdraws into the *masjid* to focus on worship. This is the definition of *i'tikāf* as legislated in Islam. It is more recommended that he do so in Ramadān than in other months. Nevertheless, performing *i'tikāf* in other months is rewarded as well.

وهو لزومُ مسجدٍ لطاعةِ الله تعالى، مسنونٌ

It is the act of staying in the *masjid* for the sole purpose of worshipping Allah, the Most High. It is a Sunnah to do so. متن

⁴⁶¹ See Lisān al-Arab (9/255).

⁴⁶² See al-Dar al-Naqī (1/372).

A Commentary on Zād al-Mustaqni

"It is the act of staying in the *masjid* for the sole purpose of worshipping Allah, the Most High. It is a Sunnah to do so": This is the technical definition of *i'tikāf*. One must have an intention to reside in the *masjid* as all acts of worship are nullified without an intention. The Prophet # said, "Verily, deeds are by their intentions and verily to every man is what he intended."⁴⁶³ If a person sat at the *masjid* for a prolonged period of time but did so without an intention, then he fails to earn the rewards of *i'tikāf*. Similarly, if he sat at a place other than a *masjid* with an intention to make *i'tikāf*, then it is considered an innovation. A Muslim will not perform *i'tikāf* other than in a *masjid*. Allah says: {And do not have relations with them as long as you are staying for worship in the *masjids*.}⁴⁶⁴

This is because making *i'tikāf* other than in a *masjid* may cause a person to miss the congregational prayer. Therefore, he will pray at his home; all the while thinking that he is secluding himself from the people so as to focus on the worship of Allah. He is in fact committing a sin by neglecting the congregational prayer. For this reason, *i'tikāf* is legislated to be performed at *masjids* and nowhere else.

I'tikāf must be performed with an intention to worship Allah and the objective is the obedience to Allah.

When *i'tikāf* is performed as a means to show-off and for the sole purpose of earning the praise of others or if its only objective is to seek seclusion from people, then this cannot be considered *i'tikāf*. This is because it does not include the intention to worship Allah through it nor does it include the intention to seek Allah's reward through the action.

I'tikāf is Sunnah and not wājib. It is recommended (mustahabb).

متن

ويصحُ بلا صوم، ويلزمان بالنَّذْر

It is acceptable when one is not fasting and they both become binding when one vows to perform it.

⁴⁶³ Reported by al-Bukhārī (1/2, 21), (3/190) and Muslim (6/48) from the narration of 'Umar ibn al-Khattāb.

⁴⁶⁴ Al-Baqarah: 187

"It is acceptable when one is not fasting": Performing *i'tikāf* when one is fasting is better. However, it is accepted when one performs it without fasting and he reaps the reward of *i'tikāf*. The evidence for this is the incident when 'Umar \Rightarrow asked the Prophet \equiv regarding a vow he had made. He had vowed to perform *i'tikāf* in al-Masjid al-Haram for one night. The Prophet \equiv commanded him to fulfil his vow.⁴⁶⁵ It is obvious that there is no fasting during the night.

"And they both become binding when one vows to perform it": If a person vows to make *i'tikāf* while fasting, then it is binding upon him to do both in tandem. The Prophet $\frac{1}{2}$ said, "Whoever makes a vow to obey Allah, then he shall obey Him."⁴⁶⁶ *I'tikāf* is an act of worship as is fasting. Since he had vowed to perform two acts of worship, he must fulfil both.

ولا يصحُّ إلا في مسجدٍ يُجْمَع فيه، إلا المرأةَ ففي كلِّ مسجدٍ سوى مسجدِ بيتها

It is only permissible in a *masjid* wherein congregational prayers are held except women who may do so at any *masjid*, besides the prayer hall in their homes.

"It is only permissible in a *masjid* wherein congregational prayers are held": It is invalid if performed in a *masjid* wherein no congregational prayers are performed. This is to ensure that those who perform *i'tikāf* do not miss out on performing obligatory prayers in a congregation. If he insists on performing *i'tikāf* at such a *masjid*, then the likely scenarios are:

<u>Firstly</u>: He performs *i'tikāf* but fails to offer obligatory prayers in congregation. This is forbidden. A Muslim must not commit a sin in his effort to do a recommended action, in this case *i'tikāf*.

Second: He performs *i'tikāf* at the *masjid* but leaves it at the time of each prayer to attend the congregational prayer at another *masjid*. This nullifies his *i'tikāf*.

"Except women who may do so at any masjid, besides the prayer hall in their

متن

⁴⁶⁵ Reported by al-Bukhārī (3/66) and Muslim (4/88) from the narration of 'Abdullah ibn 'Umar.

⁴⁶⁶ Reported by al-Bukhārī (8/177), Ahmad (6/36, 41), Abu Dawūd (3289), al-Tirmidhī (1526), al-Nasā'ī (7/17) and Ibn Mājah (2126) from the narration of 'Aishah.

homes": Women may perform *i'tikāf* in any *masjid* regardless of whether congregational prayers are offered therein or not. However, they should not perform *i'tikāf* at the prayer hall (*musallab*) in their homes as it does not constitute a *masjid*. Hence, it cannot be considered as *i'tikāf* and Allah knows best.

To summarise, the pre-requisite for an acceptable *i'tikāf* is that it be performed in a *masjid* wherein congregational prayers are conducted. We can infer from this pre-requisite that any seclusion that bars a person from performing the Friday prayer and congregational prayers is a type of seclusion not legislated in Islamic law. Unfortunately, there are innovators in the $d\bar{n}n$ who practice this. Ibn 'Abbās \clubsuit was asked about a man who prayed the whole night and fasted throughout the day but did not attend the Friday prayer nor the congregational prayers. He replied: "He is in the hell fire."

Therefore, if the Friday prayer and congregational prayers are neglected due to any seclusion or isolation at a $z\bar{a}wiyah$ or a home, which is practiced by the innovators in the $d\bar{n}n$, it is something beyond the laws legislated by Allah. It is a prohibition and not an act of worship. Acts of worship to Allah are conducted in His houses, i.e. the *masjids*. Allah says: **{[Such niches are] in** *masjids* **which Allah has ordered to be raised and that His name be mentioned therein; exalting Him within them in the morning and the evenings. [Are] men whom neither commerce nor sale distracts from the remembrance of Allah and performance of prayer and giving of** $zak\bar{a}t$. They fear a Day in which the hearts and the eyes will [fearfully] turnabout.}⁴⁶⁷

This is the characteristic of the believer. They are those who frequent the *mas-jids*, and attend the Friday prayers and congregational prayers. They do not stay away from it due to laziness nor do they cite seclusion with their Lord or seclusion from the people as the reason for being absent from the *masjid*. This is the manner of the Christian monks. Allah has not prescribed this in our *din* nor was this practiced by His Messenger. Any seclusion that leads to the shunning of congregational prayers and the gatherings of Muslims is an innovation indeed. It is a sin to practice this kind of seclusion. It becomes our duty to warn the people against such a practice. It is legislated in Islamic law to attend the Friday prayer, congregational prayers and to frequent the *masjids*. These deeds earn the pleasure of Allah and His Messenger. This is because *masjids* are the houses of Allah. An authentic hadith mentions that among the

⁴⁶⁷ Al-Nūr: 36-37

seven groups of people conferred with the shade of Allah on a day when there is no shade except His shade on the Day of Judgement is, "A man whose heart is attached to the *masjids*."⁴⁶⁸ That is, he loves *masjids* and frequents them.

The Prophet $\frac{1}{8}$ said, "Give glad tidings to those who walk to the *masjids* in the dark with a perfect radiance on the Day of Judgement."⁴⁶⁹ Allah says: {The *masjids* of Allah are only to be maintained by those who believe in Allah and the Last Day and establish prayer and give *zakāt* and do not fear except Allah, for it is expected that those will be of the [rightly] guided.}⁴⁷⁰

Those who shun the *masjids* and do not frequent them due to laziness, to avoid the Friday and congregational prayers or they presume that they are busy worshipping or they have secluded themselves with Allah, they are disobeying Allah and His Messenger.

متن

If he vows to perform *i'tikāf* or prayer in a *masjid* other than the three: al-Masjid al-Haram, al-Masjid al-Nabawī and al-Masjid al-Aqsa, it is not binding. If he specified one of the holy *masjids*, then fulfilling the vow in a less significant *masjid* is not valid and the opposite is the opposite.

"If he vows to perform *i'tikāf* or prayer in a *masjid* other than the three: al-Masjid al-Haram, al-Masjid al-Nabawī and al-Masjid al-Aqsa, it is not binding": I.e. it is not binding upon him to fulfil his vow in the *masjid* he had specified in his vow. In fact, it is permissible for him to make *i'tikāf* in any *masjid* wherein congregational prayers are conducted. This is because all *masjids* besides the three holy *masjids* are equal in stature and significance. He who specifies a *masjid* in his vow imagining it to be greater in significance while Allah has not made it more worthy than other *masjids*, is actually innovating in Islam.

He may fulfil his vow in any masjid located in his country or abroad. It goes

470 Al-Tawbah: 18

⁴⁶⁸ Reported by al-Bukhārī (1/168), (8/203) and Muslim (3/93) from the narration of Abu Hurairah.

⁴⁶⁹ Reported by Abu Dawūd (561) and al-Tirmidhī (223) from the narration of Buraydah ibn al-Hasīb.

without saying that he must fulfil his vow at any cost for the Prophet ﷺ said, "Whoever makes a vow to obey Allah, shall obey Him."⁴⁷¹

However, he should not specify a location or *masjid* in his vow for all *masjids* are equally worthy of performing *i'tikāf* therein. One only has to ensure that it is a *masjid* in which Muslims offer their prayers. This one pre-requisite will suffice. Having said that, the three holy *masjids* are distinguished by Allah and are highly significant in stature. He has preferred these *masjids* more than other *masjids*. They are al-Masjid al-Haram, al-Masjid al-Nabawī and al-Masjid al-Aqsa which are all *masjids* founded by Prophets **.

Prayers and *i'tikāf* performed therein are more worthy than when performed in other *masjids*. The Prophet $\frac{1}{26}$ said, "Prayer in my *masjid* is better than a thousand prayers performed in other *masjids*, except al-Masjid al-Haram. Prayer performed in al-Masjid al-Haram is better than a hundred thousand prayers performed in other *masjids*."⁴⁷²

It has been narrated that a prayer performed in Masjid al-Aqsa is equivalent to praying five hundred prayers in other *masjids*. If a person makes a vow to perform *i'tikāf* in any of these three holy *masjids*, he is obliged to do so in it. This is because these *masjids* are unique in their significance and esteem compared to other *masjids*. Furthermore, travelling in order to worship in these three *masjids* is permitted. The Prophet $\frac{1}{28}$ said, "No journey [to visit a *masjid*] should be undertaken except to the three *masjids*: al-Masjid al-Haram, my *masjid* and al-Masjid al-Aqsa."⁴⁷³

These *masjids* offer a multi-fold increase in rewards for deeds. A prayer in al-Masjid al-Haram equals one hundred thousand prayers prayed elsewhere whilst a prayer is worth a thousand prayers when prayed at al-Masjid al-Na-bawī. It is multiplied five hundred times in al-Masjid al-Aqsa. This is the reasoning behind the obligation of fulfilling the vow in these three *masjids*. If the one who made the vow performed *i'tikāf* in other than these three *masjids*, the vow is invalid.

⁴⁷¹ Reported by al-Bukhārī (8/177) from the narration of 'Aishah.

⁴⁷² Reported by Ahmad (3/343, 397) with this wording. Narrated by Jābir ibn 'Abdillah. Also reported by al-Bukhārī (2/76) and Muslim (4/124) from the narration of Abu Hurairah.

⁴⁷³ Reported by al-Bukhārī (2/76) and Muslim (4/126) from the narration of Abu Hurairah.

There is a difference in stature between these three holy *masjids*. The best is al-Masjid al-Haram followed by al-Masjid al-Nabawī and then al-Masjid al-Aqsa.

"If he specified one of the holy *masjids*, then fulfilling the vow in a less significant *masjid* is not valid and the opposite is the opposite": It is permissible for a person to perform the prayer or *i'tikāf* in a *masjid* more significant than the *masjid* he had specified in his vow. For example, if he had vowed to perform *i'tikāf* or prayer in al-Masjid al-Nabawī, it is accepted if he ends up performing the prayer or *i'tikāf* in al-Masjid al-Haram as the latter is more significant than the former. Let's assume that a person vowed to pray or make *i'tikāf* in Masjid al-Aqsa for example but performed it in Masjid al-Nabawī. This is also accepted as the latter *masjid* is more significant than the former.

The same cannot be said for the reverse. If he had vowed to perform *i'tikāf* or prayer in Masjid al-Haram but ended up performing it in Masjid al-Nabawī, then it is not accepted. Similarly, if he had vowed to perform *i'tikāf* or a prayer in Masjid al-Nabawī but ended up performing it in Masjid al-Aqsa, the vow become unacceptable. This is because the act of worship took place in a *masjid* less significant than the *masjid* he had intended in his vow.

However, if he had intended to perform *i'tikāf* or prayer in a specific *masjid* other than the three holy *masjids*, and then proceeded to perform it in another *masjid*, then the vow is fulfilled. This is because all other *masjids* besides the three holy *masjids* are equal in significance and stature.

ومن نذر زماناً معيناً دخل مُعْتَكَفَه قبل ليلته الأولى، وخرج بعد آخِره

متن

He who made a vow [to sit in *i'tikāf*] for a specific period of time, he should enter the *masjid* before night fall of the first day and exit after the night of the last day.

"He who made a vow [to sit in *i'tikāf*] for a specific period of time, he should enter the *masjid* before night fall of the first day and exit after the night of the last day": For example, he vowed to make *i'tikāf* during the last ten days of Ramadān. This is time specific in terms of the days and the month. Hence, he should enter into the *masjid* before night fall of the first day, that is, before sunset on the twenty first of Ramadān. This means that he needs to be present at the *masjid* on the twentieth of Ramadān as an Islamic day starts as of sunset. Only then is the vow fulfilled.

He should maintain his *i'tikāf* until the night of 'Eid, which is the first night of Shawwāl.

متن

ولا يخرج المُعْتَكِفُ إِلا لِمَا لا بُدَّ له منه

The mutakif should not leave [the masjid] unless it is absolutely necessary.

"The *mutakif* should not leave [the *masjid*] unless it is absolutely necessary": The *mutakif* (one performing *i'tikāf*), as we have discussed, should stay in the *masjid*, residing there in obedience to Allah. This condition is violated if he leaves the *masjid* as the period of absence from the *masjid* is not considered as *i'tikāf*. He may do so only if there is a necessity that can only be fulfilled if he leaves the *masjid*. Examples would be matters such as using the toilet, performing ablution and procuring food and drink, if he does not have anyone to bring it to him.

He must only remain outside the *masjid* for the least amount of time necessary to fulfil his needs and not surpass that. If this condition is observed strictly, his *i'tikāf* is not marred by his leaving the *masjid* for these short periods which are inevitable.

متن

ولا يعودُ مريضاً ولا يَشْهَدُ جنازةً إلا أن يَشْتر طَه

The sick should not be visited nor should he follow a *janāzah* unless he had stipulated this as a condition.

"The sick should not be visited nor should he follow a *janāzah* unless he had stipulated this as a condition": A person performing *i'tikāf* should not visit the sick or follow the *janāzah* even though visiting the sick and following the *janāzah* until the cemetery are *mustahabb* acts. This is because the *i'tikāf* that he has commenced is more important than the reasons that require him to leave the *masjid*. If he does leave the *masjid*, the period that he is away from it is not considered as *i'tikāf*. He may visit the sick and follow the *janāzah* only if he had stipulated it as a condition before the start of his *i'tikāf*. Another example of a deed that does not nullify *i'tikāf*: leaving the *masjid* wherein he is performing *i'tikāf* so as to offer the Friday prayer. This is provided that the Friday prayer is not conducted in the *masjid* he is in. This deed is legislated as an exception in Islam as missing the Friday prayer is forbidden. A Muslim cannot engage in a forbidden act in an effort to accomplish an act which is only *mustahabb*.

وإن وَطِئَ فِي فَرْجٍ فَسَدَ اعتكافُه Having vaginal sex will nullify his *i'tikāf*.

"Having vaginal sex will nullify his *i'tikāf*": If he had vaginal sex with his wife, his *i'tikāf* is nullified regardless if he had vowed to perform the *i'tikāf* or otherwise. This is because Allah forbade it saying: {And do not have relations with them whilst you are secluded (*ā'kifūna*) in the *masjids*.}⁴⁷⁴

This is evidence for the prohibition of engaging in sexual intercourse by the *mutakif*. Allah mentions **{And do not have relations,}** which is a reference to sexual intercourse. Similarly, all actions that are sex-related such as kissing and caressing are also forbidden. This is because it will incite a person to escalate the matter. Moreover, these acts will pre-occupy him with thoughts of intercourse which he has been deprived of whilst performing *i'tikāf*.

ويُستَحَبُّ اشتغالُه بالقُرَبِ واجتنابُ مالا يعنيه

It is *mustahabb* for him to busy himself with pious deeds and to eschew things which do not concern him.

"It is *mustahabb* for him to busy himself with pious deeds and to eschew things which do not concern him": This is what a *mutakif* should be doing. He should busy himself with all kinds of pious deeds such as *nafl* prayers, Qur'ān recital, pondering over the *ayāt* of Allah, and *dhikr* (remembrance) of Allah. He should be pre-occupied by verbal and physical acts of worship as *i'tikāf* is designed for this sole purpose.

He should shun that which does not concern him. He should also avoid worldly affairs and the affairs of people which do not concern him. متن

متن

⁴⁷⁴ Al-Baqarah: 187

To summarise, the pre-requisites of *i'tikāf* are:

Firstly: It is performed in a *masjid* wherein congregational prayers are conducted.

Secondly: The *mutakif* should not leave the *masjid* unless it is inevitable.

Thirdly: The *mutakif* should not engage in sexual intercourse.

Fourthly: If he had made a vow that was time-specific, he should enter the *masjid* at the start of the period and not leave until the end of the period.

Fifthly: If he had made a vow to perform *i'tikāf* in any of the three holy *mas-jids*, then performing it elsewhere is not acceptable.

Sixthly: If he had made a vow to perform *i'tikāf* in the more significant of the three holy *masjids*, then it is not acceptable for him to perform it in that which is less significant.

كتاب المناسك THE BOOK OF RITES

"The Book of Rites": The author proceeds to discuss the laws pertaining to the rites of pilgrimage. *Manāsik*, as it is called in Arabic, is the plural of *mansak* and actually means devotion (*al-ta'abud*). All acts of worship are termed *manāsik*. Allah says: {And for all nations We have appointed <u>a rite</u> [of sacrifice] (*manasakan*) that they may mention the name of Allah over what He has provide for them of [Sacrificial] animals.}⁴⁷⁵

And He also says: **{Say, "Indeed, my prayer, <u>my rites of sacrifice, my living</u> and my dying are for Allah, Lord of the worlds."}⁴⁷⁶ That is, the slaughtering of sacrificial animals.**

Linguistically and by origin *nusuk* (which is the root word of *manāsik*) is a reference to devotion in all forms of acts of worship.⁴⁷⁷ Here, it refers to all forms of rites associated with Hajj and 'Umrah. It includes verbal and physical deeds that are performed in both the major and minor pilgrimages as legislated by Allah.⁴⁷⁸

الحج والعمرة واجبان على المسلم الحُرِّ المُكلَّفِ القادرِ في عُمرِهِ مرةً على الفور

متن

Hajj and 'Umrah are both *wājib* upon a Muslim who is free, mature and is able to perform it once in his lifetime without delay.

⁴⁷⁵ Al-Hajj: 34

⁴⁷⁶ Al-An'ām: 162

⁴⁷⁷ See al-Sihāh (4/1612).

⁴⁷⁸ See al-Mutla' (p. 156).

"Hajj and 'Umrah are both *wājib* upon a Muslim": Hajj is obligatory upon every Muslim. The disbeliever is not required to do so as long as he is a *kāfir*. This is because his Hajj will not be valid just like the rest of the acts of worship he may perform. These acts become valid if he embraces Islam.

"Who is free": Slaves are exempted. It is not $w\bar{a}jib$ upon a slave to perform Hajj as he is owned by his master and his role is to serve his master. Hence, he is accorded a concession whereby Hajj is not $w\bar{a}jib$ upon him as performing it takes time, requires travel and sustenance. Undertaking it will deprive his master of the service he could have otherwise rendered. Furthermore, his livelihood depends on his master which makes Hajj non-obligatory for him to begin with. However, if amid his slavery he is able to perform Hajj, then it is valid although it is a *nafl* (voluntary) act for him.

"Able": I.e. he has the ability to travel and sustain himself during it. He must be able to access a mode of transport to travel in. Allah says: **[And [due] to Allah from the people is a pilgrimage to the House, for whoever is able to find thereto a way.]**⁴⁷⁹

Regarding the word in the above ayah "*al-sabīl*" (a way), the exegesis offered by Ibn 'Abbās ﷺ for this word here is "sustenance and transport."⁴⁸⁰ He should have enough food and money to sustain his journey and return, to sustain any dependants from the time he departs until he returns and he should have a mode of transport which will help him perform Hajj. The mode of transport varies with time of course. Riding animals or travelling by car, steam ship or airplane are all forms of transport that make it possible for him to perform Hajj. He should be able to pay the required cost of these modes of transport. This is what is meant in the ayah in regards to being able to acquire transport.

"To perform it once in his lifetime': It is *wājib* upon a Muslim to perform Hajj once in his lifetime. This is an ease conferred by Allah as performing Hajj involves much travel and expenditure. Perhaps there are even hazards along the way or during the pilgrimage that one has to face. These hazards may be due to a lack of safety and security. Hence, Allah has made it easy for the Muslims such that they need perform it only once in their lifetime.

⁴⁷⁹ Āli 'Imrān: 97

⁴⁸⁰ Reported by Ibn Mājah (2897) with a marfū' narration from 'Abdullah ibn 'Abbās.

The Book of Rites

The evidence for this is derived from the hadīth in which the Prophet $\frac{1}{8}$ said, "O people! Verily Allah has prescribed for you the Hajj so perform it." Al-Aqra' ibn Hābis $\frac{1}{68}$ said, "Should one perform it every year O Messenger of Allah?" The Prophet was silent for a moment and then replied, "If I say 'yes' it would become obligatory and you would not be able to fulfil it. Do not ask me more than what I have left you. Hajj is performed once and he who does more, it is supererogatory for him."⁴⁸¹

"Without delay": It is *wājib* to hasten to perform Hajj and not delay it. To expedite it is one of the conditions of Hajj. A Muslim is deemed a sinner if he delays performing Hajj without a valid excuse. The Prophet **±** said, "Hasten to perform Hajj for verily none of you knows what awaits him."⁴⁸²

فإن زال الرِّقُّ والجنونُ والصِّبَا في الحج بعرفة، وفي العمرةِ قَبْلَ طوافِها صَحَّ فَرْضاً

متن

In the event that a slave is freed, the insane gains sanity or a child reaches puberty while at 'Arafah during Hajj or before performing *tawāf* during 'Umrah, then the obligation is fulfilled.

"In the event that a slave is freed, the insane gains sanity or a child reaches puberty while at 'Arafah during Hajj or before performing *tawāf* during 'Umrah, then the obligation is fulfilled": If the conditions which prevent the performance of obligatory pilgrimage are removed - as when a slave is freed, when an individual regains sanity after losing it, or when one of the signs of attaining puberty is evident in a child - then that person is considered to have fulfilled the obligatory pilgrimage. This is provided that the above conditions are removed before one embarks on the rites of Hajj and 'Umrah. If the conditions are removed during Hajj while he is in 'Arafah, then his obligatory pilgrimage (*Hajjatul Islam*) is considered fulfilled. This is because standing at 'Arafah is the first rite which is a pillar of Hajj. If the conditions are removed while he is standing there, the remaining part of the day he spends there is sufficient to fulfil this pillar of Hajj. He then has to proceed to perform the remaining rites until completion. If he is performing 'Umrah, then he is deemed to have fulfilled '*Umrahtul Islam* when the conditions are removed before he makes

⁴⁸¹ Reported by Ahmad (1/255, 290), Abu Dawūd (1721), al-Nasā'ī (5/111) and Ibn Mājah (2886) from the narration of 'Abdullah ibn 'Abbās.

⁴⁸² Reported by Ahmad (1/313), Abu Dawūd (1732) and Ibn Mājah (2883) from the narration of 'Abdullah ibn 'Abbas.

tawāf. If the conditions are removed while he is making the *tawāf*, then he is not deemed to have fulfilled '*Umrahtul Islam*. However, he should proceed with the rites for it will be considered as a supererogatory act of worship. He should make plans to perform 'Umrah in the near future so as to fulfil the obligatory 'Umrah.

متن

وفِعْلُهما من الصَّبي والعبدِ نَفْلاً

Pilgrimage performed by a child or a slave is considered a supererogatory act of worship.

"Pilgrimage performed by a child or a slave is considered a supererogatory act of worship": Hajj or 'Umrah performed by a child who is not of age is valid but deemed a *nafl* act. This can be proven by the incident where a woman raised a child towards the Prophet $\frac{1}{28}$ and asked, "Is this one required to perform Hajj O Messenger of Allah?" He replied, "Yes. And you get the reward."⁴⁸³ The hadīth is evidence for the validity of Hajj performed by a child. It is considered as supererogatory and the guardian of the child gains the reward for it. However, the performed pilgrimage does not free the child from the obligation of *Hajjatul Islam*.

Similarly, Hajj performed by a slave is only considered a supererogatory Hajj and it earns him rewards. However, he must endeavour to perform *Hajjatul Islam* and *'Umrahtul Islam* as soon as he is freed.

والقادر من أمكنه الركوبَ ووجد زاداً وراحلةً صالحِيْنِ لِمُثله بعد قضاء الواجبات متن والنفقات الشرعية، والحوائج الأصلية

The able: He who is able to mount the mode of transport, has enough provision to sustain the journey and a mode of transport which befits his status after all his dues, mandatory expenditures and basic needs are settled.

"The able: He who is able to mount the mode of transport": This is the exegesis for the ayah: {**For whoever is able to find thereto a way.**}⁴⁸⁴ The potential pilgrim must be able to mount the riding animal, the plane or the car. If he is

⁴⁸³ Reported by Muslim (4/101), Ahmad (1/219, 244), Abu Dawūd (1736) and al-Nasā'ī (5/120) from the narration of 'Abdullah ibn 'Abbās. 484 Ālī 'Imrān: 97

unable to do so due to frailty of the body, terminal illness or old age, he does not have to perform Hajj himself. He may appoint a representative to do it on his behalf. This is due to the fact that his inability to do Hajj is a permanent one.

"Has enough provision to sustain the journey and a mode of transport": His provisions should sustain the journey to perform Hajj and the journey back as Allah says: **{And take provisions, but indeed the best provision is** *taqwa.***}**⁴⁸⁵

It is not permissible for him to perform Hajj if he does not have the provisions to sustain his journey. He should not be dependent on people or beg them for it. The provision that he sets aside to perform Hajj should be that which remains after all his basic needs and that of his dependants are taken care of. He should not be tight-fisted in spending for his basic needs or that of his children and other dependants, saying, "Spare nothing for the sake of Hajj." The provisions reserved for the Hajj trip should be over and above basic needs like possession of the mode of transport with which he wants to set out to perform Hajj, the house in which he is living in and books that he requires. As for luxuries, he may sell any that he possesses which he finds superfluous. If there is any amount that remains after his basic needs and that of his dependants are taken care of, he may use it to perform Hajj.

"Which befits his status": The wealthy should ready a mode of transport suitable to their status. There is no restriction that they should choose one that is meant for the poor. Similarly, the provision should befit his stature as a rich man. He is not limited to make do with a poor man's provision. The poor man should equip himself with a mode of transport that befits a poor man and prepare provision that is sufficient for him.

"After all his dues, mandatory expenditures and basic needs are settled": The money with which he performs Hajj should be in excess of dues binding upon him such as debt. If there will be no money left after performing Hajj, then he may do so only after acquiring permission from the lender or lenders. If not, he has to settle their debt.

⁴⁸⁵ Al-Baqarah:197

If old age or incurable illness prevents him, then he must appoint a representative who shall perform Hajj and 'Umrah on his behalf if they are obligatory.

"If old age or incurable illness prevents him, then he must appoint a representative who shall perform Hajj and 'Umrah on his behalf if they are obligatory": These people are termed as those who are able financially but incapable physically (*al-qādir bi mālibi dūna nafsibi*). He may appoint a representative to perform pilgrimage on his behalf provided that the factors preventing him from performing Hajj are permanent, such as terminal illness or old age. A woman asked the Prophet $\frac{1}{8}$ whether she could perform Hajj on behalf of her father who was obliged by Islamic legislation to perform it. She added that he was very old and was unable to ride the animal on which he would need to travel to perform Hajj. The Prophet $\frac{1}{8}$ replied, "Yes, perform Hajj on behalf of your father."⁴⁸⁶ This is proof for the permissibility of appointing a representative to perform *Hajjatul Islam* on one's behalf provided that he is incapable of doing it himself although he is financially sound.

"Then he must appoint a representative who shall perform Hajj and 'Umrah on his behalf if they are obligatory": The representative must travel from the country of the person he represents. This is because the person on whose behalf Hajj is being performed must travel from his place of residence. The representative must imitate the actions of the one who he represents were the latter to have performed the Hajj himself. All expenses accrued by the representative in his journey from that country until the time he returns to it is borne by the person on whose behalf he performed the pilgrimage. This is an opinion.⁴⁸⁷

Another opinion, which is correct by the will of Allah, is that there is no restriction that Hajj must be performed from the country of residence. If he finds a person to perform Hajj on his behalf, the latter may do so from whatever location and the Hajj performed on his behalf is valid.⁴⁸⁸ The evidence for this is the incident where the Prophet \cong heard someone say, "Labbaykka 'an

⁴⁸⁶ Reported by al-Bukhārī (2/163), (3/23) and Muslim (4/101) from the narration of 'Abdullah ibn 'Abbās.

⁴⁸⁷ See al-Insāf (3/405).

⁴⁸⁸ See al-Mughnī (5/39).

Shubrumah" (I have answered Your call on behalf of Shubrumah). The Prophet asked, "And who is Shubrumah?" To which the person replied, "A brother of mine who died." The Prophet asked, "Have you performed Hajj for yourself?" And he replied in the negative. So the Prophet said, "Perform Hajj for yourself and then perform it on behalf of Shubrumah."⁴⁸⁹ The point to note is that the Prophet $\frac{1}{26}$ did not stipulate the he perform it by travelling from the country where Shubrumah had lived.

ويجزئ عنه، وإن عوفي بعد الإحرام

متن

It is valid for him if he recovers after [the representative] enters the state of *ibrām*.

"It is valid for him if he recovers after [the representative] enters the state of *ihrām*": That is, the incapable individual who appointed another to perform Hajj on his behalf. If that which prevented him from performing Hajj dissipates before the representative enters the *ihrām*, then it is obligatory for him to perform it himself. The Hajj of the representative shall be considered a voluntary one from which he earns the reward. However, if that which prevented him from performing Hajj dissipates only after the completion of the Hajj rites by the representative or in the midst of performing it but after entering into the *ihrām* of Hajj, then the pilgrimage is deemed as *Hajjatul Islam* for the person he represents.

A further pre-requisite for its obligation upon women: the presence of a *mahram*. This can be her husband or any other male relative who she is forever forbidden to marry, by way of blood ties or legitimate reasons.

"A further pre-requisite for its obligation upon women: the presence of a *mah-ram*": We have discussed earlier that there are four pre-requisites which make Hajj obligatory: Islam, freedom, ability to perform Hajj and puberty. When all these pre-requisites are met by a Muslim, Hajj becomes obligatory upon him. Failing to meet even one of these pre-requisites will render Hajj non-obligato-

⁴⁸⁹ Reported by Abu Dawūd (1811) and Ibn Mājah (2903) from the narration of 'Abdullah ibn 'Abbās.

A Commentary on Zād al-Mustaqni

ry. Women haven a further pre-requisite: the presence of a *mahram* who must accompany her for the pilgrimage. The Prophet $\frac{1}{28}$ said, "It is not permissible for any woman who believes in Allah and the Last Day that she travels except accompanied by her *mahram*." In other narrations: "A day and a night",⁴⁹⁰ "Two days", and in another narration, "Three days."⁴⁹¹ This is evidence that women should not travel unless her *mahram* accompanies her on the journey.

Mahram: This is a male relative whom a woman is forever forbidden to marry due to blood ties or legitimate reasons. This is will be explained in detail later. The *mahram* must have attained puberty and be of sound mind. If a *mahram* is not available, then she must wait until this pre-requisite is met. However, if she has lost hope in finding a *mahram* to travel with, she may appoint a representative to perform Hajj on her behalf as it is not permissible for her to perform it herself without the presence of a *mahram*. The hadīth, "It is not permissible for any woman who believes in Allah and the Last Day that she travels except if accompanied by her *mahram*,"⁴⁹² stipulates this prohibition clearly.

A man came to the Prophet $\frac{1}{8}$ with a desire to partake in the battle and *jihād* for the sake of Allah. He informed the Prophet $\frac{1}{8}$ that his wife shall be performing Hajj. He $\frac{1}{8}$ then said, "Go and perform Hajj with your wife."⁴⁹³ He prioritised accompanying his wife to perform Hajj over his participation in the battle and *jihād* for the sake of Allah. This is because a woman has weakness and requires a person to look after her welfare, safety and needs.

Travelling is tiresome and filled with hardships. Travellers are exposed to dangers and a woman may face *fitnah* and may be taken advantage of in the absence of her *mahram*. Therefore, the presence of a *mahram* is a pre-requisite for Hajj to be an obligation upon a woman. That is, if she wants to perform it herself. If a *mahram* is not available, then she may choose to wait and perform Hajj when he is available or she may appoint a representative who will perform Hajj on her behalf.

⁴⁹⁰ Reported by al-Bukhārī (2/54) and Muslim (4/103) from the narration of Abu Hurairah.

⁴⁹¹ Reported by al-Bukhārī (3/76, 77) and Muslim (3/152) from the narration of Abu Sa'īd al-Khudrī.

⁴⁹² Reported by Muslim (4/103) and Ahmad (2/347) from the hadith of Abu Hurairah.

⁴⁹³ Reported by al-Bukhārī (3/24, 72) and Muslim (4/104) from the narration of 'Abdullah ibn 'Abbās.

"This can be her husband or any other male relative who she is forever forbidden to marry, by way of blood ties or legitimate reasons": Examples of a *mahram* would be her husband, or those forever forbidden from marriage to her: the father, paternal uncle, maternal uncle, brother and nephew. These are *mahram* by way of blood ties.

A legitimate reason where a male becomes a *mahram* to a female is by way of *al-radā'a* (a foster relationship established by breast-feeding). Examples of a *mahram* are her brother through nursing, father through nursing, grandfather through nursing and maternal uncle through nursing. The Prophet \cong said, "A relationship through nursing forbids that which is forbidden by blood ties."⁴⁹⁴ What is impermissible for the child related by birth is also impermissible for the one related through nursing (i.e. breast feeding). Allah, when mentioning about prohibitions, says: **{And your [milk] mothers who nursed you and your sisters through nursing.}**⁴⁹⁵ This is a legitimate reason for a male to be conferred the status as a *mahram* to women.

Marriage is another legitimate reason. Her father-in-law and her husband's son are her *mahrams* too. Some scholars claim that a *la'an* (oath of condemnation) once established must lead to a separation between the spouses. It renders the woman forever forbidden to the man. However, this does not confer him the status of a *mahram*.

"Forever": Therefore ties with temporary prohibition are excluded. Examples are his wife's sister and maternal and paternal aunts. These women are forbidden to him as long as his wife is married to him. However, if he divorces his wife or she dies, he may marry his ex-wife's sister or aunt. Since these ties are not forever forbidden to a man, he is not considered as a *mahram* to these women.

متن

If a person upon whom Hajj or 'Umrah is obligatory dies, it is fulfilled on his behalf using wealth he left behind.

⁴⁹⁴ Reported by al-Bukhārī (7/12) and Muslim (4/165) from the narration of 'Abdullah ibn 'Abbās.

⁴⁹⁵ Al-Nisā: 23

"If a person upon whom Hajj or 'Umrah is obligatory dies, it is fulfilled on his behalf using wealth he left behind": That is, he dies before fulfilling either 'Umrah or Hajj. In this case the money that he left behind is used to pay a representative to perform it on behalf of the deceased. This is because both 'Umrah and Hajj remain a debt upon the deceased until they are fulfilled. Debt has a higher priority than inheritance, let alone debt owed to Allah. Therefore, an amount sufficient to engage a person to perform the pilgrimage on behalf of the deceased is taken from his wealth that was left behind.

باب المواقيت

CHAPTER: THE DESIGNATED ENTRY POINTS FOR HAJJ (MAWĀQĪT)

The author says, "Chapter: *al-Mawāqīt*": It is the plural of *miqāt*, which refers to set limits of time and place denoted by Allah and His Messenger for the performance of acts of worship.⁴⁹⁶ The *mawāqīt* for Hajj can be divided into two types:

Mawāqīt that is time specific: Entering the state of *ihrām* for Hajj is only permissible at a specific time, which is during the sacred months. Allah mentions it in the ayah: {Hajj is [during] well-known months, so whoever has made Hajj obligatory upon himself therein [by entering the state of *ihrām*], there is [to be for him] no sexual relations and no disobedience and no disputing during Hajj.}⁴⁹⁷

These well known months are: Shawwāl, Dhul Qa'dah and the first ten days of Dhul Hijjah. If a person enters the state of *ihrām* intending Hajj during any of these specific days, his *ihrām* is valid. This is only for Hajj. As for those who are performing 'Umrah, there is no specific time for entering the state of *ihrām*. The person may do so whenever he likes throughout the year.

وِمِيقِاتُ أهل المدينة: ذو الحُلَيْفة، وأهل الشام ومصر والمغرب: الجُحْفَةُ، وأهل اليمن متن يَلَمْلَمُ، وأهل نجد قَرْنَ، وأهل المشرق ذاتُ عِرْقٍ، وهي لأهلها، ولمن مَرَّ علَّيها منّ

⁴⁹⁶ See al-Misbāh al-Munîr (p. 920).

⁴⁹⁷ Al-Baqarah: 197

The *miqāt* of the people of Madīnah is: Dhul Hulayfah, for the people of Shām, Egypt and Morocco it is: al-Juhfah, for the people of Yemen: Yalamlam, for the people of Najd it is: Qarnun and for the people from the East, it is Dhāt Irqin. These *Mawāqīt* are to be used by the residents of each region respectively when they perform Hajj and for those who travel past the *Mawāqīt*.

These five *mawāqīt* [are the second type,] specific to place:

"The $miq\bar{a}t$ of the people of Madīnah is: Dhul Hulayfah": This is for the residents of Madīnah and for those who travel past it. Dhul Hulayfah is a valley well known as Wādī al-Aqīq, situated near Madīnah. It is the furthest miqatfrom Makkah. It was named Dhul Hulayfah after a tree called "*Halfa*". *Hulayfah* is the diminutive form (Arabic grammar: *tasghīr*) of *halfa*. The Messenger of Allah \cong and his Companions entered into the state of *ihrām* at this $miq\bar{a}t$ when they performed the Farewell Hajj. He designated Dhul Hulayfah as the *miqāt* for the people of Madīnah and for those who travel past this place.

"For the people of Shām, Egypt and Morocco it is: al-Juhfah": Al-Juhfah is a small village situated along the old route to Makkah from Shām, Egypt or Maghrib (Morocco). They enter into the state of *ihrām* at Dhul Hulayfah when crossing it on land or sea. Those who travel by sea should enter into *ihrām* at the same geographical location of al-Juhfah while out at sea. Likewise is the case for those travelling by air, they enter into the state of *ihrām* at the approximate position of al-Juhfah.

"For the people of Yemen: Yalamlam": Yalamlam is the name of a mountain or a valley which is near a mountain. The people of Yemen enter into *ihrām* from this *mīqāt* as do those who travel via this route. It is also known as "Alamlam." It is popularly called "al-Sa'diyah" by people in the current time.

"For the people of Najd, it is: Qarnun": That is, Qarn al-Manāzil which is a large stream. This is the *mīqāt* for the people of Najd.

"And for the people from the East, it is Dhāt Irqin": The people being referred to here are the Iraqis and those who travel by a similar route to that of the Iraqis. They enter into the state of *ihrām* from Dhāt Irqin. It lies to the north of Qarn al-Manāzil, at close proximity to it along the route taken by the pilgrims when travelling to Makkah.

It is said that these mawaqīt were designated by 'Umar ⁴⁹⁸ as he had delineated the mīqāt for the people of Najd. It was reported in a hadīth that it was in fact the Prophet $\frac{1}{2}$ who delineated it.⁴⁹⁹ It is said that there is no contradiction between the two hadīths as it was the Messenger of Allah $\frac{1}{2}$ who delineated it initially and 'Umar, being oblivious to it, exercised his wisdom to delineate the mīqat. Coincidentally, he had chosen the very spot the Prophet $\frac{1}{2}$ had chosen earlier. This is just one example of the many instances of 'Umar $\frac{1}{2}$ making a favourable *ijtibād*.

ومن حجَّ من أهل مكةَ فَمِنْها، وعمرتُه من الحِلِّ

متن

Whoever performs Hajj from amongst the people of Makkah, should enter *ihrām* from within it whilst that for 'Umrah is done from beyond the sacred city.

"Whoever performs Hajj from amongst the people of Makkah, should enter *ihrām* from within it whilst that for 'Umrah is done from beyond the sacred city": The residents of Makkah enter *ihrām* in Makkah itself, whilst those who perform 'Umrah must enter *ihrām* from the outskirts of Makkah. The proof for this is the incident where 'Aishah requested to perform 'Umrah. The Prophet **#** asked 'Aishah's brother 'Abdul Rahmān ibn Abī Bakr to accompany her to a place called al-Tan'īm which lay on the outskirts of Makkah and thus not within the sacred city. She then entered into *ihrām* from there.⁵⁰⁰

This is proof that the residents of Makkah cannot enter the state of *ihrām* for 'Umrah while remaining within it. They must go to the outskirts beyond the city's sanctuary and can do so from al-Tan'īm, or al-Ji'rānah, the place where the Prophet $\frac{1}{20}$ entered *ihrām* when he performed 'Umrah in the year of the battle of Hunayn, 'Arafah or from any place that is a mile away from the sanctuary of Makkah. They should enter into the state of *ihrām* and only then enter Makkah.

⁴⁹⁸ Reported by al-Bukhārī (2/166) from the narration of 'Abdullah ibn 'Umar.

⁴⁹⁹ Reported by Muslim (4/7) and Ibn Mājah (2915) from the narration of 'Abdullah ibn 'Umar, which is a *marfû*' report.

⁵⁰⁰ Reported by al-Bukhārī (2/174), (3/6), (4/76) and Muslim (4/133) from the narration of 'Aishah.

The wisdom behind this disparity between Hajj and 'Umrah with regards to entering into the state of *ihrām*, and Allah knows best, is for these rites to attain a combination of being within the sanctuary of Makkah and outside. The Hajj pilgrim gets to be in the sanctuary and outside the sanctuary whilst performing the Hajj rites. He has to stand at 'Arafah, which is outside the sacred city. However, the rites of 'Umrah do not take the pilgrim outside of the sanctuary. Hence, he is ordered to enter into *ihrām* from outside the sacred city so that a combination of being within the sanctuary and outside is achieved.

وأشهرُ الحجِّ شوال وذو القعدة، وعَشْرٌ من ذي الحجة

The sacred months are: Shawwāl, Dhul Qa'dah and the first ten days of Dhul Hijjah.

"The sacred months are: Shawwāl, Dhul Qa'dah and the first ten days of Dhul Hijjah": The season for Hajj is limited to these months. Allah says: **{Hajj is [during] well-known months.**}⁵⁰¹ These well-known months are those mentioned above. If a person enters into *ihrām* to perform Hajj on the day of 'Eid al-Fitr, it is considered valid. He must remain in his *ihrām* until he completes his Hajj. Similarly, if he enters into *ihrām* before dawn of *Yawm al-Nahr* (10th of Dhul Hijjah) while he is at 'Arafah, then his state of *ihrām* is valid as he did so within the sacred months.

Point to note: There are instances of pilgrims traversing through the *mawāqīt* and entering into *ihrām* at Jeddah. This is a mistake. Jeddah is a *mīqāt* for only its residents and for those who made an intention to perform Hajj or 'Umrah whilst there. The Prophet $\frac{1}{2}$ said while delineating the *mawāqīt*, "And he who is at a lesser distance," referring to a person who is closer to Makkah than the *mawāqīt*, "Then his place [of *ihrām*] is that of the residents,"⁵⁰² or he can enter into *ihrām* from his current place.

متن

⁵⁰¹ Al-Baqarah: 197

⁵⁰² Reported by al-Bukhārī (2/165) and Muslim (4/5) from the narration of 'Abdullah ibn 'Abbās.

باب الإحرام **CHAPTER: IHRĀM**

الإحرام: نية النسك

متن

Ihrām is the intention to perform the rites.

"Chapter of *Ihrām*": The author has thus far explained that there are places delineated from which pilgrims must enter into the state of *ihrām*. These are the five *mawāqīt*. It is only proper now to make mention of the meaning of *ihrām*, the laws pertaining to it and that which must be avoided with regards to it. This is because a *muhrim* (someone in the state of *ihrām*) is prohibited from doing certain mundane acts that are permissible when he is not in this state.

"Ibrām is the intention to perform the rites": Ibrām is the intention to commence the performance of the rites of pilgrimage. If one intends with his heart to fulfil these rites and abide by the laws, then he has indeed entered into the state of *ibrām*. This is similar to the person who performs prayer. He commences the performance of it when he makes the *takbīratul ibrām*. Hence it is named as such. So, if one makes an intention to start fulfilling the rites of pilgrimage during the sacred months, he becomes a *mubrim* by his intention.

As for the actions that precede the intention such as performing *ghusl*, removing bodily hair that ought to be removed, clipping of the nails and applying perfume, these are just preparatory acts and only preliminary to entering into *ihrām*. One does not become a *muhrim* by doing these acts as these precede the intention. One cannot be a *muhrim* except after making an intention to start performing the rites of Hajj and 'Umrah.

سُنَّ لُريدِه غسْلٌ أو تيممٌ لِعَدَمٍ، وتنظيفٌ وتَطَيُّبٌ وتَجَرُّدٌ من خَيْط

It is Sunnah for a person who wants to enter into *ibrām* to take a bath or perform *tayammum* if water is not available, to cleanse himself, apply perfume and to be free of stitched clothes.

"It is Sunnah for a person who wants to enter into *ihrām* to take a bath or perform *tayammum* if water is not available": He may take a bath to rid himself of bad odour and dust that comes with travelling. Entering into *ihrām* is an act of worship and taking a bath for it is legislated in Islam. This is so that he performs this act of worship in the best condition. However, taking a bath is only *mustahabb* and not *wājib* and this is the case provided that water is available. If it is not, then the author mentions *tayammum* (dry ablution). *Tayammum* is a replacement for *ghusl* (bath) and ablution as mentioned by Allah: {And if you do not find water, then perform *tayyamum* [with clean earth.]}⁵⁰³

This verse is in relation to prayers where *tayammum* is a replacement for *ghusl*. By means of analogy, it implies that one may perform *tayammum* to achieve purification when entering into *ihrām*.

Some scholars are of the opinion that *tayammum* is not legislated.⁵⁰⁴ As it does not achieve the objective of cleansing per se. *Tayammum* does not remove perspiration and other physical dirt. However, what is apparent, and Allah knows best, is that *tayammum* is legislated. This is because the person wants to enter into *ihrām* whilst being in purified state. This state is achieved by *tayammum* when water is not available or when one is unable to use water. He wants to be in a purified state so that he may perform a prayer before entering into *ihrām*. This is if he holds to the view that the act of entering into *ihrām* requires a special prayer.

"To cleanse himself": So that he may cleanse himself of the hairs that were removed while trimming his moustache, shaving his armpit and pubic hairs and of the nails after they are cut. These are removed or cut because they are blemishes to the body. Furthermore, it is a natural disposition to remove or cut

متن

⁵⁰³ Al-Mā'idah: 6

⁵⁰⁴ It is mentioned in *al-Insāf*, "The author, i.e. Ibn Qudāmah prefers this view. Likewise is the preference of the commentator and author of *al-Fā'iq* and Ibn 'Abdūs in his *Tadkirah*. I say, 'This is the correct opinion." (3/432)

these. He does so before entering into *ihrām* as he is prohibited from doing so whilst at Hajj or 'Umrah and he also protects himself from the harm of not removing these bodily hairs and the nails.

"Apply perfume": It is Sunnah to apply perfume with the best fragrance he has all over his body. The Prophet $\frac{1}{8}$ used to apply musk to his body before entering into *ibrām* and after he had made *tahalul* (i.e. after exiting the state of *ibrām*). 'Aishah said, "I used to apply perfume on the Messenger of Allah $\frac{1}{8}$ in preparation of *ibrām* before he entered into it and during his *tahalul* before he made the *tawāf* of al-Bayt (i.e. the Ka'bah)."⁵⁰⁵ This narration proves that perfume is applied before entering into *ibrām* and after exiting from *ibrām*. A woman may apply fragrances that do not have a noticeable scent so as to thwart bad odour emanating from her.

"And to be free of stitched clothes": Men should not wear stitched clothing regardless whether the clothes cover the whole body or some part of it. This includes that which fits snugly to the body such as t-shirts, socks and gloves. Any clothing that is tightly wrapped around the body or a part of it and clothing that is sewn to fit the body or a part of it must be shunned. The Prophet shunned these types of clothing whilst in *ihrām*.⁵⁰⁶

Instead of wearing stitched clothes and other clothing that have similar properties, he wore the $iz\bar{a}r$ (lower garment worn from the hip down) and wrapped the $rid\bar{a}$ (shawl) over his shoulders so that he was fully covered by both of these garments. They remind one of death and the shroud with which the dead are covered (*al-kufan*). Similarly, the pilgrim wears the *ihrām* to remind him of the shroud cloth and in turn of death. Another great secret behind wearing the *ihrām* is it reminds us that everyone is equal in the sight of Allah. The king, the destitute, the wealthy, the poor, the free person, the slave, the Arab and the non-Arab are all of the same standing. Distinguishing one from the other is impossible.

ويُحْرِمُ في إزارٍ ورداءٍ أبيضين نظيفين، وإحرامٌ عَقِبَ ركعتين، ونِيَّتُه شَرْطٌ

متن

He enters into *ibrām* wearing a lower garment and a shawl that are white in

⁵⁰⁵ Reported by al-Bukhārī (2/168, 219) and Muslim (4/10).

⁵⁰⁶ Reported by al-Tirmidhī (830) and Ibn Mājah (2595) from the narration of Zayd ibn Thābit.

colour and clean. He enters into the state of *ibrām* after performing a two *rakāt* prayer and the intention to enter into *ibrām* is a pre-requisite.

"He enters into *ihrām* wearing a lower garment and a shawl that are white in colour and clean": It is *mustahabb* to wear a garment which is wrapped around the lower part of the body $(iz\bar{a}r)$ and a shawl for the upper body $(rid\bar{a})$ which are white in colour. The Prophet $\frac{1}{28}$ said, "Wear clothes that are white and shroud your dead in it."⁵⁰⁷ It is *mustahabb* to wear white garments for the *ihrām*, though other colours are permitted. The only exception is pure red. It is forbidden for men to wear pure red garments.

"He enters into the state of *ihrām* after performing a two *rakāt* prayer": It is *mustahabb* that one enters into *ihrām* after the prayer. If it is time to perform an obligatory prayer, it is *mustahabb* to enter into *ihrām* after its performance as was practiced by the Prophet $\underline{*}$. He prayed the *zuhr* prayer and then entered into *ihrām*. He made the *talbiyah* after performing the obligatory prayer whenever the time for *ihrām* and prayer coincided. It is better to delay entering into the state of *ihrām* until after performing the obligatory prayer.

If one enters into *ihrām* when an obligatory prayer is not due, then he should not perform the two *rakāt* prayer before entering into *ihrām* during times when prayers are forbidden such as after the 'asr and fajr prayers. As for when one is in a time where prayer is not forbidden, some scholars view that it is *mustahabb* to pray two *rakāt* before entering into *ihrām* whilst others view that there is no legislation to perform a prayer specially for entering into *ihrām* except when it coincides with the time when an obligatory prayer is due. In this scenario, one should perform the prayer before entering into *ihrām*. However if it does not coincide with an obligatory prayer, there is no evidence regarding the performance of a prayer for the express purpose of entering into the state of *ihrām*. Having said this, it is still permissible to perform the two *rakāt* prayer before entering into *ihrām* provided that it is not a time when prayers are forbidden. Praise be to Allah.

"And the intention to enter into *ihrām* is a pre-requisite": That is, it is a pre-requisite (*shart*) that he makes an intention in his heart to enter into *ihrām*. It is

⁵⁰⁷ Reported by Ahmad (5/13, 19) and al-Tirmidhī (2810) from the narration of Samrah ibn Jundub. It is also reported by Ahmad (1/231, 247), Abu Dawūd (3878) al-Tirmidhi (994) and al-Nasā'ī (8/149) from the narration of 'Abdullah ibn 'Abbās.

not sufficient that he merely puts on the garments meant for *ihrām* without making the intention. If he does not make the intention, he will not be considered a *muhrim* as entering into *ihrām* is an act of worship. The Prophet $\frac{1}{28}$ said, "Verily actions are by intentions."⁵⁰⁸

متن

It is mustahabb for him to say, "Allāhumma innī urīdu nusuka <u>kadhā</u> fayassirhu lī, wa in habasanī hābisun fa mahillī haythu habastanī." (O Allah! Verily I want to perform [mention the type of pilgrimage] so make it easy for me and if I am restrained by a barrier, then my place is where You have restrained me.)

"It is mustahabb for him to say, 'Allāhumma innī urīdu nusuka kadhā fayassirhu lī": I.e. it is mustahabb to verbalise the type of pilgrimage which one intends to perform, for example tamattu', qirān, ifrād or 'Umrah. If he intends to perform 'Umrah, he should not verbalise his intention per se. He should not say: "O Allah! Verily I intend to perform Hajj", or "I intend to perform tamattu'/qirān/ ifrād/'Umrah." The articulation of the niyyah (intention) was not practiced by the Prophet ^{*}. Instead the muhrim should verbalise what he intends i.e. announcing the intent to perform pilgrimage. One does so by saying, "Labbayk allahumma 'Umrahatann mutamatta'an bihā ilā al-Hajj." ("I answer Your call, O Allah, to perform 'Umrah with Hajj in the tammatu' form") Or, "Labbayka allahumma 'Umratan wa Hajjan." ("I answer Your call, O Allah, to perform 'Umrah and Hajj") Or, "Labbayka allahumma Hajjan." ("I answer Your call, O Allah, to perform Hajj") Or, "Labbayka allahumma 'Umrahtan." In this manner the individual verbalises the form of pilgrimage he intends.

This way of articulating one's objective has been authentically recorded in the *ahadīth*.

"And if I am restrained by a barrier, then my place is where You have restrained me": This clause is stipulated in the articulation of one's objective. It is included in the articulation for fear that one might fall incapable of performing the pilgrimage due to illness. Originally, 'Atikah bint al-Zubayr (al-Zubayr was

⁵⁰⁸ Reported by al-Bukhārī (1/2, 12), (3/190) and Muslim (6/48) from the narration of Umar ibn al-Khattāb.

the son of the Prophet's uncle 'Abdul Muttalib) enquired to the Prophet 3saying, "Verily I want to perform Hajj though I am ill." He replied, "Perform Hajj with a clause that, 'My place is where You have restrained me' and Allah shall reward you all that from which you were restrained."⁵⁰⁹ So the original incident which brought about this clause was the inability of the companion of the Prophet 3 to perform Hajj. Therefore, whoever is in a similar predicament due to illness, the fear of resistance from the enemy or an obstruction that impedes in the completion of the pilgrimage may stipulate this clause. However, there is no evidence to support the healthy person who enjoys security to stipulate this clause when articulating his objective as the Companions of the Prophet did not practice this except for the female companion mentioned in the hadith who was ill.

وأفضلُ الأَنْساكِ التَّمتعُ، وصفته أن يُحْرِم بالعُمرة في أشهرِ الحج ويَفْرُغَ منها ثم يُحْرِمَ من بالحجِّ في عامِه، وعلى الأَفُقِيِّ دمٌ

The best type of pilgrimage is *al-tamattu*'. Its description: One enters into *ihrām* with an intention to perform 'Umrah during the months of Hajj and completes it. He enters *ihrām* again for Hajj the same year. The non-resident [of the area surrounding Masjid al-Haram in Makkah] has to pay the "*dum*" penalty.

"The best type of pilgrimage is *al-tamattu*": There are three types of Hajj pilgrimage one can undertake: *Al-tamattu*', which is the best as it was the Hajj that the Prophet \cong urged his Companions to perform. His Companions entered into *ihrām* for Hajj alongside him but he ordered them to shave their heads upon completing the *sa'ī* (walking between Mounts Safā and Marwah). They left the state of *ihrām* and then entered *ihrām* again for Hajj on the day of *tarwiyah* (8th of Dhul Hijjah). The Prophet \cong regretfully said, "Had I known beforehand about my affair what I have come to know later, I would have made *tahalul* with you all. But I have brought my sacrificial animal."⁵¹⁰ He was prevented from leaving *ihrām* and performing *al-tamattu*' because he had brought his sacrificial animal with him. This *hadīth* proves that *al-tamattu*' is the best form of Hajj pilgrimage.

⁵⁰⁹ Reported by al-Bukhārī (7/9) and Muslim (4/26) from the narration of 'Aishah. The report in Muslim was narrated by Ibn 'Abbās.

⁵¹⁰ Reported by al-Bukhārī (2/195-196), (3/4-5) and Muslim (4/36-37) from the narration of Jābir ibn 'Abdullah.

"Its description: One enters into *ihrām* with an intention to perform 'Umrah during the months of Hajj and completes it. He enters *ihrām* again for Hajj the same year": *Al-tamattu*': It is to enter *ihrām* with an intention to perform 'Umrah during the months of Hajj. One leaves the state of *ihrām* after completing 'Umrah. He then enters *ihrām* again on the day of *tarwiyah* or 'Arafah with an intention to perform Hajj. He sacrifices an animal as expiation for the benefit [of performing 'Umrah and Hajj together.] This is provided that he is not a resident of the area surrounding Masjid al-Haram.

Al-qirān: It is to enter into *ihrām* with an intention to perform 'Umrah and Hajj together beginning at the *mīqāt*. He must remain in the state of *ihrām* until he completes the rites on the day of 'Eid or later. He must expiate by sacrificing an animal for this Hajj combines 'Umrah and Hajj. Allah says: **{Whomever performs 'Umrah [during the Hajj months] followed by Hajj** [offers] what can be obtained with ease of sacrificial animals.}⁵¹¹

The one who performs *al-qirān* is like the one who performs *al-tamattu*' as they both combine between Hajj and 'Umrah in one journey. The only difference between them is that the latter should not leave the state of *ihrām* in the period between 'Umrah and Hajj.

Al-ifrād: It is to enter into *ihrām* with the intention to perform only Hajj in the sacred months. He must remain in *ihrām* until after completing all the rites on the day of 'Eid. He does not have to make an expiation.

"The non-resident": *Al-ufuqiyyu* refers to a non-resident. He must not be one who frequents al-Masjid al-Haram and requires no travelling to perform the rites.

وإن حاضت المرأةُ فخشيتْ فواتَ الحجِّ و أَحْرَمَتْ به وصارت قارنةً

متن

And if a woman begins menstruating and she fears that she might miss out on performing Hajj, she may enter into *ihrām* with the intention to do Hajj and she is considered as having intended *al-qirān*.

"And if a woman begins menstruating and she fears that she might miss out on performing Hajj, she may enter into *ihrām* with the intention to do Hajj

⁵¹¹ Al-Baqarah: 196

and she is considered as having intended *al-qirān*": If a woman entered into *ihrām* with the intention to perform *al-tammatu*' has her menses before she performed the 'Umrah, she may alter her intention and enter into *ihrām* with the intention to perform 'Umrah and Hajj together, i.e. *al-qirān*. This predicament was experienced by 'Aishah. The Prophet $\frac{1}{26}$ ordered her to enter into *ihrām* with the intention to perform Hajj thereby changing her pilgrimage to *al-qirān*.⁵¹²

When one mounts his ride, he says, "Labayk allāhumma labayk, labayka lā sharīka laka labayk, inna al-hamda wa al-ni mata laka wa al-mulk, lā sharīka laka." (I am at Your service, O Allah, I am at Your service. You have no partner. I am at Your service. Verily praise and blessing belong to You, and the Kingdom. You have no partner.) Men should raise their voices when uttering it while the women lower their voices when they do so.

When a person makes the intention to enter *ihrām*, he is required to chant the *talbiyab* as it is from the signs of the *muhrim*. It is as follows, "*Labbayka alla-humma labbayk, labbayka lā sharīka laka labbayk, inna al-hamda wa al-ni'mata laka wa al-mulku lā sharīka laka labbayk*." (I am at Your service, O Allah, I am at Your service. You have no partner. I am at Your service. Verily praise and blessing belong to You, and the Kingdom. You have no partner.)

He begins saying the *talbiyyab* after the intention to enter into the state of *ibrām* and he says the *talbiyyab* when mounting his ride. He keeps repeating it time and again as long as he is a *mubrim* as chanting it is a distinguishing trait of the *mubrim*. The meaning of the word *talbiyyab* refers to answering the call.⁵¹³ He answers the call of Allah by accepting His invitation which was articulated by Ibrāhīm see who said: {And proclaim to the people the Hajj (pilgrimage); they will come to you on foot and on every lean camel; they will come from every distant pass.}⁵¹⁴

⁵¹² Reported by al-Bukhārī (2/172) and Muslim (4/27-28, 29-30) from the narration of 'Aishah.

⁵¹³ See al-Sihāh (1/216).

⁵¹⁴ Al-Hajj: 27

Those performing Hajj and 'Umrah have accepted the invitation of Allah 356 and so they chant "Labbayka" (I am at your service). That is, answering the call again and again. "Lā sharīka laka" is a reminder of the oneness of Allah and one's sincerity to perform pilgrimage for Him alone. Acts of worship ('ibādah) are not accepted unless dedicated to Allah alone with *ikhlās* (sincerity). If it is dedicated to others along with Allah, then the acts of worship are rejected and are nullified. Hence, the *muhrim* repeats this magnificent phrase again and again, every wakeful hour until he completes his rites and leaves the state of *ihrām*.

"Men should raise their voices when uttering it while the women lower their voices when they do so": Each *muhrim* performs the *talbiyyah* individually. To chant it in unison as a group is an innovation in Islam. All *adhkār* (remembrance of Allah) are done individually, not in a group. Doing so is a habit of the innovators in Islam. Men should raise their voices when they chant the *talbiyyah*. Women should lower their voices when performing it as their voices are a source of temptation and enticement. She chants it just loud enough so she can hear her own self.

باب محظورات الإحرام CHAPTER: ACTS THAT ARE PROHIBITED WHILST IN IHRĀM

وهي تِسْعَةٌ: حَلْقُ الشعر، وتَقْليمُ الأَظْفَارِ، فمن حَلَقَ أو قَلَّم ثلاثةً فعليه دمٌ، ومن من غطَّى رأسَه بملاصقٍ فَــدًى، وإن لبس ذَكَرٌ نَخِيْطاً فَـدَى

There are nine prohibitions: Shaving the hair, clipping the nails. A *mubrim* who shaves or clips three must pay the *dum* penalty. A *mubrim* who covers his head with a thing attached to it must explate for it. A male *mubrim* who wears a stitched garment must explate for it.

"Chapter: Acts that are prohibited while in *ihrām*": *Mahzūrāt* while in the state of *ihrām* are acts which are lawful but are forbidden during the state of *ihrām*. There are nine prohibited acts:

First: "Shaving the hair": It is forbidden for the *muhrim* to shave his or her hair regardless if it is hair on the scalp or hair on other parts of the body. Allah says: **{And do not shave your heads until the sacrificial animal reaches its place of slaughter.}**⁵¹⁵

This proves that shaving of the hair on the scalp or removing it by other means is forbidden to the *muhrim*. This prohibition applies to all bodily hairs by way of analogy (qiyas) as long as he is in the state of *ihrām*.

Second: "Clipping the nails": The muhrim is forbidden to cut his nails as it

⁵¹⁵ Al-Baqarah: 196

is similar to removing the hair provided that they were voluntarily detached. However, if it fell off by itself involuntarily or if part of the fingernail or toenail broke by itself, then there is no blame on the *muhrim*.

"A *mubrim* who shaves or clips three must pay the *dum* penalty": If a *mubrim* removes three strands of hair or clips three fingernails or toenails on purpose, then he must expiate by either sacrificing a sheep, fasting for three days or feeding six poor people. Sacrifice should take place in the sanctuary of the Haram (around the Holy Masjid) and those fed must be the poor people of the Haram.

As for the fasting, it can be done anywhere as Allah says: {And whoever among you is ill or has an ailment of the head [making shaving necessary must offer.] A ransom of fasting [three days] or charity or sacrifice.}⁵¹⁶

The Prophet \mathfrak{Z} explained this to K'ab ibn 'Ujrah \mathfrak{Z} when the latter had to shave his hair due to an illness. He \mathfrak{Z} said, "Sacrifice a sheep or feed six poor people, giving each half a *sa*' or fast three days."⁵¹⁷

Third: "A *mubrim* who covers his head with a thing attached to it": It is forbidden for a male pilgrim to cover his head with a thing attached to it as long as he is in the state of *ihrām*. The Prophet $\frac{1}{8}$ exposed his head while he was a *mubrim* as did his Companions. The Prophet $\frac{1}{8}$ said regarding the man who fell of his animal and died, "Enshroud him in his two garments..." I.e. the two garments of *ihrām* "And do not cover his head nor apply perfume on him."⁵¹⁸ This is evidence to prove that a *muhrim* is forbidden to cover his head while alive or dead.

Fourth: "A male *muhrim* who wears a stitched garment must explate for it": If a *muhrim* wears a stitched or tailored garment on his body or a part of it, he must offer an explation. He may choose one of the following: sacrificing a sheep, feeding six poor people or fasting for three days. The Prophet $\frac{1}{2}$ avoided wearing stitched clothes and only restricted himself to the *izār* and *ridā* (lower

⁵¹⁶ Al-Baqarah: 196

⁵¹⁷ Reported by al-Bukhārī (3/12, 13), (5/164), (6/33) and Muslim (4/20, 21, 22) from the narration of K'ab ibn 'Ujrah.

⁵¹⁸ Reported by al-Bukhārī (2/96), (3/21) and Muslim (4/23, 24 and 25) from the narration of Ibn 'Abbās.

A Commentary on Zād al-Mustaqni

garment and the shawl).

متن

وإن طيَّبَ بدنَه أو ثوبَه أو ادَّهـن بِمُطَيِّبٍ أو شمَّ طِيباً أو تبخَّر بعودٍ ونحوه فَدَى

If he applied perfume on his body or garments, smeared himself with a fragrant substance, inhaled it or burnt *bud* or something similar to it, he must offer an expiation.

Fifth: "If he applied perfume on his body or garments, smeared himself with a fragrant substance, inhaled it or burnt *bud* or something similar to it, he must offer an expiation": It is prohibited for a *muhrim* to apply any kind of perfume, be it in liquid form or in the form of smoke (i.e. *bakhūr*) or powder. All these fragrances are forbidden whilst being a *muhrim*. The Prophet $\frac{1}{28}$ said about a *muhrim*, "... And he shall not attire himself in a garment that has been scented with the dye plant or saffron."⁵¹⁹

The Prophet $\frac{1}{25}$ said regarding the man who died while in the state of *ihrām* after falling from his riding animal, "... Nor apply perfume on him."⁵²⁰ This is evidence that a *muhrim* should not apply perfume upon himself or his garments after assuming *ihrām*. He should not inhale the perfume as well. If he does any of these things intentionally, then it is *wājib* upon him to offer one of the three methods of expiation mentioned above.

If he kills an edible prey which is originally a land-dweller or a cross-bred offspring of this type of prey or it perished whilst in his possession, then he must pay a penalty.

Sixth: "If he kills an edible prey which is originally a land-dweller": Hunting is prohibited for the *muhrim* within the sanctuary of the Haram or outside of it. Allah says: **{O you who have believed, do not kill game while you are in**

⁵¹⁹ Reported by al-Bukhārī (3/20-21), (7/187) and Muslim (4/2) from the narration of Ibn 'Umar.

⁵²⁰ Reported by al-Bukhārī (2/96), (3/21) and Muslim (4/23, 24 and 25) from the narration of Ibn 'Abbās.

the state of ibrām.}521

Hunting is forbidden for the *muhrim* as long as he is in the state of *ihrām*. He may do so after he has made *tahalul* as Allah says: **{But when you come out of** *ihrām*, then [you may] hunt.}⁵²²

The prey that should not be hunted are the land-dwelling animals. Wild animals that originally live on land for example birds, gazelles, rabbits and other similar animals are prohibited for hunting when one is a *muhrim*. However, domesticated animals like cows, sheep and camels which become feral after escaping captivity are not prohibited from being hunted when one is a *muhrim*. This is because they are not considered to be game.

"Or a cross-bred offspring of this type of prey": If a wild land-dwelling animal cross-breeds with a domesticated animal, the resulting off-spring is prohibited for hunting by a *muhrim* for it is better to err on the side of caution.

ولا يحرم حيوانٌ إِنْسي، ولا صيدُ البحر، ولا قـتلُ محرَّم الأكلِ، ولا الصـائلُ

متن

Domesticated animals are not prohibited, nor are marine animals, animals forbidden for consumption and pests.

"Domesticated animals are not prohibited": I.e. to be hunted. Examples would be camels, cows and sheep, chicken and all other animals that live in human surroundings. It is permitted to slaughter and eat their meat. Similarly, animals in the sea can be hunted for food. Allah says: {Lawful to you is game from the sea and its food.}⁵²³

"Nor are marine animals": Game from the sea is not forbidden for hunting by the *muhrim*. It is permissible for him to hunt whales and fish and other marine animals that live only in the water. The *muhrim* is only prohibited from hunting land-dwelling animals: **{But forbidden to you is game from the land as long as you are in the state of** *ihrām*.}⁵²⁴ Hence it can be extrapolated from this that hunting marine animals is not prohibited for the *muhrim*.

⁵²¹ Al-Mā'idah: 95

⁵²² Al-Mā'idah: 2

⁵²³ Al-Mā'idah: 96

⁵²⁴ Al-Mā'idah: 96

"Animals forbidden for consumption": Animals and birds whose meat is not *halāl* for consumption can be killed when one is in the state of *ihrām*. Examples are the wolf, lion and other similar animals. The reason it is permitted to kill them, though these animals are land-dwellers, is that they are not considered game. Allah 3% has only forbidden the hunting of land-dwelling game by the *muhrim*.

"And pests": Animals that are pests to humans and that which harm them, attack and eat them or steal their food supply are allowed to be killed in self-defence. There is no penalty incurred in killing these types of animals.

ويحرم عقدُ نكاحٍ، ولا يصحُّ، ولا فديةٌ، وتصحُّ الرجعةُ

متن

The marriage contract is forbidden and is invalid. No expiation is required. Reunion of divorcees is permissible.

Seventh: "The marriage contract is forbidden and is invalid": Among the things that must be avoided when one is in the state of *ihrām* is the marriage contract (*nikāh*), i.e. the contract where the bride is officially offered by her guardian and accepted by the groom. A *muhrim* must not marry nor marry off a woman as a *wali* (guardian) regardless if the groom is a *muhrim* or not. The Prophet Ξ said, "The *muhrim* should not marry nor should he give a woman away in marriage."⁵²⁵ That is, he should not marry a woman himself nor should he preside over marrying off a woman to another man. A man should also not act as a proxy in giving a woman away in marriage as long as he is a *muhrim*.

If he gives a woman away in *nikāh* as a *wali* or he himself makes *nikah* whilst he is a *muhrim* or the woman is in the state *ihrām* when the *nikāh* takes place, then the marriage contract is nullified. This is because the *nikāh* contract contravened the *Sharī'ah*. However, no expiation is required as Allah has not made it *wājib* in this situation. However, it is a forbidden act and a sin. The woman is not permissible for him as the *nikāh* is invalid. Hence, they should repeat the contract when they have left the state of *ihrām*.

"Reunion of divorcees is permissible": The woman who is observing the trial separation may return to her spouse. This is permissible when either one or both of them are in the state of *ihrām*. This is because reunion is unlike *nikāh*.

⁵²⁵ Reported by Muslim (4/136) from the narration of 'Uthmān ibn Affān.

Trial separation is observed when a man pronounces "*talaq*" the first or second time. If he wants to reunite with her whilst being a *muhrim*, then he is permitted to do so as unlike a new *nikāh* contract, reunion is an extension of *nikāh* that was contracted before.

وإن جامَعَ المحرمُ قبل التحلُّل الأولِ فَسَدَ نُسكُهما، ويَمضيانِ فيه ويَقضيانهِ ثانيَ عام

متن

If the *muhrim* has sexual intercourse before he attains the primary *tahalul*, the couple's pilgrimage is nullified. However, they should proceed to complete all of the rites. They must then make up for this pilgrimage the next year.

Eighth: "If the *muhrim* has sexual intercourse before he attains the primary *tahalul*, the couple's pilgrimage is nullified. However, they should proceed to complete all of the rites. They must then make up for this pilgrimage the next year": Sex is a prohibited act for a *muhrim*. If he has sex, his pilgrimage is nullified if it took place before the primary *tahalul*, i.e. before he throws the pebbles at Jamrah al-Aqabah and shaves his head. This is the first *tahalul*.

The second *tahalul* includes the throwing of the pebbles at Jamrah al-Aqabah, shaving of the hair, *tawāf al-ifādah* along with *sa'i* (for those who are obliged to perform *sa'i*). If he completes all of these rites, then he has made complete *tahalul* and so may proceed to make the *nikāh* contract or have sexual intercourse with his wife.

However, if he just performed two of the three rites, for example, he threw the pebbles and shaved or threw the pebbles and performed *tawāf*, then he has just completed the primary *tahalul* where all hitherto prohibited acts become permissible except sexual intercourse with his spouse. If he has sex after just the primary *tahalul* and before completing the second *tahalul*, his Hajj is rendered null and void. He must proceed to complete the remaining rites of Hajj even though it is inconsequential and without merit. He is obliged to offer expiation by sacrificing an animal. A third remedial act is to make up for this Hajj by performing it the next year. He must enter into *ihrām* from the same *mīqāt* as that of the previous Hajj and must go on to make up the Hajj rites in its entirety.

الفرض

Caressing a woman is prohibited. If sperm flows due to this action, his Hajj is still valid. He must sacrifice an animal as expiation. However, he must enter into *ibrām* after *tabalul* so as to perform *tawāf al-fard*.

Ninth: "Caressing a woman is prohibited. If sperm flows due to this action, his Hajj is still valid. He must sacrifice an animal as expiation. However, he must enter into *ihrām* after *tahalul* so as to perform *tawāf al-fard*": I.e. to engage in foreplay without penetration. If sperm flows without penetration, then his Hajj is still valid. However, he must offer an expiation similar to that of one who had sexual intercourse. The expiation is to slaughter a sheep. Unlike having sex, caressing a woman does not nullify one's Hajj. He must slaughter a sheep even if sperm does not flow after heavy caressing or foreplay.

"However, he must enter into *ihrām* after *tahalul* so as to perform *tawāf al-fard*": This refers to performing *tawāf al-ifādah* as a *muhrim*. What is being conveyed here is that a man must enter into *ihrām* if he has sexual intercourse before attaining the second *tahalul*. This is an error and something not legislated in Islam.⁵²⁶ This man has already made the primary *tahalul*. So how can he possibly enter into *ihrām* a second time?

وإحرامُ المرأةِ كالرجلِ إلا في اللباس، وتجتنبُ البُرْقُعَ والقُفَّازَين وتَغْطِيَةَ وجْهِها، ويُباحُ من لها التحلِّي

The *ihrām* of a woman is similar to that of a man except for the attire. She must avoid the *burqa*' and gloves. She must not also cover her face but wear-ing jewellery is permitted.

"The *ihrām* of a woman is similar to that of a man": After having explained the prohibited acts for a male *muhrim*, the author tackles the issues pertaining to women saying that all that is prohibited for a man is prohibited for a woman.

"Except for the attire": She is allowed to wear stitched or tailored clothes. She need not wear special garments to enter into the state of *ibrām*, her ordinary clothing will suffice. However, she must avoid the following:

⁵²⁶ See al-Rawd al-Marbi' by al-Bahūtī (p. 196).

Firstly: "She must avoid the *burqa*": This is something similar to a *niqāb* (face veil). Both are stitched cloth used to cover the face where only the eyes are visible. The Prophet \mathfrak{A} , when asked about a woman's attire, said, "She must not wear a *niqāb*."⁵²⁷ However, she may cover her face using other than a *niqāb* or *burqa*' like a shawl or a scarf that is on her head or attached to her dress. She can draw it over her face if she meets a male who is not her *mabram*. 'Aishah said, "We were with the Prophet \mathfrak{B} [during Hajj] when a man went past us. Each of us drew our scarves over our heads and faces, uncovering it only after he had left."⁵²⁸

It is not prohibited for a woman to cover her face whilst she is a *mubrim*. In fact, it is wajib upon her to cover her face so that men who are non-*mahram* cannot see it. That which is prohibited is to cover her face with a stitched cloth or attire like the *burga*' or *niqab*.

Secondly: The wearing of gloves is prohibited for her whilst she is in the state of *ihrām*. She may cover her hands using her robe or her dress so that they are not exposed to men.

"Wearing jewellery is permitted": Women who are in the state of *ihrām* are allowed to wear jewellery but they should not let it be apparent for men to see. She should conceal her jewellery with her clothes as she is forbidden to show it off to men who are not her *mahram*. This last statement is true regardless if she is a *muhrim* or not. She should conceal her adornments as it is a form of *fitnah*.

⁵²⁷ Reported by al-Bukhārī (3/19) from the narration of Ibn 'Umar.

⁵²⁸ Reported by Ahmad (6/30), Abu Dawūd (1833) and Ibn Mājah (2935).

باب الفدية CHAPTER: AL-FIDYAH

"Chapter: *Al-Fidyah*": *Fidyah* is expiation in the form of sacrificing an animal⁵²⁹ which could be due to performing the *tamattu*' or *qirān* forms of Hajj or it could be due to a violation during pilgrimage when one performs a forbidden act or misses out on doing a *wājib* act. *Fidyah* is also offered if one faces restrictions in performing the rites of Hajj completely.

The *fidyah* which is *wājib* is of three types:

First type: Fidyah offered whilst performing Hajj al-tamattu' or al-qirān.

Second type: Fidyah as atonement for violation of Hajj rites when an act forbidden during the state of *ihrām* is committed or if a *wājib* act of the Hajj or 'Umrah rites is omitted. This expiation will atone for the shortcomings of the pilgrimage.

Third type: Fidyah offered due to certain restrictions.

تُحَيَّر بفديةٍ حلقٌ وتقليمٌ وتغطيةُ رأسٍ وطيبٌ ولبسُ نَحِيْطٍ بين صيام ثلاثةِ أيامٍ أو إطعامِ من سِتة مساكين لكلّ مسكينٍ مُدُّبُرٌ أو نصفُ صاعٍ تمرٍ أو شعيرٍ أو ذبحِ شاةٍ

There are three options for offering *fidyab* for the violation of shaving the hair, clipping of nails, covering the head, applying perfume and wearing stitched clothes. The options are: fasting three days or feeding six poor peo-

⁵²⁹ See al-Mutla' (p. 177).

ple. The poor is given a *mudd*⁵³⁰ of wheat or half a *sā*' of dates or barley. He can also opt to sacrifice a sheep.

"There are three options for offering *fidyah* for the violation of shaving the hair, clipping of nails, covering the head, applying perfume and wearing stitched clothes. The options are: fasting three days or feeding six poor people. The poor is given a *mudd* of wheat or half a *sa*' of dates or barley. He can also opt to sacrifice a sheep": *Fidyah* as an atonement is divided into two categories:

Firstly: Fidyah with options. This sub-divides into two. The first sub-division is the *fidyah* of relief from harm, where one does an act to remove something that harms him. If one shaves his head, it is *wājib* upon him to offer *fidyah* by sacrificing a sheep in Makkah and distributing it to the poor people or by feeding six poor people from the inhabitants of the Haram. He must feed each person half a *sā'* which is equivalent to one and a half kilogram. He may also opt to offer the *fidyah* by fasting for three days.

Through analogy, we can derive a similar ruling for clipping of the finger or toe nails, applying perfume and covering of the head from the original ruling of shaving the head. This is because these acts, like the shaving of the head, are acts done in deference to one's whims and thus assume a similar ruling. Hence a person who does these acts must offer *fidyah* in any one of the three ways. Allah says: {And do not shave your heads until the sacrificial animal has reached its place of slaughter. And whoever among you is ill or has an ailment of the head [making shaving necessary, must offer] a ransom of fasting [three days] or charity or sacrifice.}

The Prophet $\frac{1}{20}$ explained the meaning of this ayah in the hadīth narrated by K'ab ibn 'Ujrah whose hair was infested with lice.⁵³² He $\frac{1}{20}$ ordered him to shave his head and offer explaint by either sacrificing a sheep, feeding six poor people (with each person given half a *sā*' of food) or fasting for three days. He is at liberty to choose one of the three options.

⁵³⁰ Translator's note: a *mudd* is a unit of dry measure which is a quarter of a *sa*' or 375 grams. 531 Al-Baqarah: 196

⁵³² Reported by al-Bukhārī (3/12, 13), (5/164), (6/33) and Muslim (4/20, 21 and 22) from the narration of K'ab ibn 'Ujrah.

The expiation for hunting is to offer a similar animal as sacrifice or the value of it in cash with which food is bought to feed each poor person a *mudd* of food. He may opt to fast a day for each *mudd*. The expiation for hunting an animal that cannot be procured easily is to choose between feeding the poor and fasting.

"The expiation for hunting is to offer a similar animal as sacrifice or the value of it in cash with which food is bought to feed each poor person a *mudd* of food. He may opt to fast a day for each *mudd*": The second type of *fidyah* with options is the *fidyah* for hunting an animal. This can be subdivided into two: Firstly, the *fidyah* that has three options and secondly, the *fidyah* that has only two options.

If a *muhrim* kills an animal forbidden to kill in *ihrām* or he helped to kill it or gave directions that led to its killing. He must offer *fidyah* as commanded by Allah in the ayah: {O you who have believed, do not kill game while you are in the state of *ihrām*. And whoever of you kills it intentionally, the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering delivered to the Ka'bah, or an expiation: the feeding of needy people of the equivalent of that in fasting, that he may taste the consequence of his deed.}⁵³³

Fidyah which has three options: If he kills an animal intentionally, it becomes wajib upon him to sacrifice an animal similar to that which he killed. I.e. a similar animal to it from sacrificial animals. Allah says: {The penalty is an equivalent from sacrificial animals to what he killed.} This will be discussed in greater detail later on in the chapter. Hence, he must sacrifice an animal similar to the one he killed while in *ihrām*. He may also purchase food with cash that is of equal value to the animal killed. He then distributes the food to poor people; giving each person a *mudd* of wheat, which is a quarter of a *sa*'. He may also opt to fast instead. The number of days fasted must be equivalent to the number of poor people he would have fed had he distributed the food.

Fidyah which has two options: "The expiation for hunting an animal that can-

⁵³³ Al-Mā'idah: 95

not be procured easily is to choose between feeding the poor and fasting": In this case he may buy food with cash equal to the value of the killed animal and distribute it to the poor in the Haram, giving each person a *mudd*. He may also opt to fast the number of days equivalent to the number of poor people he would have fed had he distributed the food.

It is *wājib* to offer the *dumm* penalty for *al-tamattu*' and *qirān* pilgrimage by sacrificing an animal. If it is not available, then by fasting for three days, to let the last of these fasts fall upon the day of 'Arafah is best, and seven days after returning to his family.

"It is wājib to offer the dumm penalty for al-tamattu' and qirān pilgrimage by sacrificing an animal. If it is not available, then by fasting for three days": The dumm penalty becomes wājib due to the combining of Hajj and 'Umrah in the tamattu' and qirān forms of pilgrimage. Allah mentions this in the ayah: {Then whoever performs 'Umrah [during the Hajj months] followed by Hajj [offers] what can be obtained with ease of sacrificial animals. And whoever cannot find (or afford such an animal), then a fast of three days during Hajj and of seven when you have returned [home].}⁵³⁴

Order in priority must be observed for the *fidyah* of the *tamattu*' and *qirān* forms of pilgrimage. If he is able to sacrifice a sheep or equally shares with seven others to sacrifice a camel or a cow (i.e. one seventh of either of these two), then it is *wājib* upon him to do so. However, if he is unable to do so due to poverty or loss of provisions, he has to fast for three days during the Hajj.

"To let the last of these fasts fall upon the day of 'Arafah is best": It is *musta-habb* to fast the three days before the day of 'Arafah if he entered into *ihrām* with the intention of 'Umrah. He can fast the three days from the day he entered *ihrām* for 'Umrah or afterwards up until the day of 'Arafah, and this is *mustahabb*. If he is unable to fast before the day of 'Arafah, he may do so on the days of *tashrīq*, i.e. the eleventh, twelfth and thirteenth of Dhul Hijjah. 'Aishah reported that no woman was given a concession to fast on the days of

⁵³⁴ Al-Baqarah: 196

tashriq except those who performed the *tamattu*' and *qirān* forms of pilgrim-age.⁵³⁵

"And seven days after returning to his family": When he returns to his family, that is, after completing the rites of Hajj, he must fast the remaining seven days. Allah says: {And whoever cannot find (or afford such an animal), then a fast of three days during Hajj and of seven when you have returned [home]; these [make] ten [days] complete.}⁵³⁶

والمُحْصَرُ إذا لم يجدْ هَدْياً صام عشرةً ثم حَلَّ

And if the one facing restrictions is unable to secure a sacrificial animal, then he must fast ten days and then make *tabalul*.

"And if the one facing restrictions is unable to secure a sacrificial animal, then he must fast ten days and then make *tahalul*": This is the third type of *fidyah* which is mandatory. Restrictions (*al-ihsār*) are that which prevent a pilgrim from performing the rites of pilgrimage.⁵³⁷ If we say for example, that a person entered into *ihrām* so as to perform Hajj or 'Umrah and then is barred from visiting Masjid al-Haram and is incapable of reaching it. In this predicament, it is *wājib* upon him to offer *fidyah*. He may sacrifice an animal at the location he was barred from moving onwards from. He then makes *tahalul* just as the Prophet \mathbb{Z} had done when the polytheists barred him from entering the Haram sanctuary during the year of Hudaybiyyah. He \mathbb{Z} sacrificed his animal and ordered his Companions to do likewise. They all then made *tahalul* and left the state of *ihrām*. He who is unable to secure a sacrificial animal must fast ten days. This rule was derived by analogical comparison to the *fidyah* owed when performing *al-tamattu*'.

متن

ويجبُ بوطءٍ في فرج في الحجِّ بدنةٌ، وفي العُمْرة شاةٌ، وإن طاوعتْه زوجتُه لزماها

Having full sexual intercourse during Hajj will necessitate the sacrifice of a camel. If this was performed during 'Umrah then a sheep is sacrificed. If she willingly participated with her husband, then she must offer the expiation as well.

⁵³⁵ Reported by al-Bukhārī (3/56) narrated by 'Aishah and Ibn 'Umar.

⁵³⁶ Al-Baqarah: 196

⁵³⁷ See al-Dar al-Naqī (1/412) and al-Misbah al-Munīr (p. 190).

We will now discuss the type of *fidyah* that is atonement for committing forbidden acts whilst in the state of *ihrām*. When a *muhrim* performs intercourse before making the primary *tahalul*, it becomes *wājib* upon him to offer *fidyah*, offering an animal for sacrifice. That is, the couple must sacrifice one camel if they had sex before making the primary *tahalul*.

"If this was performed during 'Umrah then a sheep is sacrificed": If they had intercourse while both of them were in the state of *ibrām* to perform 'Umrah and it took place before they performed the *tawāf* and *sa'ī*, then it is *wājib* upon each of them to sacrifice a sheep. Their 'Umrah is nullified. Nevertheless they should proceed to complete the rites of 'Umrah. They should then enter into *ibrām* to perform another 'Umrah from the same *mīqat* as their previous 'Umrah. They repeat their Umrah so as to make up for the one that was nullified. However, if they had intercourse after performing *tawāf* and *sa'ī* but before shaving or shortening the hair, then it is *wājib* for each of them to offer an animal for sacrifice but their 'Umrah is valid.

"If she willingly participated with her husband, then she must offer the expiation as well": That is, she acceded to his request to have intercourse and was not averse to it. In this case, it is wajib upon her to sacrifice a camel for having sexual intercourse during Hajj and a sheep for having sexual intercourse during 'Umrah. This is because she is also culpable as the sex was consensual. If she was forced to have intercourse against her will, then she is not to be blamed and need not offer the sacrifice. The Prophet $\frac{1}{26}$ alluded to this saying, "My nation is forgiven for their mistakes, forgetfulness and that which is coerced upon them."⁵³⁸

⁵³⁸ Reported by Ibn Hibbān in his *Sahīh* (7219), al-Dāraqutnī (4/170-171) and al-Bayhaqī in *al-Sunan al-Kubrā* (7/356) from the narration of 'Abdullah ibn 'Abbās.



متن

ومن كرَّر محظوراً من جنسٍ ولم يَفْدِ فَدَى مَرَّةً، بخلافِ صيدٍ

If a person repeats a forbidden act of the same nature and has not yet offered *fidyab* for the first one, then he just has to offer it once. This, however, does not apply to hunting.

"Section": Clarification that repetition of forbidden acts does not necessitate repeated expiations.

"If a person repeats a forbidden act of the same nature and has not yet offered *fidyah* for the first one": For example, if he plucked out some hairs from his head or body and then repeated it by plucking more hair a few more times, then this constitutes a repetition of the forbidden act of the same nature. He is obliged to offer only one *fidyah* in the event that he has yet to do so for the forbidden act committed initially. However, if he had offered the *fidyah* after the initial forbidden act and then went on to repeat the forbidden act of the same nature, he must offer the *fidyah* once again as a merger of forbidden acts is not possible after the *fidyah* has been offered.

"This, however, does not apply to hunting": *Fidyah* is necessary for every single animal which was killed in this manner. Allah says: **{And whoever of you kills it intentionally, the penalty is an equivalent from sacrificial animals to what he killed.}**⁵³⁹ Hence, *fidyah* is to be offered repeatedly corresponding with the number of animals hunted.

⁵³⁹ Al-Mā'idah: 95

ومَنْ فعل محظوراً من أجناسٍ فَدَى لكلِّ مرةٍ، رَفَضَ إحرامَه أو لا

متن

متن

He who commits various forbidden acts must offer *fidyab* each time a forbidden act is committed; even if it nullifies his state of *ibrām*.

This is an explanation of *fidyab* being repeated each time a violation is done.

"He who commits various forbidden acts must offer *fidyah* each time a forbidden act is committed": For example, he shaved his head then had sexual intercourse with his wife and finally killed an animal that he is forbidden to hunt. These are a variety of forbidden acts. He is obliged to offer *fidyah* for each forbidden act committed. Offering just one *fidyah* will not suffice.

"Even if it nullifies his state of *ihrām*": His state of *ihrām* being rendered null and void does not pardon him from offering the *fidyab*. Even when his state of *ihrām* is nullified, he is obliged to complete all the rites of pilgrimage. A person who enters into *ihrām* is duty-bound to do so as Allah says: {And complete Hajj and 'Umrah for Allah.}⁵⁴⁰ And He says: {So whoever has made Hajj obligatory upon himself therein [by entering the state of *ihrām*.]}⁵⁴¹

That is, he who enters into the state of *ihrām*. *Ihrām* is termed as *farada* (obligation) by Allah because anyone who enters into it is obliged to complete it, even when his *ihrām* is nullified in the process.

ويسقطُ بنسيانٍ فديةُ لُبْسٍ وطيبٍ وتغطيةِ رأسٍ، دون وَطْءٍ، وصيدٍ وتقليمٍ، وحِلاَقٍ

A person who forgetfully does the following forbidden acts is pardoned of *fidyab*: wearing stitched garments, applying perfume and covering the head. Sexual intercourse, hunting, clipping nails and shaving the head are excluded.

"A person who forgetfully does the following forbidden acts is pardoned of *fidyah*": The author is discussing the case where a person commits a forbidden act in a state of forgetfulness. When is the offering of *fidyah* pardoned? When is it not?

⁵⁴⁰ Al-Baqarah: 196

⁵⁴¹ Al-Baqarah: 197

If a *muhrim* commits a forbidden act that causes damage, then its *fidyah* cannot be pardoned even if it was performed forgetfully. Examples are: shaving the head and clipping the nails. However *fidyah* for a forbidden act that does not cause damage is pardoned if committed forgetfully. Examples are: applying perfume, wearing stitched garments and covering the head. The Messenger of Allah $\frac{14}{56}$ said, "My nation is forgiven for their mistakes, forgetfulness and that which is coerced upon them."⁵⁴²

The correct opinion is that *fidyab* is pardoned in two aspects that stem from forgetfulness: Allah says: {Our Lord! Do not impose blame upon us if we have forgotten or erred.}⁵⁴³ He says: {And there is no blame upon you for that in which you have erred but [only for] what your hearts intended.}⁵⁴⁴

When mentioning about hunting, Allah says: **{And whoever of you kills it intentionally- the penalty is an equivalent from sacrificial animals to what he killed.}**⁵⁴⁵ And the saying of the Prophet **ﷺ**, "My nation is forgiven for their mistakes, forgetfulness and that which is coerced upon them."⁵⁴⁶

All animals sacrificed and feeding of food should be given to the poor people of the Haram. The *fidyab* offered for causing harm, wearing of stitched garments and the like and the *dumm* penalty offered by one who has restrictions can be given wherever it is stipulated. Fasting can be done anywhere.

The author here discusses the place of the types of *fidyah*.

"All animals sacrificed and feeding of food should be given to the poor people of the Haram": All animals sacrificed for performing the *tamattu*' form of pilgrimage and as *fidyah* for atonement must be given to the poor people of the

⁵⁴² Reported by Ibn Mājah (2040 and 2043) from the narration of Abu Dharr.

⁵⁴³ Al-Baqarah: 286

⁵⁴⁴ Al-Ahzāb: 5

⁵⁴⁵ Al-Mā'idah: 95

⁵⁴⁶ As mentioned in *al-Insāf*, "Abu Muhammad al-Jawzī and others preferred this view, which is also the author's view, i.e. Ibn Qudāmah." (3/527)

Haram. In fact, the slaughter should take place within the boundary of Haram. Its meat should be distributed to the poor people therein. Similarly, food should be distributed to the poor people of the Haram. It is not permissible to feed people living outside the Haram.

"The *fidyab* offered for causing harm, wearing of stitched garments and the like and the *dumm* penalty offered by one who has restrictions can be given wherever it is stipulated": *Fidyab* that is made wajib due to the individual being restricted and the *fidyab* offered due to committing forbidden acts by way of sacrificing an animal or feeding the poor may be carried out at the place where it becomes wajib. That is, the place where the forbidden act was committed; regardless whether it is within the Haram or outside. The Prophet \mathbb{Z} sacrificed his animal and distributed its meat at Hudaybiyyah where he was prevented from moving onwards. This place is outside of the Haram.

"Fasting can be done anywhere": There is no restriction as to where one can perform the explating fasts. He may fast on his journey, in his country or in Makkah. All of this is permissible. Fasting is not restricted to the Haram.

متن

The *dumm* is a sheep or a seventh of a camel. To offer a cow instead is permissible.

"The *dumm* is a sheep or a seventh of a camel. To offer a cow instead is permissible": *Al-dumm* (the penalty) refers to a small cattle animal. It may be a sheep or goat. A sheep should be at least six months old while the goat should be at least a year old. The animal should be free from any defects as would be the animal meant to be sacrificed for 'Eid al-Adhā. Seven people may share equally to offer a camel. He then takes his seventh of the total meat and distributes it to the poor people of the Haram as *fidyab*. It is not necessary that the other six share-holders have an intention to offer *fidyab*. They might have performed the sacrifice just for the meat. It is inconsequential. He may also equally share with six others to offer a cow. A cow is a replacement for a camel.

باب جزاء صيد CHAPTER: COMPENSATION FOR HUNTING

في النعامة بدنة، وحمار الوحش وبقرته، والأيل والثيتل والوعل بقرة، والضبع كبش، متن والغزال عنز، والوبر والضب جدي، واليربوع جفرة، والأرنب عناق، والحهامة شاة

The *fidyab* for an ostrich is a camel and for a donkey and its jenny, mountain billy goat, old mountain billy goat and mountain goat it is a cow. For a hyena it is a ram, for a gazelle it is a goat. For the hyrax and desert lizard it is a kid. For the jerboa it is a male kid of a she-goat. For a rabbit it is a female kid of a she-goat and for a pigeon it is a sheep.

"Chapter: Compensation for Hunting": We discussed earlier that hunting is divided into two types: (i) the animals that have a similar type that can be given as a replacement (ii) those that do not. A similar animal should be offered as sacrifice if an animal that is replaceable is killed while a person is in the state of *ihrām*. The sacrificed meat is to be distributed to the poor people of the Haram. He may buy food that is of equivalent value to the animal and feed the poor of the Haram instead.

"For an ostrich": The *fidyah* for killing an ostrich is a camel. Camels have features similar to the ostrich. So it is sacrificed as a replacement for an ostrich.

"And for a donkey and its jenny, mountain billy goat, old mountain billy goat and mountain goat it is a cow": "*Al-ayyil*" is a male mountain billy goat. "*Al-thaytil*" is an old mountain billy goat and "*al-wal*" is the general term for mountain goats. A cow is to be sacrificed as *fidyah* for killing these animals as they are alike. The cow is very much similar to the male and female donkey and

the young and old mountain billy goats.

"For a hyena it is a ram": This is because the hyena is considered a game whose meat is edible as proven by an authentic hadīth.⁵⁴⁷ If a *muhrim* kills a hyena, it is *wājib* upon him to sacrifice a male sheep as *fidyah* as the animals are alike.

"For a gazelle it is a goat": As the animals share common features.

"For the hyrax and desert lizard it is a kid. For the jerboa it is a male kid of a she-goat": The hyrax is from the animals of the wilderness that are lawful to eat. The desert lizard is well known. The *fidyah* for hunting these two animals is to sacrifice a *jadiyun*, meaning the child of a she-goat, as its gait is similar to these two animals.

The jerboa is an animal with a small body that resembles a young she-goat.

"For a rabbit it is a female kid of a she-goat": This is because the rabbit and the female kid of a she-goat are alike in many ways.

"For a pigeon it is a sheep": Both these animals lap up water in a similar fashion when drinking it.

⁵⁴⁷ Reported by Ahmad (3/318, 322), Abu Dawūd (3801), al-Tirmidhī (851, 1791), al-Nasā'ī (5/191), (7/200) and Ibn Mājah (3236, 3085) from the narration of Jābir ibn 'Abdullah.

باب صيد الحرم CHAPTER: HUNTING IN THE HARAM

متن

يحرم صيدُه على المُحْرِم والحَلاَلِ، وحُكْمُ صيدِه كصيدِ المُحْرِم

The game of the Haram is forbidden for the *mubrim* and the non-*mubrim* alike. The ruling pertaining to its game is similar to the hunting done by a *mubrim*.

"Chapter: Hunting in the Haram": After explaining the rules that apply to a *muhrim* if he hunts within the Haram or beyond its boundaries, the author discusses hunting within the Haram sanctuary specifically. The Haram here refers to the sacred sanctuary of Makkah which has a range of a few miles. This is the Haram sanctuary that is associated with the rule that is to be discussed.

"The game of the Haram is forbidden for the *muhrim* and the non-*muhrim* alike": Killing of animals is prohibited by the *muhrim* and the non-*muhrim* alike. The game that live within the borders of Haram are not to be hunted by the *muhrim* or anyone else.

Rulings that are associated with the Haram:

First: "The ruling pertaining to its game is similar to the hunting done by a *muhrim*": The ruling for hunting game that live within the Haram is similar to the hunting done by the *muhrim* in terms of the violation and the gravity of sin. It is similar in terms of the requirement of *fidyah* that is *wājib* upon the *muhrim* who hunts game. This was discussed in the earlier section. When describing the Haram sanctuary, the Prophet \cong said, "Its game is not to be

pursued."548

ويَخْرِمُ قطعُ شجرهِ وحَشيشهِ الأخضرَين، إلا الإذْخر

متن

Cutting its trees and the green under-growth is prohibited except *al-idb-kbir*.

<u>Second</u>: "Cutting its trees": Among the things that are forbidden in Makkah is the cutting of its green trees. As for dead trees that have dried up, it is permissible to cut them for this falls under things that are damaged.

Third: "Green under-growth": It is not permitted for anyone to cut or remove the green grass and foliage that grows on the ground. However, if it has withered and dried up, there is no issue in removing it. This is because it falls under the category of things that are damaged.

"Except *al-idhkhir*": It is a type of green grass that has a lemon fragrance. This grass can be cut or removed when it is green and healthy or if it has withered and dried up. The Prophet \cong made an exception for it when he ordered that the under-growth of Haram be left intact. He said, "Exept for *al-idhkir*."⁵⁴⁹ This is because it serves a need of the people e.g. to place it on the roof of their houses and it is used as a filler in the compartment (*al-lahd*) within the grave so that dirt does not fall atop the corpse. Hence the Prophet \cong approved the removal of *al-idhkhir* from the Haram as there was a need for it.

Fourth: No item should be picked up in the Haram except by the *munshad*, this is the person who announces the found item until it is returned to its owner.

ويحرم صيدُ المدِينةِ، ولا جزاءَ فيه، ويباحُ الحشيشُ لِلْعَلَفِ وآلة الحرث ونحوه، وحَرَمُها متن ما بين عَبْر إلى ثَوْر

Hunting game in Madīnah is forbidden. However, there is no retribution for it. It is permissible to cut or remove its grass for use as fodder and for cultivating land and other such uses. Its Haram is between 'Ayr and Thawr.

549 A portion of the hadīth mentioned earlier.

⁵⁴⁸ Reported by al-Bukhārī (2/115-116), (3/18, 19 and 79), (4/127) and Muslim (4/109) from the narration of Ibn 'Abbās.

"Hunting game in Madīnah is forbidden. However, there is no retribution for it. It is permissible to cut or remove its grass for use as fodder and for cultivating land and other such uses. Its Haram is between 'Ayr and Thawr": Madīnah al-Nabawiyyah has a sacred sanctuary for the Prophet 🕱 made it a Haram as Ibrāhīm 🕮 made Makkah a Haram. He made Madīnah as a sacred sanctuary to the north and south between mount 'Ayr and mount Thawr. Mount Thawr is a small mountain which is situated behind Uhud. He made it a Haram to the east and west between its two lava fields. This is the boundary of the Haram sanctuary.

Rulings that are associated with the Haram in Madīnah:

<u>First</u>: It is forbidden to kill game within Madīnah but there is no retribution for it. However, it is a transgression and a sin to do so.

Second: It is permissible to cut or remove its green grass for use as fodder and to cut or remove its trees to make agricultural tools.

باب دخسول مکة CHAPTER: ENTERING MAKKAH

يسسنُّ من أَعْلاها، والمسجد من باب بني شَيْبةَ، فإذا رأى البيتَ رَفَعَ يديْه وقال ما وَرَد It is Sunnah to enter it from the highest point and the *masjid* from the door of Banī Shaybah. As soon as the House is visible, one raises his hands and recites the supplications that have been authentically reported.

متن

"Chapter: Entering Makkah": This chapter addresses the etiquettes that are legislated when entering Makkah for those who arrive there after a journey. When one desires to enter Makkah, there are a few recommended etiquettes:

Firstly: "It is Sunnah to enter it from the highest point": That is, from the direction of al-Abtah as the Prophet **#** entered Makkah from its highest point.⁵⁵⁰

Secondly: "And the *masjid* from the door of Banī Shaybah": When one has arrived at al-Masjid al-Haram, it is *mustahabb* that he enters it from the easterly door of Banī Shaybah which is opposite the *multazam* (the door of the Ka'bah). This is so that he enters facing the front of the Ka'bah. However, it is permissible to enter al-Masjid al-Haram from any of its doors.

Thirdly: "As soon as the House is visible, one raises his hands and recites the supplications that have been authentically reported": Similar to entering any other *masjid*, one should place his right foot first and say: "Bismillah wa salātu wa salām 'alā rasūlillah, allahumma aghfir lī dhnūbī, wa aftah lī abwāba rahma-tika." (In the name of Allah, blessings and peace be upon the Messenger of

⁵⁵⁰ Reported by al-Bukhārī (2/178) and Muslim (4/62) from the narration of 'Aishah.

Allah, O Allah, forgive me my sins and open for me the door of Your mercy.)

Or he may say: "A'awdhu bi'llāhi al-a'zīm wa biwajihi al-karīm, wa bisultānihi al-qadīm min al-shaytāni al-rajīm, allahumma aghfir lī dhunūbī wa aftah lī abwāba rahmatika." (I seek refuge in Allah, the Magnificent, and in His noble face, and in his eternal domain, from the accursed Devil. O Allah, forgive me my sins and open for me the door of Your mercy.)

Fourthly: He begins by making $taw\bar{a}f$ as it serves as a greeting for al-Masjid al-Haram for those who just arrived at Makkah.

ثم يطوفُ مضطبعاً يبتدئُ المعتمرُ بطوافِ العُمْرةِ والقارنُ والمفردُ للقدوم، فيحاذي متن الحجرَ الأسودَ بِكُلِّه، ويستلمُه ويقبِّله، فإن شَقَّ قَبَّلَ يَدَهُ، فإن شَقَّ اللَّمْسُ أشار إليه، ويقول ما ورد ويجعلُ البيتَ عن يساره

He performs the *tawāf* whilst doing *idtiba*'. Those performing 'Umrah start by performing the *tawāf al-'umrab* while those performing the *qirān* and *ifrād* forms of Hajj start by performing *tawāf al-qudūm*. He must align himself well with *al-hajar al-aswad* and then touch it and kiss it. If this is difficult, he may touch it and then kiss his hand. If touching it is difficult, he may give a sign in its direction. He then says at this juncture what has been authentically reported. The House must be on his left side throughout.

This is an explanation of the rulings related to *tawaf* of the Ka'bah.

"He performs the *tawāf* whilst doing *idtiba*": As soon as he reaches the *matāf* (circumference around the Ka'bah where *tawāf* is performed), it is *mustahabb* that he adopt the *idtiba*' i.e. to wrap the middle of the upper garment (*ridā*) of *ihrām* under his right armpit and wrap its end over the left shoulder. Now, his left shoulder will be covered while his right shoulder will be exposed. This is *idtiba*' which one adopts before beginning to perform *tawāf*. He may cover both shoulders once he has completed the *tawāf*. The practice of adopting *id-tiba*' as soon as one assumes *ihrām* at the *mīqāt*, which is done by many people nowadays, is contradictory to Sunnah.

"Those performing 'Umrah start by performing the *tawāf al-'umrah* while those performing the *qirān* and *ifrād* forms of Hajj start by performing *tawāf*

al-qudūm": Those performing *al-tamattu*' should have an intention of 'Umrah when performing *tawāf*. Those who have embarked on combining Hajj and 'Umrah (*qirān*) or just Hajj alone (*ifrād*) should have an intention of performing *tawāf al-qudūm* (the arrival *tawāf*). This is the Sunnah.

"He must align himself well with *al-hajar al-aswad* and then touch it and kiss it. If this is difficult, he may touch it and then kiss his hand. If touching it is difficult, he may give a sign in its direction. He then says at this juncture what has been authentically reported. The House must be on his left side throughout": He starts the circling of the Ka'bah (tawāf) from al-hajar al-aswad (the black stone). If he commences the tawaf after the black stone, then that particular cycle is nullified as the tawaf was incomplete. Therefore, he must start at the black stone and this is a condition for the validity of *tawaf*. If he is able to reach the black stone, he should touch it with his right hand and follow this up by kissing it. If it is difficult for him to kiss the black stone, he can kiss his right hand which touched the black stone. If it is difficult for him to even touch the black stone with his hand, it is permissible to touch it with the aid of a staff. This is provided that he does not harm anyone in the process of doing so. He may then kiss the part of the staff that made contact with the black stone. If he is not able to reach the black stone to touch or kiss it, he may give a sign in its direction while being aligned with it. One should not force his way through people expressly to kiss the black stone as it will cause much harm to others and he can become weakened due to the effort. This action of his will cause him to jostle with women as he barges his way through them. Hence, he may give a sign in the direction of the black stone even if he is at the edge of the matāf. However, he must align himself with the black stone. Once aligned, he raises his right hand and says, "Allahu akbar" (Allah is the Greatest) and starts circling the Ka'bah for tawaf.

متن

He makes seven rounds: At arrival, one walks briskly the first three rounds and walks at a normal pace the other four.

"He makes seven rounds: At arrival, one walks briskly the first three rounds and walks at a normal pace the other four": He circles the Ka'bah seven times. This is a condition to validate *tawāf*. If a person misses one round or even a partial round, his *tawāf* is nullified. One full circle is from the black stone until the black stone. He must perform it in an anti-clockwise direction such that the Ka'bah is always on his left side. If he did it in a reverse direction, *tawāf* performed as a pilgrimage rite is nullified. It is *mustahabb* for those who came on a journey to Makkah and have just arrived at the House to walk briskly (*alraml*) the first three rounds by quickening the pace. However, he should walk normally the distance between the Yemeni corner and the black stone. After the first three rounds, he walks at a normal pace to complete the seven units of *tawāf*. If one cannot walk briskly due to over-crowding in the *matāf*, he may walk at normal pace as *al-raml* is not *wājib*. He is pardoned for not performing this Sunnah due to the over-crowding.

ويستلم الحجرَ والرُّكْنَ اليهاني كلَّ مرةٍ

He touches the black stone and the Yemeni corner in each round.

"He touches the black stone and the Yemeni corner in each round": The Yemeni corner should only be touched. It should not be kissed. If one is unable to touch it, then he should not make a sign in its direction. Therefore, he who performs *tawāf* may touch the Yemeni corner. He should neither kiss it nor make a sign in its direction. On the contrary, one may touch the black stone and kiss it. If he is unable to do so, he should make a sign in its direction. The other corners of the Ka'bah should neither be kissed nor touched. He should not make a sign in their direction either.

متن

متن

ويستلم الحجرَ والرُّكْنَ اليهاني كلَّ مرةٍ، ومن ترك شيئاً من الطواف أو لم ينوه أو نكَّسَهُ، أو طاف على الشَّاذَرُوان أو جَدار الحِجُّرِ أو عُرْياناً أو نجساً لم يصِحَّ

Whoever leaves off any part from the *tawāf*, did not make an intention to perform it or the pilgrimage itself, performs it around the Shādharwān or the Hijr wall, and performs it naked or whilst he was stained with filth, the *tawāf* is nullified.

"Whoever leaves off any part from the *tawāf*, did not make an intention to perform it or the pilgrimage itself, performs it around the Shādharwān or the Hijr wall, and performs it naked or whilst he was stained with filth, the *tawāf* is nullified": The following conditions (*shurūt*) validate *tawāf*:

Firstly: Completion of seven rounds around the Ka'bah.

Secondly: Maintaining cleanliness and *tahārah*. If he is in an impure state or his body or clothes are stained with *najāsah*, his *tawāf* is invalid.

Thirdly: He must make an intention to perform $taw\bar{a}f$ as it is an act of worship. Acts of worship are invalid without an intention. The Prophet $\frac{1}{28}$ said, "Verily all actions are by their intention and verily for each person is what he intended."⁵⁵¹ The place of the intention is the heart. So one should not articulate his intentions and doing so is an innovation in Islam. For example, you should not say, "O Allah, I make an intention to perform $taw\bar{a}f$ of this House seven rounds." Allah knows what is in your heart and so you are not required to inform Him what is in your heart. Furthermore, neither the Messenger of Allah $\frac{1}{28}$ nor his Companions articulated the intention. Therefore doing so is an innovation in Islam.

Fourthly: Tawāf must be performed inside Masjid al-Haram. If a person performs tawāf from outside the masjid; from the place where he did sa'ī for example, his tawāf is invalid.

Fifthly: Tawāf must be performed around the Ka'bah. If a person makes tawāf around the walls of al-Hijr or he circles on the inside of al-Hijr, then his tawāf is invalid. This is because al-Hijr is part of the Ka'bah. Since he did not circumambulate the Ka'bah, the tawāf is incomplete. Similarly, if he makes tawāf around Shādharwān or the stone that was laid as a foundation for the Ka'bah, his tawāf is nullified as it cannot be considered as a performance of tawāf of the Ka'bah.

Sixthly: Covering of the *awrah*. If a person performs *tawāf* whilst being naked, his *tawāf* is nullified. This is because *tawāf* is like the prayer. Circling the Ka'bah whilst naked was the practice of the people from the days of ignorance. The Prophet $\frac{1}{26}$ forbade this saying, "Do not perform *tawāf* around the House while naked."⁵⁵²

Seventhly: Seven rounds should be performed completely. Each round starts at the black stone and ends at the black stone.

⁵⁵¹ Reported by al-Bukhārī (1/2) and Muslim (6/48) from the narration of 'Umar.

⁵⁵² Reported by al-Bukhārī (1/103), (2/188), (4/124), (5/212) and (6/81) and Muslim (4/106-107) from the narration of Abu Hurairah.

ثم يصلِّي ركعتين خلف المقام Then he prays two *rakāt* behind al-Maqām.

"Then he prays two *rakāt* behind al-Maqām": After completing *tawāf*, it is *mustahabb* for him to perform the prayer for *tawāf* which consists of two *rakāt*. It is best to do so at Maqāmi Ibrāhīm; that is he stands such that the Maqām is between him and the Ka'bah. Allah says: {And take, [O believers], from the standing place of Ibrāhīm a place of prayer.}⁵⁵³ Maqāmi Ibrāhīm is actually the stone on which Ibrāhīm ³⁶² stood when building the Ka'bah. He used to climb up and down the stone. Allah made this stone a symbol from amongst His symbols and ordained prayer at this spot as worship to Him. If a person has difficulty in performing the prayer at the Maqām, he may do so at any other place within the Haram.

متن

⁵⁵³ Al-Baqarah: 125



ثم يستلمُ الحَجَرَ ويَخْرجُ إلى الصَّفَا من بابه فيرقاه حتى يرى البيتَ ويكبر ثلاثاً، ويقول ما ورد، ثم ينزل ماشياً إلى العَلَم الأولِ، ثم يَسْعى شديداً إلى الآخِرِ، ثم يمشي ويَرْقَى متن الَمُرْوَةَ، ويقُولُ ما قـاله عـلى الصَّفَّا، ثم ينزل فيمشي في موضع مَشْيهِ، ويَسْعَى في موضِع سَعْيِهِ، إلى الصَّفَا، يفعل ذلك سبعاً ذهابه سَعْيَةً ورجوعه سعيه، فإن بدأ بالمروة سَقَط الشه طَ الأول

Then he touches the black stone and leaves for Safā via its door. He ascends it until he is able to see the Ka'bah and says the *takbīr* thrice. He then says that which is prescribed and descends walking to the first marker. He quickens his pace to the next marker. He walks at a normal pace the rest of the way until he ascends Marwah. He repeats what he said at Safā and then descends. He walks and runs as described above until he reaches Safā. He does this seven times. Going to and fro is counted as two units. If a person starts performing *sa'ī* from Marwah, then the first trip (between the two mounts) is nullified.

"Then he touches the black stone and leaves for Safā via its door": As soon as he completes the two *rakāt* prayer for *tawāf*, it is *mustahabb* that he returns to the black stone and touches it if he plans to perform *sa'ī* thereafter; just as he had touched the black stone before beginning the *tawāf*. He then proceeds to Safā to perform *sa'ī* between Safā and Marwah. He leaves through the door that leads to Safā as was the practice of the Prophet \cong while reciting: {Indeed, al-Safā and al-Marwah are among the symbols of Allah. So whoever makes Hajj to the House or performs 'Umrah, there is no blame upon him

for walking between them.}554

"He ascends it until he is able to see the Ka'bah and says the *takbīr* thrice. He then says that which is prescribed": He ascends Safā. Climbing both Safā and Marwah is Sunnah. It is *wājib* to cover the distance between the two mounts, even if one chooses not to ascend them. After ascending Safā, he faces the Ka'bah and invokes Allah and recites supplications.

"And descends walking to the first marker. He quickens his pace to the next marker. He walks at a normal pace the rest of the way until he ascends Marwah. He repeats what he said at Safā and then descends. He walks and runs as described above until he reaches Safa. He does this seven times. Going to and fro is counted as two units. If a person starts performing sa'i from Marwah, then the first trip (between the two mounts) is nullified": He walks down Marwah and quickens his pace between the two markers. The markers are green-coloured pillars. There is one located near Safā which signals those coming from Safa to speed up their pace and another pillar near Marwah which signals those coming from Marwah to do so. The distance between these two pillars is a valley which used to have a greater depression. The Prophet **#** would run at a fast pace as soon as his feet touched the valley until he reached the other side. Running or jogging between these two markers is a Sunnah among the Sunnah acts of sa'i. This is prescribed for men who are fit. As for men who are weak and women, it is not recommended that they run between the two points as they will face much hardship accomplishing it.

He then walks to and fro the rest of the way after crossing both the marks. He proceeds to ascend Marwah and says what he said while ascending Safā i.e. he says *takbīr* thrice, faces the Ka'bah and invokes Allah and supplicates to Him. One cycle of the seven is complete when he does the above actions. He then descends and walks towards Safā, which marks the beginning of the second trip.

He runs the distance between the two green pillars, which is at the place of the valley, until he goes past both of them. He walks the remaining distance until he reaches Safā. He ascends it and does what he did on the first trip. With this, the second trip is completed. Sa'i should begin at Safā and end at Marwah after the seventh cycle. Going back and forth is considered as two cycles.

⁵⁵⁴ Al-Baqarah: 158

وتُسَنُّ فيه الطهارةُ والسِّتارة والموالاة

It is Sunnah to maintain: cleanliness and purity, covering of the *awrab* and continuity.

The author says: "It is Sunnah to maintain: cleanliness and purity, covering of the *awrah* and continuity": That is, whilst performing *sa'ī*. Hence, the following are the *sunan* of *sa'ī* in detail:

The first Sunnah: Tahārah or being in the state of cleanliness and free of both physical and spiritual impurities. He who performs sa'i should wear clean clothes. He must be free from both minor and major impurity as sa'i is an act of worship. Acts of worship become more wholesome and attain greater beauty when coupled with *tahārah*. However, it is not *wājib* to be in a state of *tahārah* when performing sa'i. It is valid even if he performed it in a state of impurity but it is deemed less rewarding.

The second Sunnah: To cover the *awrah* during sa'i is *mustahabb*. If one's *awrah* is exposed whilst performing sa'i, it is still in essence valid. However, he is penalised for exposing his *awrah* if he had the ability to cover it. This is a sin not only during sa'i but in all situations.

The third Sunnah: "Al-muwālāt" refers to the continuity of the cycles performed during sa'ī. That is, each cycle is followed by the next and this is done continuously until one completes all seven cycles, going back and forth between the mounts of Safā and Marwah. There should not be long disruptions in between the cycles. However, short breaks between the cycles do not cause an issue. If the prayer is called, one should perform the prayer and then re-commence his sa'ī. Breaks that last for a long time are disliked as continuity in moving between Safā and Marwah is a requirement while performing sa'ī. One should set off for Safā as soon as he reaches Marwah without delay. He should carry on doing one cycle after another continuously until all seven cycles are completed.

ثم إن كان مُتمتعاً لا هَدْيَ معه قَصَّرَ من شعره وتَحلَّل، وإلا حَلَّ إذا حج

If he is performing *al-tamattu*', whereby he does not have a sacrificial animal with him, he proceeds to cut his hair and make *tahalul*. If not, he makes *tahalul* after Hajj. متن

متن

"If he is performing *al-tamattu*", whereby he does not have a sacrificial animal with him, he proceeds to cut his hair and make *tahalul*. If not, he makes *tahalul* after Hajj": If he is performing the *tamattu*" form of Hajj he may proceed to leave the state of *ihrām* by making *tahalul* after completing his *sa'ī*. The distinct feature of the one performing *al-tamattu*" is that while he combines 'Umrah with Hajj, he does not bring with him a sacrificial animal that he purchased outside the Haram sanctuary. He cuts his hair and makes *tahalul* of his 'Umrah as he has completed its rites of *tawāf*, *sa'ī* and cutting of his hair.

In fact, those who planned to perform *al-ifrād* (only Hajj) or *al-qirān* (combining 'Umrah and Hajj) but do not have a sacrificial animal with them, they are recommended to invalidate their intention to perform Hajj and convert it to that of *al-tamattu*' which begins with them performing 'Umrah initially. They can then make *tahalul* after completing the 'Umrah rites. This conversion is recommended as *al-tamattu*' is the best type of Hajj one can perform. The Prophet Ξ said, "Had I known beforehand about my affair what I have come to know later, I would have made *tahalul* with you all. But I have brought my sacrificial animal."⁵⁵⁵

Furthermore, the Prophet $\frac{1}{2}$ ordered his Companions who did not bring along a sacrificial animal to make *tahalul* after 'Umrah and convert their intentions to perform *al-qirān* and *al-ifrād* to that of al-*tamattu*' as it was the best of Hajj rites.

If he did bring along a sacrificial animal with him that was procured outside of the Haram, then he should not leave the state of *ihrām* even after completing the *tawāf* and the *sa'ī*. He must remain in *ihrām* until he completes the rites of Hajj on the day of 'Eid, throw pebbles at the Jamrah, slaughter the sacrificial animal and then shave the hair. After all these rites are done, he makes *taha-lul* as Allah says: **{And do not shave your heads until the sacrificial animal reaches its place of slaughter.}**

متن

والمتمتعُ إذا شَرَعَ في الطواف قَطَعَ التلبيةَ

Those performing *al-tamattu*' should stop chanting the *talbiyab* once they

⁵⁵⁵ Reported by al-Bukhārī (2/195-196), (3/4-5) and Muslim (4/36-37) from the narration of Jābir ibn 'Abdullah.

⁵⁵⁶ Al-Baqarah: 196

begin performing tawāf.

"Those performing *al-tamattu*' should stop chanting the *talbiyah* once they begin performing *tawāf*": It was mentioned earlier that *talbiyah* is a Sunnah act while one is in the state of *ihrām*. It is a mark of a *muhrim*. He is encouraged to chant it often in a loud voice. He starts saying the *talbiyyah* from when he enters the *ihrām* until he starts the *tawāf* of 'Umrah if he is performing *tamattu*'. He stops chanting it as soon as he begins his *tawāf* as it signals a completion of the 'Umrah rites and his leaving his state of *ihrām*. Those performing *al-ifrād* or *al-qirān* should continue chanting the *talbiyah* until they throw pebbles at *Jamrah al-Aqabah* on the day of 'Eid.

باب صفة الحج والعمرة CHAPTER: DESCRIPTION OF HAJJ AND 'UM-RAH

"Chapter: Description of Hajj and 'Umrah": This chapter describes the way Hajj and 'Umrah are performed as this information is very essential. Hajj and 'Umrah should be performed the way it was legislated by Allah and His Messenger as he \cong said, "Take from me your rites of pilgrimage."⁵⁵⁷ That is, learn from me the way the rites of pilgrimage are done and do it likewise. The Prophet \cong is an example and role-model for the Ummah. Allah says: {There has certainly been for you in the messenger of Allah an excellent pattern.}

The Prophet $\frac{1}{20}$ said, "Take from me your rites of pilgrimage." Allah has made the Prophet an explainer of the revelation He sent down to the people. He is a role-model and an exemplar $\frac{1}{20}$.

Muslims must follow the way he went about doing the rites of Hajj and 'Umrah. What he made wajib is wajib upon them as well. What was considered as *mustahabb* shall be considered likewise by the masses. We shall study this in-depth shortly.

يسن للمُحِلِّين بمكة الإحرامُ بالحج يومَ التَّرْويةِ قبل الزوالِ منها، ويجزئُ من بقيةِ الحرم من

Those who are not in *ibrām* at Makkah may enter into *ibrām* to perform Hajj before the sun sets from its zenith on the day of Tarwiyyah. It is per-

⁵⁵⁷ Reported by al-Bayhaqī with this wording (5/125) from the narration of Jābir. It was also reported by Muslim (4/79). 558 Al-Ahzāb: 21

missible for him to enter into *ihrām* from anywhere within the Haram.

"Those who are not in *ihrām* at Makkah may enter into *ihrām* to perform Hajj before the sun sets from its zenith on the day of Tarwiyyah": It is *mustahabb* for a non-*muhrim* in Makkah—who made *tahalul* after completing his 'Umrah and is waiting for Hajj season to begin—to enter into *ihrām* with the intention to perform Hajj on the day of Tarwiyyah. This day corresponds with the eighth of Dhul Hijjah.

It is called the day of Tarwiyyah because the word refers to the drawing of water and the pilgrims draw water to fill their supplies on this day in preparation for Hajj. They enter into *ihrām* in the morning before *zawāl* (after the sun sets from its zenith), that is, before the time for the *zuhr* prayer. The Prophet $\frac{1}{26}$ ordered his Companions who were non-*muhrims* to enter into *ihrām* to perform Hajj in the morning of the eight of Dhul Hijjah. This is the Sunnah.

If one delays entering into *ihrām* until later in the day or after *zawāl* or even after the day of Tarwiyyah, it is permissible.

It is also a Sunnah to enter into *ihrām* at the very spot where they had camped at Makkah. Those who made *tahalul* after performing 'Umrah would have needed to camp or take up residence at a place whilst waiting for the Hajj season to begin. On the day of Tarwiyyah, they should enter into *ihrām* from that very place and then proceed to Mina. They should not go to Masjid al-Haram or under "*al-Mīzāb*" (roof gutter)—as some people call it—for the purpose of entering into *ihrām*. In fact, they should enter into *ihrām* from their houses or place of residence where they had stayed temporarily. This is what the Prophet # commanded the Companions, who made Hajj with him, to do. These Companions were non-*muhrims* and so he # commanded them to enter into *ihrām* from al-Abtah (the place where they had camped). He # had not ordered the Companions to enter into *ihrām* near the Ka'bah at Masjid al-Haram. Furthermore, he did not order them to perform *tawāf* of the House after entering into *ihrām*. This is not legislated as a rite of Hajj. The pilgrims should enter into *ihrām* at the place they had stayed in Makkah and then proceed to Mina.

"It is permissible for him to enter into *ihrām* from anywhere within the Haram": It is permissible for a pilgrim to enter into *ihrām* from a place other than where he had stayed in Makkah. This is provided that it is within the Haram

sanctuary. However, to do so from the place of his residence is best.

متن

ويبيت بمِنَى، فإذا طلعتْ الشمسُ سار إلى عَرَفة

He spends the night at Mina. At sunrise, he moves onward to 'Arafah.

"He spends the night at Mina": Once they enter into *ihrām* to perform Hajj before *zawāl* on the eighth of Dhul Hijjah, they proceed to Mina and stay there the whole day and the night of the ninth of Dhul Hijjah. They perform the obligatory prayers by shortening them without combining (*jamm*) as was done by the Prophet $\underline{*}$. Going to Mina on the eighth of Dhul Hijjah and staying the night there are two of the Sunnah acts amongst the *sunan* of Hajj. If a person goes to 'Arafah without going to Mina, his Hajj is valid though he has missed out a Sunnah act. Similarly, if a pilgrim enters into *ihrām* on the day of 'Arafah instead of the day of Tarwiyyah, it is permissible. However, he has missed out on a Sunnah act.

"At sunrise, he moves onward to 'Arafah": At sunrise of the ninth day, the pilgrims move onward to 'Arafah, regardless if they were at Mina (which is according to the Sunnah) or if they were at another place besides Mina. They must all proceed to 'Arafah which is the place of $wuq\bar{u}f$ (standing). The Prophet Ξ went from Mina to 'Arafah after sunrise on the ninth of Dhul Hijjah. This is the best way to do the rite.

'Arafah, as mentioned, is the place of *wuqūf*. Standing at another place besides 'Arafah is not permissible. Some people used to stand at Muzdalifa during the days of ignorance and avoided going to 'Arafah. They claimed that they were the residents of the Haram sanctuary and so would not go beyond its periphery.

By doing so, they changed the rites of Hajj. The Prophet ﷺ came to rectify the rites of Hajj to how it was legislated to Ibrāhīm ﷺ. He used to go to 'Arafah and did not stay at Muzdalifa. The evidence for this is in the ayah: **{Then depart from the place from where [all] the people depart.}**⁵⁵⁹ This is referring to 'Arafah from whence Ibrāhīm ﷺ proceeded onwards.

⁵⁵⁹ Al-Baqarah: 199

وكلُّها موقفٌ إلا بطنَ عُرَنَة

متن

All of it is a place for standing except the bottom of the valley of 'Uranah.

"All of it is a place for standing": The entire area of 'Arafah, including its borders is a place of *wuqūf*. Nowadays signboards demarcate the area from all directions so that the pilgrims will get to perform *wuqūf* within the boundaries of 'Arafah and not outside of it.

There are no locations in 'Arafah more meritorious or more significant in terms of performing $wuq\bar{u}f$. The Prophet \underline{x} said, "I made $wuq\bar{u}f$ here and the whole of 'Arafah is a place for $wuq\bar{u}f$."⁵⁶⁰

It is permissible to make $wuq\bar{u}f$ in the entire area of 'Arafah and in doing so the pilgrim fulfils the greatest pillar of Hajj. A person should not exert great effort towards standing at a particular place in 'Arafah. He should not say, "I will not make $wuq\bar{u}f$ except at the place where the Prophet $\frac{1}{2}$ stood," which was at a rock formation, and he positioned himself facing Mount Rahmah while standing in the direction of the *qiblah*. Pilgrims are not required to go to this location. They can camp at any place within 'Arafah as the Prophet $\frac{1}{2}$ said, "I made $wuq\bar{u}f$ here and the whole of 'Arafah is a place for $wuq\bar{u}f$."

It is not a condition that the pilgrim must make *wuqūf* from where the Mount Rahmah can be seen, or go right up to it or ascend it to make *wuqūf*. There is no evidence for all these actions and these are not acts of worship. In fact, these acts constitute an effort not ordained by Allah.

It becomes an innovation in Islam if he believes that going to Mount Rahmah, seeing or ascending it is legislated in the *din*. It will be deemed a heresy for which no commandment was revealed by Allah. In fact, some people believe that the mount is a source of blessing or that there is a blessing in performing prayers therein in or while facing it—as the ignorant believe—or that touching its boulders or the pillars atop the mount is a blessed act. All these acts lead to *shirk* (associating partners with Allah).

If one believes that the mount or the pillars atop of it benefit or harm him,

⁵⁶⁰ Reported by Muslim (4/43) from the long hadīth narrated by Jābir that describes the Hajj of the Prophet 赛.

then he has committed major *shirk* which nullifies his Hajj. We seek Allah's protection from it.

"Except the bottom of the valley of 'Uranah": This refers to the bottom of the valley, where a *masjid* is located. This is the place where the Prophet 3 performed his prayer. This valley is outside the boundaries of 'Arafah. He 3 performed *zuhr* and 'asr prayers at this place by combining them at *zuhr* time with just one *adhān* but two *iqāmahs* called. Afterwards, he entered 'Arafah and did not stay put at this valley as it was not part of 'Arafah.

Hence he $\frac{1}{26}$ said, "Depart from the bottom of 'Uranah."⁵⁶¹ The rear end of the *masjid* located at this valley is in fact within the boundary of 'Arafah as it stretches beyond the valley. The front of the *masjid* though is in 'Uranah. It is not permissible to make *wuqūf* in this area. There are visible signboards that clearly demarcate the boundary of 'Arafah and the place wherein *wuqūf* is permitted and where it is not. Praise be to Allah.

In fact, there are signboards inside the *masjid* that inform pilgrims which part of it is within 'Arafah and which part is beyond 'Arafah. The Prophet \mathbb{Z} as is well-known, reached Namirah in the early part of the afternoon and then departed from it. He gave his sermon and performed prayer at the valley of 'Uranah and then left it to enter 'Arafah where he made *wuqūf*.

ويسنُ أن يجمع بها الظهرَ والعصرَ، ويقفُ راكباً عند الصَّخراتِ وجبلِ الرحمة، ويُكثر متن من الدعاء بيا ورد

It is Sunnah to combine the *zuhr* and *'asr* prayers and to make *wuqūf* while atop a riding animal at the rock formations and Mount Rahmah. He then makes excessive invocations that are prescribed.

"It is Sunnah to combine the *zuhr* and *'asr* prayers": I.e. at the time of the *zuhr* prayer (*jamm' taqdīm*). He does it by calling one *adhān* and two *iqāmahs*. The prayers are combined so that it allows him ample time for *wuqūf* and invocations as was the manner in which the Prophet \cong did.⁵⁶²

⁵⁶¹ Reported by Ahmad (4/82), Ibn Hibbān (3854) and al-Bayhaqī (5/295) from the narration of Jubayr ibn Mut'im.

⁵⁶² Reported by Muslim (3/41) as narrated by Jabir in the hadith describing the Prophet's Hajj.

"And to make $wuq\bar{u}f$ while atop a riding animal at the rock formations and Mount Rahmah": It is Sunnah to make $wuq\bar{u}f$ atop one's riding animal or while seated in one's vehicle, though it is permissible to sit or sleep at 'Arafah. Sitting on one's riding animal or standing whilst performing invocation during $wuq\bar{u}f$ is better. The Prophet \mathbb{Z} used to make $wuq\bar{u}f$ while sitting atop his riding animal and invoking his Lord.⁵⁶³

The Messenger of Allah $\frac{1}{2}$ made $wuq\bar{u}f$ at the rock formations and at Mount Rahmah. However, he did not specify it as such. The pilgrims need not make $wuq\bar{u}f$ there, especially if it requires them to go through great hardship to get there. Instead, they should make $wuq\bar{u}f$ at any place in 'Arafah which is convenient for them.

It is not legislated in Islam that they endure the summer heat, the sun-baked ground and thirst so as to perform $wuq\bar{u}f$ at these rock formations and Mount Rahmah. It is not prescribed in the $d\bar{i}n$ as it involves excessive burden upon one's self. However, if they can get to it with ease, then it is better for the pilgrims to make $wuq\bar{u}f$ at the rock formations and Mount Rahmah where the Prophet $\frac{1}{2}$ made $wuq\bar{u}f$. The condition is that the pilgrims should not face any hardship or difficulty in getting there.

"He then makes excessive invocations that are prescribed": One busies himself with invocations whilst in *wuqūf* at 'Arafah as it is a day of invocation. The Prophet said, "The best of invocations are the invocations at 'Arafah and the best invocation that I and the prophets before me have invoked is, "*Lā ilaha illallah, wahdahu lā shirīka lahu, lahu al-mulk, wa lahu al-hamd, wa huwa 'alā kulli shayin qadīr.*" (There is none worthy of worship but Allah alone, Who has no partner, His is the dominion and to Him belongs all praise and He is able to all things.)⁵⁶⁴

He repeats this as often as possible and supplicates to Allah with supplications that come easy for him and which are authentically based on the Qur'ān and the Sunnah. He should not engage in any supplication that is an innovation. He should not make $du'\bar{a}$ through an intermediary or through the Prophet $\frac{1}{32}$ or in any other innovated manner. He should only invoke Allah with supplications that have been prescribed in the $d\bar{i}n$ and that are originally from the

⁵⁶³ Reported by Ahmad (5/209), al-Nasā'ī (5/254) from the narration of Usāmah ibn Zayd. 564 Reported by Ahmad (2/210) and al-Tirmidhī (3585).

Qur'ān and Sunnah.

These supplications must be authentic with proofs from the Qur'ān and Sunnah, or one should pray what is easy for him that falls in line with the Qur'ān and Sunnah. One should not supplicate with weak and adulterated invocations that lead to *shirk*. The pilgrims should also not utter invocations that are innovations in Islam and that which have not been prescribed by Allah. Neither should they engage in congregational invocations. Instead, each of them should invoke Allah individually.

ومن وقف ولو لحظةً من فجرِ يومِ عرفةَ إلى فجرِ النَّحْرِ وهو أهلُّ لـه صحَّ حجُّه وإلا فلا متن Even if a person makes *wuqūf* momentarily anytime between dawn on the day of 'Arafah until dawn on the day of sacrifice and he is in the state of *ibrām* to perform Hajj, then his Hajj is valid. Otherwise, it becomes invalid.

"Even if a person makes $wuq\bar{u}f$ momentarily anytime between dawn on the day of 'Arafah until dawn on the day of sacrifice": The author now details the timing for $wuq\bar{u}f$ after having elaborated on the place where it should be performed. The view of Imām Ahmad is that the timing for $wuq\bar{u}f$ commences at dawn on the day of 'Arafah.⁵⁶⁵ The majority of the scholars—including a narration from Imām Ahmad—are of the opinion that it commences after the sun's zenith (*zawāl al-shams*) on the day of 'Arafah. This is the correct opinion.⁵⁶⁶ However, Imām Ahmad gives evidence for his view based on the *hadīth* narrated by 'Urwah ibn al-Mudhris al-Tā'ī, who mentioned to the Prophet # that he had made $wuq\bar{u}f$ at every mountain that he passed by as he did not know 'Arafah well. He added that he had gone through great difficulties and exhausted his animal in doing so. The Prophet # replied to him saying, "He who joins us for prayer..." He was at Muzdalifa when he said this and was referring to the *fajr* prayer, "... Stays with us until we depart and he had been to 'Arafah the night or day before, then his Hajj is valid and he has fulfilled his duties."⁵⁶⁷

His $\frac{1}{2}$ saying, "And he had been to 'Arafah the night or day" includes dawn on the day of 'Arafah up to dawn on the day of sacrifice (*yawm al-nahr*). As the

⁵⁶⁵ See al-Kāfī (1/244).

⁵⁶⁶ The view of Imām Mālik and Imām Shāfi'ī. See al-Mughnī (5/274).

⁵⁶⁷ Reported by Ahmad (4/15), Abu Dawūd (1950), al-Tirmidhī (891) and al-Nasā'ī (5/263) from the narration of Urwah ibn Mudris.

day of 'Arafah spans a day and a night, so it must include the day of the ninth and the night of the tenth of Dhul Hijjah.

The day of the ninth begins at dawn (fajr) and ends at sunset (maghrib) while the night of the tenth begins at sunset (maghrib) and ends at dawn (fajr). This period is the timing for $wuq\bar{u}f$ based on the hadīth, "He had been to 'Arafah the day or night before." Day refers to the whole day and this is the crux of Imām Ahmad's view.

However, the majority of scholars say, "The Messenger of Allah \underline{m} did not make $wuq\bar{u}f$ except after the sun's zenith. He \underline{m} had in fact waited until the sun had set from its zenith and then delivered the sermon, after which he prayed in 'Uranah and then entered 'Arafah. He \underline{m} said, "Take from me your rites of pilgrimage." This is proof that $wuq\bar{u}f$ commences after the sun's zenith on the day of 'Arafah, not at dawn. This view is more correct as it is based on the Prophet's performance itself and his statement, "Take from me your rites of pilgrimage." $Wuq\bar{u}f$ unanimously ends (i.e. with $ijm\bar{a}$ ') at dawn on the day of sacrifice. What is disputed is the beginning of $wuq\bar{u}f$: whether it begins at dawn or at noon on the day of 'Arafah.

"And he is in the state of *ibrām* to perform Hajj": I.e. he is a *mubrim* intending to perform Hajj. Were he to stay in 'Arafah as a non-*mubrim* and then leaves only to return to it after the *wuqūf* timings having entered into *ibrām*, his standing at 'Arafah cannot be considered as the rite of *wuqūf*.

متن

Whoever makes *wuqūf* during the day, departs before sunset and does not return before sunset, must compensate with *dumm*. Whoever makes *wuqūf* only during the night need not pay the compensation.

"Whoever makes $wuq\bar{u}f$ during the day, departs before sunset and does not return before sunset, must compensate with *dumm*": We have discussed that the more authentic timing for $wuq\bar{u}f$ at 'Arafah is from when the sun sets from its zenith. It continues until dawn on the day of sacrifice. However, he who makes $wuq\bar{u}f$ in the day must continue to do so until sunset as the Prophet $\frac{1}{26}$ made $wuq\bar{u}f$ until the sun had set. He said, "Take from me your rites of pilgrimage." ⁵⁶⁸ Whoever leaves 'Arafah during the day but returns to it before the sun sets need not compensate for his action. However, if he does not return, then he must pay the *fidyah* for this by sacrificing a sheep in Makkah or the Haram. He must distribute it to the poor people of the Haram. He is obliged to do this for he had failed to fulfil a *wājib* act of Hajj. He who fails to carry out a *wājib* act from the *wājibāt* (plural of *wājib*) of Hajj is obliged to pay the *dumm* penalty.

"Whoever makes $wuq\bar{u}f$ only during the night need not pay the compensation": He who makes $wuq\bar{u}f$ on the night of the tenth (who arrives at 'Arafah after sunset), may just stay there momentarily and then depart. He is not required to expiate for this action.

ثم يَدْفَعُ بعد الغروبِ إلى مُزْدَلِفَةَ بِسَكِيْنَةٍ

متن

He leaves for Muzdalifah after sunset in a tranquil manner.

"He leaves for Muzdalifah after sunset in a tranquil manner": After sunset, the pilgrims proceed towards Muzdalifah. It is called such as the people *yazdalifuna* (i.e. proceed) towards it. Hence it is appropriately named. It is also called "*Jam'an*" as the people congregate there. It has a third name which is "*al-Mash'ar al-Haram*". It was given this name because there is a mountain there on which the Prophet \cong stood. These are the names of Muzdalifah. Once it is apparent that the sun has set, the pilgrims leave 'Arafah and head towards Muzdalifah in a tranquil and peaceful manner. Such a mannerism is expected as it an act of worship. Furthermore, it is the most significant of times. The Prophet departed 'Arafah in a tranquil manner and let loose the reins of his ride such that its tip touched his saddle's haunch. He \cong used to signal the people with his blessed hand and say, "O people! Tranquillity, tranquillity."⁵⁶⁹

It is important that the pilgrims observe this lofty mannerism by moving towards Muzdalifah in a tranquil and peaceful manner and should neither rush to get there nor create trouble. This is especially the case nowadays where pilgrims drive their vehicles to Muzdalifah. The hazards caused by motor vehicles are well-known as are the chances of accidents. It is an obligation upon the drivers to fear Allah and to proceed in a calm manner and allow other pilgrims

⁵⁶⁸ Reported by al-Bayhaqī (5/125) and Muslim (4/79) from the hadīth of Jābir.

⁵⁶⁹ A portion of the hadīth narrated by Jābir ibn 'Abdillah where he describes the Hajj of the Prophet **3**. This hadīth was reported by Muslim (4/38-42).

who are ahead of them enough room so that they too can reach Muzdalifah in a calm manner and without incident.

He may speed up when there is room. The two night prayers are combined and he spends the night there. He may choose to leave after midnight. He must pay the *dumm* penalty if he leaves before that and pay likewise if he reached it after dawn but not before.

"He may speed up when there is room": The pilgrims move towards Muzdalifah in a tranquil manner as was the manner of the Prophet. However, if there is a large space on the trail ahead of them and there is no harm to anyone, they may speed up as was the practice of the Prophet 3.⁵⁷⁰

"The two night prayers are combined": Once he reaches Muzdalifah, he combines the two night prayers: *maghrib* and *'ishā*. He should not perform the prayers whilst on the trail heading towards Muzdalifah. This is because the Prophet # made ablution but did not perform the prayers until he reached Muzdalifah.⁵⁷¹ The pilgrims should combine these two prayers once they arrive at Muzdalifah unless they fear that it will be dawn break before they reach it. In this scenario, they may combine the prayers along the trail towards Muzdalifah and not allow the prayer time to lapse.

"And he spends the night there": That is, spending the night at Muzdalifah as the Prophet $\frac{1}{25}$ spent the night there until dawn. As for those who just pass by Muzdalifah, i.e. those who pray the two night prayers there and then depart, they have done an action contradicting the Sunnah and the guidance of the Prophet $\frac{1}{25}$. They have forgone a wajib act from among the wajibat acts of Hajj. Spending the night at Muzdalifah is wajib and it will not suffice the pilgrim to pass it by without staying there as practiced by some of them.

"He may choose to leave after midnight": It is not permissible for him to leave

⁵⁷⁰ Reported by al-Bukhārī (2/200), (4/70), (5/226) and Muslim (4/74) from the narration of Usāmah ibn Zayd.

⁵⁷¹ Reported by al-Bukhārī (2/200-201) and Muslim (4/73) from the narration of Usāmah ibn Zayd.

Muzdalifah before midnight. He may leave at midnight, especially those who have valid reason to do so like the aged, sick, women and children. They may fear leaving during the day due to crowding. Therefore, these groups of people are allowed to depart from Muzdalifah after midnight. Those who need to escort these groups of people may leave along with them as the Prophet $\frac{1}{572}$ gave concession to those who are frail to leave Muzdalifah and head towards Mina.⁵⁷²

Those who are healthy and fit must stay the night. They are ordained to perform the *fajr* prayer at Muzdalifah as we shall discuss shortly.

"He must pay the *dumm* penalty if he leaves before that and pay likewise if he reached it after dawn but not before": Whoever leaves before midnight has indeed failed to perform a *wājib* act and is obliged to pay *fidyah* for it by sacrificing a sheep in Makkah and distributing it to the poor people of the Haram. He may also share equally with six others to sacrifice a camel and then distribute his share of the meat.

If he is not able to procure a sacrificial animal, he must fast for ten days as expiation for not doing a $w\bar{a}jib$ act of Hajj. Similarly, those who delay their arrival at Muzdalifah until after dawn without a valid reason must offer expiation. This is because they have missed spending the night at Muzdalifah which is a $w\bar{a}jib$ act of Hajj. Hence, they must compensate for this by paying a *fidyah*. However, those who arrive at Muzdalifah after dawn because of a valid reason or were prevented from reaching it on time need not offer expiation.

ف إذا صلَّى الصبحَ أتى المشْعَرَ الحرامَ فيرقاه، أو يقفُ عنده ويحمدُ الله ويكبِّرُهُ ويقرأُ: ﴿فَإِذَا أَفَضْتُمْ مِنْ عَرَفَاتٍ فَاذْكُرُوا اللهَ عِنْدَ المُشْعَرِ الحُرَامِ.. ﴾ الآيتين، ويَدْعو حتى يُسْفِرَ

Once he has performed the morning prayer, he goes to al-Mash'ar al-Harām and ascends it or stands near it. He praises Allah, glorifies Him (i.e. saying "*al-hamdulillah, allāhu akbar*") and recites: {But when you depart from 'Arafah, remember Allah at al-Mash'ar al-Haram.}⁵⁷³ And engages in invocation until the horizon turns yellow.

"Once he has performed the morning prayer, he goes to al-Mash'ar al-Harām

⁵⁷² Reported by al-Bukhārī (2/202) and Muslim (4/77 and 78) from the narration of Ibn 'Abbās.

⁵⁷³ Al-Baqarah:198-199

and ascends it or stands near it. He praises Allah, glorifies Him": It is Sunnah for those who perform the *fajr* prayer at Muzdalifah to stand there and invoke Allah. It is meritorious to go over to the mountain called al-Mash'ar al-Haram which is also called Mount Qazh, and stand there. It is however sufficient for him to stand at the place where he had spent the night and invoke Allah. Praise be to Allah. The Prophet Ξ said while he was at Muzdalifah, "I stand here and the whole of Jam'an is a place of standing."⁵⁷⁴ What is important to emphasise is that it is *mustahabb* for one to strive to invoke Allah much after the *fajr* prayer until the horizon turns bright yellow. He then leaves Muzdalifah and heads for Mina just before sunrise.

"And recites": Here one recites ayah 198 and 199 from Sūrah al-Baraqah: {But when you depart from 'Arafah, remember Allah at al-Mash'ar al-Haram. And remember Him, as He has guided you, for indeed, you were before that among those astray. Then depart from the place form where the people depart and ask forgiveness of Allah. Indeed, Allah is Forgiving and Merciful.}⁵⁷⁵

"And engages in invocation until the horizon turns yellow": He recites both the above ayahs and then invokes Allah with invocations that are easy for him.

فإذا بَلَغَ مُحَسِّراً أسرعَ رَمْيةَ حجرٍ وأخذ الحَصَى – وعددُه سبعونَ بين الحِمّصِ والبُنْدقِ

متن

After reaching Muhassir Valley, the pilgrim increases his speed to a stone's throw. He gathers seventy pebbles ranging from the size of chick-peas to hazelnuts.

"After reaching Muhassir Valley, the pilgrim increases his speed to a stone's throw": Once he makes invocations after *fajr* prayer at Muzdalifah, he departs before sunrise. This is because the Prophet $\frac{1}{26}$ left Muzdalifah before sunrise⁵⁷⁶ which was contradictory to the habit of the polytheists. The polytheists used to make *wuqūf* until sunrise and say, "As the sun rises above Mount Thabīr so shall we depart."

So the Prophet 3% contradicted them by leaving Muzdalifah before sunrise.

575 Al-Baqarah: 198-199

⁵⁷⁴ Reported by Muslim (4/43) from the hadith of Jābir ibn 'Abdillah.

⁵⁷⁶ Reported by al-Bukhārī (2/204) from the narration of 'Umar ibn al-Khattāb.

The pilgrims then pass through the Muhassir Valley which is at the half-way mark between Mina and Muzdalifah and is a *barzakh* (divider) between the two great symbols. The valley is neither in Mina nor in Muzdalifah. The pilgrims travel through it quickly and for this reason it is called Muhassir Valley (From the root word *basar* i.e. weariness as the pilgrims grow weary due to the speed of travel). It is also said that in this valley calamity befell the people of the elephant who were on their way to demolish the Ka'bah. Allah sent down his punishment in this valley. Hence the pilgrim hurries through the valley and does not linger there for a long time lest a similar calamity that befell those who were tormented befalls them too. This valley is not wide as described by the Prophet market: "A stone's throw away."

"He gathers seventy pebbles ranging from the size of chick-peas to hazelnuts": He should gather seventy pebbles if he plans to stay the entire Hajj period and forty nine pebbles if he plans to leave a day early. He gathers the pebbles while travelling between Muzdalifah and Mina as was done by the Prophet #. However, if he gathers all the pebbles for all the days at Muzdalifah or between Muzdalifah and Mina, it is permissible. This matter is not restricted, praise be to Allah.

However it is surely better to do as the Prophet $\frac{1}{2}$ did and gather seven pebbles along the way to throw at Jamrah al-Aqabah.⁵⁷⁷

The rest of the pebbles are gathered around the camp site in Mina, whereby one takes the amount that is needed for that particular day. This is evidently easier on him. He is not required to pick all the pebbles only at Muzdalifah. He can gather the pebbles at Muzdalifah, along the way to Mina and at Mina. There are a lot of options for him.

The size of the pebble that is thrown at the Jamrat is described as being between "from the size of chick-peas to hazelnuts." The chick-pea is well-known and *al-bunduq* is the type of pebble used to shoot at birds and is slightly bigger than a chick-pea.

The pilgrim should not gather stones that are huge as this is excessiveness and going beyond bounds. Instead, he should gather pebbles that are slightly

⁵⁷⁷ Reported by Ahmad (1/215), al-Nasā'ī (5/268) and Ibn Mājah (3029) from the narration of Ibn 'Abbās.

bigger than a chick-pea or a broad bean. This is the size of the pebbles thrown by the Prophet . When Ibn 'Abbās picked the pebbles for him, he only chose those that were slightly bigger than a chick-pea and said, "Pebbles of this size are thrown. Beware of all excessiveness for verily those before you were destroyed due to excessiveness."⁵⁷⁸

Large pebbles should not be thrown as it is tantamount to going beyond bounds. The pilgrim should also not throw pebbles smaller than a chick-pea as this contradicts the Sunnah. He should choose pebbles that are the size of the pebbles thrown by the Prophet $\frac{1}{2}$ as described in the hadīth.

فإذا وصل إلى مِنَىِّ: وهي من وادي مُحَسِّر إلى جَمْرةِ العقبةِ رماها بسبع حَصَيَاتٍ مُتَعاقباتٍ Arriving at Mina—an area stretching from Muhassir Valley to the Jamrah al-Aqabah—he throws seven pebbles one after the other.

متن

"Arriving at Mina—an area stretching from Muhassir Valley to the Jamrah al-Aqabah—he throws seven pebbles one after the other": Mina stretches from Muhassir Valley to Jamrah al-Aqabah. These are the eastern and western borders. The northern and southern boundaries are encircled by two opposite mountains. This is the total surface area of Mina. Any land in the direction of Makkah after Jamrah al-Aqabah is outside the periphery of Mina. The pilgrim arrives at Jamrah al-Aqabah, which is the biggest pillar and the one which is nearest to Makkah. It is so called because it used to be on the trail that led up a mountain. Al-Aqabah refers to a mountainous trail. However, the mountain was levelled to make way for expansions. It is also called al-Jamrah al-Kubra. No pebbles are thrown on the day of 'Eid except these seven pebbles which he does upon arriving at Mina.

He raises his right hand to the extent that the armpit is visible and says *tak-bir* each time he throws a pebble. Throwing anything else is not permitted neither should he re-use the pebbles that he has thrown. He should not stand there and stops chanting the *talbiyab* just before it.

⁵⁷⁸ Reported by Ahmad (1/215), al-Nasā'ī (5/268) and Ibn Mājah (3029) from the narration of Ibn 'Abbās.

"He raises his right hand to the extent that the armpit is visible and says *tak-bīr* each time he throws a pebble": The correct method of throwing the seven pebbles at Jamrah al-Aqabah is to throw the pebbles one by one, raising the hand to do so. He should exaggerate in raising his hands such that his armpit is visible to others. This is the method used by the Prophet $\frac{1}{26}$ so that each throw is strong enough.

The pebbles are thrown one after the other. It is not permitted for him to throw all the pebbles in one throw. If he does, it will only be considered as throwing a single pebble. Instead, he should throw one pebble at a time and do so continuously until all seven pebbles are thrown. It is a Sunnah that one say, "*allahu akbar*" with each throw.

"Throwing anything else is not permitted neither should he re-use the pebbles that he has thrown": Only pebbles can be thrown. Throwing a piece of metal, wood, clay or glass is not permissible. This is because the Prophet \cong threw pebbles and said, "Take from me your rites of pilgrimage."⁵⁷⁹

Similarly, re-using thrown pebbles is not permitted. This is because the pebbles have already been used in worship and those already thrown should not be thrown again. A parallel example would be water used for ablution. Once a person uses water for ablution, whatever water that falls away from his body parts should not be re-used for the purpose of ablution. This water is now considered "used water". The pilgrim should not pick the pebbles that have been thrown into the trough of the Jamrāh and then throw them again. However, he may gather pebbles from the valley or that which fell on the ground and throw them at the Jamrāh.

"He should not stand there": That is, after throwing the pebbles at Jamrah al-Aqabah. Instead, he should move on just as the Prophet \cong moved on after throwing the pebbles on the day of 'Eid. He did not stand and make supplications after throwing the pebbles.⁵⁸⁰

"And stops chanting the talbiyah just before it": As soon as he goes to throw

⁵⁷⁹ Reported by al-Bayhaqī with this wording (5/125) from the narration of Jābir. It is also reported by Muslim (4/79).

⁵⁸⁰ As narrated by Jabir in the hadīth where he describes the Hajj of the Prophet \approx reported by Muslim (4/42).

the pebbles at Jamrah al-Aqabah, he is considered to have made *tahalul*. The Prophet \mathfrak{Z} kept chanting the *talbiyah* until he threw pebbles at Jamrāh al-Aqabah.⁵⁸¹

ويرمى بعد طلوع الشمسِ ويجزئُ بعد نصف الليلِ He throws after sunrise and it is allowed to do so after midnight.

متن

متن

"He throws after sunrise and it is allowed to do so after midnight": Those without any valid excuses should throw the pebbles after sunrise. Those who have valid excuses are permitted to throw after midnight if they leave Muzdalifah after midnight. Umm Salamah departed from Muzdalifah after midnight and then threw the pebbles at the Jamrah.⁵⁸² It is only appropriate that the fit and healthy should throw the pebbles after sunrise as was done by the Prophet 32.583

If they throw the pebbles after midnight it is still permissible for them. However, to do so after sunset is better.

ثم ينحرُ هدياً إن كان معه

He then slaughters his sacrificial animal, if he has it.

"He then slaughters his sacrificial animal, if he has it": This is the second rite of Hajj that is done on the day of 'Eid. Those who possess the sacrificial animal must slaughter it if they have done the first rite of throwing pebbles at Jamrah al-Aqabah after sunrise. The Prophet $\frac{1}{8}$ slaughtered the sacrificial animal that he had with him after throwing the pebbles at Jamrah al-Aqabah.⁵⁸⁴

581 Reported by al-Bukhārī (2/201) and Muslim (4/71) from the narration of al-Fadl ibn al-'Abbās.

582 Reported by Abu Dawūd (1942).

583 Reported by Muslim (4/80) from the hadith narrated by Jābir who said, "The Prophet \approx threw pebbles at Jamrah on the day of sacrifice in the morning and in the afternoon on the days that followed.

584 As related in the hadīth narrated by Jābir where he describes the Hajj of the Prophet 🕱 reported by Muslim (4/42).

He shaves the hair or shortens his hair all around. A woman cuts her hair the length of one *unmulab*.

"He shaves the head or shortens his hair all around": The third rite of Hajj on the day of 'Eid is the shaving of the head or shortening of all of the hair. Shaving the head is only for men. He may opt to cut all the hair on his head. It is not permissible to cut some of the hair on some parts of his head and leave the other parts uncut. This practice is rife with the ignorant people and with those who claim that there is a concession to shorten the hair from the sides and leave the rest uncut. This is insufficient as shortening the hair is a replacement for shaving it. Shaving of the hair encompasses the entire head. Similarly, shortening of the hair must be done throughout the head. This does not mean that he has to cut every single strand of hair on the head. It just refers to cutting of the hair all around the head.

It must be mentioned that shaving the head is better as the Prophet $\frac{1}{25}$ sought forgiveness thrice for those who shaved their head. He sought forgiveness only once for those who shortened their hair.⁵⁸⁵ This is proof that shaving the head is better for the male than shortening of the hair. Allah mentioned shaving the head before he mentioned about shortening of the hair: **{With your heads shaved and [hair] shortened.}**⁵⁸⁶

"A woman cuts her hair the length of one *unmulah*": Women, on the other hand, should not shave their hair. Instead, she just has to cut her hair the length of an *unmulah* which is a third of a finger's length. Each finger has three ridges except the thumb. The space in between two ridges is called *unmulah* in Arabic. Women need only trim this much and they do so by bunching their hair together and snipping it off.

ثم قد حَلَّ لـه كلُّ شيءٍ إلا النساءَ

متن

After that, everything is permissible for him except women.

"After that, everything is permissible for him except women": Thus far he has done two out of three rites: throwing pebbles at the Jamrah and shaving his head or shortening the hair. If he goes on to perform *tawāf al-ifādah*, he has

⁵⁸⁵ Reported by al-Bukhārī (2/213) and Muslim (4/81) from the narration of Abu Hurairah. 586 Al-Fath: 27

achieved full *tahalul* and everything that was forbidden for him while he was in *ihrām* become permissible once again; including having sexual intercourse with his wife. However if he has only completed two of the three rites, he has achieved the primary *tahalul* which makes it permissible for him to do all things that were forbidden while he was in *ihrām* except sexual relations with his wife. It only becomes permissible for him when he completes the third rite which is the *tawāf*.

والجِلاَقُ والتقصيرُ نُسكٌ، لا يَلَزَمُ بتأخيرِه دمٌ، ولا بتقديمِهِ على الرَّمْي والنَّحْرِ

متن

Shaving the head and shortening of the hair is a rite. No expiation is required for doing it before or after throwing pebbles at the Jamrah and slaughtering the sacrificial animal.

"Shaving the head and shortening of the hair is a rite. No expiation is required for doing it before or after throwing pebbles at the Jamrah and slaughtering the sacrificial animal": It is correct to say the shaving of the head and shortening of the hair is a rite. It is not an act restricted to *tahalul* as some people claim. In fact, it is a rite from among the rites of Hajj. Its timing is flexible. One may wish to do it on the day of sacrifice or may wish to delay it. There is no expiation for doing it before or after throwing pebbles at Jamrah and slaughtering the sacrificial animal. The four rites, namely, throwing pebbles, slaughtering the sacrificial animal, shaving the head or shortening the hair and *tawāf* with *sa'ī* can be done in any order; even though the sequence above is better. The Prophet $\frac{1}{8}$ performed his Hajj in this sequence. Altering the sequence to one's needs is permissible. This is because every time someone asked the Prophet $\frac{1}{8}$ regarding the permissibility of performing the four rites in a varying order, he said, "Proceed, it is not an issue."⁵⁸⁷

⁵⁸⁷ Reported by al-Bukhārī (1/31, 43), (2/215), (8/168-169) and Muslim (4/82-83) from the narration of 'Abdullah ibn 'Amr ibn al-'Ås.



ثم يُفيض إلى مكةَ، ويطوفُ القارِنُ والمُفْرِدُ بنيَّةِ الفريضة طوافَ الزيارةِ وأولُ وقته بعد من نصف ليلةِ النَّحْر، ويسنُّ في يومه، وله تأخيرُه

Then he proceeds to Makkah and those performing *al-qirān* or *al-ifrād* make *tawāf* with the intention of making the obligatory *tawāf al-ziyārah*. The earliest time for it is at midnight of the day of sacrifice. It is Sunnah to do it during the day. He may delay it if he so wishes.

"Section: Then he proceeds to Makkah": Once the three rites: throwing pebbles at the Jamrah, slaughtering the sacrificial animal and shaving the head or shortening the hair are completed, he goes to Makkah. That is, he leaves Mina for Makkah to carry out the fourth rite: *tawāf al-ifādah*. It must be pointed out that the slaughtering of the sacrificial animal need not take place on the day of 'Eid. However, doing so on the day of 'Eid after throwing pebbles at Jamrah al-Aqabah is better. He may delay the sacrifice until sunset of the thirteenth of Dhul Hijjah. It is permissible to slaughter the sacrificial animal any time within this period and he may do so as and when he prefers.

"And those performing *al-qirān* or *al-ifrād* make *tawāf* with the intention of making the obligatory *tawāf al-ziyārah*": Once he arrives there, those performing the *qirān* and *ifrād* forms of pilgrimage make *tawāf* with the intention that it is obligatory. That is, the intention should not be of *tawāf al-qudūm* (which one does on arrival) but it should be with an intention that it is an obligatory *tawāf*, not a supererogatory one.

Tawāf al-ziyārah is in fact tawāf al-ifādah. It is also called tawāf al-sadr. These are the names for this particular tawāf which is a rukn (pillar) amongst the arkān (pillars) of Hajj.

"The earliest time for it is at midnight of the day of sacrifice. It is Sunnah to do it during the day. He may delay it if he so wishes": The time is fixed for when one can begin performing *tawāf al-ifādah*. He can start performing it at midnight of the day of sacrifice. There is no restriction as to the latest time when *tawāf al-ifādah* must be performed. He may delay it as he wishes until after the day of *tashrīq* and even after the month of Dhul Hijjah. It has a specific time when one can start performing but there is no specification for when its period expires. However, it is best that one performs it as soon as possible.

ثم يسعَى بين الصَّفا والمروةِ إن كان مُتَمتعاً، أو غيره ولم يكن سعى بعد طواف القدوم He then makes *sa'ī* between Safā and Marwah, that is, those who are performing 'Umrah and those who have yet to make *sa'ī* after performing *tawāf al-qudūm* (arrival).

متن

متن

"He then makes sa'ī between Safā and Marwah, that is, those who are performing 'Umrah and those who have yet to make sa'ī after performing tawāf al-qudūm (arrival)": Tawāf al-ifādah is wājib for all those who are performing Hajj. It is wājib for those who are performing al-tamattu', al-qirān or al-ifrād. It is wājib that those performing al-tamattu make sa'ī immediately after tawāf al-ifādah as sa'ī is a permanent feature of 'Umrah. Hence, those performing al-tamattu' have to perform tawāf and sa'ī twice: tawāf and sa'ī for 'Umrah and tawāf and sa'ī for Hajj. If those performing al-qirān and al-ifrād made sa'ī after tawāf al-qudūm, they need not repeat it after tawāf al-ifādah. If they failed to make sa'ī after tawāf al-qudūm, then they must do so after tawāf al-ifādah.

"With this, all things are made permissible": As soon as the fourth rite which is *tawāf al-ifādab*—is completed, he attains full *tahalul*. This is provided that he has completed the other three rites by which he achieved primary *tahalul*. Everything that was forbidden for him whilst in the state of *ihrām* like wearing stitched garments, covering the head, wearing perfume and having sexual relations with his wife become permissible once again.

متن

ثم يشربُ من ماء زمزمَ لما أَحَبَّ، ويَتَضَلَّعُ منه، ويدعو بها ورد

He drinks Zamzam water desiring a thing and over-indulges himself. He then supplicates with that which is prescribed.

"He drinks Zamzam water desiring a thing and over-indulges himself": After performing *tawāf al-ifādah*, he goes to the Zamzam well and drinks from it. This is the Sunnah as the Prophet $\frac{1}{26}$ did it.⁵⁸⁸ He drinks Zamzam water with the intention to gain a thing. The Prophet $\frac{1}{26}$ said, "The water of Zamzam is for whatever it is drunk for."⁵⁸⁹ So, one intends something that he desires of this world or the Hereafter as the Zamzam water is blessed. He over-indulges himself while drinking it such that he fills up his stomach with it.

"He then supplicates with that which is prescribed": He supplicates with that which is authentically reported whilst drinking Zamzam water: "Allahumma aj'alhu 'ilman nāfi'an, wa rizqan wāsi'an, wa riyyan wa shiba'an wa shifā'an min kulli dā'in, allahumma ighsil bihi qalbī wa amlahu min khashyatika." (O Allah, make it (Zamzam water) a source of gaining beneficial knowledge, vast provision, quenching thirst and satisfying hunger and a cure from all diseases. O Allah, wash my heart with it and fill it (my heart) with fear for You)⁵⁹⁰ This is the supplication prescribed when drinking Zamzam water.

متن

ثم يرجعُ فيبيتُ بِمَنَى ثلاثَ ليالٍ

He returns to Mina and spends three nights there.

"He returns to Mina and spends three nights there": After completing tawaf

⁵⁸⁸ As mentioned in the hadīth of Jābir where he describes the Hajj of the Prophet \approx reported by Muslim (4/42).

⁵⁸⁹ Reported by Ahmad (3/357) and Ibn Mājah (3602) from the narration of Jābir ibn 'Abdillah.

⁵⁹⁰ It has been reported from Ibn 'Abbās that when he drank Zamzam water he used to say: "Allahumma innī asaluka 'ilman nāfi'an wa rizgan wāsi'an wa shifā min kulli dā'in." (O Allah, I seek from you beneficial knowledge, wide provisions and cure from every ailment.) Reported by al-Dāraqutnī (2/288) and al-Hākim (1/473).

al-ifādah and *sa'ī* (if *sa'ī* was still pending completion) he returns to Mina and should not stay at Makkah. He stays at Mina during the three days of *tashrīq*. He spends the days and nights there, though spending the nights there is $w\bar{a}$ -*jib* and staying at Mina during the day is Sunnah. The three nights $w\bar{a}jib$ to be spent at Mina are the eleventh, twelfth and the thirteenth of Dhul Hijjah. This is provided that he delays his Hajj until the thirteenth. If he expedites his departure, then it will suffice him to spend two nights there: the eleventh and twelfth of Dhul Hijjah. More will be discussed regarding this shortly. If he fails to spend the nights at Mina, he must offer expiation as he has failed to fulfil a *wājib* act of Hajj. However, he can be excused of this obligation if he has a valid reason in line with the *Sharī'ab* that prevents him from doing so.

متن فيرمي الجَمْرةَ الأولى وتلي مسجدَ الخيْفِ بسبع حَصَيَاتٍ

He throws at the first Jamrah, which is nearest to al-Khayf *masjid*, seven pebbles.

"He throws at the first Jamrah, which is nearest to al-Khayf *masjid*, seven pebbles": He throws pebbles at the first Jamrah, which is also known as Jamrah al-Sughrā. It is nearest to al-Khayf *masjid*. He throws seven pebbles consecutively by raising his hand as he throws each pebble whilst saying "*Allahu akbar*" with each throw.

He stands such that it is on his left, steps back slightly and spends a long time standing there invoking. He then moves to al-Wusta and does likewise. He then proceeds to Jamrah al-Aqabah. He stands such that it is on his right. He goes to the valley floor and does not stand there.

"He stands such that it is on his left, steps back slightly and spends a long time standing there invoking": Once he has thrown the pebbles at Jamrah al-Sughra, he proceeds in the direction where Jamrah al-Wusta is located. He stands such that Jamrah al-Sughra is on his left. He faces the *qiblah* and invokes Allah in a lengthy manner. Some Companions used to invoke for a period of time it takes one to read the whole of Sūrah al-Baqarah. "He then moves to al-Wusta and does likewise": He throws seven pebbles one after the other at Jamrah al-Wusta by raising the hand and says the *takbīr*; just as he did at Jamrah al-Sughra.

"He then proceeds to Jamrah al-Aqabah. He stands such that it is on his right. He goes to the valley floor": He stands to invoke similarly and then proceeds on to Jamrah al-Aqabah, which is the last one and throws at it from the direction of the valley. This is how it was done during the lifetime of the Prophet 3 as there used to be a mountain in this location. The pebbles were not thrown from the top of the mountain but from the valley. However, since the mountain was demolished due to an expansion project sanctioned by the ruler, pilgrims can now throw the pebbles from any direction that is of convenience to them.

"And does not stand there": As soon as he throws the pebbles at Jamrah al-Aqabah, he leaves the place and does not stand there to make invocations as he did at Jamrah al-Sughra and Jamrah al-Wusta.

متن

يفعل هذا في كلِّ يومٍ من أيام التشريق بعد الزوال، مستقبلَ القِبْلةِ مرتِّباً

He does this in sequence after the sun sets from its zenith while facing the *giblah* each day during the days of *tashrīq*.

"He does this in sequence after the sun sets from its zenith while facing the *qiblab* each day during the days of *tashrīq*": The acts referred to here are throwing pebbles at Jamrah al-Sughrā, al-Wustā and then al-'Aqabah. He throws seven pebbles at each Jamrah and stands at Jamrah al-Sughrā and al-Wustā to invoke Allah. He does this each day of the days of *tashrīq* which are the eleventh, twelfth and thirteenth of Dhul Hijjah. He starts throwing pebbles on the days of *tashrīq* after the sun has set from its zenith (*zawāl*) as the Prophet Ξ used to wait until the sun set from its zenith on the days of *tashrīq* before he performed *al-ramī* (throwing pebbles at the pillars). His Companions used to do likewise. If *al-ramī* was permissible before the sun set from its zenith as claimed by some people, then the Prophet Ξ would have informed us about it. There is not a thing related to the *dīn* except that the Prophet Ξ explained it to his nation. If *al-ramī* was permissible before *zawāl*, he would have permitted it or would have set an example by doing it. However, there is neither evidence that he allowed anyone to do it nor that he did it himself Ξ . Not even one of

his Companions did so. This proves that performing *al-ramī* before *zawāl* is not permitted.

وإن رماه كلَّه في الثالث أجرزاه، ويرتِّبُه بِنِيَّتِه، فإن أَخَّرَه عنه أو لم يبتْ بها فعليه دمٌ

متن

متن

It is permissible to throw all the pebbles on the third day. He performs them in order by intending them. If he delays it after these three days or does not spend the nights at Mina, he must pay the *dumm* penalty.

"It is permissible to throw all the pebbles on the third day. He performs them in order by intending them": If he does not throw the pebbles at the Jamrāt on the eleventh and the twelfth, it is permissible for him to collate and throw them altogether on the thirteenth. This is because all three days fall within the period when *al-ramī* is prescribed. However, he must do so in sequence. He should throw the pebbles of the eleventh day first by throwing at the three Jamrāt. Afterwards, he returns to throw the pebbles for the twelfth day. He returns once again to throw pebbles for the thirteenth day. This concession is a relief for those who are unable to perform *al-ramī* on all three days of *tashrīq* due to some hardship, crowding or other hazards. They may delay throwing the pebbles until the crowds lessen on the thirteenth day. This is because most of them expedite their departure leaving on the twelfth of Dhul Hijjah. Hence, the crowds will be less on the thirteenth day and it will be easier on the pilgrims to do this rite.

"If he delays it after these three days or does not spend the nights at Mina, he must pay the *dumm* penalty": If he delays *al-ramī* until after the thirteenth of Dhul Hijjah, then he has missed this rite as the prescribed time for it has ended. One cannot make up for it at a later time. Hence, he must pay the *dumm* penalty which is a *fidyab* to rectify the error. Since he failed to perform a *wājib* act of Hajj must offer expiation in the form of *fidyab*. Similarly, he who fails to spend the nights at Mina without a valid excuse must pay *fidyab* as he has failed to perform a *wājib* act of perform a *wājib* act of Hajj. Failing to do so warrants a *dumm* penalty.

ومن تعجَّل في يومين خرجَ قبل الغروب، وإلا لزمه المبيتُ والرَّمْيُ من الغد

Whoever wishes to expedite his departure after two days must leave before sunset. If not, he must spend that night and perform *al-ramī* the next day.

"Whoever wishes to expedite his departure after two days must leave before sunset. If not, he must spend that night and perform *al-ramī* the next day": A Muslim is given the choice of spending three nights at Mina and performing *al-ramī* on all three days. This is best for him as the Prophet $\frac{4}{5}$ did so.

However, he may choose to expedite his departure after throwing pebbles at the three Jamrāt after zawal on the twelfth of Dhul Hijjah. He may leave Mina thereby concluding his Hajj. The only condition is that he has to leave Mina before the sun sets on the twelfth. If he stays at Mina until sunset, then he is obliged to spend the night at Mina and throw pebbles at the Jamrāt on the thirteenth of Dhul Hijjah. The condition to expedite one's departure from Mina is to leave it before sunset.

Having an intention to expedite his departure is not sufficient by itself. Some people have erroneously given this religious ruling. The intention to expedite will not suffice. One must physically carry out his plan. However, if he carries all his belongings and begins his journey but is hindered from leaving Mina by sunset due to over-crowding, then he may proceed to leave Mina as he had planned. There is no blame on him to do so for he had already started his departure.

فإذا أراد الخروجَ من مكةً لم يخرجُ حتى يطوفَ للوداع فإن أقام أو اتَّجَرَ بعده أعاده من He should not leave Makkah without performing *tawāf al-wadā*'. If he stays or trades thereafter, he must repeat the *tawāf*.

"He should not leave Makkah without performing *tawāf al-wadā*": *Tawāf al-wadā*' is the last rite of Hajj. If a person wishes to leave Makkah after completing his Hajj and is set to make a short or long journey from Makkah, he must perform this *tawāf* around the Ka'bah seven times. It is called *tawāf al-wadā*' because it is the last thing the one does. Furthermore, the Prophet \cong said, "One should not leave until he performs *tawāf* of the House."⁵⁹¹

It is mentioned in the hadīth narrated by Ibn 'Abbäs \pm , "... They were ordered to let it (the *tawāf*) be the last act to be fulfilled at the House. Except those

⁵⁹¹ Reported by Muslim (4/93), Ahmad (1/222) and Abu Dawūd (2002) from the narration of 'Abdullah ibn 'Abbās.

menstruating women who are excused from it."592

Tawāf al-Wadā' is a *wājib* act of Hajj as the Prophet had emphasised strongly that all those leaving Makkah should perform it after completing the Hajj rites.

"If he stays or trades thereafter, he must repeat the $taw\bar{a}f$ ": If a pilgrim performs $taw\bar{a}f al-wad\bar{a}$ ' and thereafter spends the night or a few more days—a period which constitutes as taking up residence according to custom—in Makkah, his $taw\bar{a}f$ is made obsolete as this act was not the last thing that he performed in Makkah. He must repeat the $taw\bar{a}f$ when he is about to leave Makkah.

In the hadīth narrated by Ibn 'Abbās, the Prophet $\frac{1}{2}$ commanded thus: "Let it (the *tawāf*) be the last act to be fulfilled at the House."

"Or trades": That is, buying and selling as a form of business dealings to make a profit after one has performed *tawāf al-wadā*'. He has effectively made this *tawāf* obsolete by engaging in trade as the *tawāf* was not the last thing he did. In fact it was the buying and selling which was his final act. Therefore, he must repeat *tawāf al-wadā*'.

In the situation where he performs the *tawāf* but goes to his place of residence to pick up something important or his belongings, then this is not an issue. Similarly, he is not penalized for buying things necessary for his journey or gifts for his relatives whilst on his way out. These acts do not render *tawāf alwadā*' invalid as they are essential to the journey. However, trade in the form of buying and selling is prohibited.

Hence, tawaf al-wada' is nullified by two things:

Firstly: Staying in Makkah after performing the tawaf.

Secondly: Engaging in trading activities in Makkah after performing the *tawāf*.

592 Reported by al-Bukhārī (2/202) and Muslim (4/93).

فطافه عند الخروج أجزأ عن الوداع

Anyone other than a menstruating women who fails to perform it must return to do it. If returning is difficult or he does not return then the *dumm* penalty is exacted. If he delays *tawāf al-ziyārab* until just before his departure, it will suffice as *tawāf al-wadā*'.

"Anyone other than a menstruating women who fails to perform it must return to do it. If returning is difficult or he does not return then the *dumm* penalty is exacted": If a person leaves Makkah without performing $taw\bar{a}f\,al-wad\bar{a}$, then he is obliged to return to Makkah so as to perform it. This is provided that he has not ventured too far away from Makkah. If he has indeed travelled far from it, then returning would not be beneficial as his journey is well underway. Hence, he has to pay the *dumm* penalty as he has failed to perform a *wājib* act of Hajj.

The menstruating woman is not obliged to perform *tawāf al-wadā*'. Allah has awarded her a concession that exempts her from the obligation as mentioned in the hadīth narrated by Ibn 'Abbās: "Except those menstruating women who are excused from it." When Safiyah, the Prophet's wife, began to menstruate and the Messenger of Allah \cong knew of it, he asked, "Is she holding us back?" He asked this in the assumption that she had not performed *tawāf al-ifādah*. They replied, "O Messenger of Allah, she has performed *tawāf al-ifādah*." He \cong then said, "Let her depart then."⁵⁹³ This is proof that *tawāf al-wadā*' is not *wājib* for a menstruating woman. This is a concession from Allah.

"If he delays *tawāf al-ziyārah* until just before his departure, it will suffice as *tawāf al-wadā*": If he delays *tawāf al-ziyārah* (which is *tawāf al-ifādah*) until just before his journey, he may combine this *tawāf* with *tawāf al-wadā*' as it meets the condition of being the last thing he did before his departure.

Everyone, except the menstruating women, stand invoking that which is prescribed between the *rukn* and the door. The Menstruating woman stands by its door uttering invocations.

⁵⁹³ Reported by al-Bukhārī (5/223) and Muslim (4/93)

"Everyone, except the menstruating women, stand invoking that which is prescribed between the *rukn* and the door": After performing *tawāf al-wadā*' and just before embarking upon one's journey, it is *mustahabb* for him to stand between the *rukn* (the corner) where the black stone is located and the door of the Ka'bah. He then invokes Allah excessively, seeking Allah's forgiveness and that He accepts all pious deeds just before his journey. He asks Allah to let him return to the Sacred House again and not let this be the last time he visits the Ka'bah. He then makes supplications that are easy for him. This act which is called *al-iltizām* is among the Sunnah acts of Hajj.

"The Menstruating woman stands by its door uttering invocations": The menstruating woman should not enter *al-masjid al-haram* just as she should not enter any other *masjid*. Therefore, she stands near the door of the *masjid* and makes various supplications that are easy for her.

وتستحب زيارةُ قبر النبي ﷺ، وقبري صاحبيه

متن

And it is *mustababb* to visit the grave of the Prophet $\frac{1}{26}$ and that of his two companions.

"And it is *mustahabb* to visit the grave of the Prophet $\frac{1}{2}$ and that of his two companions": It is Sunnah to visit the grave of the Prophet $\frac{1}{2}$ and those of others—as long as it does not require travel— with the objective to send greetings upon the deceased and to supplicate for them. Travelling for the express purpose of visiting is not allowed except visits made to the three holy *masjids*, which includes Masjid al-Nabawī.

Visiting Masjid al-Nabawī during the Hajj season or any other time is a *mustahabb* act. However one may wish to visit Masjid al-Nabawī after Hajj as it saves him the trip solely to visit it. This is also convenient for him. He comes to Madīnah with an intention to visit the *masjid* and not with an intention to visit the grave. This is because one must not travel to visit the grave. One is only allowed to travel except to visit the three holy *masjids*: Masjid al-Haram, Masjid al-Nabawī and Masjid al-Aqsā. This is based on the saying of the Prophet **%**, "No journey [to visit a *masjid*] should be undertaken except to the three *masjids*: Masjid al-Harām, my *masjid* and Masjid al-Aqsā."⁵⁹⁴

⁵⁹⁴ Reported by al-Bukhārī (2/76) and Muslim (4/126) from the narration of Abu Hurairah.

A Commentary on Zād al-Mustaqni

One must not embark on a journey to visit a grave; be they the graves of Prophets, *awliyāh* or the righteous people even though visiting a grave is Sunnah. However it is only Sunnah when there is no travel involved. This is because travelling from one place to another for the sole purpose of worship and earning the pleasure of Allah is only sanctioned for visiting the three holy *masjids*.

There is no doubt that visiting the grave of the Prophet \mathfrak{B} , the graves of his two companions and the graves of Muslims is a *mustahabb* act. However, this act must not necessitate travel. When one travels to Madīnah, he must have the intention to visit the *masjid* there. This intention incorporates the visit to the Prophet's grave, the graves of his two companions and those of others. These enter into the intention, following behind the intention to visit the *masjid*.

The *ahadīth* which relate that it is ordained for a Hajj pilgrim to visit the grave of the Prophet and to visit him are all weak. The hadīth, "Whoever performs Hajj and does not visit me has indeed shunned me"⁵⁹⁵ and others similar to it are either weak (*da'īf*), so weak that they cannot be used as evidence or totally fabricated (*mawdūh*). This is the verdict of the *imāms* from the *huffāz* of *ahl al-hadīth*, may Allah have mercy on them.

وصفةُ العمرةِ أن يُحرم بها من الميقات، أو من أدنى الحلِّ من مَكِّي ونحوه، لا من الحَرَم من

The description of 'Umrah: one enters into the state of *ihrām* at the *mīqāt* or the nearest place which is outside the Haram sanctuary for those who are residents of Makkah or thereabouts. Not within the Haram sanctuary.

After describing Hajj, the author moves onto describing 'Umrah. He says:

"The description of 'Umrah: one enters into the state of *ihrām* at the *mīqāt* or the nearest place which is outside the Haram sanctuary for those who are residents of Makkah or thereabouts. Not within the Haram sanctuary": Entering into *ihrām* for 'Umrah is similar to that of Hajj. One should pass by one of the *mīqāt* which is on his way and enter into *ihrām* there. He should not go beyond the *mīqāt* without entering into the state of *ihrām*. The Prophet $\frac{1}{26}$ said, "These places are for the people as well as for those who come from other places, those

⁵⁹⁵ Reported by Ibn 'Adī in *al-Kāmal* (8/248), Ibn Hibbān in *al-Majrūhīn* (3/73) and Ibn al-Jawzī in *al-Mawdū'āt* (1168).

who intend to perform Hajj or 'Umrah."596

If he goes to Makkah to perform 'Umrah at any time and passes by one of the $m\bar{i}q\bar{a}t$, then it is $w\bar{a}jib$ for him assume *ibrām* at that $m\bar{i}q\bar{a}t$. This is regardless if he walked there, rode an animal, drove a vehicle to get there, passed by the $m\bar{i}q\bar{a}t$ on an airplane or crossed it from any geographical direction on earth. If so, he must assume *ibrām* at the $m\bar{i}q\bar{a}t$ and should not go beyond the $m\bar{i}q\bar{a}t$ without assuming *ibrām*. However, if his house is nearer to Makkah than the $m\bar{i}q\bar{a}t$, then his $m\bar{i}q\bar{a}t$ will be his house as the Prophet \mathfrak{B} said, "And whoever lives closer than these $[m\bar{i}q\bar{a}t]$, then his residence is considered as a $m\bar{i}q\bar{a}t$."⁵⁹⁷ Similarly, if he had crossed the $m\bar{i}q\bar{a}t$ not having an intention to perform 'Umrah and then wanted to perform it, he may enter into *ibrām* from where he had made the intention. This is provided that he is outside the boundary of the Haram.

The one who is a resident of Makkah or is a non-resident who is at Makkah and wants to perform 'Umrah, he should not enter into *ihrām* from within the Haram. He should leave the precinct of the Haram and then enter into *ihrām* there. When 'Aishah wanted to perform 'Umrah after her Hajj, the Prophet # requested her brother 'Abdul Rahmān to accompany her to al-Tan'īm. She then assumed *ihrām* for 'Umrah at this location. Al-Tan'īm is the nearest place outside the Haram sanctuary.

"Not within the Haram sanctuary": This is evidence that one should not enter into *ihrām* to perform 'Umrah from within Makkah; even if he is a resident of Makkah or otherwise. This is because unlike Hajj, all of the rites of 'Umrah occur within the Haram. Hajj rites occur around the Haram sanctuary and outside of it. Hence, the Hajj pilgrim is allowed to assume *ihrām* inside Makkah as he would be leaving the Haram sanctuary to perform *wuqūf* at 'Arafah.

As all the rites of 'Umrah, namely *tawāf*, *sa'ī*, shaving the head or shortening the hair, take place within the Haram, he does not have the opportunity to go outside it. Hence it is enjoined that a *muhrim* visits both the *haram* and areas outside it. For this reason, those performing *al-tamattu*' are ordered to go out-

⁵⁹⁶ Reported by al-Bukhārī (2/265) (3/21) and Muslim (4/5) from the narration of 'Abdullah ibn 'Abbās.

⁵⁹⁷ Reported by al-Bukhārī (2/172, 191-192) and Muslim (4/30-31) from the narration of 'Aishah.

A Commentary on Zād al-Mustaqni

side of the Haram sanctuary to assume *ihrām* to perform their 'Umrah. This is to give them the opportunity of having been to the Haram sanctuary and the non-Haram areas whilst they are in the state of *ihrām*.

متن

متن

فإذا طاف وسعى وحلق أو قصَّر حَلَّ

When he performs *tawāf*, *sa'ī* and shaves his head or shortens his hair, he makes *tabalul*.

"When he performs $taw\bar{a}f$, $sa'\bar{i}$ and shaves his head or shortens his hair, he makes tahalul": The rites of 'Umrah are: Assuming *ihrām* at the *mīqāt* or the nearest place outside the precinct of Haram if he is a resident of Makkah or its vicinity. This is followed by $taw\bar{a}f$, $sa'\bar{i}$ and shaving of the head or shortening of the hair. Once he makes $taw\bar{a}f$ and $sa'\bar{i}$ between Safā and Marwah seven times with an intention to perform 'Umrah and then proceeds to shave his head or shorten his hair, he has achieved tahalul.

These are the rites of Umrah: *ihrām*, *tawāf*, *sa'ī* and shaving the head or shortening the hair.

وتُباح كلَّ وقتٍ، وتُجزئ عن الفَرْض

It is permissible any time and it fulfils the obligation.

"It is permissible any time": It is permissible to perform 'Umrah during the Hajj season or during other months. There is no prescribed period in the year to perform it. Hajj however is prescribed by Allah in certain months of the year: **{Hajj is [during] well-known months.}**⁵⁹⁸ Which are Shawwāl, Dhul Q'adah and the first ten days of Dhul Hijjah.

'Umrah on the other hand, has no restriction as to when it can be performed and one may do so whenever he wishes.

"And it fulfils the obligation": When a person performs 'Umrah during the Hajj season or any other month, he is deemed to have fulfilled 'Umrah al-Islam. Every Muslim is obliged to perform Hajj at least once in his or her lifetime. It is also *wājib* for him or her to perform 'Umrah at least once in their

⁵⁹⁸ Al-Baqarah: 197

lifetime. So, when a Muslim performs 'Umrah anytime during the year, he is considered to have fulfilled 'Umrah al-Islam, notwithstanding the month in which it was performed.

وأركانُ الحج: الإحرامُ، والوقوفُ، وطوافُ الزيارةِ، والسَّعْي The arkān of Hajj: Ihrām, wuqūf, tawāf al-ziyārah and sa'ī.

متن

Acts of Hajj can be classified into three types: Arkān (acts that are pillars), wajibāt (mandatory acts) and sunan (supererogatory acts).

"Arkān": This is the plural of *rukn* (pillar). A *rukn* is the foundation or pillar of something.⁵⁹⁹ Hence the *arkān* of Hajj are acts that make up Hajj. There is no Hajj without these acts. They are four:

First: "Ibrām": This is the intention to undertake the rites.

Second: "Wuqūf": I.e. at 'Arafah. This is the greatest pillar of Hajj for the Prophet \underline{z} has said, "Hajj is 'Arafah."⁶⁰⁰

Third: *"Tawāf al-ziyārah"*: Which is *tawāf al-ifādah*.

Fourth: *"Sa'ī"*: Between Safā and Marwah.

These are the *arkān* that must be fulfilled in Hajj. Hajj does not exist without these acts as they are its pillars.

متن وواجباتُه: الإحرامُ من الميقاتِ المُعْتَبَرِ لـه، والوقوفُ بعرفَةَ إلى الغروب والمبيتُ لغير أهل السِّقايةِ والـرعايةِ بمنىً ومزدلفة إلى بعد نصف الليل، والرَّمْيُ والحِلاَقُ، والوَداع. والبَاقي سُنن

Wajibāt: Ihrām at the mīqāt which he is designated to traverse, wuqūf at 'Arafah until sunset, spending the nights at Mina except those who are al-saqāyah and al-ra'āyah, staying at Muzdalifah until midnight, al-ramī,

⁵⁹⁹ See al-Mutla' (p. 88) and al-Misbāh al-Munir (p. 324).

⁶⁰⁰ Reported by Ahmad (4/309, 335), Abu Dawūd (1949), al-Tirmidhī (889) and al-Nasā'ī (5/256) from the narration of 'Abdul Rahmān ibn Ya'mar.

A Commentary on Zād al-Mustaqni

shaving the head and wadā'. The rest of the acts are sunan.

"Wājibāt": Hajj consists of seven mandatory acts which are mentioned here:

First: "*Ihrām* at the *mīqāt* which he is designated to traverse": Which he traverses with the sole purpose of performing Hajj or 'Umrah. If he enters into *ihrām* after crossing the *mīqāt*, his *ihrām* is valid but he has failed to perform a *wājib* act of Hajj. Hence, he must offer expiation.

Second: " $Wuq\bar{u}f$ at 'Arafah until sunset": This applies to those who make $wuq\bar{u}f$ from the afternoon. It is important to distinguish between $wuq\bar{u}f$ and continuing the $wuq\bar{u}f$ until sunset. $Wuq\bar{u}f$ per se is a rukn while continuing to do so until sunset is a wajib act. A pilgrim who makes $wuq\bar{u}f$ and then leaves 'Arafah before sunset has fulfilled the rukn. However, he has not fulfilled the wajib act of staying at 'Arafah until sunset. Hence he must pay the *dumm* penalty.

Third: Spending the nights of *tashriq* at Mina except those who are *al-saqāyah* and *al-ra'āyah*.

Fourth: "Except those who are *al-saqāyah* and *al-ra'āyah*":

"Al-Saqāyab": They are those people who provide Zamzam water to the pilgrims by drawing water from the well using buckets. 'Abbās ibn 'Abdul Muttalib \ll was in-charge of this activity. They are permitted to forgo spending the nights at Muzdalifah and Mina as they need to be on the move so as to provide water for the pilgrims. Hence they are pardoned of this *wājib* act.

"*Al-ra'āyah*": They are the shepherds who herd the pilgrims' camels. They bring these camels to graze and so are pardoned from spending the nights at Muzdalifah and Mina.

Fifth: "Al-rami": i.e. throwing pebbles at the pillars, at Jamrah al-Aqabah.

<u>Sixth</u>: "Shaving the head": Or shortening the hair. This is wajib for Hajj as we have explained previously.

Seventh: "Wadā": I.e. tawāf al-wadā'. This is the final wājib act. Once all arkān—ibrām, wuqūf, tawāf and sa'ī—and these seven wājibāt are completed,

he has fulfilled all of the rites of Hajj.

"The rest of the acts are *sunan*": All other utterances and deeds performed during Hajj besides these *arkān* and *wājibāt* are classified as *sunan*. When he does a Sunnah act, he is rewarded and if he chooses not to do it, there is no blame on him. An example would be his travel to Mina on the day of *tarwiyyah* and spending the night there. Other examples of *sunan* of Hajj are: Supplications made at 'Arafah, chanting the *talbiyah* after assuming *ihrām*, drinking Zamzam water, offering a two *rakāt* prayer after *tawāf* and supplications made while performing *tawāf* and *sa'ī*.

> متن وأركانُ العمرة: إحرامٌ، وطوافٌ، وسعيٌ Arkān of 'Umrah are: Ibrām, tawāf and sa'ī.

> > متن

Having elaborated on the *arkān* and *wājibāt* of Hajj, the author moves on to explaining the *arkān* of 'Umrah.

"Arkān of 'Umrah are: Ihrām, tawāf and sa'ī": There are three arkān for 'Umrah. If he does all three acts, he has completed the arkān of 'Umrah.

وواجباتُها: الجِلاقُ، والإحرامُ من ميقاتِها The *wājibāt* are: Shaving the head and *ibrām* from the *mīqāt*.

There are two wājibāt for 'Umrah:

First: Shaving the head or shortening the hair.

Second: "*Ihrām* from the *miqat*": That is, he must enter into the state of *ihrām* from the *mīqāt* if he has the intention to perform 'Umrah. He may do so from any of the *mawāqīt* (plural for *mīqāt*) that the Prophet # had demarcated. If his house is nearer to Makkah than the *mawāqīt*, then he may enter into *ihrām* from his house if he intends to perform 'Umrah. Similarly he who crosses a mīqāt without having an intention to perform 'Umrah but changes his mind later, he may assume *ihrām* at the place where he made the intention to perform 'Umrah. If, however he makes the intention while in Makkah, he must go outside the boundaries of the Haram sanctuary and assume *ihrām*.

Whoever leaves off the state of *ihrām* is not considered to have fulfilled the rites. Whoever does not perform another *rukn* besides it or has not made the intention, his rites are incomplete without it. Whoever fails to do a *wā-jib* act must pay the *dumm* penalty. Whoever misses a Sunnah act, there is no blame on him.

"Whoever leaves off the state of *ihrām* is not considered to have fulfilled the rites": The author repeats the laws pertaining to *arkān* and the *wājibāt* of Hajj and 'Umrah. Whoever leaves off the state of *ihrām* that he assumed for Hajj or 'Umrah, any act that he performs is not considered a rite. This is because he has not made the intention to enter into *ihrām*. Therefore the acts he performs as a pilgrim are worthless if done without assuming *ihrām*.

Whoever does not perform a *rukn* act of Hajj or Umrah besides *ihrām*—like he who did not make *tawāf* or *sa'ī* of Hajj or 'Umrah—then the rites remain incomplete until he performs the act which he missed out on.

However, he who fails to make *wuqūf* at 'Arafah has nullified his entire Hajj. More explanation regarding this will follow shortly.

"Whoever does not perform another *rukn* besides it or has not made the intention, his rites are incomplete without it": If he fails to perform a *rukn* act besides $wuq\bar{u}f$ —like he who missed out on performing sa'i or tawāf of Hajj or 'Umrah—then his Hajj remains valid. However, he must perform the tawāf or sa'i even if it is after a period of time. He must return to Makkah and perform tawāf al-ifādah if he had missed performing it or perform tawāf for 'Umrah if it was this tawāf that he missed out. He must perform sa'i for Hajj or 'Umrah, whichever he missed performing as he is still considered to be in the state of *ihrām* as long as these arkān are incomplete. He should return to perform tawāf and sa'ī for 'Umrah or Hajj even if he has embarked upon his journey.

Whoever does not perform tawaf or sa'i of Hajj has attained the primary ta-hallul, as we have discussed earlier. However as complete tahalul is not yet achieved, he must keep away from having sexual relations with his wife. He must return to Makkah to perform tawaf al-ifadah and sa'i between Safa and

Marwah provided that he is obliged to do sa'ī, due to him performing al-tamattu' or he is performing al-qirān or al-ifrād and he had not made sa'ī after tawāf al-qudūm.

Whoever performed 'Umrah and missed out on shaving his head or shortening his hair, he must clothe himself in the *ihrām* garb once he realises his omission and proceed to shave his head at any place; be it within Makkah or outside of Makkah.

Whoever performed Hajj and missed out on shaving his head or shortening his hair, he must shave his head or shorten his hair without having to wear the *ihrām* garb. This is because he had attained the primary *tahalul* earlier. Shaving of the head and shortening of the hair can be carried out at any place and is not confined to the Haram sanctuary.

"Whoever fails to do a $w\bar{a}jib$ act must pay the *dumm* penalty": He who does not perform a $w\bar{a}jib$ act, such as he who does not assume the *ibrām* from the $m\bar{i}q\bar{a}t$ point when intending to perform Hajj or 'Umrah, he who does not stay at 'Arafah until sunset, he who does not stay the nights at Muzdalifah or Mina without a valid reason, he who failed to perform *al-ramī* in its prescribed time or he who failed to make *tawāf al-wadā*', he must remedy the situation by paying the *dumm* penalty. He does this by slaughtering an animal in Makkah and distributing it to the poor people who live in the Haram sanctuary. If he is unable to do this, he has to fast for ten days.

"Whoever misses a Sunnah act, there is no blame on him": As for he who fails to do a Sunnah act of Hajj or 'Umrah, there is no blame on him. This is because Sunnah acts are rewarded when they are performed while there is no retribution if it is not performed. For example, if a pilgrim fails to go to Mina on the day of *tarwiyyah* or fails to spend the night there on that day, then it is perfectly fine as missing out on a Sunnah act of Hajj is not a sin. Similarly, if he fails to supplicate while making $wuq\bar{u}f$ at 'Arafah or does not chant the *talbiyab*, there is no blame on him for not doing these acts.

باب الفوات والإحصار CHAPTER: OMISSION AND RESTRICTION

من فاته الوقوفُ فاتَهُ الحجُّ وتحلَّل بعُمْرةٍ، ويقضي ويُهدي إن لم يكن اشترطَ

متن

He who fails to make *wuqūf*, his Hajj is nullified and so he makes *tahalul* for 'Umrah. He must make up for it and offer sacrifice if he had not stipulated a clause.

"Chapter: Omission and Restriction": Omission here refers to the failure to perform $wuq\bar{u}f$ at 'Arafah and restriction here refers to one being hindered from reaching the House.

"He who fails to make $wuq\bar{u}f$, his Hajj is nullified and so he makes *tahalul* for 'Umrah. He must make up for it and offer sacrifice if he had not stipulated a clause": Whoever assumes *ihrām* for Hajj but missed out on $wuq\bar{u}f$, i.e. he was not able to reach 'Arafah before dawn of the day of sacrifice while he was a *muhrim* intending Hajj, then his Hajj is nullified for that year. He goes to the House and makes *tawāf*, *sa'ī* and shaves his head or shortens his hair. In this situation he has effectively completed an 'Umrah and can leave the state of *ihrām*. He must make up for it in the following year. He also offers an animal as sacrifice.

"If he had not stipulated a clause": Provided that he had not stipulated a clause while assuming *ihrām* by uttering the following: "*In habasanī hābisun famahillī haythu habasatanī*." (If a hindrance were to hinder me, then my place is where You held me back.)

If a pilgrim utters the above while entering into *ihrām*, then he may leave the state of *ihrām* and neither needs to make up the Hajj the following year nor offer sacrifice as he had stipulated a clause.

متن ومن صدَّه عدوٌ عن البيت أهدى ثم حَلَّ، فإن فَقَدَه صامَ عشرةَ أيامٍ ثم حَلَّ، وإن صُدَّ عن عرفةَ تحلَّل بعُمرةٍ

Whoever is barred from reaching the House by an enemy may offer a sacrifice and then make *tahalul*. If he has lost his sacrificial animal, he has to fast ten days and then makes *tahalul*. If he is prevented from reaching 'Arafah, he makes *tahalul* for 'Umrah.

"Whoever is barred from reaching the House by an enemy may offer a sacrifice and then make *tahalul*. If he has lost his sacrificial animal, he has to fast ten days and then makes *tahalul*": This is a restriction which is defined as the hindrance to a pilgrim by an enemy from reaching the House. This situation was faced by the Prophet 雲 in the year of al-Hudaybiyah. He 霎 along with his Companions headed towards the Ka'bah to perform 'Umrah but were hindered by the polytheists from entering Makkah. They were stopped at al-Hudaybiyah which is on the outskirts of the Haram sanctuary in the direction towards Jeddah near al-Tan'īm. This place is presently known as al-Shamīsī.

When they reached this place, the polytheists prevented them from entering Makkah even though they made several attempts to enter it. Finally, the Prophet \mathfrak{B} slaughtered his sacrificial animal and shaved his head. Doing so, he made *tahalul* and ordered his Companions to do likewise.⁶⁰¹

This is proof that if a pilgrim who intended to perform Hajj or 'Umrah is barred from reaching the House and is indeed incapable of it, he may offer his sacrifice and then make *tahalul*. If he does not have an animal, he has to fast ten days and there is no blame on him.

"If he is prevented from reaching 'Arafah, he makes *tahalul* for 'Umrah": However, if he assumed *ihrām* for Hajj and was hindered by enemies on his way to make $wuq\bar{u}f$ at 'Arafah, this predicament is similar to the previous one. If he missed $wuq\bar{u}f$ at 'Arafah, his Hajj is nullified. He must make *tahalul* for

⁶⁰¹ Reported by al-Bukhārī (3/252-258) in the lengthy narration of the covenant of al-Hudaybiyyah narrated by al-Masūr ibn Mukhramah.

A Commentary on Zād al-Mustaqni

'Umrah by making *tawāf*, *sa'ī* and then shave his head or shorten his hair. He may then leave the state of *ihrām* as this is considered an omission rather than a hindrance.

متن

وإن أَحْصَرَه مرضٌ أو ذهابُ نفقةٍ بقى مُحرماً إن لم يكن اشترط

If the hindrance is in the form of an illness or the loss of provisions, then he should remain as a *mubrim* if he had not stipulated a clause.

"If the hindrance is in the form of an illness or the loss of provisions, then he should remain as a *muhrim* if he had not stipulated a clause": If the hindrance is not caused by an enemy but rather an illness, due to which he is incapable of performing Hajj or 'Umrah, or the loss of provisions due to theft or loss such that he has nothing left to perform Hajj or 'Umrah with, then he must remain as a *muhrim* until he is able to perform the pilgrimage. He must perform Hajj if he gains ability before the day of 'Arafah. He should proceed to complete all the rites of Hajj. In the event that he gains ability only after the day of 'Arafah, he must make *tahalul* for 'Umrah as discussed earlier.

This is provided that "he had not stipulated a clause." If he had stipulated the clause, "If a hindrance were to hinder me, then my place is where You held me back," and then was afflicted with an illness or a loss of provisions, he has to make *tahalul* only and there is no blame on him.

باب الهدي والأضحية والعقيقة CHAPTER: AL-HADYI, AL-UDHIYYAH AND AL-'AQĪQAH

أفضلُها إبلٌ، ثم بقرٌ، ثم غنمٌ

متن

The best is a camel, cow and then a sheep.

"Chapter: *Al-Hadyi*, *al-Udhiyyah* and *al-'Aqīqah*": The author proceeds to explain the three types of *qurbānī* (sacrifice):

"Al-hadyi": The animal that is sacrificed during Hajj or 'Umrah, for the *wājib* and the *mustahabb*.⁶⁰²

"Al-udhiyyah": The animal that is sacrificed on the day of 'Eid al-Adhā.603

"Al-'aqīqah": The animal that is sacrificed on the birth of a child.604

"The best is a camel, cow and then a sheep": The best of animals slaughtered for these three types of sacrifice in the order of merit are: a camel, a cow and then a sheep.

ولا يُجزئُ إلا جَذَعُ الضَّأْنِ وثني سواه؛ فالإبلُ خمسُ سنين، والبقرٍ سنتانِ، والَعْزُ سنةٌ، والضَّأَنُ نصفُها متن

⁶⁰² See al-Mutlā' (p. 204) and al-Dar al-Naqī (1/412) (3/790).

⁶⁰³ Ibid.

⁶⁰⁴ See al-Misbah al-Munir (p. 577).

It is not permissible to slaughter except a young sheep or a *thanī* of everything else, thus: a five-year old camel, a two-year old cow and a year old goat. A sheep may be half as young.

"It is not permissible to slaughter except a young sheep or a *thani* of everything else, thus: a five-year old camel, a two-year old cow and a year old goat. A sheep may be half as young": It is not permissible to slaughter an animal as *hadyi*, *udāhiyah* or for *'aqīqah* except the following:

• A young sheep which is at least six-months old.

Or *thani* from other than a sheep, which refers to the following ages of these animals:

- A goat which has reached one year of age.
- A camel which has reached five years of age.
- A cow which has reached two years of age.

متن

وتجزئ الشاةُ عن واحد، والبَدَنةُ والبقرةُ عن سبْعةٍ

A single person sacrifices a sheep while a group of seven people may sacrifice a camel or a cow.

"A single person sacrifices a sheep while a group of seven people may sacrifice a camel or a cow": The sacrifice of a sheep is accepted from a single person and he is not permitted to a share with another in purchasing the sheep. Whereas the sacrifice of a cow or a camel is accepted from seven people who share it as *hadyi* or *udāhiyah*.

ولا تجزئُ العَوْراء والعَجْفاءُ والعَرْجاءُ والمَتْماءُ والجَدَّاءُ والمريضةُ والعَضْباءُ بل البَتْراء من خِلْقةٌ، والجَمَّاءُ والخَصِيُّ غيرُ المجبوبِ وما بأُذُنِه أو قَرْنِه قطعُ أقل من النِّصف

It is not permissible to offer as sacrifice a one-eyed animal, a gaunt animal, a lame animal, a toothless animal, an animal with dry udders, a sick animal, a mutilated animal or a hornless and ear-less animal but not the animal which was born without ears and horns, an animal born without both ears, an animal which has had its testicles removed but its penis remains intact

nor an animal which has less than half its ear or horn clipped.

"It is not permissible to offer as sacrifice": Animals with defects and shortcomings are not permitted as sacrifice. They are:

"A one-eyed animal": Al-'awrā'u refers to blindness in one of its eyes.

"A gaunt animal": Without much flesh.

"A lame animal": That has a defect on one leg which causes it to limp.

"A toothless animal": Teeth having been removed from their roots.

"An animal with dry udders": I.e. as a result of old age.

"A sick animal": Where the sickness is evident. Minor illness that does not affect the flesh of the animal is inconsequential.

"A mutilated animal": I.e. with a clipped ear or horn.

"A hornless and ear-less animal": This is an animal that has lost most of its horn and ears.

"But not the animal which was born without ears and horns, an animal born without both ears, an animal which naturally does not have testicles (not the castrated animal) nor an animal which has less than half its ear or horn clipped": An animal that is born with little to no horn or ears is permissible for sacrifice.

An animal that has had its testicles removed is permitted for sacrifice as the Prophet $\frac{1}{20}$ offered two sheep that were castrated as *udhiyyah*.⁶⁰⁵ Perhaps the meat from a castrated animal is better than others.

It is also permissible to offer as sacrifice a sheep, goat or cow with less than half its ear or horn clipped. If its ears or horns are clipped by half or more than that,

⁶⁰⁵ Reported by Ahmad (6/220, 225), Ibn Mājah (3122) and al-Bayhaqī in *al-Sunan al-Kubrā*' (9/267) from the narration of 'Aishah.

it is not permissible to be offered as a sacrifice.

It is Sunnah to slaughter (*nahr*) the camel while it is in a standing position with her left foreleg bound. It is stabbed with a spear at the depression which lies between the base of the neck and chest. Slaughtering any other animal is called *dabb*. The opposite can also be true. He then says: "*Bismillahi, wallahu akbaru, allahumma bathā minka wa laka.*" (In the name of Allah, and Allah is the greatest. O Allah this from You and for You.) The owner may sacrifice the animal himself or get it sacrificed on his behalf while he witnesses it.

"It is Sunnah to slaughter (*nahr*) the camel": That is, slaughtering it at the *nahr* (which is the depression which lies between the base of the neck and the chest). The camel is slaughtered while it is standing, not lying down as slaughtering it in this position is much easier and the blood flows from the camel much faster.

"With her left foreleg bound": This is in accordance to Allah mentioning: **{So** mention the name of Allah upon them when lined up [for sacrifice.]}⁶⁰⁶

"It is stabled with a spear at the depression which lies between the base of the neck and chest": This is the spot called *nahr* which is only found in a camel.

"Slaughtering any other animal is called *dabh*": I.e. animals like cows and sheep.

"The opposite can also be true": That is, terming the slaughter of cows and sheep as *nahr* and the slaughter of camels as *dhabh*. However the opposite is more accurate.

He then says: "Bismillahi, wallahu akbaru, allahumma hathā minka wa laka" (In the name of Allah and Allah is the greatest. O Allah this is from You and

606 Hajj: 36

for You): Mentioning Allah's name while sacrificing is *wājib* as per Allah's command: **{So mention the name of Allah upon them when lined up [for sacrifice.]}**⁶⁰⁷ And the ayah: **{And do not eat of that upon which the name of Allah has not been mentioned.}**⁶⁰⁸ As for saying "Allahu akbar," this is a Sunnah.

"The owner may sacrifice the animal himself or get it sacrificed on his behalf while he witnesses it": It is best that the owner does the slaughtering himself and then distributes its meat. However, if he is unable to do so or he is unable to do it properly, he may appoint another to do it on his behalf. The Prophet $\frac{1}{2}$ slaughtered sixty-three of his sacrificial animals and appointed 'Alī $\frac{1}{2}$ to sacrifice the rest of the animals. They sacrificed a total of one hundred animals.⁶⁰⁹ This incident proves that to slaughter one's own sacrificial animal is better. If one grows tired doing it or he has an excuse for not doing it, then he may appoint another to do the slaughtering on his behalf.

The time for sacrifice is from after the conclusion of the 'Eid prayer or an equal time onwards until two days thereafter. Doing so during the nights of these days is disliked. If sacrifice is missed [on the aforementioned days,] then it must be made up if it was *wājib* upon him.

"The time for sacrifice is from after the conclusion of the 'Eid prayer or an equal time onwards until two days thereafter": The time for sacrifice begins after the 'Eid prayers or approximately around that time if no 'Eid prayer is conducted—in the desert areas for example—or if they are travellers (who need not attend 'Eid prayers). They may estimate the duration of 'Eid prayer, if it was actually performed, after the sun has risen to the approximate length of a lance above the horizon and then proceed to begin the sacrifice. Once the time has passed in which the prayer could be performed they proceed to perform the sacrifice.

⁶⁰⁷ Hajj: 36

⁶⁰⁸ Al-An'ām: 121

⁶⁰⁹ Reported by Muslim (4/42), Ahmad (3/331), Abu Dawūd (1905), Ibn Mājah (3074) from the narration of Jābir ibn 'Abdillah.

Hadī and *udhiyyah* is not accepted if the animal is sacrificed before 'Eid prayer as it constitutes discharging an act of worship before the entry of its designated time. Sacrifice of animals can be done throughout until the third and last day of *al-tashrīq* (which are the eleventh, twelfth and thirteenth of Dhul Hijjah).

Hence there are four days allotted for the sacrifice of *hadī* and *udhiyyah*: the day of 'Eid and the three days thereafter. This is the correct opinion even if it differs with what the author mentions.

"Doing so during the nights of these days is disliked": Sacrificing *hadī* and *udhiyyah* at night is disliked. It is *mustahabb* to do so during the day. Although disliked, sacrifice done at night is still permissible.

"If sacrifice is missed [on the aforementioned days,] then it must be made up if it was wajib upon him": If one missed sacrificing on the days of *tashriq*, he may do so on other days as a deferred act (*qadā*). Supererogatory sacrifice on the other hand must not be undertaken if the designated days are missed. This is what the author means by, "If it was wajib upon him." There are two types of *udhiyah*. *Udhiyah* which is a will disposed towards oneself (*wasiyah*) is wajib. Hence it must be fulfilled as a deferred act even if the designated days are missed. However, the *udhiyab* which a Muslim performs voluntarily should not be undertaken if the designated days are missed as it is a supererogatory act.



ويتعينان بقوله: هذا هَدْيٌ أو أُضحيةٌ، لا بالنَّيَّة

They are specified with the words, 'This is *badī* [i.e. the sacrifice of the pilgrim]' or 'this is *udhiyyab* [i.e. the sacrifice of the non-pilgrim].' Not just with an intention.

The author says, "They are specified": I.e. whether it is hadi or udhiyyah.

"With the words, 'This is *badī* [i.e. the sacrifice of the pilgrim]' or 'this is *udhi-yyah* [i.e. the sacrifice of the non-pilgrim]": If one utters that it is for *hadi* or *udhiyyah*, then the sacrificial animal is specific for that particular sacrifice and has to meet the laws of it. He must then carry out the sacrifice. If he utters his intention to slaughter the animal as *hadi*, then he must sacrifice it as such and if he utters his intention to slaughter it as *udhiyyah*, then it is *wājib* for him to sacrifice it as such.

"Not just with an intention": He must specify it verbally. Doing so merely with an intention will not suffice. If he intends the animal to be sacrificed as *hadi* or *udhiyyah* without uttering it verbally, then it is deemed that he has not yet specified his intention for sacrificing the animal.

وإذا تَعينتْ لم يجزْ بيعُها ولا هبتُها إلا أن يبدلهَا بخيرٍ منها

Once the animal has been specified for sacrifice, it is not permissible to sell it or give it away as a gift unless it is replaced with another animal which is متن

متن

A Commentary on Zād al-Mustaqni

better than it.

"Once the animal has been specified for sacrifice, it is not permissible to sell it or give it away as a gift unless it is replaced with another animal which is better than it": This is the advantage of specifying an animal for sacrifice. If one utters, "This sheep is for *hadi*" or, "This sheep is for *udhiyyah*", then the animal has to be set aside and slaughtering it according to the specific intention becomes wajib. It is not permissible for him to transfer ownership of that animal by selling it or giving it away as a gift. This is due to the fact that the animal has been endowed to Allah. This rule can only be breached in the following scenario: The owner replaces the animal that has been set aside for sacrifice with another animal better than it. Only then can he sell the former or give it away as a gift as it has been replaced with something better. Replacing it with another animal that is similar or inferior in features is not permitted.

It is permissible to shear the wool off the sheep if it is beneficial for it. He has to give away the wool in charity. He should not give meat from the animal to the butcher as compensation for his work. He should not sell its skin or any part of the animal either. However, he may himself benefit from it.

"It is permissible to shear the wool off the sheep if it is beneficial for it. He has to give away the wool in charity": He may benefit from the animal after intending it for sacrifice provided that there is no harm done to it. He may shear the wool off the sheep if it is beneficial for it. If doing so is harmful to it or diminishes its worth or features, then it is not permitted. If not shearing the sheep's wool is detrimental to it then he may do so. However, he must not keep the wool for himself but instead should give it away in charity. This is because the wool is a part of the sheep and hence does not belong to him.

"He should not give meat from the animal to the butcher as compensation for his work": If he hires someone to slaughter the animal on his behalf, he should not give the meat from the sacrificial animal as compensation for his work. Instead, he should pay the butcher from his wealth as the Prophet \cong said, "And

do not compensate the butcher with its meat."⁶¹⁰ This is because the meat is no longer his but now belongs to Allah. Paying wages to the butcher is *wājib* upon him. Therefore, he should not try to preserve his wealth by paying it in the form of meat from the *hadi* or *udhiyyab*.

"However, he may himself benefit from it": He must not sell the skin of the *udhiyyah* or *hadi* as it is part of the sacrificial animal and does not belong to him. However, he may himself benefit from the skin by fashioning it into a case or covering for his personal use. It should not be sold to anyone.

وإن تَعَبَّبُتْ ذَبَحَها وَأَجْزأْتُه، إلا أن تكونَ واجبةً في ذمتِه قبل التعيين

متن

If the animal becomes deficient while it is alive, it is permissible for him to proceed with its sacrifice. However, he is held accountable if it becomes deficient before it is specified for sacrifice.

"If the animal becomes deficient while it is alive, it is permissible for him to proceed with its sacrifice": This is another rule pertaining to his uttering, "This is a *hadi*" or "This is an *udhiyyah*." We have seen how it is impermissible for him to sell the animal or give it away as a gift once he has uttered these words. The second rule states that if the animal becomes deficient by becoming ill, lame or any other deficiencies, then he is not required to replace this animal with another healthy animal. In fact, he may slaughter his animal even though it is deficient. This is because it happened without him having any choice in the matter and so he may sacrifice the animal in its present condition.

"However, he is held accountable if it becomes deficient before it is specified for sacrifice": If he intends to sacrifice the animal as a vow or as *hadi* meant for Hajj *al-tamattu*' or *al-qirān*, then it is *wājib* upon him to classify the sacrificial animal as deficient. Deficient animals are not allowed to be slaughtered as sacrificial animals.

⁶¹⁰ Reported by al-Bukhārī (2/210, 211) from the narration of 'Alī ibn 'Abi Tālib who said, "The Prophet 🕱 commanded me to take charge of the sacrificed animals and ensure that none of the meat is given to the butcher who slaughtered them." This hadīth is also reported by Muslim (4/87) from the narration of 'Alī who said, "The Messenger of Allah 🕱 commanded me to take charge of the sacrificed animals and give their meat, skin and innards in charity and not to give the butchers any part of it."

والأضحيةُ سُنَّةٌ

And al-udhiyyah is Sunnah.

"And *al-udhiyyah* is Sunnah": The classification of the rule for *udhiyyah* is that it is Sunnah *muakkadah* (strongly recommended). *Udhiyyah* is the act of sacrificing an animal to draw closer to Allah on the day of 'Eid al-Adhā and the days of *tashrīq* following the example of al-Khalīl (Ibrāhīm) W. Allah commanded him to sacrifice his son, Ismā'īl as a trial and test. When he and his son were about to carry out Allah's command with obedience, He abrogated that law (the sacrifice of Ismā'īl) and replaced it with the slaughter of a fat animal. In so doing, Ismā'īl W was spared. Ibrāhīm slaughtered the animal and thus this act became a Sunnah for all his offspring until the Day of Judgement. The Prophet # sacrificed two rams⁶¹¹ as *udhiyyah* to enliven this Sunnah of Ibrāhīm W. He ordained *udhiyyah* for his nation without making it *wājib*. This act is classified as Sunnah *muakkadah* by the majority of the people of knowledge.⁶¹²

وذبحُها أفضلُ من الصدقة بثمنها

Slaughtering it is better than giving in charity its money value.

"Slaughtering it is better than giving in charity its money value": This is referring to the *udhiyyah* as it is an act that draws one closer to Allah by shedding blood [of an animal] on the occasion of 'Eid. Hence it can never be equal to giving away money as charity, even though the giving of charity is an act of obedience to Allah. Charity is encouraged year round while the sacrifice of *udhiyyah* is limited to only these days where one earns the pleasure of Allah by sacrificing the animals. He says: **{Say, "Indeed, my prayer, my rites of sacrifice, my living and my dying are for Allah, Lord of the worlds."}⁶¹³ He, also says: {So pray to your Lord and sacrifice [to Him alone.]}**⁶¹⁴

متن

متن

⁶¹¹ Reported by al-Bukhārī (7/131) and Muslim (6/77 and 78) from the narration of Anas ibn Mālik.

⁶¹² See Nayl al-Awtār by al-Shawkānī (5/126).

⁶¹³ Al-An'ām: 162

⁶¹⁴ Al-Kawthar:2

Thus sacrificing *udhiyyah* is an act of obedience to Allah in these specific days and thus it is superior to charity as it does not involve slaughtering and can be done all year long. Unlike *udhiyyah*, the act of charity is not time-specific. *Udhiyyah* can be done only on certain days and so is a superior act than the giving in charity of the animals' value in cash.

ويسنُّ أن يأكلَ ويُهدي ويتصدق أثلاثاً، وإن أكلها إلا أوقيةً تصدَّق بها جاز، وإلا ضَمِنَها

متن

It is Sunnah to portion the meat for eating, gifting and as charity in three equal parts. It is permissible for one to eat most of the meat and give in charity just a little. Otherwise, he has to do an allocation of meat.

"It is Sunnah to portion the meat for eating, gifting and as charity in three equal parts": It is a Sunnah for he who sacrifices an *udhiyyah* or a *hadi* to eat from the animal's meat. This is in accordance to Allah's injunction: {And when they are [lifeless] on their sides, then eat from them and feed the needy and the beggar.}⁶¹⁵ And in another ayah, He says: {And feed the miserable and poor.}⁶¹⁶

It is *mustahabb* that he divides the meat into three equal portions. One portion to be consumed by him and his family members as was practiced by the Prophet *****. He ate from the meat of his *hadi* and *udhiyyah*. The second portion is to be given as a gift to one's friends, relatives and neighbours. The third portion is to be given to the poor and needy as charity. This method is *mustahabb*.

"It is permissible for one to eat most of the meat and give in charity just a little": If he ate most of the meat and gave away but a little, then he has fulfilled the rights of charity even with the small portion of meat as it conforms to the command of Allah: **{And feed the miserable and poor.}**⁶¹⁷

"Otherwise, he has to do an allocation of meat": If he consumed all of the meat, then he has to do an allocation i.e. where he buys a small amount of meat and gives it away as charity.

- 615 Al-Hajj: 36
- 616 Al-Hajj:28
- 617 Al-Hajj:28

متن

ويحرمُ على من يُضحِّى أن يأخذَ في العَشْر من شَعره أو بشرتِه شيئاً

It is not permitted for a person who performs an *udhiyyah* to remove hair from any part of his body during the first ten days.

"It is not permitted for a person who performs an *udhiyyah* to remove hair from any part of his body during the first ten days": He who intends to sacrifice an animal as *udhiyyah* for himself or shares it with others must not remove any hair from his body or clip any nails during the first ten days of Dhul Hijjah until such a time that he slaughters the *udhiyyah*. This is in accordance to the hadīth in *Sahīh Muslim*⁶¹⁸ narrated by Umm Salamah that the Prophet $\frac{1}{8}$ said: "Whoever intends to perform *udhiyyah* should not remove any hair or clip any of his nails until he slaughters the sacrificial animal."

According to the scholars, the wisdom behind the prohibition of removing any hair from the body or the clipping of nails until the *udhiyyah* is the similarity of the one offering the *udhiyyah* to the pilgrim in the state of *ihrām*.

However, if he intends to perform *udhiyyah* for himself and intends to perform Hajj and 'Umrah as well, then he should not remove any hair or clip his nails as he enters into the state of *ihrām*. However, he may do so as he leaves the state of *ihrām* after completing the 'Umrah within the first ten days of Dhul Hijjah. Though removing hair from the body and the clipping of nails is prohibited (for one performing *udhiyyah*), he may shave or trim the hair on his head as the rites of pilgrimage demand such an action.

⁶¹⁸ Sahih Muslim (6/83, 84).



متن تُسنُّ العَقيقةُ عن الغلام شاتان، وعن الجاريةِ شاةٌ، وتُذبح يومَ سابعِه، فإن فاتَ ففي أربعةَ عشرَ، فإن فاتَ ففَي إحدى وعشرين

It is Sunnah to slaughter two sheep as 'aqīqab for a boy and one sheep if it is a girl. The animals are slaughtered on the seventh day. If it is not done on that day, then the fourteenth day. If it is not done on this day, then one slaughters on the twenty first day.

"It is Sunnah ... [to perform] 'aqīqah": This is the third act of sacrifice that draws one close to Allah. Al-'aqīqah is the act of slaughtering to commemorate the birth of a newborn in gratitude to Allah.⁶¹⁹ It is also a form of blessing for the newborn. 'Aqīqah is classified as Sunnah muakkadah as well. The Prophet Ξ performed 'aqīqah for Hasan and Hussain $\&.^{620}$ He Ξ said, "Each child is obliged with 'aqīqah."⁶²¹ It is also an act of gratitude one shows to Allah for bestowing him the child. There is also a secret advantage. The newborn baby is blessed by this act of obedience done on his or her behalf.

"It is Sunnah to slaughter two sheep as *'aqīqah* for a boy and one sheep if it is a girl": This is the requirement in performing *'aqīqah* for the male and female child. The disparity is due to the fact that in some edicts, the female is por-

⁶¹⁹ See al-Darar al-Naqī (3/792).

⁶²⁰ Reported by Ahmad (5/355, 361), al-Nasā'ī (7/164) from the narration of Buraidah.

⁶²¹ Reported by Ahmad (5/7-8, 17), Abu Dawūd (2838), al-Tirmidhī (1522), al-Nasā'ī (7/166) and Ibn Mājah (3165) from the narration of Samrah ibn Jundub.

tioned half of that of a male. The '*aqīqab* is one of four such edicts. The other edicts are: Inheritance law, Allah says: **{The male will have the share of two females.}**⁶²² Pertaining to the law of indemnity, the blood money for a female is half of that for a male. A male witness is equivalent to two female witnesses. Allah says: **{And if there are not two men [available], then a man and two women from those whom you accept as witnesses.}**

"The animals are slaughtered on the seventh day. If it is not done on that day, then the fourteenth day. If it is not done on this day, then one slaughters on the twenty first day": The time for slaughtering the animal for 'aqīqah is any day after the baby is born. However, the best time to do so is on the seventh day after the birth of the child as the Prophet $\frac{1}{26}$ ordered it on the seventh day.⁶²⁴ The baby boy's hair is shaved while that of the girl is not shaved, though 'aqīqah is performed on her behalf. If 'aqīqah is not performed on the seventh day, then it may be performed on the fourteenth day after the birth. If it is not performed on this day, then it can be done on the third week or the twenty-first day after the birth.

وتنزع جُدُولاً ولا يُكسَر عظْمُها، وحكمُها كالأضحية، إلا أنه لا يجزئ فيها شرك في دم متن It is cut according to the body parts. Its bones should not be broken. Its laws are similar to that of *udbiyyab* except that there is no shared ownership.

"It is cut according to the body parts. Its bones should not be broken": In the hope that it bodes well for the well-being of the child. However there is no evidence for this.

"Its laws are similar to that of *udhiyyah*": The laws pertaining to 'aqiqah are similar to that of *udhiyyah* for example a third of the meat is eaten, a third gifted and a third given away in charity. Likewise, the owner may benefit from its skin but should not sell it. Another similarity is that the butcher should not be given any part of its meat as wages for his work.

"Except that there is no shared ownership": I.e. seven people cannot share in

⁶²² Al-Nisā: 176

⁶²³ Al-Baqarah: 282

⁶²⁴ Reported by Ahmad (5/7-8, 17), Abu Dawūd (2838), al-Tirmidhī (1522), al-Nasā'ī (7/166) and Ibn Mājah (3165) from the narration of Samrah ibn Jundub.

purchasing the camel or cow for sacrifice as permitted in *udhiyyah*. It is not permissible as there is no precedent for this from the Prophet \underline{x} . If one decides to sacrifice a camel or a cow, then he should do so and dedicate all of its meat for *'aqīqah*. However, slaughtering a sheep is better than slaughtering a camel or a cow for that was the commandment of the Prophet \underline{x} .

ولا تُسنُّ الفَرَعةُ ولا العَتِيرة

متن

It is neither Sunnah to slaughter a camel's first-born nor to perform sacrifice in the month of Rajab.

"It is neither Sunnah to slaughter a camel's first-born": In the days of ignorance, people used to slaughter a camel's first-born (*al-far'ab*) in line with their rituals. It was said that they slaughtered it for their idols in the hope of receiving blessings. The Prophet \mathfrak{Z} forbade this practice.⁶²⁵

"Nor to perform sacrifice in the month of Rajab": Known as *al-'atīrah* in Arabic. There is no injunction in Islam to make a sacrifice particularly in the month of Rajab. However, this practice was a norm in the days of ignorance. They used to slaughter their animals during the first week of Rajab. The Prophet Ξ forbade the practice of *al-'atīrah*.⁶²⁶

No form of worship is exclusive to the month of Rajab as it was not specified by the Prophet $\frac{1}{2}$. In fact, it is a month like the rest of the months. Special fasts and prayer should not be performed in this month exclusively. No animals should be slaughtered exclusively in the month of Rajab as well. Furthermore, one should not perform 'Umrah just because it is the month of Rajab. What is termed as 'Umrah al-Rajabiyyah is baseless as there is no evidence to substantiate it.

The Prophet $\frac{1}{2}$ performed all of his 'Umrahs in the month of Dhul Qa'dah except 'Umrah al-Ja'rāniyyah' which was performed in the month of Shawwāl when the Prophet $\frac{1}{2}$ arrived at Makkah from Hunayn.⁶²⁷ Hence, all of

626 Ibid.

⁶²⁵ Reported by al-Bukhārī (7/110) and Muslim (6/82 -83) from the narration of Abu Hurairah.

⁶²⁷ Refer to al-Bukhārī (3/3) and Muslim. It mentions that the Prophet 3% performed 'Umrah four times, all in the month of Dhul Qai'dah except the 'Umrah he paired with his Hajj."

the 'Umrahs performed by the Prophet $\frac{1}{28}$ were in the sacred months of Hajj and none were performed in Rajab. This is proof that performing any act of worship exclusively in the month of Rajab is baseless and a refutation for that which is practiced in present times by those who are deluded (*al-khurāfiyūn* i.e. extreme Sufis).

The events of Isrā and Mi'rāj should not be commemorated as is the practice of *al-khurafiyūn* in the current era. The Prophet $\frac{1}{26}$ did not practice this. In fact, he did not even relate that these events took place in the month of Rajab. Allah and His Messenger did not reveal to us when Isrā and Mi'rāj occurred. If there was a pressing need for us to know the exact date of these events, then Allah and his Messenger would indeed have indicated it. The act of assuming the exact day and night of the occurrence of Isrā and Mi'rāj and commemorating these events as a festival is an innovation and acts that Allah did not prescribe for us. The Prophet $\frac{1}{26}$ said, "He who performs a deed that was not commanded by us will indeed have it rejected."⁶²⁸ He $\frac{1}{26}$ also said, "Woe to you with regards to the novel things. Verily all novel things are innovated and all innovated things are astray."⁶²⁹

⁶²⁸ Reported by al-Bukhārī (3/241) and Muslim (5/132) from the narration of 'Aishah.

⁶²⁹ Reported by Ahmad (4/126), Abu Dawūd (4607), al-Tirmidhī (2676) and Ibn Mājah (42) from the narration of al-'Irbād ibn Sāriyah.

كتاب الجهاد THE BOOK OF JIHĀD

"The Book of *Jihād*": Having discussed the pillars of Islam, namely prayer, *zakāt*, fasting, Hajj and the acts of worship pertaining to these pillars, the author now discusses about *jihād*, the ultimate act of worship. He does this to emphasise the importance of *jihād*. In fact, some scholars consider it the sixth pillar of Islam. The Prophet $\frac{1}{8}$ said, "The head of the matter is Islam, its pillar is the prayer and its peak is *jihād* in the path of Allah."⁶³⁰

Jihād is the best supererogatory act of worship. *Jihād* is on the *fi`āl* pattern of morphology and it is derived from the word *al-juhd* or *al-jahd*. It means "the struggle for the sake of worship."⁶³¹ Here, it refers to the struggle to wage war against the disbelievers.

Jihād has many categories. *Jihād* of the inner-self is performed by coercing the soul to be obedient to Allah. It involves restraining the self from things prohibited by Allah. This is *jihād al-nafs*. This form of *jihād* is done continuously and lasts as long as the servant of Allah lives.

The second type of *jihād* is *jihād al-shaytān*. One performs this type of *jihād* when he transgresses the wishes of Shaytān, opposes his commands and performs acts that he wants shunned. This is because he is the enemy of mankind who yearns for the destruction of man. So, mankind must wage war against him and go against his commands for goodness lies in contradicting Shaytān

⁶³⁰ Reported by Ahmad (5/231, 237-238) and al-Tirmidhī (2616) from the narration of Mu'ādh.

⁶³¹ See al-Dar al-Naqī (3/765-766).

after one overcomes his own soul and vain desires.

The third type of *jihād* is *jihād* waged against the hypocrites (*munāfiqūn*) and the immoral people (*fusāq*). It is done by enjoining righteousness and forbidding evil, and by rebuttals to the articles and ideologies of the corrupt and those who are deviated. These people spread their ideology by distorting the laws of Islam and belittling Islam and its followers. It is imperative to rebut them through use of speech and the pen.

The fourth type of *jihād* is the *jihād* waged against the disbelievers. This is [...] preceded by inviting them towards Allah and by preaching to them about Islam. If they accept it, then alhamdulillah. If after Islam was propagated to them they reject it, then *jihād* is performed against them to cease the *fitnah* perpetrated by them and to protect the Muslims from their evil. Jihād is also waged against them so as to make worship exclusive to Allah alone for He has no partners-this being the objective for the creation of mankind, for prophets being sent to the people and for the revelation of books from Allah. He, the Most High, says: {And fight them until there is no fitnah and [until] the religion, all of it, is for Allah. And if they cease - then indeed, Allah is Seeing of what they do. 3632 He also says: {Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the *jizyab* willingly while they are humbled. ⁶³³ This is because Allah created the creation to worship Him alone and not ascribe partners to Him. Allah says: {And I did not create the jinn and mankind except to worship Me. I do not want from them any provision, nor do I want them to feed Me. Indeed, it is Allah who is the [continual] Provider, the firm possessor of strength.}634

Worship is not permitted to anyone else except Allah alone. He who worships other than Allah has committed *shirk* and ascribed partners with Allah and has taken a Lord other than Him. A war is waged against those who commit this until they accede to the worship of Allah. [...] This is because they [are in transgression] whilst they associate partners with Allah and spread *shirk* in the land. This is the wisdom for the legislation to undertake *jihād*.

⁶³² Al-Anfāl:39

⁶³³ Al-Tawbah: 29

⁶³⁴ Al-Dhāriyāt: 56-58

It is not the function of *jihād* to conquer countries, attain kingship or to seize wealth. *Jihād* was legislated to raise the word of Allah and to uphold the worship of Allah alone, for He has no partners. Man is the servant of Allah, Who created them and gave them sustenance such that they will worship Him. He who does not abide even after the evidence is produced shall be fought: {Fight them until there is no [more] *fitnah* and [until] worship is [acknowledged to be] for Allah.}⁶³⁵

Allah says: {Then fight the polytheists wherever you find them.}636

These people are described as those who associate partners with Allah (musbrikin). This is the reason for the command to fight them. This type of *jibād* is offensive i.e. to initiate the war against the disbelievers.

Defensive *jihād* on the other hand comes about when the Muslims are weak and they do not have the capacity to wage an offensive attack. Hence they engage in defensive war. However, if they are strong and have the capacity to wage war, then they must engage in an offensive war against the disbelievers to raise the word of Allah. This way, the oneness of Allah becomes manifest in the world. The Most High says: {It is He who sent His Messenger with guidance and the religion of truth to manifest it over all religion, although those who associate others with Allah dislike it.}⁶³⁷

The deviated and ignorant authors write that, "There is no waging of war in Islam for it is not an aggressive religion. In fact, it is a religion that advocates only peace. It enjoins peace among people who are left to do as they please." This is a fabrication against Islam. Islam is the truth and everything else is falsehood. Therefore the truth must be established and falsehood eradicated. This cannot be achieved except by inviting people towards Allah, followed by *jihād* in the path of Allah.

Yes, Islam is a not a religion which allows unjust suppression and oppression. *Jihād*, however, is not suppression nor is it oppression. It is in fact undertaken for the well-being of mankind. *Shirk* is averted and they enter Islam which is the source of wellness. *Jihād* is also undertaken so that they are freed from the

⁶³⁵ Al-Baqarah: 193

⁶³⁶ Al-Tawbah: 5

⁶³⁷ Al-Saf: 9

darkness and brought to the light, freed from the worship of Shaytān, tyrants and false deities to the worship of Allah, Who created them. This is the objective of *jihād* in the path of Allah and it is a great and lofty objective indeed.

The eminent scholar, Ibn al-Qayyim mentioned in $Z\bar{a}d \, al-Ma^{2}\bar{a}d^{538}$ that there were levels designated for *jihād* or that it went through stages:

First Stage: When *jihād* was prohibited. This was true when the Muslims were living in Makkah. They were too weak to fight against their enemies. They were commanded to the establishment of the prayer and the worship of Allah. They were told to restrain themselves as undertaking *jihād* in their condition would have brought about certain defeat. It would have brought them only harm for they were incapable of waging war while they were residing amongst disbelievers who were powerful and had great strength. The Muslims had to restrain themselves and concentrate on worshipping Allah. They invited people to Allah with wisdom and gentle reminders. Initially, they were prohibited from engaging in *jihād* while they were in Makkah. They neither had a country of their own nor did they possess strength and authority. Allah says: {Have you not seen those who were told, "Restrain your hands [from fighting] and establish prayer and give *zakāt*"?}⁶³⁹

This was the first stage and it was at the advent of Islam.

Second Stage: When the Prophet # migrated to Madīnah, he was given permission to wage war but was not commanded to do so. Allah says: {Permission [to fight] has been given to those who are being fought, because they were wronged. And indeed, Allah is competent to give them victory. [They are] those who have been evicted from their homes without right - only because they say, "Our Lord is Allah."}⁶⁴⁰ So permission was given and it was no longer forbidden.

<u>Third Stage</u>: The Prophet $\underline{*}$ was commanded to fight only those who fought the Muslims: {Fight in the way of Allah those who fight you but do not transgress. Indeed. Allah does not like transgressors.}⁶⁴¹ Defensive *jihād*

⁶³⁸ See Zād al-Ma'ād (3/71). 639 Al-Nisā: 77

⁶⁴⁰ Al-Hajj: 39-40

⁶⁴¹ Al-Baqarah: 190

was legislated at this stage as the Muslims did not have the ability to wage an offensive war. So they restrained themselves unless war was waged against them.

Fourth Stage: The Muslims became powerful and had their own country wherein they sought protection. This was the land of Hijrah—a state of their own helmed by the Messenger of Allah #. They were then commanded to wage wars at their discretion: {Fighting has been enjoined upon you while it is hateful to you. But perhaps you hate a thing and it is good for you; and perhaps you love a thing and it is bad for you.}⁶⁴² {Then fight the polythe-ists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush. But if they should repent, establish prayer, and give zakāt, let them [go] on their way. Indeed, Allah is Forgiving and Merciful.}⁶⁴³

They were commanded to wage an offensive war against the disbelievers. The Prophet $\frac{1}{26}$ said, "Battle in the path of Allah. Fight those who disbelieve in Allah."⁶⁴⁴ He $\frac{1}{26}$ also said, "He who dies without having fought in the cause of Allah or without having thought of doing so, will die with one characteristic of hypocrisy in him."⁶⁴⁵

Islam was spread by the sword with regards to those who rejected and refused to accept Islam. They [are treated sternly] for they chose to become worshippers of others besides Allah and the worshippers of Shaytān. They [are treated sternly] for they will propagate their evil and disbelief. They might even hinder others from the path of Allah and avert people from embracing the $d\bar{n}$ of Allah. This is especially true if they are people with authority: {Then fight the leaders of disbelief, for indeed, there are no oaths [sacred] to them; [fight them that] they might cease.}

Islam is [stern] with regards to those who denied the truth after the evidence was produced to them and they repelled people from the path of Allah: {In-deed those who disbelieve spend their wealth to avert people from the way

⁶⁴² Al-Baqarah: 216

⁶⁴³ Al-Tawbah: 5

⁶⁴⁴ Reported by Muslim (5/139-140) from the narration of Buraydah.

⁶⁴⁵ Reported by Muslim (6/49) from the narration of Abu Hurairah.

⁶⁴⁶ Al-Tawbah: 12

of Allah.]⁶⁴⁷ A disbeliever will not be satisfied with just his disbelief. He will wish that all the people of the world should disbelieve like him. He will neither hesitate to spend his wealth nor wage battle to achieve this goal. In the present time, Christian evangelists actively propagate their ideology in the world which has resulted in Muslims abandoning *jihād*. It is said that Islam is neither a strong religion nor is it a religion of the sword. By this they mean that Islam is a feeble religion and a submissive one. Islam is not a false religion that can be silenced. Islam is the *dīn* of truth. In fact, it is the only *dīn* in the world. There is no *dīn* other than Islam: {Indeed, the religion in the sight of Allah is Islam.}⁶⁴⁸ Allah says: {And whoever desires other than Islam as religion - never will it be accepted from him, and he, in the Hereafter, will be among the losers.}⁶⁴⁹

A poet said:

The chosen one invited for a year in Makkah but none accepted, While he was soft in his actions and words, But when he invited with the sword held firmly in his hand, They became Muslims, accepted and recognised him.

Another poet said:

It is nothing but the revelation or the sharpness of the sword, To straighten the veins of the bent one with its blade, For this is the cure of the hearts who were blinded, Whilst that is for the crooked one amongst the ignorant.

More potent than these poems are the words of Allah: {We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice. And We sent down iron, wherein is great military might and benefits for the people, and so that Allah may make evident those who support Him

⁶⁴⁷ Al-Anfāl: 36

⁶⁴⁸ Ālī 'Imrān: 19

⁶⁴⁹ Ālī 'Imrān: 85

and His messengers unseen.]⁶⁵⁰ The scripture and the balance are for those who want the truth and accept guidance. The iron is for those who refuse and are boastful.

Islam is a $d\bar{i}n$ of power and honour. It is a religion of *jihād*. Praise be to Allah. It enjoins *jihād* with truth for the truth. It does not enjoin *jihād* to transgress, oppress and subjugate people. Instead, it is an esteemed *jihād* that elevates the people and frees them from darkness and shows them the light.

وهو فرضٌ كفاية It is fard al-kifayah.

متن

متن

"It is *fard al-kifayah*": *Jihād* in essence is a communal obligation.⁶⁵¹ That is, if sufficient people undertake *jihād*, then the rest are spared of its obligation and it is not a sin if they forgo it. It is considered to be Sunnah upon them. The objective is to accomplish the act without focusing on who performs it. If *jihād* in the path of Allah is undertaken in accordance to its criteria, then the sin of non-compliance is removed from the nation at large. The deed was carried out by some and as a result the rest of the people were freed of the obligation. For these people, the deed is classified as Sunnah *muakkadah* and a Sunnah deed is from the best of all good deeds.

ويجبُ إذا حَضَرَهُ أو حَضَرَ بلدَه عدوٌ أو استنفرَهُ الإمامُ

Jibād is *wājib* if he is faced with it, when his country is laid siege by the enemy or when the leader orders him to go forth.

"Jihād is wājib": In these three scenarios:

<u>First scenario</u>: "If he is faced with it": He is faced with *jihād* while he has the ability to fight in a battle. Hence, it is $w\bar{a}jib$ for him to participate in the *jihād*. It is not permissible for him to avoid the battlefield or to stay away from the battle. Allah says: {O you who have believed, when you meet those who disbelieve advancing [for battle], do not turn to them your backs [in flight]. And whoever turns his back to them on such a day, unless swerving [as a

⁶⁵⁰ Al-Hadīd: 25

⁶⁵¹ See al-Mughni (6/13).

strategy] for war or joining [another] company has certainly returned with anger [upon him] from Allah, and his refuge is Hell - and wretched is the destination.}⁶⁵²

This is known as *al-firār min al-zahf* or fleeing from the battlefield. The Prophet $\frac{1}{26}$ classified this act as one of the seven gravest sins.⁶⁵³ If *jihād* is called while one has the ability to fight, then he has no other choice but to take part in the fighting. If he flees from the battlefield, then he has committed one of the gravest sins in Islam.

<u>Second scenario</u>: "When his country is laid siege by the enemy": It is $w\bar{a}jib$ upon all those who are able to fight to participate in the *jihād* so as to defend the honour, the land and the $d\bar{i}n$ of the Muslims. It is an obligation on all those who are able to carry arms to fight against the enemy to defend their country.

<u>Third scenario</u>: "Or when the leader orders him to go forth": If the leader orders him to partake in *jihād*, then it is $w\bar{a}jib$ for him to follow the orders if he is able to fight. The Prophet \cong said: "If you are ordered to go forth, then go forth."⁶⁵⁴ Allah says: {O you who have believed, what is [the matter] with you that, when you are told to go forth in the cause of Allah, you adhere heavily to the earth? Are you satisfied with the life of this world rather than the Hereafter? But what is the enjoyment of worldly life compared to the Hereafter except a [very] little. If you do not go forth, He will punish you with a painful punishment and will replace you with another people, and you will not harm Him at all.}

If the leader of the Muslims commands him to partake in *jihād* while he has the ability to do so, then it becomes $w\bar{a}jib$ upon him to go forth to partake in *jihād* for the sake of Allah. These are the three scenarios in which *jihād* is obligatory—that is, upon all those who are able and fit.

655 Al-Tawbah: 38-39

⁶⁵² Al-Anfāl: 15-16

⁶⁵³ Reported by al-Bukhārī (4/12), (8/217-218) and Muslim (1/64) from the narration of Abu Hurairah.

⁶⁵⁴ Reported by al-Bukhārī (3/18), (4/17-18, 28, 92, 127) and Muslim (4/109) from the narration of Ibn 'Abbās.

وتمامُ الرِّباط أربعونَ ليلةً The longest period for *ribāt* is forty days.

ino

متن

"The longest period for *ribāt*": *Ribāt* is a place which is vulnerable to enemy attacks.⁶⁵⁶ The Muslims must put guards there to secure it so that any surprise attacks will not be mounted by the enemy. It has to be guarded so that the enemy cannot enter the Muslim land via that vulnerable area. Those who stand guard at this dangerous zone are accorded great merit. The act of guarding is known as *ribāt*. The Prophet $\frac{1}{8}$ said, "*Ribāt* in the path of Allah for a day is better than what this world contains and whatever there is within it."⁶⁵⁷ The shortest period for *ribāt* can be a brief moment, even an hour.

"Forty days": The longest period for *ribāt* in the path of Allah is forty days and *ribāt* requires the person to be present or stay in the dangerous area where infiltration of the enemy is feared.

وإذا كان أبواه مسلمَيْن لم يجاهدْ تطوعاً إلا بإذنهما

If his parents are Muslims, then he is not to participate in supererogatory *jibād* without their permission.

"If his parents are Muslims, then he is not to participate in supererogatory *jihād* without their permission": If his parents do not want him to participate in *jihād*, for instance if his father deters him from participating in *jihād*, then we have to scrutinize if the *jihād* is supererogatory, i.e. if it is only a communal obligation. If it is not an individual obligation (*fard 'ayn*), then he must not partake in this *jihād* unless he has both of his parent's permission. This is because obeying them is obligatory whereas *jihād* in this instance is optional and it is not permissible to leave an obligatory deed to accomplish a supererogatory deed. In a hadīth, the Prophet $\frac{1}{58}$ advised the man who had both parents to, "Make *jihād* in both of them."⁶⁵⁸ This man had hopes of participating in *jihād* in the way of Allah. The Prophet $\frac{1}{58}$ asked him: "Are your parents alive?" To which he replied, "Yes." So the Prophet said, "Make *jihād* in both of them."

⁶⁵⁶ See al-Dar al-Naqī (3/767).

⁶⁵⁷ Reported by al-Bukhārī (4/43), Ahmad (5/339) and al-Tirmidhī (1664) from the narration of Sahl ibn Sa'd.

⁶⁵⁸ Reported by al-Bukhārī (4/71) and Muslim (8/3) from the narration of 'Abdullah ibn 'Amr.

One's duty to his parents is second only to the duties one discharges to Allah. Hence, supererogatory *jihād* should not be given priority over one's duties towards his parents. However, if *jihād* is *fard 'ayn* (obligation on all individuals) as in the three scenarios discussed earlier, then he must not obey his parents if they deter him from *jihād*. Just as they cannot prevent him from performing his prayers, giving *zakāt*, fasting in the month of Ramadān and performing the obligatory Hajj, they cannot prevent him from partaking in *jihād* which is *fard 'ayn*. This type of *jihād* is similar to the rest of the obligatory acts of worship. None can deter a person from these obligatory acts. In fact it is *wājib* for him to carry it out.

ويتفقد الإمامُ جيشَه عند المَسيرِ، ويمنعُ المُخَذِّلَ والمرجِفَ

متن

The leader should inspect his troops during a march past. He must disallow the provocateurs and those who spread rumours.

"The leader should inspect his troops during a march past": I.e. the leader of the Muslims. The command to wage *jihād*, preparation for it and planning battle strategies are all the purview of the leader (*imām*). None should partake in *jihād* without the permission of the *imām*. It is the *imām*'s duty to inspect the troops after he calls for *jihād* and gathers the army. He does this during a march past as the Prophet \cong used to do so and would say, "Fight in the way of Allah." He would also add, "In the name of Allah, fight in the way of Allah, fight those who disbelieve in Allah but kill not a child. Do not mutilate and do not break a pledge."⁶⁵⁹

The Prophet $\frac{1}{2}$ used to advise his generals and those who were around him. He would order them to fear Allah and would explain to them the battle strategy. He would detail exact orders to each general that the latter had to achieve along with his troops. Hence the *imām* must appoint a commander-in-chief for the army, choosing the one most knowledgeable in the art of war and he who has the best organisational skills.

"He must disallow the provocateurs and those who spread rumours": When the troops led by the general perform the march past, the *imām* should inspect the troops personally even though he appointed a commander-in-chief. He

⁶⁵⁹ Reported by Muslim (5/139), Abu Dawūd (2612), al-Tirmidhī (1408) and Ibn Mājah (2858) from the narration of Buraydah ibn al-Hasīb.

must exclude those who are unfit to join the army and give assurance to those he sees fit to do battle. He must exclude the provocateurs who urge people to desert the *jihād* and who try to weaken their resolve by frightening them. The *imām* must prevent these men from joining the Muslim army. Those who spread false rumours should also be excluded. They scare their fellow soldiers by telling tales that exaggerate the enemy's capability. They say things such as, "You do not stand a chance against the enemy. They are very strong and are expert fighters. They have better weapons [etc.]"They spread these false rumours amongst the soldiers in order to terrify them and weaken their determination. These types of individual are considered to be agitators. When mentioning about the hypocrites, Allah says: **{Had they gone forth with you, they would not have increased you except in confusion, and they would have been active amongst you, seeking [to cause] you** *fitnab***. And among you are avid listeners to them. And Allah is Knowing of the wrongdoers.}⁶⁶⁰**

The provocateur and the rumour-monger should not be allowed to join the Muslim army for they will weaken the army by defeating the minds of the soldiers even before the battle with the enemy commences. Therefore, it is imperative that these two types of people are prevented from joining the *mujāhidīn*.

متن

He may reward the soldiers from a quarter of the war booty after initially setting aside one fifth of it. After the battle, a third of it can be given as reward (after the one fifth).

"He may reward the soldiers": *Al-nafl* is the act of rewarding the soldiers who were exemplary and had shown bravery during the battle from the war booty.⁶⁶¹ The *imām* may reward him by increasing his share of the war booty as a form of encouragement. This is the sole prerogative of the *imām*.

"From a quarter of the war booty after initially setting aside one fifth of it": When the army is about to leave the battlefield, the reward of *al-nafl* is given. After a fifth of the war booty is set aside, a fourth of the remainder is awarded to those who are deserving of it. It is wajib to set aside a fifth of the war booty initially for Allah, His Messenger, the orphans and the stranded traveller:

660 Al-Tawbah: 47

⁶⁶¹ See Lisān al-'Arab (11/671).

{And know that anything you obtain of war booty - then indeed, for Allah is one fifth of it and for the Messenger and for [his] near relatives and the orphans, the needy, and the [stranded] traveller.}

What remains is four fifths of the war booty. *Al-nafl* is awarded to those deserving from this remainder. After the one fifth is set aside and *al-nafl* is awarded, the remainder of the war booty is divided amongst the soldiers. The foot soldier receives one share whilst the horseman receives three shares—one share for him and two shares for his horse.

"After the battle, a third of it can be given as reward": The *imām* may choose to reward those who are deserving after the army returns from the battlefield. *Al-naft* is awarded to those who displayed exemplary strength and bravery during the battle. They are given a third of the war booty. This is a more handsome reward as compared to that which is given before the battle begins as the return from the battlefield is more terrifying in comparison. The *imām* sets aside the one fifth before awarding *al-naft* to the soldiers who are the most deserving.

متن

ويلزم الجيش طاعتُه والصبرُ معه

It is incumbent upon the army to obey him and to be patient with him.

"It is incumbent upon the army to obey him": This includes the *imām* and the commander-in-chief who was appointed by the *imām*, for he is the *imām*'s deputy. Therefore, they must obey him too. The Prophet # said, "He who obeys the *amīr* has indeed obeyed me and he who has disobeyed the *amīr* has disobeyed me."⁶⁶³ Allah says: {O you who have believed, obey Allah and obey the Messenger and those in authority among you.}

"And to be patient with him": The army must bear with the commander-in-chief while in the battlefield and bear with patience the difficulties that they face whilst engaged in battle. They surely will face difficulties in *jihād*—the journey, thirst, hunger, exhaustion and the fighting. The army must be patient with all these difficulties for these are the elements of *jihād*. Those engaging in *jihād* will face dangerous, tiring and difficult situations so they must endure all of it.

⁶⁶² Al-Anfāl:41

⁶⁶³ Reported by al-Bukhārī (4/60) and Muslim (6/13) from the narration of Abu Hurairah. 664 Al-Nisā: 59

He who does not have patience will not be able to undertake jihād.

ولا يجوز الغزوُ إلا بإذنه، إلا أن يَفْجَأَهم عدوٌ يخافون كَلَبَهُ

متن

متن

It is not permissible to wage war without his permission unless they are surprised by an attack from the enemy and they fear the worst.

"It is not permissible to wage war without his permission": As was discussed earlier. Waging a war is the prerogative of the *imām*. Hence, Muslims should not start a war against the disbelievers without the permission of the *imām*. Doing so is tantamount to *khurūj* (treason) and causing him harm.

"Unless they are surprised by an attack from the enemy and they fear the worst": Due to it being so sudden, they are unable to either seek advice or permission from the $im\bar{a}m$. If they delay fighting the enemy so that permission is sought, the enemy forces would overpower them. Hence, it is imperative that they engage the enemy in battle even if the $im\bar{a}m$ had not permitted them to do so. In a situation where they are suddenly attacked by the enemy and the Muslims fear for their lives, they must defend themselves from the enemy's harm. Permission from the $im\bar{a}m$ is not sought for battle as this is a special case.

وتُملك الغنيمةُ بالاستيلاء عليها في دار الحرب

The war booty is taken possession of from the enemy lands.

That which the Muslims seize from the enemy is of two types:

<u>First type</u>: Transferable assets like *dirhams*, *dinārs*, goods, horses, camels, goats and all other valuables that can be transferred that the Muslims possess when they wage war with the disbelievers.

Second type: Fixed assets like land, houses and farms.

The first type is known as *al-ghanimah* and the second type is known as *al-fay'an*. More will be discussed regarding this at a later point.

"The war booty is taken possession of from the enemy lands": Al-ghanimah

is that which the Muslims seize from the disbeliever's wealth during a war or during a battle. Allah says: {And know that anything you obtain of war booty - then indeed, for Allah is one fifth of it and for the Messenger and for [his] near relatives and the orphans, the needy, and the [stranded] traveller.}⁶⁶⁵ He also says: {So consume what you have taken of war booty [as being] lawful and good.}⁶⁶⁶ War booty is the purest of earnings as mentioned by Allah in the above ayah. This is because it came into possession by way of *jihād* in the way of Allah.

متن

وهي لمن شهد الوقعةَ من أهل القتال

It is meant for the fighters who witnessed the battle.

"It is meant for the fighters who witnessed the battle": The war booty is for those who witnessed the battle between the Muslims and the disbelievers regardless whether they engaged in combat or not. This is because they had supported those who engaged in combat. Those who did not witness the battle are not entitled to the *ghanīmah* but can have a share of *al-fay'an*. We shall discuss about this in detail soon.

فيُخرجُ الخُمُس، ثم يَقسم باقي الغنيمةِ: للراجلِ سهمٌ، وللفارس ثلاثةٌ: سهمٌ لـه من وسهان لفرسِه، ويشارك الجيشُ سراياه فيها غنمتْ، ويشاركونه فيما غَنِمَ

The one fifth is set aside and the rest of the *ghanīmah* is distributed: one share for the foot soldier and three shares for the horseman—a share for him and two shares for his horse. The scout party has a share in the army's war booty and vice versa.

"The one fifth is set aside": The first portion that the *imām* sets aside from the *ghanīmah* is the one fifth. This is for Allah, His Messenger and those who Allah mentions alongside them. The share for Allah and His Messenger is for the sole benefit of the Muslims. It is known as "*khumusa al-khumus*".

"And the rest of the *ghanimah* is distributed: one share for the foot soldier and three shares for the horseman—a share for him and two shares for his

⁶⁶⁵ Al-Anfāl: 41

⁶⁶⁶ Al-Anfāl: 69

horse": The remaining four fifths are to be divided amongst the soldiers. Each foot soldier receives one share whilst each horseman receives three shares; one share for him and two shares for his horse.

"The scout party has a share in the army's war booty and vice versa": The army comprises mostly of soldiers. The scout party is a special platoon that carries out important tasks related to warfare. They are a unit of the army and the army backs them up. If the scout party gains *ghanīmah* whilst the army does not, it is shared with the army as the army lends support to the special units whenever necessary. Inversely, if the army gains *ghanīmah* in the absence of the special units, it is shared with the special units likewise as they are a division of the army.

متن

The *ghāl* who steals from the *ghanīmah* will have his possessions burnt entirely except weapons, the Qur'ān and any living things.

والغالُّ من الغنيمة يُحرقُ رَحْلُهُ كلُّه، إلا السلاحَ والمصحفَ وما فيه روحٌ

"The *ghāl* who steals from the *ghanīmah*": *Al-ghāl* refers to a person who steals from the *ghanīmah* before it is distributed. It is one of the gravest sins as Allah says: {It is not [attributable] to any prophet that he would act unfaithfully [in regard to war booty]. And whoever betrays, [taking unlawfully], will come with what he took on the Day of Resurrection. Then will every soul be [fully] compensated for what it earned, and they will not be wronged.}⁶⁶⁷

The Prophet $\underset{\sim}{\approx}$ informed that he who steals anything from the *ghanimah* will come on the Day of Judgement with a sheep, a cow, a camel or another heavy thing on his neck⁶⁶⁸ as a form of humiliation, "And whoever betrays, [taking unlawfully], will come with what he took on the Day of Resurrection." It is an obligation to gather the *ghanimah* and nothing of it should be taken before the distribution takes place. He may only receive that which he is entitled to as prescribed by Allah.

⁶⁶⁷ Åli 'Imrān: 161

⁶⁶⁸ Reported by al-Bukhārī (9/36, 95) and Muslim (6/11, 12) from the narration of Abu Humayd al-Sā'adi with the words, "By Allah, not anyone of you takes a thing unlawfully but he will meet Allah on the Day of Resurrection, carrying that thing. I do want any of you to meet Allah carrying a vocal camel, cow or sheep..."

Al-ghāl also refers to officials who take money without permission from the authorities and to those who receive gifts in a professional capacity whilst collecting charity on behalf of the state. The Prophet Ξ said, "Gifts received by the officials is *ghulūl*."⁶⁶⁹Anything taken by the official from the state treasury without prior approval from the *imām* and which does not constitute as part of his salary is considered as *al-ghulūl*. May Allah protect us from it. This person shall come on the Day of Judgement carrying it on his back. When one misappropriates items or money from the *ghanīmah* his misdeed is announced to everyone publicly.

"Will have his possessions burnt entirely": This is the punishment meted out in terms of finance.

"Except weapons": As the Muslims may need his weapon so that it can be used to fight the disbelievers in wartime. Destroying the weapon is a waste of resources.

"The Qur'ān": I.e. the *mus-haf*. If he is in possession of one, it must be removed from him and should not be burnt as it is the word of Allah.

"And any living things": Sheep, birds or any other type of animal in his possession should not be burnt. The Prophet $\frac{1}{25}$ said, "None should torment with fire except the Lord of the fire."⁶⁷⁰ Anything which has a soul should not be burnt. It should be removed from the rest of his possessions while the rest is burnt in view of the whole army. This is done as a form of humiliation for this act and to announce to everyone his misdeed.

وإذا غَنِموا أرضاً فتحوها بالسيف خُيِّر الإمامُ بين قَسْمِها ووقْفِها على المسلمين، ويَضْرِبُ مِن عليها خَراجاً مستمراً يؤخذُ ثمن هي بيدِه، والمَرْجعُ في الخَراجِ والجزيةِ إلى اجتهادِ الإمام

If the Muslim army captures a land in battle, the *imām* may choose to divide it or to set it aside as *waqf* for the Muslims. A land tax is imposed for perpetuity which shall be received by those maintaining the land. Setting the rate for the land tax (*al-kharāj*) and head tax (*al-jizyah*) is at the discretion

⁶⁶⁹ Reported by Ahmad (5/424-425) and al-Bayhaqī in *al-Sunan al-Kubrā* (10/138) from the narration of Abu Humayd al-Sa'adi.

⁶⁷⁰ Reported by Ahmad (3/494) and Abu Dawūd (2673) from the narration of Hamzah al-Aslamī.

of the imām.

"If the Muslim army captures a land in battle, the *imām* may choose to divide it or to set it aside as *waqf* for the Muslims. A land tax is imposed for perpetuity which shall be received by those maintaining the land": This is the elaboration of *al-fay'an* and it is of two types:

First type: The land of the disbelievers that is possessed by the Muslims for example habitable and agricultural land or a country conquered by the Muslims through the use of force. That is, they occupied it by waging *jihād*. The *imām* has the option of classifying it as *ghanīmah* and dividing it amongst those who seized it, or he may designate it as *waqf* (endowment) land for the Muslims. He will charge a tax on the land by leasing it out on a yearly basis. Those who are charged with the welfare of the Muslims shall receive the money. This property is known as taxable land. When 'Umar race conquered Shām, Egypt and Iraq, he rendered it as *waqf* and imposed tax upon these lands with the state treasury as the beneficiary. The state treasury used this wealth on the welfare of the Muslims.

Al-kharāj is the lease on land seized as *ghanīmah* if it is designated by the *imām* as *waqf*. The lease shall be on a yearly basis.⁶⁷¹

Jiziyah on the other hand is the head tax imposed on non-Muslims who live under the protection of the Muslim state (*ahl al-dhimmati*) from among the Majūs (fire-worshippers), Christians and Jews.⁶⁷² This head tax is in lieu of the protection they receive and their residence in Muslim land even as they retain their faith.

"Setting the rate for the land tax $(al-khar\bar{a}j)$ and head tax (al-jizyah) is at the discretion of the $im\bar{a}m$ ": This is because there is no evidence from the tradition of the Messenger of Allah \mathfrak{B} . Wherever there is no evidence found in Islamic legislation, the $im\bar{a}m$ shall exercise his discretion $(ijtih\bar{a}d)$.

ومن عجز عن عَهارةِ أَرْضه أُجْبر على إجارتها، أو رفعٍ يده عنها، ويجري فيها الميراث

متن

He who is unable to tend his land should advertise that it is for lease or he

⁶⁷¹ See al-Mutla' (p. 218).

⁶⁷² See the earlier reference.

should give it up. This land can be inherited.

"He who is unable to tend his land should advertise that it is for lease": If he took a piece of land which has *al-kharāj* imposed upon it and he is unable to tend to his land but has been paying the land tax, he should advertise that it is for lease and give to someone who is able to tend to it. However he may keep the lease for himself as he is one with the right to benefit from it, whilst ensuring the payment of the land tax due upon it.

"Or he should give it up": As in returning it to the state by terminating his contract so that the lease may be awarded to others who are able to tend to the land. The land should not be held by those who cannot maintain it as this will be a wastage of resources and a loss to the Muslims.

"This land can be inherited": Those who lease the land of *al-kharāj* should pay the lease diligently every year. In doing so, he may benefit from the land until the contract expires. If he dies before that, the land is inherited by his family members who replace him as the lessees. It becomes their responsibility to pay the lease as did the deceased.

وما أُخِذَ من مالِ مشركِ كجزيةٍ وخراجٍ وعُشر وما تركوه فزعاً، وخمس خمس الغنيمة من ففيءٌ، يُصرَف في مصالح المسلمين

Whatever wealth that is seized from the polytheist as *jizyab* or *kharāj* and *'ushr*, abandoned property, *khumusu khumus* of *ghanīmab*. *Fay'an* is to be spent on the welfare of the Muslims.

Second type: Wealth from al-fay'an.

This is the wealth of the disbelievers that is seized during a war.⁶⁷³ Al-fay means return. It is so named because the wealth of the world in essence belongs to the Muslims as the world was created for them. The disbelievers only own it temporarily. If the Muslims wage war against the disbelievers and seize their wealth, then it has returned to its rightful owners.

From the types of wealth within the term *al-fay'an* are:

⁶⁷³ See al-Lisān (1/126).

"Whatever wealth that is seized from the polytheist as *jizyah*": As discussed earlier, *jizyah* is the wealth taken from the Majūs, Jews and Christians in return for the protection given to their lives and property. They are also given the freedom to practice their own faiths and they are allowed to reside in the Muslim land which is under the governance of a Muslim ruler. Allah says: {Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the *jizyab* willingly while they are humbled.}⁶⁷⁴

Though the ayah mentions only the people of the scriptures—that is the Christians and the Jews—the Majūs (fire worshippers) also fall under this category. The Prophet $\frac{1}{28}$ said, "Follow the same Sunnah with them that you follow with the people of the Book."⁶⁷⁵

Jizyah is taken from the Majūs as the Prophet $\frac{1}{28}$ ordered it. He $\frac{1}{28}$ took the *jizyah* from the Majūs of Hajar⁶⁷⁶ (a village close to Madīnah where some Majūs lived). Jizyah was collected from them as they are similar to the people of the book in this regard. In fact, it has been recorded that a scripture was revealed to them and then removed. This is one type of fay'an.

"*Kharāj*": This is the second type. It is the tax imposed upon the land as was discussed earlier.

"'Ushr": This is the third type. It is the tax imposed upon the disbelievers for doing business and trading in the Muslim country. A tenth is charged on the transactions.

"Abandoned property": This is the fourth type. Property seized without a battle as the disbelievers abandoned it as they fled in fright when they heard of the impending war with Muslims. This is classified as *al-fay'an* and not *ghanīmah*.

⁶⁷⁴ Al-Tawbah: 29

⁶⁷⁵ Reported by Mālik in *al-Muwatta* (p. 187), al-Shāfi'ī in *Tartīb al-Musnad* (2/130), Ibn Abī Shaybah in *al-Musanaf* (2/4335), and al-Bayhaqī in *al-Sunan* (9/189) from the narration of 'Abdul Rahmān ibn 'Awf.

⁶⁷⁶ Reported by al-Bukhārī (4/117), Ahmad (1/190), Abu Dawūd (3043), al-Tirmidhī (1586) from the narration of 'Abdul Rahmān ibn 'Awf.

"*Khumusu khumus* of *ghanīmah*": I.e. a fifth of the *ghanīmah*. This is the fifth type. We have discussed this type earlier. Allah says regarding it: {And know that anything you obtain of war booty - then indeed, for Allah is one fifth of it and for the Messenger.}⁶⁷⁷ This should be portioned from the *fay'an*.

"Fay'an is to be spent on the welfare of the Muslims": All the various types of fay'an should be spent on the welfare of Muslims in general. Allah mentions fay'an saying: {And what Allah restored to His Messenger from the people of the towns - it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveller - so that it will not be a perpetual distribution among the rich from among you. And whatever the Messenger has given you - take; and what he has forbidden you - refrain from. And fear Allah; indeed, Allah is severe in penalty. For the poor emigrants who were expelled from their homes and their properties, seeking bounty from Allah and [His] approval and supporting Allah and His Messenger, [there is also a share]. Those are the truthful.]678 This ayah refers to the Muhājirūn. Allah then says: {And [there is a share for] those who came after them, saying, "Our Lord, forgive us and our brothers who preceded us in faith and put not in our hearts [any] resentment toward those who have believed. Our Lord, indeed You are Kind and Merciful."679 This avah refers to those who came after the Ansar and Muhājirun from the later generations. Fay'an-which Allah had made part of the state treasury-is to be distributed to these people. As for those who are dissatisfied with the Companions of the Prophet, curse and revile them, they do not deserve any part of fay'an as Allah has designated it exclusively for those who came after those mentioned above who say: {"Our Lord, forgive us and our brothers who preceded us in faith and put not in our hearts [any] resentment toward those who have believed. Our Lord, indeed You are Kind and Merciful."]680 Those who curse the Companions of the Prophet and berate them as disbelievers have no share in the fay'an.

- 679 Al-Hashr: 10
- 680 Al-Hashr: 10

⁶⁷⁷ Al-Anfāl: 41

⁶⁷⁸ Al-Hashr: 7-8

باب عقد الـذمة وأحكامها CHAPTER: COVENANT WITH THE DHIMMI PEOPLE AND ITS REGULATIONS

لا يُعقد لغير المجوس وأهل الكتابَيْن ومن تَبِعهم، ولا يَعْقدها إلا الإمامُ أو نائبُه

متن

Covenant should be made with only the Majūs, the People of the Book and those who follow them. It should only be initiated by the *imām* or his deputy.

"Chapter: Covenant with the *Dhimmi* people and its Regulations": As the author discussed *jizyah* i.e. tax imposed on the wealth of the People of the Book and the Majūs (the *dhimmis*) in return for their safety and their residence in Muslim lands under the rule of Muslims earlier, he wants to elaborate now on who these *dhimmi* people are. *Al-dhimmah* means covenant.⁶⁸¹ Those with whom you made a covenant fall under your charge and responsibility.

"Covenant should be made with only the Majūs, the People of the Book and those who follow them": The most popular view held by the scholars⁶⁸² is that a covenant is to be made with only three groups of people: al-Majūs (fire worshippers) and the People of the Book (Jews and the Christians). Those who share the beliefs of these two groups of people fall into their category as well, even though they might not be a native of that belief. Those who are not Majūs but have similar beliefs of the Majūs, those who are not Jews but have similar beliefs of the Jews and those who are not Christians but have similar beliefs with the Christians—such as the Christian Arabs and Jews—are all

⁶⁸¹ See al-Qamūs al-Muhīt (p. 1434).

⁶⁸² See al-Mughni (13/203).

eligible for the covenant with the Muslims and *jizyah* can be collected from them. This is because the essential matter is the religion held by these people and not their ethnic origin.

"It should only be initiated by the *imām* or his deputy": To make a covenant with these three groups of people is the sole purview of the *imām*. It is not for the laity to meddle in these affairs.

The *imām*'s deputy may also make the covenant with the *dhimmis*. The deputies that he nominates as governors of Muslim lands or those he appoints as commanders in *jihād* may make covenants with the *dhimmis* provided that the *imām* gave his consent to do so.

ولا جِزْيةَ على صبي، ولا امرأةٍ، ولا عبدٍ، ولا فقيرٍ يَعْجز عنها، ومن صار أهلاً لها أُخذتُ منه في آخر الحَوْل متن

There is no *jizyah* imposed upon a child, woman, slave nor a needy person who cannot afford to pay it. It is to be collected from the eligible people at the end of the year.

"There is no *jizyah* imposed upon a child": *Jizyah* is collected from only those who can afford to pay it. This illustrates that Islam is fair and just. *Jizyah* is not collected from the child who has not attained puberty as he cannot afford to pay it.

"Woman": Due to her weakness. Furthermore, she is not a soldier who fights in the wars.

"Slave": As the slave does not possess anything for he is being supported by his master.

"Needy person": He does not possess any money and so the *jizyah* cannot be collected from him.

"It is to be collected from the eligible people at the end of the year": One's status in the beginning of the year should not be taken into consideration. One might be a considered a child in the beginning of the year and then attain puberty later, one may be poor but may become rich before the end of the year or

could be a slave and then free later on. Hence, *jizyah* is collected from people based on their status at the end of the year, not at the beginning of it.

متن

متن

When the obligation is due on them, it should be accepted from them and they should not be fought.

"When the obligation is due on them": I.e. the payment of *jizyah* and *al-saghār*: {Until they give the *jizyah* willingly while they are humbled.}⁶⁸³

"It should be accepted from them and they should not be fought": It is obligatory for *jizyah* to be accepted from them and waging war against them is prohibited.

Al-saghār refers to the dhimmis who submit to the injunctions of Islam and abide by the laws of the Islamic state. Allah commands the Muslims to fight them until the following condition is met: {Until they give the jizyah willingly while they are humbled.} If they pay the jizyah and accept al-saghār, then it is obligatory upon the Muslims to accept their payment and they must refrain from fighting the dhimmis as they have paid in return for their safety. Waging war against those who have paid jizyah is forbidden for Muslims. The dhimmis have rights that equal that of the rights of Muslims. The Prophet $\frac{1}{28}$ said, "Whoever kills a mu'āhad (one who has made a covenant with the Muslims) who has the protection of Allah and the protection of his Messenger, will not smell the fragrance of Paradise."⁶⁸⁴

ويمتهنون عند أَخْذِها، ويُطال وقوفُهم، وتُجَرُّ أيديهم

They should be in a state of humility when it is taken from them and they are made to stand for a long time while waiting to pay it. It is then taken from them.

The following is an explanation of al-saghār, {Until they give the jizyah will-

⁶⁸³ Al-Tawbah: 29

⁶⁸⁴ Reported by al-Tirmidhī (1403) and Ibn Mājah (2687) from the narration of Abu Hurairah. This hadīth has also been reported by Ahmad (5/36, 52) and al-Nasā'ī (8/25) from the narration of Abu Bakrah.

ingly while they are humbled.}685

"They should be in a state of humility when it is taken from them": The *dhim*mis should hand the payment in personally whilst in a state of humility. They are not to send their servants for its payment neither should they appoint someone else to make the payment on their behalf.

"They are made to stand for a long time while waiting to pay it": They are not allowed to make the payment as soon as they arrive. Instead, they are made to wait a long while to do so. This is to humble them.

"It is then taken from them": It is not taken from them in a gentle or pleasant manner. Instead it is taken from them in a manner that rebukes them for having disbelieved in Allah and for belying the Messenger of Allah. If these conditions are met, the *jizyah* is accepted from them [...].

These conditions are in accordance to the ayah: {Until they give the jizyah willingly whilst they are humbled.} This is because the asl is that they are to be fought for they disbelieved in Allah and His Messenger and remained unrepentant. The People of the Book know Muhammad is the Messenger of Allah. They know that the Qur'an is the word of Allah. When they obstinately remained in disbelief and refused to follow Muhammad 38, Allah lowered them with these conditions. They had denied and remained obstinate even after they had knowledge and understanding. Therefore, Allah punished them with this punishment in this world. That which is with Allah in the form of punishment in the Hereafter is much worse. They had disbelieved in Allah, the Messenger of Allah and the books of Allah. They defied the teachings found in these books whilst they were well aware that these teachings were the truth. These people are just a few from the large number that deserve punishment. The payment of *jizyah* makes manifest the high-esteem of Islam and its lofty status juxtaposed with the disgrace and humiliation of disbelief and those who follow it.

This approach is not a shortcoming in Islam. In fact, it is a sign of the strength of Islam and shame upon the enemies of Islam. This reveals great wisdom as they knew the truth but rejected it. They are some of those who deserve punishment in this world and the Hereafter. These conditions may motivate

⁶⁸⁵ Al-Tawbah: 29

them towards accepting the truth if they so desire, such that they regain their self-esteem and remove themselves from this. They return to the truth that they used to deny and believe in Allah and His Messenger. They refrain from that which Allah and His Messenger has forbidden and practice the *din* of truth until they are free of these conditions.

This treatment is a lighter punishment as compared to fighting them. Other disbelievers are fought whereas they are only expected to follow these conditions. This is to allow for self-retrospection so that they will accept the truth that they know yet deny. Thereafter, their dignity returns. It returns when they obey Allah and His Messenger. There are those who claim that, "Verily, this method is tyrannical upon the *dhimmis* and they have to sacrifice the money paid as *jizyah*." Our response is that they are the tyrants for they disbelieve in Allah and reject His commands. The conditions imposed upon them are fair and just. It is a form of punishment for their disbelief and obstinacy.

SECTION

ويَلْزِم الإمامَ أخذُهُم بحكم الإسلام في النفسِ والمال والعرضِ، وإقامةِ الحدودِ عليهم من فيها يعتقدون تَحْريمَه دون ما يعتقدون حِلَّه

The *dhimmis* are treated according to Islamic law by the *imām* with regards to life, wealth, and honour and *al-hudūd* is imposed upon them in that which they consider forbidden, not in that which they consider permissible.

"Section": This section elaborates upon the rights of the *dhimmis* that are obligatory upon the *imām* to fulfil with regards to Islamic law. This is because the *dhimmis* are duty bound to adhere to Islamic law. However, before this is legislated, it must be stated that the *dhimmis* and the disbelievers from the Jews, Christians and others should not be allowed to reside in the Arabian Peninsula. They must be expelled from it. The Prophet $\frac{1}{26}$ ordered this to be done. He said, "Expel the Jews and the Christians from the Arabian Peninsula."⁶⁸⁶

He z also said, "Two religions must not co-exist in the Arabian Peninsula."⁶⁸⁷ 'Umar & removed them from the area when he was *caliph*, fulfilling the wishes of the Prophet z. The *dhimmis* should not be allowed to reside in the Arabian Peninsula as it is an Islamic peninsula. It is the land wherein revelation descended and from whence the light of Islam radiated throughout the world. Hence only Islam should prevail therein. Islam should not mix with other

⁶⁸⁶ Reported by al-Bukhārī (4/85, 120) and Muslim (5/75) from the narration of 'Abdullah ibn 'Abbās.

⁶⁸⁷ Reported by al-Bayhaqī in *al-Kubrā* (6/115) from the narration of Abu Hurairah and a similar hadīth was reported by al-Tabarānī in *al-Awsat* (1066) from the narration of 'Aishah.

religions in this peninsula. However, a peace treaty can be signed with them where they are allowed to reside in Muslim lands outside the boundaries of the Arabian Peninsula.

"The *dhimmis* are treated according to Islamic law by the *imām*": I.e. the *imām* of the Muslims. They are treated according to Islamic law as the peace treaty calls for it.

"To life": If they premeditate to kill and do so out of enmity, then *qisās* is meted out just as it is meted out to a Muslim.

"Wealth": If it is stolen by them, the Islamic law pertaining to stealing is meted out. The thief's hand is severed just as a Muslim's hand is severed if he steals.

"Honour": If they falsely accuse that a Muslim has fornicated or has engaged in homosexuality, then the laws pertaining to false testimony are meted out to preserve the honour of the Muslims.

Al-hudūd is also imposed upon them. *Al-hudūd* is the punishment meted out for crimes in accordance to Islamic legislation as a deterrent against it being committed again.⁶⁸⁸ The *hudūd* is imposed upon the *dhimmis* if they were to commit a crime that deserves it.

"In that which they consider forbidden": For example fornication. They consider it to be forbidden. Therefore, the punishment for fornication where the married fornicator is stoned and the unmarried fornicator is lashed should be meted out to them just as it is meted out to Muslims if they fornicate. The Prophet $\frac{1}{2}$ meted out this punishment to the Jews who lived in Madīnah just as he did to the Muslims.⁶⁸⁹ He $\frac{1}{2}$ ordered the stoning of a Jewish couple who

⁶⁸⁸ See al-Dar al-Naqi (3/745).

⁶⁸⁹ Reported by al-Bukhārī (4/251), (6/46) and Muslim (5/121) from the narration of 'Abdullah ibn 'Umar who said, "A Jewish male and female were brought by the Jews to the Prophet $\frac{1}{20}$ on a charge of committing illegal sexual intercourse. The Prophet $\frac{1}{20}$ asked the Jews, 'What do you [usually] do with them?' They said, 'We blacken their faces and disgrace them.' The Prophet said, 'There is nothing in the Torah mentioning stoning?' They replied in the negative. 'Abdullah ibn Salām said, 'You have lied. Bring the Torah and recite it, if you are truthful.' They [brought it and] came and asked a man to recite. He went on reciting until he reached a portion on which he put his hand. It was said to him what is this [under the hand?] He lifted his hand up and there appeared the verse of *al-rajm* (stoning of the adulterers). Then it was ordered that the two

A Commentary on Zād al-Mustaqni

fornicated in Madīnah⁶⁹⁰ both of whom were widowed.

"Not in that which they consider permissible": For example the marrying of a *mahram* relative that is practiced by the Majūs. They consider it permissible. Hence, *al-hudūd* is not imposed upon them for this act.

They should be made to distinguish themselves from the Muslims. They are allowed to ride animals other than a horse mounted in a saddle but they may mount on a packsaddle. They are not given centre stage at any event and none should stand for them nor initiate greetings of peace to them.

"They should be made to distinguish themselves from Muslims": I.e. in their disposition, attire and mode of transport such that they can be easily identified as *dhimmis* and not mistaken for Muslims.

"They are allowed to ride animals other than a horse": For example a donkey, mule or camel. This is because the horse is exclusive for the Muslims. If a *dhimmi* rides a horse, he might be mistaken for a Muslim. Furthermore, they mount these animals on a packsaddle, not a saddle used to mount a horse. This is again to distinguish them from Muslims who ride these animals.

"They are not given centre stage at any event": It is not permissible to venerate them or hold them in high esteem. They are not allowed to be the guest of honour for an occasion—a honour set aside for respected Muslims of the community. Instead, the *dhimmis* should be seated at the back end of the audience.

"None should stand for them": When they enter the hall or designated venue of the event. This is because standing up is an act of admiration for them which is prohibited.

"Nor initiate greetings of peace to them": As the Prophet 🕿 forbade Muslims

sinners be stoned and, and they were stoned, and I saw the man protecting the woman from the stones." 690 Ibid.

from initiating the *salām* to the Jews and the Christians. He $\not\equiv$ said, "Do not initiate greetings of peace to the Jews and Christians. If they initiate a greeting of peace to you then say: 'And to you (*wa 'alaykum*)."⁶⁹¹ Muslims are ordered to reply to their greeting with these words, "And to you." They are not to initiate greetings of peace to them. Muslims are only allowed to initiate greetings of peace to a fellow-Muslim [...]. This is a form of reprimand for their disbelief and their adamant steadfastness in their belief. Allah has disgraced them. Therefore they should not be venerated. This lofty mannerism is exclusive for Muslims and Muslims alone.

متن ويُمنعون من إحداثِ كنائسَ وبيع وبناءِ ما انْهدَم منها ولو ظُلْماً، ومن تَعْلِيَةِ بُنيانٍ على مسلم، لا مساواته لـه، ومن إظهارُ خَمْرٍ وخِنْزيرٍ وناقوسٍ وجَهْرٍ بكتابِهم

The *dbimmis* are forbidden from building churches and monasteries. They are forbidden from restoring those which are dilapidated or forcibly torn down. Their houses should not be taller than those of the Muslims. Their houses may be equally tall however. They are forbidden from publicly consuming intoxicants and pork. Chiming of bells and the reading of their scriptures should not be done so publicly.

"The *dhimmis* are forbidden from building churches and monasteries. They are forbidden from restoring those which are dilapidated or forcibly torn down": The Jews and the Christians are allowed to keep their churches and monasteries that existed when the peace treaty was signed. However, they are not to restore them if they become dilapidated. They should leave it as it is until it becomes ruined so that churches gradually become non-existent in Muslim lands. They certainly should not build new ones in Muslim countries as these are houses of disbelief and *shirk*. Therefore churches are not allowed to be built in Muslim countries.

The prohibitions for the *dhimmis* are much less than those for the disbelievers with whom there is no treaty. How is it then that Christians are allowed to build churches in Muslim countries? Similarly monasteries—the place of

⁶⁹¹ Reported by al-Bukhārī (8/71), Muslim (7/3) from the narration of Anas \approx with the wording, "If the People of the Book greet you with peace, reply with, "And to you." It was also reported by Muslim (7/5) from the narration of Abu Hurairah with the wording, "Do not initiate greetings of peace to the Jews and Christians. If you meet one of them on the street, force them to the narrow sides."

A Commentary on Zād al-Mustaqni

worship of the Jews—are allowed to function if they existed when the peace treaty was signed. However, the Jews must neither build new ones nor restore old ones or those which are torn down. These old ones should be allowed to be ruined such that monasteries cease to exist in the Muslim lands. Allowing it to be restored and refurbished will only serve to prolong its use in the Muslim lands.

If the churches were in existence when the treaty was signed, they are allowed to dilapidate and go into ruin such that it slowly is destroyed and becomes beyond use. How then are the Christians allowed to build churches in Muslim countries amidst houses resided by Muslims and besides *masjids*? This is only due to the ignorance of Islam or due to the failure to accord it enough importance.

"Their houses should not be taller than those of the Muslims. Their houses may be equally tall however": The houses of the *dhimmis* should not tower over the houses of the Muslims. For example, a Muslim has a house with one floor whilst his *dhimmi* neighbour has a house with two floors. This is not permitted for the Prophet $\frac{1}{28}$ said, "Islam is always superior and should never be surpassed."⁶⁹² Their houses can be of the same height as the Muslim's houses however.

"They are forbidden from publicly consuming intoxicants and pork": The *dhimmis* are not allowed to commit sins publicly; that is, acts which are permitted and lawful for them. Examples would be consuming intoxicants publicly or the manufacture of alcohol. They should only do so privately in the confines of their homes. They are not allowed to eat pork in public. The Christians eat pork. However, they must not do so in restaurants or food outlets in the Muslim lands. They should not sell it publicly likewise. They should not sell or manufacture alcohol in Muslim countries even when they are regular drinkers of it and eat pork often. This must be done amongst themselves in such a manner that none can see them do so.

"Chiming of bells": They are also not to ring their church bells which are

⁶⁹² Reported by al-Bukhārī with annotation (2/117) from the sayings of Ibn 'Abbās with a $mawq\bar{u}f$ chain of narration. It was also reported by al-Bayhaqī in *al-Sunan al-Kubrā* (6/205) and al-Dāraqutnī (3/252) from the narration of 'Aidh ibn 'Amr al-Muzanī.

sounded to invite others to come and worship in the church.⁶⁹³ In Muslim countries, the bells must be placed within the church such that the ringing is heard within the church and not outside of it.

"And the reading of their scriptures": I.e. the Torah of the Jews and the Bible of the Christians (or what is also known as the Old and New Testaments) should not be read publicly. They are allowed to read amongst themselves and not read loudly such that it is heard beyond their premises like their churches, monasteries and their residences. They must be read quietly. They should not print these books in Muslim countries or have them on sale or for browsing in bookshops or libraries. Instead these should be banned in the public.

وإن نَهَوَّدَ نصرانيُّ أو عكسه لم يُقَرَّ، ولم يُقْبِلْ منه إلا الإسلامُ أو دينُه

متن

If a Christian converts to Judaism or vice versa, it is not recognised nor accepted officially. He is only allowed to embrace Islam or remain in the religion he was born into.

"If a Christian converts to Judaism or vice versa, it is not recognised": This is because his religion is stated in the peace treaty signed with the Muslims. Therefore a Jew should not convert to Christianity nor should a Christian convert to Judaism to avoid having discrepancies in the treaty.

"Nor accepted officially. He is only allowed to embrace Islam or remain in the religion he was born into": No conversion is accepted except the conversion to Islam as it is the $d\bar{i}n$ of truth. This is that which is preferred from him. If he fails to do so, he must remain in his original religion which he was upon when the treaty was signed.

⁶⁹³ See al-Mu'jam al-Wasīt (946).



وإن أَبى الذميُّ بَذْلَ الجزيةِ أو التزامَ أحكام الإسلام، أو تَعدَّى على مسلم بقتلٍ أو زنا، أو متن قطع طريق، أو تجسس، أو إيواء جاسوسَ، أو ذَكَرَّ اللهَ أو رسولَه أو كتابَهُ بسّوءِ انتقضَ عهدُه دونُ نسائِه وأولادِه، وحَلَّ دمُه ومالُهُ

If the *dhimmi* refuses to pay *jizyah*, abide by the laws of Islam, kills a Muslim out of enmity, fornicates, commits highway robbery, spies or acts as an accessory in spying or defames Allah, His Messenger or His Book, the treaty signed with him is nullified excluding his womenfolk and children. It becomes permissible to take his life and seize his wealth.

"Section": In this section, factors that nullify the peace treaty with the *dhimmi* are explained.

"If the *dhimmi* refuses to pay *jizyah*": Then the treaty is nullified. This is because it was stipulated in the treaty that he must pay the *jizyah* in humility. Allah says: **{Until they give the** *jizyah* **willingly while they are humbled.**}

"Abide by the laws of Islam": That is, refuses to abide by the laws of Islam pertaining to life, wealth and honour—as was discussed earlier—then the treaty with him is rendered null and void. This is due to his contravention of the terms stipulated in the treaty.

"Kills a Muslim out of enmity, fornicates": He kills a Muslim in premeditation

⁶⁹⁴ Al-Tawbah: 29

or commits adultery with a Muslim woman. In these cases, the treaty with him is severed as these are forbidden acts in all religions. It infringes on the terms of the peace treaty, namely: that he must not spill the blood of a Muslim unlawfully or encroach upon his rights.

"Commits highway robbery": If they do so against Muslims by wielding weapons and obstructing those who pass through the route, or against the travellers by robbing them of their wealth. The treaty with these people is nullified as a result of their actions as it breaches the terms of the treaty with the Muslims.

"Spies": By acting as an informant to the disbelievers against the Muslims.⁶⁹⁵ In this case it is permissible to execute the *dhimmi* as his spying is detrimental to the Muslims.

"Or acts as an accessory in spying": Even though he is not a spy himself, he aids a spy in his treason by offering help and protection to him against the Muslims. The peace treaty is nullified because of this action.

"Or defames Allah, His Messenger and His book": I.e. by cursing Allah, His Messenger 簧 or the Qur'ān and if he resorts to defying the laws prescribed by Allah then the peace treaty with him is nullified and he is treated as a disbeliever with whom no peace treaty was signed.

If the *dhimmis* fall into any of the scenarios mentioned above, the treaty with them is nullified. However it excludes his womenfolk as they are not to be blamed for his wrongdoing. They shall retain their status as *dhimmis*. Hence, it is neither permissible to take their lives and that of their children nor seize their wealth for they are not at fault. It is merely the fault of he who contravened the peace treaty.

If the *dhimmi* commits any of the crimes mentioned previously, it is permissible to execute him. In fact it becomes mandatory to do so. His wealth is seized after his death due to his status as a *dhimmi*.

When the status of *dhimmah* is forfeited, he returns to being in a situation where his life and wealth is permissible for the Muslims. Regarding this the Prophet $\frac{1}{2}$ said: "I was commanded to fight the people until they say, 'There is

⁶⁹⁵ See Lisān al-'Arab (6/38).

none worthy of worship except Allah.' If they say it, they safeguard their lives and wealth from me."⁶⁹⁶ This is provided that they embrace Islam or sign a peace treaty with the Muslims and abide by Islamic law. Only then are their lives and wealth safeguarded by the treaty. If they violate it, they are returned to their original status as disbelievers whose life and wealth is permissible to the Muslims. These are not safeguarded unless a peace treaty is signed with the Muslims.

This is the end of the second volume. We will begin volume three with the Book of Transactions *inshallah*.

[Note: The Book of Food does not directly proceed the Book of Jihād in the text of $Z\bar{a}d$ al-Mustaqnī'. It has been added here as an appendage to the main body of the book.]

⁶⁹⁶ Reported by al-Bukhārī (1/12) and Muslim (1/39) from the narration of 'Abdullah ibn 'Amr.

كستاب الأطعمة THE BOOK OF FOOD

من الأصلُ فيها الحِلُّ، فيباحُ كلُّ طاهر لا مَضَرَّةَ فيه من حَبٍّ ونَمْر وغيرهما، ولا يَحِلُّ نَجِسٌ كالميتة والدم، ولا ما فيه مَضَرَّةٌ كالسمِّ ونحوه. وحيواناتُ البَرِّ مباحةٌ إلا الحُمُرَ الإنْسيَّة، وما له نابٌ يفترسُ به غيرَ الضَّبُع، كالأسدِ والنمرِ والذئبِ والفيلِ والفهدِ والكلبِ والخنزيرِ وابنِ آوى وابنِ عِرْس والسَّنورِ والنَّمسِ والقِرْدِ وَالذُبِّ، وما له غِلَبٌ من الطَّبِرِ يَصيدُ به: كالعُقابِ والبَازِي والصَّقْرِ والنَّاهينِ والباشِقِ والحِدَأَةِ والبُومَةِ

Food is essentially permissible. Clean foods that are not harmful consisting of grains and fresh produce and others can be eaten. Things that are *najis* such as dead carcasses and blood are not permissible to be eaten. Similarly, that which is harmful like poison and the like should not be consumed. All land animals are permissible to be eaten except the donkey and animals that have tusks and canines which can tear flesh excluding the hyena. Examples are the elephant, lion, tiger, wolf, dog, pig, jackal, weasel, tomcat, ferret, monkey and bear. Birds that have talons which are used to hunt like the eagle, falcon, hawk, Indian falcon, sparrow hawk, kite and owl are not permissible to be eaten either.

"Book of Food": That is, explaining the different types of food that are permissible for consumption and those which are not. The word *al-at'imab* (plural of *ta'ām*) here refers to both foodstuff and drinks.

"Food is essentially permissible": As mentioned by Allah in the following ayah: {It is He who created for you all of that which is on the earth.}⁶⁹⁷

⁶⁹⁷ Al-Baqarah: 29

"Clean foods": As opposed to dirty food which is not permissible for consumption. Allah says: {And makes lawful for them the good things and prohibits for them the evil.}⁶⁹⁸

"That are not harmful": To protect oneself from consuming poisonous substances and other materials than can normally kill. Therefore food that is allowed must have two factors: (i) it must be clean and (ii) it must not be harmful.

"Consisting of grains and fresh produce and others": I.e. clean and nutritious types of food.

"Things that are *najis* such as dead carcasses and blood are not permissible to be eaten": This is because Allah says: **{Prohibited to you are dead animals and blood.}**

"Similarly, that which is harmful like poison and the like should not be consumed": As mentioned in the ayah: **{And do not throw [yourselves] with your [own] hands into destruction.}**⁷⁰⁰

"All land animals are permissible to be eaten except the donkey": Based on the hadīth transmitted by Jābir 🚓 that the Prophet 😤 forbade the consumption of donkey meat and allowed the consumption of horse meat on the day of Khaybar.⁷⁰¹

"And animals that have tusks and canines which can tear flesh": To rip apart the prey. This is based on the hadīth transmitted by Th'alabah al-Khashanī who said, "The Messenger of Allah \gtrsim forbade us from eating any predatory animal that had a canine or tusk."⁷⁰²

"Excluding the hyena": The hyena is permissible for consumption even though it tears flesh with its canine teeth. This is based on the hadīth transmitted by

⁶⁹⁸ Al-A'rāf: 157

⁶⁹⁹ Al-Mā'idah: 3

⁷⁰⁰ Al-Baqarah:195

⁷⁰¹ Reported by al-Bukhārī (5/173), (7/123), Muslim (6/65), Ahmad (3/361, 385) and Abu Dawūd (3788).

⁷⁰² Reported by al-Bukhārī (7/124, 181), Muslim (6/59, 60) and Ahmad (4/193, 194).

The Book of Food

Jābir, "The Messenger of Allah ﷺ ordered us to eat the hyena."

"Examples are the elephant, lion, tiger, wolf, dog, pig, jackal, weasel, tomcat, ferret, monkey and bear": These are examples of animals with tusks and canine teeth which cannot be consumed based on the hadīth mentioned previously.

"Birds that have talons which are used to hunt": Based on the hadīth transmitted by Ibn 'Abbās: "The Messenger of Allah $\frac{1}{26}$ forbade us from eating any predatory animal that has canine teeth and any bird that has talons."⁷⁰³

"Like the eagle, falcon, hawk, Indian falcon, sparrow hawk, kite and owl": These are examples of birds that have talons which are not permissible for consumption.

And that which eats carrion like the vulture, stork, magpie and raven—a greyish black bird which is smaller than the crow—and those which are unpleasant like the hedgehog, porcupine, rat, snake, all insects, bat and an animal born from a type that can be consumed and an animal that cannot be consumed, such as the mule.

"And which eats carrion": This is in reference to the kinds of birds which are forbidden for consumption.

"And that which eats carrion like the vulture, stork, magpie and raven—a greyish black bird which is smaller than the crow": These are examples of birds that are forbidden for consumption as they feed on carrion. This prohibition is based on the hadīth where the Prophet $\frac{1}{26}$ said, "Five things are *fawāsiq*:"⁷⁰⁴ He went on to name the crow, which eats carrion. Hence, other carrion-eating birds are also not permissible for consumption.

⁷⁰³ Reported by Abu Dawūd (3803)

⁷⁰⁴ Reported by Muslim (4/17), Ahmad (6/97, 203), al-Tirmidhī (837) and Ibn Mājah (3087) from the narration of 'Aishah. the full form of the hadīth is, "Five *fawāsiq* should be killed in the sacred precinct or otherwise: the snake, spotted crow, rat, rabid dog and the kite."

"And those which are unpleasant like the hedgehog, porcupine, rat, snake, all insects, bat and an animal born from a type that can be consumed and an animal that cannot be consumed, such as the mule": These are all forbidden based on the verse: **{Prohibits for them the evil.}**⁷⁰⁵

A mule is cross-bred between a horse and a donkey. A predatory animal is cross-breed between a wolf and a hyena.

Benefits: The following land animals are forbidden for consumption:

First: Animals for which there is clear evidence for its prohibition, for example the donkey and the pig.

<u>Second</u>: All predatory animals that have canine teeth and tusks with which they pierce flesh.

Third: All birds that have talons that tear flesh.

Fourth: Carrion-eating animals.

<u>Fifth</u>: A cross-bred animal born between a consumable animal and another which is not.

The sixth category contains the rest of animals prescribed in the *Shāri'ah* to be killed or forbidden to be killed.

705 Al-A'rāf: 157



متن وما عدا ذلك فحَلالٌ، كالخيل وبهيمةِ الأنعام والدَّجاجِ والوَحْشِيِّ من الحُمُر والبَقَر والظِّباءِ والنَعامَةِ والأرنبِ وسَائر الوَحْشِ، وَيباحُ حيوانُ البحرِ كلَّه، إلا اَلضَّفْدَعَ والتَّمْسَاحَ والحَيَّةَ. ومن اضْطُرَّ إلى مُحَرَّم غير السمِّ حَلَّ له منه ما يَشَدُّ رَمَقَهُ، ومن اضْطُرُّ إلى نَفْعِ مالِ الغيرِ مع بقاءِ عَيْنِه لدفع بَرْدٍ أو استقاءِ ماء ونحوه وجَبَ بذلُه لـه مَجَّاناً. ومن مَرَّ بَثَمَر في بستانَ في شجره، أو مُتساقِطٍ عنه ولا حائطَ عليه ولا ناظرَ فله الأكلُ منه مَجَّاناً

Apart from these, all other animals are *balāl* like the horse, grazing livestock, chicken, wild onager, cow, gazelle, ostrich, rabbit and all other wild animals. All sea animals can be consumed except the frog, crocodile and sea snake. If one is compelled to eat an animal which is not permissible for consumption, he may do so just to keep himself alive—except poisonous substances. He who is compelled to benefit from the property of someone else without much wear and tear so as to keep himself warm from the cold, collect rain water or the like, then the owner must allow him to benefit from it for free. He who comes across a garden with a fruit tree that is neither guarded nor fenced may pluck it from the tree or pick it up if it has fallen down and eat it for free. However he must not bring any fruit with him. It is wājib to host a Muslim guest who is travelling through villages for one day and one night.

"Section": This section gives further explanation regarding which animals are *halāl* and *haram*. It elaborates upon the rules for consuming *harām* when in a predicament. It also lays out the rules pertaining to hosting the guest.

A Commentary on Zād al-Mustaqni

"Apart from these": I.e. the animals that were mentioned earlier as *harām* for consumption.

"All other animals are *halāl*": As they maintain the essential aspect of food, which is permissibility.

"Like the horse": As the Prophet 霎 allowed its meat to be eaten based on the *sahīh* hadīth that is *muttafaqun alayhi* (reported by al-Bukhārī and Muslim).⁷⁰⁶

"Grazing livestock": Consisting of camels, cows and sheep as Allah says: {Lawful for you are the animals of grazing livestock.}⁷⁰⁷

"Chicken, wild onager, cow": The cow being referenced to here is the wild type.

"Gazelle, ostrich": The ostrich is a bird that has physical similarities to a camel.

"Rabbit and all other wild animals": As they fall under the category of animals that are good for consumption as in the *ayab*: **{And makes lawful for them the good things and prohibits for them the evil.}**⁷⁰⁸

"All sea animals can be consumed": As mentioned by Allah in the *ayah*: {Law-ful to you is game from the sea.}⁷⁰⁹

"Except the frog": As it is unpleasant. The Prophet \mathfrak{Z} forbade its killing and using it as medicine.

"Crocodile": As it has teeth that rip flesh and they are man-eaters.

"And sea snake": As it is from the unpleasant animals.

"If one is compelled to eat an animal which is not permissible for consumption": One who fears that he will perish if he does not eat. An example is when

⁷⁰⁶ Reported by al-Bukhārī (5/173), (7/123) and Muslim (6/65) from the narration of Jābir which was referenced earlier.

⁷⁰⁷ Al-Mā'idah: 1

⁷⁰⁸ Al-A'rāf: 157

⁷⁰⁹ Al-Mā'idah: 96

The Book of Food

he eats a dead carcass in starvation.

"He may do so": It is permissible for him in that critical scenario except for poisonous substances.

"Just to keep himself alive": To maintain his energy and avoid death. Allah says: {But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him.}⁷¹⁰

"Except poison": Poison is impermissible in all conditions.

"He who is compelled to benefit from the property of someone else without much wear and tear so as to keep himself warm from the cold": Like a shirt he wears to keep warm.

"Collect rain water": Using a rope or bucket to collect it so as to quench his thirst.

"Or the like": For example, an axe, pot, sieve or a pin.

"Then the owner must allow him to benefit from it for free": In view of his predicament without asking for any compensation. Allah rebukes those who refuse to do so with the words: **{And withhold [simple] assistance.}**⁷¹¹

"He who comes across a garden with a fruit tree that is neither guarded nor fenced may pluck it from the tree or pick it up if it has fallen down": There is no guard watching over it and it is not fenced.

"And eat it for free. However he must not bring any fruit with him": Three conditions must be satisfied:

First: The fruits must not have been gathered after harvest [by the owner.]

Second: The garden or orchard should not have a fence around its perimeter nor should there be a watchman guarding it.

⁷¹⁰ Al-Baqarah: 173

⁷¹¹ Al-Ma'ūn: 7

Third: He should not bring any fruit with him when he walks away.

"It is *wājib* to host a Muslim guest who is travelling through villages for one day and one night": To host a guest is *wājib* when three criteria are met:

•

First: The guest must be a Muslim.

Second: Hosting the guest takes place in a non-urban setting.

Third: The duration is one day and one night.

بـاب الذكـاة

CHAPTER: SLAUGHTER

متن لا يباحُ شيءٌ من الحيوانِ المقدورِ عليه بغيرِ ذكاةٍ، إلا الجرادَ والسمكَ وكلَّ ما لا يعيشُ إلا في الماء

No animal is permissible for consumption without slaughtering it when one has the ability to do so. Exceptions are locusts, fish and animals that live only in water.

"Chapter: Slaughter": Linguistically, *dhakāh* refers to completing a task. Slaughtering is so defined because the life of the slaughtered animal comes to an end completely. Allah says: {**Except what you [are able to] slaughter** [**before its death.**]}⁷¹² *Dhakāh* is used to denote slaughter indefinitely.⁷¹³

Dhakāh in terms of the Shari'āh means: sacrificing the animal whose meat is permissible for consumption, slaughtering the animal by cutting its throat and oesophagus or wounding the animal that cannot be slaughtered [due to its wild nature for instance.]⁷¹⁴

"No animal is permissible for consumption without slaughtering it when one has the ability to do so": This is the rule pertaining to slaughtering animals. Animals killed by other means are considered to be dead carcasses. Allah says:

⁷¹² Al-Mā'idah: 3

⁷¹³ See Lisān al-'Arab (14/288).

⁷¹⁴ See al-Iqnā' (4/315).

(Prohibited to you are dead animals.)⁷¹⁵ The wisdom behind prohibiting the consumption of the carcass is because its blood is retained in its body after death which is harmful for one's faith and health.

"Exceptions are locusts, fish and animals that live only in water": These can be eaten without slaughter. The Prophet $\frac{1}{28}$ said, "Two [types of] carcass and two [types of] blood have been made permissible for us. As for the carcass, it is the fish and the locust. As for the blood, it is the liver and the spleen."⁷¹⁶

ويُشتر طُ للذكاةِ أربعةُ شروط: أهليَّةُ المُذكِّي: بأن يكون عاقلاً مسلماً أو كتابياً ولو مراهِقاً، من أو امرأةٌ أو أقلف أو أعمىَ، ولا تباحُ ذكاةُ سَكْرانٍ ومجنونٍ ووثَنِيٍّ ومَرتَدٌ. الثاني: الآلةُ، فتباحُ الذَّكاةُ بكلِّ مُحَدَّدٍ ولو كان مغصوباً من حديدٍ وحجرٍ وقَصَبٍ وغيره، إلا السِّنَّ والظُّفْرَ. الثالث: قَطْعُ الحُلقوم والمَرِيء، وذكاةُ ما عجز عنه من الصَّيدِ والنَعَم المُتوحشةِ والواقعة في بئر ونحوها يجرحِه في أيَّ موضعٍ كان من بَدَنِه ، إلَّا أن يكونَ رأسُه في الماء ونحوه فلا يباحُ. الرابع: أن يقول عند الذَّبْح: بسم الله لا يُجزِئُه غيرُها، فإن تَركها سهواً أبيحتْ لا عمدا There are four conditions for slaughtering animals: Firstly, the slaughterer must be competent. That is, he must be sanc, Muslim or from the People of

the Book. A young boy, a woman, an uncircumcised man or a blind person cannot be the slaughterer. It is also not permissible for the slaughterer to be a drunkard, insane, polytheist, Magian or an apostate.

Secondly, the tool used to slaughter the animal, even if illegally possessed, must be sharp and can be made of metal, stone, reed or other materials except tooth and claw.

Thirdly, to sever the throat and oesophagus. If one is unable to do so for instance animals that are hunted, animals that are wild in nature or that which has fallen into a well, then these animals are wounded in any part of

⁷¹⁵ Al-Mā'idah: 3

⁷¹⁶ Reported by Ahmad (2/97), Ibn Mājah (2218), al-Dāraqutnī (1/271, 272) from the narration of 'Abdullah ibn 'Umar.

The Book of Food

their bodies. However, animals that have their heads submerged in water and situations similar to it are not permissible.

Fourthly, to say, "*Bismillah*" when he is about to slaughter the animal. Any other utterance is impermissible. Forgetting to utter it is excusable and the meat is permissible but not when left out on purpose.

"There are four conditions for slaughtering animals: Firstly, the slaughterer must be competent. That is, he must be sane": As the insane will not know the purpose of the slaughtering. Hence, his slaughtering is not permissible as is the slaughtering of the drunkard and the child who lacks discernment.

"Muslim or from the People of the Book": As Allah says: {And the food of those who were given the Scripture is lawful for you.}⁷¹⁷ Al-Bukhārī said⁷¹⁸ that Ibn 'Abbās said, "Their food refers to meat from animals slaughtered by them."

"A young boy": I.e. one who has not attained puberty or the age of discernment.

"A woman, an uncircumcised man": As the condition requires him to be a Muslim and he must have gone through Islamic rites.

"Or a blind person": This is based upon the general proof, not a specific one.

"It is also not permissible for the slaughterer to be a drunkard, insane": Since they are unaware of the objective for slaughter.

"Polytheist, Magian or an apostate": As understood from the ayah: {And the food of those who were given the Scripture is lawful for you.}⁷¹⁹ The meat from animals slaughtered by disbelievers other than the People of the Book is *harām* for consumption.

"Secondly, the tool used to slaughter the animal, even if illegally possessed,

⁷¹⁷ Al-Mā'idah: 5

⁷¹⁸ Sahih al-Bukhārī (7/120).

⁷¹⁹ Al-Mā'idah: 5

must be sharp and can be made of metal, stone, reed or other materials except tooth and claw": I.e. a sharp tool made from any material that can cause blood to gush out. However, it must not be made from tooth or claw. The Prophet 3 said, "Eat what is slaughtered [with any instrument] that makes blood flow out, except what is slaughtered with a tooth or a claw."⁷²⁰

"Thirdly, to sever the throat and oesophagus": Food and drink is channelled through the latter while air is channelled through the former.

"If one is unable to do so for instance animals that are hunted, animals that are wild in nature or that which has fallen into a well, then these animals are wounded in any part of their bodies": The meaning of this is that it is not a criteria that these animals be severed at the oesophagus and throat based upon the hadīth narrated by Rāfi' who said, "A camel ran away and a man shot it with an arrow and killed it. The Messenger of Allah $\frac{14}{50}$ said, 'Whenever an animal escapes, do likewise."⁷²¹

"However, animals that have their heads submerged in water and situations similar to it are not permissible": If an animal is wounded during a hunt and it is found with its head submerged in water, then it could have died by drowning and not the wound. So erring on the side of caution, the animal is not permissible for consumption.

"Fourthly, to say": I.e. the slaughterer must say:

"Bismillah": As Allah says: {And do not eat of that upon which the name of Allah has not been mentioned, for indeed, it is grave disobedience.}⁷²² The wisdom behind saying *al-tasmiyah* upon the animal is to purify it with the remembrance of Allah and to expel Shaytān away from it. If it is not said, Shaytān has an evil influence upon the slaughterer and the slaughtered.

"When he is about to slaughter the animal": Just before he moves his hand to carry out the action.

⁷²⁰ Reported by al-Bukhārī (3/185), (7/119, 120), Muslim (6/78), Abu Dawūd (2821), al-Tirmidhī (1491), al-Nasā'ī (7/228) and Ibn Mājah (3178) from the narration of Rāfi' ibn Khadīj.

⁷²¹ Reported by al-Bukhārī (3/185), (7/119), Muslim (6/78), Abu Dawūd (2821), al-Tirmidhī (1492), al-Nasā'ī (7/228), Ibn Mājah (3173) and Ahmad (3/463).

⁷²² Al-An'ām: 121

The Book of Food

"Any other utterance is impermissible": That is, any other form of *dhikr* to replace "*Bismillah*", for example the utterances "*Alhamdulillah*" or "*Subhānallah*" are not allowed. Likewise saying "*Bismi al-khāliq* [or] *al-rāziq*" is not permitted for *tasmiyah* requires that one say "*bismillah*".

"Forgetting to utter it is excusable and the meat is permissible": That is, he forgets to utter the *tasmiyah* when slaughtering. The meat is permissible for consumption as the Prophet $\frac{1}{8}$ said, "An animal slaughtered by a Muslim is *halāl* even if *tasmiyah* is not uttered as long as the omission is not purposeful."⁷²³

"But not when left out on purpose": If *tasmiyah* is not uttered purposefully, then the meat of the animal is *harām* for consumption as Allah says: {And do not eat of that upon which the name of Allah has not been mentioned.}⁷²⁴

ويكره أن يَذبحَ بآلةٍ كالَّةٍ، وأن يحدَّها والحيوانُ يبصرُه، وأن يُوجهَهُ إلى غير القبلةِ، وأن يَكْسرَ عُنقه أو يسلخُه قبل أن يَبْرُدَ.

متن

It is disliked to slaughter with a blunt tool, to sharpen the tool while the animal sees it and to place the animal in a direction other than the *qiblab*. It is also disliked to sever its neck completely and to skin it before its body turns cold.

"It is disliked to slaughter with a blunt tool": So that the animal is not tortured to death. This is based on the hadīth, "Verily Allah has prescribed *ihsān* (proficiency, perfection) in all things. So if you kill then kill well; and if you slaughter, then slaughter well. Let each one of you sharpen his blade and let him spare suffering to the animal he slaughters.⁷²⁵

"To sharpen the tool while the animal sees it": It is disliked that one does it in full view of the animal that he intends to slaughter. Ibn 'Umar \clubsuit said, "Verily, the Messenger of Allah \lessapprox commanded that the blade should be sharpened and hidden from the animals."⁷²⁶

⁷²³ Reported by Abu Dawūd in al-Marāsil (378) and al-Bayhaqī (9/240).

⁷²⁴ Al-An'ām: 121

⁷²⁵ Reported by Ahmad (4/123-125), Muslim (6/72), al-Nasa'i (7/227, 230) and Ibn Mājah (3170) from the narration of Shadād ibn Aws.

⁷²⁶ Reported by Ahmad (2/108) and Ibn Mājah (3172)

"And to place the animal in a direction other than the *qiblah*": It is disliked to do so as it is contrary to the Sunnah; be it when calling the *adhān* or other acts of a similar nature. Slaughter is an act of obedience similar to *al-udhiyah*.

"It is also disliked to sever its neck completely": That is, the animal should not be beheaded before it dies as this is tantamount to torture.

"And to skin it before its body turns cold": That is, before it dies. This is based on the hadīth narrated by Abu Hurayrah who said, "The Messenger of Allah # sent Budayl ibn Waraqāh al-Khazā'ī riding upon a camel shouting through the paths between the mountains of Mina with the words: "Do not hasten to do anything with the body before it dies."⁷²⁷

⁷²⁷ Reported by al-Dāraqutnī (4/283)

Appendix

Risālat Latīfatun Jāmi'atun fī Usūl al-Fiqh al-Muhima

مقدمة الرسالة

INTRODUCTION TO THE TREATISE⁷²⁸

All praise to Allah. We praise Him for what He possesses from His beautiful Names and lofty and perfect Attributes; and for His Judgment and Decree which encompasses everything that exists, and for His prescribed laws which encompass every field of legislation; and His Judgment through which he recompenses: rewarding those who perform good deeds (*al-mubsinin*), and punishing the criminals (*al-mujirimin*).

I testify that there is no deity worthy of being worshipped except Allah alone, who has no partner in His Names, Attributes, worship or Judgment. And I testify that Muhammad is His slave and messenger, who clarified the judgments and the rulings, made clear the *halāl* (lawful) and the *harām* (prohibited), and established the fundamentals and expounded upon them—until the Religion was completed and firmly grounded. O Allah send your blessings and peace upon Muhammad, and upon his family, his Companions and those that follow them, particularly the people of knowledge.

To proceed: This is a brief and light essay concerning *usūl al-fiqh* (fundamentals of jurisprudence), easy in its wording, clear in its meaning, and useful in learning the rulings for whosoever reflects over its meanings. We ask Allah that He benefits the compiler and the reader. Indeed He is the Most Generous.

⁷²⁸ This translation is based on an existing translation of this brief text that is widely spread on the internet. It has been edited and corrected based on the original Arabic.



Usūl al-Fiqb: It is the branch of knowledge concerning the comprehensive evidences of *fiqh*. Since *fiqh* consists of either *masā'il* (issues) of which the ruling (*hukm*) by one of the five rulings (*ahkām*) is sought, or the *dalā'il* (evidences) upon which we extract these *masā'il* (issues).

Thus *fiqh* is actually the knowledge of *masā'il* (issues) and *dalā'il* (evidences). These *dalā'il* (evidences) fall into two categories:

- Comprehensive evidences (kullayyatun) that encompass every ruling of a single kind, from the beginning of *fiqh* to its end. An example being us saying, "Al-amr lil-wujūb" (the command indicates obligation). Likewise, "An-nahī lit-tahrīm" (the forbiddance indicates prohibition), and there are further examples we could bring similar to these two. These are from usūl al-fiqh.
- 2. Detailed evidences (*tafsīliyyatun*) that are to be understood in the light of the comprehensive evidences. When this task is completed, then the *ahkām* (rulings) can be derived. [We can see that] the *ahkām* (rulings) are dependent upon the detailed evidences, and the detailed evidences are themselves dependent upon comprehensive evidences.

Thus we can see the need and the requirement of understanding the foundations of *fiqh*, and that it aids in the understanding of *fiqh*, and that it is the foundation for inference and performing *ijtihād* in the *ahkām* (rulings).

فصل Section

The *ahkām* (rulings) upon which *fiqh* revolves around are five:

- 1. *Wājib* (obligation, normally translated in the main text as obligatory or mandatory): the one who performs it is rewarded whilst the one who leaves it is punished.
- 2. Harām (prohibition): this is the opposite of wäjib.

- 3. Masnūn (recommended, also referred to as Sunnah, mustahabb, sunan, mandūb): the one who performs it is rewarded and the one who leaves it is not punished.
- 4. Makrūh (disliked): this is the opposite of a masnūn.
- 5. Mubāh (permissible): where leaving and performing it are equal.

The wājib (mandatory) is divided into two categories:

(i) *Fard 'ayn* (individual obligation), the performance of this is sought from every *mukallaf* (responsible), *bāligh* (mature) '*āqil* (sane) individual. The majority of the *wājib Sharī'ah* rulings fall under this category.

(ii) *Fard kifāyab* (collective obligation), the performance of which is sought from the *mukallifīn* collectively, but not from every individual specifically. Examples being: the learning of beneficial knowledge and professions, the *adhān*, the commanding of good and forbidding of evil; and other similar matters.

These five rulings differ widely in accordance with the matter's state, its levels and its effects. Thus, whatever consists purely or predominantly of *maslaha* (benefit), then the Lawgiver has commanded its performance through an obligation or a recommendation. Whatever consists purely or predominantly of *mafsadah* (harm), then the Lawgiver has prohibited its performance through complete prohibition or making it disliked.

Thus this *asl* (fundamental principle) encompasses all the commands and prohibitions [in the *Sharī'ah*].

As for the *mubāhāt* (permissible acts) which the Shāri' (lawgiver) has permitted: at times they lead to good, and so they are attached to these matters which have been commanded. Likewise on other occasions they may lead to that which is evil, and so they become attached to those matters which are prohibited.

Thus arises a great *asl, "Anna al-wasā'ila lahā ahkām al-maqāsid.*" (The ruling of the means is that of its aim.) From this we learn that:

"Mā la yatimmu al-wājib illā bihi, fahuwa wājib." (Whatever the fulfilment of

A Commentary on Zād al-Mustaqni

a wājib act depends upon is itself an obligation.)

"Mā la yatimmu al-masnūn illā bihi, fahuwa masnūn." (Whatever the fulfilment of a masnūn act depends upon is itself recommended.)

"Mā la yatimmu al-masnūn illā bihi, fahuwa masnūn." (Whatever the fulfilment of a masnūn act depends upon is itself recommended.)

"*Mā yatawaqqafu al-harāmu 'alayhi, fa huwa haram.*" (Whatever haram depends upon is itself prohibited.)

"Wasā'ilu al-makrūh, makrūhatun." (That which leads to the makrūh is itself disliked.)

ف**صل** Section

The *adillah* (evidences) that *fiqh* is derived from are four:

The Book and the Sunnah, and these two are the foundation upon which the *mukallafūn* (the morally responsible) are addressed, and upon which their religion is built. Then *ijmā*' (consensus) and *al-qiyās al-sahīh* (sound analogy), these two are inferred from the Kitāb and the Sunnah.

Thus fiqh—from its beginning to its end—does not leave the dependence upon these four $us\bar{u}l$ (fundamentals). The majority of the important $ahk\bar{a}m$ are brought forth by these four adillah (evidences). They are indicated to by the $nus\bar{u}s$ from the Kitāb and the Sunnah, the scholars have ijma' upon them, and they are indicated to by $qiy\bar{a}s$ $al-sah\bar{a}h$ (sound and correct analogy) because of their beneficial attributes, if it is a command, or their harmful attributes, if it is something forbidden.

Only a small number of the *ahkām* have been differed over by the scholars. The closest of them to the correct view are those who correctly refer back to the four *usūl*.

ف**صل** Section

Appendix: Principles of Fiqh

As for the Kitāb: It is the Qur'ān al-Azīm, the Kalām (Speech) of the Lord of the worlds. It was sent down by the Rūh al-Amīn upon the heart of Muhammad, the Messenger of Allah #. This was to facilitate him in being the warner to the whole of mankind—in the clear Arabic language—regarding all the necessary matters that entail benefit to them in their religious affairs and worldly affairs. [The Qur'ān] is that which is recited by the tongues, written in the *mus-hafs*, and preserved in the chests. It is that which: **{Falsehood cannot approach it from before it or from behind it; [it is] a revelation from a [Lord who is] Wise and Praiseworthy.}**

As for the Sunnah: It is the Prophet's $\frac{1}{2}$ sayings, actions, and his approval of the sayings and actions of others.

The Shari'ah rulings are sometimes taken from a text found in the Book and the Sunnah. It is a text possessing a clear meaning, without any other meaning besides this. Sometimes it is based upon the zāhir (apparent) meaning [of the text]. It indicates towards the ruling, in a general manner, both through wording and meaning. Sometimes it is based upon the mantūq (literal meaning). It indicates towards the ruling through its wording. Sometimes it is based upon the mafhūm (implied meaning). It indicates towards the ruling due to being in agreement with the text—where the mafhūm is equal to or stronger than the mantūq. Or by a conflicting meaning if the mafhūm differs from the mantūq in its ruling. This is because the mantūq (literal meaning) is linked to an attribute or condition, and the absence of these causes the ruling to change.

The dalālah (indications) in the Kitāb and the Sunnah are of three types:

(i) Dalālah mutābaqah: This is where we apply the wording to indicate all of its meanings. (ii) Dalālah tadammun: Where we apply the wording in order to indicate one of its meaning. [iii] Dalālah iltizām: Where we apply the wording of the Kitāb and the Sunnah to indicate the meaning which follows as a consequence of it, which completes it, and what the issue being judged or spoken about cannot be finalised except by it.

فصل Section

⁷²⁹ Fussilat: 42

The *asl* relating to commands in the Kitāb and the Sunnah is that they indicate towards obligation, except if there is evidence indicating that it is recommended or *mubāh*. The *asl* relating to prohibitions [in the Kitāb and the Sunnah] is that they indicate towards forbiddance, except if there is an evidence indicating that it is *makrūh*. The *asl* relating to *kalām* (speech) is that it is to be taken upon its *haqīqah* (literal meaning). So it is not to be altered and taken upon the *majāz* (metaphorical)—if we accept this—except when the use of the *haqīqah* is not possible.

Al-Haqā'iq (literal meanings) are of three types: (i) *Shar'iyyah* (defined by the *Sharī'ah*), [ii] *Lughawiyyah* (defined by language) and [iii] '*Urfiyyah* (defined by custom).

So whatever ruling the *Shāri*' has designated, it is obligatory to return it to the definition legislated by the *Sharī'ah*. However in matters where the *Shāri*' has ruled but not defined and sufficed with its apparent linguistic meaning, then it is obligatory to return it to its linguistic meaning. And that which is not defined—neither in the *Sharī'ah*, nor in the language—then it is obligatory to refer it back to the habits of the people, and their customary usage (*'urf*). The *Shāri*' may declare the return of these matters to the '*urf*. Examples of this are matters such as commanding the good, living well with one's wife, and other similar matters.

So memorise these *usul* as the *faqih* stands in need of them in all of his interactions with *fiqh*.

نصل Section

From the texts of the Kitāb and the Sunnah are those which are ' $\bar{a}m$ (general), which is defined as that word which is inclusive of many categories, types or individuals. The majority of the texts are of this nature.

From the texts are the *kbās* (specific), which indicate towards only some categories, types and individuals. When there is no conflict between the ' $\bar{a}m$ and the *kbās* texts, then each of them are acted upon [independently]. However, if it is deemed that a conflict has arisen, then the ' $\bar{a}m$ is specified by the *kbās*. From them are those which are *mutlaq* (absolute) and *muqayyad* (restricted). It is restricted by a description or a reliable restriction. Thus, the *mutlaq* is restricted by the *muqayyad*.

And from the texts are the *mujmal* (obscure) and *mubayyan* (explicit). Whatever the Shāri' has made obscure in one place, yet made it comprehensive in another, then it is obligatory to return to what the Shāri' made *mubayyan* (explicit). Many of the rulings in the Qur'ān are *mujmal* in nature, but have been comprehensively explained in the Sunnah. So it is obligatory to return to the *bayān* (explicit clarification) of the Messenger of Allah $\frac{1}{2}$ as he is the clear explainer from Allah.

Similar to this are the texts that are *muhkam* (singular in meaning) and those that are *mutashābih* (open to more than one meaning). It is *wājib* to understand the *mutashābih* in the light of those texts that are *muhkam*.

Amongst the texts are the *nāsikh* (abrogating) and the *mansūkh* (abrogated) The abrogated texts in the Qur'ān and the Sunnah are few in number. Whenever it is possible to harmonise two texts, with the possibility of each one being acted upon in its own circumstance, then it is *wājib* to do so. One may not turn to abrogation, except with a text from the Shāri', or an apparent contradiction between two authentic texts concerning which there is no possible way to resolve this contradiction such that each text is acted upon in its own circumstance. In this case, the later text abrogates the earlier one. However, if it is impossible to determine which is the earlier text and which is the later, we then turn to other means of *tarjīh* (deciding which text is preferential). For example, if it appears that there is a contradiction between the Prophet's $\frac{1}{2}$ statement and his action, then precedence is given to his saying. This is because his statement represents either a command or a prohibition to his Ummah, whereas his action is, in this case, interpreted to be something particular to him alone.

So the *khasā'is* (particular and unique rulings) pertaining to the Prophet \underline{x} are actually based upon this *asl*. Likewise, anything he \underline{x} performed from worship in which he did not give a command—according to the correct view—it is considered to be *mustahabb*. Anything he \underline{x} performed as a habit is considered to be *mubāh*. Whatever he \underline{x} permitted from speech and actions is given the ruling as *mubāh* or other than it, depending upon the specific manner in which it was permitted.

فصل Section

As for $ijm\vec{a}$: it is the agreement of the *mujtahid* scholars upon the ruling of a new matter. Whenever we have certainty regarding their $ijm\vec{a}$, it is $w\vec{a}jib$ to turn to it, and it is not lawful to oppose it. It is required for the $ijm\vec{a}$ to be grounded in the evidences from the Kitāb and the Sunnah.

As for *qiyās al-sahīh*: it is an annex, joining a subsidiary branch with its root, due to a common *illah* (reason) between them. Thus whenever the Shāri'dictates a matter or describes it with a particular characteristic, or the scholars interpret that the ruling has been legislated because of that particular characteristic—if that characteristic is found to exist in another issue which the Shāri'has not legislated any particular ruling for, without their being a difference between it and the *nusūs* (texts)—then it is *wājib* to link the two in their ruling. This is because al-Shāri' al-Hakīm (the Most Wise Lawgiver) does not differentiate between matters equivalent in their characteristics, just as He does not join between opposing matters.

This sound qiyas is the Mīzān (the Balance) which Allah sent down. And it is inclusive of justice, and it is that by which justice is recognised. Qiyas is only resorted to when there exists no text. So this *asl* is turned to when there exists no other source. And qiyas corroborates with the text. Thus, all that the Shāri has ruled regarding in the texts is in agreement with qiyas and not in opposition to it.

فصل Section

The *usūliyūn* (scholars of *usūl*) have derived many *usūl* from the Kitāb and the Sunnah, upon which they have built many rulings; by which they have benefited themselves and benefited others. Amongst these *usūl* are:

"<u>Al-yaqīn lā yazūlu bish-shakk.</u>" (Certainty is not invalidated by doubt.) Under this principle there have entered many acts of worship, $mu'\bar{a}mal\bar{a}t$ (social interactions) and $huq\bar{u}q$ (rights). The one who suffers a doubt in any of these, he should return to the *asl* of certainty. They also say, "*Al-aslu at-tahārahtu fī kulli shay*." (The basis concerning all things is that they are pure.) And, "*al-aslu*

Appendix: Principles of Fiqh

al-ibāhahtu illā mā dalla ad-dalīlu 'alā najāsatihi aw tahrīmihi." (The asl is permissibility except when there exists evidence indicating its impurity or prohibition.) And, "Al-aslu barā'atu adh-dhamami min al-wājibāt, wa min huqūq al-khalqi hattā yaqūma ad-dalīlu 'alā khilāfi dhalika." (The asl is freedom from accountability concerning obligation and from rights towards the creation, until a proof is established to the contrary.) And, "Al-asl baqā'u mā ishtaghalat bihi adh-dhamamu min huqūqillahi wa huqūq 'ibādihi hatā yatayaqqana al-barā'ata wal-adā'a." (The asl is the continuation of accountability concerning the obligations to Allah, and to His servants, until there is certain proof of freedom and discharge.)

And from them is that, "<u>Al-mashaqqata tajlubu al-taysīr</u>." (Difficulty brings about ease.) Based upon this are all the *rukhas* (concessions) allowed during a journey, and *takhfīf* (lightening) of acts of worship, *mu'āmalāt* and other matters.

And from them is the saying: "Lā wājib ma' al-'ajzi, wa lā muharram ma'addarūrah" (There is no obligation with inability, nor is there any prohibition with necessity.)

The Shāri' has not made *wājib* upon us what we are incapable of doing in totality. Whatever the *Shāri*' has made obligatory but the servant is incapable of performing, that obligation is discharged. However if the servant is capable of performing a part of it, then it is required for him to fulfil what he is capable of, whilst the part he is incapable of is dropped. There are many examples of this. Likewise, whatever the creation are in need of, then it has not been made *harām* to them. As for the *khabā'ith* (evil matters), which have been made *harām*, then if the servant is forced into it, then there is no sin upon him. This is because *darūrah* (necessity) allows those matters which are fixed with prohibition. And *darūrah* is measured by its need in order to lessen the evil. *Darūrah* permits the use of what is normally forbidden from food, drinks, clothing etc.

And from them, "<u>Al-umūru bi maqāsidihā.</u>" (Matters are judged by their purposes.) 'Ibādāt and mu'āmalāt fall under this principle. Likewise, the prohibition of employing forbidden *hiyal* (stratagem) is derived from this *asl*. Directing those words which are *kināyāt* (vague) to be *sarīh* (clear and equivocal) is based upon this *asl*. Its types are numerous.

A Commentary on Zād al-Mustaqni

And from them, "<u>Yakhtāru a'lā al-maslahatayn, wa yartakibu akhaffa al-mufsadatayn 'inda al-tazāhum</u>." (Choose the higher of the two benefits, or incur the lesser of the two harms when burdened with them both.) Upon this great asl many issues are built. When the benefit and harm are both equal then averting harm takes precedence over procuring benefits.

And from them is, "<u>Lā tutimmu al-ahkām illā bi wujūdi shurūtihā wa intifā'mawāni'ihā</u>." (Rulings are not complete except with the presence of their conditions and the negation of their impediments.) This is a tremendous principle, and built upon it—from the issues, rulings and other matters—are many things. When there is an absence of a *shart* (condition) for '*ibādāt*, *mu'āmālāt*, or establishment of rights, then it is not correct, nor is it established. Likewise, if its impediments are present, then it is not correct, nor is it valid.

The *shurūt* (conditions) for '*ibādāt* and *mu'āmalāt* are: all those matters upon which the validity of such '*ibādāt* and *mu'āmalāt* rest. And these *shurūt* are known through detailed analysis of the *Sharī'ah*. Through investigating this *asl*, the *fuqahā* calculated the *farā'id* (obligations) of the various '*ibādāt*, and their *shurūt* (conditions). Likewise, by it they were able to determine the *shurūt* and *mawāni*' (impediments) for the *mu'āmalāt*. As for *al-hasr*: it is establishing a ruling for something, whilst negating it from something else. Through the utilisation of *hasr* the *fuqahā* are able to determine the *shurūt* of various things and matters, and that which falls outside of them, then the ruling is not affirmed.

And from them is their saying, "<u>Al-bukm yuduru ma''illatihi thabūtan wa 'ada-</u> <u>man</u>." (The ruling revolves around its reason in both affirmation and negation.) So when the '*illal at-tāmah* (complete reason)—that is known as what the *Sharī'ah* has linked the ruling to—is present, then the ruling is present. When it is absent, then the ruling is not established.

And from them is their saying, "<u>Al-aslu fī al-'ibādāti: al-hazru, illā mā warada</u> 'an ash-shāri' tashrī'uhu, wa al-aslu fī al-'ādāt al-ibāhā, illā mā warada 'an alshāri' tahrīmuhu." (The asl concerning acts of worship is prohibition, except what is related from the Shāri' regarding it being legislated, and the asl regarding customs and habits is permissibility, except what is related from the Shāri' regarding its forbiddance.) This is because *ibādah* (worship) is what the Shāri' has prescribed, either as something wājib or mustahabb. Thus, whatever

Appendix: Principles of Figh

is outside of this is not considered to be an act of worship. And because Allah created for us all that is upon the earth, so that we may benefit from all things and utilise them, except those things that the Shāri' made *harām* for us.

From them, "<u>Idhā wujidat asbāb al-'ibādāt wa al-huqūq: thabatat wa wajabat</u> <u>illā idhā qāranahā al-māni</u>"." (If the reason for acts of worship and huqūq are present, they are confirmed and obligatory, except if it is connected with a prevention.)

And from them, "Al-wajibatu talzamu al-mukallafin." (Obligations are binding upon the morally responsible.) <math>Al-taklif (moral responsibility) is attained with al-bulugh (attainment of maturity) and al-'aql (sanity). Compensation for damages becomes wajib upon the makallafin and others. Whenever a person reaches maturity and is sane, those general obligations of worship become required from him to perform. And those specific obligations of worship also become required from him, providing he possesses the qualities which necessitate them. The nāsī (forgetful) and the jāhil (ignorant one) are not held responsible from the point of view of sinning, but not from the point of view of compensating for damages.

فصل Section

The statement of a single Companion—defined as anyone who met the Prophet \mathfrak{K} , having *imān* and dying upon *imān*—if it became widespread and was not objected to, instead being affirmed by the Companions, then it is a form of *ijmā*. If it is not known to have become widespread, nor is there known to be anything in opposition to it, then according to the most correct opinion, it is an authentic *hujjah* (proof). However, if other Companions have disagreed or contradicted it, then it is not a *hujjah*.

فصل Section [General Principles]

An *amr* (command) for something, entails a *nahī* (prohibition) for its opposite. And a prohibition of something entails a command for its opposite. A prohibition of something necessitates that matter to be null and void, except if there is a *dalīl* (evidence) indicative of its validity. And a command which follows a prohibition returns it to what it was prior to this. And both an *amr* and a *nahī* necessitate immediate compliance. However they do not require repetition, except when linked to a specific *sabab* (cause). So it becomes *wājib* or *mustahabb* to comply whenever that *sabab* (cause) exists.

Matters in which choice is given are of varying types: If the choice was given with the aim of facilitating ease to the *makallaf*, then the choice is desirable and preferred. If the choice was given to achieve a particular *maslahah* (benefit), then choosing that which brings a greater benefit is *wājib*.

"Al-'ibrahtu bi 'umūmi al-lafz, lā bi khusūsi al-sabab." (The lesson is in the generality of the wording, not in its specific cause.)

The *khās* (specific) can mean the '*ām* (general) and vice versa, providing the existence of *qarā*'*in* (signs) are indicative of this.

The *khitāb* (address) of the Shāri' to any one of the Ummah, or His Speech in any specific issue, actually includes all the Ummah, and all the specific issues, unless there is an evidence indicating that it is *khās* (specific).

The *asl* concerning the actions of the Prophet 3% is that his Ummah is to take him an example to follow except when there exists an evidence indicating specificity to him.

If the Shāri' negates an act of worship or *mu'āmalāt*, then this indicates that it is invalid, or it is a negation of some necessary aspect of it. In this case the negation does not totally negate some of the recommended parts of it.

Contracts are bound or cancelled by whatever indicates this, from statements and actions.

Masā'il (issues) are of two types: [i] Where there is ijma'. So here it is required to gather and to establish the evidence upon it, then to rule accordingly, after gathering and deducing. [ii] Where there is *khilāf*. So here it is required to reply to the evidence of the differing opinions. This is the right of the *mujta-hid* (the one capable of employing *ijtihād*) and the *mustadil* (the one able to employ inference). As for the *muqallid* (blind follower), his duty is to ask the people of knowledge.

And *taqlīd* is the acceptance of the saying of someone else without proof. The one capable of inference, it is upon him to exercise *ijtihād* and *istidlāl*. As for the one who is incapable, then it is upon him to make *taqlīd* and ask, as Allah has mentioned regarding both matters: {**Ask the People of Knowledge if you do not know**}⁷³⁰ And Allah knows best.

May Allah extol and send the blessings of peace upon Muhammad the Messenger of Allah, and upon his family, Companions and followers.

⁷³⁰ Anbiyah: 7