

encyclopedia of ISLAMIC LAW

PART 2



By: Yusuf Al-Hajj Ahmad



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Volume - 2

By: Yusuf Al-Hajj Ahmad

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Contents

The Prayer	6
Adhaan and Iqamah.....	7
Conditions for the Validity of Prayer.....	10
Things Disliked in Prayer.....	16
Congregational Prayer, Traveler's Prayer, Prayer of Fear and the Jumu'ah Prayer.....	18
Jumu'ah Prayer	24
Supererogatory Prayers	26
The Two Eid Prayers.....	28
Zakatul-Fitr	31
Al-Udhiyah.....	33
Taraaweeh Prayer.....	36
Prayer for Eclipse of the Sun and Moon	37
Prayer for Rain (Sala tul-Istisqa).....	38
Ruling of Funerals.....	39
Book of Zakah.....	46

Nisab, Its Conditions and What is Due on Each Nisab	48
Zakah of the Mixed Wealth.....	54
Manner of Paying Zakah.....	55
Beneficiaries of Zakah	57
Paying Zakah on Money Loaned out to others	61
Book of Fasting.....	61
Etiquettes of Fasting.....	66
Making up for the Missed Days in Ramadan.....	66
Supererogatory Fasting	68
The Disliked and the Forbidden Fasts.....	68
I'tikaaf.....	69
What is the ruling concerning I'tikaaf?	70
Book of Hajj.....	73
Entering into the State of Ihra'm.....	78
Rites of Hajj and "Umrah.....	81
Recommended Acts of Hajj, Termination of Ihram for Hajj	85
Violation of a Hajj Rite, Ruling Concerning a Person who is Prevented, Miscellaneous Rulings ...	91
Visiting the Prophet's Mosque and His Noble Grave.....	96
Oaths and Vows	99
Slaughtering, Hunting, Food and Drink	103
Hunting.....	106
Foods.....	108
Drinks.....	111
Al-Aqiqah.....	113
Book of Dress and Adornment.....	113
Book of Nikah (Marriage).....	120
Etiquettes of Marriage.....	124
Conditions Made in Marriage	127
Marital Rights and Obligations	130
Wife's Rebellion (Nushuz)	133
Conjugal Bed Manners.....	133
Invalid Marriages	134
Women Forbidden for Marrying.....	136
Divorce.....	139
Khul'	144
I'la.....	144
Ziha'r.....	146
Li'an.....	148

‘Iddah	149
Maintenance	153
Hadhanah	155
Suckling	158
Kinship	159
Book of Inheritance and Its Rulings.....	161
Mutual Inheritance	161
Causes of Inheritance	161
Males and Females who are entitled to a Share of Inheritance	163
The Prescribed Statutory Portions.....	164
Ta’sib	165
Hajb (Exclusion)	167
Cases of Inheritance involving Grandfather.....	169
Tashih.....	170
Awl.....	171
Ta’seel.....	172
Division of the Estate	174
Munasakhah	176
Share of a Hermaphrodite	178
Inheritance of the Fetus, the Lost Person and the Drowned.....	178
Shares of Kith and Kin.....	179
Book of Interactions	182
Sales	182
Ribaa (Usury).....	189
As-Sarf	194
As-Sala’m.....	195
Shuf’ah (Right of Pre-emption).....	196
Iqalah (Revocation of Contract)	198
Shari’kah (Partnership)	198
Mudharabah	200
Al-Musaqat.....	201
Muzara’ah (Leasing of Land for Agriculture)	202
Ijarah.....	204
Al-Ju’alah (Reward or Prize).....	206
Hawalah (Transfer)	208
Adh-Dhaman (Guarantee-ship).....	208
Al-Kafalah (Surety-ship).....	209
Ar-Rahn (Mortgage).....	210

Al-Wakalah (Delegation).....	212
As-Sulh (Peacemaking).....	213
Reviving a Dead Piece of Land.....	216
Excess Water.....	216
AJ-Iqta' (Land Allocation).....	218
Al-Hima' (Sanctuary).....	218
AJ-Qardh (Loan).....	219
AJ-ladi'ah.....	221
Al-Ariyah.....	223
Al-Ghasb (Illegal Seizure of Property).....	225
Al-Luqtah.....	227
Laqit.....	229
Al-Hajr.....	229
Bankruptcy.....	231
Al-Wasiyyah (Will and Testament).....	231
Al-Waqf.....	234
Hiba'h.....	236
Al-'Umra (Life Grant).....	237
Ar-Ruqba.....	238

The Prayer

What is the meaning of prayer?

Its specific sayings and actions started with Takbeer and ended with Tasleem.

What is the wisdom behind ordainment of prayer?

One: It makes man aware of his real identity, which is his being a slave of Allah.

Two: It establishes in man's mind that the only real Helper and Giver of favor is Allah, High and Exalted.

Three: It provides man with an opportunity to repent and turn to Allah from all the sins he has committed.

Four: It serves as continuous nourishment for the belief in Allah that is already established in the heart. For, distractions of this world and satanic insinuations can make one forget this belief, even if it is already firmly-rooted in the heart.

When was prayer ordained?

Prayer is one of the ancient acts of worship in terms of its ordainment. Allah says about Prophet Isma'eel - peace be upon him,

﴿وَكَانَ يَأْمُرُ أَهْلَهُ بِالصَّلَاةِ وَالزَّكَاةِ وَكَانَ عِنْدَ رَبِّهِ مَرْضِيًّا﴾

“And he used to enjoin on his family and his people As-Salaat (the prayers) and the Zakaat, and his Lord was pleased with him.” Maryam 19:55

When Allah sent our Prophet Muhammad (Peace and Blessings of Allah be upon him), he used to perform two Rak'ahs in the morning and two in the evening. Some scholars say they are the interpretation of Allah's saying,

﴿وَسَبِّحْ بِحَمْدِ رَبِّكَ بِالْعِشِيِّ وَالْإِبْكَارِ﴾

And glorify the praises of your Lord in the 'Ashi (i.e. the time period after the midnoon till sunset) and in the Ibkaar (i.e. the time period from early morning or sunrise till before midnoon).” Ghaafir 40:55

As for the five obligatory prayers, they were ordained when the Messenger of Allah (Peace and Blessings of Allah be upon him), was taken on a night journey to Jerusalem and from there was made to ascend to the heavens. Fifty prayers in the day and the night were initially ordained upon the Prophet and the Muslims. Allah then reduced them to five as a way of making it easy for His slaves. Therefore, they are five in performance but fifty in reward.

The authentic opinion is that the incidence of Isra took place eighteen months before the Prophet's emigration from Makkah to Madinah. With the ordainment of the five obligatory prayers, the two Rak'ahs that the Prophet (Peace and Blessings of Allah be upon him), used to perform in the morning and the evening were abrogated.

What is the position of the prayer in Islam?

Prayer is absolutely the best physical act of worship. It is a pillar of the religion.

What is the ruling concerning a person who abandons the prayer?

If a person abandons the prayer in denial of its being obligatory or in mockery of it, then he has become a disbeliever and an apostate. The Muslim ruler should order him to repent. If he repents and starts performing prayers, that is alright; if he fails to repent, then he should be executed as an apostate. After his death, he should not be washed, neither should he be shrouded. Funeral prayer should not be performed on him and he should not be buried in the Muslim cemetery because he is not one of them.

If a person abandons the prayer out of laziness but believes in its obligation, the ruler should compel him to pray and to repent from abandoning it. If he fails to perform the prayers, then he should be executed as a punishment for abandoning one of the obligations of Islam.

However, he should be regarded a Muslim after his execution and he should be treated the same in terms of the burial, and inheritance because he is one of the Muslims.

What is the prescribed time for Fajr prayer?

The time for Fajr prayer starts from the appearance of the true dawn till sunrise.

What is the prescribed time for Zuhr prayer?

It starts from when the sun leaves its zenith and continues till the shadow of an object is the same length as its height.

What is the time for 'Asr prayer?

The time for 'Asr prayer starts at expiration of the time of Zuhr and continues till sunset.

What is the prescribed time for Maghrib prayer?

Maghrib prayer is due at sunset and continues till the twilight of the sun completely disappears.

What is the prescribed time for 'Ishaa prayer?

It starts at the complete disappearance of the twilight of the sun and continues until just before the break of the true dawn. It is preferred that it is not delayed beyond the end of the first third of the night.

When is performance of prayer disliked?

It is disliked to perform prayer during the following times: When the sun is at its zenith, after Fajr prayer until the sun has completely risen to the length of a spear above the horizon and after 'Asr prayer until sunset.

Upon whom is prayer obligatory?

Prayer is obligatory upon every Muslim male or female who has reached the age of puberty and is sane. It is not obligatory upon a disbeliever because it would not be valid if he performed it.

Adhaan and Iqamah

What is the meaning of Adhaan?

Adhaan is a special Dhikr that Islam ordained to inform people that the time of an obligatory prayer has come and to invite the Muslims to gather for it.

What is the ruling regarding Adhaan?

Adhaan is recommended for both the scheduled and the missed prayers. It is an emphatic and collective Sunnah as far as a congregation is concerned and individually recommended as far as individual is concerned. Adhan plays a major role in showing one of the rituals of Islam.

What are the conditions for validity of Adhaan?

Islam: for an Adhaan made by a non-Muslim is invalid because he is not eligible for any of the Islamic acts of worship.

Attainment of age of discretion: The Adhaan made by a child who has not attained the age of discretion is invalid because he also is not eligible for acts of worship, in addition to the fact that he does not know the prescribed time of each prayer.

Masculinity. The Adhaan made by a woman for men is not valid as too is her leading them in prayer.

Adhering to the words of the Adhaan in their order for failure to do so will give an impression of playing with Adhaan and, therefore, will fail to serve the purpose for which it is ordained such as is to inform the people that the time for prayer has arrived.

The words of Adhaan should be made in sufficiently quick succession and avoidance of long breaks between a word and the following one.

Making it loud if it is being made for a congregation; but if one is making Adhaan for himself, it is also recommended that he make it loud in a place that is outside a mosque in which congregational prayer is held.

It should be ensured that the prescribed time of the particular prayer has arrived.

What are the recommended aspects of Adhaan?

The Mu'adhdhin (the caller of Adhaan) should face the Qiblah, because that is the noblest direction and because doing so has being reported from the righteous predecessors and those who followed them.

The Mu'adhdhin should be pure from major and minor impurities. It is disliked that a person who does not have ablution should make the Adhaan; and it is strongly disliked for a person who is in a state of sexual defilement to do so.

The Arhaan should be made in a standing position.

The Mu'arhrhin should turn his head (and not his body) to the right when he says, 'Hayya 'alas-salaah' and to turn it to the left when says, 'Hayya 'alal-falaah'.

He should slowly recite the words of the Adhaan because the purpose of Adhaan is to inform those who are absent. Therefore, reciting the words slowly serves that purpose better.

Making Tarji' by reciting the two shahadahs twice silently and then recite twice loudly.

Making Tathwib in the Adhaan of Fajr prayer by saying, after 'Hayya 'alal-falaah, 'As-salaatu khayrun minan-nawm' (prayer is better than sleep) twice.

The Mu'adhdhin should have a sonorous and beautiful voice in order to make the heart of the listener tender.

He should be known among the people as a righteous and well-mannered person. This makes people respond better when he informs them through the Adhaan that the prayer time is due. Naturally, the information of an impious person is not accepted.

Words of Adhaan should not be unnecessarily elongated.

It is recommended that each mosque should have two Mu'adhhdhin for Fajr prayer, one making Adhaan before the break of the dawn and the other, after the break of the dawn.

It is recommended that the hearer of Adhaan keep quiet and listen and repeat what the Mu'adhhdhin says. The proof for this is the saying of the Prophet (Peace and Blessings of Allah be upon him): "Whenever you hear the Adhaan, say what the Mu'adhhdhin is saying." (Recorded by Al-Bukhari and Muslim).

Making supplication and invoking Allah's blessing upon the Messenger after the Adhaan. Jabir ibn 'Abdullah - may Allah be pleased with him - narrated that the Messenger of Allah (Peace and Blessings of Allah be upon him) said: Whoever after listening to the Adhaan says,

«اللَّهُمَّ رَبَّ هَذِهِ الدَّعْوَةِ التَّامَّةِ، وَالصَّلَاةِ الْقَائِمَةِ، آتِ
مُحَمَّدًا الْوَسِيلَةَ وَالْفَضِيلَةَ، وَأَبْعَثْهُ مَقَامًا مَحْمُودًا الَّذِي
وَعَدْتَهُ»

'Allahumma Rabba hadhihid-da'watit-tammati was-salatil qa'imati, aati Muhammadanil-wasilata walfadilata, wab'athhu maqaman mahmudanil-ladhi wa 'adtahu

O Allah! Lord of this perfect call (of not ascribing partners to You) and of the regular prayer which is going to be established! Kindly give Muhammad (Peace and Blessings of Allah be upon him) the right of intercession and superiority and send him (on the Day of Judgment) to the best and the highest place in Paradise which You promised him'

then intercession will be permitted for him on the Day of Resurrection".

What is the difference between Adhaan and 'Iqamah?

Wordings of the Adhaan are recited twice while those of Iqamah are recited once.

Wordings of the Adhaan are recited slowly while those of the Iqamah are recited quickly.

If one misses some prayers and wants to make up for them, he should make Adhaan for the first prayer only but he should make Iqamah for each of the prayers.

What about making Adhaan for non-obligatory prayers?

Adhaan and Iqamah are emphatic Sunnahs for obligatory prayers. As for other prayers recommended to be performed in congregation such as the two Eid prayers, prayer for eclipse of the sun or moon and funeral prayer, neither Adhaan nor Iqamah is recommended for them. The Mu'adhhdhin should only say, 'As-Salaatu Jaami'ah.' Allah knows best.

Conditions for the Validity of Prayer

Pillars and Recommended parts of the prayer

What is a condition?

A condition (in the Sharia'ah) is something upon which the existence of another is dependent though it is not a part thereof.

What are the conditions for the validity of prayer?

Purification, and this is of categories:

1. Purification of body from impurity.
2. Purification of body from filth.
3. Purification of garment from filth.
4. Purification of the place from filth. What is meant by the place is the very space that a praying person occupies while he prays. This covers the place of his feet up to where he lays his face in prostration and whatever space that any part of his body touches in prayer.

To be aware that the time of the prayer is due

That the time of a prayer is due is known through any of these means:

1. Certain knowledge by relying on a clear and felt proof such as seeing the sun setting into the sea;
2. Exercising independent judgment based upon presumption and direct proof such as shadow or reckoning with actions and their length of their duration;
3. Imitation: this is resorted in the absence of certainty or ability to exercise independent judgment. If a person does not know the prayer times and their signs, then he should imitate either a scholar who relies upon a felt proof or a Mujtahid who relies upon presumptive proofs.

Covering of nakedness

Nakedness that should be covered in prayer:

A Man should cover what is between his navel and knees, and should reveal nothing thereof in prayer. As for the woman, she should cover her entire body with the exception of the face and the hands.

Facing the Qiblah. What is meant by the Qiblah is the noble Ka'bah.

What are the pillars of prayer?

Making intention is the first action of the prayer. The intention should be made in the heart (it should not be spoken out). In order to be valid, it has to be made at the time of reciting the first Takbeer.

Performing the prayer in standing position if one is able to stand. However, this applies to only obligatory prayers. As for supererogatory prayers, performing them in standing position is recommended but one can still perform them in sitting position if one likes, whether one is able to stand or not. Al-Bukhari recorded on the authority of 'Imra'n ibn Husayn -may Allah be pleased with him - that the Messenger of Allah (Peace and Blessings of Allah be upon him) said: "It is better for one to pray standing; and whoever prays sitting gets half the reward of the one who prays while standing; and whoever prays while lying gets half the one reward of that who prays while sitting." Making the first Takbeer (Takbeerah Al-Ihraam): It is to be pronounced in this form: 'Allahu Akbar'. There is nothing

harmful in adding any word or attribute of Allah that does not prevent the prominence of the Name Allah. One can say, for instance, 'Allah Al-'Azeem Akbar'. Validity of the first Takbeer is determined by three things:

1. It should be pronounced in a standing position. If a person pronounces it while going to the standing position, it will be regarded as valid.
2. It should be pronounced while facing the Qiblah.
3. It should be pronounced in the Arabic language. If a person cannot pronounce it in the Arabic language and it is not possible for him to learn how to pronounce it before the time of the prayer expires, then it should be interpreted for him and he should express its meaning in whatever language he understands. However, he must learn its pronunciation in Arabic if he can.
4. He should pronounce it loud enough for himself to hear each of its letters if he does not have hearing impairment.
5. He should pronounce it along with the intention, as earlier mentioned.

Recitation of Surah Al-Fatihah with the following conditions:

1. He should recite it loud enough for himself to hear it if he has sound hearing.
2. He should recite the Surah in its arranged order with meticulous pronunciation of every letter while taking into consideration all the sharrahs.
3. He should avoid reciting it in an ungrammatical form that can alter the meanings. If his ungrammatical recitation of it does not change the meaning, then it will not be rendered invalid.
4. It should be recited in Arabic language and not in translated form, for translation is not part of the Qur'an.
5. It should be recited in standing position. If one goes to bowing position while still reciting it, then the recitation is invalid and should be repeated. If a person is unable to recite Surah Al-Fatihah, then he should recite in its stead seven verses of whatever he has memorized of the Qur'an. If he has memorized nothing, then he should remember Allah for as long as it takes to recite Surah Al-Fatihah and then bow.

Bowing:

Conditions of bowing are:

1. Bending one's back until the hands rest on the knees.
2. The bending should be solely meant for bowing in prayer.
3. He should feel at ease in his bowing for a period of reciting Tasbeeh once.

Standing up upright after the bowing. This should be done with the following conditions:

1. His standing upright after the bowing should be solely for the purpose of prayer.
2. He should feel at ease in his upright standing for at least a period reciting Tasbeeh once.
3. He should not unnecessarily prolong the standing beyond a period of reciting Surah Al-Fatihah. This is because it is a short pillar that should not be prolonged.

Prostration twice with following conditions:

1. Allowing the forehead to touch the ground.
2. prostration should be done on seven bones which the Messenger of Allah mentioned in his saying: " I have been ordered to prostrate on seven bones i.e. on the forehead along with the tip of the nose and the Prophet pointed towards his nose, both hands, both knees and the toes of both feet." (Recorded by Al-Bukhari and Muslim on the authority of 'Abdullah ibn 'Abba's - may Allah be pleased with him and his father.
3. He should not prostrate on clothing that he is wearing.
4. The purpose of his prostration should be solely for worshiping Allah.
5. He should rest his forehead on the ground.
6. He should be at ease in his prostration for a period reciting at least Tasbihah once.

Sitting between the two prostrations. This is done with the following conditions:

1. It should be done for the purpose of worship and not for other purposes such as fear and the like.
2. It should not be prolonged for more than the period in which a person can recite the shortest Tashahhud.
3. One should be at ease for a period long enough to recite Tasbihah at least once.

Final sitting. This is sitting that is made at end of the last Rak'ah of the prayer and is followed by Tasleem.

Making Tashahhur in the last sitting. Its format is as followed: Attahiyyatu lillahi wassalawatu wattayyibatu , assalamu 'alayka ayyuhan-nabiyyu wa rahmatul-laahi wa barakatuh, assalamu 'alayna wa 'ala ibadil-lahis-saaliheen. Ashhadu an lailaaha illal-lah, waashhadu anna Muhammadan abduhu wa rasuluh.

'At-tahiyyaat is for Allah. All acts of worship and good deeds are for Him. Peace and the mercy and blessings of Allah be upon you O Prophet. Peace be upon us and all of Allah's righteous servants. I bear witness that none has the right to be worshipped except Allah and I bear witness that Muhammad (Peace and Blessings of Allah be upon him) is His slave and Messenger.'

While reading the Tashahhud, one must take the following into consideration:

1. He should recite loud enough for himself to hear if he does not have any hearing impairment.
2. He should recite it in succession. If he interrupts it with long silence or another dhikr, then it is no longer valid and he has to repeat it.
3. Tashahhud should be recited in sitting position.
4. It should be recited in Arabic; if he cannot read it in Arabic, he may recite it in any language. However, he should learn how to recite it in Arabic.
5. Attention to proper pronunciation of its wordings. If he recited it in an erroneous way and caused an alteration in its meaning, then the Tashahhud is invalid and should be repeated.
6. Its wordings should be recited according to the order in which they are recorded in the Hadith.

Invoking blessing on the Messenger of Allah in the last Tashahhud in the following format:

«اللَّهُمَّ صَلِّ عَلَى مُحَمَّدٍ وَعَلَى آلِ مُحَمَّدٍ، كَمَا صَلَّيْتَ
عَلَى إِبْرَاهِيمَ وَعَلَى آلِ إِبْرَاهِيمَ، إِنَّكَ حَمِيدٌ مَجِيدٌ،
اللَّهُمَّ بَارِكْ عَلَى مُحَمَّدٍ وَعَلَى آلِ مُحَمَّدٍ كَمَا بَارَكْتَ
عَلَى إِبْرَاهِيمَ وَعَلَى آلِ إِبْرَاهِيمَ، إِنَّكَ حَمِيدٌ مَجِيدٌ»

Allahumma salli 'ala Muhammad, wa'ala ali Muhammad, kama sallayta 'ala Ibraheema wa'ala ali Ibraheem, innaka Hameedun Majeed, Allahumma barik 'ala Muhammad, wa 'ala ali Muhammad, kama baarakta 'ala Ibraheema wa 'ala ali Ibraheem, innaka Hameedun Majeed.

'O Allah, send prayers upon Muhammad and the family of Muhammad, just as You sent prayers upon Ibraheem and upon the followers of Ibraheem. Verily, You are full of praise and majesty. O Allah, send blessings upon Muhammad and upon the family of Muhammad, just as You sent blessings upon Ibraheem and upon the family of Ibraheem. Verily, You are full of praise and majesty.'

While making this invocation, the following has to be taken into consideration:

1. He should recite loud enough for himself to hear if he does not have hearing impairment.
2. It should be with the word 'Muhammad' or 'the Messenger' or 'the Prophet'. It will not be valid if he uses the word 'Ahmad'.
3. Invocation on the Prophet should be recited in Arabic; if he cannot read it in Arabic; he may recite it in any language. However, he should learn how to recite it in Arabic.
4. The order in which wordings of invocation are recorded should be maintained. Also, the recommended order between it and the Tashahhud should be followed. It should not be recited before the Tashahhud.

The first Tasleem:

This is to say, while turning one's head to the right and left side: 'Assalamu 'alaykum wa rahmatullah'.

Adhering to these pillars in the above order. For instance, one should start with the intention and the first Takbeer, then recitation of Al-Fatihah, then bowing, then standing up upright, etc.

If one intentionally brings forward any of these pillars before its time is due, the entire prayer becomes invalidated. But if he does so unintentionally, his prayer, starting from the pillar he brought forward before its time was due, becomes invalid; and he should repeat his prayer from that point.

Therefore, if he continues in his prayer after he has changed the required order until he has reached the same place in the following Rak'ah, that Rak'ah replaces the earlier one (which has already been invalidated) and he has to perform an additional Rak'ah to make up for the invalidated one.

What is Sunnah?

Sunnah is what a Muslim is required to do but is not compulsorily. He is rewarded for doing it and he is not punished for abandoning it.

What are the Sunnahs performed before the prayer?

1. Adhaan

2. Iqamah
3. Taking a Sutrah (screen) between oneself and the passersby such as a wall, a pillar or a rod, or drawing a line if no object is found.

What are the Sunnahs performed during the prayer?

There are two types of Sunnahs: The one whose abandonment is atoned with prostration of forgetfulness; and the one the abandonment of which does not need any atonement.

The Sunnahs whose abandonment needs to be atoned with prostration of forgetfulness are:

1. First Tashahhud.
2. Invocation upon the Messenger of Allah (Peace and Blessings of Allah be upon him) at the end of the first Tashahhud.
3. Sitting position for the first Tashahhud.
4. Invocation of blessing upon members of the household of the Prophet at the end of the last Tashahhud. Al-Qunoot after standing up upright from the second Rak'ah of Fajr prayer, in the last Rak'ah of witr prayer during the second half of Ramadan and while standing upright from the bowing of the last Rak'ah of the prayer performed for special events.

Sunnahs whose abandonment need not be atoned for:

1. Raising up of the two hands while making the first Takbeer and while going to bowing position and getting up from it.
2. Placing the right hand on the left while in standing position.
3. Looking at the place of prostration.
4. Commencing the prayer after the first Takbeer with supplication of Tawajjuh.
5. Seeking refuge with Allah after the Tawajjuh.
6. Reciting loud where recitation should be done loudly and reciting silently where it should be done silently.

Saying Aameen after finishing recitation of Surah Al-Fatihah. Saying Aameen is Sunnah for every worshipper in his prayer to be said loudly in prayers in which recitation is made loudly and silently in prayers in which recitation is made silently. The one who prays behind an Imaam should follow the Imaam in this. Aameen means: Accept it, O Lord!

1. Reciting a portion of the Qur'an after Surah Al-Fatihah.
2. Saying Allah u Akbar whenever one moves from one position to another.
3. Saying Tasbeeh during bowing and prostration. It is to say while in bowing position: Subhana rabbiyal-'Azeem (three times) 'How perfect my Lord is, The Supreme.' and to say in prostration: Subhana rabbiyal-A'la (three times) 'How perfect my Lord is, the Most High.' This is the least one can say. If one wants to say more, it is better.
4. Placing of hands on the thighs while sitting down for Tashahhud.

Doing Tawarruk in the last sitting position and Iftirash in other sitting positions. Tawarruk is to rest the body, during sitting position, on the left thigh and putting the left foot under the right leg, while setting the right foot upright; and supporting the body by the left hand with which the left knee is grasped.

Iftirash means to place the left foot on the ground and sit on its ankle, while keeping the right foot standing vertically on its toes, which are pointed towards the direction of prayer.

1. Reciting Assalawatul-Ibraheemiyah and then making supplications after the last Tashahhud.
2. The second Tasleem.
3. Maintaining concentration and consciousness throughout the prayer.

What are the Sunnahs performed after the prayer?

1. Saying Istighfar, dhikr and supplications.
2. Moving from the place where the obligatory prayer has just been performed to another place for voluntary prayer, in order to increase places of prostration. These places will testify for one on the Day of Judgment.
3. If a group of men perform prayer in a mosque and there are women who perform prayer behind them, it is recommended that the men stay put in their positions until the women have gone out of the mosque. This is to avoid intermingling that is a potential cause of moral perversion.

Things Disliked in Prayer

Matters in which Men Differ from Women Invalidators of Prayer Prostration of Forgetfulness Prostration of Recitation

What is the meaning of 'disliked' Makruh

Makruh is something whose abandonment a worshipper will be rewarded, but he will not be punished if he does it.

For example, abandonment of Takbeer when moving from one position to another is Makruh because saying it is Sunnah. Likewise, abandonment of reciting Tawajjuh is Makruh while reciting it is Sunnah.

What are the things disliked in prayer?

1. Looking back by turning the neck unnecessarily.
2. Setting one's gaze towards the sky.
3. Performing prayer ready longing to eat it. This is because; the heart will be preoccupied with it and will deprive one of concentration and consciousness in prayer.
4. Praying while under the pressure of answering the call of nature.
5. Praying while one is in a strong state of sleepiness.
6. Performing prayer in a bathroom, pathway, marketplace, graveyard, church, dunghill or resting place for camels. Some of these are possible places of impurity while some others are places where hearts distracted away from the remembrance of Allah.

What are the things in which a woman differs from a man?

One: She should hold parts of her body together while, on the contrary, a man is expected to keep his arms separated from his sides and to lift his belly away from his thighs.

Two: A woman should lower her voice in the presence of alien men. She should not read aloud even in prayers in which recitation is made loudly, for fear of causing temptation.

Three: If something happens to a woman while she is in prayer and she wants to call the attention of someone who is around unto it, she should just strike her right palm on the back of her left hand.

As for a man, whenever something happens to him while he is in the prayer, he should make Tasbeeh loudly.

Four: The entire body of a woman should be covered with the exception of the face and the hands.

Five: It is not recommended for a woman to make Adhaan but it is recommended for her to make Iqamah. If she makes Adhaan in a low voice, it is not disliked. Rather, it will be regarded as an act of remembrance of Allah for which she will be rewarded. If she raises her voice with it, then it is disliked even if there is assurance that doing so will not cause any temptation.

What are the things that vitiate the prayer

1. Speaking intentionally, with the exception of reciting the Qur'an, dhikr and supplications that are part of the prayer. The speech that vitiates the prayer is that which consists of two letters or more even if it is meaningless. However, if the word consists of a single letter and carries a meaning, it also vitiates prayer. If he talks forgetfully or unknowingly while in the prayer due to his being a recent convert to Islam, a short speech would be tolerated on his part if they do not exceed six words.

2. Much action: Much action starts from three actions and more and these actions should follow one another in succession. If this happens, then prayer becomes vitiated.
3. The garment or body being affected with impurity. That is when an impurity affects any of the two and the person does not quickly remove it. Then, the prayer performed with impurity will be invalid. If wind or something like that blows impurity on his body or garment and he is able to remove it immediately because it is dry, the prayer is not vitiated.
4. Revealing any part of one's nakedness. If a worshipper intentionally reveals any part of his nakedness, his prayer is absolutely vitiated. If a part of his nakedness is revealed unintentionally and he quickly covers it, then the prayer is not vitiated. But if he does not cover it quickly, the prayer is vitiated. This is because; there is a deficiency in one of the conditions of prayer.
5. Eating or drinking, for doing so contravenes the situation and order of prayer. If a person intentionally eats anything however small it may be, his prayer is vitiated. Unintentional eating does not vitiate the prayer if it is not much. The scholars defined 'much' as what can reach the size of a chick-pea if collected together. If there is a remnant of food stuck in-between a person's teeth and this remnant does not reach the size of a chick-pea if collected together, if he unintentionally swallows it along with saliva, his prayer is not vitiated.
6. Falling into a state of impurity before the first Tasleem is made. It does not matter whether this happens intentionally or not.
7. Clearing one's throat, laughing, crying or moaning, if this results into voicing out of two letters or one letter that has a meaning. If all that could be made out of such a noise is no more than a single letter that carries no meaning or if no letter could be made out of such noise, then the prayer is not vitiated. Mere smiling does not vitiate a prayer.
8. Making remembrance of Allah or making supplication if it is not meant to address the people. If it is meant to address the people, then it invalidates the prayer. An example of this is when a person says to another, 'Yarhamukallaah' (May Allah have mercy upon you) For, such a supplication is regarded as a talk among people, and the prayer is not an occasion for such a talk.
9. Changing of intention: If a person who is in prayer intends to terminate it or to condition its termination on a matter such as arrival of a person, the prayer is vitiated by creeping of such intention into his mind. The reason for this is that prayer will not be valid without a definite and clear intention, and this definite intention is an antithesis to an intention to terminate the prayer.
10. Backing the Qiblah. This is because facing the Qiblah is one of the conditions for the validity of the prayer. If a person backs the Qiblah whether knowingly or another person forces him to do so. In case of backing the Qiblah deliberately, the prayer becomes invalid immediately. But if he is forced to do so, the prayer will only become invalid if he remains in that position. If he quickly turns towards the Qiblah, the prayer remains valid.

What is prostration of forgetfulness?

This is a prostration made to make up for errors committed by a worshipper in his prayer regardless of its being deliberate or unintentional. The prostration is done at the end of the prayer.

What is the ruling regarding prostration of forgetfulness?

It is Sunnah to observe it whenever one of the things that necessitate it occurs. If one does not observe it, the prayer still remains valid. For, the prostration is not obligatory, because it was not ordained to make up for abandonment of an obligatory action.

What are things necessitating prostration of forgetfulness?

Abandonment of some parts of the prayer such as the first Tashahhur or Qunoot.

Doubting about the number of Rak'ahs one has performed.

In this case, the worshiper reckons with the least number, completes the remaining Rak'ahs and then observes prostration of forgetfulness to make up for a possibility that he has made some additions to his prayer. If, for example, a person is performing Zuhr prayer and he is in doubt as to whether he had prayed three or four Rak'ahs, he should assume that he had prayed three and add another Rak'ah. He then makes prostration of forgetfulness to make up for the possibility of adding the fifth Rak'ah.

Doing a forbidden act obliviously, if doing it intentionally vitiates the prayer. For example, if he unintentionally utters a few words or performs an extra Rak'ah and realizes that while still in prayer, he makes up for that with prostration of forgetfulness.

Performing any of the actions or pillars of the prayer in an inappropriate place, such as reciting Surah Al-Fatihah while sitting Tashahhud, or reading Qunoot in bowing position or reciting the Surah that should be recited in a standing position after getting up from bowing. For any of these, it is recommended that he makes prostration of forgetfulness at the end of the prayer.

How and where is prostration of forgetfulness made?

Prostration of forgetfulness is two prostrations like prostrations of prayer. The worshiper will make intention of making them. It is observed at the end of the prayer before the Tasleem. If a person performs the Tasleem before he makes prostration of forgetfulness and it was long before he remembers, then the prostration is no longer binding. But if he remembers within a short period after saying the Tasleem, he should make it and then repeat the Tasleem.

How many prostrations are made for recitation and what is its ruling?

It is recommended to make prostration of reciting the Qur'an both in and out of the prayer. It is also recommended for the listener who is not in prayer.

There are fourteen places in the Qur'an where prostration of recitation is recommended: One in each of the following Surahs: Al-A'raf, Ar-Ra'r, An-Nahl, Al-Israa and Maryam; two places in Surah AlHajj and one place in each of Surahs Al-Furqa'n, An-Naml, HaaMi'm Sajrah, An-Najm, Al-Inshiqaaq and Al-'Alaq.

How is prostration of recitation performed?

If a person wants to make prostration of recitation, he makes first Takbeer raising up his hands, makes another Takbeer for going to prostration without raising up his hands and then observe a single prostration and then makes Tasleem. The first Takbeer and the Tasleem are conditions for a valid prostration of recitation. Conditions that are essential for prayer are also essential for prostration of recitation. Some of these conditions are: being in the state of ablution and facing the Qiblah.

Congregational Prayer, Traveler's Prayer, Prayer of Fear and the Jumu'ah Prayer

What is the ruling concerning congregational prayer?

The correct opinion is that congregational prayer -with the exception of Jumu'ah prayer -is a collective obligation. The inhabitants of a town will not be excused unless it is openly held. If it is not held at all or held secretly, then the entire inhabitants of the town will be liable for punishment and the Muslim ruler should fight them for (until they hold it).

What are the accepted excuses for being absent from congregational prayer?

There are general excuses and private excuses. Examples of general excuses are: rain, strong night storm and great insecurity on the way.

Examples of private excuses are: illness, severe hunger and thirst, fear of an aggressor over one's life or property and answering the call of nature.

What are prerequisites for a person behind whom others pray?

The one praying behind him should not know about invalidity of the prayer of his Imam; he should neither believe in same.

Example: If two men exercise their discretion to find the direction of Qiblah and each of them believes in a direction different from that believed in by the other, then neither of them should pray behind the other.

The one leading the prayer should not be an illiterate while the one praying behind him is literate.

What is meant by illiterate here is a person who cannot correctly read Surah Al-Fatihah. If the one praying behind such an Imam is like him in this regard, then it is permissible for any one of them to lead the other in prayer.

The Imam should not be a woman while the one praying behind her is a man.

Manners of praying behind an Imam:

The one praying behind an Imam should not pray in front of him. If he does so, then his prayer will be void.

It is recommended that the distance between the Imam and those praying behind him not exceed three cubits (fifty centimeters approximately). The same distance is also recommended between every two rows. If men and women pray behind an Imam, the men should form their rows first and the women should form their rows behind those of men. If a man and a woman pray behind an Imam, the man should stand on the right side of the Imam while the woman stands behind the man.

When women have congregational prayer among themselves, they should form a row and the one leading them in prayer should stand in the middle. This is according to what is authentically reported from 'Aishah and Umm Salamah - may Allah be pleased with them.

The one praying behind an Imam should follow him in all his movements and other practical pillars of the prayer. He should not make any movement until the Imam has done so. It is disliked to lag behind one's Imam by a pillar, and if he lags behind by two long pillars as the case where the Imam had bowed, risen up, stood upright, prostrated and risen up while the one praying behind him was still standing with no reason, then his prayer is invalidated.

However, if his lagging behind is due to an acceptable excuse such as his being slow in recitation, he is allowed to lag behind his Imam by up to three pillars. If that is not enough for him, then he should terminate whatever he is doing and join the Imam and then make up for what he misses after the Imam has made Tasleem.

He should be aware of his Imam's movements by seeing him or seeing those who see him or by hearing him.

He should not be too far from his Imam if both of them are not in a mosque. If they are in the mosque, following the Imam is valid however long the distance between him and his Imam may be and whatever structure may be between him and his Imam.

If the congregational prayer is taking place outside the mosque and if the Imam is in the mosque while the one praying behind him is outside the mosque, then there should not be long distance between them. Further explanation of this case is as follows:

If the Imam and the one praying behind him are in an open place such as a desert, the distance between both should not exceed one hundred and fifty meters.

If each of them is in a building or one of them is in a courtyard of a building while the other is in another building, there must be a row linking both of them together.

If the Imam is in the mosque while some of those praying behind him are outside the mosque, the distance between the end of the mosque and the first row of those praying behind him outside the mosque should not be more than one hundred and fifty meters.

The one praying behind the Imam should make an intention of performing congregational prayer for praying behind the Imam.

The intention should be made with the first Takbeer. As for the Imam, he does not need to make intention of leading others in prayer, though it is preferable if he does so except in Friday prayer.

The one praying behind an Imam is reckoned to have attained a rak'ah with his Imam if he caught up with him in bowing position; if the Imam has got up from bowing before he could catch up with him, then he has missed that Rak'ah. He should make up for it and for whatever Rak'ahs he has missed after the Imam has made Tasleem.

Traveler's prayer

A traveler is given two permissions:

One: To shorten the number of Rak'ahs, and this is called Qasr. It is to perform the four Rak'ah prayers -such as Zuhr, 'Asr and Isha -in two Rak'ahs, each.

Two: Combining between two prayers in order to give him as much free time as possible. This is called, Al-Jam' baynas-salaatayn.

What are the conditions for Qasr?

The prayer should be due while one is already on a journey and it should be performed on the journey. This means that the prayer that was due before one embarked on a journey should not be performed in a shortened form because he was not a traveler when it was due.

Also, a prayer that was due while one is on a journey but was not performed until after one returns home could not be performed in Qasr form. This is because; at the time of performing the prayer, one is no longer on a journey.

To be eligible to do Qasr, one must have crossed the wall of the town one is travelling out of or left behind its buildings if the town does not have any wall.

The traveler should not intend to stay in the foreign town for more than four days excluding the day of arrival and day of departure. If he intends to stay for more than four days or if he does not know how long he is going to stay because he has some projects which he does not know when he is going to complete it, then he can do Qasr in his first journey there until he goes back to his own town and sees its buildings. On his second journey, he can do Qasr for up to eighteen days excluding the days of arrival and departure.

If he wants to make Qasr, then he should not pray behind a resident person. If he does so, then he should complete the prayer. However, the traveler can lead the resident in prayer. While the former has the right to do Qasr, the latter should get up and complete the prayer after the traveler has said the Tasleem. It is recommended for a traveler who leads residents in prayer to tell them as soon as he made Tasleem, "Complete your prayer for I am a traveler".

There are two forms of combining the prayer:

Jam' Taqreem and Jam' Ta'kheer: Jam' Taqreem is to bring forward the second of the two prayers to be combined to the time of the first one while Jam' Ta'kheer is to delay the first of the two prayers to be combined till the time of the second one.

What are the prayers that can be combined?

They are Zuhr with 'Asr, and Maghrib with 'Ishaa. Fajr prayer should be combined neither with the preceding prayer nor with the succeeding one. Likewise, 'Asr should not be combined with Maghrib.

What are the conditions for Jam' Taqdeem?

One: The prayers should be performed in their order.

Two: One should intend to combine the second prayer with the first before one finishes from the first. It is recommended that the intention is made with the first Takbeer.

Three: One should commence the second prayer immediately after completing the first without making any Dhikr or supererogatory prayer in-between both. If separation is made between them with what is customarily long or the second one is delayed while nothing is done in the interval, then the combination becomes invalid and the second prayer should be delayed till its time is due. This is what the Prophet did.

Four: One should remain a traveler at the time of performing the second prayer.

What are the conditions for Jam' Ta'kheer?

One: There should be an intention to combine the first prayer with the second at the time the first prayer is due. For instance, if Zuhr prayer expires without an intention to combine it with 'Asr in a delayed form, then it is regarded as a prayer that is being made up for and not one performed at its prescribed time. Hence, the person concerned is regarded sinful for delaying it beyond its time.

Two: One should be regarded a traveler at the time of performing the two combined prayers. If one becomes a resident before final completion of the prayers, then the delayed prayer is regarded as the one being made up for. Here it is not a condition that they should be performed in their order. One can start with whatever one likes. Likewise, performing them in quick succession is also not a condition.

What are the conditions for a journey in which shortening and combination of prayers are allowed?

One: The journey should be to a distance of eighty kilometers and more. A journey to a place of lesser distance is not reckoned with.

Two: The journey should be to a particular destination. Mere wandering about without any particular destination is not recognized as a journey where Jam' or Qasr can be done. Likewise, the journey of a person who is just following his master without knowing where he is going is also not reckoned with.

However, this is before one covers the distance of long journey. If a destination-less traveler has covered the distance of a long journey, then he can start doing Qasr and Jam' because it is already sure that he is on a journey.

Three: The purpose of the journey should not be the pursuance of what is sinful. If that is the purpose, such journey is not reckoned with. An example of a sinful journey is to trade in alcohol, transact in usury or to rob travelers of their money and properties on highways.

Is it permissible to combine two prayers while it is raining?

It is allowed to combine between two prayers at the time of the first while it is raining but it is not allowed to combine them at the time of the second because the rain could stop.

Following conditions are necessary for this kind of combination:

The prayer should be congregational at a mosque that is customarily far and walking to which can be harmful to a Muslim when it rains.

It should be raining at the time of performing the first of the two prayers and at the time of saying Tasleem in it (i.e. the first prayer).

What is meaning of Salaatul-Khawf (Prayer of Fear)?

Fear is the opposite of security. The prayer of fear is the prayer performed at the time of fighting against the enemy for it is exclusively about permissions and facilitations especially concerning congregational prayer -that are not found in other prayers.

What are its situations?

The prayer of fear has two situations:

One: At the time of taking guard when fighting is not taking place. This has two manners:

a. When the enemy is lying down in the direction of Qiblah and the fighting is not going on: If the Muslim soldiers want to perform congregational prayer and they do not want to divide their prayer into small congregations in order to attain the reward of one large congregation, their Imam should arrange them into two, four or more rows and lead them in prayer. When he prostrates, it is only the row that is immediately behind him that should prostrate with him if there are two rows. If there are four rows, the first two rows should prostrate with him and the other rows should remain standing guarding their brothers against sudden attack from the enemy. When the Imam and those who prostrated with him rise up, those of the remaining rows should proceed to prostration and then join their Imam in standing position of the second Rak'ah. When the Imam prostrates for the second Rak'ah, those who did not perform prostration with him in the first Rak'ah should then take their turn in prostrating with him and those who prostrated with him in the first Rak'ah should remain standing. All of them should then join him in the sitting position for Tashahhur and say the Tasleem together.

b. The Messenger of Allah used this format in one of his battles known as Battle of 'Asfaan. It then became the Sunnah that is followed in any similar situation.

When the enemies are scattered in other than the direction of Qiblah and no fighting is going on: The recommended manner of performing prayer of fear in this situation are:

The Muslim soldiers are divided into two factions; one facing the enemies, monitoring them and guarding the Muslims and the other performing congregational prayer with the Imam.

The Imam leads the latter group in prayer and when he rises up for the second Rak'ah, the group departs and completes the second Rak'ah individually. It then goes and stays where the first group has been staying.

The first group then comes and prays behind the Imam. The Imam should prolong his standing position in the second Rak'ah so that the second group could join him. He then leads them in performing the second Rak'ah which is the group's first. When he sits down for Tashahhur they get up to complete their second Rak'ah and then join him while he is still in Tashahhur sitting. He then leads them in making Tasleem.

The Messenger of Allah used this format in the Battle of Dhat Riqa'.

Two: When fighting is going on and the Muslims' ranks are mixed with that those of their enemies and there is a great fear, there is no particular way of praying in this situation. Rather, each soldier should pray as far as it is possible for him to do -standing, riding, walking, facing the Qiblah or facing elsewhere. He gestures with his head to signify bowing and prostration -making the gesture for prostration lower than that of bowing. If it is possible to pray in congregation in this situation, it is better even if they face different directions or those who are supposed to pray behind the Imam are praying in front of him.

What is the wisdom behind ordaining prayer of fear?

The scholars said: "The wisdom behind ordaining this kind of prayer is to make it easy for the legally obliged Muslim to perform this obligatory act of worship while he is in the direst need of being close to his Lord. He needs help and victory from Him at a time he is fighting the disbelievers in battle. Maintaining his link with Allah, by remembering Him through prayer at this crucial moment increases him in confidence that Allah will help and support him and make his feet firm so that falsehood can be destroyed and the people of truth will prevail and succeed.

Jumu'ah Prayer

When was Jumu'ah prayer ordained?

It was ordained in Makkah just before the Prophet's emigration to Madinah. However, its observance did not commence in Makkah due to the Muslims' weak status there.

The first person to gather people together for Jumu'ah prayer in Madinah is As'ad ibn Zurarah - may Allah be pleased with him - according to the narration recorded by Abu Dawood and others.

What is the proof for its ordainment?

The proof for its ordainment and obligation is Allah's saying,

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَىٰ ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ ذَلِكُمْ خَيْرٌ لَكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ﴾

O you who believe (Muslims)! When the call is proclaimed for the Salaat (prayer) on the day of Friday

(Jumu'ah prayer), come to the remembrance of Allah [Jumu'ah religious talk (Khutbah) and Salaat (prayer)] and leave off business (and every other thing). That is better for you if you did but know!"

Al-Jumu'ah 62:9

There are many Hariths in this regard. One of these Hariths is what Abu Dawood recorded on the authority of Tariq bin Shihab -may Allah be pleased with him - that the Messenger of Allah said: "Jumu'ah prayer is compulsory upon every Muslim."

What is the wisdom behind its ordainment?

There are many wise reasons for ordaining Jumu'ah prayer. We cannot mention all of them here. One of the major wisdoms of ordaining this prayer is to give the Muslims of each town an opportunity to meet once a week at a single place where they receive an admonition that increases them in unity and solidarity, as it increases them in mutual love and cooperation and makes them acquainted with the events going around them. It strengthens their relationship with their supreme political leader who should be their preacher and admonisher.

Therefore, Jumu'ah prayer is the Muslims' weekly conference where they meet and form rows as one single group behind their leader.

What are the conditions making the Jumu'ah prayer obligatory?

One: Islam: A disbeliever is not required, as a matter of obligation in this world, to perform Jumu'ah prayer for he is required with the basis of all acts of worship which is Islam. But he will be punished for it in the Hereafter.

Two: Reaching the age of maturity: Jumu'ah prayer is not obligatory upon minors who are yet to be legally obliged.

Three: Sanity: Jumu'ah prayer is not obligatory upon an insane person.

Four: Complete freedom: Jumu'ah prayer is not obligatory upon bonds-people because they are engaged with the right of their master. This prevents its being compulsory on them.

Five: Masculinity: Jumu'ah prayer is not compulsory for a woman because she is occupied with taking care of her children and her home.

Six: Physical health: Jumu'ah prayer is not compulsory upon a sick person if attending it may prove harmful to him, aggravate his illness or delay his recovery. Joined in this are persons who nurse and serve the sick people if there is no one there to stand in for them if they attend the Jumu'ah prayer and the sick person direly needs their attention, whether he or she is a relative or not.

Seven: Residing in the town in which Jumu'ah prayer is held: Jumu'ah prayer is not compulsory upon a traveler on a lawful journey even if the journey is a short one if he has commenced the journey before the Fajr prayer of that Friday and he is in a place where he cannot hear the Adhaan made from his town from which he travels. The same ruling applies to a person who is a settler at a place in which Jumu'ah prayer is not valid like a village in which there are less than forty men who are eligible for Jumu'ah prayer, if the Adhaan cannot be heard from the neighborhood of that village that borders the nearest village in which Jumu'ah prayer is valid.

What are the conditions for validity of Jumu'ah prayer?

One: It should be held (at least) in a plot of land situated among the buildings of a town or village in which not less than forty men who must perform the Jumu'ah prayer live.

A town is where there is a judge and a ruler and where there are markets for buying and selling; and a village is where none of the above is found.

Therefore, Jumu'ah prayer is not valid in the desert and in-between tents, neither is it valid in a village where there are less than forty men who must perform the Jumu'ah prayer. If they hear the Adhaan from the neighboring town, then they must go there and perform the Jumu'ah prayer. If not, then Jumu'ah is not compulsory for them.

Two: The number of the men by whom Jumu'ah prayer is held should not be less than forty from among those upon whom its observance is obligatory -i.e. male and adult, who are inhabitants of the town.

Three: It should be held at the time of Zuhr prayer. If what is left of the time of Zuhr prayer is too short for Jumu'ah prayer to be held, then Zuhr should be prayed instead. If they commence the Jumu'ah prayer and the time of Zuhr lapses while they are still performing it, then they should change it to Zuhr prayer and perform four Rak'ahs instead.

Four: There must not be more than one Jumu'ah prayer in a town, as long as that is possible. Rather, the people of a town should get together in one place. If there are lots of people and the place is too narrow to accommodate them all, then it is permissible to have more than one Jumu'ah prayer as far as the situation demands.

If Jumu'ah prayer is held in more than one place in one town without necessity, then the Jumu'ah held in the oldest place would be regarded as valid. Those who attend Jumu'ah at other places will be regarded as shortening their prayers if they fail to join the first Jumu'ah established in the town. Therefore, their Jumu'ah will be regarded as invalid and they have to perform the Zuhr prayer instead.

If the oldest Jumu'ah is not known, then all are invalid, and the people of the town should congregate for one single Jumu'ah prayer at a single place if it is possible and there is enough time. If not, then they have to perform Zuhr prayer to make up for the deficiency.

What are the obligatory aspects of Jumu'ah?

First: The two sermons; and they have conditions and pillars.

The conditions are:

The preacher should deliver them in standing position if he can and make a short sitting in-between them.

It should be delivered before the prayer and not after it.

The preacher should be clean from all major and minor impurities; and his dress, body and place of prayer should be pure from inexcusable impurities. He should also cover his nakedness.

The pillars of the sermon should be made in fluent Arabic.

Adhering to the recommended order concerning the pillars of the sermon, between the first and the second ones and between the second one and the prayer.

The pillars of the two parts of the sermon should be heard by, at least, forty men with whom Jumu'ah prayer must be held.

The pillars of the sermon are:

Praising Allah in whatever format. Invoking blessings upon the Prophet in whatever format. Admonishing the congregation on fear of Allah in whatever expression or methodology. Reciting (at least) a verse of the Qur'an in one of the two sermons.

Supplication for the believers in the second sermon, using expression customarily known to entail supplication.

Second: It is the performance of two Rak'ahs in congregation.

What are the etiquettes of Jumu'ah prayer?

1. Taking a bath.
2. Cleaning of the body from dirt, removing bad odors and using perfume.
3. Wearing the best garments.
4. Clipping the nails and grooming the hair.
5. Going to the mosque early.
6. Performing two Rak'ahs on entering the mosque.
7. Keeping quiet while the two sermons are made.
8. Recitation of Surah Al-Kahf on Friday and on its eve.
9. Making much supplication on Friday and on its eve.
10. Invoking much blessings on the Prophet on Friday and on its eve.

Supererogatory Prayers

Supererogatory prayers are prayers that are not obligatory. They are sometimes called Sunnah, Manduab or Mustahabb.

Supererogatory prayers are of two types: The first whose observance is recommended in congregation and the second whose observance is not recommended in congregation.

What are the supererogatory prayers whose observance is not recommended in congregation?

Supererogatory prayers that are performed with obligatory prayers (either before or after).

These are categorized into two: emphasized and non-emphasized.

The emphasized ones are two Rak'ahs before Fajr, two Rak'ahs before Zuhr and two Rak'ahs after it, two Rak'ahs after Maghrib and two Rak'ahs after 'Ishaa.

The non-emphasized ones are additional two Rak'ahs before Zuhr and two Rak'ahs after it (the same thing applies to Jumu'ah prayer), four Rak'ahs before 'Asr prayer, two short Rak'ahs before Maghrib prayer and two short Rak'ahs before 'Ishaa prayer.

Supererogatory prayers that are not performed with obligatory prayers.

These are categorized into two: those with specific names and times and those with no specific names and times.

The ones with specific names and times are as follows:

Tahiyatul-Masjid (Salutation of the Mosque): It is two Rak'ahs performed when entering the mosque and before one sits down. The obligatory performed on entering the mosque covers TahiyatulMasjid.

Witr: This is an emphasized Sunnah. It is called Witr before it is concluded with an odd Rak'ah - as opposed to other kinds of prayers. Witr is performed between 'Ishaa and Fajr prayers. However, it is better to delay it to the last part of the night if a person hopes to wake up at that time. But if there is fear of oversleeping, then it should be performed after the obligatory prayer of 'Ishaa and its Sunnah.

The least number of Witr is one Rak'ah though performing one Rak'ah alone is disliked. The least complete Witr is three Rak'ahs: two uninterrupted Rak'ahs and one separated Raka'ah. The utmost in Witr is eleven Rak'ahs, making Tasleem at end of every two Rak'ahs.

Qiyaamul-Layl; it is called Tahajjud if it is performed after sleeping.

Qiyaamul-Layl is an unspecified Sunnah in terms of the number of Rak'ahs. It is performed after waking up in the night before the Fajr prayer.

Salaatur-Duha (Forenoon prayer): It is at least, two Rak'ahs and at most, eight Rak'ahs. The best manner of performing it is to separate between every two Rak'ahs. It is performed after sunrise and before noon. The best time to offer it is when the first quarter of the day has passed.

Salatul-Istikharah: It is two Rak'ahs performed at a time when voluntary prayers are not disliked. It is recommended for someone who wants to embark on any lawful thing and is not sure of its appropriateness or otherwise. It is recommended that after performing it, a person should recite a reported supplication. If, after performing it, Allah expands one's heart to that thing, one should proceed on it and if not, then, one should leave it.

Al-Bukhari and others reported on the authority of Jabir bin Abdullah Al-Ansari - may Allah be pleased with him and his father - who said: The Prophet (Peace and Blessings of Allah be upon him) used to teach us the way of doing Istikhara (Istikhara means to ask Allah to guide one to the right sort of action concerning any job or a deed), in all matters as he taught us the Surahs of the Quran. He said, "If anyone of you thinks of doing any job he should offer two Rak'ahs prayer other than the compulsory ones and say (after the prayer): 'Allahumma inni astakhiruka bi'ilmika, Wa astaqdiruka biqurratika, Wa as'aluka min fadlika al-'azeem Fainnaka taqdiru Wa la aqdiru, Wa ta'lamu Wa la a'lamu , Wa anta 'allamul-ghuyub . Allahumma, in kunta ta'lam anna hadhal-amra Khairun li fi dini wa ma'ashi wa'aqibati amri (or 'ajili amri wa 'ajilihi) Faqdurhu li wa yassirhu li thumma barik li Fihi, Allahumma in kunta ta'lamu

anna harhalamra sharrun li fi rini wa ma'ashi wa'aqibati amri (or fi'ajili amri wa ajilihi) Fasrifhu anni wasrifni anhu. Waqdur liyal-khaira haithu kana Thumma ardini bihi.'

O Allah! I ask guidance from your knowledge, and Power from your Might, and I ask for your great blessings. You are capable and I am not. you know and I do not and you know the unseen. O Allah! If you know that this job is good for my religion and my subsistence and in my Hereafter (or say: If it is better for my present and later needs) then ordain it for me and make it easy for me to get, and then bless me in it. If you know that this job is harmful to me in my religion and subsistence and in the

Hereafter (or say: If it is worse for my present and later needs) then keep it away from me and let me be away from it. And ordain for me whatever is good for me, and make me satisfied with it. The Prophet added that the person should then name (mention) his need.

What are free voluntary prayers?

The free voluntary prayers are the ones performed as one likes and at anytime, except during specific times in which voluntary prayers are disliked. In observing this kind of prayer whether during the day or night, it is recommended that one makes Tasleem at the end of every two Rak'ahs.

What are the supererogatory prayers the observance of which is recommended in congregation?

They are: The two Eid prayers, Taraawiah prayers (performed in nights of Ramadan), prayer for the eclipse of sun or moon and prayer for seeking rain.

The Two Eid Prayers

When were the two Eid prayers ordained? What are the proofs?

Eid-ul-Fitr and Eid-ul-Azha were ordained in the second year of Hijrah. The first Eid prayer performed by the Messenger of Allah is Eid-ul-Fitr in the second year of Hijrah.

The basic proof for its ordainment is Allah's address to His Messenger (Peace and Blessings of Allah be upon him):

﴿فَصَلِّ لِرَبِّكَ وَأَمْحَرْ﴾

"Therefore turn in prayer to your Lord and sacrifice (to Him only)." Al-Kawthar 108:2

The prayer in this verse is the Eid prayer.

Al-Bukhari and Muslim reported on the authority of Abu Sa'eed Al - Khudri - may Allah be pleased with him - who said: The Prophet (Peace and Blessings of Allah be upon him) used to proceed to the Musalla on the days of Eid-ul-Fitr and Eid-ul-Adha; the first thing to begin with was the prayer and after that he would stand in front of the people and the people would keep sitting in their rows. Then he would preach to them, advise them and give them orders, (i.e. Khutbah). And after that if he wished to send an army for an expedition, he would do so; or if he wanted to give an order, he would do so, and then depart."

What is the ruling concerning Eid prayer?

It is a confirmed Sunnah because the Messenger of Allah

never skipped it since it was ordained until he died. His companions - may Allah be pleased with them - adhered to its observance after him. It is observed in congregation.

Eid prayer is recommended for every legally obliged Muslim, male or female, resident or traveler, free or bondsman. The woman is exempted if she is wearing (apparent adornments) or if her presence might cause temptation. In this case, she can pray at home.

The fact that Eid prayers are not obligatory is supported by the Prophet's answer to a person who asked him about obligatory prayers. The Prophet told him: "Five prayers in day and night." The man asked: "Do I have to perform any other (prayer)?" The Prophet replied: "No, unless you want to do so voluntarily." (It is reported by Al-Bukhari and Muslim)

When is the time for Eid prayer?

It starts after sunrise and ends just before noon. However, the best time it should be performed is when the sun is fully up. That is what the Messenger of Allah always did.

What is the manner of performing Eid prayer?

The Eid prayer consists of two Rak'ahs. It is started with Takbiratul-Ihraam (the first Takbeer) then opening supplication is recited. After this, seven Takbeers are made while the two hands are raised up to the shoulders with each Takbeer. A short pause is observed between every two Takbeer. Afterwards, Surah Al-Fatihah and another Surah or some verses are recited. After getting up for the second Rak'ah and before recitation, five Takbeers, excluding the one made while getting up from prostration, are made. There should be a pause between one Takbeer and another as it has been earlier pointed out.

These additional Takbeers are Sunnah. If one forgets them and starts recitation, the prayer would still be valid.

What is the ruling concerning the sermon made after Eid prayer?

Two sermons are recommended after completing the two Eid prayers; and their manner is as follows:

They must be made after the Eid prayer as opposed to the Jumu'ah prayer, emulating the Prophet (Peace and Blessings of Allah be upon him).

All that is mentioned concerning the pillars and Sunnahs of Jumu'ah prayer equally apply to the two Eid prayers.

It is recommended that the first sermon is commenced with nine Takbeers and the second with seven Takbeers.

When is making Takbeer recommended during Eid?

For a non-pilgrim Muslim, it is recommended that he starts making Takbeer after the sunset on the eve of Eid ul-Fitr or Eid ul-Azha. The Takbeer should be recited in homes, on the streets, in the mosques and in the markets with a loud voice. It should continue until the Imam makes the first Takbeer in Eid prayer. That is in accordance with Allah's saying:

﴿وَلِتُكْمِلُوا الْعِدَّةَ وَلِتُكَبِّرُوا اللَّهَ عَلَىٰ مَا هَدَيْتَكُمْ
وَلَعَلَّكُمْ تَشْكُرُونَ﴾

(He wants that you) must complete the same number (of days), and that you must magnify Allah (i.e. to say Takbeer (Allahu Akbar; Allah is the Most Great) for having guided you so that you may be grateful to Him." Al-Baqarah 2:185

Zakatul-Fitr

What is Zakatul-Fitr and when was it ordained?

Zakat-ul-Fitr is a certain amount of wealth that must be given out in charity from the sunset of the last day of Ramadan on behalf of every legally obliged Muslim and his dependents, under certain conditions.

Its ordainment

What is well-known in the Sunnah is that it was ordained in second year of Hijrah, the year in which Ramadan was ordained.

What is the proof for its being obligatory?

The basic proof for this is what Al-Bukhari and Muslim recorded on the authority of 'Abdullah bin 'Umar - may Allah be pleased with them - that the Messenger of Allah (Peace and Blessings of Allah be upon him), enjoined the payment of one Sa' of dates or one Sa' of barley as Zakat-ul-Fitr on every Muslim slave or free, male or female, young or old."

What are the conditions that make it obligatory?

Zakat-ul-Fitr becomes obligatory with three conditions:

Islam; setting of the sun of the last day of Ramadan; and having more than what is enough for oneself and one's dependents for Eid day and its night in terms of food, shelter and any other essential needs.

Who are those on behalf of whom a legally obligated Muslim should pay Zakatul-Fitr?

Zakat-ul-Fitr is compulsory on a person who has the above-mentioned three conditions. He should pay it out on behalf of himself and on behalf of his dependents, such as his parents, children and wives.

However, he does not have to pay it on behalf of his adult son who is able to earn a living nor on behalf of a relative to whom he is not the guardian. Rather, he should not pay it on behalf of such a relative without first seeking his permission.

If what he has for paying Zakat-ul-Fitr is not enough to cover himself and all this dependents, then he should pay on behalf of himself, his wife, his minor children, his father, his mother and his adult children, who cannot earn for themselves, in that order.

What is Zakat-ul-Fitr?

Zakat-ul-Fitr is a Sa' of the most stable food of the town in which the payer is held. The Sa' that the Messenger of Allah used was four Mudds (four handfuls) which is estimated to weigh about 2400 grams.

If the most stable food of our country today is wheat, then Zakatul-Fitr due on each individual equals three liters of wheat.

According to the opinion of Imam Ash-Shafi'ie, the equivalent of that in cash is not acceptable. It has to be paid in stable food of the people of that country.

However, there is no harm in following the Madh-hab of Imam Abu Hanifah - may Allah have mercy upon him - that believes that it could be paid in cash in this age. This is because; the poor people to

whom Zakat-ul-Fitr will be paid will benefit more from cash and that is nearer to the goal that Zakatul-Fitr is meant to achieve.

What is the appropriate time for paying Zakat-ul-Fitr?

It becomes obligatory from sunset of the last day of Ramadan while it is permissible to pay it during the entire days of Ramadan and the morning of Eid days.

It is recommended to pay it on the morning of the day of Eid before going out for prayer.

It is disliked to delay it till after the prayer. If one delays its payment beyond the recommended time, then one is sinful and has to make up for it.

Al-Udhiyah

What is Udhiyah and what is its proof?

Udhiyah is a camel, a cow, a ram or a sheep, slaughtered as an act of worship to Allah on the day of Eid-ul-Adha. The basic proof concerning its ordainment is Allah's address to His Messenger (Peace and Blessings of Allah be upon him):

﴿فَصَلِّ لِرَبِّكَ وَأَنْحَرْ﴾

Therefore turn in prayer to your Lord and sacrifice (to Him only)." Al-Kawthar 108:2

According to the most correct interpretation of this verse, the sacrifice in this verse refers to slaughtered of Udhiyah.

What is the wisdom behind its ordainment?

It should be known that Udhiyah is an act of worship. Whatever benefit one can derive from this act of worship always comes after the benefit of submission to Allah, which is inherent in that act of worship.

It is also in commemoration of the greatest sacrifice made by Prophet Ibra'him (Abraham) - peace be upon him - when Allah put him to trial by commanding him to slaughter his son. When Ibra'him was about to fulfill this command, Allah ransomed his son with a big sacrifice in the form of a ram and He commanded him to slaughter it instead of his son. This is compensation for him and his son for their submission to Allah and their sincere efforts to implement the command of their Lord.

In addition to this, Urhiyah serves as a consolation for the poor and the needy. Sharing the meat of this sacrifice with them makes them and their families happy on the day of Eid. This strengthens the cords of brotherhood among members of the society and fosters a spirit of togetherness and mutual love amongst them.

What is the ruling concerning Udhiyah?

It is a confirmed Sunnah but it could become obligatory for two reasons:

One: If a person points to one of the animals under his possession that are suitable for Udhiyah and says, 'This is my Udhiyah', or 'I am going to sacrifice this one as Udhiyah', then it becomes obligatory upon him to sacrifice the stipulated animal.

Two: If one commits himself to the worship of Allah by slaughtering a sacrifice and saying, for instance, 'It is a right of Allah upon me that I must sacrifice an Urhiyah'. In this case, it is obligatory upon him to sacrifice it, just as if he takes upon himself to perform any of the acts of worship in which case it become a vow on his part.

Who must sacrifice an Udhiyah?

A Muslim; for a non-Muslim is not required to do so.

The person must be an adult and sane; a person who is a minor or an insane is not legally obliged.

The person must have the means to do it. He must have what is more than sufficient for his own maintenance and the maintenance of his dependents in terms of food, clothing and shelter throughout the Eid day and three days after it.

Is it permissible to sacrifice an Udhiyah with any animal that Muslims are permitted to eat?

Udhiyah is only permitted with camels, cattle, sheep and goat. The best is a camel followed by a cow and then a sheep or ram. Seven persons can jointly sacrifice one camel or cow.

What are the conditions of Udhiyah?

The permissible camel should be into the sixth year of its life; the permissible cow should be into its third year; and the ram should be into its second year or if it has lost her front teeth and is fat even [then it is permissible even] if it has not entered into its second year.

The animal permissible for slaughtering should be free of all imperfections that could affect the quality of its meat. It should not be emaciated, lame, blind or diseased, and neither should a part of its ear be cut off. But if there is a mere cut on its ear or there is a crack on its horn, it is still permissible.

Any other imperfections that could make the animal emaciated or reduce the quality of its meat would disqualify it for Udhiyah.

When does the time of Udhiyah start?

It starts after the sunrise of the day of Eid-ul-Adha and ends at sunset of the last day of Tashreeq, which is the thirteenth day of Dhul-Hijjah.

Whoever slaughters his sacrifice before the Eir prayer is due; he is only feeding his family some meat (i.e. it will be accepted as Udhiyah). The best time to slaughter the Urhiyah is immediately after finishing the Eid prayer.

What to do with Udhiyah after slaughtering it?

If the Udhiyah is an obligatory one such a vowed or stipulated Udhiyah, then neither the person who made it nor any of his dependents are allowed to eat anything thereof. If anyone of them ate anything thereof, he should be fined its equivalent in cash.

If the Urhiyah is a recommended one, then he is permitted to eat thereof. He should give charity with some thereof. It is better if he eats only a little thereof and gives the rest out in charity. He can eat a third thereof, give a third out as charity to the poor and present the remaining third to his friends and neighbors as gifts even if they are rich.

However, what is presented to the rich ones should be regarded as gifts only for consumption and should not be sold; but what is given to the poor has become their property which they can eat or sell if they like.

Can the person who slaughtered an Udhiyah sell the skin of his sacrificed animal?

He can give out the skin of his Udhiyah or make use of it in whatever way he likes, but he should not sell it or present it to the butcher who slaughtered it as his wages. Doing so may decrease the value of his Udhiyah or even render it invalid.

What are the most important Sunnah and etiquettes relating to Udhiyah?

One: From the beginning of the first ten days of Dhul-Hijjah, if a person decides to slaughter a sacrifice, then it is recommended that he should not remove any hair from his body nor clip any of his nails until he has slaughtered his Udhiyah.

Two: It is recommended that he slaughter it by himself. If he cannot do so due to some reasons, he should witness its slaughtering.

Three: It is recommended for the Muslim ruler or their Imam to obtain his sacrifice from the Muslim treasury. Muslim reported in his Sahih that the Messenger of Allah slaughtered a ram as Udhiyah and said while he was slaughtering it: "In the Name of Allah. O Allah, accept (it) from Muhammad and family of Muhammad and the Ummah of Muhammad."

The Muslim ruler should slaughter the sacrifice at the praying ground where the people gather for Eid prayer. It is also recommended that he slaughter it himself.

Taraaweeh Prayer

When should Taraaweeh prayer be observed?

How many are its Rak'ahs? What is the evidence for it?

Taraaweeh is especially observed in the month of Ramadan. It is recommended that it is done in congregation but it is valid if observed individually.

It is called Taraaweeh because its observers take rest after every four Rak'ahs. It is also called Qiyam Ramadan (night prayer of Ramadan).

Twenty Rak'ahs are performed every night during the month of Ramadan, with a Tasleem at the end of every four Rak'ahs. It is observed between the 'Isha and Fajr prayers; and it is observed before Witr. If a Tasleem is made after every four Rak'ahs, the prayer will be regarded as Taraaweeh because doing other wis contradicts the recommended format.

A specific intention should be made for Taraaweeh or Qiyaam Ramaran, because it will not be regarded as such if the intention for it is an absolute supererogatory prayer.

The basic proof for its ordainment is what Al-Bukhari and Muslim reported on the authority of Abu Hurayrah - may Allah be pleased with him - that the Messenger of Allah (Peace and Blessings of Allah be upon him) said: "Whoever gets up and performs supererogatory prayer in the night of Ramadan with faith and hoping to get his reward with Allah, his past sins will be forgiven."

Prayer for Eclipse of the Sun and Moon

(Al-Kusuf Wal-Khusuf)

What is the meaning of Kusuf?

Kusuf is partial or total eclipse of the sun, while Khusuf is partial or total eclipse of the moon.

Prayer for the eclipse of the sun was ordained in the second year of Hijrah, while the prayer for the eclipse of the moon was ordained in the fifth year of Hijrah.

What is ruling concerning the prayer for the eclipse of the sun or the moon?

It is an emphatic Sunnah. Imam Muslim recorded on the authority of 'Aishah - may Allah be pleased with her - that the Messenger of Allah said: "The sun and the moon are two signs among the signs of Allah. They do not eclipse either on the death of anyone or on his birth. So when you see them, hasten to prayer till Allah dispels the anxiety (of this extraordinary phenomenon) from you." The Messenger of Allah also performed such a prayer.

It is recommended that the prayer be performed in congregation and a call should be made for it.

How is the prayer of eclipse performed?

The prayer of the eclipse consists of two Rak'ahs. The person performing the prayer should make the intention of performing it for either the eclipse of the sun or of the moon. There are two manners of performing it: the least acceptable format and the most complete format.

The least acceptable format: It is to observe in each Rak'ah, two standing positions, two recitations and two bowings without prolonging the recitation. It can also be observed in two Rak'ahs, with one standing position, one recitation and one bowing, as in Jumu'ah prayer. However, this is not the most meritorious manner for it contradicts the manner in which the Messenger of Allah performed it.

The most complete manner: It is to observe, in each Rak'ah, two standing positions in which long recitation is made. For example, one recites after Surah Al-Fatihah in the first standing position of the first Rak'ah, Surah Al-Baqarah or an equally long Surah; and to recite in the second standing position about two hundred verses. In the first standing position of the second Rak'ah, he recites about one hundred and fifty verses and in the second standing of that Rak'ah, he recites what is equivalent to one hundred verses of Surah Al-Baqarah. In his bowing, he remains in his bowing position for as long as it takes to recite about a hundred verses. In the second, third and four bowings, he stayed in the bowing position as long as it takes to recite eighty verses, seventy verses and forty verses respectively.

When the prayer is completed, the Imam delivers two sermons like those of the Jumu'ah prayer in terms of pillars and conditions. In these sermons, he encourages the people to return to Allah in repentance and to be righteous. He also warns them against heedlessness and delusion.

Are prayers for the eclipse of the sun and the moon made up if missed?

If the time of the prayer for eclipse of the sun or the moon is missed and the sun or the moon becomes clear before the prayer could be performed, it should not be made up. This is because, it is a prayer connected to a cause, and if the cause is no longer there, then no prayer should be performed.

It is recommended that one takes a bath for performing prayer for the eclipse as one would do for Jumu'ah prayer, as it is similar to it in terms of its being occasional prayer performed in congregation and in terms of announcement.

Prayer for Rain (Sala tul-Istisqa)

When is the prayer for rain recommended? What is its ruling?

Prayer for rain is recommended when there is no rain and the springs have dried up. When rain starts falling or the water starts gushing out of the springs, then there is no need for prayer for the rain.

How is it performed?

There are three recommended ways of seeking rain: the least one is to make absolute supplication at any time; the moderate one is to make supplication after getting up from the bowing position in the last Rak'ah of the obligatory prayers and after the completion of the prayers; and the best and the most complete manner is to do the following:

One: The Imam or his representative orders the people to do the following:

1. Turn to Allah in sincere repentance.
2. Giving charity to the poor, fulfilling the rights of those unto whom rights are due and making peace among warring parties.
3. Observe fasting for four consecutive days.

Two: The Imam leads the people out on the fourth day of their fasting, while they are still fasting, in worn-out garments and in the state of absolute humility and submission to an open place outside the city. He or his representative leads them in performing two Rak'ahs that are exactly like Eid prayer.

Three: After the prayer is completed, the Imam delivers a two-part sermon like that of Eid except that he starts the first part of it seeking Allah's forgiveness nine times and the starts the second part seeking His forgiveness seven times, instead of making Takbeer.

After starting the first part of the sermon and having done one-third of it, the Imam faces the Qiblah and backs the congregation. He removes his cloak and places it back on in an inside out manner to show more helplessness and humility in front of Allah. It is recommended that the people do the same.

It is recommended for the Imam to frequently seek forgiveness, make supplications and beseech Allah in absolute humility. The people may also ask the righteous and pious men to make supplications in this regard.

What is the recommended supplication for seeking rain?

It is to say: "O Allah, make it rain of mercy and not that of torment, destruction, affliction or drowning. O Allah! (Let it be) on the plateaus, on the mountains, on the hills, in the valleys and on the places where trees grow. 'O Allah!

Round about us and not on us.' O Allah! Bless us with satisfying and palatable rain! Make it flowing and copious and let it abide with us till the Day of Resurrection. O Allah! Bless us with rain and do not make us among the despairing ones. O Allah! The people and the land have been afflicted with difficulty and hunger about which You are the only One we can complain to. O Allah! Let our plants grow and let our animals give abundant milk. Send us blessings from the sky and make blessing grow out for us from the earth. Remove this affliction from us for none can remove it from us but You alone. O Allah! We ask You for forgiveness for You are the Perpetual Forgiver. Send rain from the sky upon us in continuous showers."

Ruling of Funerals

What should be done while a Muslim is dying?

The following things are recommended for a dying Muslim:

His family should place him on his right side and make him face the Qiblah. If that is difficult to do, then he should be placed on his back and his face should be lifted up a little and turned towards the Qiblah, so should the soles of his feet.

It is recommended to encourage him to pronounce the Statement Testimony (Laa ilaaha illallah), and this should be done gently and without insistence. This could be done by repeating the statement on his hearing without commanding him to say it. Muslim recorded on the authority of Abu Sa'eed AlKhudri -may Allah be pleased with him-that the Messenger of Allah (Peace and Blessings of Allah be upon him) said: "Exhort those of you who are dying to say, 'Laa ilaaha illallah!'"

It is recommended to recite Surah yaa Seen over him. This is because of what is reported from the Messenger of Allah (Peace and Blessings of Allah be upon him) that he said: "Recite Surah yaa-Seen over your dying men." (Recorded by Abu Dawood)

A dying person should have good opinion of Allah, put behind images of his sins and believe that he is going to meet the Most Gracious Lord, Who forgives all sins as long as he upholds his belief in His Oneness and abide by the same. The Messenger of Allah said, in what he narrated from his Lord that He said: "I am just as My slave thinks I am (i.e. I am able to do for him what he thinks I can do for him)." (Recorded by Al-Bukhari and Muslim)

What should be done with a Muslim after his death?

His eyes should be closed and a band should be tied round his upper lip and passed across his chin so that his mouth is not left open.

His joints should be made flexible by putting each of them in its proper place. For, instance, his forearms, legs and all his other limbs should be straightened and put in their respective places.

A heavy material should be put on his belly so that he won't get bloated; and his entire body should be covered with a light sheet of cloth.

It is recommended to remove whatever dressing he has on. He should then be put on an elevated place such as a bed and his face should be turned towards the Qiblah as done when he was dying. All this should be carried out by his gentlest relative.

What to do after the death has been confirmed?

It is strongly recommended that preparation for the burial should start immediately -he should be given a bath and shrouded, and funeral prayer should be performed over him and he should then be buried. The Muslims are unanimous that these four things are collective obligations biding on all the Muslims of that town. If none of them carried these four things out, then all of them will be liable.

How is a dead Muslim given a bath?

It is done in two ways:

One: The least acceptable manner: This is to remove whatever impurities found on the body and water should be poured all over the body.

Two: The most complete manner recommended in the Sunnah is to do the following: The dead corpse should be put on an elevated place such as a platform. Its private parts should be covered with a shirt or similar material.

The person responsible for giving the bath should put the corpse in sitting position inclining backward. He should support his head with his right hand and strongly pass his left hand over his belly so that whatever waste that is inside may be extracted. He should then wrap his left hand with a sheet of cloth or a glove and then wash his private parts and his anus. He then washes his mouth and his nostrils. Thereafter, an ablution is performed on him like a living person.

He then washes his head and face with soap or any other cleaning agents. His hair should be combed if there is any. If something is (mistakenly) removed of his hair, it should be put back on the body so that it could be buried with him.

The right frontal part of the body should be washed beginning from the face downward and the same thing should be done with the left side. After that, the back part of the body should be washed in the same manner, beginning from the back of the head. By that, the entire body would have been covered by water. This is the first bathing. It is recommended that the bathing be repeated twice more. In the third bathing, the water should be mixed with some camphor, if the dead person was not in the state of Ihraam.

What is the least acceptable shrouding and is the most complete one?

The least acceptable shrouding is to wrap the entire body of the dead -including the body, if he did not die in the state of Ihraam - with a sheet. The obligatory aspect of this is to, at least, use a cloth that covers its private parts or its nakedness.

If the dead person is male, he is shrouded with three pieces of white cloth -all of them should be the size of his height and they should be wide enough to wrap his entire body. It is disliked to shroud the dead with non-white sheet or to shroud them in shirts or the like, or to cover their head with materials such as turbans. If he died while in the state of Ihraam, then his head should not be covered.

If the body is that of a female, it is recommended to shroud her in five sheets of white cloth. They are: an upper wrapper to cover the lower part of her body from the navel downwards, a head cover for her head and a gown to cover the lower part of her body down to the her toes; and it should be long enough to overlap her the upper; and two sheets that are large enough to wrap her entire body.

The material to be used for shrouding the dead should be from the type he is allowed to wear while alive. Therefore, males should not be shrouded in silken materials.

The openings of the body and the parts he prostrated on should be covered with perfumed cotton. The body is then tied with pieces of cloth and put in the grave.

How is funeral prayer performed?

Funeral prayer over a corpse will not be valid if it is not bathed. The prayer is performed as follows:

The first Takbeer is made with an intention of performing funeral prayer over the dead.

After saying the first Takbeer, hands should be put on the chest as done in ordinary prayers. Surah AlFatihah is then recited.

After completing the recitation of Surah Al-Fatihah, the second Takbeer is made with the two hands raised up to the earlobes and the hands are then put on the chest. Any of the recommended formats of invoking blessing upon the Prophet is then recited; the best of these formats is As SalaatulIbraheemiyah.

Another Takbeer is made after which supplications are made for the dead person. This is the major purpose of performing the funeral prayer.

The least one can say in supplication to the dead is: "O Allah, have mercy on him or her and forgive him or her."

The most complete format is to recite the supplication reported from the Messenger of Allah,:

«اللَّهُمَّ اغْفِرْ لِحَيِّنَا وَمَيِّتِنَا، وَشَاهِدِنَا وَغَائِبِنَا، وَصَغِيرِنَا
وَكَبِيرِنَا، وَذَكَرِنَا وَأُنْثَانَا، اللَّهُمَّ مَنْ أَحْيَيْتَهُ مِنَّا فَأَحْيِهِ
عَلَى الْإِسْلَامِ وَمَنْ تَوَفَّيْتَهُ مِنَّا فَتَوَفَّهُ عَلَى الْإِيمَانِ»

Allahummagh-fir lihayyina wa mayyitina wa shahidina, wa gha'ibina, wa sagheerina wa kabeerina, wa thakarina waunthana. Allahumma man ahyaytahu minna fa-ahyih' alal-islam, wa man tawaffaytahu minna fatawaffahu 'alaleeman.

'O Allah, forgive our living and our dead, those present and those absent, our young and our old, our males and our females. O Allah, whom amongst us you keep alive, then let such a life be upon Islam, and whom amongst us you take unto yourself, then let such a death be upon faith.' (Recorded by Abu Dawood and At-Tirmidhi)

The one performing the prayer over the deceased will then supplicate thus: "O Allah, this (deceased person) is Your slave and a child of Your slave. He left this world and its expansiveness and he left behind his loved ones to the darkness of the grave and whatever he is going to meet there. He testified that none has the right to be worshipped but You and that Muhammad (Peace and Blessings of Allah be upon him) is Your slave and messenger. You know about him more than us. He has now come to You as a guest and You are the best Host; he is now in direst need of Your mercy and You have no need of his punishment. We are here seeking to intercede with You on his behalf. O Allah, if he was righteous, increase him in reward. If he was unrighteous, then forgive him, and let him attain Your pleasure by Your mercy. Protect him against the trial of the grave and its torment and expand his grave for him. By Your mercy, give him security against Your punishment until You will resurrect him and admit him to Your paradise, O the Most Merciful of all who are merciful."

If the deceased is an infant or a child who has reached the age of puberty, this supplication can be said:

«اللَّهُمَّ اجْعَلْهُ فَرَطًا لِأَبَوَيْهِ وَسَلَفًا وَذُخْرًا وَعِظَةً
وَاعْتِبَارًا وَشَفِيعًا، وَثَقِّلْ بِهِ مَوَازِينَهُمَا وَأَفْرِغِ الصَّبْرَ
عَلَى قُلُوبِهِمَا وَلَا تَفْتِنَهُمَا بَعْدَهُ وَلَا تَحْرِمَهُمَا أَجْرَهُ»

Allahummaj'alhu faratan li'abayhi, wa salafan wa thukhran, wa 'izatan wa'tibaran wa shafee'an wa thaqqil bihi mawazeenahuma wa 'afrighisis-Sabra 'ala quloobihimawalataftin角度maba 'dahu wa la tahrimuma 'ajrahu.

"O Allah, make him a precursor for his parents, a forerunner, treasurer and an example and an approach andan intercessor. Make heavy their scales and affirm patient on their hearts, do not trial

after him and do not deprive them of their reward." The last Takbeer is then made, followed by this supplication:

«اللَّهُمَّ لَا تَحْرِمْنَا أَجْرَهُ وَلَا تَفْتِنَّا بَعْدَهُ وَاعْفِرْ لَنَا وَلَهُ»

Allahumma la tahrimna ajrah, wa la taftinna ba'dah wagfir lana wa lahu.

'O Allah, donot deprive us of his reward and donot let us stray after him and forgive us and him.'(Recorded by Abu Dawud)

A Tasleem is made each to the right side and the left side as done in other prayers.

Manner of burying the deceased

The least acceptable burial is to bury the deceased in a pit deep enough to prevent the stench from coming out and keep the corpse from the reach of carnivorous animals. The deceased should be made to face the Qiblah.

The most complete ways is to do the following:

The deceased should be buried in a grave as deep as the height of an average man; and it should be widened up to one cubit and an inch.

The corpse should be laid down on its right side with his face facing the Qiblah. If it was buried without making his face facing the Qiblah, it should be exhumed and made to face the Qiblah, if it not estimated that it has decomposed. It is recommended that the cheek is made to touch the earth.

If the earth is hard, it is preferable to make Lahd in the grave. Sa'd bin Abi Waqqas -may Allah be pleased with him -said when he was about to die: "Make a Lahd for me and cover me with bricks as it was done for the Messenger of Allah."

Lahd means to cut out a niche wide enough to hold the deceased at the bottom of one side of the grave. The corpse is then put there and the entrance of the niche is covered with small rocks so that dirt will not fall on top of the body when it is shoveled back into the grave.

If the earth is flaccid, then it is recommended that a vertical hole straight down and both sides of the grave should be built with bricks.

It is recommended that the deceased be gently laid down after putting him in the grave. It is preferable that the person who will enter the grave to properly place the deceased be his closest male relative; and it is recommended to say while putting him there, 'Bismillaah wa 'ala sunnati rasulillah' (In the Name of Allah and upon the Sunnah of the Messenger of Allah).

What is the ruling concerning following the funeral procession in as far as men and women are concerned?

Following the funeral procession is commendable for men. As for women, participating in the funeral procession is not recommended for them. It is rather against the Sunnah and against the Prophet's instruction to do so.

What are the etiquettes of following the funeral procession?

To follow the procession walking; if one wants to ride on his return, there is nothing wrong in that.

It is forbidden to carry the bier in a disrespectful way or in a way that could make it fall. It is recommended to carry it in a coffin, especially if the deceased is a woman, as a way of acknowledging the honor that Allah bestowed on mankind.

Making noises is disliked in a funeral processions. Neither the Qur'an nor any other Dhikr should be read aloud. Rather, everyone should be preoccupied with reflecting over death.

It is preferred that the mourners walk in front of the bier and close to it, because they are intercessors for the deceased in front of Allah. Therefore, they should be in the front.

The Sunnah is to condole the family of the deceased within three days of his death. Ibn Majah recorded that the Messenger of Allah said: "If a Muslim condoles with his brother for a calamity that befalls him, Allah will clothe him with the garment of honor on the Day of Resurrection."

Condolence is disliked after three days except from a person who had been on a journey. This is because, the sorrow ends mostly after three days of bereavement. So, it is not suitable to rekindle it. It is also disliked to repeat it. The most appropriate time for condolence is immediately after the burial, because prior to it the members of the deceased family would be busy preparing him or her for burial. However, if it is observed that the sorrow is very hard on them, then condolences can be made before burial.

The recommended format of condolence statement is to say: "May Allah magnify your reward, give you better consolation, forgive your dead and give you a better substitute."

Is it permissible to follow the funeral procession of non-Muslim?

Yes, there is nothing wrong in following the funeral procession of a non-Muslim relative if the intention is not to swell the ranks of the disbelievers.

What are the innovations that should be avoided in funerals?

All that contravenes the etiquettes of following a funeral procession which we have just mentioned.

Carrying coronets along with the bier. This is a forbidden innovation and one of the customs of the disbelievers sneaked into the midst of the Muslims. In addition to it being an innovation, it also smacks of unnecessary waste of wealth and boastfulness.

Digging a grave in a manner different from what we have explained.

It is disliked to build a grave from any materials, such as cement or gypsum.

Building structures on the grave, as people do these days, is strictly forbidden. The Sunnah is to not raise the grave above ground level by more than one inch.

Lamenting the death of the deceased by mentioning his merits and wailing are both forbidden. Wailing entails any saying or action that shows anguish such as striking of the chest or tearing off of the garments. The Messenger of Allah (Peace and Blessings of Allah be upon him) forbade all this strongly and explicitly, because it is tantamount to remonstrating against Allah and rejection of His decision and decree.

The deceased's family cooking food and inviting people to have a feast, as done these days. This is an innovation that obviously contradicts the Sunnah.

The Sunnah is the opposite - i.e. some mourners who should prepare the food and send it to the family of the deceased or to invite them for a meal. It is preferable to prepare the food in abundance so that it can be enough for them for a day and a night.

Recitation of the Qur'an in formal condolence gatherings as it is done today. This is also an innovation. The Sunnah is to console the family of the deceased within three days of his death, according to the consensus of the scholars, without the family of the deceased making any special arrangement for that.

What are the definitions of Suqt and Shaheed?

As-Suqt is a miscarried fetus. Ash-Shahid (martyr) is a person killed in a battle for the defense of Islam and hoisting its standard.

What is the ruling concerning Suqt?

There are two situations in this regard:

One: If the miscarriage occurs before the completion of the fourth month of pregnancy, it is not compulsory to give it a bat, shroud it or perform funeral prayer on it. However, it is recommended to shroud it with a sheet and bury it without praying over it.

Two: If the fetus cried at birth (and before it died) or a sign of life is seen in it, then funeral prayer must be performed over it in addition to other things mentioned above.

What are the rulings concerning funeral of a martyr?

A martyr should not be bathed, neither should funeral prayer be performed on him. The Sunnah is to shroud him in the garments in which he died.

If he sustained injury in a battle, then lived a somewhat stable life after the end of the battle, and then died, he is not regarded as martyr -as far as treatment in this world is concerned. He should be given a bath and funeral prayer should be performed over him as a normal person, even if he died as a result of the injury he sustained.

What is the wisdom behind a martyr not being bathed or prayed on?

It is to leave the impact of martyrdom on them and to acknowledge their honorable status of not being in need of people's supplications. Abu Hurayrah -may Allah be pleased with him -that the Messenger of Allah said: "By Him in Whose Hand is the life of Muhammad. If a person gets wounded in the way of Allah, he will come on the Day of Judgment with his wound in the same condition as it was when it was first inflicted; its color being the color of blood but its smell will be the smell of musk." (Recorded by Al-Bukhari and Muslim; but the version is Muslim's)

What is the ruling, concerning visiting graves?

Visiting graveyards, in which Muslims are buried, is recommended for Muslim males, according to the consensus of the scholars. The Messenger of Allah said: "I forbade you to visit graves, but you may now visit them." (Recorded by Muslim) At-Tirmidhi recorded the same Hadith but with the following addition: "For, it makes you mindful of the Hereafter."

As for women, it is not disliked for them to visit graves, for she is prone to going out in adornment and wailing.

However, it is recommended for them to visit the Prophet's grave and, by extension, the graves of other Prophets and righteous people, with a condition that they should not go out in adornment, mix with men and raise their voices, for any of these could cause temptation. And this temptation happens very often in their visits!

What are the etiquettes of visiting graves?

After entering the graveyard, it is recommended to salute the dead, saying:

«السَّلَامُ عَلَيْكُمْ دَارَ قَوْمٍ مُؤْمِنِينَ ، وَإِنَّا إِن شَاءَ اللَّهُ بِكُمْ لَاحِقُونَ»

As-Salaamu 'alaykum dara qawmin mu'minin; wa inna in sha Allahu bikum lahiqun.

"Peace be upon you, the inhabitants of the city, among the believers, and Muslims, and God willing we shall join you."

A visitor can then recite whatever he can of the Qur'an for mercy descends whenever the Qur'an is recited. After the recitation, he can make supplications for the dead and dedicate the reward of his recitation to them.

Book of Zakah

What is the definition of Zakah and when was it ordained?

Zakah linguistically means increase, growth, blessing, purification and praise.

Islamically, Zakah means a specific amount from specific properties, which is given to a specific group. The correct opinion is that Zakah was ordained in the second year of the Prophet's emigration from Makkah to Madinah -just before fasting in the month of Ramadan was ordained.

What is its ruling and what is its proof?

Zakah is one of the pillars of Islam; the explicit and unequivocal texts regarding it make it one of the clearest fundamentals of the Shar'ah that every Muslim should know. Whoever denies it becomes a disbeliever.

One of its proofs from the Qur'an is Allah's saying:

﴿وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ﴾

"And establish the prayer and give the Zakah." Al-Baqarah 2:43

The command to give Zakah is repeated in many verses of the Qur'an. In fact, the command to give the Zakah is mentioned in seventy-two places in the Qur'an.

A proof that Zakah is one of the pillars of Islam from the Sunnah is the following Hadith: 'Abdullah bin 'Umar narrated that the Messenger of Allah 'Islam is based on (the following) five (principles): to testify that none has the right to be worshipped but Allah and Muhammad is Allah's Apostle, to offer the (compulsory congregational) prayers dutifully and perfectly, To pay Zakah (i.e. obligatory charity, to perform Hajj. (i.e. Pilgrimage to Makkah) and to observe fast during the month of Ramadan." (Recorded by Al-Bukhari and Muslim)

What is the wisdom behind ordaining Zakah?

1. Zakah usually makes the giver habituated to generosity and sacrifice. It uproots stinginess and selfishness from the giver's heart.
2. It strengthens the cord of brotherhood and love between the giver and others.
3. It maintains the level of self-sufficiency among members of the society.
4. It removes unemployment and its causes.
5. It is the only way to purify the hearts from rancor, jealousy and ill-feelings that are dangerous phenomena that only spread in a society in which manifestations of mutual compassion and cooperation are lacking.

What is the ruling concerning a person who refuses to pay Zakah?

One: If a person denied that Zakah is obligatory, he has gone out of the fold of Islam and his blood is no longer sacred, if he does not repent. This is because, Zakah is one of the matters whose obligatory status is known, as a necessity, i.e. all Muslims know this with no need for any proof or evidence.

Two: If a person refused to pay Zakah, though he believes that it is obligatory, then he has committed a grave sin and a severe punishment will be meted out to him on the Day of Resurrection. It is enough in this regard to read the following saying of Allah:

﴿وَالَّذِينَ يَكْتُمُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا ينفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ ﴿٣٤﴾ يَوْمَ يُحْمَى عَلَيْهَا فِي نَارِ جَهَنَّمَ فَتُكْوَى بِهَا جِبَاهُهُمْ وَجُنُوبُهُمْ وَظُهُورُهُمْ هَذَا مَا كَنْزْتُمْ لِأَنْفُسِكُمْ فَذُوقُوا مَا كُنْتُمْ تَكْتُمُونَ﴾

"And those who hoard up gold and silver (al-Kanz: the money, the Zakaat of which has not been paid), and spend them not in the Way of Allah, announce unto them a painful torment. On the Day when that (Al-Kanz: money, gold and silver the Zaka't of which has not been paid) will be heated in the Fire of Hell and with it will be branded their foreheads, their flanks, and their backs, (and it will be said unto them): "This is the treasure which you hoarded for yourselves. Now taste of what you used to hoard." At-Tawbah 9:34,35

In this world, Zakah should be taken from him forcefully, if he behaves obstinately and takes up a fight with those assigned to collect it, then the Muslim ruler who implements the Shari'ah should declare a war against him.

Who must pay Zakah?

The following are the conditions that must be found in those upon whom Zakah is obligatory:

1. Islam; it is not compulsory for a disbeliever in this world.
2. Possession of the Nisaab.
3. Possessing the Nisaab for a whole lunar year.

Is Zakah obligatory on the property of a minor or an insane person?

Yes, though this does not mean that a minor or an insane person is legally obliged to pay Zakah from their wealth or that they would be punished on the Day of Resurrection if they fail to do so. Rather, what it means is that the right of Zakah is connected to only their wealth if the conditions are complete. The guardian of a minor or an insane person should pay the Zakah from the wealth of his ward. If the guardian is negligent in carrying out this responsibility, he will be liable to punishment from Allah.

If a minor or an insane person does not have a guardian who could pay out the Zakah on their behalf, then the minor must pay the Zakah of all the past years after he attains the age of puberty; and the insane person should do the same after being cured of insanity.

What are the properties upon which Zakah is due?

Gold and silver, whether they are shaped or not. They must be physically or legally under one's possession whether they are dealt in practically or through currencies that are regarded as legal tender.

Gold and silver coins and whatever shares the same values.

Golden and silver utensils meant for usage or decoration. No Zakah is due upon jewelries, if they have not reached the level of excessiveness in multitude.

Livestock:

These are camels, cattle and sheep, and by extension, the goat.

Crops and fruits:

Zakah is due on them if they are among what the people eat in normal situations and can be stored without getting rotten. Among the fruits are fresh dates and grapes; among the crops are wheat, barley, lentils, chick-peas, corns etc. What people are forced to eat when there is a drought is not reckoned with.

Commercial commodities:

What is meant by commerce is making transactions with the intention of gaining a profit. It is not limited to a particular property. The commodities are the things that change hands with the purpose of earning profit.

Conditions that make Zakah obligatory upon commercial commodities:

Zakah is not due on possessed commodities except with the following two conditions:

1. It should be possessed by a contract in which there is something in return for the other party such as sale, hire or mahr. If it is possessed through a bequest, inheritance or gift, then it is not regarded as commercial commodity.
2. To have intention of doing business with the possession at the time of taking possession of it; and this intention should be continuous. If the intention is not to do business with it, then it cannot be regarded as commercial commodity even if one intends to do business with it later. Also, if a person buys a commodity with the intention of making business with it and then decides to keep it in his possession without doing business with it, it ceases to be a Zakatable commodity.

Minerals and Buried Treasures (Ma'din and Rikaz):

By this we mean gold and silver that are dug out of the earth. Ma'din is what a person himself buried in the earth while Rikaz is what is buried before the advent of Islam.

If it is established that the treasure was buried after the advent of Islam, then it is regarded as lost property and it has special rulings that will be explained when we discuss rulings concerning lost properties -Insha'Allah.

Nisab, Its Conditions and What is Due on Each Nisab

What is Nisaab?

Nisaab is the minimum amount of a property that renders it incumbent on the owner to pay the Zakah. If the property owned is less than this minimum amount, then one is not required to pay Zakah on it.

Each of the Zakat-able properties has its own Nisaab.

What is the Nisaab of gold and silver?

There is no Zakah on gold until it reaches twenty Mithqal. This is the Nisaab of gold. There is no Zakah on silver until it reaches two hundred dirham, which is the Nisaab of silver.

There are two types of mithqal:

One: 'Ajmi mithqal: It is equal to four grams and 8/10th of a gram. And twenty Mithqal is equal to ninety-six grams. **Two:** Iraqi Mithqal: It is equal to five grams; and twenty mithqal is equal to 100 grams.

To be on the safe side, we have to rely on the less, which is the former, for the interest of the poor. Therefore, the Nisaab of gold will be ninety-nine grams. If, for example, the price of one gram of gold is currently five hundred Syrian liras, the Nisaab of the Zakah of gold will be the result we get when we multiply the Nisaab by the price of gram of gold forty eight thousand liras.

The worth of two hundred dirham of silver equals six hundred and seventy two grams. In the early days of Islam, it equaled twenty Mithqal of gold. Therefore, each of them is regarded as Nisaab for Zakah.

The difference in the worth of silver only occurred afterwards as a result of the difference in the worth of gold. As a result, the worth of twenty Mithqal of gold is much more than the worth of two hundred Mithqal of silver, as it is the case today.

Whatever the case may be, if a person possesses monetary currency, he should regard it as substitute for gold. Therefore, it is not obligatory for him to pay Zakah on it until it is worth ninety nine grams of gold.

One can also regard the monetary currency in his possession as a substitute for silver which becomes Zakat able as soon as it is worth of six hundred and seventy two grams.

However, it is safer to choose what is in the best interest of the poor so that he will be sure that he has fulfilled his obligation to Allah. If his estimation of the money in his possession in silver makes it reach the Nisaab than when he estimates the same in gold, then it is better to estimate it in silver so that it will be Zakat-able.

What is the condition that makes Zakah obligatory on gold and silver?

Being in possession for a full year:

If the Nisaab of gold and silver is complete, before the Zakah could be obligatory upon it, it should be in the possession of the payer for a full lunar year in which the money is not less than the minimum Nisaab.

What is the amount payable in Zakah of gold and silver?

If a Muslim is in possession of Nisaab of gold or silver and more and it has been in his possession for a full lunar year, then it is obligatory on him to pay 2.5% of that amount in Zakah.

What is the ruling concerning making changes in Zakah money?

There is no difference among the scholars that Zakah of money is paid in cash. It is not permissible for the owner to pay out a corresponding commodity in place of that money.

If a person gives his Zakah money to the ruler or an agent, none of these people is allowed to make in that money any changes that could change its nature before it is given out to those who are eligible for Zakah.

The scholars said: "It is not permissible for supervisors of (charity) organizations to make any change whatsoever of Zakah money is given to them. They are not allowed to buy food items or any materials with it and then give that to those who are eligible for Zakah under the excuse of pitying them and taking care of their interests.

We advise these sincere volunteers that if they desire reward from Allah, then they should not turn themselves into promulgators of laws in matters of religion. They should not follow their whims in interpreting the welfare of others concerning Allah's law. They should not turn themselves into guardians on those Allah did not give them guardianship over. They should adhere to what AnNawawi reported from the eminent scholars:

There are among those who are eligible for Zakah, individuals who are sane and wise enough that they do not need anyone's guardianship. Therefore, we should not make any changes in what is delegated to pay to them without their permission, and their permission will be reckoned with after giving them their rights and after they have taken possession of the same."

An-Nawawi -may Allah have mercy upon him -also said: "Our scholars are unanimously of the view that if what is due is a camel, a cow or a goat, it is not allowed for a payer to sell it and distribute its price to the beneficiaries. Rather, he should gather them and give the Zakah to them. That is the ruling of Imam Ash-Shafi'ie." (Al-Majmu' 6/178)

Further, we should not forget that Zakah is an act of worship, and exercising of personal views and opinions are not allowed in acts of worship except in extremely narrow situations. That is why the scholars always abide by the texts and they do not consider the so-called welfare in going against the texts.

An-Nawawi said: "Imam Al-Haramain said: 'The recognized proof in the view of our companions is that Zakah is an act of worship for Allah; and in any act of worship, Allah's command should be obeyed. For example, if a person asks his representative to purchase a cloth and the representative knows that the purpose is for commerce, if he finds another commodity that is more profitable than what he is asked to purchase, he would not purchase it until he asks for the permission of the person who delegated him. Therefore, Allah's command is more deserved to be obeyed and adhered to.'" (AlMajmu' 5/403)

What is the Nisaab of the camels and what is the amount due?

Nisaa b	The amount due
From 5 to 9 camels	One year-old goat
From 10 to 14 camels	Two goats Or a two-year old goat
From 15 to 19 camels	Three goats
From 20 to 24 camels	Four goats
From 25 to 35 camels	One camel in its second year
From 36 to 45 camels	One camel in its third year
From 46 to 60 camels	One camel in its fourth year
From 61 to 75 camels	One camel in its fifth year
From 76 to 90 camels	Two camels in their third year
From 91 to 120 camels	Two camels in their fourth

If the number of the camels is more than that, then on every forty camels, one camel that has entered its third year is due; and on every fifty camels, one camel that has entered into its fourth year is due. If the number of the camels reaches on hundred and seventy, then three camels in their third year and one camel in its fourth year is due.

What is the Nisaab of cows and what is the amount due?

Nisaa b	The amount due
From 30 to 39 cows	A 1 year-old cow
From 40 to 59 cows	A 2 year-old cow
From 60 to 69 cows	2 one-year old cows
From 70 to 79 cows	A 1 year-old cow and a 2 year-old cow
From 80 to 89 cows	Two 2 year-old cows.
From 90 to 99 cows	Three 1 year-old cows
From 100 to 109 cows	One 2 year-old cow and two 1 year-old cow

From 110 to 119 cows	Two 2 year-old cows and one 1 year-old cow
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If the number of the cows increases, one one-year old cow, will be paid on every thirty cows and one, two-year old cow, should be paid on every forty cows.

What is the Nisaab of the sheep and what is the amount due?

Nisaa b	The amount due
From 40 to 120 sheep	A one-year old sheep or a two-year old goat
From 121 to 200 sheep	Two goats
From 201 to 300 sheep	Three goats

After that a goat is paid on every additional one hundred sheep.

What are the conditions that make Zakah obligatory on livestock?

The animals should be freely grazing for most part of the year and their lives and health should be dependent on this.

The livestock should be kept for milking or procreation. If they are kept for work such as farming or carrying loads, there is no Zakah upon them. The evidence for this is the Prophet's saying: "There is no (Zakah) on load carrying cows." (Recorded by At-Tabarani) The same rule can be applied to other livestock.

The condition of a full year possession is exempted regarding the young animals that the livestock produce during the year. It is not a condition that a full year should pass on the young ones after their birth before Zakah can be paid on the entire livestock. Rather, they should be reckoned along with the older livestock that have already been in the possession for a full year.

What are the Nisaab of crops and Fruits and what is the Amount Due on them?

The Nisaab of crops and fruits: It should not be less than five Wasaqs. Wasq is equivalent to 60 Saa' and a Saa' is four mudd. A Mudd is an equivalent of a handful of medium man which is more than 600 grams.

What is the amount due?

If the produce is from a land irrigated by rainwater; with no any human efforts, the amount due is one tenth of the total produce which is 30 Saa'.

If the land is irrigated through human efforts, such as machines that draw water from wells or from rivers and the like, the amount due on the produce of that land is one twentieth, which is 15 Saa'.

When is Zakah due on land produce?

Zakah is not due on farm produce until they are ripe for harvest. The ripeness of the produce is made a condition because they are only good for consumption after that.

Though the obligation of Zakah is established as soon as the produce are ripe, paying Zakah on fruits does not become obligatory until the grapes become raisin and fresh dates become dried.

As for other produce, Zakah is obligatory on them after the peels have been removed. Allah says:

﴿وَأَتُوا حَقَّهُ يَوْمَ حَصَادِهِ﴾

"Pay the due thereof (its Zakaat, according to Allah's Orders 1/10th or 1/20th) on the day of its harvest." Al-An'aam 6:141

What is the ruling concerning sale of fruits and crops after the Zakah has been due on them?

If a person sells the fruits and crops after the Zakah has been due on them, sale of the portion that must be paid will be regarded as null and void, unless the entire produce is estimated. Such estimation guarantees for the owner the amount due as Zakah.

The same rule applies to any other means of disposal-such as eating, presenting as a gift, or destruction. If a person disposes of his produce upon which Zakah is due and before he could pay what is due on it, then he would be fined the equivalent of the amount that is due. If he is aware that such disposal is forbidden, his act will be counted as sinful, but if he is not aware, he will be excused.

It is permissible to pay the Zakah in cash instead of in kind?

Zakah of the livestock must be paid in kind; and it is not permissible to pay it in cash. The same thing applies to the Zakah of crops and fruits. This is because; the Law-Giver attached what is due on them to the same kind. The Messenger of Allah, said: "On a land irrigated by rain water or by natural water channels or if the land is wet due to a nearby water channel Ushr (i.e. one-tenth) is compulsory (as Zakaat); and on the land irrigated by the well, half of an Ushr (i.e. one-twentieth) is compulsory (as Zakaat on the yield of the land)." (Al-Bukhari reported it on the authority of 'Abdullah bin 'Umar - may Allah be pleased with them)

However, some situations are exempted due to necessity. For instance, if a person owns five camels upon which a goat is due as Zakah and he could not find one after exhaustive search. If the poor people who are entitled to the Zakah could not bear the delay, then he can pay it in cash.

Another example is if a person who has property upon which Zakah is due but hides that property and the authorities found out that he has other properties, then Zakah can be taken from the other properties.

How does a merchant pay the Zakah from his wealth?

The commercial wealth is quantified in monetary terms, if it is worth ninety six grams of gold or two hundred dirhams of silver, then Zakah is due on it. The owner is free to estimate his wealth in terms of gold or silver, unless if he has bought either of the two with his money. In this case, the Zakah should be estimated in the one which he bought with his money.

The commercial property should reach the Nisaab of the end year starting from the date of the commencement of the commerce. It is not a condition that it should reach Nisaab at the commencement of the commerce nor is it a condition that it should remain so throughout the year. From here, it is known that what is meant by a year in Zakah of commercial commodity is to possess the commercial commodity with the intention of trading in it for a full year, except if he has taken the possession of that commodity in cash that is much enough to constitute a Nisaab or more. In this case, the year starts from the date of taking possession of that cash Nisaab with which the commercial commodity is purchased.

In light of the above, the merchant should make a list of all his commercial properties and estimate them in gold or silver. If it reaches the Nisaab, then he must pay 2.5% of the same as Zakah. If it does not reach the Nisaab, then no Zakah is obligatory upon it.

The following should be considered while making the compilation and estimation:

One: Furniture and similar materials, as well as equipments that are in the shop should not be included as long as they are not meant for sale, however expensive they may be.

Two: Both the capital and the profits should be included in the estimate and Zakah should be paid out of the combination of both. If, for example, someone starts his business with one thousand Syrian liras and by the end of the year, the amount has increased to five thousand liras; the Zakah should be paid from the entire money.

Should Zakah be paid out of the estimated commercial commodities themselves or from the monetary value after the estimation?

There are three opinions regarding this:

One: The Zakah should be paid from monetary value after the estimation, and paying Zakah from the commodities themselves is not acceptable. This is because, commercial commodities are not Zakaat-able items in the first place. They only become so due to the intention of trading in them. The relationship between them and Zakah is the monetary value with which they are estimated. Therefore, the Zakah should be paid out of this value.

This is the most correct view; and it is the view upon which Fatwa is based.

Two: It is permissible to pay Zakah with commercial commodities and doing in monetary value is not permissible. This is because, there would not have been any Zakah without the existence of these commodities.

Three: The person is free to pay out the Zakah from either of the two because the Zakah is connected to both of them. For, each of the two is responsible for the Zakah being due.

We should pay 2.5% of every kind of what we own (of gold or silver) and should not pay the amount due on a kind with its value in other kind. Likewise, the amount due that we pay on each kind of wealth should be taken from the moderate - not from the most expensive and not from the least expensive. We should not pay Zakah with defective wealth or with a material that has no market value.

What is the Nisaab of the mines and treasures and what is the amount due on them?

As for mines, their Nisaab is the same as that of gold and silver. However, it is not a condition that they must be in one's possession for a full year before Zakah is paid on it.

Rather, Zakah must be paid on them as soon as they are taken out of the earth. If a person digs gold or silver out of his mine and what he digs out reaches the Nisaab, then its Zakah, which is 2.5%, should be paid immediately.

As for buried treasures, their Nisaab is also the same as that of the gold and silver. Also, it is not a condition that the buried treasure should be in one's possession for a full year before Zakah is paid on them. However, the amount due on them is one fifth or 20% of the total.

Zakah of the Mixed Wealth

What is meant by mixed wealth is Zakaat-able property jointly owned by two persons and is mixed together for the purpose of joint trading.

There are two types of mixed wealth:

One: Communally mixed wealth:

This is a case where two persons jointly own a wealth that has reached the Nisaab and it has been in their possession for a full year -either by purchase or inheritance, and the property is of the same kind.

It should be noted that wealth in this type is communally mixed, where the portion of one owner couldn't distinguished from that of the other. The example of this is when two brothers inherited forty heads of sheep from their father or if both of them jointly bought the sheep, in which case each of them owns a half of each sheep.

The case is the same if the inherited or purchased property is a commodity of a piece of land. Each of the two partners owns an undistinguished half of the same.

Two: Proximally mixed wealth:

This is a case where two persons jointly own a separable property that has reached a Nisaab.

How is Zakah paid on a jointly owned wealth?

The mixed property will be regarded as a property for one person as far as the Zakah is concerned. If the total mixed property has reached the Nisaab and it has been in possession for a full year, then Zakah must be paid on it, even if the share of each of the two partners did not reach the Nisaab.

If the share of each of the two partners is distinct from that of the other, the shares should not be brought together to form a Nisaab so that Zakah will be due on it. But if the share of each of them is inseparable from that of the other, it should not be separated to avoid paying Zakah on each due to its being less than the Nisaab.

Cases like this, sometimes, make Zakah obligatory on a property, upon which Zakah would not have been due if not because of the mixed status of such property. Likewise, sometimes, they reduced the amount due on it, that had it not been for its mixed status, the amount due on it would have been more.

What are the conditions regarding two mixed properties as one?

There are two groups of conditions for considering Zakah in mixed properties:

The First group of conditions:

These are conditions for the two mixed properties regardless of the type they belong to whether communal or proximal. The conditions are:

The two properties should be of the same kind. If one of the two properties is sheep and the other is cows, then each should remain separate whatever the case may be.

The combination of the two properties should reach the Nisaab and more. If, for instance, the combination of the properties is thirty-five heads of sheep, Zakah is not due on it -even if each of them has a number of sheep that if it is added to the jointly owned, it would reach the Nisaab.

The mixtures should be in that state for a full year, if the property is one in which passing of a year is a condition. For example, if each of them owns forty heads of sheep at the beginning of Muharram and then mix their properties together in the month of Safar, each of them should pay Zakah with a goat in

the month of Muharram of the following year -this means that their mixing of the properties in the month of Safar is not reckoned with. If the property in which passing of a year is a condition, such as crops and fruits, then it is a condition that the mixture should stay in place until the fruits come out and ripen.

The second group of conditions:

They are exclusive with proximal mixed properties, and they are:

In regard to mixed livestock, there should not be any difference as far as their pastures and enclosures are concerned. If the mixed herds of livestock have different pastures and enclosures, then this kind of mixing has no effect.

The mixed livestock should have only one herdsman or keeper. If each of the herd has a different herdsman or a different keeper, the property would not be regarded as mixed.

If the mixed Zakah property is crops, the keeper and the place where the fruits are dried should be the same. If the mixed property is a commercial commodity, then the shop, the storehouse and commercial tools used should be the same.

When these three conditions are found, then the mixed properties are regarded as one single property that belongs to a single owner and their not being communally mixed would become immaterial. But if these conditions are not found or if any of them is missing, then each owner will have to consider his wealth independently and pay Zakah on it based on that.

What must each of the two owners of a mixed Zakah property do?

When Zakah is taken from a mixed wealth on the basis that it is a single property, it must be ensured that each of the owners pays only what is in proportion to his share of the joint property. If what is taken from one of them is more than what his share necessitates, then the additional pay must be returned to him by his partners. If what is taken from him is less than what his share necessitates, the difference must be paid back to his partners.

If the mixed wealth is one hundred goats, one goat is due on it. If the mixed herd of goat is jointly owned by three persons and the share of one of them is fifty goat, and that of the other two partners is twenty-five goats each, then the share of the first one of what is due is half a goat while that of each of his two partners is one-quarter of a goat, respectively.

Manner of Paying Zakah

Is it permissible to delay the payment of Zakah?

It is not permissible to delay the payment of Zakah if two conditions are found:

First condition: The person should be able to pay it; by having the property present and accessible to the payer. If the property is present with the payer such as its being in another country or being lent to other people, one is not required to pay Zakah on it immediately. However, if he has, present in his possession, the amount of money that is enough to pay the Zakah due on his property, he should pay it immediately.

Second condition: Presence of those who are entitled to Zakah or presence of the Imam or his agent assigned to collect the Zakah. If none of those mentioned in the Qur'an as beneficiaries of Zakah or their agent are present, then one can delay its payment until the beneficiaries are available.

What is the consequence of delaying the payment of Zakah?

If the above two conditions are available but the payer still delays the payment of Zakah, the result is two consequences:

One: He becomes sinful for doing so. This is because; he is withholding the property of the poor people without any excuse. There is no harm if he delays the payment due to a close relative, a neighbor or someone else who he thinks deserves the Zakah more than those who are available -as long as this delay does not cause the latter great harm or increase their hunger or want, lest he will become sinful.

Two: The right of the poor and those to whom Zakah is due will cease from being attached to the property itself to being attached to the payer himself. He then becomes always haunted by denying the poor people their rights, even if he suffered the loss of all his property afterwards. This is because; he was negligent as a result of the inexcusable delay so he has to bear the responsibility of that delay. This is to safeguard the rights of the beneficiaries -even if the payment is delayed awaiting the presence of those mentioned earlier.

Is it permissible for the agent to delay payment of Zakah to its beneficiaries?

It is not permissible for an agent to delay payment of Zakah to its beneficiaries as long they are present. If he did so, he has sinned and would be responsible for that property.

Hence, the charity organization should keep any part of the amount given to them as Zakah as a balance in their bank account or in their treasury. They are also not allowed to keep any part of the Zakah in order to give the same to the poor on monthly installments throughout the year. All this has no legal backing in the Sharia'ah and it contradicts Allah's injunctions that Zakah should be paid to its beneficiaries without delay.

Is it permissible to pay Zakah in advance?

It has to be looked into. If one pays Zakah before he owns a Nisaab, the payment is invalid. If, after that, his wealth reached a Nisaab and he possesses the same for a full year, he must pay Zakah on it and the money he has prematurely paid will not be counted as the required Zakah. This is because; the reason for the Zakah being due is Nisaab, which did not exist then.

But if he pays the Zakah on his wealth before the passing of a full year, his Zakah will be regarded as valid. He will not need to pay the Zakah again after the passing of a year.

What are the conditions for validity of a prematurely Zakah?

One: The payer should remain eligible to pay the Zakah till the end of the year. If he loses this eligibility before the year ends -for instance, he dies before the year ends -what he prematurely paid will not be regarded as Zakah. In this case, his heirs can seek to retrieve what he has paid if it was clear to the beneficiary that it was prematurely paid Zakah.

Two: The property should remain as it is for the full year. If the property gets ruined or sold off not, excluding anything commercial, then the prematurely paid Zakah will be regarded as invalid. He should retrieve what he has paid if it was clear to the beneficiary that it was prematurely paid Zakah.

Three: The beneficiary of the prematurely paid Zakah should be eligible to receive the Zakah at the end of the year. If he experiences situations within that year that disqualify him from being entitled to Zakah before the end of the year -such as getting rich from other means, apart from the money paid to him as Zakah or renouncing Islam then Zakah is not valid. For, it is the end of the year that is reckoned with, when it becomes obligatory to quickly pay the Zakah.

Based on this, if the recipient of a prematurely paid Zakah becomes ineligible to receive Zakah at the end of the year, whatever paid to him as Zakah will not be reckoned with. Then, the giver should pay the Zakah again. If he told the recipient when he was giving him the Zakah, "This is my Zakah", then he has the right to retrieve the same. But if he did not tell him so, he has no right to take it back.

Is it permissible for a person to delegate another to pay the Zakah on his behalf?

The best thing is to pay the Zakah to the beneficiaries by the payer himself.

However, it is permissible for a payer to delegate anyone to do so on his behalf, if the person so delegated is capable of doing so on his own behalf.

Is it necessary to make intention while paying Zakah?

Yes, it is necessary to make intention while paying Zakah in order to differentiate such payment from others such as atonements and voluntary charity. The Messenger of Allah, said: "Indeed, acts are only judged according to the intentions." (Recorded by Al-Bukhari and Muslim)

If a person is paying Zakah on his own behalf, he should make intention of doing at the time of paying it to the beneficiary or when he is separating the money with which he is paying Zakah from the rest of his wealth.

If he is assigning another person to do so on his behalf, he should make the intention at the time of making such assignment. After that, it is not necessary for the assigned person to make any intention while giving the money to the beneficiaries.

Beneficiaries of Zakah

Who are the beneficiaries of Zakah?

The poor. They are those who do not have what is sufficient for them in terms of food, clothing and shelter like someone who is in need of ten basic things but has only three.

The needy. They are those who have something with which to fulfil their basic needs, but what they have does not cover all their needs -like someone who needs ten things and has eight. This category and the one before it are given what is sufficient for them, according to the most authentic sayings of the scholars.

Those employed to collect the Zakah. They are those employed by the Muslim authority to collect and distribute the Zakah. The workers are given their wages from the funds they collect. They should not be given more than what they deserve neither should they be given a certain percentage of what they collect.

Those whose hearts have been inclined towards Islam. They are those who have just accepted Islam so they are given part of Zakah in order to strengthen their faith. Another example of this category are Muslims who enjoy high status and influence among their people, and it is expected that giving them a part of the Zakah may lead others to accept Islam. Other people who fall under this category are those who hold strategic positions and protect the Muslims against sudden attack from the infidels and transgressors, or those who go to collect Zakah from a people who are difficult to send collectors to. The people of this category are only given a part of the Zakah if the Muslims are in need of them. If the Muslims are not in need of them then they should not be given anything.

To free the captives. Zakah is also used to free captives from bondage and to help bondmen free themselves from bondage.

Those in debt. They are those who are under the burden of debts which they find difficult to pay. They are given from the Zakah whatever amount that could help them pay off their debts. In addition to that, they are also given what could be sufficient for their food, clothing and shelter. However, it must be ensured that the reason for which they incurred the debt was lawful. If the reason was not a lawful one,

then they should not be given Zakah, except if they have repented and it is assumed that they are truthful in their repentance.

Included in this category is someone who incurred debt in order to make peace between two warring factions. In this case, he is given the amount he incurred, even if he is wealthy and is able to settle that debt from his personal wealth.

For Allah's Cause: This refers to those who fight in the way of Allah, voluntarily in defense of Islam and do not have wages from the Muslims treasury. Each of the fighters is given what is sufficient for him and his dependents until he comes back from the battlefield however long he stays there, even if he is rich. He is also provided all that he needs for Jihad such as transportation, weapons and materials.

The wayfarer: The wayfeerer is a traveller on a lawful journey or wants to embark on a lawful journey. He is given what will be sufficient for him on his journey to and from -if he intends to return. He should be given what covers his transportation and provision.

If he is on an unlawful journey, he should not be given anything from the Zakah -unless after he has repented and it is assumed that he has sincerely repented.

The above are the eight categories of people who are entitled to Zakah. This number is exclusive, as such Zakah should not be given to anyone else.

The evidence for this exclusiveness is Allah's saying:

﴿ إِنَّمَا الصَّدَقَتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَمَلِينَ عَلَيْهَا
وَالْمُؤَلَّفَةِ فُلُؤْمِهِمْ وَفِي الرِّقَابِ وَالْغَرَمِينَ وَفِي سَبِيلِ اللَّهِ
وَأَبْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ ﴾

"As-Sadaqaat (here it means Zakaat) are only for the Fuqaraa' (poor), and Al-Masaakin (the poor) and those employed to collect (the funds), and to attract the hearts of those who have been inclined (towards Islam); and to free the captives, and for those in debt, and for Allah's Cause (i.e. for Mujaahiduan -those fighting in a holy battle), and for the wayfarer (a traveler who is cut off from everything); a duty imposed by Allah. And Allah is All-Knower, All Wise." At-Tawbah 9:60 It is allowed to pay other Sadaqah to other than these eight categories. Allah knows best.

How is Zakah distributed to its beneficiaries?

Zakah is paid to whoever is available of these eight categories. If all of them are available, they should all be given a share of the Zakah and it is unlawful to deprive anyone of them of a part thereof.

1. If one of the categories is not available, his share is distributed to the other available categories.
2. All the madh-habs -with the exception of the Shafi'ites believe that it is permissible to give the Zakah to only one person from among these categories. Imam Maalik is of the view that it could be given to the neediest of them.
3. If there is a surplus in the share of one of these categories, the surplus is redistributed to other categories.
4. Zakah is distributed to the available categories on equal basis even if their needs vary -with the exception of those employed to collect the funds. As mentioned above, they are given their wages before the Zakah is distributed.

5. Equal distribution among the beneficiaries of a particular category is not a condition. Rather, it is permissible to give some more than what is given to others. If the payer takes up the responsibility of distributing the Zakah himself, he should give to, at least, three persons from each category if they are not limited in number. This is because; each of these categories is mentioned in the verse in plural form, and the least plural is three. If they are limited in number and it is possible to know their exact number, then the Zakah should be distributed to all of them, if it is enough to fulfil their needs. If he knowingly leaves out anyone of them -in any of the two situations mentioned above -he should guarantee for him the minimum substitute from his wealth.

Is it permissible to move Zakah fund from its domain of obligation?

It is impermissible to move Zakah from the town in which it is obligatory to another as long as there are entitled beneficiaries in its domain of obligation -even if the distance is not far. Moving it to other places will be tantamount to hurting its beneficiaries in its domain of obligation. If one of the categories of beneficiaries is not available in the domain of obligation or if the shares of individual beneficiaries are more than what they need, the share of that category or what is surplus over the needs of its beneficiaries can be moved to the equivalent category in another town.

What are the conditions for entitlement to Zakah and who are those that are not eligible to benefit from Zakah?

Each of the members of the above-mentioned eight categories should fulfill the following conditions:

1. Islam, Obligatory Zakah should not be paid to a non-Muslim.
2. Inability to earn a living. If a poor or needy person is able earn a living through a befitting work and what he earns is sufficient for him (and his dependents, if he has any), then it is neither permissible to give him Zakah nor is he permissible to accept it if he is offered same.
3. The beneficiary must not be among the obligatory dependents of the giver, for the obligatory support he gets from the giver should make him free of any need to the Zakah. The giver's giving him the Zakah will mean that he gives the Zakah to himself because he is the ultimate beneficiary.
4. Therefore, Zakah should not be paid to parents or grandparents, because their support is compulsory upon their children and grandchildren. Equally, Zakah should not be to one's children and grandchildren downwards if they are minors, and or insane or terminally ill adults. This is because; their fathers are primarily responsible for their support and maintenance.

Likewise, Zakah should not be paid to one's wife because her maintenance is her husband's responsibility.

However, it should be noted that none of the dependents should be given Zakah only in the context of their being poor and needy. But if one of them falls into other categories of Zakah beneficiaries such as being in debt or fighting in Allah's cause, then it is permissible for their guardian to give Zakah to him for that purpose.

Can Zakah be given to a person who has his maintenance being provided for by another person?

The person upon whom Zakah is obligatory should not give it to any of his dependents, such as a wife, a parent or an offspring -if they are poor or needy. Then can any other person -apart from their breadwinner -give Zakah any of these dependents? If the maintenance that is being provided by his

breadwinner is sufficient, then it is not permissible to give Zakah to him because he already has what is enough for his sustenance.

But if the maintenance being provided is not enough, then it is permissible to give him Zakah in the context of his being poor and needy.

Is it permissible for wife to give the Zakah due on her wealth to her husband?

It is recommended for the wife, if she is rich and her wealth reaches a Nisaab, to give the Zakah of her wealth to her husband, if he is poor. It is also recommended for her to spend the same on her children, if they are poor. This is because maintenance of husband and children is an obligation of the wife and mother.

Is it permissible to give Zakah to relatives whom the payer is not obliged to provide sustenance for?

If a person in whose wealth Zakah is due has relatives such as a brother, a sister, an uncle, an aunt or a nephew who he is not obliged to provide sustenance for is poor, needy or falls into one of the categories of beneficiaries of Zakah, it is permissible to give Zakah to them, for they have more right to it than others.

Paying Zakah on Money Loaned out to others

If a person is owed an amount of money and the amount, by itself or combined with other amount he has, reaches the Nisaab, Zakah must be paid on it if a year has passed on it. This is because such money has reached the Nisaab, which has passed on it, so Zakah is obligatory. The fact that the amount is not in his hand does not prevent the Zakah from being obligatory on it. It is like an away commodity and trust in each of which Zakah is obligatory, which are not in the hand of their owner.

When is Zakah on loaned money paid?

1. If the loan is an immediate one and the creditor is able to take the money back from the debtor, who is able to pay back the loan, it is incumbent upon the creditor to pay the Zakah as soon as it is due, even if he has not yet received the money. This is because it is treated as an amount that is under his possession and it is like a trust in the hand of a creditor, which he is capable of regaining and disposing of. This kind of debt is called, 'a strong debt'.
2. If the loan is an immediate one but the creditor is unable to take the money back because the debtor is financially strained or he denies ever taking the loan and the creditor does not have a proof of lending him the money; then it is not incumbent upon him to pay the Zakah due on it immediately. This is because he is incapable of retrieving or disposing of it. In this case, the money is only estimated and the record concerning the period it remains in the hand of the debtor is kept. Whenever he is able to retrieve it, the Zakah of that amount for the year it has been in the hand of the debtor is then paid. The reason for this is that, he is obliged to pay Zakah on it every year. It is like the case of the wealth of an absent person who must pay Zakah due on his wealth for all the years he has been absent. This kind of debt is called, 'weak debt'.
3. If the loan is a delayed one, it is not compulsory to pay the Zakah due on it until the time for payment is due. When the time is due, he must pay the Zakah due on it for the past years whether he has received the money or not, as long as he is capable of receiving it. If the payment time is due and he does not receive the money and he is unable to receive it, he has to wait. Whenever he receives it, he must pay the Zakah due on it for the past years.

Is it obligatory to pay Zakah from the wealth of someone who has an outstanding debt?

If anyone has a Nisaab of Zakah properties mentioned above and he possesses the same for a full year, he must pay the Zakah due on it as explained earlier -even if what he owes is capable of exhausting his entire wealth or reducing it less than the Nisaab.

The same thing applies to a person who has commercial commodities and they have reached the Nisaab after being in his possession for a full year. Whatever debts he owes should not prevent him from paying the Zakah due on the wealth which is in his possession. This is because the debt is an obligation attached to his self while Zakah is an obligation attached to the wealth, which is under his possession. As soon as Zakah is obligatory on a wealth, it becomes a possession of the beneficiaries, even if it is still in the hand of the person upon whom its payment is obligatory.

Book of Fasting

What is the meaning of fasting?

Fasting linguistically means abstention from something.

In Islamic terms, it means intentional abstention from all food, drinks and sexual activities from the appearance of the real dawn till sunset.

When was fasting ordained?

Fasting of the month of Ramadan was ordained in the month of Sha'ban year 2 A.H. Prior to this, fasting was known to past nations.

What is the proof for ordainment of fasting?

The fundamental proof for ordainment of fasting in the month of Ramadan is Allah's saying:

﴿شَهْرُ رَمَضَانَ الَّذِي أُنزِلَ فِيهِ الْقُرْآنُ هُدًى لِّلنَّاسِ
وَبَيِّنَاتٍ مِّنَ الْهُدَىٰ وَالْفُرْقَانِ فَمَن شَهِدَ مِنْكُمُ الشَّهْرَ
فَلْيَصُمْهُ﴾

"The month of Ramadaan in which was revealed the Qur'aan, a guidance for mankind and clear proofs for the guidance and the criterion (between right and wrong). So whoever of you sights (the crescent on the first night of) the month (of Ramadaan i.e. is present at his home), he must observe Saum (fasts) that month." Al-Baqarah 2:183

The proof from the Sunnah is the statement of Allah's Messenger : "Islam is based on (the following) five (principles): To testify that none has the right to be worshipped but Allah and Muhammad is Allah's Apostle, to offer the (compulsory congregational) prayers dutifully and perfectly, to pay Zakah (i.e. obligatory charity), to perform Hajj. (i.e. Pilgrimage to Makkah) and to observe fast during the month of Ramadan." (Recorded by Al-Bukhari, Muslim and others)

What is the ruling concerning a person who abandons fasting of the month of Ramadan without excuse?

If a person denies its obligatory status, such a person should be dealt with as an apostate and required to repent. If he repents, his repentance is accepted, but if he refuses to repent, he should be executed, in line with the prescribed punishment. That is if he is not a new Muslim or grew up in a remote area, far from the people of knowledge.

If a person abandons fasting with no excuse but he does not deny its obligatory status, and he says, 'I acknowledge that fasting is obligatory upon me, but I am not going to fast', he should be regarded as sinful but not a disbeliever. The Muslim ruler should detain him, and he should be forced to abstain from food and drink throughout the day, so that he could fast even if that is formally.

What are the most important lessons of fasting?

1. Correct fasting awakens the heart of a believer to be conscious of Allah.
2. The month of Ramadan is a holy month among the months of the year. Allah wants His servants to fill the month with acts of worship.
3. Continuous state of satiation in the life of a Muslim makes his feelings pervaded with elements of cruelty and creates in his mind a spirit of transgression. These two traits are antithesis to the typical character of a Muslim. Therefore, fasting refines a Muslim and sharpens his feelings.
4. One of the most important foundations upon which the Muslim society can rise is mutual compassion among the Muslims. It is impossible for a wealthy person to show sincere compassion to the poor if the latter does not have feel the pains of poverty and pangs of hunger that

the poor feel most of the time. Therefore, the month of Ramadan is the best opportunity for the rich to know how the poor people feel and to share with them that pain and deprivation. In the last of this, fasting stimulates in the wealthy members of the society true sense of compassion, mercy and charity.

How is the beginning of the month of Ramadan established?

The beginning of the month of Ramadan is confirmed by either of the two means:

1. Sighting of the crescent on the eve of Sha'ban the 30th day. This is by testimony of a righteous person before a judge that he actually saw the crescent.
2. Completing thirty days of the month of Sha'ban when it is difficult to sight the crescent on the eve of the 30 Sha'ban of as a result of cloud or if no righteous person shows up to testify that he saw the crescent. In this completed as thirty days.

If the moon is sighted in a town, the people of the neighboring towns should fast based on that sighting -as opposed to the people of far-away towns. This is because; neighboring towns such as Damascus, Hims and Halab are regarded as one single country -as opposed to faraway towns such as Egypt and Makkah. Differences in the horizons should be considered while determining the farness.

The scholars say: If the residents of a faraway country are not obliged to fast (due to the fact that they have not yet sighted the moon) and a person travels from a town in which the crescent has already been sighted, he must join the inhabitants of that town in whatever situation he finds them, even if he has completed fasting for thirty days. For, by traveling there, he has become one of them and, the rules that apply to them also apply to him.

If a person travels from a town in which no crescent has been sighted yet to another where it has already been sighted, he should break his fast with them whether he has fasted for twenty-eight days while his hosts have done so for twenty-nine days; or twenty-nine days, if his hosts' have already completed thirty days of fasting. However, he has to make up for one day's fasting if he fasted for twenty-eight days because in no circumstances is a month twenty-eight days.

If a person travels from a town where they are already having Eid-ul-Fitr to another town where they are still fasting, he should abstain from eating and drinking for the rest of the day in his hosts' town in order to be in agreement with them.

What are the conditions that make fasting obligatory?

Islam, for fasting is not obligatory for a non-Muslim.

Being legally obliged, i.e. one should be an adult, sane and Muslim.

Freedom from excuses that prevent one from fasting or that allow one to break the fast.

Excuses that prevent one from fasting are:

- a. Menstruation or post-partum bleeding for any part of the day.
- b. Fainting or insanity during the fasting hours. If one gains consciousness even if it is moments before sunset, he should abstain from eating or drinking for the rest of the day.

Excuses that allow one to break the fast:

1. If one is sick and the fasting can cause great pain or aggravation of the illness, one is allowed to break the fast. If the sickness is such that fasting with it could lead to serious consequences such as death, then it is compulsory for the person not to observe fasting.

2. Long journey the distance of which should not be less than 83 kilometers. It is also a condition that the journey should take the rest of the day.
3. If a person starts the day as a resident and fasting and then embarks on a journey during the day, he is not allowed to break his fast unless if not doing could cause him extreme harm or difficulty.

Inability to observe fasting: If a person is not able to fast due to old age or terminal illness, fasting is not compulsory for him. This is because, fasting is only compulsory for those who can observe it.

What are the conditions for the validity of fasting?

1. Islam: for any fasting observed by a non-Muslim is not valid.
2. Sanity: Fasting observed by an insane person or a child who has not attained the age of discretion is not valid because of lack of intention. Fasting observed by a child who has attained the age of discretion is valid. A discerning child who is able to fast should be encouraged to do so after reaching the age of seven and should be smacked for failing to do so after reaching the age of ten, as done in case of prayer.
3. Freedom from excuses that prevent one from fasting such as menstruation or post-partum bleeding, or that allow one to break the fast such as fainting or insanity.

What are the pillars of fasting?

One: Intention:

It is to make intention to fast. The intention is made in the heart and uttering it with the tongue is not enough. Rather, it is not a condition that one has to make it verbally. The proof for the necessity of intention is the Prophet's saying: "Acts are judged according the intentions." (Recorded by Al-Bukhari and Muslim)

If the intention is for fasting in the month of Ramadan, following things are necessary:

Making the intention in the night and before the appearance of the dawn. If the intention to fast is not made before the appearance of the dawn, both the fasting and the intention becomes invalid.

The kind of fasting must be stipulated in the intention. He should decide in his mind that he, for instance, is fasting for a particular day. If the intention is for absolute fasting, the intention becomes invalid.

Repetition: The intention to fast should be repeated for each night of Ramadan before the appearance of the dawn. One single intention is not enough for the entire month. This is because, fasting in the month of Ramadan is not a single act of worship. It is rather a repeated act of worship that needs separate intentions.

As for supererogatory fasts, it is not a condition to make intention for them in the night nor is it a condition that the kind of fasting should be stipulated.

Two: Abstention from things that break the fast such as the following:

Eating or drinking: If one eats or drinks intentionally, however little the food or drink is, the fasting is vitiated. If one eats or drinks forgetfully, however much the food or the drink is, the fasting is not vitiated.

Penetration of a substance into the stomach through an outlet such as mouth, nose, ear or anus. A drop into the ear breaks the fast; but a drop into the eye does not break the fast because it is not an opening that leads to the stomach.

1. According to the Malikites, it breaks the fast because it is an outlet. Modern medicine has confirmed the opinion of the Malikites in this matter.
2. Suppositories used through the anus break the fast because the anus is an opening that leads to the stomach.

However, all the above breaks the fast if it is done deliberately. If anything of this happens forgetfully, it does not affect the fast, as is the case with eating or drinking forgetfully.

If a substance such as a fly, an ant or dust enters one's stomach, it does not break the fast because it is extremely difficult to guard against that.

If a person swallows his own saliva, it does not break the fast because it is unavoidable.

If a person has gum-bleeding, and does not wash his mouth before swallowing the blood-mixed saliva, the fast is vitiated.

If a person rinses his mouth or sniffs water into his nose and a part of the water escapes into his stomach, it does not break the fast, if he has not gone to the greatest lengths in doing the rinsing and sniffing; but if he has gone to the greatest length in doing so, then the fast is vitiated because going to the greatest length in rinsing and sniffing is prohibited when fasting.

If food particles get stuck in-between a person's teeth and he inadvertently swallows them along with saliva, it does not break the fast if he is not able to spit them out. If he is able to spit them out but fails to do so, then his fasting is vitiated due to his negligence.

If a person is forced to eat or drink while fasting, the fast is still valid because he was deprived of the right of choice.

3. Intentional vomiting breaks the fast even if one is sure that no part of the vomited substance went back to the stomach. If a person is overcome by vomit, the fasting remains valid, even if he knows that some of the vomited substance went back to his stomach unintentionally.
4. Intentional sexual intercourse even if there is no ejaculation.
5. Masturbation by whatever means if done intentionally. But if one is forced to do so, it does not break the fast. Having said this, it is forbidden for a person who is sexually aroused to kiss their spouse during Ramadan, because doing so could expose the fast to vitiation. As for someone who is not sexually aroused, if they kiss their spouse, it is only disliked for them to do so.
6. Menstruation and post-partum bleeding: Each of these two prevents the validity of fasting. If a fasting woman sees her menses or falls in labor at any time of the fasting hours -even if it is moments before sunset, the fasting of that day becomes invalidated and she must make up for it.
7. Insanity and apostasy: Both of them invalidate fasting because an insane person or an apostate has lost eligibility to perform acts of worship.

If a fasting Muslim does one of the things that break the fast with an assumption that the dawn has not yet appeared and he then realizes his mistake, the fast is invalidated. However, he should abstain from eating or drinking for the rest of the day as a way of honoring the sanctity of the month. He must make up for that day at a later time.

Also, if he breaks his fast during fasting hours with an assumption that the sun has set, and it later becomes clear to him that he is mistaken, the fast is invalidated and he must make up for that day at a later time.

Etiquettes of Fasting

What are the etiquettes of fasting?

1. Hastening in breaking the fast.
2. Eating Sahur. Sahur is the predawn meal eaten during the month of Ramadan. The time of Sahur starts from midnight. The reward of Sahur is attained by eating much or eating little even if one does not take more than water.
3. Delaying Sahur so that one finishes eating and drinking at just before the appearance of the dawn.
4. Shunning vain speech such as foul language, false talk, backbiting and gossiping and protecting one's self against lusts, such as looking at women and listening to music.
5. Taking a bath from Janaabah before Fajr so that one can start the fast upon purity. Starting the fast in the state of Janaabah does not render the fast invalid. It is only preferable to get out of that state before the appearance of the dawn.
6. Avoiding cupping for doing so may weaken the fasting Muslim. It is also preferable to avoid tasting food out of fear that some of it may escape into one's stomach and break the fast.
7. It is recommended to say while breaking the fast: "The thirst is gone and the veins are wet, and the reward is established if Allah wills."
8. He should feed a fasting person to break his fast. If he is unable to do so, then he should offer him at least date and water.
9. Acts of generosity, recitation and study of the Qur'an, and doing I'tikaf in a mosque especially during the last ten days of Ramadan.

What are the things disliked during fasting?

Things disliked while fasting is to contradict the above-mentioned etiquettes. Some of these things - such as being late in breaking the fast and hastening to take the predawn meal - are merely disliked while some others such as backbiting, gossiping and false talk are absolutely forbidden.

Making up for the Missed Days in Ramadan

What is the ruling concerning a person who missed the fast of some days in Ramadan due to a journey or illness?

If a person missed the fast of some days of Ramadan, he must make up for it before the next Ramadan comes. If he did not do so, out of negligence, until the arrival of the next Ramadan, he becomes sinful. In addition to making up for the missed days, he must also make a Fidyah, which is feeding a poor person for each of the days with a mudd of the staple food of his town.

A Mudd is approximately equivalent to six hundred grams.

However, if the reason for missing the fast continues until the arrival of the next Ramadan, he does not need to make Fidyah. He only needs to make up for the missed days.

Regarding a person who dies before he is able to make up for the missed days in Ramadan, this situation needs some clarifications.

If he died before he is able to make up for them and his not making up for them was not due to some negligence on his part, then he has committed no sin.

But if he died after he was able to make up for them, but failed to do so due to negligence, then it is recommended that one of his relatives do it on his behalf.

Having said this, if a non-relative makes up for the missed fast on behalf of a deceased person, the fasting is valid as long as he seeks the permission of one of his relatives before doing so.

If no one observes the fasting on his behalf, then a poor person should be fed a Mudd in lieu of each day he missed. This feeding should be done from his estate -as a matter of obligation -before it is distributed, because it is a debt. If he leaves behind no wealth, someone could volunteer to feed the poor on his behalf, so he could be freed from this obligation.

If an old man who is unable to observe fast needs to feed a poor person, what is obligatory for him is only to feed a poor person for each of the days with a mudd of the stable food of his town.

It should be known that the same rules that apply to a very old man that apply to a terminally ill person who cannot observe the fast.

What is the ruling concerning a pregnant woman or a nursing mother if their respective situations do not allow them to observe the fast?

A pregnant woman who does not fast does so for one of two reasons: she either fears for herself or fears for her unborn baby.

If her fear is about herself, then she should make up for the days she missed before the arrival of next Ramadan. If the fear is about her baby that it might be miscarried if she observes fasting then she must, in addition to making up for the missed days, feed a poor person one Mudd of the stable food of her town.

If a nursing woman does not fast out of fear that if she fasts her nursing may not have enough milk and this could lead to its death, then she will have to make up for the missed days and feed a poor person with a Mudd of stable food of her town in place of each day she misses.

The same ruling applies to a person who breaks his fast in order to save the life of someone who is on the brink of death.

What is the ruling concerning a person who invalidated his fast with sexual intercourse?

If he does so while conscious that he is fasting and aware that sexual intercourse is forbidden during fasting hours and he is not on a journey, he only must make an expiation, and his wife needs not to.

If a person invalidates his fasting with sexual intercourse due to forgetfulness or ignorance, or he invalidates with intercourse a fasting other than that of Ramadan, or he invalidates his fasting with an invalidator other than sexual intercourse, or he is on a journey in which he is allowed to not fast and he takes that as an excuse to have intercourse, he does not need to make expiation for any of these situations. He only needs to make up for the days in which he broke his fasting.

What is expiation?

The compulsory expiation for breaking the fast is to set a slave -male or female -free. If he does not find one or he is incapable of doing that, he can fast for two consecutive months. If he is unable to do that also, then he can feed sixty poor people, each person with a mudd of the stable food of the town. If he is incapable of doing any of the three, then the expiation remains as an outstanding obligation upon him until he is able to do any of them.

The scholars said: It is not permissible for a poor person who is capable of feeding to divert the food to his family -neither in this case nor in any other case in which expiation is mandatory. A contracting ruling in this regard mentioned in a Hadith is exclusively meant for the man in question.

The person who has sexual intercourse during the month of Ramadan should know that in addition to the expiation he has to make, he must also make up for the fasting which he invalidated with his intercourse. He should also know that expiation is done for each of the days of Ramadan he violated with sexual intercourse. If it is two days, he must make two expiations and if it three, he must make three expiations.

Supererogatory Fasting

What is the meaning of supererogatory fasting?

Voluntary fasting is the one observed voluntarily for the purpose of seeking nearness to Allah.

What are the days in which supererogatory fasting is recommended?

1. The Day of 'Arafah, which is the ninth day of Dhul-Hijjah. Observing fast on this day is recommended for a non-pilgrim.
2. As for a pilgrim, it is not recommended for him to fast on the day of 'Arafah. Rather, he is recommended not to fast, in emulation of the Prophet and in order to have enough strength to supplicate on that day.
3. Fasting on the tenth and ninth day of Muharram ('Ashura and Tasu'ah). The reason behind recommendation of fasting on the ninth day is to be on the safe side in case there is a mistake in determining the beginning of the month, and in order to oppose the Jews who fast only on the tenth day. If one does not fast on the ninth day, then he can fast on the eleventh day in addition to the tenth.

Fasting of Mondays and Thursdays; this is because deeds of the slaves are presented (to Allah) on these days.

4. Fasting for three days every month. The best thing is to fast on the 13th, 14th and 15th of each lunar month (these days are known as Ayyamul-Bid). They are given this name because their nights are very bright with the moonlight.
5. Fasting for six days in the month of Shawwaal. It is preferable to observe these fasts successively and immediately after Eid-ul-Fitr. However, this is not a condition.

If a person starts a recommended fasting, is he permitted to discontinue it halfway?

If a person starts a fasting that is not obligatory, he is allowed to discontinue with whenever he wants, and he will not need to make up for it. However, this is disliked. But if he starts an obligatory fasting then it is not permissible for him to break it, because it is mandatory to complete any obligatory act of worship after starting it.

The Disliked and the Forbidden Fasts

What is the disliked fast?

The disliked fast is the one for abandonment of which one gets a reward, and there is no reward or punishment for doing it.

When does fasting become disliked?

1. Singling out Friday for fasting.
2. Singling out Saturday for fasting. The scholars say it is disliked to single out Sunday for fasting, because the Jews regard Saturday as a holy day and the Christians regard Sunday as a holy day.
However, it is not disliked to combine Saturday and Sunday in fasting because no one regards them as holy days combined.
3. Fasting the entire year.

What is the meaning of a forbidden fasting?

It is a kind of fasting for which a person may be punished.

What are the days in which fasting is forbidden?

1. Days of Eid: Eidul-Fitr and Eidul-Adha.
2. The three Tashreeq days: They are the three days that follow the day of sacrifice (i.e. 11th, 12th and 13th of Dhul-Hijjah).
3. The Day of Doubt: It is the 30th day of Sha'ban about which people are in doubt as to whether it is the last day of Sha'ban or first day of Ramadan and the moon is not sighted. No fasting should be observed this day; rather, it should be regarded as the last day of Sha'ban.
4. Fasting of the second half of the month of Sha'ban. However, the prohibition concerning fasting of the day of doubt and second half of the month of Sha'ban may be lifted if these are days in which a person habitually fasts.

I'tikaaf

What is the meaning of I'tikaaf?

I'tikaaf means to observe seclusion in the mosque with a specified intention.

What is the evidence for it?

The fundamental evidence for this is Allah's saying:

﴿وَلَا تَبْشُرُوهُنَّ وَأَنْتُمْ عَاكِفُونَ فِي الْمَسَاجِدِ﴾

"And do not have sexual relations with them (your wives) while you are in I'tikaaf (i.e. confining oneself in a mosque for prayers and invocations leaving the worldly activities) in the mosques." Al-Baqarah 2:187

Al-Bukhari and Muslim reported on the authority of 'A'ishah - may Allah be pleased with her - who narrated that the Messenger of Allah would practice I'tikaf during the last ten nights of Ramadan and that his wives also practiced I'tikaaf after him.

I'tikaaf is one of the acts of worship known among past nations before the advent of Islam. The proof for this is Allah's saying:

﴿وَعَهْدَنَا إِلَىٰ إِبْرَاهِيمَ وَإِسْمَاعِيلَ أَنْ طَهِّرَا بَيْتِيَ لِلطَّائِفِينَ
وَالْقَائِمِينَ وَالرُّكَّعِ السُّجُودِ﴾

"And We commanded Ibraahiam (Abraham) and Isma'ial (Ishmael) that they should purify My House (the Ka'bah at Makkah) for those who are circumambulating it, or staying (I'tikaaf), or bowing or prostrating themselves (there, in prayer)."

Al-Baqarah 2:125

What is the ruling concerning I'tikaaf?

I'tikaf is recommended at any time, but it is much recommended in the month of Ramadan, and with greater emphasis in the last ten days. But if a person vows to observe I'tikaaf, then it becomes obligatory upon him. Therefore, I'tikaaf is of three categories as far as its ruling is concerned:

One: Recommended at any time.

Two: Emphasized Sunnah in the last ten days of Ramadan. The reason for emphasizing it in the last ten days of Ramadan is to make the people seek Lailat-ul-Qadr, which is the best and the most meritorious night of the year. Allah says:

﴿لَيْلَةُ الْقَدْرِ خَيْرٌ مِّنْ أَلْفِ شَهْرٍ﴾

"The night of Al-Qadr (Decree) is better than a thousand months (i.e. worshipping Allah in that night is better than worshipping Him a thousand months, i.e. 83 years and 4 months)." Al-Qadr 97:3 The majority of the scholars believe that Lailatul-Qadr falls in the last ten days of Ramadan.

Three: Obligatory; if a person vows to observe it.

What are the conditions for validity of I'tikaaf?

One: Intention at the beginning of this act of worship. That is by intending to stay in the mosque for a specified period for the purpose of worship and in actualization of the Sunnah. If a person enters the mosque for a worldly purpose or for no purpose, his staying in the mosque will not be regarded as an approved I'tikaaf.

Two: Staying in the mosque. One must stay in the mosque for a period customarily regarded as I'tikaaf. Included in this condition are conditions that allow a person to stay in the mosque such as state of purity from Janabah and menstruation and post-partum bleedings, and cleanliness of the body and clothes from all that could stain the mosque.

If a person who is practicing I'tikaaf leaves the mosque for no acceptable reason, then his I'tikaaf is vitiated.

It is not a condition that one must fast at the time of observing I'tikaaf; but it is recommended.

What are the rulings concerning making I'tikaaf on account of a vow?

If a legally obliged Muslim vows to make I'tikaaf for a specific period, and consecutively, it is permissible for him to go out from the mosque except for a need such as answering the call of nature

and making ablution. If he goes out for no reason but just to have a walk, his I'tikaaf becomes invalidated and he must start it all over.

If a person vows to perform I'tikaaf while he is fasting, he must fulfill that vow because performing I'tikaaf while one is fasting is the best.

If a person vowing to perform I'tikaaf stipulates a particular mosque for that purpose, he is not obliged to abide by that stipulation, and he can perform his I'tikaaf in any other mosque, even if the stipulated mosque is better than other mosques. The only exception to this is the Sacred Mosque in Makkah, the Prophet's Mosque in Madinah and Al-Aqsa Mosque in Jerusalem. For, if he stipulates any of these three mosques, he must abide by the stipulation due to the greater reward they have. The Sacred Mosque can replace the two other mosques and not the other way round; and the Prophet's Mosque can replace Al-Aqsa Mosque and not the other way round.

What are the etiquettes of I'tikaaf?

1. It is recommended for a person doing I'tikaaf to dedicate his entire time for worshipping Allah, remembering Him, reciting the Qur'an, studying religious knowledge. It is through this that he can attain the goal of his I'tikaaf.
2. Fasting: Doing I'tikaaf while fasting is more rewardable. It has greater effect on suppression of the passion of the soul and purification of the mind.
3. The I'tikaaf should be in a mosque in which Jumu'ah prayer is performed.
4. The person doing I'tikaaf should only utter righteous statements. He should refrain from foul talk, backbiting, gossiping or idle talk.

What the things disliked in I'tikaaf?

1. Cupping, if there is no fear of staining the mosque; but if there is a fear of staining the mosque, then it is forbidden.
2. Practicing one's trade such as knitting, sewing, buying or selling, even if it is for a short period.

What are the invalidators of I'tikaaf?

1. Sexual intercourse, even if there is no ejaculation. Allah says:

﴿وَلَا تَبْشُرُوهُنَّ وَأَنْتُمْ عَاكِفُونَ فِي الْمَسَاجِدِ﴾

"And do not have sexual relations with them (your wives) while you are in I'tikaaf (i.e. confining oneself in a mosque for prayers and invocations leaving the worldly activities) in the mosques." Al-Baqarah 2:187

As for having bodily contact such as kissing and fondling without intercourse, this does not invalidate I'tikaaf except if there is ejaculation.

2. To go out of the mosque intentionally without any valid excuse.
3. Apostasy, drunkenness and insanity.
4. Menstruation and post-partum bleeding; for these negate staying in the mosque.

The person doing I'tikaaf is permitted to terminate his voluntary I'tikaaf and leave the mosque whenever he likes. If he leaves the mosque and then comes back, he has to renew his intention and start anew. Allah knows best.

Book of Hajj

What is the meaning of Hajj?

Linguistically, Hajj means to visit a place.

Islamically, it means to visit the Sacred House of Allah, for the purpose of performing a particular act of worship with particular conditions.

What is the meaning of 'Umrah?

'Umrah means to visit.

Islamically, it means to visit the Sacred House of Allah, at a time other than Hajj time, for the purpose of performing a particular act of worship with particular conditions.

What is the difference between Hajj and 'Umrah?

Hajj is different from 'Umrah in terms of time, and in some rulings. As far as the time is concerned, Hajj has months in which it is exclusively performed. It is not permissible to perform Hajj, or to have intention of doing so, except in them. These months are: Shawwaal, DhulQa'dah and the first ten days of Dhul-Hijjah.

As for 'Umrah, it can be performed anytime throughout the years except the days of Hajj, for those who have made intention of performing Hajj in them.

As regards to the rulings, the rites of Hajj include staying at 'Arafah, spending nights in Muzdalifah and Mina, and throwing pebbles; but 'Umrah has none of these. Rather, it consists of only intention, Tawaaf, passing between Safa and Marwah and shaving or shortening of the hair.

In addition to this, there is agreement among the Muslim scholars that Hajj is compulsory, while there is a difference among them concerning the obligatory nature of 'Umrah.

When were Hajj and 'Umrah ordained?

Perhaps, the best opinion concerning the time Hajj and 'Umrah were ordained is that it was in the ninth year of Hijrah.

What is the ruling concerning Hajj and what is the evidence for that?

Hajj is an obligation, according to the consensus of the Muslims. It is also one of the pillars of Islam. No Muslim disagrees on this. As for the proof of its obligatory status from the Qur'an, it is Allah's saying:

﴿وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلًا وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ﴾

"And Hajj (pilgrimage to Makkah) to the House (Ka'bah) is a duty that mankind owes to Allaah, those who can afford the expenses (for one's conveyance, provision and residence); and whoever disbelieves (i.e. denies Hajj (pilgrimage to Makkah), then he is a disbeliever of Allaah), then Allaah stands not in need of any of the 'Alamian (mankind, jinn and all that exists)." Aal Imraan 3:97

The evidence from the Sunnah is the Hadith recorded by Al-Bukhari and Muslim on the authority of Abu Hurayrah -may Allah be pleased with him -that the Messenger of Allah said: "Islam is based on (the following) five (principles): To testify that none has the right to be worshipped but Allah and Muhammad is Allah's Apostle, to offer the (compulsory congregational) prayers dutifully and perfectly, to pay Zakah (i.e. obligatory charity), to perform Hajj (i.e. Pilgrimage to Makkah) and to observe fasting during the month of Ramadan."

What is the ruling concerning 'Umrah and what is the evidence for that?

'Umrah is compulsory like Hajj, according to the clearest opinion of Imam Ash-Shafi'ie -may Allah have mercy upon him. The evidence he cited for this is Allah's saying:

﴿وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ﴾

"And perform properly (i.e. all the ceremonies according to the ways of Prophet Muhammad (Peace and Blessings of Allah be upon him)) the Hajj and 'Umrah (i.e. the pilgrimage to Makkah) for Allah."
Al-Baqarah 2:196

From the Sunnah, he cited the authentic Hadith that Ibn Majah recorded on the authority of 'A'ishah - may Allah be pleased with her - who said that she asked the Messenger of Allah (Peace and Blessings of Allah be upon him): "Are women obliged to participate in Jihaad?" The Prophet replied: "Yes, (she is obliged to participate in a) Jihaad in which there is no fighting -Hajj and 'Umrah."

How many times must a capable person perform Hajj and 'Umrah?

The scholars unanimously agree that Hajj and 'Umrah are only compulsory upon a capable Muslim once in his lifetime except if he vows to perform one (apart from the obligatory) which he must fulfill.

Can a person upon whom Hajj and 'Umrah are obligatory delay them or must he perform them as soon as he is capable of doing so?

The opinion of Imam Ash-Shafi'ie is that Hajj and 'Umrah are not instantly obligatory. Rather, it is permissible to delay them because a Muslim can perform them at any time in his life. However, one must have an intention of performing them in the future. However, this does not contradict the fact that it is recommended to perform them as soon as one is capable of doing so, in order to free oneself of the obligation and to hasten in responding to the obedience of one's Lord.

How many times 'did the Messenger of Allah (Peace and Blessings of Allah be upon him) perform 'Umrah and how many times did he perform Hajj?

The Messenger of Allah (Peace and Blessings of Allah be upon him) performed Hajj once, and he performed 'Umrah four times: one in Dhul-Qa'dah, one after the Truce of Hudaibiyyah, one with his Hajj and one from Ji'ranah after he distributed the booties from the campaign of Hunayn.

What is the wisdom behind Hajj?

One: It offers the Muslims an opportunity to come together.

Two: It revives and shows the real Islamic brotherhood in a glaring way.

Three: It brings the Muslims together, irrespective of where they come from, to the axis of Makkah from where Islam spread to the rest of the universe.

Four: It is one of the manifestations of equality among the Muslims; in Hajj all other considerations that cause discrimination among men and that make some of them show off with their dressing and shelter are sent to the backburner.

Five: Hajj is the greatest reminder for the Muslims. It reminds them of the situation of their forefathers and their predecessors from among the prophets and the messengers. Each of the rites of Hajj is linked to an event that brings the pilgrims down in memory lane.

Six: Hajj trains the body to endure some harshness and difficulties. It trains the Muslim to be humble, tolerant, amiable and amicable. It also inculcates in him the sense of sacrifice, charity and generosity.

Hajj and 'Umrah are mandatory upon whom?

Hajj is mandatory with the fulfillment of the following conditions:

Islam: A non-Muslim is not, in any way, required to perform Hajj; and if he does, it will not be regarded as valid. This is because Islam is a condition for the validity of an act of worship.

Sanity: An insane person is not required to perform Hajj or 'Umrah because he does not have the discretion to distinguish what is required and what is forbidden.

Maturity: Hajj is not mandatory upon a minor who has not attained puberty because he is not yet legally obliged.

Freedom from bondage: Hajj or 'Umrah is not mandatory upon a bondsman or bondswoman because he or she does not possess any wealth. Whatever wealth owned by bonds people actually belongs to their masters.

Security of the way: If a person fears that his life or wealth will be targeted by an enemy if he embarks on the journey, or if the way is unsafe due to a raging war, then neither Hajj nor 'Umrah is mandatory upon such a person.

Having the means: That is by possessing enough money to pay for the expenses of Hajj or 'Umrah such as transportation and provision. This is in addition to the fees that contemporary governments impose such as passport fees and Mutawwif charges. This possessed amount should be surplus to what the pilgrim has to settle for his debts, and cater for dependants while he is absent on Hajj.

What are the types of 'means?

There is a 'direct means' and an 'indirect means'.

The direct means: When a person is able to perform Hajj all by himself by being healthy and able to travel and perform the Hajj rites without having to suffer great harm or unbearable difficulties.

The indirect means: That is when a legally obliged Muslim possesses enough money to delegate another person to perform Hajj on his behalf in his lifetime or after his death, in case where he is not able to perform it due to circumstances such as incurable illness or old age.

If a person has capital with which he trades, should he spend it to perform Hajj and 'Umrah? Likewise, if a person has a piece of land from which he earns his livelihood should he sell it so that he can perform Hajj and 'Umrah with the proceeds?

He should sell it to perform Hajj and 'Umrah. This is because, if he is indebted to a fellow man, he should pay his debts with his capital. The same thing applies to Hajj and 'Umrah. This is the most correct opinion. Some scholars say he should sell it.

Should a person sell his house, in which he lives, and his furniture because of Hajj?

He should not sell his house or his furniture in order to raise money for Hajj and 'Umrah, because a house and furniture are necessities of life. So, he is not required to sell them.

Is Hajj mandatory on a person between whose place and Makkah is not more than a distance of a day and a night journey and he is capable of walking?

It is obligatory for him to walk to Makkah if he does not have an animal to ride and is capable of walking.

What is the ruling concerning a person who only owns what is enough for Hajj and also wants to get married?

There are two situations in this case:

One: If he needs to get married but is capable of controlling himself sexually, then he should perform Hajj. It is better for him to give preference to Hajj over marriage.

Two: If he cannot control himself and fears that he might commit what is forbidden, though Hajj is obligatory for him, he should give preference to marriage. However, it should be noted that the need for marriage does not in any way, remove the obligation of Hajj.

What are the conditions that make Hajj and 'Umrah compulsory for a woman?

The same conditions that apply to men apply to her with the addition of two conditions:

One: She should have a husband or a Mahram by blood (such as her father, brother or any male relative she cannot marry) or by other means (such a foster brother or father).

In the absence of the above, she should be in a company of trustworthy women known for their piety and religiosity. At least, she should be in the company of two such women.

It is not a condition that one of the women should have her husband or a Mahram with her. This is because their being together in a company and their being trustworthy are enough to provide them with necessary security. If a woman does not find a Mahram who can perform Hajj and 'Umrah with her from his own money, then she should pay for his expenses from her own money if she can.

No woman is allowed to go out for Hajj without the permission of her husband. If he disallows her to go, then she should not. If she dies while she is able to perform Hajj and it is her husband who prevented her from going, then someone is paid from her estate to perform Hajj on her behalf.

Two: She should not be in a period of waiting after a divorce or death of her husband.

Whose Hajj is valid?

1. Conditions for the validity of Hajj are:
2. Islam: Hajj performed by a non-Muslim is not valid.
3. Attaining the age of discretion: If a child has not attained the age of discretion and performs Hajj, his Hajj is not valid. A child attains the age of discretion when he is able to understand and clean himself, his Hajj is valid. This age varies from one child to another.

The state of Ihraam for Hajj should be entered into in its prescribed period. The prescribed period for Hajj is Shawwal, Dhul-Qa'dah and the first ten days of Dhul-Hijjah. No Hajj will be valid if it is not started within this period.

If a person enters into the state of Ihraam for Hajj outside this period, the Hajj will not be valid and the rituals performed will be counted as those of 'Umrah, according to the correct opinion.

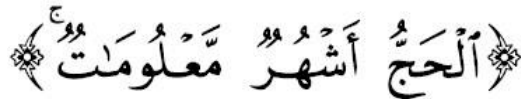
4. The pillars of Hajj should be complete.

Entering into the State of Ihra'm

Designated times and places for entering into the state of Ihram (AIMawaqeat)

There are designated times and places for a person intending to perform Hajj.

Designated time: (This is the specific time of the year in which Hajj is performed): It is the months of Shawwal, Dhul-Qa'dah and the first ten days of Dhul-Hijjah. This is the time in which Ihraam for Hajj is assumed. If a person has the intention of performing Hajj before that time, the intention as well as Ihraam will not be valid. It is this time restriction that Allah referred to in His saying:



"The Hajj (pilgrimage) is (in) the well-known (lunar year) months". Al-Baqarah 2:197.

Designated places: These are the known boundaries surrounding the sacred city of Makkah from all sides. The Messenger of Allah, specified these boundaries for those coming to Makkah from different parts of the world for Hajj or 'Umrah so they should enter into the state of Ihraam when they arrive at these points if they have not done so before and they should abide by all the rules and obligations of Ihraam from there. These points are:

Dhul-Hulayfah It is the designated place for those assuming Ihraam for Hajj or 'Umrah from Madinah Al-Munawwarah. The place is known today as Abyar 'Ali. It is recommended that a pilgrim enters into the state of Ihraam in the very place in which the Messenger of Allah (Peace and Blessings of Allah be upon him) did so.

Al-Juhfah: It is the Meeqaat of the people of Egypt, Syria, and Morocco. Pilgrims from these regions should enter into the state of Ihraam when they arrive at this point or at any place that is parallel to it.

Yalamlam: This is the Meeqaat for the people of Yemen.

Qarnul-Manaazil: It is the Meeqaat of the peoples of Najd and Yemen.

Dhaat 'Irq: It is the Meeqaat of the peoples of the East, Iraq, and the Gulf. The pilgrim must assume Ihraam exactly at these points or at places that are parallel to them.

As for those who live within these designated places, they should assume Ihraam from where they live, and the people of Makkah can assume Ihraam from their homes in Makkah.

The above designated points are where intending pilgrims are expected to assume the state of Ihraam for Hajj or 'Umrah as long as they come from outside the sacred city. If an intending pilgrim of 'Umrah lives within the sacred city, regardless of his being a resident or visitor, he must go out to the nearest place outside the sacred city, even for a few steps. However, if he performs 'Umrah without going out, his 'Umrah is valid but he must expiate with sacrifice.

What must a person who wants to commence the rites of Hajj and 'Umrah do?

- Taking a bath: This is a recommended act. If he is unable to do so, he can make Tayammum.
- Applying perfume on body: This is also a recommended act. It is not harmful if the effect of that perfume remains on his body even after entering into the state of Ihraam and commencing the rites.

- c. A male pilgrim must take off all garments sewn to fit the shape of the body and put on two white sheets; one to cover the upper part of his body and the other to cover the lower part. As for a woman, she can put on whatever garments she likes. She only needs not cover her face and hands.
- d. Performance of two Rak'ahs, which are recommended for Ihraam.

There are three types of Ihraam:

Ifraa'd is to enter into the state of Ihraam in the Meeqaat for Hajj alone. The pilgrim doing Ifraad stays in the state of Ihraam until he finishes the Hajj rites.

Tamattu' is to enter into the state of Ihraam for 'Umrah in one of the months of Hajj and then terminate the Ihraam after finishing the 'Umrah. The pilgrim thereafter enters into the state of Ihraam for Hajj in the same year.

Qiran is to enter into the state of Ihraam with the intention of performing Hajj and 'Umrah simultaneously or to enter into the state of Ihraam for 'Umrah alone and later on includes the intention for Hajj before starting the arrival Tawaaf. The pilgrim doing the Qiraan type of Hajj should make an intention for both at the Meeqaat or before starting the Tawaaf of 'Umrah. He makes single Tawaaf and Sa'y for both.

Things prohibited in the state of Ihraam:

1. A male pilgrim's wearing of garments sewn to fit the shape of the body. He should also not wear shoes or leather socks that cover his feet. He can only wear shoes that do not cover his ankles.
2. Covering of the head or a part thereof without any excuse, whether the cover is a turban, a cap or any other material. Taking shelter under the shade of a wall or shading oneself with an umbrella that does not touch the head is not forbidden.
3. Combing the hair through any means such as a comb or fingernails if it is feared that doing so may cause the hair to fall. If there is no such fear, it is only disliked.
4. Shaving or plucking of hair without any excuse. It is also forbidden to cut a lock of hair.
5. Unnecessary clipping of fingernails. Since removing the hair without an excuse is not allowed, so is unnecessary clipping of fingernails. However, if there is a need to clip a nail, such as when it is halfbroken and it becomes bothersome, then there is nothing wrong in clipping it.
6. It becomes forbidden on the pilgrim to apply perfume on his body or any part thereof. It is also forbidden to mix perfume with his food or drink or to sit down or sleep on a perfumed carpet or floor without any partition. It is equally forbidden to bath with perfumed soap. However, there is no harm in smelling a rose.
7. Hunting of land games of any type, wild or domesticated. As for fishing, that is not forbidden.
8. Making a marriage contract. He should do so neither on his own behalf nor on behalf of others.
9. Sexual intercourse of all kinds.
10. Lustfully touching a woman, skin to skin even without sexual intercourse, like kissing or fondling. Masturbation is also forbidden. For Allah prohibits all that in the noble verse.

"So whosoever intends to perform Hajj therein (by assuming Ihraam), then he should not have sexual relations (with his wife)" (Al-Baqarah 2:197)

The above things are forbidden as soon as one enters into the state of Ihraam for Hajj or 'Umrah. If one deliberately and knowingly violates any of them, then the Ihraam is invalidated. But if one violates any

of them without knowing that they are forbidden or if one is forced to do so, the Ihraam is not invalidated. One only has to expiate for that violation.

Rites of Hajj and "Umrah

What is the difference between the obligations of Hajj and its pillars?

Obligations and pillars are both compulsory. The only difference between them is that abandonment of an obligation can be expiated with a sacrifice while the abandonment of any of the pillars cannot be expiated with a sacrifice.

What are the obligatory aspects of Hajj?

One: To assume the state of Ihraam from the Meeqaat. Whenever a pilgrim wants to commence the rites of Hajj, he must assume Ihraam from a miqat. If he assumes Ihraam before he arrives at the Meeqaat, there is no harm in that.

Two: Spending the night in Muzdalifah. If a pilgrim arrives at Muzdalifah from 'Arafah, he must pass the night and remain there until after the passage of the first half of the night.

Three: Throwing of pebbles: It is mandatory for a pilgrim after arriving from 'Arafah and spending the night at Muzdalifah, to go to Jamrah Al-'Aqabah that is near to Makkah and throw seven pebbles. Each of the pebbles must fall into the designated place. The time for throwing the pebbles starts after the passage of the first half of the night or eve of the Eid and extends to the sunset of Eid day, which is the day of sacrifice.

It is also mandatory for the pilgrim on each of the days of Tashreeq to throw seven pebbles at each of the three stone pillars -the first Jamrah, which is adjacent to Masjidul-Khayf, the middle Jamrah and then Al-Jamrah Al-'Aqabah, which is the last of the three in that order.

The time for throwing the pebbles starts after the sun has left its zenith and continues till the sunset. However, if a pilgrim could not throw the pebbles within this period, he can do so after sunset. He can also delay it till the next day without making expiation.

Throwing the pebbles on the third day of Tashreeq is not obligatory if the pilgrim leaves Mina for Makkah before the sun sets on the second day of Tashreeq. Those who hasten to leave Mina are allowed to do so in the light of Allah's injunction:

﴿فَمَنْ تَعَجَّلَ فِي يَوْمَيْنِ فَلَا إِثْمَ عَلَيْهِ﴾

"But whosoever hastens to leave in two days, there is no sin on him. Al-Baqarah 2:203.

If the sun sets before the pilgrim departs Mina on the second day, then he has to stay there till the next day and throw the pebbles as he did in the previous days.

Four: Passing the night in Mina on the first two days of Tashreeq:

It is not enough that the pilgrim should throw the pebbles on the three stone pillars and then go to Makkah each evening to pass the night there. Rather, it is mandatory for him to spend most part of the nights of the first and the second days of Tashreeq in Mina. As for the night of the third day, Allah allows him to leave with a condition that he should do so before the sun of the second day sets. If the sun sets while he is still in Mina, then he passes the night of the third day there and throws the pebbles as explained earlier.

Five: Farewell Tawaaf: After completing his rites and finishing his actions and before he intends to depart Makkah, he must make a farewell Tawaaf round the Ka'bah, according to the correct opinion. If a woman is in her menses, then she does not need to make the Tawaaf.

After performing the farewell Tawaaf, the pilgrim should not stay in Makkah afterwards. Rather, he must depart from the city. If he continues to stay without any reason or for a reason that is unrelated to his departure such as visiting a sick person or buying commodities, then he must repeat the Tawaaf before he leaves.

The above five things are the obligatory aspects of Hajj. If a pilgrim abandons any of them without acceptable reason, he has committed a sin. However, they are included among the fundamental parts of Hajj. Therefore, if any of these obligations is abandoned, the Hajj will still be valid and it is possible to expiate for it with a sacrifice as we will later explain - In sha Allah.

What are the pillars of Hajj?

The pillars of Hajj are five: One: Entering the state of Ihraam Two: Staying at 'Arafah **Conditions for staying in 'Arafah can be summed up as follows:**

1. The period of stay must at least happen between the noon of the 9th day of Dhul-Hijjah ('Arafah Day) and the dawn of the 10th, which is the day of sacrifice. If any pilgrim stays at 'Arafah before or after the stipulated period, the entire Hajj is invalid.

It is enough for a pilgrim to stay there at any given moment of the day or night as long as the stay occurs within the stipulated period. However, it is better to combine between staying there for a part of the day and a part of the night. If a pilgrim leaves 'Arafah before sunset, it is preferable, but not compulsory, that he expiates for that by slaughtering a sacrifice for going against the action of the Messenger of Allah (Peace and Blessings of Allah be upon him).

2. The stay must be anywhere within the boundaries of 'Arafah. This is because of the Prophet's saying: "This is where I stand and the entire 'Arafah is a place for standing." (Recorded by Muslim) Therefore, a pilgrim should not stay at 'Urnah -a place adjacent to the boundaries of 'Arafah. Maghrib prayer is delayed till the time for 'Ishaa prayer is due so that they can be combined together at Muzdalifah on the way to Mina. This is what the Messenger of Allah, did, according the Hadith narrated by Al-Bukhari and Muslim.

Three: Tawaaf al-Ifadah:

Conditions of Tawaaf al-Ifadah are:

The Tawaaf should be done outside the borders of Hijr Isma'il[1] .

He must keep the Ka'bah on his left side while making Tawaaf and start with the Black Stone (AlHajar Al-Aswad). If he starts his Tawaaf after passing the point parallel to the Black Stone, the Tawaaf will not be counted as a valid one until he arrives back at it.

He must make seven rounds of Tawaaf. It is only then that the Tawaaf can be regarded as a completed pillar of Hajj.

Four: Walking between Safa and Marwah (Sa'y):

Safa and Marwah are small mountains near the Ka'bah. The pilgrim walks from Safa to Marwah and back seven times: four times from Safa to Marwah and three times back from Marwah to Safa. Conditions for a valid walking are as follows:

1. The Sa'y should be after a Tawaaf whether it is the arrival Tawaaf, which is recommended for a pilgrim as the first thing to do upon his entering Makkah, or

[1] Hijr Isma'il is the space covered with a curved wall on the northern side of the Ka'bah between the Iraqi and Shami corners.

Tawaaf al-Ifadah, which is a pillar of Hajj. That is exactly what the Messenger of Allah did.

It should be seven rounds starting at Safa and ending at Marwah. Every passing between them is regarded as a round.

The pilgrim should cover the entire distance that is between Safa and Marwah. If he leaves out an inch uncovered, the round in which he leaves out that inch will not be valid.

He should perform the Sa'y consecutively and without any interruption. If there is a relatively long interruption, he must start the Sa'y anew.

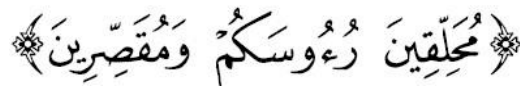
Five: Shaving (or shortening of the hair):

The pilgrim must shave or cut his hair short. Cutting of three hair strands and above can be regarded as shortening of the hair; and whatever amount of the hair shortened or by whatever means is acceptable. According to the correct opinion of the Madh-hab of Ash-Shafi'ie, shaving or cutting short of the hair is regarded a pillar.

Conditions for shaving are as follows:

It should not be done before its time is due. The time for shaving starts from after the first half of the night. If a pilgrim shaves before that, he has committed a sin and must expiate with a sacrifice.

The number of hair shaven or cut must not be less than three strands, according to the correct opinion. Allah says:



"(Some) having your heads shaved, and (some) having your head hair cut short."

Al-Fath 48:27

The hair that should be shaved should be from the head and not from the beard or moustache. As for a woman pilgrim, she only needs to cut her hair and should not shave, according to the consensus of the scholars.

Observation: If a person has no hair on his head, then he should just pass a shaving blade over his head and make do with that.

Is it obligatory to perform Hajj pillars in the recommended order?

It is obligatory to perform most of the Hajj rites according to the recommended order. These pillars should be done in the following order:

Ihraam, staying at 'Arafah, Tawaaf al-Ifadah, and then Sa'y. As for shaving, the pilgrim can delay it till after Tawaaf and he can only perform Tawaaf before Sa'y.

Is performing the pillars according to the recommended order, the sixth pillar or is it just a condition on how to perform the pillars?

There is a difference of opinion among the Shafi'ite scholars on this; but what is important is that the pillars should be performed according to the above-mentioned order. Allah knows best.

What are the rites of 'Umrah?

1. Entering into the state of Ihraam as done for Hajj, including the ruling pertaining to Meeqaat.
2. The 'Umrah pilgrim enters Makkah and immediately commences Tawaaf for 'Umrah.

3. Walking between Safa and Marwah (Sa'y).
4. Shaving or cutting short of the hair.

With this last rite, the 'Umrah is completed and pilgrim is free to terminate his Ihraam.

Recommended Acts of Hajj, Termination of Ihram for Hajj

What are the recommended aspects of Ihraam?

Taking a bath before the Ihraam. If bath is not taken, then Tayammum can be done. Other aspects of cleanliness such as removing armpit hair and pubic hair and clipping of nails. This type of bath is recommended for every pilgrim, male or female, menstruating or in post-partum bleeding.

Declaring the intention verbally and following that with Talbiyah which is:

«لَبَّيْكَ اللَّهُمَّ لَبَّيْكَ، لَبَّيْكَ لَا شَرِيكَ لَكَ لَبَّيْكَ، إِنَّ
الْحَمْدَ وَالنُّعْمَةَ لَكَ وَالْمُلْكَ، لَا شَرِيكَ لَكَ»

"Labbayk Allaahumma labbayk, labbayka laa shareeka laka labbayk, innal-hamda wanni' mata laka wal-mulk, laa shareeka lak.

"Here I am at Your service, O Lord here I am. Here I am, no partner do you have. Truly, the Praise and Favour are Yours and the Dominion, no partner do you have.

A male pilgrim should say the Talbiyah loudly. The Talbiyah can be said in whatever position, be it standing, sitting and walking. It is recommended that Talbiyyah is recited till the pebbles of Jamrah Al'Aqabah are thrown on the morning of the day of sacrifice.

As for the woman pilgrim, it is recommended that she recites the Talbiyah silently, where she alone can hear her voice.

3. It is recommended that discussions about permissible affairs of this world are shunned. Disliked and forbidden talks should be absolutely avoided.

What are the recommended actions while entering Makkah?

The pilgrim should enter Makkah before his stay at 'Arafah; he can then go to 'Arafah from Makkah.

It is recommended that he take a bath at a place called Tuwa while entering Makkah to emulate the Messenger of Allah, who did the same.

It is recommended that he enters Makkah from Thaniyyah Kada', a pathway on the upper part of Makkah.

After entering Makkah, it is recommended that he goes straight to the Ka'bah to perform the arrival Tawaaf, which is salutation of the Sacred House that the Messenger of Allah never missed.

It is recommended that he enters the mosque from Bani Shaybah gate. When he sees the Ka'bah, he raises both his hands and says:

«اللَّهُمَّ زِدْ هَذَا الْبَيْتَ تَشْرِيفًا وَتَعْظِيمًا وَتَكْرِيمًا وَمَهَابَةً،
 وَزِدْ مَنْ شَرَّفَهُ وَعَظَّمَهُ مِمَّنْ حَجَّهُ أَوْ اعْتَمَرَهُ تَشْرِيفًا
 وَتَعْظِيمًا وَتَكْرِيمًا وَبِرًّا. اللَّهُمَّ أَنْتَ السَّلَامُ وَمِنْكَ
 السَّلَامُ فَحَيِّنَا رَبَّنَا بِالسَّلَامِ»

Allahumm zid haadhal-bayt tashreefan wa takriman wa mahabah; wa zid man sharrafahu wa 'Azzamahu mimman hajjah awi tamarahu tashrifan wa ta ziman wa takriman wa birran. Allahumma antas-Salaam wa minkas-salaam fahayyina Rabbana bissalam.

Meaning: "O Allah, increase this House in grandeur, honor and awe; and increase whoever honors it from among those who visits it for Hajj or 'Umrah in honor and bounty. O Allah, You are the Giver of Peace, it is from You that peace emanates. Our Lord, send Your peace on us.

What are the recommended aspects of Tawaaf?

1. To perform Tawaaf by walking except if one is unable to walk due to an illness. Then, it is not disliked if the Tawaaf is done on a mount.
2. It is recommended that the pilgrim touch and kiss the Black Stone at the beginning of Tawaaf and to place one's face upon it. This is what the Prophet used to do, according to a report recorded by Al-Bukhari and Muslim. If it is impossible to do so due to crowdedness, then he should only point to it with his hand (without kissing the hand). He says Takbeer and Tahleel while touching or kissing it. As for a woman, she should only do so when the place is free of crowd.
3. It is recommended that touching and kissing is done each time a pilgrim begins a round of Tawaaf.
4. It is recommended to say at the beginning of Tawaaf:

«بِسْمِ اللَّهِ وَاللَّهُ أَكْبَرُ، اللَّهُمَّ إِيْمَانًا بِكَ، وَتَصْدِيقًا
 بِكِتَابِكَ، وَوَفَاءً بِعَهْدِكَ، وَاتِّبَاعًا لِسُنَّةِ نَبِيِّكَ مُحَمَّدٍ عَلَيْهِ
 الصَّلَاةُ وَالسَّلَامُ»

Bismillah Allahu Akbar. Allahumma imanan bika wa tasdiqAn bikitaabika, wa wafaa an bi'ahdika, wattiba'an lisunnati nabiiyyika Muhammadin Alayhis-Salaatu wassalaamu.

Meaning: "In the Name of Allah, Allah is Great. O Allah, (I am performing this Tawaaf as a manifestation of my) belief in You, in affirmation of Your Book, in fulfillment of Your Covenant and in following the Sunnah of Your Prophet Muhammad, blessings and peace be upon him.

This is what the righteous predecessors agreed upon.

He should say at the gate of Ka'bah:

«اللَّهُمَّ إِنَّ الْبَيْتَ بَيْتِكَ، وَالْحَرَمَ حَرْمُكَ، وَالْأَمْنَ
أَمْنِكَ، وَهَذَا مَقَامُ الْفَائِزِ بِكَ مِنَ النَّارِ»

"Allahummainnal Baytabaytuka, walharamaharamuk, wal amna amnuk, wa hadha maqamul-'a idhi bika minan-Nar

0 Allah! this house (Ka'bah) is Your House, Haram (Sanctuary) is your Haram, peace and safety is Your peace, and this peace is protection of you from Hell-fire.

And say on reaching the Iraqi corner (Rukn Iraqi)

«اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الشَّكِّ وَالشَّرِكِ وَالنِّفَاقِ
وَالشَّقَاقِ، وَسُوءِ الْأَخْلَاقِ، وَسُوءِ الْمَنْظَرِ فِي الْأَهْلِ
وَالْمَالِ وَالْوَالِدِ»

Allahumma inni a'udhu bika minash-shakki wash-shirk wan-nifaq wash-shiqaq wa soo il-akhlaq wa sooi l-manzari fil-ahli wal mali walwaladi

0 Allah! Iseek refuge in You from doubt, polytheism hypocrise discord, bad manners and bad looking in family, property and offspring.

• And he should say on reaching beneath the water spout

«اللَّهُمَّ أَظِلَّنِي فِي ظِلِّكَ يَوْمَ لَا ظِلَّ إِلَّا ظِلُّكَ، وَاسْقِنِي
بِكَأْسِ نَبِيِّكَ مُحَمَّدٍ ﷺ شَرَابًا هَنِيئًا لَا أَظْمَأُ بَعْدَهُ يَا ذَا
الْجَلَالِ وَالْإِكْرَامِ»

Allahumma azillani fi zillika yawma la zilla illa zilluka, wasqini bi ka si nabiyyika Muhammad sharaban hani an la azma u ba'dahu ya dhal-Jalali walikram

0 Allah! give me shade in Your Shade on that day when there will be no shade except Your Shade, and give me refreshing drink from the bowl of Your Prophet Muhammad that Iwill be no longer thirsty after it, 0 owner of majesty and honor.

And also he should say between the Shami and yemeni corner:

«اللَّهُمَّ اجْعَلْهُ حَجًّا مَبْرُورًا، وَذَنْبًا مَغْفُورًا، وَسَعْيًا
مَشْكُورًا، وَعَمَلًا مَقْبُولًا وَتِجَارَةً لَنْ تَبُورَ، يَا عَزِيزُ يَا غَفُورُ»

"Allahummaj'alhu hajjan mabroora, wa dhanban maghfoora wa sa'yan mashkoora, wa 'amalan maqboola, wa tijaratan lan taboor, ya Azia, Ya Gafoor.

"O Allah! Make it a blessed hajj, forgiven sin, thanked say, accepted deed, and business that will not be destroyed, O mighty O Forgiving.

Between the Yemeni corner and Black Stone, it is recommended to say:

عَذَابَ النَّارِ «اللَّهُمَّ آتِنَا فِي الدُّنْيَا حَسَنَةً وَفِي الْآخِرَةِ حَسَنَةً وَقِنَا

"Allahumma aatinaa fid-dunyaa hasanatan-wa fil aakhirati hasanah waqinaa 'adhaaban-naar.

"Our Lord! Give us in this world that which is good and in the Hereafter that which is good, and save us from the torment of the Fire!

The pilgrim can make whatever supplications he likes. Reciting supplications authentically reported from the Messenger of Allah are better than reciting the Qur'an, while reciting the Qur'an is better than reading supplications that are not recorded from the Prophet (Peace and Blessings of Allah be upon him).

He should perform Ramal - i.e. taking quick short steps - in the first three rounds of Tawaaf while walking normally in the last four if he is going to do Sa'y after his Tawaaf. If he has already done Sa'y after a previous Tawaaf, then he needs not do Ramal. While doing Ramal, it is recommended that he does Idhtiba, which is to put the right side of the upper garment under the armpit and put the left side over the shoulder, thus showing the right shoulder.

After finishing Tawaaf, the pilgrim performs two Rak'ahs behind the Station of Ibraheem. He recites Surah Al-Kafiruan in the first Rak'ah and Surah Al-Ikhlaas in the second.

What are the recommended aspects of Sa'y?

1. It is recommended that the pilgrim, who has performed Sa'y after Tawaaf, should not repeat the Sa'y after another Tawaaf.

It is recommended for a pilgrim to climb Mount Safa at the start of Sa'y and ensure that he sees the Ka'bah if nothing impedes him from doing so. He should then face the Qiblah and say: Allahu Akbar Allahu Akbar Allahu Akbar wa lillahil-hamd.

«اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ وَاللَّهِ الْحَمْدُ، اللَّهُ أَكْبَرُ عَلَى مَا هَدَانَا، وَالْحَمْدُ لِلَّهِ عَلَى مَا أَوْلَانَا. لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ. لَهُ الْمُلْكُ وَلَهُ الْحَمْدُ يُحْيِي وَيُمِيتُ بِيَدِهِ الْخَيْرُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ»

Allahu Akbar Allahu Akbar Allahu Akbar Walillahilhamd. Allahu akbar 'ala maa hadana, walhamdulillah 'ala maa awlaana. Laa ilaaha illallaahu wahdahu laa shareeka lahu, lahul-mulku wa lahul-hamd yuhyee wa yumeet biyadihilkhayru, wahuwa 'ala kulli shayin qadeer.

"Allah is Great, Allah is Great, Allah is Great. All praise is due to Allah. Allah is Great for the guidance He endowed us with. All praise is due to Allah for the favor He bestowed upon us. None has the right to be worshipped except Allah, alone, without partner, to Him belongs all sovereignty and praise and He is over all things Omnipotent".

When he arrives at Mount Marwah, he climbs unto the mountain and says what he said on Mount

Safa.

2. It is recommended that the pilgrim perform Sa'y walking, if he can. Also that the pilgrim walks fast between the two green lights. While making Sa'y and at climbing the mountains of Safa and Marwah, it is recommended that the pilgrim makes whatever supplications he wishes for himself and his fellow Muslims.

What are the recommended aspects of setting out for 'Arafah?

1. It is recommended that the pilgrim go to 'Arafah only after entering Makkah and performing the arrival Tawaaf.
2. It is recommended that the Muslim ruler or one of their leaders make a sermon at Makkah on the 7th day of Dhul-Hijjah after Zuhr prayer in which he will instruct the pilgrims to go to Mina on the morning of the following day and teach them how to perform their Hajj rites, steps by steps. This will make the pilgrim perform their rites upon sure knowledge.
3. The pilgrims should proceed to Mina on the morning of the 8th day of Dhul-Hijjah and perform their obligatory prayers at Masjid Al-Khayf (if that is possible) as the Prophet did in his pilgrimage. They stay at Mina till the morning of the 9th day.
4. On the morning of the 9th day after sunrise, they proceed to 'Arafah.

It is recommended that they should not enter it straight away when they arrive at its border. They should rather stay at Namirah (a place close to 'Arafah) until the sun passes the zenith. Then they should perform Zuhr and 'Asr prayers combined at the time of Zuhr. Thereafter, they enter 'Arafah and stay there till sunset. Meanwhile, they should occupy their time with remembrance of Allah, supplications, returning to Him in repentance and humbly beseeching Him. This is what the Messenger of Allah (Peace and Blessings of Allah be upon him), did with his Companions, according to the authentic narrations about his Hajj.

What are the recommended aspects of passing the night at Muzdalifah?

1. Staying there until the Adhaan for Fajr prayer is made. There, they should pray Fajr as soon as its time is due (when it is still very dark).
2. Proceeding to Mina.
3. Standing at Al-Mash'har Al-Haraam (a small mountain on the far end of Muzdalifah) when they arrive there.
4. They make much supplication there until it is close to sunrise.

What are the recommended aspects of throwing the pebbles?

It is recommended that stoning should be the first thing the pilgrim does on arriving in Mina.

The Talbiyah should be stopped at the beginning of stoning, for the pilgrim is no more in the state of Talbiyah. He should instead start saying Takbeer.

With each throw, the pilgrim should make Takbeer. The throwing should be done with the right hand, raising it high that the whiteness of his armpit is exposed. As for the woman, she must not raise her arm that high. For both male and female pilgrims, the pebbles should be the size of a chickpea.

While throwing the pebbles on Tashreeq days, the following things are recommended:

The pebbles are thrown after the sun has passed the zenith and before Zuhr prayer is performed. If the crowd is too big, there is nothing wrong in delaying it to a later time.

While throwing pebbles at the first and second Jamarahs, the pilgrim should stand in such a way that he faces the Qiblah and then throws the pebbles one after the other as we have earlier explained.

After throwing the pebbles, he should move a little further from the stone pillars so that he does not get hurt by other people's pebbles. He should then face the Qiblah and make a lengthy supplication for himself and for his fellow Muslims. When he arrives at the second Jamarah, he does as he did in the first, with no difference. When he arrives at the Jamrah Al-'Aqabah (the nearest one to Makkah), he also does as he did in the first two Jamrahs, but he does not need to make any supplication after throwing the pebbles there, neither does he need to stand there. This is what the Messenger of Allah (Peace and Blessings of Allah be upon him), did.

How and when does a pilgrim terminate the Ihraam?

The time for terminating the Ihraam starts from the passage of the second half of the night (eve) of the day of sacrifice after the pilgrim would have proceeded from 'Arafah, spent the obligatory portion of the night in Muzdalifah and returned to Mina. Then, the pilgrim has before him three major rites of Hajj: Throwing pebbles at Jamarah al-'Aqabah, shaving or cutting the hair short and making Tawaaf al-Ifadah. Whenever a pilgrim has done any two of these three, then he is due for the preliminary termination of Ihraam. Preliminary termination of Ihraam means: He is permitted to do all that that is forbidden when one is in the state of Ihraam with the exception of anything related to women such as intercourse, fondling or contracting marriage.

In this state, he can take off the Ihraam garments, put on his normal clothes and wear perfume. After performing the third rite, he is due for the final and complete termination of Ihraam. In this state, all things related to women are permissible for him.

Violation of a Hajj Rite, Ruling Concerning a Person who is Prevented, Miscellaneous Rulings

How can the violation of a Hajj rite occur?

It can occur through one of these means:

1. Abandonment of a commandment that the law allows a pilgrim to abandon, but with a condition that such an abandonment is expiated for with a sacrifice.
2. Abandonment of any of the five previously mentioned obligatory aspects of Hajj.
3. Abandonment of one of the pillars of Hajj such as staying at 'Arafah; and each of these pillars has its rulings.
4. Committing one of the violators of Ihraam.

Breaching of any of the rules of Hajj occur through one of the four things mentioned here. These four things are different in terms of their consequences. Some can be expiated with a sacrifice while others cannot.

What is the ruling concerning the abandonment of a commandment that the law allows a pilgrim to abandon?

The pilgrim must expiate for such abandonment with a sacrifice. This exclusively applies to a person who is doing Tamattu or Qiran. This is because, Ifraad is the basic required Hajj, according to the Shafi'ie madh-hab. However, there is nothing wrong in entering into the state of Ihraam for Tamattu or Qiran, with a condition that an acceptable sacrifice is slaughtered. If the pilgrim cannot afford a sacrifice, then he can observe ten days of fast three in Hajj and seven when he is back home.

If he does not observe the three days fast while on Hajj, he can observe it when he goes back home, and he should allow a four-day interval between these three and the other seven.

What is the ruling concerning a person who abandons one of the obligatory aspects of Hajj?

If a person abandons one of the obligatory aspects of Hajj, he has caused a breach in his Hajj. Therefore, he needs to expiate for that by sacrificing a goat, if it is possible. If he cannot afford that, then he can observe fast for three days in Hajj and seven days when he goes back home, according to the most correct view of the scholars.

What is the ruling concerning a person who abandons one of the pillars of Hajj?

One: If the pillar he abandons is staying at 'Arafah, he must do the following:

- a. Slaughter a sacrifice like that of Tamattu or observe fast, if he cannot afford the sacrifice.
- b. He should terminate his Ihraam in the state of 'Umrah; that is by performing 'Umrah rites and then terminating the Ihraam after completing them. However, such an 'Umrah will not be counted for him as the one that is mandatory upon him if he had not done one before.
- c. He should make up for that Hajj —whether the Hajj is obligatory or supererogatory one. He has to do that immediately the following year. He is not allowed to delay it without any valid reason.

This is irrespective of whether he abandoned staying at 'Arafah due to an excuse such as oversleeping or forgetfulness, or without any excuse.

Two: If he abandons any of the other pillars such as Tawaaf al-Ifaadah, Sa'y or shaving of the hair. None of these can either be expiated for by a sacrifice nor can it be overlooked. The remedy is to carry out the very rite that was abandoned. In essence, the Hajj remains suspended until the abandoned rite is carried out however long it takes him to do so.

What is the ruling concerning a person who commits any of the violations of Ihraam?

It is compulsory for him to expiate for that violation in the following ways:

One: If the violation he committed is to shave his hair, clipping of nails, wearing of sewn garment, using of perfume, covering of the head, fondling a woman without engaging in actual intercourse, then he must do one of the following things:

- a. Slaughtering an acceptable goat in expiation.
- b. Feeding of six poor people -each with what is equivalent to one half of a Sa'.
- c. Fasting for three days. He has an option of choosing any of the three things, with the condition that the shaved hair should not be less than three strands and the clipped nails not less than that of three fingers. If the removed hair is a strand or two or the clipped nail is that of one or two fingers, then he should feed only one poor person or two persons accordingly.

Two: If the violation that the pilgrim committed is sexual intercourse, then he must slaughter a camel. If he cannot find a camel, then it is estimated in monetary value (according to Makkan price) and the amount is given as alms. If he could not find the money, then the price of the camel should be valued in terms of Mudd and he observes fasting a day for each Mudd.

Three: If the violation is hunting of games; the following things should be considered:

- a. If the hunted animal has an equivalent among the livestock, then its equivalent among the livestock must be slaughtered. For instance, if an ostrich is hunted, a camel must be slaughtered as expiation; if a wild cow or a wild ass is hunted, a cow should be slaughtered as expiation; and if a gazelle is hunted, then a goat must be slaughtered.
- b. If nothing is recorded from the Prophet's Companions concerning the hunted animal and no equivalent of the animal is known among the livestock animals, then the decision on the appropriate expiation must be left in the hands of two trustworthy and experienced men. For Allah says:

﴿يَأَيُّهَا الَّذِينَ ءَامَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرْمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِّثْلُ مَا قَتَلَ مِنَ النَّعْمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ﴾

"Kill not the game while you are in a state of Ihraam [for Hajj or 'Umrah (pilgrimage)] and whosoever of you kills it intentionally, the penalty is an offering, brought to the Ka bah, of an eatable animal (i.e. sheep, goat, cow) equivalent to the one he killed, as adjudged by two just men among you". Al-Maidah 5:95

c. If the hunted animal does not have an equivalent among livestock animals, the monetary value of the animal should be given out in charity to the poor. The value of the hunted animal should be determined by two trustworthy and experienced men.

d. An exemption to all this is a dove and other similar animals. Hunting of each of such animals carries expiation of a goat or a ram. This is reported from the Prophet's Companions -may Allah be pleased with them. The correct understanding is that they learnt that from the Messenger of Allah (Peace and Blessings of Allah be upon him). That is the basis for making sacrifice in expiation for hunting in the state of Ihraam.

If the hunted animal has an equivalent among the livestock animals, the violator has three options: he may slaughter a similar livestock animal as expiation and distribute its meat to the poor people of Makkah exclusively, or estimate it in monetary value and purchase food and distribute it among the poor, or observe a day fast for each of the Mudd of food that an equivalent amount can purchase.

But if the hunted animal does not have an equivalent among livestock animals, the violator has two options: he may give charity with the value determined by two trustworthy experts or observe a day fast for each of the Mudd of food that the determined amount can purchase.

It is then clear to us that the expiation for abandoning an obligatory aspect of Hajj should be compulsorily done in the following order: Slaughtering of a sacrifice; if the person concerned is unable to do so then he moves to the second option which is giving charity; if he is also unable to do that, he then moves to the third option which is fasting. It is also clear to us that a violator of a forbidden act is given the right of choosing the kind of expiation he likes: He can choose to slaughter a sacrifice, give charity or observes fasting. Allah knows best.

What are the compulsory sacrifices in Hajj and what can be substituted for them?

They are of different categories:

One: Arranged and estimated sacrifice. This is compulsory upon abandoning any of the obligations of Hajj. If a pilgrim abandons any of the mandatory deeds, then he must expiate for that by sacrificing a goat that is fit enough for sacrifice in Uhdhiyah or sacrifice one-seventh of a camel or one-seventh of a cow. If he cannot find any of these, then he must observe fasting for ten days -three during Hajj and seven when he goes back to his family. Included in this category are sacrifice for Tamattu and sacrifice for missing the stay at 'Arafah, after terminating the Ihraam for 'Umrah.

Two: Optioned and estimated sacrificed: This is compulsory when a pilgrim commits any of the forbidden things while in the state of Ihraam such as shaving of hair and clipping of a nail. In a case like this, the violator must sacrifice a goat or observe fasting for three days or give three Sa's of wheat or barley as charity to six poor people from the sacred city. Each poor person must be given half a Sa'. Mere removing of three strands of hair or clipping of three nails is enough to make this sacrifice compulsory.

Three: Optioned and modified. This category of sacrifice is compulsory when a pilgrim cuts a plant or hunts an animal while he is in the state of Ihraam. If the hunted animal has an equivalent among the livestock animals, then the equivalent is sacrificed in the sacred city or the value of the animal is used to purchase food that must be distributed to the poor people of the city, or the person concerned observes a day fast for each of the Mudd of food that the determined amount can purchase.

If the hunted animal has no equivalent among the livestock animals then the pilgrim has a choice of feeding or fasting. The only exception in this case is when the hunted animal is a dove, then a goat must be sacrificed.

Four: Arranged and modified: This is the compulsory sacrifice made as expiation for being prevented in the state of Ihraam. If a person is prevented from completing his rites after entering into the state of Ihraam, he must slaughter a goat where he is prevented. If he cannot, he must feed the poor people with the value of that goat. If he cannot also do that; then he must observe a day fasting for each of the Mudd of food that that the value can purchase.

Five: Arranged and modified: This is exclusively obligatory on a person who engages in sexual intercourse while he is in the state of Ihraam. If this violation is committed before the preliminary termination of Ihraam, he must expiate for that by sacrificing a camel. If he cannot afford that, he can sacrifice a cow, and if he cannot afford that he can sacrifice seven goats. If he also cannot afford that then he must feed the poor people of the sacred city with the value of a camel. If he cannot afford that, then he must fast a day for each of the Mudd of food that that the value can purchase.

It goes without saying that slaughtering and feeding can only be done within boundaries of the sacred city. As for fasting, it can be observed anywhere one likes. What is meant by arranged is that it is impermissible for a violator to move to the next expiations except if he is unable to carry out the previous one. This is the opposite of having the option of choosing the expiation one likes.

What is the meaning of being prevented? How can a prevented person terminate his Ihraam?

The prevented is a pilgrim who is prevented by whatever reason from reaching Makkah to complete his Hajj rites. If a person assumes Ihraam for Hajj or 'Umrah, and an enemy prevents him from reaching Makkah, or he was held back and the roads leading to Makkah are blocked in his face; he can terminate his Ihraam in that particular place.

Termination of Ihraam is to slaughter a goat at the place where the prevention took place, with the intention of terminating the Ihraam. The pilgrim then shaves his hair or cuts it short.

If he finds no goat to sacrifice, he purchases food with the value of that goat. If he cannot afford that then he should observe fasting the number of Mudds of food that the amount can purchase. In this case, he terminates the Ihraam straight away and does not need to wait till he completes the fasting.

If a woman assumes Ihraam for the obligatory or supererogatory Hajj or 'Umrah without her husband's permission, and her husband then prevents her from proceeding with it, what should she do?

She has to terminate the Ihraam, just like a prevented person discussed earlier. Those who find themselves in this situation should make it up with another Hajj next time.

What is the ruling concerning a pilgrim who missed staying at 'Arafah with or without excuse?

He should terminate his Ihraam with only a Tawaaf, a Sa'y and shaving or cutting short of his hair; and he must expiate with a sacrifice. In addition to this, he must make up for that Hajj in the following year.

Can a pilgrim stipulate how he terminates his Ihraam?

A person who assumes Ihraam for Hajj or 'Umrah can stipulate that if he falls sick or he is attacked, then the place he falls sick at or is attacked will be the place for the termination of his Ihraam. If what he stipulates occurs, he is allowed to terminate the Ihraam by making intention to do so and shaving or cutting his hair short. In this case, he is not obliged to slaughter any sacrifice, unless he has mentioned it in his stipulation that he would slaughter a sacrifice.

What is the ruling concerning a person who died without performing Hajj?

If Hajj or 'Umrah becomes incumbent upon a person but he delays its performance and does not perform it until he dies, then he dies in a sinful state. Therefore, somebody must be delegated to perform the Hajj and/or the 'Umrah on his behalf and the expenses of that such pilgrimage should be paid from his estate. For, this is regarded as one of the debts that should be paid before the estate is shared among the heirs.

Must a woman pay her Mahram if he refuses to accompany her without his expenses being paid?

Yes, she must pay for the expenses of her Mahram if he refuses to accompany her without his expenses being paid. If she cannot afford to pay for such expenses; then Hajj or 'Umrah is not obligatory for her. The guide of a blind person is like a Mahram for a woman. If a blind person can only find the means.

If a person is incapable of performing Hajj by himself, can he pay a proxy to perform it on his behalf?

He must hire a proxy who can perform Hajj on his behalf with suitable wages. If the proxy he finds insists on getting wages more than what is suitable for him, then the obligation is waived.

If a person's son or someone else who is not his relative gives him money to pay a proxy to perform Hajj on his behalf, must he accept such money?

He is not obliged to accept it. But if any of these people volunteers to perform the Hajj on his behalf, he must accept that and allow them to do so.

If the pilgrims mistakenly stay at 'Arafah on the 10th day of Dhul-Hijjah instead of the 9th day; is their Hajj correct?

Their Hajj is correct and they do not have to make up for it. The proof for this is the saying attributed to the Prophet

: "The day of 'Arafah is the day the people recognize as such." (It is recorded by Ibn Mandah and Ibn 'Asakir, but the narration is weak)

Is it forbidden for the pilgrim to cut the plants of the sacred city? If he does so what should he do?

It is forbidden for a pilgrim to cut the plants of the sacred city. If he cuts any of its plants, he must slaughter a sacrifice: a camel for cutting a big tree; a goat for cutting a small tree; and if what he cut is other plants he must expiate with its value in monetary terms.

What is the ruling, concerning hunting games in Madinah?

Hunting games in Madinah is forbidden like hunting games in Makkah. However, no expiation must be made for hunting games in Madinah.

If a minor performs Hajj, will his Hajj be valid?

His Hajj will be valid but that does not excuse him from performing the obligatory Hajj when he reaches puberty. After reaching puberty, he must perform the obligatory Hajj if he has the means.

Is a menstruating woman allowed to leave Makkah without performing farewell Tawaaf?

Yes, she is allowed to. There are proofs for that from the Sunnah,[1] and nothing is incumbent upon her.

Visiting the Prophet's Mosque and His Noble Grave

What is the proof for visiting the Prophet's Mosque and grave?

It is his saying, "No journey [for the purpose of worship] should be undertaken but to the three mosques: the Sacred Mosque [in Makkah], this mosque of mine and Al-Aqsa mosque [in Jerusalem]." (Recorded by Al-Bukhari and Muslim)

As for visiting his grave, the consensus of all the Companions and those who succeeded them indicates desirability of visiting it and there is great reward in doing so.

What are the etiquettes of visiting the Prophet's Mosque?

One: When going to Madinah, it is recommended that one make the intention of visiting the Prophet and his mosque in order to be rewarded for both. On the way, it is desirable to invoke much blessing on the Prophet (Peace and blessings of Allah be upon him).

Two: It is recommended that one takes a bath before entering the city of Madinah if it is convenient to do so. If not, then one can take a bath and clean his garments before going to the mosque.

Three: When reaching the gate of the mosque, he should go in first with his right foot and say:

«أَعُوذُ بِاللَّهِ الْعَظِيمِ وَبِوَجْهِهِ الْكَرِيمِ وَبِسُلْطَانِهِ الْقَدِيمِ
مِنَ الشَّيْطَانِ الرَّجِيمِ، بِسْمِ اللَّهِ، وَالْحَمْدُ لِلَّهِ، اللَّهُمَّ
صَلِّ عَلَى مُحَمَّدٍ وَعَلَى آلِ مُحَمَّدٍ وَسَلِّمْ، اللَّهُمَّ
اغْفِرْ لِي ذُنُوبِي وَافْتَحْ لِي أَبْوَابَ رَحْمَتِكَ»

A'udhu billahil-'Azeem wa biwajhihil-kareem wasultanihil-qadeem minash-shaytanir-rajeem, bismillah, walhamdu lillah, Allahumma salli 'ala Ali Muhammad wa 'ala Ali Muhammad wa sallim Allahummagh firli dhunoobi, waftah li abwaba rahmatik.

"I take refuge with Allah, The Supreme and with His Noble Face, and His eternal authority from the accursed devil. In the Name of Allah, and All the praises and thanks are to Allah, O Allah, send prayers and peace upon Muhammad and on family of Muhammad, O Allah, forgive for me my sins and open the gates of Your mercy for me."

Four: After performing the two Rak'ahs of mosque salutation, he should come to the Prophet's grave and say in a low voice:

«السَّلَامُ عَلَيْكَ يَا رَسُولَ اللَّهِ، السَّلَامُ عَلَيْكَ يَا نَبِيَّ
 اللَّهُ، السَّلَامُ عَلَيْكَ يَا خَيْرَةَ اللَّهِ، السَّلَامُ عَلَيْكَ يَا خَيْرَةَ
 رَبِّ الْعَالَمِينَ، جَزَاكَ اللَّهُ يَا رَسُولَ اللَّهِ عَنَّا أَفْضَلَ مَا
 جَزَى نَبِيًّا وَرَسُولًا عَن أُمَّتِهِ، أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ
 وَحْدَهُ لَا شَرِيكَ لَهُ وَأَشْهَدُ أَنَّكَ عَبْدُهُ وَرَسُولُهُ مِنْ خَلْقِهِ
 وَأَشْهَدُ أَنَّكَ قَدْ بَلَّغْتَ الرِّسَالَةَ، وَأَدَّيْتَ الْأَمَانَةَ،
 وَنَصَحْتَ الْأُمَّةَ، وَجَاهَدْتَ فِي اللَّهِ حَقَّ جِهَادِهِ»

Assalamu 'alayka ya rasulallah, assalamu 'alayka ya nabiyyallah, assalamu 'alayka ya khirata rabbil'alamin. Jazakallah ya Rasulallah 'anna afdala ma jaza nabiyyan wa rasulan an ummatih. Ash-hadu an la ilaha illallah wahdahu la sharika lahu, wa ash-hadu annaka 'abduh wa rasuluh min khalqih. Wa ashhadu annaka qad ballaghtar-risalah wa addaytal amanah, wa nasahtalumamah, wa jahadta fillahi haqqa jihadih.

"Peace be upon you O Messenger of Allah, peace be upon you O Prophet of Allah, peace be upon you O the best of Allah's creation. May Allah reward you on our behalf the best that He could reward any prophet or messenger on behalf of His people. I testify that there is no deity worthy of being worshiped except Allah, He is one and He has no partner. I also testify that you are a slave and a messenger of Allah from among His creation. I equally testify that you have delivered the message, fulfilled the trust and sincerely admonished the Ummah and that you have fought in the way of Allah as it is due.

The visitor then turns a little to the right where Abu Bakr's grave is and says: Assalamu 'alayka ya Aba Bakr As-Siddeeq. He then moves a little to the right where 'Umar's grave is and says: Assalamu 'alayka ya 'Umar bin Al-Khattaab.

After saying salaam to the Prophet and his two companions -may Allah be pleased with them, he moves to anywhere in the mosque, faces the Qiblah and supplicates for himself and his fellow Muslims.

Five: It is forbidden to make Tawaaf round the Prophet's grave. It is also disliked that he should stick his body to the grave's wall or to rub his hands over it or to kiss it, as many ignorant people do. The appropriate manner while standing near his grave is to keep (a respectable) distance from the grave since the appropriate manner in his presence while he was alive was to keep a respectable distance from him.

Six: While staying in Madinah, it is strongly desired that the visitor performs all his obligatory prayers in the Prophet's Mosque. He should endeavor to visit Baqi', everyday. It is also commendable to visit the graves of the martyrs of Uhud.

Another place that a visitor is strongly advised to visit is Quba Mosque. The Messenger of Allah used to visit it every Saturday, according to the report narrated by Al-Bukhari and Muslim. In a Hadith recorded by Ibn Majah in his Sunan, the Messenger of Allah, said, "If a person performs ablution in his house and then comes to this mosque and performs prayer there, he will have the like of the reward of an 'Umrah."

O Allah! I ask You from Your bountiful favor to make it easy for me and my family and children to visit Your Prophet's mosque many times in the life of this world, to include us among those who will have the honor of visiting him in the Hereafter, to bless us with his intercession and to include us in his company in the blissful Paradise.

Oaths and Vows

What is an oath?

It is to swear by Allah's Names or Attributes like saying: 'By Allah, I will do such and such', or 'by Him in whose Hand is my soul'.

Which kind of oath is permissible and which kind is not permissible?

It is permissible to swear by Allah's Names. The Messenger of Allah would swear, 'by Allah beside Whom there is no other deity worthy of being worshipped', and, sometimes, he would say, 'By Him in Whose Hand is Muhammad's soul'. It is also recorded that Angel Gabriel swore by Allah's might saying, "By Your Might, none of them hears about it except that he enters it."

It is impermissible to swear by other than Allah's Names and Attributes, whether the object which is sworn by is a legally sacred honored object or a person, such as the Ka'bah or the Prophet, or not. The Messenger of Allah said, "Let he who wants to swear, swear by Allah or keep silent." (Recorded by Al-Bukhari and Muslim)

He also said, "You must not swear but by Allah and you must not swear except that you are truthful." (Recorded by At-Tirmidhi; and he graded the Hadith as Hasan)

What are the types of oaths?

Oaths are of three types:

One: False oath: It is to intentionally lie in one's swearing such as saying, 'By Allah, I bought such and such for fifty', while he did not buy it for that amount. Or to say, 'by Allah, I have done such and such' while he has not done it. This kind of oath plunges one into sin. It is the kind of oath that the Messenger of Allah meant in his saying, "Whoever takes an oath when asked to do so, in which he may deprive a Muslim of his property unlawfully, will meet Allah Who will be angry with him." (Recorded by Al-Bukhari and Muslim)

Making expiation for a false oath is not enough. One has to return to Allah in repentance, seek His forgiveness and give back, the rights to whom they are due, or to explain to them and seek their pardon, if it is possible.

A false oath is a grievous sin, especially if it is employed to usurp a Muslim's right with no just cause.

Two: Ineffectual oath: This is a kind of swearing that a Muslim commonly utters unintentionally such as his saying, 'no, by Allah' or 'yes, by Allah'. 'A'ishah, mother of the faithful - may Allah be pleased with her - explained the meaning of an ineffectual oath when she said, "The ineffectual oath is a man's utterance among members of his family, 'no, by Allah'."

Another form of ineffectual oath is for a Muslim to swear upon something that it is such and such but later he discovered that it is not as he believed it to be. The ruling concerning this kind of oath is that there is no sin in it nor is the person concerned obliged to expiate for it. Allah says:

﴿لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ وَلَكِنْ يُؤَاخِذُكُمْ بِمَا عَقَّدْتُمُ الْأَيْمَانَ﴾

"Allah will not punish you for what is unintentional in your oaths, but He will punish you for your deliberate oaths". Al-Ma'idah 5:89

Three: Deliberate oath: This is an oath made upon a future event such as a Muslim saying, 'by Allah, I will do such and such' or 'I will not do such and such'. This is a kind of oath whose violator will be held responsible for. For, Allah says:

﴿وَلَكِنْ يُؤَاخِذُكُمْ بِمَا عَقَدْتُمُ الْأَيْمَانَ﴾

"He will punish you for your deliberate oaths". Al-Ma'idah 5:89

The ruling concerning breaking this type of oath is that violator will be regarded as sinful, and he must make expiation for that violation. After making the expiation, his sin will be wiped off.

How is the expiation waived?

The expiation is waived and the sin is wiped off through two things:

1. To do what one has sworn not to do or to abandon what one has sworn to do, forgetfully, mistakenly or forcefully. Allah's Messenger (Peace and Blessings of Allah be upon him), said, "The sin has been waived for my Ummah on what they do mistakenly or forgetfully or what they are coerced to do." (Recorded by At-Tabarani)
2. To make an exception at the time of swearing by saying, 'Insha Allah (If Allah will)' or 'Illa an yasha Allah (except what Allah wills)', if such expressed exception is made at the same time that the swearing is made. In this case, there is neither sin nor expiation.

What is the ruling concerning violation of an oath involving righteous deeds?

It is recommended that when a Muslim swears to abandon a righteous deed, he should do what he swore to abandon and expiate for the oath. Allah says:

﴿وَلَا تَجْعَلُوا اللَّهَ عُرْضَةً لِأَيْمَانِكُمْ﴾

"And make not Allah's (Name) an excuse in your oaths". Al-Baqarah 2:224

The Messenger of Allah said, "If anyone of you has sworn to do something and then realized another thing that is better, he should do that which is better and then give expiation for the oath." (Recorded by Muslim).

What is the ruling concerning the fulfillment of an oath?

If a Muslim swears an oath upon his brother that he should do something, then it is obligatory for him to let him do it rather than let him violate the oath, if he can. The evidence for this is the Prophet's saying to a woman who was presented with dates as a gift. The woman ate some of the dates and left some. So, the giver swore upon her that she should eat the remaining dates and she refused. The Prophet then told her, "Help her fulfill her oath, for the sin is upon the violator (of an oath). (Recorded by Ahmad).

Whose intention is regarded in an oath? Is it that of the oath giver or the one upon whom the oath is made?

The oath or lack thereof depends upon the intention of the oath taker. For, actions are according to the intentions, and each person will be judged according to each intention. If a person makes an oath that he will not sleep on the floor though he meant his bed, then it is his intention that matters. Therefore,

he will not be regarded as a violator of an oath if he did sleep on the bed. Likewise, if a person takes an oath that he will not put on this linen garment and then put on a pair of linen pants, he will not be regarded a violator of his oath -if his intention is the upper garment only.

How does a person expiate for an unfulfilled oath?

Expiating for a violated oath is made through one of the following four things:

1. Feeding ten poor people by giving each of them a Mudd of wheat or inviting them together to a lunch or dinner and feeding them until they are all satiated, or to give each of them a meal that can satiate him.
2. Clothing them with a garment that suffices them for their prayers.
3. Manumitting a Muslim bondman.
4. Fasting for three consecutive days, if he is unable to do so.

He should not switch to fasting unless he is unable to feed or clothe the poor or manumit a slave. Allah says:

﴿فَكَفَّرْتَهُۥٓ إِطْعَامَ عَشْرَةِ مَسْكِينٍ مِنْ أَوْسَطِ مَا تَطْعَمُونَ
أَهْلِيكُمْ أَوْ كِسْوَتُهُمْ أَوْ تَحْرِيرَ رَقَبَةٍ ۖ فَمَنْ لَمْ يَجِدْ فَصِيَامُ
ثَلَاثَةِ أَيَّامٍ ۚ ذَلِكَ كَفْرَةُ أَيْمَانِكُمْ إِذَا حَلَفْتُمْ ۗ﴾

"For its expiation feed ten Masakin (poor persons), on a scale of the average of that with which you feed your own families, or clothe them or manumit a slave. But whosoever cannot afford (that), then he should fast for three days. That is the expiation for the oaths when you have sworn. Al-Ma idah 5:89.

What is a vow?

Vowing is when a Muslim obliges himself to perform an act of worship (which is not an obligatory one) like saying, 'I owe it to Allah to observe one day of fasting', or 'to perform two Rak'ahs of prayer'.

What is the ruling regarding making a vow?

It is permissible to make an absolute vow if the purpose is to seek Allah's pleasure, like making a vow to observe fasting, perform prayer or give charity. It is mandatory to fulfill a vow.

It is disliked to make a restricted vow like saying, 'if Allah cures my sick relative, I will observe such and such fasting' or 'I will give such and such out in charity'. This is due to a Hadith recorded by Ibn 'Umar that the Messenger of Allah, said, "Vowing does not bring forward the occurrence of anything nor does it delay its occurrence. It is only used to extract (wealth) from the miserly." (Recorded by Ahmad).

It is forbidden to make a vow if it is for seeking other than Allah's pleasure such as dedicating vows for the graves of righteous persons or to the souls of pious people. This is, in fact, directing acts of worship to others beside Allah, and it is an act of ascribing partners to Him, which He has forbidden. He says:

﴿وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا﴾

"Worship Allah and join none with Him in worship. An-Nisa 4:36

Different kinds of vowing:

1. Absolute vowing. It is to vow to perform an act of worship, seeking with it the pleasure of Allah, like saying, 'I owe it to Allah to observe fasting for three days', or 'to feed ten poor people'. This kind of vowing must be fulfilled in the light of Allah's injunction :

﴿وَأَوْفُوا بِعَهْدِ اللَّهِ إِذَا عَاهَدْتُمْ﴾

"And fulfill the Covenant of Allaah (Bai'ah: pledge for Islam), when you have covenanted". An-Nahl 16:91 Allah also says :

﴿وَلْيُوفُوا نُذُورَهُمْ﴾

"And let them perform their vows". Al-Hajj 22:29

2. Absolute but unspecified vowing. The example of this is when a Muslim says, 'I am dedicating a vow to Allah', without mentioning any particular act of worship.

The ruling concerning this kind of vow is that it is mandatory upon the Muslim to fulfill it. The Messenger of Allah said, "Expiation of an unspecified vow is like expiation of an unfulfilled oath." (Recorded by Muslim)

3. Conditional vow: The example is when a Muslim says: 'If Allah heals my patient, or if He returns to me my lost property or relative, I shall feed such and such number of poor people, or I shall observe fasting for such and such number of days'.

Though this kind of vow is disliked, it must be fulfilled. If Allah grants his need, he must carry out the stipulated act of worship. For, the Messenger of Allah said, "Whoever vows to obey Allah should obey Him." (Recorded by Al-Bukhari) And if his need is not granted, he does not need to fulfill anything.

4. A vow that is conditional upon the action of a creature: An example of this is to say: 'I will observe for such and such days if I do such and such or if such and such happens.'

The ruling concerning this kind of vow is that the person concerned has two options if he fails to carry out what he stipulated.

5. Sinful vow: It is when a person vows to commit a forbidden thing or to abandon an obligatory deed. The ruling concerning this kind of vow is that it should not be fulfilled. The Messenger of Allah said, "Let him who vows to obey Allah fulfill his vow and let him who vows to disobey Allah not fulfill his vow." (Recorded by Al-Bukhari)

However, some of the people of knowledge believe that whoever makes such a vow should make expiation because of the Hadith that 'A'ishah -may Allah be pleased with her -narrated from the Messenger of Allah that he said, "No vow should be made on a sinful act; (if it is made), then its expiation is the expiation for an unfulfilled oath."

(Recorded by Ahmad, and classified as Sahih by Al-Albani)

6. Vowing on what one does not have or what one is capable of doing: An example of this is to vow to manumit somebody's slave or to give charity with a kantar of gold.

The ruling concerning this kind of vow is that one should make expiation for it. However, some scholars believe that there is no need for expiation because of the Prophet's saying, as recorded by AtTirmidhi on the authority of 'Abdullah bin 'Amr -may Allah be pleased with him and his father, "A man's vow is not reckoned with if he makes it on what he does not possess."

Al-Mubarakpuri, in his comment on this Hadith said: "The vow is not valid and will not be effective if it is made upon what he does not have at the time of making the vow, even if he later owns that thing. Equally, no expiation is incumbent upon him."

7. Vowing to forbid what Allah has made lawful: Such as vowing to regard a particular lawful food or drink as forbidden. The ruling is that such a vow is unlawful, as a result, cannot be effective. The only exception is when a person vows to make his own wife forbidden for himself. If a person makes such a vow, then he must expiate for it.

An-Nawawi mentioned in his commentary on Sahih Muslim that some scholars are of the view that if the person's intention by such a vow is to divorce, then his wife is divorced from him; if his intention is Zihhaar, then the Zihhaar becomes effective; and if he only intends to swear an oath, he should expiate for it; and if he intends nothing, then nothing is incumbent upon him.

What is the ruling concerning a person who vows to give out his entire wealth in charity?

If a person vows to give out his entire wealth in charity, he should only give out the third thereof -if the vow is an absolute one. But if the vow is made in a state of anger, one must only make expiation.

What is the ruling concerning a person who vows to carry out an act of worship and then dies before he could fulfill his vow?

The ruling is that his guardian (or next of kin) should fulfill it on his behalf. The evidence for this is the case of a woman who told 'Abdullah bin 'Umar - may Allah be pleased with him and his father that her mother vowed to perform prayer at Quba Mosque but died before she could do so. 'Ibn 'Umar commanded her to perform prayer in that mosque on behalf of her mother.

Slaughtering, Hunting, Food and Drink

What is slaughtering?

It is to slaughter an animal that is permissible to eat.

Which kinds of animals are slaughtered?

They are goats, sheep, cows, camels and some kinds of birds such as fowls.

Cows, sheep, goats and birds are slaughtered by slitting their throats, esophagus and jugular veins while a camel is slaughtered by continuous stabbing of the upper parts of its chest (the throat) until it dies.

When a goat, cow, or sheep is to be slaughtered, it should be laid down on its left side and made to face the Qiblah. A sharp knife should be prepared. The slaughterer should then say: Bismillah, Allahu Akbar. He then slits the animal's esophagus, throat and jugular veins at one time and as quickly as possible.

As for a camel, its front legs are tied while it is in the standing position. The slaughterer should say: 'Bismillah, Allahu Akbar, and start stabbing it quickly and continuously until it dies.

The evidence for this is the statement made by 'Abdullah bin 'Umar -may Allah be pleased with him and his father -to a man whom they saw putting his camel down for slaughtering, "Keep it standing with its front legs tied. For, that is the Sunnah of Muhammad,(Peace and Blessings of Allah be upon him)." (Recorded by Al-Bukhari and Muslim)

What are the conditions for validity of slaughtering?

1. The object to be used for slaughtering should be sharp so that it can make the blood gush out. This is because of the Prophet's saying, "If the slaughtering tool causes blood to gush out and if Allah's Name is mentioned, eat (of the slaughtered animal). But do not slaughter with a tooth or a nail." (Recorded by Al-Bukhari and Muslim on the authority of Rafi' bin Khadij may Allah be pleased with him)
2. Mentioning Allah's Name upon it by saying: 'Bismillah, Allahu Akbar or 'Bismillah. This is because of Allah's injunction:

﴿وَلَا تَأْكُلُوا مِمَّا لَمْ يُذَكَّرْ اسْمُ اللَّهِ عَلَيْهِ﴾

"Eat not (O believers) of that (meat) on which Allaah's Name has not been pronounced (at the time of the slaughtering of the animal)". Al-An'am 6:121

The Messenger of Allah also said, "If the slaughtering tool causes blood to gush out and if Allah's Name is mentioned, eat (of the slaughterer animal)."

3. Slitting of the throat, the esophagus and the jugular veins all at once.
4. The slaughterer should be an adult and sane Muslim. It can also be a discerning Muslim who is still in the age of minority. There is nothing wrong with the slaughterer being a woman or one of the people of the Scripture. Allah says:

﴿وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلٌّ لَكُمْ﴾

"The food (slaughtered cattle, eatable animals) of the people of the Scripture (Jews and Christians) is lawful to you. Al-Ma'idah 5:5

5. If it is impossible to slaughter an animal, for example, if it falls into a well or it strays, its slaughtering is achieved if any part of its body can be stricken with a sharp tool provided the blood gushes out. The evidence for this is the Hadith recorded by Al-Bukhari and Muslim on the authority of Rafi' bin Khadi -may Allah be pleased with him, "We were with the Prophet in Dhul-Hulaifah and there the people were struck with severe hunger. Then we got camels and sheep as war booty (and slaughtered them). The Prophet was behind all the people. The people hurried and fixed the cooking pots (for cooking) but the Prophet came there and ordered that the cooking pots be turned upside down. Then he distributed the animals, regarding ten sheep as equal to one camel. One of the camels ran away and there were a few horses with the people. They chased the camel but they got tired, whereupon a man shot it with an arrow whereby Allah stopped it. The Prophet said, "Among these animals some are as wild as wild beasts, so if one of them runs away from you, treat it in this way."

The scholars deduct from this that whenever it is difficult to slaughter an animal, it can be treated in this way.

What is the ruling concerning slaughtering of an unborn animal?

When an animal is slaughtered its fetus is automatically regarded as being slaughtered as well. It can be eaten if it is completely formed and has grown fur. The Messenger of Allah was asked about that and he answered, "Eat it if you like, for the slaughtering of its mother is regarded as its slaughtering as well." (Recorded by Abu Dawood)

What is the ruling concerning one who forgot to mention Allah's Name before he slaughtered?

Such forgetfulness does not affect the validity of the slaughtering. The Messenger of Allah said, "My Ummah have been excused for their mistakes, forgetfulness and what they are coerced into doing." (Recorded by At-Tabarani)

He was also reported to have said, "Any animal slaughtered by a Muslim is lawful to eat whether he mentions Allah's Name upon it or not. For, if he remembers, he does not mention any name but Allah's." (Recorded by Abu Dawud; and the narration is classified as weak by Al-Albani in Al-Jami' As-Saghir 1/679)

What is the ruling if the head of the animal is completely severed?

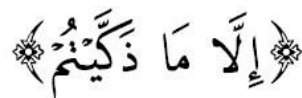
Going to the extremes in slaughtering of an animal to the extent that the head is completely severed is no good. However, the animal is eaten without that being disliked.

What is the ruling if the slaughterer stabs the upper chest of an animal whose throat should be slit or vice versa?

Though this is disliked, it is still permissible to eat such an animal.

What is the ruling concerning slaughtering a sick, a strangled, a violently hit, a fallen headlong, a gored, or a partly eaten animal (by another wild animal)?

If it is met alive and the blood gushes out as a result of the slaughtering, and not as a result of its sickness, then it is lawful to eat it. This is because of Allah's saying:



Unless you are able to slaughter it (before its death)." Al-Ma'idah 5:3

What is the ruling if the slaughterer halts the slaughtering process before it is completed?

If the slaughterer halts the slaughtering process before it is completed and then resumes the slaughtering after a long time, the scholars are of the view that it is unlawful to eat such an animal, except if the slaughtering has already died in the first slaughtering. Allah knows best.

Hunting

What is hunting?

Hunting is to chase wild animals or birds in order to catch or kill them for food, or to seek to catch sea animals.

What is the ruling concerning hunting?

Hunting is regarded as lawful for a non-pilgrim. Allah says:

﴿وَإِذَا حَلَلْتُمْ فَاصْطَادُوا﴾

"But when you finish the Ihraam (of Hajj or 'Umrah), you may hunt". Al-Ma'idah 5:2

However, it is disliked to hunt for mere fun. The Prophet was reported to have said, "If a person kills a sparrow for fun, it will cry to Allah for help on the Day of Resurrection saying, 'O Lord, so and so killed me for fun and did not kill me for any benefit.'" (It is recorded by Ahmad; but it is a weak narration)

There are two kinds of hunting:

Sea hunting: All sea animals are lawful for eating.

Land hunting: Some land animals are lawful for eating while some are not.

How can hunted animals be made lawful for eating?

As for sea games, it becomes lawful for eating as soon as it is dead. The evidence for this is the Prophet's saying, "Two dead animals and two bloods are made lawful for us: The dead animals are fish and grasshopper..." (Recorded by Ibn Majah)

As for land game, if it is caught alive, then it should be slaughtered. It is forbidden to eat it before it is slaughtered. The proof for this is the Prophet's saying, "If you hunt something with your untrained hound (and get it before it dies) and slaughter it, eat of it."

If the hunted game is found dead, it is also permissible to eat of it, but with the following conditions:

1. The hunter should be a sane, discerning Muslim.
2. He should mention Allah's Name at the time of shooting the arrow or sending the hound. The evidence for this is the injunction of the Prophet (Peace and Blessings of Allah be upon him), "If you throw your arrow at the game after you have mentioned Allah's Name, you can eat of it. If you hunt something with your trained hound, and have mentioned Allah's Name on sending it for hunting then you can eat (the game). But if you hunt something with your untrained hound and you were able to slaughter it before its death, you can eat of it." (Recorded by Al-Bukhari and Muslim)
3. The tool should be a sharp object that can pierce through the body of the game. If it is not sharp, such as a stick or rock, whatever game killed with it is not allowed for consumption, except if the game is met alive and then slaughtered. The evidence for this is the Hadith narrated by 'Adiyy bin Hatim - may Allah be pleased with him - who narrated, "I said, 'O Allah's Messenger! We let loose our trained hounds after a game?' He said, 'Eat what they hunt for you.' I said, 'Even if they killed (the game)?' He replied, 'Even if they killed (the game).'" I said, 'We also hit (the game) with the Mi rad?' He said, 'Eat of the animal which the Mi rad kills by piercing its body, but do not eat of the animal which is killed by the broad side of the Mi rad.'" (Recorded by Al-Bukhari and Muslim)

If the hunting is made by a hound, the hound must be a trained one. For, Allah says:

﴿وَمَا عَلَّمْتُمْ مِنَ الْجَوَارِحِ مُكَلِّبِينَ تُعَلِّمُونَهُنَّ مِمَّا عَلَّمَكُمُ اللَّهُ فَكُلُوا
مِمَّا أَمْسَكْنَ عَلَيْكُمْ وَاذْكُرُوا اسْمَ اللَّهِ عَلَيْهِ﴾

"And those beasts and birds of prey which you have trained as hounds, training and teaching them (to catch) in the manner as directed to you by Allaah; so eat of what they catch for you, but pronounce the Name of Allaah over it". Al-Ma idah 5:4

The Messenger of Allah (Peace and Blessings of Allah be upon him) also said, "If you hunt something with your trained hound, and have mentioned Allah's Name on sending it for hunting then you can eat (the game)." **Attention:**

The sign of a trained hound, especially a dog is that it responds whenever it is called and when it is driven away from something, it obeys.

No other dogs should partake in the hunting with the trained hound, otherwise it will be difficult to know which of them caught the game. The Messenger of Allah said, "If you find another dog with your (trained hound) and a game has been killed, do not eat of it. For, you do not know which of the two dogs killed it." (Recorded by Muslim and An-Nasa'i) He also told 'Adiyy bin Hatim when the former informed him that sometimes he found another hound with his, "Don't eat the game, as you have mentioned the Name of Allah on your dog only and not on the other." (Recorded by Al-Bukhari)

The hound must not have eaten anything of the game. The Messenger of Allah, said, "But you should not eat of it if the hound has eaten of it, for then it is likely that the hound has caught the game for itself." (Recorded by Al-Bukhari) Allah, High and Exalted, says:

﴿فَكُلُوا مِمَّا أَمْسَكْنَ عَلَيْكُمْ﴾

"So eat of what they catch for you". Al-Ma idah 5:4.

What is the ruling if the hunted game disappeared and was then found?

If a hunted game disappeared and was then found by the hunter and an impact of his arrow is found on it and no other impacts are found, then it is lawful to eat it as long as the disappearance has not exceeded three nights and as long as it has not decayed. The evidence for this is the saying of Allah's Messenger , "And if you have thrown an arrow at the game and then find it (dead) two or three days later and, it bears no mark other than the wound inflicted by your arrow, then you can eat of it."

What is the ruling if the hunted game falls into water?

If a game is hunted and it then falls into water and dies, it is not permissible to eat it because its death could have been caused by its fall into the water and not by the arrow wound.

What is the ruling if a part of the hunted game is severed from its body?

If a part of a game is severed by the hound, it is impermissible to eat such a part because of the Prophet's saying, "Whatever part is cut off from the body of a living thing is dead." (Recorded by Ibn Majah)

Foods

Foods are all that is eaten such as seeds, dates and meats.

What is the ruling, concerning foods?

The basic ruling concerning foods is that they are permissible because of the generality of Allah's statement:

﴿هُوَ الَّذِي خَلَقَ لَكُمْ مَّا فِي الْأَرْضِ جَمِيعًا﴾

"He it is Who created for you all that is on earth". Al-Baqarah 2:29

Therefore, no food will be regarded as forbidden except the ones explicitly declared so by the texts of the Qur'an and/or the Sunnah, or by sound analogical deduction.

Allah declared some foods forbidden because they are harmful to the body or to the mind. He also declared some foods forbidden for past nations in order to test them. He says,

﴿فَبِظُلْمٍ مِّنَ الَّذِينَ هَادُوا حَرَّمْنَا عَلَيْهِمْ طَيِّبَاتٍ أُحِلَّتْ لَهُمْ﴾

"For the wrongdoing of the Jews, We made unlawful to them certain good foods which had been lawful to them". An-Nisa 4:160

What are the categories of forbidden things?

One: Those declared forbidden explicitly by the Qur'an, which are:

1. Food belonging to others. Allah says :

﴿لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ﴾

"Eat not up your property among yourselves unjustly". An-Nisa 4:29

The Messenger of Allah also said, "Nobody should milk the livestock animals of another person without his permission." (Recorded by Al-Bukhari and Muslim)

Dead animals. This is an animal that dies by itself. This includes an animal that has been killed by strangling, or by a violent blow, or by a headlong fall, or by the goring of horns - and that which has been (partly) eaten by a wild animal.

The blood poured forth by slaughtering or the like.

Flesh of swine and any part of its body.

Whatever is slaughtered in sacrifice for other than Allah or on which Allah's Name was not mentioned.

Whatever is slaughtered on altars or slaughtered upon mausoleums.

The evidence for this is Allah's statement:

﴿حُرِّمَتْ عَلَيْكُمْ أَلْمَيْتَةُ وَالْدَّمُ وَلَحْمُ الْخِنْزِيرِ وَمَا أَهَلَ لِغَيْرِ اللَّهِ بِهِ وَالْمُنْخَنِقَةُ وَالْمَوْقُوذَةُ وَالْمُتَرَدِّيَةُ وَالنَّطِيحَةُ وَمَا أَكَلَ السَّبْعُ إِلَّا مَا ذَكَّيْتُمْ وَمَا ذُبِحَ عَلَى النُّصُبِ﴾

"Forbidden to you (for food) are: Al-Maitah (the dead animals – cattle - beast not slaughtered), blood, the flesh of swine, and that on which Allaah's Name has not been mentioned while slaughtering, (that which has been slaughtered as a sacrifice for others than Allaah, or has been slaughtered for idols) and that which has been killed by strangling, or by a violent blow, or by a headlong fall, or by the goring of horns -and that which has been (partly) eaten by a wild animal - unless you are able to slaughter it (before its death) - and that which is sacrificed (slaughtered) on An-Nusub (stone altars). Al-Ma'idah 5:3

Two: Those declared forbidden by the Messenger of Allah (Peace and Blessings of Allah be upon him). They are as follows:

Domestic ass. The evidence for this is the Hadith narrated by Anas bin Malik -may Allah be pleased with him, "Indeed, Allah and His Messenger forbid you to eat the meat of domestic donkeys for it is impure." (Al-Bukhari and Muslim)

Fanged beasts such as lion, leopard, bear, cheetah, elephant, wolf or dog.

Birds with talons with which it preys upon other animals such as eagle, falcon, vulture and owl and the like. 'Abdullah bin 'Abbaas - may Allah be pleased with him and his father - narrated that the Messenger of Allah (Peace and Blessings of Allah be upon him) has prohibited the eating of all fanged beasts of prey and all birds with talons. (Recorded by Muslim and Abu Dawood)

4. Animals whose food consists mostly of impure things. Abu Dawud recorded on the authority of Ibn 'Umar may Allah be pleased with him and his father: - "The Messenger of Allah has forbidden eating of the meat of animals that feed on impurities and drinking from the milk of such animals."

Before they could become lawful, such animals should be stopped from feeding on impurities and confined until its body is completely free of such impurities.

Al-Khattabi said: "The scholars disagree concerning the permissibility of eating the meat and drinking the milk of an animal that feeds on impurities. The people of reasoning, Ash-Shafi'ie and Ahmad bin Hanbal are of the view that such animals should not be eaten. It should rather be (confined and) fed on fodders until it becomes completely purified from all impurities. Then it can be eaten. There was a narration that a cow should be fed fodders for forty days before its meat could be eaten. As for fowls, Ibn 'Umar used to confine them for three days and then slaughter them.

Ishaq bin Rahuy was of the view that there is nothing wrong in eating the meat of such animals if the meat is thoroughly cleaned. Al-Hasan Al-Basri and Malik bin Anas also did not see anything objectionable in eating the meat of an animal that feeds on impurities." Three: Things forbidden because of their harmfulness. They are as follows:

1. Poisons.
2. Sand, mud, stones and charcoal.
3. Things that are naturally found abhorrent to eat such as vermin.

Four: Things forbidden as means of avoiding impurities: They are follows:

Any food or drink that is mixed with impurity.

Any actual impurity such as animal dung.

Some forbidden things are allowed in times of dire necessity, what are they?

When a person is in a state of excessive hunger and fears that he may die of starvation, he is allowed to eat some of the forbidden food -with the exception of poisonous things, of course -such as flesh of swine or dead animal. However, he should not eat more than what can keep him alive from such forbidden food. For Allah says:

﴿فَمَنْ أَضْطُرَّ فِي مَخْصَصَةٍ غَيْرِ مُتَجَانِفٍ لِإِثْمٍ﴾

"But as for him who is forced by severe hunger, with no inclination to sin (such can eat these above mentioned meats). Al-Ma'idah 5:3

Allah knows best.

Drinks

What is the ruling, concerning drinks?

The basis ruling concerning drinks is that they are lawful. Allah says:

﴿هُوَ الَّذِي خَلَقَ لَكُمْ مَّا فِي الْأَرْضِ جَمِيعًا﴾

"He it is Who created for you all that is on earth". Al-Baqarah 2:29 However,

some drinks are forbidden in the light of the proofs. And they are as follows:

1. Wine. Allah says:

﴿إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ﴾

﴿فَاجْتَنِبُوهُ﴾

"Intoxicants (all kinds of alcoholic drinks), and gambling, and Al-Ansaab, and Al-Azlaam (arrows for seeking luck or decision) are an abomination of Shaitaan's (Satan) handiwork. So avoid (strictly all) that (abomination). Al-Ma'idah 5:90.

The Messenger of Allah said, "Allah has cursed wine, its drinker, its server, its seller, its buyer, its presser, the one for whom it is pressed, the one who conveys it, and the one to whom it is conveyed." (Recorded by Abu Dawood and Ibn Majah)

2. All intoxicants and alcohols. The Messenger of Allah (Peace and blessings of Allah be upon him) said, "Every intoxicant is alcohol and every alcohol is forbidden." (Recorded by Muslim)
3. Mixed drinks that can potentially turn into an intoxicant. The Messenger of Allah said, "Do not press flowers and fresh dates together and do not press dried dates and dried grapes together. Press each independently." (Recorded by An-Nasa'i and Ibn Majah)
4. Urine, for its impurity; and all impurities are clearly forbidden.
5. Milk of the animals whose flesh is forbidden, with the exception of the milk of human being.
6. Anything that is scientifically prove to be harmful to the body such as gasses and the like.
7. All kind of smoky drinks such as tobacco, hookah or marijuana. For, some of them are harmful to the body, some are intoxicants, some are sedatives and some have repugnant odors that bother the angels and humans alike.

What kind of forbidden drinks are permitted in case of necessity?

It is permissible for a person who chokes on something and he could not find anything to clear his throat with but wine, then he is allowed to use it to avoid being choked to death.

Also, if a person is in a state of severe thirst and could not find any lawful drink to quench it and fears that he might die if he does not drink, then he is permitted to quench his thirst with some forbidden drinks. For Allah says:

﴿إِلَّا مَا اضْطُرِرْتُمْ إِلَيْهِ﴾

"Except under compulsion of necessity?" Al-An'aam 6:119

Al-Aqiqah

Al-'Aqiqah is the goat slaughtered on the 7th day of the birth of a child.

What is its ruling?

It is an emphasized Sunnah for every father or guardian. The Messenger of Allah said, "Every child is entitled to his 'Aqiqah. It is slaughtered on his behalf on the 7th day of his birth and his head should be shaved and he should be given a name." (Recorded by Ahmad)

What is the wisdom behind 'Aqiqah?

It is to show gratitude to Allah for the blessing of a new child. It is also a means of protecting the newborn.

What are the most important aspects of its rulings?

They are as follows:

1. The goat to be slaughtered should be free of all defects and diseases and should be as old as the one that is slaughtered for Udhiyah.
2. It is recommended that some of its meat is distributed as gifts and charity and some consumed by members of the family. No part of the 'Aqiqah meat should be sold.
3. On the day of 'Aqiqah, it is recommended that two goats are slaughtered for a boy and a goat for a girl. The evidence for this is that the Messenger of Allah slaughtered two rams when Al-Hasan bin 'Ali was born. The Messenger of Allah said, "Allah does not like the breaking of ties ('uquq)". And he said, "If anyone has a child born to him and wishes to offer a sacrifice on its behalf, he may offer two resembling sheep for a boy and one for a girl." (Recorded by Abu Dawud and Ahmad)

It is also recommended to give the newborn a good name, and to shave his or her head and give charity with whatever it weighs of gold or silver.

4. If the 'Aqiqah is not slaughtered for the newborn on the 7th day, it can still be done on the 14th day or the 21st day. If the newborn dies before the 'Aqiqah is slaughtered, then it is waived. Allah knows best.

Book of Dress and Adornment

What is the basic ruling concerning dress and adornment?

The basic ruling concerning them is that they are lawful. This is based upon the generality of the proofs in which Allah reminds His creation of His blessings upon them so that they could make use of these blessings in their lives. He says,

﴿هُوَ الَّذِي خَلَقَ لَكُمْ مَّا فِي الْأَرْضِ جَمِيعًا﴾

"He it is Who created for you all that is on earth". Al-Baqarah 2:29

He also says:

﴿قُلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ وَالطَّيِّبَاتِ مِنَ الرِّزْقِ قُلْ هِيَ لِلَّذِينَ ءَامَنُوا فِي الْحَيَاةِ الدُّنْيَا خَالِصَةً يَوْمَ الْقِيَامَةِ﴾
 كَذَلِكَ نَفَصَّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ ﴿﴾

"Say (O Muhammad) "Who has forbidden the adornment with clothes given by Allah, which He has produced for His slaves, and At-Taiyyibaat [all kinds of Halaal (lawful) things] of food? Say: "They are, in the life of this world, for those who believe, (and) exclusively for them (believers) on the Day of Resurrection (the disbelievers will not share them). Thus We explain the Ayaat (Islamic laws) in detail for people who have knowledge". Al-A'raaf 7:32 And He says:

﴿يَبْنِي ءَادَمَ قَدْ أَنْزَلْنَا عَلَيْكُمْ لِبَاسًا يُورِي سَوْءَاتِكُمْ وَرِيشًا وَلِبَاسُ النُّقْوَى ذَلِكَ خَيْرٌ ذَلِكَ مِنْ ءَايَاتِ اللَّهِ لَعَلَّهُمْ يَذَّكَّرُونَ﴾

"O Children of Adam! We have bestowed raiment upon you to cover yourselves (screen your private parts) and as an adornment; and the raiment of righteousness, that is better. Such are among the Ayaat (proofs, evidences, verses, lessons, signs, revelations, etc.) of Allah, that they may remember (i.e. leave falsehood and follow truth). Al-A'raaf 7:26

Is it permissible to use gold and silver?

It is not permissible to use gold and silver in any way except in trade. They should not be made into utensils for eating or drinking, neither should they be used as tools for writing, decoration of homes, courts, mosques and shops.

What is the ruling, concerning using vessels embedded with gold or silver?

It is absolutely forbidden to use any gold-embedded vessel whether it is heavily embedded or lightly embedded.

As for vessels embedded with silver, if the embedding is unnecessarily heavy, it is forbidden; but if it is light, there is nothing wrong in using it.

What is the ruling concerning gold and silver coated vessels?

If the coating is so light that when it is exposed to fire, nothing of it melts off, then it is permissible. But if the coating is so heavy that if it is exposed to fire, some of the gold melts off, then it is impermissible to use such vessels.

It is forbidden to coat the ceiling and walls of homes with gold or silver, even if it is slight.

What is the ruling concerning use of vessels made of precious metals?

It is permissible to use vessels made of precious metals with the exception of gold and silver. Therefore, it is lawful to use vessels and utensils made of diamond, pearls, emeralds and rubies, because there are no texts from the Qur'an or the Sunnah forbidding their usage; and the basic rule concerning things is

permissibility as long as there is no proof indicating forbiddance. Extending the ruling that applies to gold and silver to these precious stones by way of analogy is not correct.

What is the wisdom behind forbiddance of gold and silver vessels?

Indeed, one of the greatest wisdoms in this issue is to test humans and make them regard their abstinence from whatever Allah and His Messenger forbid as an act of worship. Other wisdoms are as follows:

Allah made gold and silver for people, a means of evaluating things in monetary terms. It is for this reason that He did not allow that they should be hampered from performing this function and turned into vessels, utensils or gems to be kept at homes.

It hurts the feeling of the poor when they see the rich taking gold and silver as ornaments arrogantly and ostentatiously.

Forbiddance of using gold and silver as vessels prevents the people from devoting their lives to amassing them and regarding them as a goal rather than a means of meeting their worldly needs.

Abstaining from using vessels of gold and silver makes the Muslims different from the disbelievers. For, it is the habit of the disbelievers to turn away from the Hereafter and dedicate their lives to the enjoyments and bliss of this world alone. The Messenger of Allah said, "Beware of indulging in excessive enjoyment of this world and wearing the costumes of the polytheists." (Recorded by Muslim)

What is the ruling concerning women and children using gold and silver ornaments?

It is permissible for women to use gold and silver ornaments in a moderate way, whether the woman is married or not, young or old, rich or poor.

The scholars also regard it as permissible to allow young children to wear gold ornaments and silk during Eid and other occasions because such children have not yet reached the age of legal obligation.

Is it permissible for a man to wear a silver ring?

Yes, it is permissible for a man to wear a silver ring. It is authentically reported from the Messenger of Allah that he used to wear a silver ring.

As for a gold ring, it is absolutely forbidden for men. As for what some of our youths do these days by wearing necklaces like women, it is a forbidden act, even if the necklaces are made of silver. This is because; doing so is tantamount to copying women.

Is it permissible for a person to use gold or silver in case of necessity?

Yes, if he can only find a vessel made of gold or silver, he is allowed to use it because of the necessity.

For example, if a person's nose is cut off and he replaced it with another nose made of gold; or he needs to fasten together his teeth with gold, there is no harm in all that.

What is the ruling concerning a person who shows indifference to Allah's injunctions?

Many Muslims are indifferent to Allah's injunction concerning the use of gold and silver. They disregard this command without accepting that they are putting embers of fire on their necks and hands. They incur Allah's wrath through this irresponsible act of theirs and do not realize that they are victims of blind emulation of the disbelievers and the polytheists.

Some of them wear gold rings under false and unacceptable excuses of marriage engagement or marriage announcement. These are excuses that have no iota of support from the religion of Allah. The perpetrators of this violation have no support for their action but senseless emulation and blind subordination.

Unfortunately, many of the affluent and rich Muslims insist on being utterly ostentatious and wasteful by using gold vessels and utensils on their dining tables and their parties, thereby feigning ignorance that Allah has forbidden this and threatened the violators of this command with a severe punishment.

What is the ruling concerning wearing silk garments for men, women and children?

Men of this Ummah are forbidden from wearing silk material in any form, whether it is for sitting on, covering the body or wearing it as garments. But it is allowed for women and children.

However, there are two situations in which men are permitted to use silk material:

One: In case of necessity when a man finds no other garment to cover his nakedness with or to protect his body against cold or heat. Then, he is permitted to wear silk until he finds another garment.

Two: When there is a need to wear it such as a person who suffers from a certain (skin) disease and wearing of silk can speed up his cure from that disease or reduce the pain, then he is allowed to wear it.

What is the ruling concerning wearing silk if it is mixed with other substances?

If a garment is made of a mixture of silk and other substances, the amount of the silk in comparison to the other materials should be looked at. If the garment consists of more silk than the other substances, then using it is forbidden for men. But if the garment consists of lesser silk, then it is lawful. Therefore, the ruling is based on the substance from which most of the material is composed of, and it is named accordingly.

If the garment consists of equal components of silk and other substances, then it is lawful to wear and use it, by giving preponderance to the side of permissibility, which is the basis.

Based on the above, it is permissible to hem a garment with a considerable amount of silk. It is also lawful to embroid a garment with silk, with the condition that the silk used should not be more than the size of four fingers if combined together. If it is more than that, then it is not permissible.

What is the ruling concerning using wall and door curtains made of silk?

It is forbidden to use silk curtains for doors, walls or similar things. This ruling applies to men and women on equal basis, for doing so displays arrogance and conceitedness.

However, the scholars exempt the noble Ka'bah from this ruling. They regard covering it with silk as permissible for none among the righteous predecessors and those who came after them opposed this. But this permissibility should not be extended to other mosques and houses. Allah knows best.

What is the ruling concerning dyeing the hair black for men and women?

Men and women are forbidden from dyeing their hair black, and men are forbidden from dyeing their beards black. It is recommended for men and women to dye their hair with yellow or red henna.

What is the wisdom behind forbidding dyeing the hair black?

Perhaps, the wisdom behind this is the false impression that it gives. For, dyeing hair black makes an old person look younger than his age in people's eyes. Dyeing the hair to other color does not give such impression.

What is the ruling concerning lengthening one's hair using artificial or real hair?

It is absolutely forbidden to do so. This ruling applies to men and women, married and unmarried, regardless of whether it is done for beautification or not. It is one of the major sins because there is a curse upon the one who does it and the one for whom it is done.

The jurists said: "A Muslim woman is forbidden from lengthening her hair with human hair -whoever the hair may belong to -due to the generality of the proofs. For, it is forbidden to use human's hair or any part of the human body. Whatever comes out of the human body while he is still alive -even if it is a strand of hair or clipped nail should be buried.

It is forbidden to use the hair of a filthy animal or the hair of an animal whose flesh is forbidden -even if the hair is removed from the animal's body while it is still alive. This is according to the generality of the proofs forbidding eating the flesh of these animals and making use of any part of their bodies.

As for lengthening one's hair with materials that do not resemble hair such as silk threads or the like, it is lawful and not forbidden. This is because; using such materials is not used for lengthening the hair. It is only used for mere decoration.

What is the wisdom behind forbiddance of lengthening the hair?

The wisdom behind this is to avoid giving people the wrong impression and to avoid changing the features created by Allah.

What is the ruling concerning a woman applying red substance to the face and applying henna to fingertips?

It is lawful if it is done with the permission of the husband, and unlawful if done without his permission.

What is the ruling concerning tattooing, removing face hairs and creating space between the teeth?

It is forbidden to do any of these three things, and doing so is one of the major sins because of the curse that it incurs.

Is a woman allowed to remove hairs that grow on her face?

A woman is allowed to remove whatever hair that grows on her face such as the ones that grow under her chin or above her upper lip. Removing such hairs is not forbidden. It is rather recommended. What she is forbidden from removing are eyebrows.

What is the ruling concerning the part of the body on which a tattoo is done?

The scholars are of the view that such a part becomes impure because of the coagulation of the blood in that very part of the body. If it is possible to remove the tattoo through treatment, then it must be removed. If it is possible only through a surgical operation, then it must be done. But if it is feared that such an operation could cause greater damage or disfiguration in a conspicuous part of the body such as the face and two hands, then it is not obligatory to remove it. The person concerned only needs to return to Allah in repentance.

What is the ruling concerning making space between the teeth if it is necessary for medical treatment?

If there is a need to make space between teeth for the purpose of medical treatment, or due to some deformity in the teeth, then there is no harm in that. What is forbidden is to do so for the purpose of looking beautiful and to change features that Allah has created.

What is the wisdom behind forbiddance of tattooing, removing facial hairs and creating spaces between the teeth?

The wisdom behind forbiddance of these things is clearly mentioned in an authentic Hadith; It is tantamount to changing features created by Allah. In addition to this, doing these forbidden things is equal to falsification, deception and giving people wrong impressions.

What is the ruling concerning men copying women in their manner of dressing and women copying men in their manner of dressing?

It is forbidden for men to copy women in their way of dressing and adornment in their manner of speaking and walking. Women are forbidden from copying men in the like manner. Each of them copying the other is one of greatest sins, for its perpetrator is cursed. Unfortunately, this bad phenomenon is now rampant among Muslims.

What is the ruling, concerning making images of living things?

It is forbidden to make images of living things and whoever does so is threatened with a severe punishment.

What is the ruling, concerning acquiring things in which there are images of humans and animals?

If these images are hanged on the wall or engraved on a piece of cloth that does not indicate that such images are being debased, then acquiring such materials is unlawful. Wherever it is found, it should be immediately removed.

Is there any exception in this ruling?

There are two exceptions:

One: Little girls and boys are allowed to play with images specifically made for this purpose such as dolls.

Two: In case of necessity. If there is a necessity for taking pictures for security reasons, for instance, then it is permissible.

What is the wisdom behind prohibition of making images?

In general, it is an act of worship to abstain from making images. If the Muslims desire Allah's pleasure, what they need to say whenever Allah commands them to do something or to abstain from something is: "We hear and we obey. Your forgiveness, O, our Lord! Unto You is our return." Though, this is primary wisdom, the scholars mention other reasons for this prohibition. They are as follows:

1. The Messenger of Allah (Peace and Blessings of Allah be upon him) mentioned that reason for this prohibition is that a person who makes images imitates Allah's creation. Therefore, he would be told on the Day of Resurrection to give life to what he created and he would not be able to do so.

2. Images and statues used to be worshiped beside Allah. When Islam came with the religion of monotheism and prohibited polytheism and waged war against it, it blocked all means through which polytheism could sneak in and by which other than Allah could occupy a position of reverence in the hearts of the believers. One of these means is making images. Therefore, images are prohibited as a measure of blocking ways that lead to what is forbidden.

3. The angels do not enter houses in which there are images and statues. Therefore, if a person keeps images in his house, he has, through his action, deprived himself of the blessings and forgiveness that the angels' visit brings to homes. This deprivation is enough a reason for prohibiting acquisition of images. Allah knows best.

Book of Nikah (Marriage)

What is marriage?

Marriage is a contract that makes it lawful for the two spouses to have sexual enjoyment of each other.

What is the ruling of marriage in Islam?

In Islam, marriage is ordained with Allah's statement:

﴿فَأَنْكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَى وَثُلَاثَ وَرُبْعًا فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ﴾

“Marry women of your choice, two or three, or four; but if you fear that you shall not be able to deal justly (with them), then only one or (the slaves) that your right hands Possess”. An-Nisa 4:3 Allah also says:

﴿وَأَنْكِحُوا الْأَيْمَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ﴾

And marry those among you who are single (i.e. a man who has no wife and the woman who has no husband) and (also marry) the Saulihuun (pious, fit and capable ones) of your (male) slaves and maid-servants (female slaves). An-Noor 24:32

However, marriage becomes obligatory for someone who is capable of supporting a wife and fears that he might commit forbidden things if he does not marry. As for a person who is capable of supporting a wife and does not fear that he might commit forbidden things if unmarried, marriage is only recommended in his case. The Messenger of Allah said, "young men, those among you who can support a wife should marry, for it restrains eyes from casting (evil glances) and preserves one from immorality." (Recorded by Al-Bukhari and Muslim)

He also said, "Marry women who are loving and fertile, for I shall outnumber the people because of you." (Recorded by Abu Dawood and An-Nasa'i)

What are the major logical reasons for ordaining marriage?

There are many logical reasons for ordaining marriage. Some of these are as follows:

1. It helps preserve human species through continuous procreation resulting from marriage.
2. It helps both a man and a woman satiate their natural desire in a lawful way.
3. It enables a man and a woman to bring up their offspring and give them a worthwhile life.
4. It regulates relationships between a man and a woman on the basis of mutual rights and fruitful cooperation in an atmosphere of love and respect.

What are the pillars of marriage?

For a marriage to become valid, four conditions must be met: Consent of the lady's guardian, two witnesses, the marriage contract, and the bridal gift (Mahr).

Who is a guardian?

A guardian is the wife's father, his representative, or the nearest of kin to her on her father's side or the Muslim ruler. The Messenger of Allah said, "There is no marriage without (the consent of) a guardian." (Recorded by Ahmad)

'Umar bin Al-Khattaab -may Allah be pleased with him said, "A woman should not be married off without the consent of her guardian, the wise men in her family or the ruler."

What are the rulings concerning the guardian?

1. The guardian must be eligible for the position by being an adult male, sane, wise and free from bondage.
2. He must seek the permission of the woman before he marries her off to the prospective husband if she is a virgin, and consult with her if she is a matron, or if she is a virgin and the guardian is not her father. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "A matron has more right to herself than her guardian, and a virgin's consent must be asked from her, and her silence implies her consent." (Recorded by Muslim on the authority of Ibn 'Abbaas - may Allah be pleased with him and his father).
3. It is not lawful to appoint a father's relative as a guardian for a woman when a closer relative is available. For instance, it is not correct to appoint a half-brother as the guardian while a full brother is available, or to appoint a nephew while a brother is available.
4. If a woman gave consent to two men from among her relatives to marry her off and each of them married her to two different men, it is the earlier of the two marriage contracts that will be reckoned with. If the marriage takes place at the same time, both will be regarded as null and void.

What is the meaning of 'two witnesses'?

It means the marriage contract should be conducted in the presence of at least two trustworthy men from among the Muslims. Allah says,

﴿وَأَشْهِدُوا ذَوَىٰ عَدْلٍ مِّنكُمْ﴾

"And take as witness two just persons from among you (Muslims)." At-Talauq 65:2

In the Sunnah, it is reported that the Messenger of Allah (Peace and Blessings of Allah be upon him) said, "There is no marriage without a guardian and two just witnesses." (Recorded by Al-Bayhaqi)

What are the rulings concerning the witnesses?

They must be at least two men.

They must be known for trustworthiness. Trustworthiness implies shunning major sins and avoiding most minor sins. If a person commits major sins such as drinking of alcohol or taking of usury, his testimony is not acceptable.

It is preferred that many people witness the marriage contract because of the rarity of just people in our time.

What is the format of marriage contract?

It is for the husband or his representative to say to the woman's guardian, "Give me the hand of your daughter or your ward whose name is so and so in marriage". The guardian will say, "I give you the

hand of my daughter or my ward whose name is so and so in marriage." The husband will then say, "I accepted her as my wife."

What are the necessary things in the format of marriage contract?

The husband and wife should be compatible. This implies that the husband should be free from bondage, good-mannered, religious and trustworthy. The Messenger of Allah said, "If a man with whose religion and conduct you are pleased with comes to you (for the hands of your daughters in marriage), marry to them. If you do not do that, there will be trial on the land and extensive corruption." (Recorded by At-Tirmidhi)

It is acceptable to appoint a proxy to represent someone in the marriage contract. The husband can appoint whoever he wishes to represent him. As for the wife, it is her guardian who can sign her marriage contract for her.

What is the meaning of 'Mahr'?

Mahr or sadaq is what a woman is given in order to legitimize consummation of the marriage through sexual enjoyment with her. It is mandatory. Allah says:

﴿وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً﴾

And give to the women (whom you marry) their Mahr (obligatory bridal money given by the husband to his wife at the time of marriage) with a good heart. An-Nisa 4:4

The Messenger of Allah (Peace and Blessings of Allah be upon him) asked a man who wanted to marry a woman to look for something to give the woman as her Mahr "even if it is an iron ring". (Agreed upon).

What are the rulings concerning 'Mahr'?

It is desirable to make it reasonable. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "The greatest women are those who are blessed with the most reasonable Mahr." (Recorded by Ahmad) The Mahr of the Prophet's daughters was only four hundred or five hundred dirhams; so was the Mahr that he paid to his wives.

It is recommended that it is specifically mentioned in the marriage contract.

Any lawful valuable and tradable thing can be accepted as Mahr as long as its value is more than a quarter of a dinar.

It is acceptable to pay it at the time of making the marriage contract. It is equally acceptable to delay its payment or payment of the part thereof to a later time. However, it is desirable to give the wife something before the marriage is consummated. This is because of a Hadith that Abu Dawud and AnNasa'i recorded that the Prophet, commanded 'Ali to give Fatimah something so that he could consummate the marriage with her. When 'Ali informed him that he had nothing, the Prophet inquired about his armored shirt and told him to give that to her.

The Mahr comes under the obligation of being paid as soon as the marriage contract is concluded. If he divorces the woman before he consummates the marriage, he is obliged to pay half of the Mahr and the other half is waived for him. This is in accordance with Allah's injunction,

﴿وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ﴾

And if you divorce them before you have touched (had a sexual relation with) them, and you have appointed unto them the Mahr (bridal-money given by the husbands to his wife at the time of marriage), then pay half of that (Mahr). Al-Baqarah 2:237

6. If the husband dies before he could consummate the marriage and after the contract has been concluded, then the woman is entitled to a share of his estate and complete Mahr, if it is specific. This is the judicial decision of the Prophet (Peace and Blessings of Allah be upon him). If it is not specific, then she is entitled to a Mahr given to women of her status. She must also observe the compulsory prescribed waiting period (Iddah).

Etiquettes of Marriage

What are the major etiquettes of marriage?

The etiquettes of marriage are:

1. Giving a Khutbah, the format of which is as follows: "All praise is due to Allah. We praise Him; we seek for His help, forgiveness and guidance. We seek refuge with Allah from the evils of our own souls and misdeeds. None can mislead whomsoever Allah guides, and none can guide whomsoever Allah causes to go astray.

I testify that there is no deity worthy of being worshiped except Allah. He is One and He has no partner. I equally testify that Muhammad is the servant of Allah and His Messenger (Peace and Blessings of Allah be upon him).

Allah says:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا اتَّقُوا اللَّهَ حَقَّ تَقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنتُمْ مُسْلِمُونَ﴾

O you who believe! Fear Allah (by doing all that He has ordered and by abstaining from all that He has forbidden) as He should be feared. (Obey Him, be thankful to Him, and remember Him always), and die not except in a state of Isla'm [as Muslims (with complete submission to Allah)]. Al Imra'n 3:102

﴿يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ ءِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا﴾

O mankind! Be dutiful to your Lord, Who created you from a single person (Adam), and from him (Adam) He created his wife [Hawwa (Eve)] and from them both He created many men and women; and fear Allah through Whom you demand (your mutual rights), and (do not cut the relations of) the wombs (kinship). Surely, Allah is Ever an All-Watcher over you. An-Nisa' 4:1

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا ﴿٧٠﴾ يُصْلِحْ لَكُمْ أَعْمَالَكُمْ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا﴾

O you who believe! Keep your duty to Allah and fear Him, and speak (always) the truth. He will direct you to do righteous good deeds and will forgive you your sins. And whosoever obeys Allah and His Messenger he has indeed achieved a great achievement (i.e. he will be saved from the Hell-fire and will be admitted to Paradise). Al-Ahza'b 33:70-71

This is the Khutbah that is reported from the Messenger of Allah (Peace and Blessings of Allah be upon him). He said, "If anyone of you wants to make a Khutbah for a need such as a marriage, then let him say, 'All praise is due to Allah...'"

2. Marriage banquet (Walimah): The Messenger of Allah (Peace and Blessings of Allah be upon him) told 'Abdur-Rahman bin 'Awf -may Allah be pleased with him -when he got married, "Give a banquet, even if it is with a goat." (Recorded by Al-Bukhari and Muslim) The Walimah is a marriage banquet. The invitees must attend it because the Prophet said, "If anyone of you invites his brother, let him honor the invitation, whether the invitation is to a wedding banquet or other occasions." (Recorded by Ahmad and Abu Dawood; and it is an authentic narration)

It is permitted not to attend it if there is going to be falsehood there. If someone is invited by two persons, the invitation of the first of the two should be honored. Both the rich and the poor should be invited to a wedding banquet. The Messenger of Allah said, "The worst of all feasts is that of a wedding whereby the wealthy are invited and the poor are left out. A person who did not honor an invitation has indeed disobeyed Allah and His Messenger." (Recorded by Al-Bukhari and Muslim)

If someone is invited to a wedding feast while he is observing a fast, he should honor an invitation. If he wants he can break his fasting and eat, if it is a voluntary fasting; and if he likes he can proceed with his fasting and just supplicate for the person who invited him and then take his leave. The Prophet, said, "If one of you is invited (to a feast), let him honor the invitation. If he is observing fasting, let him supplicate (for the hosts) and if he is not observing fasting, then he should eat."

Announcement of wedding through beating of tambourine and permissible songs. The Prophet said, "The difference between what is lawful and what is unlawful is to beat a tambourine and to make a sound at weddings." (Recorded by Ahmad, At-Tirmidhi and An-Nasa'i)

Making supplication for the husband and wife. Abu Hurayrah - may Allah be pleased with him - narrated, "When a person wedded and the Prophet wanted to congratulate him, he would say, "Barakallahu lak, wa baraka "alayk, wa jama" a baynakuma fi khayr. [Meaning: 'May Allah bless for you (your spouse) and bless you, and may He unite both of you in goodness.'] (Recorded by Ahmad)

It is recommended that the marriage be consummated in the month of Shawwal. 'A'ishah - may Allah be pleased with her - said, "Allah's Messenger contracted marriage with me in Shawwal and took me to his house as a bride during Shawwal. And who among the wives of Allah's Messenger was dearer to him than I?" And 'Aishah liked that the women (of her family) should enter the houses as brides during the month of Shawwal. (Recorded by Muslim)

On the wedding night, the groom should place his hand on the bride's forehead and make the following supplication:

«اللَّهُمَّ إِنِّي أَسْأَلُكَ خَيْرَهَا وَخَيْرَ مَا جَبَلْتَهَا عَلَيْهِ،
وَأَعُوذُ بِكَ مِنْ شَرِّهَا، وَشَرِّ مَا جَبَلْتَهَا عَلَيْهِ»

Allahumma inni as aluka khayraha wa khayra ma jabaltaha "alayh, wa a"udhu bika min sharriha wa sharri ma jabaltaha "alayh.

""O Allah, I ask You for the goodness within her and the goodness that you have made her inclined towards, and I take refuge with You from the evil within her and the evil that you have made her inclined towards.(Recorded by Ibn Majah)

7. When he wants to have sexual intercourse with her, he should supplicate:

«بِسْمِ اللَّهِ، اللَّهُمَّ جَنِّبْنَا الشَّيْطَانَ وَجَنِّبِ الشَّيْطَانَ

مَا رَزَقْتَنَا»

Bismil-lah, allahumma jannbinash-shaytan, wajannibishshaytana ma razaqtana.

"In the name of Allah. O Allah, keep the devil away from us and keep the devil away from what you have blessed us with".

The Prophet said, "Whoever makes this supplication and it is decreed that a child will be conceived in that intercourse, Satan will never be able to harm that child."

8. It is disliked for any of the two spouses to tell other people about their intercourse experiences. The Prophet said, "Indeed, among the worst people in Allah's estimation is a man who he and his wife enjoyed sexual intercourse with each other and then went about spreading her (sexual) secrets."
(Recorded by Muslim and Abu Dawood)

Conditions Made in Marriage

What is the ruling concerning a bride making stipulations on the groom?

A woman can make some stipulations on any man who proposes marriage to her. If what she stipulates supports and strengthens the marriage contract -like stipulating, for instance, maintenance, sexual intercourse or giving a share of his time if the suitor has another wife -then such a stipulation is already a fundamental part of the contract and there is no need of making it. If what she stipulates is detrimental to the contract -like stipulating that he should not have sexual intercourse with her or that she will not cook his food or any other service which a woman customarily renders to her husband, then such a stipulation is useless and should not be fulfilled, because it negates the purpose of marriage.

If the stipulation neither falls under the former nor the latter - such as a woman stipulating that she should be allowed to visit her relatives or that she should not be taken outside her country or town then such a stipulation should be fulfilled, for it does not make a forbidden thing lawful or make a lawful thing forbidden. If the husband fails to fulfill such a stipulation, then the woman has the right to cancel the contract, if she wants to. The Messenger of Allah said, "From among all the conditions which you have to fulfill, the conditions which make it legal for you to have sexual relations (i.e. the marriage contract) has the greatest right to be fulfilled." (Recorded by Al-Bukhari and Muslim on the authority of 'Uqbah bin 'Amir - may Allah be pleased with him)

It is unlawful for a woman to stipulate to her husband that he should divorce his wife (if he is already married to another woman). The Prophet said, "A Muslim woman should not try to bring about the divorce of her sister (i.e. another Muslim woman) in order to take her place herself." (Recorded by Al-Bukhari on the authority of Abu Hurayrah)

Al-Khattaabi said: "There are different stipulations in marriage. Some of these must be fulfilled, according to the consensus of the scholars. An example is Allah commands of keeping a woman in kindness or divorcing her in kindness. The scholars agreed that some of the stipulations must not be fulfilled at all. An example is when a woman asks her husband to divorce her fellow Muslim sister.

There are some conditions the fulfillment of which the scholars disagreed upon, such as a woman stipulating that her husband should not marry another woman with her or that he should not move her from her house to his.

The Option in Marriage

Can the option of keeping or dissolving a marriage be established?

Each of the two spouses has the option of keeping the marriage or dissolving it due to any of the legally acceptable reasons.

Can the option of dissolving a marriage due to defects be established?

Each of the two spouses has an option of keeping or dissolving a marriage if his or her partner has a defect such as insanity, leprosy or genital disease that prevents the enjoyment of sexual intercourse, such as the husband being a castrate.

In case of dissolution of marriage, certain things have to be considered. If the dissolution takes place before any sexual contact is made, the husband should take back the Mahr he has paid the wife. If it is after a sexual intercourse has taken place, he has no right to reclaim anything, for her right to the Mahr has already been established with the intercourse he has had with her. Some scholars are of the view he should take back the Mahr he has paid from members of the woman's family who failed to inform him of her defects, if they previously knew about that defect. The evidence for this is what is reported from 'Umar bin Al-Khattaab - may Allah be pleased with him - that he said, "If a man marries a woman who

is insane, or has leprosy or white leprosy, without being told of her condition by her guardian, and he has sexual relations with her, she keeps her bride-price in its entirety. Her husband has damages against her guardian." (Recorded by Malik in Al-Muwatta)

What is the ruling concerning deception about the bride's status?

An example of this is when a man marries a woman believing that she is a Muslim and it is later revealed that she is a Jew or Christian, or believing that she is free of bondage and it is later revealed that she is slave; or believing that she is free of all diseases and later realizing that she is one-eyed or lame. In this case, the man has the right to take back the Mahr he has paid if he has not had sexual intercourse with the woman. If he has had intercourse with her, his right to take back the Mahr is forfeited. The evidence for this is the above-quoted narration from 'Umar.

What is the ruling concerning a husband who finds it difficult to pay the Mahr stipulated to be paid immediately?

If a man finds it difficult, due to his poor financial situation, to pay the Mahr that is supposed to be paid immediately, then at a later time the wife has the right to have the marriage contract terminated if it has not been consummated. But if the marriage has been consummated, she has no right to request for the termination. The contract should remain valid and the husband remains obliged to pay the Mahr. And the woman should not prevent her husband from having marital intercourse with her on account of this delay.

What is the ruling concerning a man who finds it difficult to provide maintenance for his wife?

If a man finds it difficult to provide maintenance for his wife, the wife should wait and bear that as long as she can. If she can no longer endure this, she has the right to request for dissolution of her marriage through a Shari'ah court. This is the verdict of eminent companions such as Abu Hurayrah, 'Umar and 'Ali - may Allah be pleased with them. It is also the opinion of their successors such as Al-Hasan Al-Basri, 'Umar bin 'Abdil-'Aziz, Rabi'ah and Malik - may Allah have mercy upon them all.

If the husband is absent and his place is not known and he has neither left any maintenance for his wife nor appointed anyone to do so, and no one volunteers to do so on his behalf and she has no money which she can spend on herself; does such a woman have the right to request for dissolution of her marriage?

Yes, she has right to do so through a Shari'ah judge. She should take her case to him. The judge should firstly admonish her and encourage her to be more patient. If she refuses, then he should prepare a document through witnesses who know her and her husband. These witnesses should testify to his absence and her poverty. Then the marriage is dissolved. This dissolution is regarded as a revocable divorce. If the husband returns before the woman completes her period of waiting, the woman should go back to him.

What is the ruling concerning manumission after being in bondage, that is when the wife was a slave married to another male slave and then she gets manumitted?

She has the option of either keeping the marriage or dissolving it. If she opts for dissolution, she must not allow her husband to have intercourse with her after knowing that she has become a freed woman. If she allows him, then she has no right to request for dissolution. The proof for this is the Hadith that Muslim recorded on the authority of 'A'ishah -may Allah be pleased with her -who said, "Barirah was set free while her husband was still a slave, so Allah's Messenger gave her the option (either to retain her matrimonial relation with her husband or sever it off). She opted to break off (and secure freedom

for her even from the matrimonial alliance). And if he were free he would not have given her the option."
Allah knows best.

Marital Rights and Obligations

What are the wife's rights over her husband?

A wife has many rights over her husband; and these rights are established in the following statement of Allah:

﴿وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ﴾

And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable. Al-Baqarah 2:228

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "Indeed, your wives have rights over you; your wives have rights over you." (Recorded by At-Tirmidhi) Some of these rights are as follows:

Mahr: This is her exclusive right which she is free to dispose of as she likes.

Her provision such as food, drinking, clothing and accommodation according to what is reasonable. The Prophet (Peace and Blessings of Allah be upon him) told a man who asked him about the wife's right upon the husband, "You should feed her when you eat and clothe her when you clothe yourself. You should not tell her that her face (or any part of her body) is ugly and do not beat her (without any acceptable reason, and the beating should not be injurious.)" (Recorded by Abu Dawood)

3. She has the right to sexual intercourse: It is incumbent upon her husband to have sexual intercourse with her - at least - once in every four months, if he cannot do more than that. Allah says:

﴿لِّلَّذِينَ يُؤْلُونَ مِن نِّسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِن فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ﴾

Those who take an oath not to have sexual relation with their wives must wait four months, then if they return (change their idea in this period), verily, Allah is Oft Forgiving, Most Merciful. Al-Baqarah 2:226

To spend the night with her, at least, once every four nights.

Giving her just division if he has other wives. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "If a man has two wives and he does not maintain fairness between them, he will come on the Day of Resurrection with one of his two sides slanting." (Recorded by At-Tirmidhi)

He should stay with her for seven days from the day of marrying her, if she is a virgin; and for three days if she is not. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "A virgin is entitled to seven days while a non-virgin is entitled to three days." (Recorded by Muslim)

7. It is desirable to allow her to nurse her sick relatives and to attend their funerals. It is also recommended that he allows her to visit her relatives in a way that does not harm the husband's interests.

What are the rights of husband over his wife?

A husband has many rights over his wife; and these rights are established in the following statement of Allah:

﴿وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ﴾

And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable. Al-Baqarah 2:228

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "Indeed, you have rights over your wives." (Recorded by At-Tirmidhi, AnNasa'i and Ibn Majah)

Some of these rights are as follows:

1. She must obey him in a reasonable way. She must obey him as long as that obedience does not lead to disobedience of Allah. If he asks her to do something she is incapable of doing or that is difficult for her to do, then she must not obey him. Allah says:

﴿فَإِنْ أَطَعْتُمْ بَغْيًا فَلَا تُبْغُوا عَلَيْهِنَّ سَبِيلًا﴾

But if they return to obedience, seek not against them means (of annoyance)." An-

Nisa 4:34

The Prophet, said, "If I had to command anyone to prostrate to anyone, I would have commanded the woman to prostrate to her husband." (Recorded by Ibn Majah)

2. She should protect her husband's wealth and guard his honor. She should not go out of his house without his permission. That is what Allah refers to when He says:

﴿حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ﴾

"And guard in the husband's absence what Allah orders them to guard (e.g. their chastity, their husband's property)". An-Nisa 4:34

The Prophet said, "The best of all women is the one that makes a man happy when he looks at her, she obeys him when he commands her and she does not oppose him concerning his wealth and her person in a way he dislikes." (Recorded by Ahmad; and it is an authentic narration)

3. She should not invite to his house someone he dislikes.

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "As for your rights over your wives: They should not allow to sit someone you dislike on your beds and they should not allow into your homes someone you dislike. As for their rights over you: You should treat them with kindness regarding clothing and feeding." (Recorded by At-Tirmidhi)

It can be inferred from the above Hadith that a wife is not obliged to render those customary services to her husband. This is the opinion of the Shafi'ie Madh-hab.

These services are viewed as an act of kindness on the part of women and a token of their good relations with their husbands by helping them carry out their obligations.

She should be ready to travel with him if he wishes that, if she has not stipulated the opposite when the marriage contract was being made.

She should come to him when he requests to have marital intercourse with her, for that is one of his rights over her. The Messenger of Allah said, "If a husband calls his wife to his bed (i.e. to have sexual relation) and she refuses and causes him to sleep in anger, the angels will curse her till morning." (Recorded by Al-Bukhari and Muslim)

She should seek for his permission to observe (voluntary) fasting, if he is at home and not away on a journey. The Prophet said, "It is not permissible for a woman to observe fasting while her husband is at home without his permission." (Recorded by Al-Bukhari)

Wife's Rebellion (Nushuz)

How can a man deal with his wife's rebellion?

If a woman is rebellious, and she refuses to obey her husband and carry out her obligations to him, he should admonish her. If she refuses to change her position, then he should abandon her bed as long as he likes but should not avoid speaking to her for more than three days. This is because the Messenger of Allah said, "It is unlawful for a Muslim to forsake his brother for more than three days." (Recorded by Ibn Majah)

If she still does not change, then he can spank her, but not on the face and not in a manner that can inflict pain on her. If she still persists in her rebellion, then an arbitrator is appointed from her family and one from her husband's family. These two arbitrators should contact each of the two spouses separately in order to make peace between them and reconcile them. If reconciliation becomes impossible then they are separated irrevocably. Allah says:

﴿وَالَّذِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَأَهْجُرُوهُنَّ فِي الْمَضَاجِعِ
وَأَضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ
كَانَ عَلِيمًا كَبِيرًا ﴿٣٤﴾ وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا
فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا
إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا﴾

"As to those women on whose part you see ill-conduct, admonish them (first), (next), refuse to share their beds, (and last) beat them (lightly, if it is useful); but if they return to obedience, seek not against them means (of annoyance). Surely, Allah is Ever Most High, Most Great. If you fear a breach

between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from hers ; if they both wish for peace, Allah will cause their reconciliation. Indeed Allah is Ever All-Knower, Well-Acquainted with all things". An-Nisa 4:34,35

Conjugal Bed Manners

These are the etiquettes that both the husband and wife are expected to abide by when they are in bed with each other. These etiquettes are as follows:

The husband must have foreplay with his wife to arouse her.

Silence must be maintained to avoid saying things that oppose what Allah commands. Also, sounds that indicate lack of exercising good manners with Allah should be avoided.

He should say:

رَزَقْتَنَا «بِسْمِ اللَّهِ، اللَّهُمَّ جَنَّبْنَا الشَّيْطَانَ، وَجَنَّبِ الشَّيْطَانَ مَا

Bismil-lah, allahumma jannbinash-shaytan, wajannibishshaytana ma razaqtana.

In the name of Allah. O Allah, keep the devil away from us and keep the devil away from what you have blessed us with.

The Prophet (Peace and Blessings of Allah be upon him) recommended this in a Hadith recorded by Al-Bukhari and Muslim, and added, "Whoever makes this supplication and it is decreed that a child will be conceived in that intercourse, Satan will never be able to harm that child."

4. The husband is absolutely forbidden from having intercourse with his wife while she is in menstrual or post-partum bleeding, or before she takes a bath after the cessation of the bleeding. Allah says:

﴿فَاعْتَرِضُوا النِّسَاءَ فِي الْمَحِيضِ وَلَا تَقْرَبُوهُنَّ حَتَّى يَطْهُرْنَ﴾

Therefore keep away from women during menses and go not unto them till they are purified (from menses and have taken a bath). Al-Baqarah 2:222

He should not have sexual intercourse with her outside the vagina. There is a severe threat against having intercourse with a woman in her anus. The Prophet said, "Allah will not look at a man who has sexual intercourse with a woman in her anus." (Recorded by At-Tirmidhi)

He should not withdraw until she is also satisfied because doing so may hurt her, and hurting a Muslim is forbidden.

He should not practice withdrawal without her permission and without a dire necessity. The Prophet said, "It is a hidden burying of a fetus alive." (Recorded by Muslim and Ibn Majah)

It is recommended that when he wants to go for another round of intercourse, he should make ablution. Ablution is also recommended after sexual intercourse if he wants to eat or sleep and he is not ready to take a bath.

It is permissible for a husband to fondle his wife while she is menstruating or in post-partum period. However, he should avoid whatever is between her navel and knees. The Messenger of Allah said, "Do everything except sexual intercourse." (Recorded by Muslim)

Invalid Marriages

What are the invalid marriages that the Prophet prohibited?

They are:

Mut'ah Marriage: It is a temporary marriage, whether long term or short term. This is because of the Hadith recorded by Al-Bukhari and Muslim that the Messenger of Allah forbade temporary marriage. This kind of marriage is illegal and it must be dissolved whenever it takes place. The woman will be entitled to her Mahr if sexual intercourse has occurred. If no intercourse has occurred, then the man is not obliged to pay the woman any Mahr.

Shighar Marriage: Shighar is when a man marries off a woman who is under his guardianship to another man with the condition that the latter also marries a woman who is under his guardianship to the former without paying Mahr to either of the two women. The Messenger of Allah said, "There is no Shighar in Islam." (Recorded by Ahmad and An-Nasa'i)

Abu Hurayrah - may Allah be pleased with him - reported that Allah's Messenger (Peace and Blessings of Allah be upon him) has forbidden ash shighar, which means that one man says to another: Marry me your daughter and I will marry you my daughter; or marry me your sister and I will marry you my sister." (Reported by Muslim)

The ruling concerning this type of marriage is that it should be dissolved whether it has been consummated or not.

Tahleel Marriage: It is a man marrying a woman who has been irrevocably divorced by her first husband with the intention of making her lawful to him. The Qur'an stipulates that if a woman is divorced for a third time, it is not lawful for her to remarry her first husband until after she has married another man and then got divorced. Allah says:

﴿فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ﴾

Then she is not lawful unto him thereafter until she has married another husband. Al-Baqarah 2:230

Such marriage is invalid. 'Abdullah bin Mas'ood - may Allah be pleased with him -said, "May Allah curse anyone who makes Tahleel marriage and the one for whom it is made." (Recorded by Ibn Majah) The ruling concerning this marriage is that it should be dissolved, and it does not make the woman lawful to her first husband. The Mahr must be paid (if it has not already being paid), if sexual intercourse has taken place, and the man and woman should be separated.

4. Marriage contracted by a Muhrim (someone in the state of Ihraam for Hajj or "Umrah).

This is also another invalid marriage. If the man still wants to marry the woman, he can renew the contract after completing his Hajj or "Umrah. The Messenger of Allah said, "A Muhrim should not get married neither should he marry to others." (Recorded by Muslim)

5. Marriage while a woman is in a prescribed waiting period after a divorce or death of her husband. Any marriage conducted in this state is invalid and the ruling concerning it is that it should be dissolved and the woman must have her Mahr if sexual intercourse has taken place. In addition to this, the man is permanently forbidden from marrying the woman as a punishment for him. Allah says:

﴿وَلَا تَعْرَمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابُ أَجَلَهُ﴾

And do not consummate the marriage until the term prescribed is fulfilled." Al-Baqarah 2:235

6. Marriage without a Waliyy (guardian): If a woman marries without the consent of her guardian, the marriage will be invalid because of the absence of one of the pillars of marriage. The Prophet said, "No marriage is valid without the consent of the guardian." (Recorded by Ahmad) The ruling concerning this marriage is that the man and the woman should be separated. She will be entitled to the Mahr if he has touched her. However, he can still marry her with a new contract and Mahr, if her guardian gives his consent. In a situation when a guardian refuses to marry his daughter to a compatible suitor, because he is expecting a rich and elderly suitor to come forward or he wants her to take a job so that he can make use of her salary, the judge can marry her off without his consent. Allah knows best.

7. Marriage of a polytheist woman (who is neither a Jew nor a Christian). Allah says:

﴿وَلَا تَنْكِحُوا الْمُشْرِكَةَ حَتَّى يُؤْمِنَ﴾

And do not marry Al--Mushrikaut (idolatresses) till they believe (worship Allah Alone).

Al-Baqarah 2:221

A Muslim is forbidden from marrying a disbelieving woman, whether she is a magian, a communist or an idolatress. A Muslim woman is also forbidden from marrying a disbelieving man, whether he is Jew, Christian or otherwise. For, Allah says:

﴿لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ﴾

*They are not lawful (wives) for the disbelievers nor are the disbelievers lawful (husbands) for them.
Al-Mumtahanah 60:10*

Some of the rulings pertaining to the above case are as follows:

If one of two disbelieving spouses accepts Islam, their marriage becomes null and void. If the other spouse also accepts Islam before the prescribed waiting period expires, their earlier marriage should be kept. But if the other spouse accepts Islam after the completion of the prescribed waiting period, there should be a new marriage contract before they can come together again as husband and wife. This is the view of the majority of the scholars.

If the wife accepts Islam before the first marital intercourse takes place, she is entitled to no Mahr because the separation is at her instance. But if the husband accepts Islam, then she is entitled to half of Mahr. If she accepts Islam after marital intercourse has taken place, then she is entitled to the complete Mahr. The ruling concerning apostasy of any of the two spouses is the same as the ruling concerning his or her acceptance of Islam.

If a person accepted Islam while he has more than four wives, and all of them accepted Islam along with him, or if his wives are all Jews or Christians and none of them have accepted Islam, he has to choose only four from among them and divorce the rest. The evidence for this is the Hadith that Abu Dawood recorded on the authority of Al-Harith bin Qays Al-Asadi who said, "I embraced Islam while I had eight wives. So I mentioned it to the Prophet (Peace and Blessings of Allah be upon him). The Prophet said, "Select four of them."

Also, if a person accepts Islam and has two sisters as his wives, he should divorce whoever he wishes of the two, for it is unlawful to be married to two sisters at the same time. The evidence for this is the Hadith that Abu Dawood and Ibn Majah recorded on the authority of Fayrus Ad-Daylami Al-Yamani who said, "I said, 'Messenger of Allah, I have embraced Islam and two sisters are my wives.' He said, "Divorce any one of them you wish."

Women Forbidden for Marrying

Who are the women a Muslim is permanently forbidden from marrying?

One: Women who are forbidden in marriage as a result of blood relationship. These are: mother and grandmother, daughter and granddaughter, sister, sister's daughter, aunt, both paternal and maternal; brother's daughter and brother's granddaughter. The evidence for this is the statement of Allah:

﴿حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ
وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ﴾

Forbidden to you (for marriage) are: your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, and your sister's daughters. An-Nisa 4:23 Two: Women forbidden in marriage as a result of marital relationship. They are:

1. Father's wife and grandfather's wife, for Allah says:

﴿وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ﴾

"And marry not women whom your fathers married." An-Nisa 4:22

2. Wife's mother and wife's grandmother, wife's daughter -if husband has had sexual intercourse with the mother; and wife's granddaughter. Allah says:

﴿وَأُمَّهَاتُ نِسَائِكُمْ وَرَبِّبَاتِكُمُ الَّتِي فِي حُجُورِكُمْ مِّنْ نِّسَائِكُمُ الَّتِي دَخَلْتُمْ بِهِنَّ فَإِن لَّمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ﴾

And your wives mothers, your step daughters under your guardianship, born of your wives to whom you have gone in -but there is no sin on you if you have not gone in them (to marry their daughters). An-Nisa 4:23 3. Son's wife and grandson's wife. Allah says:

﴿وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ﴾

"And the wives of your sons who (spring) from your own loins". An-Nisa 4:23

Three. A woman with whom mutual curse has been invoked. The Messenger of Allah (Peace and Blessings of Allah be upon him), said, "A man and a woman who have performed mutual invocation of curse and have been separated should never come together again." (Recorded by Ad-Daraqutni and Abu Sa'eed).

Four. Women forbidden in marriage as a result of foster relationship. They are those who are forbidden as a result of blood relationship such as mothers, daughters, sisters, aunts and nieces. The Prophet (Peace and Blessings of Allah be upon him), said, "Indeed, Allah has forbidden due to fosterage what He has forbidden due to lineage." (Recorded by At-Tirmidhi)

Suckling that makes marriage forbidden is that which occurred when the child is less than two years old and in which the milk actually penetrates the suckling's bowel. The Messenger of Allah said: "A sucking or two does not forbid marriage relationship." (Recorded by Muslim) This is because; a single sucking is so insignificant that it cannot make milk reach the bowel.

What is the ruling concerning the husband of a foster mother?

The foster mother's husband is regarded as a father to the suckling child. His foster father's children born for him by other women are regarded his brothers and sisters. So, he is forbidden from marrying the mother, sisters and aunts of his foster father. Also, all the children born by the foster mother are regarded brothers and sisters to her foster son. The evidence for this is the Hadith that Al-Bukhari and Muslim recorded on the authority of 'A'ishah - may Allah be pleased with her and her father - who said,

"Aflah, the brother of Abul-Qu'ays (whose wife had nursed 'A'ishah) sought permission to enter upon me after Hijab had been ordained. I said, 'By Allah, I will not grant him permission until I ask Allah's Messenger, for verily, the brother of Abul-Qu'ays did not nurse me, rather the wife of AbulQu'ays did.' Then the Prophet entered and I asked him, 'O Allah's Messenger, verily, the man did not nurse me, rather, his wife nursed me.' The Prophet said, 'Let him in, for he is your uncle.'"

What is the ruling concerning brothers and sisters of the suckled child?

What is forbidden to the suckled child does not apply to his brothers and sisters who did share the same foster mother with him. Therefore, it is permissible for the brother of the foster son to marry the foster mother of his brother or her mother or her sister. Equally, it is permissible for the sister of a suckled child to marry the blood son of the foster mother of her brother or sister, or to marry his father or son.

Is the wife of one's foster son as unlawful as the wife of one's blood son?

A majority of the scholars are of the view that she is like the wife of one's blood son. Those who have opposing opinion argue that the wife's son is only regarded unlawful for one due to marriage relationship; and fosterage can only forbid what blood relationship forbids.

Who are the women whose marriage is temporary forbidden?

They are:

Wife's sister until he divorces her and she serves out her prescribed waiting period or she dies. He is then allowed to marry her sister. Allah says: "And two sisters in wedlock at the same time... (An-Nisa 4:23)

Wife's maternal or paternal aunt. A Muslim man is forbidden from marrying his wife's aunt until he divorces her niece and she serves out her prescribed waiting period or she dies. Abu Hurayrah - may Allah be pleased with him - narrated that the Messenger of Allah said, "A woman and her paternal aunt should not be married to the same man; and similarly, a woman and her maternal aunt should not be married to the same man." (Recorded by Al-Bukhari)

A married woman until she is divorced or becomes a widow and has completed her prescribed waiting period. Allah says: "Also (forbidden are) women already married... (An-Nisa 4:24)

A woman who is in the state of prescribed waiting period after a divorce or death of her husband until she completes the prescribed waiting period. It is also forbidden to propose marriage to her. However, there is nothing wrong in making an expression of interest. Allah says:

﴿وَلَكِنْ لَا تُوَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّىٰ يَبْلُغَ الْكِتَابُ أَجَلَهُ﴾

But do not make a promise of contract with them in secret except that you speak an honorable saying according to the Islamic law. And do not consummate the marriage until the term prescribed is fulfilled. Al-Baqarah 2:235

A woman whom her husband had divorced three times. Her husband is forbidden from remarrying her until she has married another man with a valid marriage and got divorced or becomes a widow and served out her prescribed waiting period. Allah says:

﴿فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ﴾

Then she is not lawful unto him thereafter until she has married another husband. Al-Baqarah 2:230

An adulteress, until after she has repented and it is surely seen that she has really repented and served her prescribed waiting period after her illegitimate relationships. Allah says:

﴿وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ وَحَرِّمَ ذَلِكَ عَلَى
الْمُؤْمِنِينَ﴾

And the adulteress none marries her except an adulterer or a Mushrik [and that means that the man who agrees to marry (have a sexual relation with) a Mushrikah (female polytheist, pagan or idolatress) or a prostitute, then surely he is either an adulterer, . And the woman who agrees to marry (have a sexual relation with) a Mushrik (polytheist, pagan or idolater) or an adulterer, then she is either a prostitute or a Mushrikah (female polytheist, pagan, or idolatress)] Such a thing is forbidden to the believers (of Islamic Monotheism). An-Nuur 24:3

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "A flogged fornicator should marry only his (female) counterpart." (Recorded by Abu Dawood)

Divorce

What is divorce?

Divorce is to reverse the marriage knot through an explicit expression such as telling one's wife, 'you are divorced' or through an inexplicit expression but with the same intention such as telling her, 'go back to your family'.

What is the ruling concerning divorce?

Divorce is permissible in order to remove harm from one of the two spouses. Allah says,

﴿الطَّلَاقُ مَرَّتَانٍ فَإِمْسَاكٌ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ﴾

The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness. Al-Baqarah 2:229 Allah also says:

﴿يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ﴾

O Prophet! When you divorce women, divorce them at their "Iddah (prescribed periods). At-Talauq 65:1

Divorce may become obligatory if the harm that one of the spouses suffers cannot be removed without it. Likewise, it may become forbidden if it may cause harm to one of them and the benefit it may bring does not equal or outweigh that harm. The evidence for the first case is the Prophet's statement to the man who came to him complaining about his wife's obscenity, "Divorce her!" The evidence for the second case is his statement: "If any woman asks her husband for divorce without some strong reason,

the odor of Paradise will be forbidden to her." (Recorded by Abu Dawood on the authority of Thawban may Allah be pleased with him)

What are the pillars of divorce?

Divorce has three pillars: One: The husband who is divorcing his wife. No other person has the right to make the divorce happen. Ibn Majah recorded on the authority of 'Abdullah bin 'Abbaas -may Allah be pleased with him and his father -that the Messenger of Allah said, "Divorce is an exclusive right of the one who held the woman's leg (i.e. her husband)." Likewise, if the husband is not a sane adult who is acting on his own accord and not being coerced, any statement of divorce he utters will not be effective. The Messenger of Allah said, "There are three whose actions are not recorded: a sleeper till he awakes, and a boy till he reaches puberty, and a lunatic whose mind is deranged till he is restored to consciousness." (Recorded by Abu Dawood and At-Tirmidhi on the authority of 'Ali bin Abi Talib - may Allah be pleased with him).

The Prophet (Peace and Blessings of Allah be upon him) also said, "Members of my Ummah have been excused for their mistakes, for their forgetfulness, and what they are compelled to do." (Recorded by At-Tabarani on authority of Thawban - may Allah be pleased with him).

Two: The wife who has relationship with the divorcing husband through actual marriage. Such a wife should be legally under her husband and should neither be separated from him, nor be beyond his control in any way. The evidence for this is the statement of the Prophet (Peace and Blessings of Allah be upon him), "There is no divorce except in what you possess." (Recorded by Abu Dawood on authority of 'Abdullah bin 'Amr bin Al-'Aas -may Allah be pleased with him and his father)

Three: Expression indicating divorce, either explicitly or inexplicitly. Mere intention without expression is not enough to make a divorce happen. The Messenger of Allah said, "Allah has overlooked for members of my Ummah what they feel in their hearts as long as they do not speak it out or act upon it." (Recorded by Al-Bukhari and Muslim)

What are the types of divorce?

Types of divorce are:

One: Divorce according to the Sunnah (Talaq Sunni). This is to divorce a woman while she is in a state of cleanness (not menstruating) and while intercourse has not been had with her in that state. If a Muslim wants to divorce his wife due to harm that one of them suffers from the other and such harm cannot be removed without divorce, he should wait till she has her next menstruation and then becomes clean. After she becomes clean, then he can divorce her with one divorce statement like saying to her, for instance, 'you are divorced'. This is in accordance with Allah's injunction:

﴿يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ﴾

O Prophet (Peace and Blessings of Allah be upon him)! When you divorce women, divorce them at their "Iddah (prescribed periods). (At-Talaq 65:1)

Two: Divorce that goes against the Sunnah (Talaq Bid'i). It is to divorce one's wife while she is in her menstrual or post-partum period or in a state of cleanness in which he has had sexual intercourse with her; or to divorce her using three times in one sitting like saying, 'she is divorced, she is divorced, she is divorced'. The proof for this is the following Hadith, recorded by Al-Bukhari and Muslim:

"Ibn 'Umar - may Allah be pleased with him and his father - reported, "I divorced my wife during the lifetime of Allah's Messenger when she was in the state of menses. 'Umar -may Allah be pleased with him -made a mention of it to Allah's Messenger (Peace and Blessings of Allah be upon him), who said, 'Command him to take her back and leave her (in that state) until she is purified. Then (let her) enter

the period of second menses, and when she is purified, then divorce her (finally) before having sexual intercourse with her, or retain her (finally). That is the "Iddah (the prescribed period) which Allah commanded (to be kept in view) while divorcing the women."

On another occasion, when the Messenger of Allah (Peace and Blessings of Allah be upon him) was informed about a man who divorced his wife at once with three pronouncements of divorce, he was visibly annoyed and said, "Will the Book of Allah be toyed with while I am still in your midst?!!" (Recorded by An-Nasa'i)

According to the majority of the scholars, Talaq Bid'i does take effect, and undo the marriage knot, like Talauq Sunni.

Three: Irrevocable divorce (Talaq Ba'in). In this type of divorce, the divorcing husband becomes, in regard to this woman, like any other suitor. If she likes, she can accept to remarry him with a new Mahr and a new contract and if she likes she can reject him. The irrevocable divorce occurs in the following five ways:

- a. If a man divorces his wife in a revocable divorce and leaves her without taking her back until she completes her prescribed waiting period, she becomes irrevocably divorced from him as soon as she completes her waiting period.
- b. When he divorces her with the condition that she pays him a certain amount of money in order to win his freedom from him (Khul).
- c. If a man divorces his wife before he enters into seclusion with her, she becomes irrevocably divorced from him as soon he makes the divorce pronouncement; because a woman who is divorced before her husband goes into seclusion with her has no waiting period to observe.
- d. If a woman is divorced three times in a single statement or with three different pronouncements in a single sitting or she is divorced for the third time after two earlier ones, she becomes majorly irrevocably divorced from him. This means, she becomes unlawful to him until she marries another husband.

Four: Revocable divorce (Talauq (aj'i). This is a kind of divorce in which the husband has right to take back his wife, even without her pleasure. Allah says:

﴿وَبِعُولُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا﴾

And their husbands have the better right to take them back in that period, if they wish for reconciliation. Al-Baqarah 2:228.

Another proof is the statement of Allah's Messenger (Peace and Blessings of Allah be upon him) concerning 'Abdullah bin 'Umar, "Command him to take her back."

It is only the first and second instances of divorce that are regarded as revocable. A woman who is revocably divorced is treated like a wife in terms of maintenance, accommodation and other matters until she completes her period of waiting. After she completes her period of waiting, she becomes irrevocably divorced from her husband. If her husband wants to take her back (while she is still observing the period of waiting), it is enough for him to say to her: "I have taken you back." It is desirable if he can make two just persons witness the taking back.

Five: Explicit divorce. This is a kind of divorce by which the intention is immaterial. This kind of divorce takes force with mere expressions such as, 'You are divorced', or 'I have divorced you'.

Six: Inexplicit divorce. This is a kind of divorce that can only be allowed to take effect if the intention is really for divorce. Examples of this is to say to a woman, 'go to your family', 'get out of my house' or 'do not talk to me' and any other similar expression in which the word 'divorce' or its meaning is mentioned. In expressions such as these, the divorce will not take effect until the husband declares his intention. The Messenger of Allah (Peace and Blessings of Allah be upon him) divorced one of his wives by telling her, 'go to your family'. The divorce took effect because he intended it. Therefore, if a person does not intend divorce by uttering such expression, then there is no divorce. A proof for this is the Hadith reported by Al-Bukhari and Muslim on the authority of Ka'b bin Malik - may Allah be pleased with him - that the Prophet sent a person to him ordering him to keep away from his wife. Ka'b inquired, "Should I divorce her; or what should I do?" The envoy said, "No, only keep aloof from her and do not cohabit with her." So, his wife went to her family and this was not regarded as divorce.

Seven: Instant and conditional divorce. The instant divorce is when a woman is told, "You are divorced." The conditional divorce is when the divorce is attached to doing or lack of doing of an action. In this case, the divorce will not take place until the attached event has taken place. Examples of this is to tell one's wife, "If you get out of the house you are divorced", or "if you give birth to a girl you are divorced". So, the divorce of such a woman will not be effective until she gets out of the house or she gives birth to a girl.

Eight: Relinquishing the right to divorce the wife, or telling her that she has control over herself. This is when a man tells his wife: "It is up to you to choose between leaving me and staying with me." In this case, if the woman chooses to divorce her husband, then she is regarded as divorced. The Messenger of Allah gave his wives such an option and they chose to remain with him. Allah refers to this in the Qur'an in His following statement:

﴿يَأَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكَ إِن كُنْتُمْ تُرِيدْنَ الْحَيَاةَ الدُّنْيَا
وَزِينَتَهَا فَتَعَالَيْنَ أُمَتِّعْكُنَّ وَأُسَرِّحْكُنَّ سَرَاحًا جَمِيلًا﴾

O Prophet (Muhammad (Peace and Blessings of Allah be upon him))! Say to your wives: If you desire the life of this world, and its glitter, then come! I will make a provision for you and set you free in a handsome manner (divorce). Al-Ahzaub 33:28

Telling one's wife that she has control over herself is to say expressions such as, 'I have given you power over your own affairs', or 'your affairs are now in your hand'. If a husband makes such an expression to his wife and she then says, 'I am divorced from you', one revocable divorce instantly takes place by that.

Nine: Divorce by proxy or in writing. If a man appoints a person to inform his wife that she is divorced or he writes her a letter mentioning in it that he has divorced her, the divorce takes effect. There is a consensus among the scholars on this for appointing a proxy concerning one's rights is permissible. Writing stands in lieu of speech if the husband is not present or if he is dumb, for instance.

Ten: Divorcing a woman by declaring that she has become forbidden. When a man tells his wife, 'you have become forbidden to me', such an expression will be regarded as divorce if it intended for that and not for Ziha'r. If the intention is for Ziha'r, it will be regarded as such and the expiation for Ziha'r must be observed. If he intends by such statement neither divorce nor Ziha'r, and he only intends to swear like saying, for example, 'you are forbidden to me if you do such and such' and the woman did it, then he must only expiate for his oath. The evidence for this is the Hadith that Muslim reported on the authority of Ibn 'Abbaas - may Allah be pleased with him and his father - that he said, "When a man declares his wife unlawful for himself that is an oath which must be atoned, and he said: There is in the Messenger of Allah a noble example for you."

Eleven: Unlawful divorce: It is to divorce one's wife three times with one statement or to divorce her using three pronunciations of divorce but in a single sitting like saying to her, 'you are divorced three times' or 'you are divorced, you are divorced, you are divorced'. This kind of divorce is unlawful, according to the consensus of the scholars. For, the Messenger of Allah was informed about a man who divorced his wife at once with three pronouncements of divorce, he was visibly annoyed and said, "Will the Book of Allah be toyed with while I am still in your midst?!!" (Recorded by An-Nasa'i)

However, there is a controversy among the scholars concerning the ruling on this kind of divorce. The majority of the scholars including the four

Imams (Abu Hanifah, Malik, Ash-Shaffi'ie and Ahmad) and others are of the view that it will take effect as three divorces, and that the woman is divorced and will become forbidden to her husband until after she has married another man and got divorced.

Other scholars disagree. They believe that such a divorce should take effect as only one divorce whether it is revocable or irrevocable (if the woman has been divorced two times before).

The differences in the scholars' opinion concerning this issue can be traced back to their differences in interpretation of relevant textual evidences.

In view of these differences, it would be better to look at the intention of the divorcing man, if by uttering divorce three times or making three pronunciations of divorce, he only meant to threaten his wife or he intends to swear to her by making the divorce conditional upon her carrying out an action or he is in a state of rage or he does not even intend to divorce her at all, it would be regarded as an irrevocable divorce, (in this case, he becomes like any other suitor if he wants to remarry her. If she likes, she can accept his offer of marriage with a new Mahr and a new contract and if she likes she can reject it.)

But if his intention is to really divorce her three times at once and to put an end to his marriage with her, then it is regarded as three divorces. As such, it becomes unlawful for him to marry her again until after she has married another man.

This is how reconciliation can be made between the evidences in order to show compassion to members of the Ummah.

What is the ruling regarding a three time divorced woman marrying another man besides her former husband?

The scholars agree that if she marries another man through a valid marriage contract and both of them have sexual intercourse and she is then divorced, she can go back to remarry her former husband. After this remarriage, she is entitled to three new divorces.

As for a woman who has been divorced from her husband once or twice but married another man (after completing the prescribed waiting period and her husband did not take her back); will this second marriage cancel the previous divorce or it will be counted?

Imam Malik believed that her marriage to another man besides her former husband can only cancel three divorces while Imam Abu Hanifah and Imam Ahmad, according to a report from him, believe that her marrying another man is enough to cancel the previous divorce. They argue that if such a marriage can cancel three divorces, then it has greater reason to cancel what is less. This is also the opinion of Ibn 'Abbaas -may Allah be pleased with him and his father. Allah knows best.

How many times does a man have the right to divorce his wife?

The majority of the scholars including the companions, their successors and the four Imams are of the opinion that a man has no right to more than two divorces. If he divorces his wife for the third time,

then the divorce becomes irrevocable and she becomes unlawful for him until after she has married another man and got divorced.

Khul'

What is Khul'?

Khul" is a kind of divorce in which a woman pays her husband a certain amount of money to free herself from him because she does not like him.

What is its ruling?

Khul" is permissible if all of its conditions are fulfilled. The proof for this is the Hadith that AlBukhari recorded on the authority of Ibn 'Abbaas - may Allah be pleased with him and his father - who said, "The wife of Thabit bin Qais came to the Prophet and said, 'O Allah's Messenger! I do not blame Thabit for defects in his character or his religion, but I, being a Muslim, dislike behaving in an un-Islamic manner (if I remain with him).' On that Allah's Messenger (Peace and blessings of Allah be upon him) said (to her), 'Will you give back the garden which your husband has given you (as Mahr)?' She said, 'Yes.' Then the Prophet said to Thabit, 'O Thabit! Accept your garden, and divorce her once.'"

What are the conditions of Khul'?

Its conditions are:

The hatred should be from the wife. If it is from the husband, he has no right to take anything from her. He is only to be patient with her or divorce her if he fears that keeping her will be harmful.

The wife should not request Khul" unless in an extreme dire situation in which she fears that she might not be able to observe Allah's limits concerning herself or her husband's rights.

The husband must not intentionally harm his wife as to force her request for Khul". If he does that, he is sinful and it is unlawful for him to ever take anything from her. Khul" takes effect as an irrevocable divorce. If the husband wants to take her back, he cannot do that except with a new marriage contract.

What are the regulations concerning Khul'?

1. It is recommended that the husband not take back more than the Mahr he paid to her. Thabit only took back the garden he gave to his wife as Mahr. And that is with the command of Allah's Messenger (Peace and Blessings of Allah be upon him).
2. If the Khul" is uttered using the same expression, the concerned woman observes one menstruation as her "Iddah; but if it is uttered with the word of divorce, the majority of the scholars are of the view that she observes a waiting period of three menstrual periods.
3. A man who grants his wife divorce under Khul" has no right to take her back while she is observing her "Iddah, because the Khul" has made the separation irrevocable.
4. A father has a right to request for Khul" on behalf of his daughter if the latter is incapable of doing so by herself, for whatever reasons.

I'la

What is I'la?

It is for husband to swear by Allah that he would not cohabit with his wife for a period, if it is more than four months.

O What is the ruling regarding I'la?

I la is permissible as a means of disciplining one's wife, as long as it does not exceed four months.

﴿لِّلَّذِينَ يُؤْلُونَ مِن نِّسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِن فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ﴾

Those who take an oath not to have sexual relation with their wives must wait four months, then if they return (change their idea in this period), verily, Allah is Oft Forgiving, Most Merciful. Al-Baqarah 2:226

The Messenger of Allah did observe I la on his wives for a whole month. However, I la is forbidden if the purpose is to harm the wife and not to discipline her. The Messenger of Allah said: "No harm should be done neither reciprocated." (Recorded by Ahmad and Ibn Majah)

What are the regulations of I'la?

They are:

1. If the period of I la is more than four months and the husband still does not cohabit with his wife, the wife should bring her case before a judge requesting him to compel her husband to change his position or divorce her. Allah says:

﴿إِن فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ ﴿٢٢٦﴾ وَإِن عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ﴾

Then if they return (change their idea in this period), verily, Allah is Oft-Forgiving, Most Merciful. And if they decide upon divorce, then Allah is All-Hearer, All-Knower. Al-Baqarah 2:226-227

Ibn 'Umar - may Allah be pleased with him and his father - said, "After expiration of four months, the husband should be compelled to divorce his wife."

If he fails to divorce the woman, the judge should forcibly divorce her from him in order to protect the wife from being harmed further.

If the husband is compelled to divorce his wife, such divorce will be regarded as normal divorce. If it is the first or second divorce, it will be treated as such revocable divorce and he can take her back. But if the woman refuses to return to him, then she becomes irrevocably divorced from him and he cannot take her back but with a new contract.

A woman divorced under I la observes "Iddah of an ordinarily divorced woman.

If a man refused to have sexual intercourse with his wife for more than four months even though he has done so under I'la, he will be compelled to either cohabit with his wife or divorce her if the woman requests that.

If a man violates his own oath before the specified time, he must expiate for that. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "He who took an oath and (later on) found something better than that, should do that, and expiate for (breaking) his vow." (Recorded by Muslim on the authority of Abu Hurayrah)

Ziha'r

What is Zihhaar?

Ziha'r is for a man to tell his wife, 'you are to me like the back of my mother'.

What is the ruling regarding Zihha'r?

It is unlawful because Allah calls it an abomination and falsehood, which are forbidden traits. Allah says,

﴿وَأِنَّهُمْ لَيَقُولُونَ مُنْكَرًا مِّنَ الْقَوْلِ وَزُورًا﴾

And verily, they utter an ill word and a lie. Al-Mujadilah 58:2.

What are the most prominent regulations of Zihha'r?

They are:

The majority of the scholars are of the view that Zihha'r is not particularly restricted to mentioning one's mother. Rather, if a person likens his wife's back to any female member of his family who are permanently forbidden to him to marry, the person has committed Zihha'r.

The person who commits Zihha'r and wants to go back to his wife must make expiation. Allah says:

﴿وَالَّذِينَ يُظَاهِرُونَ مِن نِّسَائِهِمْ ثُمَّ يَعُودُونَ لِمَا قَالُوا فَتَحْرِيرُ رَقَبَةٍ
مِّن قَبْلِ أَن يَتَمَاسَا﴾

And those who make unlawful to them their wives by Zihha'r and wish to free themselves from what they uttered, (the penalty) in that case is the freeing of a slave before they touch each other. Al-Mujadilah 58:3

The expiation must be made before one touches any apparent part of his wife's body either for sexual purpose or foreplay, because of what the above verse clearly mentioned.

If he touches his wife before he makes the expiation he must return to Allah in repentance by regretting his action and seeking Allah's forgiveness, and he must quickly make the expiation, and there is nothing more upon him. The proof for this is the Hadith that Abu Dawood reported on the authority of 'Ikrimah, "A man made his wife like the back of his mother. He then had intercourse with her before he atoned for it. He came to the Prophet (Peace and Blessings of Allah be upon him), and informed him of this matter. He asked (him), 'What moved you to the action you have committed?' He replied, 'I saw the whiteness of her shins in the moon light.' He said, 'Keep away from her until you expiate for your deed.' So he did not ask him to do more than expiation.

5. The expiation should be one of the three in that order mentioned in the Qur'an. He should not move to the next one until after he is unable to carry out the previous one. The expiation is in the following order: manumitting of a slave who is a believer, observing fast for two consecutive months, or feeding sixty poor people. Allah says:

﴿فَتَحْرِيرُ رَقَبَةٍ مِّن قَبْلِ أَن يَتَمَاسَّ ذَٰلِكُمْ تُوعِظُونَ بِهِ ۗ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ ﴿٣﴾ فَمَن لَّمْ يَجِدْ فَصِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ مِن قَبْلِ أَن يَتَمَاسَّ ۖ فَمَن لَّمْ يَسْتَطِعْ فإِطْعَامُ سِتِّينَ مِسْكِينًا﴾

(The penalty) in that case is the freeing of a slave before they touch each other. That is an admonition to you (so that you may not return to such an ill thing). And Allah is All-Aware of what you do. And he who finds not (the money for freeing a slave) must fast two successive months before they both touch each other. And for him who is unable to do so, should feed sixty of Miski'ns (poor).

Al-Mujadilah 58:3, 4.

The fasting must be observed consecutively whether he reckons with two lunar months or counts sixty days. If the succession is interrupted for other reasons than sickness, he starts all over again, because consecutiveness is a condition.

As for feeding the poor, he should feed each poor person a Mudd of wheat or two Mudds of dates or barley. If he feeds less than sixty poor persons, he has not carried out what is incumbent upon him. Allah knows best.

Li'an

What is Li'an?

Li'an is to accuse one's wife of committing illegal sexual intercourse with another man such as saying, for instance, "I saw her committing adultery", or to deny the paternity of the baby she is pregnant of. The case should be taken to the judge who will ask the husband to produce his evidence, which is four witnesses who would testify that they saw the woman committing adultery. If the husband does not have witnesses, then he has to declare four times under oath saying, "I make Allah my witness that I saw her committing adultery", or "I make Allah my witness that this pregnancy is not from me". And he will say, in his fifth declaration, "May Allah's curse be upon me, if I am lying".

If the wife confesses that she actually committed adultery, then the prescribed punishment is carried out on her. If she does not confess, she should be asked to declare four times under oath by making Allah her witness that her husband is lying or that the pregnancy is his, and on the fifth declaration, she should invoke Allah's wrath on herself if he is telling the truth. Then the judge will dissolve their marriage instantly, declaring that they should never come together again.

What is the proof for Li'an from the Qur'an and the Sunnah?

Li'an is ordained by Allah's statement:

﴿وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُن لَّهُمْ شُهَدَاءُ إِلَّا أَنفُسُهُمْ فَشَهَدَةُ
أَحَدِهِمْ أَرْبَعُ شَهَدَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ ⑥ وَالْخَمْسَةَ أَنَّ
لَعْنَتَ اللَّهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ ⑦ وَيَدْرُؤُا عَنْهَا الْعَذَابَ
أَنْ تَشْهَدَ أَرْبَعَ شَهَدَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ ⑧ وَالْخَمْسَةَ
أَنَّ غَضَبَ اللَّهِ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ﴾

And for those who accuse their wives, but have no witnesses except themselves, let the testimony of one of them be four testimonies (i.e. testifies four times) by Allah that he is one of those who speak the truth. And the fifth (testimony) (should be) the invoking of the Curse of Allah upon himself if he be of those who tell a lie (against her). But it shall avert the punishment (of stoning to death) from her, if she bears witness four times by Allah, that he (her husband) is telling a lie. And the fifth (testimony) should be that the Wrath of Allah be upon her if he (her husband) speaks the truth. An-Nur 24:6-9

From the Sunnah, the Messenger of Allah carried it out between 'Uwaimir Al-'Ajlani and his wife and between Hilaal bin Umayyah and his wife. He also said: "A husband and a wife who have invoked mutual curse on each other should never come together again." (Recorded by Ad-Daraqutni)

What is the wisdom behind ordaining Li'an?

They are:

Guarding the honor of the spouses and preserving the integrity of the Muslim.

Warding the punishment of Qadhf off the husband and the punishment for adultery off the wife.

It is an opportunity to prevent giving a child to other than his or her father.

What are the rulings of Li'an?

They are:

The husband and the wife must be adults and sane because a minor and an insane person are not legally obligated. The Messenger of Allah said, "There are three whose actions are not recorded: a sleeper till he awakes, and a boy till he reaches puberty, and a lunatic whose mind is deranged till he is restored to consciousness." (Recorded by Abu Dawood and At-Tirmidhi on the authority of 'Ali bin Abi Talib - may Allah be pleased with him)

The husband must explicitly claim that he saw his wife committing adultery. If he denies the paternity of the unborn baby she is carrying, he must declare that he did not have sexual intercourse with her at all or that only had sexual intercourse with her after she has already conceived (without his knowledge) if the woman gives birth to the child after a less than six months period of gestation. If he cannot make such a declaration then there is no Li'an, for Li'an is not invoked as a result of mere suspicion. Allah says:

﴿يَأَيُّهَا الَّذِينَ ءَامَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ﴾

O you who believe! Avoid much suspicion; indeed some suspicions are sins.

Al-Hujurat 49:12)

The Messenger of Allah also said: "Beware of suspicion." (Recorded by Al-Bukhari and Muslim)

The Judge should carry out the Li'an in the presence of a group of Muslims and it should be in the format mentioned in the noble verses of the Qur'an.

The Judge should admonish the husband and the wife to fear Allah and say the truth.

He should separate them, and they should never come together again as husband and wife. The Prophet said, "A husband and a wife who have invoked mutual curse on each other should never come together again." (Recorded by Ad-Daraqutni)

By Li'an, the husband cedes the paternity of the controversial child and there shall never be any mutual inheritance between them and he should not spend on the child. However, to be on the safe side, the child should be treated as his, and as such should not be included among the beneficiaries of his Zakah. There should not be any intermarriage between that child and the man's legitimate children. There should not be any Qisas between both, and the testimony of neither of the two in favor of the other should be accepted.

The child is attributed to the mother. Both can inherit from each other, according to the decision of Allah's Messenger (Peace and Blessings of Allah be upon him).

If the husband recants on his testimony later on, then the child is attributed to him and regarded his.

'Iddah

What is 'Iddah?

"Iddah is the prescribed waiting period a woman observes after separating from her husband (due to divorce or his death). During this period, she is forbidden from marrying or being exposed to any marriage proposal.

What is the ruling of 'Iddah?

"Iddah is mandatory upon every woman who is separated from her husband as a result of divorce or his death. Allah says:

﴿وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ﴾

And divorced women shall wait (as regards their marriage) for three menstrual periods. Al-Baqarah 2:228 Allah also says:

﴿وَالَّذِينَ يَتوفُونَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ﴾

And those of you who die and leave wives behind them, they (the wives) shall wait (as regards their marriage) for four months and ten days." Al-Baqarah 2:234

The exception is a woman who is divorced before seclusion is had with her. In her case, she is not obliged to observe any "Iddah and she is not entitled to Mahr as well. Allah says:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُونَهَا فَمَتَّعُوهُنَّ وَسَرَحُوهُنَّ سَرَاحًا جَمِيلًا﴾

O you who believe! When you marry believing women, and then divorce them before you have sexual intercourse with them, no "Iddah (divorce prescribed period, see (V.65:4)) have you to count in respect of them. So give them a present, and set them free (i.e. divorce), in a handsome manner. AlAhza'b 33:49

What is the wisdom behind ordaining 'Iddah?

Giving the husband an opportunity to go back to his wife without any costs, if the divorce is revocable.

Determining the purity of the womb (from pregnancy) in order to preserve lineages from becoming mixed.

It affords the wife the opportunity to share the grief with the family of her husband and to show her sense of obligation towards her husband, if the "Iddah is for the death of the husband.

What are the types of 'Iddah?

"Iddah is of different types:

1. "Iddah of a divorced woman. She waits for three menstrual periods, according to Allah's injunction:

﴿وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ﴾

"And divorced women shall wait (as regards their marriage) for three menstrual periods". Al-Baqarah 2:228

If a woman is divorced in a state of purity and she has three menstrual periods after that, when she becomes clean after the third menstruation, then she has completed her waiting period. However, if she is divorced while she is in her menstrual period, that period will not be regarded as three menstrual periods she needs to observe as "Iddah. This is in regard to a free woman. As regards the slave woman, she is to observe two menstrual periods as her "Iddah. The Messenger of Allah said, "A slave woman is only divorced two times and her "Iddah is two menstrual periods." (Recorded by Abu Dawood)

2. "Iddah of a divorced woman who does not menstruate due to menopause or young age is three months. Allah says:

﴿وَالَّتِي بَسَنَ مِنَ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ أَرْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ وَالَّتِي لَمْ يَحِضْنَ﴾

And those of your women as have passed the age of monthly courses, for them the "Iddah (prescribed period), if you have doubts (about their periods), is three months; and for those who have no courses (i.e. they are still immature) their "Iddah (prescribed period) is three months likewise, except in case of death). At-Tala'q 65:4

This is in the case of a free woman; a slave woman observes "Iddah for only two months.

3. "Iddah of a woman who is divorced while she is pregnant whether she is a free woman or a slave. Her "Iddah is until she gives birth to her baby. The proof for this is Allah's statement:

﴿وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ﴾

And for those who are pregnant (whether they are divorced or their husbands are dead), their "Iddah (prescribed period) is until they lay down their burdens. At-Talauq 65:4

4. 'Iddah of a divorced woman who menstruates and then her menstruation ceases for a known or an unknown reason. If the cessation happens as a result of a known reason such as breastfeeding or sickness, she needs to wait for the return of the menses and continue her "Iddah, even if that takes a long time. But if the cessation is due to an unknown reason, she observes "Iddah for a year. In the case of a slave woman, she only observes "Iddah for eleven months. This is the decision of 'Umar bin Al-Khattaab - may Allah be pleased with him - among the Emigrants and the Helpers, and nobody opposed him.

5. "Iddah of a woman whose husband has just died. It is four months and ten days for a free woman and two months and five days for a slave woman. The proof for this is Allah's statement:

﴿وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذُرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا﴾

And those of you who die and leave wives behind them, they (the wives) shall wait (as regards their marriage) for four months and ten days. Al-Baqarah 2:234

"Iddah of a woman who suffers from incessant bleeding (Istihadah). If she can distinguish menstruation blood from that of Istihadah, or she has a known cycle, then she reckons with her recognized cycle. But

if the bleedings cannot be distinguished and she has no known cycle - like a woman who has just started menstruation - her "Iddah will be three months like a woman in menopause.

"Iddah of a woman whose husband is absent and his fate is not known whether he is alive or dead. The woman waits for four years from the day her husband is declared missing and then observes the "Iddah of a woman whose husband has just died: four months and ten days.

What is the ruling if more than one 'Iddah overlap and what are examples of overlapping of 'Iddah?

1. If a woman is revocably divorced, and her husband dies while she is observing the "Iddah of that divorce, she has to move from the "Iddah of divorce to that of husband's death, which is four months and ten days from the day of her husband's death. This is because a revocably divorced woman is still regarded as her husband's wife, as opposed to the irrevocably divorced one. The irrevocably divorced woman does not need to move from her "Iddah of divorce. The revocably divorced woman has the right to her husband's inheritance while the irrevocably divorced one has no right to his inheritance.
2. If a divorced woman has observed one or two menstrual periods of her "Iddah and then enters menopause, she would move to the "Iddah of women who no longer menstruate: three months of waiting period.
3. If a divorced woman who is already in menopause has started observing her "Iddah of three months, and after a month or two, she saw blood, she should move from the "Iddah of months to that of three menstrual periods. But if she has completed the "Iddah of three months before she saw the blood, then she should disregard that because she has already completed her "Iddah.
4. If a divorced woman has started observing her "Iddah of three months or three menstrual periods and then discovers that she is pregnant, she moves to the "Iddah of a divorced pregnant woman: until she gives birth to the baby. For, Allah says:

﴿وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ﴾

And for those who are pregnant (whether they are divorced or their husbands are dead), their "Iddah (prescribed period) is until they lay down their burdens.

At Talaq 65:4

What is the ruling if a person owns a slave woman with whom he can cohabit?

He should not cohabit with her until he ensures that she is free from any pregnancy. If the woman menstruates, then he should let her have a menstrual period before he cohabits with her. If she is pregnant, he should wait until she unloads her burden. If the woman is already in menopause; he should wait until he is sure that she is not pregnant. The Messenger of Allah said, "No pregnant woman should be cohabited with until she delivers and no non-pregnant should be cohabited with until she menstruates." (Recorded by Ahmad and Abu Dawud)

Furthermore, it is incumbent upon any free woman with whom sexual intercourse is had through an ambiguous marriage, rape or fornication to ensure the purity of her womb from any pregnancy by observing three menstrual periods if she menstruates or to wait for three months if she does not menstruate or to deliver if she is pregnant. The Messenger of Allah said, "It is not lawful for a person who believes in Allah and the Last Day to irrigate the crops of another person (i.e. to have intercourse with a woman impregnated by another person)." (Recorded by Ahmad and Abu Dawood)

What is the meaning of Ihdad and what is its ruling?

Ihdad is for a woman who is in the state of "Iddah to avoid all that could make men to want to have sexual intercourse with her or that could make her attractive to them such as wearing ornaments and perfumes.

A woman, who is observing "Iddah after the death of her husband should maintain Ihdad throughout her period of waiting. She should neither wear beautiful clothes nor adorn her hands with henna or use a perfume or wear any jewelry. The Prophet said, "It is not legal for a woman who believes in Allah and the Last Day to mourn for more than three days for any dead person except her husband, for whom she should mourn for four months and ten days." (Recorded by al-Bukhari and Muslim on the authority of Zainab bint Abi Salamah)

In another Hadith recorded by Al-Bukhari and Muslim, Umm 'Atiyyah - may Allah be pleased with her - narrated, "We were forbidden to mourn for more than three days for a dead person, except for a husband, for whom a wife should mourn for four months and ten days (while in the mourning period) we were not allowed to put kohl in our eyes, nor perfume our-selves, nor wear dyed clothes, except a garment of "Asb (special clothes made in Yemen). But it was permissible for us that when one of us became clean from her menses and took a bath, she could use a piece of a certain kind of incense. And it was forbidden for us to follow funeral processions."

The woman who is observing "Iddah should not go out of her house. And if she has to go out due to a necessity, she must not pass the night except in the house in which her husband left her. The proof for this is the Hadith recorded by Malik in Muwatta', on the authority of Zaynab bint Kab bin Ujrah that al-Furayah bint Malik bin Sinan, the sister of Abu Sa'eed al-Khudri, informed her that she went to the Messenger of Allah (Peace and Blessings of Allah be upon him), and asked to be allowed to return to her people among Banu Khudrah since her husband had gone out in search of some of his slaves who had run away and he had caught up with them near al-Qudum, (which is 6 miles from Madinah), and they had killed him. She said, "I asked the Messenger of Allah

, if I could return to my people in the Banu Khudrah, as my husband had not left me in a dwelling which belonged to him, and had left me no maintenance. The Messenger of Allah (Peace and Blessings of Allah be upon him), said, 'Yes.' So I left. When I was in the courtyard, the Messenger of Allah (Peace and Blessings of Allah be upon him), called me or summoned me, and I answered him. He said, 'What did you say?' I repeated the story about my husband. He said, 'Stay in your house until what is written reaches its term.' I did the iddah in the house for four months and ten days."

Maintenance

What is maintenance?

It is food, clothing and shelter that a person provides for those he is obliged to provide for.

Who are those who must be provided with maintenance? Who must provide this maintenance?

Maintenance must be provided for six categories of people:

Wife whether she is actually under the control of her husband or legally under his control (like a woman who is under a revocable divorce before she completes her period of waiting). This is due to the Prophet's saying, "And your wives' right upon you is that you should be kind to them in terms of feeding and clothing them." (Recorded by At-Tirmidhi)

The woman who is irrevocably divorced should be provided maintenance by her husband while she is observing her "Iddah if she is pregnant. Allah says:

﴿وَإِنْ كُنَّ أُولَاتٍ حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ﴾

"And if they are pregnant, then spend on them till they lay down their burden." At-Talauq 65:6

3. It is incumbent upon a child to spend on his parents. Allah says:

﴿وَبِالْوَالِدَيْنِ إِحْسَانًا﴾

And be dutiful and good to parents. Al-Baqarah 17:23

Muslim reported on the authority of Abu Hurayrah may Allah be pleased with him -who narrated that a person said, "Allah's Messenger, who amongst the people is most deserving of my good treatment?" He said, "Your mother, again your mother, again your mother, then your father." Parents are obliged to spend on their young children.

A master is obliged to spend on his servant. The Prophet (Peace and Blessings of Allah be upon him), said, "A servant has the right to be fed and clothed in a reasonable manner and he should not be burdened with what is beyond his ability." (Recorded by Muslim)

Livestock have the right to provision from their owner. Al-Bukhari and Muslim reported on the authority of 'Abdullah bin Mas'ood -may Allah be pleased with him -that the Prophet said, "A woman was tormented because of a cat which she had confined until it died and so she was entered into Hell. She did not allow it either to eat or drink as it was confined; nor did she free it so that it might eat the insects of the earth."

How much maintenance is obligatory?

The obligatory maintenance is that, which is enough for preservation of life, such as hygienic food and drink; clothing that guards against heat and cold and a reasonably comfortable accommodation.

When does a right to maintenance cease?

The right to maintenance ceases in the following situations:

The wife ceases to have a right to maintenance from her husband when she becomes rebellious or when she refuses to let her husband cohabit with her. For, maintenance is in lieu of the enjoyment he has with her.

A woman who is revocably divorced ceases to have her right to maintenance if she completed her waiting period and her husband did not take her back. With the completion of the waiting period, she becomes irrevocably divorced.

A divorced woman who is pregnant ceases to have a right to maintenance after delivering her baby. However, if she is the one to nurse the baby, then the baby's father must pay her for that. Allah says:

﴿فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَتَمُّوْا بَيْنَكُمْ بِمَعْرُوفٍ﴾

Then if they give suck to the children for you, give them their due payment, and let each of you accept the advice of the other in a just way. At-Talauq 65:6

The parents cease to have right to maintenance if they are rich or if their child becomes poor that he has no more than his own daily bread, for Allah does not burden a soul beyond what it can bear.

The children cease to have right to maintenance if the male has reached the age of puberty and the female has got married. An exception is if the adult male is terminally ill or is mentally deranged, in that case the father's provision of maintenance for him should continue.

What is the ruling if one's blood relations are in need of food or cloths?

A Muslim should be kind to his kith and kin from his paternal and maternal side. If anyone from among them needs food, cloth or shelter, he should provide it for him or her, if he has more than enough. In doing so, he should start with the nearest relatives. The Prophet said, "The hand that gives is the upper hand. Start charity with those who are your dependents: your mother, your father, your sister, your brother and then the next nearest of kin." (Recorded by An-Nasa'i)

What is the ruling if the owner of animals refuses to feed them?

The animals should be sold or slaughtered, in spite of his wish, so that the animals could not be tormented with starvation, and it is forbidden to torment animals. The Prophet said, "A woman was punished because of a cat which she had confined until it died and she was entered into Hell. She did not allow it either to eat or drink as it was confined; nor did she free it so that it might eat the insects of the earth."

Hadhanah

What is the meaning of Hadhanah?

Hadhanah means: right to custody of a child until he is old enough to look after himself.

What is its ruling?

It is obligatory to take care of young children in order to preserve their bodies, minds and religion.

Upon whom is the custody of children obligatory?

It is the parents' obligation to take care of their children. If the parents are no more, then the right of custody goes to the nearest relative. If they have no relative, then the government or the Muslim community should assume that right.

Who has more right to have a child in his or her custody?

If there is separation between the two parents, as a result of death or divorce, the mother has more right to keep the children with her as long as she has not remarried. The evidence for this is the Hadith recorded by Abu Dawood on the authority of 'Abdullah bin 'Amr bin Al-'Aas -may Allah be pleased with him and his father -who narrated, "A woman said, 'Messenger of Allah, my womb is a vessel to this son of mine, my breasts a water-skin for him, and my lap a guard for him, yet his father has divorced me, and he wants to take him away from me.' The Messenger of Allah said, 'You have more right to him as long as you do not re-marry.'"

If there is no mother, then the maternal grandmother should assume the custody; if there is no maternal grandmother then the maternal aunt for, one's grandmother is regarded as one's mother, and the maternal aunt is also in a position of mother. The Messenger of Allah said, "The aunt is like the mother." (Recorded by Al-Bukhari and Muslim)

If there is no maternal aunt, the right of custody moves to the paternal grandmother; if she is not available, then it moves to the children's sister and then to their paternal aunt, then to a female cousin. If none of those mentioned above are available then the right of custody goes to the father, then grandfather, then brother, then male cousin, then uncle and then to the next nearest male relative on the

father's side. The full brother is given preference over half brother and a full sister is given preference over half sister.

When does a person lose the right of custody?

Since the purpose of having a child in custody is to take care of him, and to nurture him physically, mentally and spiritually, it follows that anyone who fails to actualise the purposes of custody should have that right taken away from them. The mother loses the right to custody if she is married to someone who is not a relative of the child under her custody. The proof for this is the Prophet's saying in the above Hadith, "As long as you do not marry". This is because; with her marriage to a man who is not a relative of the child, she will find it difficult to take care of the child as it is due. Likewise, the right of custody is taken away from its holder in the following situations:

1. If the custodian is insane.
2. If she is afflicted with a contagious disease.
3. If she is minor.
4. If she is incapable of taking care of the child to preserve his physical, mental and religious health.
5. If she is a disbeliever because; it is feared that she may negatively influence the child religiously.

How long is the period of custody?

The period of custody lasts until the boy attains the age of puberty and the girl gets married. But if there is a separation between husband and wife, and the mother or somebody else assumes the custody of the child, the girl remains in the custody of her mother (or whoever has her in custody) until she attains the age of seven, after which she is returned to her father, for he has more right to her than any other custodian. As for a boy, when he reaches the age of seven in his mother's custody, he is asked as to which of his parents he wants to stay with afterwards. His custody is then given to whichever of his parents he chooses. If he does not choose any of them, none of them is ready to relinquish the custody to the other, a ballot is taken and the winner has the custody of the child.

Who must be financially responsible for the child's maintenance?

The father must be financially responsible for the kid's upbringing; and he must pay the wages to whoever has the child in her custody, according to his status and financial capability. This is because; the woman who takes care of the child is like a wet-nurse. Therefore, she should be paid wages for her job. Allah says:

﴿فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ﴾

Then if they give suck to the children for you, give them their due payment. At-Talauq 65:6

But if she volunteers to take care of the child free of charge, then there is nothing wrong in not giving her any wages. The wages of a nurse are estimated according to the father or guardian's financial capability. Allah says:

﴿لِيُنْفِقْ ذُو سَعَةٍ مِّن سَعَتِهِ ۖ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا
ءَاتَاهُ اللَّهُ لَا يُلْفِئُ اللَّهُ نَفْسًا إِلَّا مَّا ءَاتَاهَا﴾

Let the rich man spend according to his means; and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him. At-Talauq 65:7

When is a child asked to choose either his father or mother?

If the child attains the age of seven, he is asked to choose either his father or mother. If he chooses his mother, he stays with her during the night and with his father during the day. But if he chooses his father, he stays with him day and night. For, his being with his father in daytime is, in most cases, better for him so that he can give him training and education, which the mother cannot normally give.

Also, if he chooses his father, he should not be prevented from seeing his mother at any time, for maintaining the tie of kinship is obligatory and being undutiful to parents is forbidden.

What is the ruling concerning one of the parents traveling with the child?

If one of the parents wants to travel and come back, the child should stay with the resident parent. If the traveling parent is not coming back, the welfare of the child will be looked into. If he will be better taken care of by the traveling parent, then he is allowed to go with him or her, but if he will be better taken care of by the resident parent, then he is allowed to stay with him or her since the wellbeing of the child is the primary goal of awarding the right of custody.

What is the obligation that must be fulfilled concerning a child who is under someone's custody?

A child put under someone's custody is a trust. The custodian should realize that this trust should be preserved and maintained. If she feels that she cannot give the child adequate care, nurturing and perfect upbringing, then she should relinquish this trust to another person who is capable of maintaining it. The wages that she gets should not be her sole aim, thereby insisting on keeping the child under her custody for that purpose.

On this occasion, the father or the guardian -as well as the judge -should always consider the child's welfare only as far as the right of custody is concerned. This is because; the wellbeing of the child is the only goal that the Shari"ah considers in the right of custody.

Suckling

What is the meaning of suckling?

Nursing is to breastfeed a baby with milk from a woman with a condition that the milk reaches the baby's stomach.

Is suckling a mother's right or her obligation towards the baby?

Suckling is a mother's right. If she opts for suckling her baby, she should be allowed to but it is not mandatory for her to do so. Therefore, she should not be compelled to suckle her baby if she opts not to, except if there is no one to do so. Then it becomes her obligation to suckle the baby due to necessity.

What could be derived from the fact that suckling is a right and not an obligation?

One: It is not permissible for the husband to force his wife to suckle her child. If he forces her and she refuses, she would not be regarded as a disobedient woman. But if there is no other suitable woman to suckle the baby, the necessity then compels the woman to suckle him in order to safeguard the life of the baby.

Two: The husband should give his wife her wages for her suckling of the baby, in accordance to the custom followed in their environment, if she requests for such wages. If she does not request for wages, as is the case these days, then he is not obliged to give her anything. Her right to the wages is forfeited because she has decided to carry out this task free of charge.

What are the consequences of having a baby suckled by other than his mother?

If a woman suckles a boy to whom she is not related, he becomes her foster son and her husband becomes his foster father; the results of such fosterage are as follows:

One: The suckled boy is permanently forbidden from marrying his foster mother and all her relatives whom he is forbidden from marrying if he were her blood son. Among her relatives whom he is forbidden from marrying are: her sister, for she is his foster aunt; her daughter, for she is his foster sister; her granddaughters, for they are his foster nieces; and her mother, for they are his foster grandmother.

He is also forbidden from marrying these categories of women if they are relatives of his foster father the husband of his foster mother. Therefore, he is forbidden from marrying his stepfather's sister because she is his aunt; his stepfather's daughter even if she is born to him by his other wife (and not the one who suckled him) because she is regarded as his sister; his foster father's granddaughters, because they are his nieces; and his foster-father's mother because she is regarded as his grandmother.

Two: It is forbidden for the foster mother and the foster father and all their relatives to marry the foster child -as we have explained -and to marry any of his children or grandchildren. This is because since motherhood by fosterage is considered like motherhood by blood, the above-mentioned female relatives should also be equally forbidden to the boy.

As the foster son cannot marry the daughter of his foster mother, because she is his foster sister, the son of the foster son also can't marry her because she is his foster aunt.

Three: It is permissible for the foster mother and her above-mentioned female blood relations to marry side relatives of the foster son such as his brother, his father and his uncle because they are regarded as strangers to the foster mother and her female relatives.

What are the conditions of fosterage that makes marriage forbidden?

Fosterage only necessitates relationship and makes marriage forbidden if the following two conditions are fulfilled:

One: The suckled child must be less than two years old at the time of suckling. If the child who is suckled has passed the age of two, then such suckling is ineffective in forbidding marriage and it does not establish any relationship with the woman who suckled him.

Two: The boy must take, at least, five sucks at different times. The suck must be separate or otherwise is determined according to the people's custom. If the boy stops sucking and turns his mouth away because he is full, that would be regarded as one suck. If he stops sucking playfully and resumes the sucking immediately, or if he changes from one breast to the other, all that would still be regarded as one suck.

What are the rulings that result from foster relationship?

They are:

1. Forbiddance in marriage.
2. Permissibility of certain things.

Things that are permissible are: seclusion and looking.

If there is a foster relationship between two sides, the relationship leads to forbiddance of marriage with relatives who are forbidden from marrying as a result of blood relationship. Therefore, you are forbidden from marrying your mother and your grandmother, your daughter and your granddaughter, your full sister or your maternal and paternal sisters, your paternal aunt however distant she is, and the daughter of your full brother or your paternal or uterine brother. You are allowed to marry none of the above-mentioned female relatives because of blood relationship.

Therefore, if any of these relationships is brought about through fosterage, it also leads to forbiddance in marriage without differentiation.

Is it permissible for a man to look at his female foster relative and vice versa?

Yes, it is permissible, as long as the look is not lustful because lustful looking at relatives from the opposite sex is forbidden.

Kinship

What is kinship?

Kinship means blood relationship. It is an important foundation for many Shar'iah rulings such as inheritance, lawfulness or forbiddance of marriage, guardianship, bequests and the like.

How is blood relationship established?

Blood relationship is established through one of the following factors:

One: Testimony. For a testimony to be accepted regarding a blood relationship, it has to be made by two men who possess all the conditions of a valid and accepted testimony. Such testimony is not accepted from women or from a man and a woman. This is because, blood relationship is a branch of marriage and, in most cases, marriage is witnessed only by men. As such, women's testimony is not accepted regarding it.

Two: Avowal. A man must avow that he is the father of so and so, or confess that he is the son of so and so.

Conditions for validity of avowal:

Reality should not contradict this avowal such as when the father and the son are in ages that could not make it possible for him to be the father of that son.

The avowal should not be contradicted by the Shari'ah; that is when the son who the man is claiming to be his is known by his lineage to belong to another man. This is because, an established lineage of a person is not transferable to another man through avowal, whether the claimed son believed the confession or not.

The claimed son should confirm the testimony of the avowing father, if he is qualified to do so by being an adult. For, he has right to his lineage, and should know better about it than others.

The avower should not seek to gain any benefit for himself or avert any harm from himself by such an avowal. If that is the case, then his avowal will be considered as mere claim; and a claim is not accepted without proof.

Example of this is when a young man dies and leaves behind a huge amount of wealth and a man appears and claims that the dead young man is his son. The claim of such a man would not be accepted neither would it be counted as an avowal or testimony. This is because, an avowal usually makes the avower indebted or throws a responsibility on his shoulder. Also, testimony is considered when it does not necessitate any benefit or ward off any harm.

Three: It must be widely and unanimously known in the town of the person claiming affiliations to a tribe or ascribing himself to a father that he is truly a member of that tribe or a son of that father.

This abundance in knowledge is considered an authentic testimony and regarded a legal proof of the truthfulness of the claim.

What is the accepted testimony for suckling? Are women's testimony in this regard accepted?

Women's testimony concerning suckling is acceptable. The acceptable testimony in establishing suckling includes:

1. Testimony of two just men.
2. Testimony of a just man and two just women.
3. Testimony of four just women.

What are the rulings relating to kinship?

One: Rulings pertaining to marriage in terms of permissibility or otherwise.

Two: Rulings pertaining to maintenance and arrangement of relating responsibilities.

Three: Rulings pertaining to guardianship and its degrees.

Four: Rulings pertaining to inheritance, sharing of portions and arrangement of categories of inheritors.

Five: Bequeathal and its rulings in terms of validity or otherwise; for many of the causes of bequeathal are traced back to kinship and to whether the person to whom something is bequeathed to is an inheritor or not.

Book of Inheritance and Its Rulings

Mutual Inheritance

What is the ruling on mutual inheritance among the Muslims?

Mutual inheritance amongst the Muslims is obligatory according to the Qur'an and the Sunnah. Allah, High and Exalted, says,

﴿لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرًا نَصِيبًا مَّفْرُوضًا﴾

"There is a share for men and a share for women from what is left by parents and those nearest related, whether the property be small or large - a legal share".

Allah also says:

﴿يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ﴾

"Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females". An-Nisa 4:11

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "Give the Faraid (the shares of the inheritance that are prescribed in the Qur'an) to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased." (Recorded by AlBukhari and Muslim on the authority of Abdullah bin Abbaas - may Allah be pleased with him and his father).

He also said, "Indeed, Allah has prescribed for each of the beneficiaries his due. Therefore, nothing of the estate should be bequeathed to a (prescribed) inheritor." (Recorded by At-Tirmidhi)

Causes of Inheritance

What are the causes of inheritance?

No person has a right to inherit from another except through one of the following means:

1. Kinship (blood relationship). For instance, the inheritor should be a father or a son of the legator or among his side relatives (Hawashi), such as his brothers and their children and his uncles and their children. Allah says:

﴿وَلِكُلِّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ﴾

"And to everyone, We have appointed heirs of that (property) left by parents and relatives". An-Nisa 4:33

2. Marriage: Having a valid marriage contract on the wife, even if no sexual intercourse has taken place and the husband has never been in seclusion with the wife. Allah says,

﴿وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ﴾

"In that which your wives leave, your share is a half". An-Nisa 4:12

In the case of revocable divorce, the husband and wife can inherit from each other; and the woman who is irrevocably divorced can inherit from her husband if he divorced her while he was in the sickness from which he died.

3. Guardianship by manumission. This is when a person frees a male or female slave and assumes by that the right of being his or her guardian. If such a slave dies and does not leave an heir, the person who manumitted the slave has the right to his or her inheritance. The proof for this is the Prophet's saying, "Right of guardianship of a freed slave belongs to the person who manumitted him." (Recorded by Al-Bukhari and Muslim)

What are the things that can strip a person of the right to inheritance?

A person may have cause to inherit from another but may be prevented from having a share of the estate due to some factors, among which are:

Being a Kafir (disbeliever or a non-Muslim). A Muslim is not allowed to inherit from his Kafir relative, and a Kafir is not allowed to inherit from his Muslim relative. Al-Bukhari and Muslim narrated on authority of Usamah bin Zayd - may Allah be pleased with him and his father - that the Messenger of Allah said, "A Muslim cannot be the heir of a disbeliever, nor can a disbeliever be the heir of a Muslim."

Murder. The murderer must not inherit the property of the relative he murdered. This is (part of) the punishment for him over the crime he committed, if the murder is premeditated. The proof for this is the Hadith recorded by Al-Bayhaqi on the authority of Abdullah bin Amr -may Allah be pleased with him and his father -that the Messenger of Allah said, "The murderer has no share of the estate of the person he killed."

Bondage. A bonds man (or woman) cannot inherit or be inherited, whether it is full bondage or partial bondage such as Mub,adh, Mukatab or Umm Walad for each of them is still regarded as being under bondage. However, some scholars exempted the Mub,adh insisting that he can inherit or be inherited in accordance with the freedom he enjoys. They cite as proof a Hadith recorded by Abu Dawood and At Tirmidhi on the authority of Ibn Abbaas - may Allah be pleased with him and his father - that he said, "The Messenger of Allah gave judgment about the slave who had made an agreement to purchase his freedom (mukatab) and had been killed, that blood-wit is paid for him at the rate paid for a free man so far as he has paid the purchase money, and at the rate paid for a slave as far as the remainder is concerned."

Adultery. A child born out of adultery must not inherit from his father nor must his father inherit from him. Such a child can only inherit from his mother and be inherited by her. The Messenger of Allah said, "The child is for the (owner of the) bed and what the fornicator has is the pebble." (Recorded by At-Tirmidhi)

Lilan. A child conceived by whom mutual invocation of curse was made must never inherit from the father who disowned him, neither can he be as inheritance to his father, just like a child born out of an illicit sexual relationship.

Lack of crying at birth. A baby that is born dead and that did not cry at all while it was being delivered should not inherit because it was never alive.

What are the conditions for inheritance?

Inheritance can only be valid by the following conditions:

1. Lack of any of the above-mentioned hindrances.
2. Death of the owner of the property to be inherited from; even if it is legally, such as a judge's declaration of a person dead after he has been missing for a long time. This is because a living person can never be declared dead, according to the consensus.
3. The inheritor should be alive on the day the person he is to inherit dies. If, for example, one of the sons of a woman dies while she is carrying a baby in her belly and the baby then dies shortly after it is born, it is entitled to a part of the estate of his dead brother if he cried on birth and before it dies. It is entitled to a part of his brother's estate because it was alive at the time of his death. But if a woman conceives after the death of one of her sons, the foetus will not be entitled to a part of its brother's inheritance because it has not yet formed.

Males and Females who are entitled to a Share of Inheritance

Who are the males who are entitled to a share of inheritance?

They are of three categories:

Husband. The husband can inherit from his wife if she dies, even if she has been divorced as long as she has not completed her waiting period. If she has completed her waiting period before she dies, then he is not entitled to a share of her estate.

The person who freed the slave or, in case of his absence, his male agnates.

Relatives. There are source relatives, branch relatives and side relatives. The sources are: father and grandfather upward; the branches are son and grandson downward. The close side relatives are full brothers and their children downward and maternal brothers. The far side relatives are uncles and cousins downwards, whether they are father's full brothers or paternal half brothers.

These are the males who can inherit though it could not be imagined that all of them will have share in a single case of inheritance. This is because some of them block others. For, instance, the father blocks the grandfather and uterine brothers; the son blocks the brother; and the brother blocks the uncle. If all of them are found in a single case of inheritance, only three from among them will have shares of inheritance, and they are: the husband, the son, and the father.

Who are the females who are entitled to a share of inheritance?

They are of three categories:

1. Wife.
2. The woman who freed the slave.
3. Relatives; and they are of three categories: Sources (mother, maternal grandmother or maternal grandfather); branches (daughters and son's daughters downward); close side relatives (the sister only). Maternal or paternal aunts, or daughter's daughter' s or sons, brother's daughter or uncle's daughter are not, in any case, entitled to a share of inheritance.

The Prescribed Statutory Portions

What are the statutory portions prescribed in the Book of Allah?

They are six, and are as follows:

A. Half of the estate; it is inherited by five individuals:

- a. The husband, if the deceased woman does not have any child or grandchild.
- b. The daughter, if she has no brother or sister; she can only inherit half if she is the only surviving child of the deceased.
- c. Son's daughter if she is the only survivor and there is no son's son.
- d. Full sister if she is the only survivor and there is no brother with her, and the deceased does not leave behind any father, child or grandchild.
- e. Paternal sister if she is the only survivor and the deceased does not have any surviving brother, father or grandchild.

B. A quarter of the estate; it is inherited by two individuals:

- a. The husband, if the deceased woman has a surviving child or grandchild -male or female.
- b. The wife, if the deceased husband does not have any surviving child or grandchild -male or female.

C. An eighth of the estate; this is inherited by one individual: the wife, and if the deceased is survived by more than one wife, then it is shared among them. This is when the deceased husband is also survived by a child, male or female.

D. Two thirds of the estate; this is inherited by three categories:

- a. Two daughters or more, if they are the only children of the deceased.
- b. Two or more granddaughters (son's daughters) if they are the only surviving grandchildren of the deceased; and the deceased has no surviving child.
- c. Two or more full sisters, if the deceased has no surviving father or child or full brother.
- d. Two or more paternal sisters; if they are the only survivors and there is neither any full brother nor consanguine brother.

E. One third of the estate: it is inherited by three individuals who are:

- a. Mother, if the deceased has no child or grandchild, and has no group of siblings of two or more male or female.
- b. Maternal brothers if they are two or more, and the deceased has no surviving father, grandfather, child or grandchild.
- c. Grandfather, if he survives his grandchild along with the deceased's siblings (who are more than two brothers or four sisters).

Attention: The Remaining Third

If a woman dies and is survived by only her husband, father and mother, her estate is divided into six shares. The husband will have half of that, which is three, the mother will have a third of the remaining shares (which amounts to one share) and her father will have the remaining two shares as an agnate.

If a man dies and is survived by only his wife, mother and father, his estate will be divided into four shares. The wife will have one, the mother will have a third of the remaining shares (which amounts to one share) and his father will have the two remaining shares as an agnate.

In the above two cases, the mother did not inherit one-third of the estate, she only inherited one-third of the remainder. This is how the second Caliph Umar bin Al-Khattaab - may Allah be pleased with him - decided on these two cases, that are later known as Umari cases .

F. One-Sixth of the estate; it is inherited by seven individuals who are:

- a. Mother, if the deceased has a child or grandchild or if he has a group of siblings who are two or more males or females, full siblings or paternal or maternal siblings, whether they are entitled to shares from the estate or they have been blocked by closer relatives.
- b. Grandmother, if the deceased does not have a mother; she exclusively has a sixth of the estate if she is the only surviving grandmother of the deceased. But if the deceased is survived by another grandmother of the same level with her, then a sixth is shared among them equally.

Attention: The original grandmother in cases of inheritance is the maternal grandmother. The paternal grandmother is only added by way of analogy.

- c. Father. He always inherits whether the deceased has a son or not.
- d. Grandfather. He inherits only when the deceased has no father; for the grandfather is then regarded as the father.
- e. maternal brother, whether the deceased is male or female. The uterine brother will inherit a sixth of the estate (if he is the only surviving sibling of the deceased) if the deceased has no surviving father, grandfather, child or grandchild; with the condition that there is no any other maternal brother or sister.
- f. Son's daughter can inherit a sixth of the estate if she does not have any brother or male paternal cousin who is in the same level with her. There is no difference between ones son's daughter or more in inheriting the one-sixth of the estate.
- g. Paternal sister can inherit a sixth of the estate if she is the only surviving sister of the deceased and the deceased has no surviving paternal or uterine brother, or grandfather or child or grandchild.

Ta'sib

Who is an Ta'sib?

An 'Asib is a person who is entitled to take the entire estate of a deceased person if he is the only surviving relative or who has the right to whatever is left after the prescribed statutory portions have been taken and is blocked from having anything if nothing is left of such statutory portions. The Messenger of Allah said, "Give the Fara'id (the shares of the inheritance that are prescribed in the Qur'an) to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased." (Recorded by Al-Bukhari and Muslim on the authority of Abdullah bin Abbaas - may Allah be pleased with him and his father –

What are the categories of Asaba'h?

There are three categories of 'Asabah:

1. **Independent agnates.** They are: Father, grandfather and their ascendants in that order, sons and grandsons downwards, full brothers or consanguine brothers, sons of full brothers or of

consanguine brothers and their descendants in that order, father's full brothers or consanguine brothers, sons of father's full brothers or consanguine brothers and their descendants in that order, independent agnates of the person who manumitted the slave who is deceased and the Muslim treasury.

2. Dependent agnates. It is every female conferred with the status of an agnate by a male relative in inheritance, thereby enabling her to have a share of the estate with him. These females are: A full sister, in a case that involves her and her full brother; a paternal sister, in a case that involves her with her equally consanguine brother; a daughter, in a case that involves her and her brother; a son's daughter, with her brother or a son's son, if she has no prescribed statutory portion. If she has statutory portion, then she cannot be conferred the agnate status by a grandson (son's son) who is below her in degree. For example, if a person dies and is survived by a daughter, a son's daughter and a great grandson, the daughter will have half of the estate, the son's daughter will have a sixth and the great grandson will have the remainder of the estate by virtue of his being an agnate. In another example, if a person dies and is survived by a son's daughter and a great grandson (son of son's son), the son's daughter will have half of the estate as a prescribed statutory portion and the great grandson will take the remaining half by virtue of his being an agnate. If a person dies and is survived by two daughters of a son and a grandson's son (son of son's son), the two daughters of the son will have two thirds of the estate as a prescribed statutory portion and the great grandson will have the remaining third by virtue of being an agnate.

All this is when the son's daughter is equal to or higher than the son's son in degree. But if she is lower than him, then he absolutely blocks her from having any share whatsoever from the estate.

3. An agnate in the company of others. She is every female who becomes an agnate by being in the company of another female. This is a case that involves one or more full sisters with one or more daughters or with one or more daughters of a son.

The same rule applies to the paternal sister in all this cases. Whatever remains after the portions of a daughter or daughters, or one or more daughters of a son, the sister will take that remainder if she is the only sibling of the deceased. She shares it equally with her sisters if she has any.

It needs to be noted here that a full sister is in the position of a full brother. Therefore, she can block the paternal sister; and the paternal sister is like a consanguine brother, so she can absolutely block the brother's son.

What is Mushtarakah case?

If a woman dies and is survived by a husband, mother, maternal brothers and one or more full brothers; her estate should be divided to six portions. The husband will take half of that which amount to three portions; the mother will take one portion which is a sixth, and the uterine brothers will take one third of the entire estate which amounts to two portions. Nothing is left for the full brother because he only inherits here by the virtue of being an agnate. The rule is that an agnate is left with no share of the estate if those with prescribed statutory portions exhaust the estate. This is the rule of the case.

However, Umar - may Allah be pleased with him passed a judgment that a full brother or full brothers should be joined with maternal brothers in the third of the estate, which is to be shared among them equally. For, a full brother is like a maternal brother. Males and females must be treated equally in this case. That is why this case is called Mushtarakah (Goint Case) or Hajariyyah (Stone Case). This is because; when the full brothers came to Umar may Allah be pleased with him -after being initially blocked, they said: "Assuming that our father is a stone, didn't we all have a single mother? How could we then be prevented from having a share while our (maternal) brothers are given a share?"

'Umar was convinced by their argument and ordered that they should be joined with their maternal sister in sharing the third of the estate.

Hajb (Exclusion)

What is the meaning of Hajb?

Hajb is to exclude an heir from having any share of the estate or from having their full portion.

What are the types of Hajb?

There are two types of Hajb:

Hajb Naqs (Partial Exclusion): Moving an heir from having an ample prescribed statutory portion to having a smaller portion or from having a prescribed statutory portion to only inheriting by being an agnate or from inheriting as an agnate to having a prescribed statutory portion.

Hajb Isqat (Complete Exclusion): Preventing a person totally from having any share of the estate whatsoever.

Who are the heirs who can block a part of what others are entitled to?

They are six individuals:

Son or son of son in descending order: They reduce the portion of the husband of a deceased woman from half of the estate to a quarter; they reduce the portion of the wife of a deceased husband from a quarter to an eighth of the estate and they move the father and grandfather from inheriting as agnates to having a prescribed portion of a sixth of the estate.

Daughter: A daughter reduces the portion of a son's daughter by moving it from a half to a sixth, the portion of two daughters of a son from two thirds to a sixth, the portion of a full sister or paternal sister from a half to a sixth, the portion of two full sisters or two paternal sisters from two thirds to making them inherit as agnates, the portion of the husband from a half to a quarter, the portion of the wife from a quarter to an eighth, the portion of the mother from a third to a sixth, and moving the father and grandfather from inheriting as agnates to having a prescribed statutory portion of a sixth of the estate. However, both of the father and grandfather can have whatever is left of the estate, as agnates, after all those who have a prescribed portion had taken their portions, if anything is left.

Son's daughter: The son's daughter reduces the share of a remoter granddaughter or granddaughters of the same degree, if they do not have someone such as a brother or a male cousin who is on the same level of relationship with them and can share agnatic status with them. In this case, the share of that remoter granddaughter is reduced from a half to a sixth if she is alone and from two thirds to a sixth if they are two or more. She also reduces the full sister or consanguine sister who should have inherited a half of the estate into an agnatic residuary, and two and more full sisters or two and more consanguine sisters who should have inherited two thirds of the estate into agnatic residuaries.

In the same way, her existence reduces the shares of the husband, the wife, the mother, the father and the grandfather.

Two brothers more partially exclude the mother by shifting her share from a third to a sixth.

One full sister partially excludes the consanguine sister by reducing her share from a half to a sixth, if she does not have a consanguine brother who can share agnatic status with her. She also partially excludes the two and more consanguine sisters by shifting their share from two thirds to a sixth, if they do not have any consanguine brother who can share the agnatic status with them.

What is the meaning of Complete Exclusion?

It is to totally exclude an heir from inheriting what he normally inherits with the existence of the excluder.

Who are nineteen heirs that totally exclude other heirs?

They are:

1. Son: His existence totally excludes the grandson, granddaughter, all brothers and all uncles.
 2. Grandson: His existence totally excludes great grandson and great granddaughters and all other heirs that the son excludes.
 3. Daughter: Her existence absolutely excludes the consanguine brother.
 4. Son's daughter: Her existence absolutely excludes the uterine brother.
 5. Two or more daughters: Their existence absolutely excludes consanguine brother, grandson or granddaughters, except if the granddaughter or granddaughters have a brother or a male consanguine cousin who is on the same degree with them and can share agnatic status with them.
 6. Two or more granddaughters: Their existence totally excludes a consanguine brother and grandson's daughter or daughters except if they have a brother or a male consanguine cousin who is on the same degree with them and can share agnatic status with them.
 7. The full brother: His existence totally excludes a consanguine brother and uncle.
 8. Son of full brother: His existence totally excludes the uncle, son of consanguine brother and whoever is remoter such as grandsons of the brother.
 9. Consanguine brother: His existence totally excludes the uncle and the son of full or consanguine brother.
 10. Son of consanguine brother: His existence totally excludes the uncle or remote relatives of the same category.
 11. Full uncle: His existence totally excludes the paternal uncle and any other remote relative such as sons of paternal uncle.
 12. Son of full uncle: His existence totally excludes the son of paternal uncle and other remote relatives such as grandsons of uncles.
 13. Paternal uncle: His existence totally excludes sons of uncles.
 14. Full sister along with the daughter: This combination totally excludes a consanguine brother because the full sister in this case occupies the position of a full brother, and with the existence of a full brother, the consanguine brother is excluded.
 15. Full brother along with son's daughter: In this combination, any consanguine brother is excluded.
 16. Two full sisters: Their existence totally excludes consanguine sister, except if she has a consanguine brother with her through whom she can jointly inherit as & agnate.
- Based on this, the combination of a consanguine sister and two full sisters is like that of a son and two daughters. In this case, the consanguine sister is excluded except if she has with her a brother or a male consanguine cousin who is on the same degree with her and can share agnatic status with her.
17. Father: His existence totally excludes the grandfather, paternal grandmother, uncles and brothers.
 18. Grandfather: His existence totally excludes great-grandfather, the consanguine brothers, uncles and brother's sons.

19. Mother: Her existence totally excludes the grandmother.

Cases of Inheritance involving Grandfather

What are the cases of inheritance involving grandfather?

They are cases involving the grandfather and each of the following: grandsons, uncles, uncles' sons and brothers' sons. Though there is no explicit text in the Qur'an indicating their right to inheritance, their inheritance is affirmed by the following saying of the Prophet "Give the Fara'id (the shares of the inheritance that are prescribed in the Qur'an) to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased." (Recorded by Al-Bukhari and Muslim on the authority of IAbdullah bin IAbbaas -may Allah be pleased with him and his father) Also, son's son and son's daughter are included in Allah's statement,

﴿يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ﴾

"Allah commands you as regards your children's (inheritance)" An-Nisa 4:11

Therefore, there is a consensus among the scholars that the above-mentioned relatives can inherit. Allah says:

﴿وَوَرَثَهُ أَبَوَاهُ﴾

"And the parents are the (only) heirs". An-Nisa 4:11

He also says,

﴿وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ﴾

"For parents, a sixth share of inheritance to each". An-Nisa 4:11

Since the word 'parents' in the above statements also applies to the grandfather, it follows then that he should be entitled to a sixth of the estate of his son or grandson (in absence of the deceased's father, of course). He can also take the entire estate if he is the only survivor and the residual if the deceased is survived by owners of prescribed statutory portions and each of them have taken their portions.

The only area in which he differs from the father is in a case that involves brothers. If a deceased is survived by a father and brothers, the existence of the father totally excludes the brothers from having any share of the estate. But if he is the grandfather, he cannot exclude them. He shares the estate with them because, he is at the same level of nearness to the deceased. For, the link between the brothers and the deceased is their father and the link between the grandfather and the deceased is also the father, who is grandfather's son.

In the light of the above, there are five cases that involve the grandfather:

If there is no other inheritor with him, then he takes all the estate as an agnate.

If there exists with him people of prescribed portions, they are given their portions and he also is given a sixth of the estate as a prescribed portion; and, as an agnate, he takes whatever is left.

If the case involves him and a son or a grandson, he is only given a sixth of the estate as a prescribed portion.

If the case involves him and only the brothers of the deceased, he is given whichever is greater: a third of the estate or an equal share with the brothers. An equal share with the brothers is greater if the deceased's siblings are not more than two brothers or four sisters.

If the case involves him, brothers and people of prescribed portions, he is given whichever is greater of the following: a sixth of the entire estate, a third of the residual or an equal share with the brothers. If the entire estate has been exhausted by the prescribed portions, then the brothers are excluded but the grandfather should not be excluded for he is given a sixth of the estate as a prescribed portion, even if he causes 'Awl in the case.

What is the meaning of Mu'addah?

When a case involves a grandfather, full brothers and consanguine brothers, the full brothers are put on the same level with the grandfather, and upon that basis have equal shares with him and exclude the consanguine brothers. An example of this is when a deceased is survived by a grandfather, a full brother and a consanguine brother. In this case, there are three portions: one for the grandfather, one for the full brother and one for the consanguine brother. However, since the grandfather and the full brother have been put on the same level and the consanguine brother has been relegated, then the full brother will return and have the share of the consanguine brother, because, as previously mentioned, the full brother excludes a consanguine brother in any case of inheritance.

What is the Akdariyyah case?

When a woman dies and is survived by her husband, mother, a full or consanguine sister and her grandfather, the case is that of sixths. Her husband will have a half of these six shares, which is three; her mother will have a third, which is two; her sister will have a half which is three; and the grandfather will have a sixth, which is one.

The prescribed statutory portion of the husband is half and that of the two full sisters is two thirds. If the husband is given his full share, what the sisters will have will be less than their prescribed portion which is two-thirds; and if the sisters are given their full portions, what the husband will have be less than his prescribed portion.

(In order to accommodate both the sister and the grandfather), the case becomes that of nines. The grandfather will request the sister to return what she has which is three so that it could be added to what he has, which is one, thereby becoming four. The total will then be divided between them with the male having twice the share of a female.

This case is specifically mentioned because; normally sisters do not get anything when there is a grandfather except in this case in which the portions of the grandfather and the sister are put together and then divided between them with the male having twice the share of the female. This case is called Akdariyyah [derived from the root word kadara, which means: to spoil]. The share of the sister is 'Ispoil' because much is apportioned for her but what she gets is less.

Tashih

What are the basic portions?

They are seven: two, three, four, six, eight, twelve and twenty-four.

Half is from two, a third is from three, a quarter is from four, a sixth is from six and an eighth is from eight. If there are heirs whose fixed portion is a quarter and a sixth of the estate, the estate is divided into twelve shares; and there are heirs whose fixed portions is an eighth, a sixth or a third, the estate is divided into twenty-four shares.

Some examples of this:

1. When a person dies and is survived by a husband and a brother, the case is that of two. The husband gets a half and the brother gets the other half.
2. If a person dies and is survived by a mother and a father, the case is that of four. The mother gets a third and the father gets the residual as an agnate.
3. If a person dies and is survived by a wife and a brother, the case is that of four. The wife gets a quarter of the estate and the brother gets the residuals as an agnate.
4. If a person dies and is survived by a mother, a father and a son, the case is that of six. The mother gets a sixth, the father gets a sixth and the son gets the residual as an agnate.
5. If a person dies, and is survived by a wife and a son, the case is that of eight. The wife gets an eighth and the son gets the residual as an agnate.
6. If a person dies and is survived by a wife, a mother and an uncle, the case is that of twelve because there is a quarter and a third in this case. The wife gets a quarter, the mother gets a third and the uncle gets the residual as an agnate.
7. If a person dies and is survived by a wife, a mother and a son, the case is that of twenty-four because there are an eighth and a sixth in it. The wife gets an eighth of the estate which amounts to three shares, the mother gets a sixth which amounts to four shares and the son gets the residual as an agnate.

Awl

What is Awl?

It means an increase in the prescribed portions and a decrease in the shares of the heirs.

What is the ruling concerning it?

All of the Companions, with the exception of IAbdullah bin IAbbaas -may Allah be pleased with them all -agree on acting upon it. Therefore, it is practiced by all the Muslims.

What are the cases in which Awl is applied?

It is applied to three basic cases only, and they are: sixths, twelfths and twenty-fourths.

Six shares are re-divided into ten in single and double numbers; twelve shares are re-divided into seventeen with only single number and twenty-four shares are re-divided into twenty-seven with only single number, as well.

What are the examples of the above?

1. Re-division of six into seven: When a person dies and is survived by a husband, a full sister and a grandmother, the case is of six shares. The husband gets a half of the estate which amounts to three shares,

the full sister gets a half which amounts to three shares, the grandmother gets a sixth of the estate which amounts to one share. But since the basic six shares cannot accommodate the number of the heirs, then it is re-divided to seven.

2. Re-division of six to eight: If a person dies and is survived by a husband, two full sisters and a mother, the case is that of six, the husband gets a half which is three shares, the two full sisters get two-

thirds which is four shares and the mother gets a sixth which is one share. But since the shares cannot accommodate the number of heirs, the estate is re-divided to eight shares.

3. Re-division of twelve into thirteen: If a person dies and is survived by a wife, a mother and two consanguine sisters, the case is that of twelve because there are those with a fixed share of a sixth and a quarter among the heirs. The wife gets a quarter which are three shares, the mother gets a sixth which is two shares and the two consanguine sisters have two thirds which is eight shares. Since the shares cannot accommodate the available heirs, the estate is re-divided to thirteen shares.

4. Re-division of twenty-four to twenty-seven: When a person dies and is survived by a wife, a (paternal) grandfather, a mother and two daughters, the case is that of twenty-four because there is an heir with a fixed share of an eighth and another with a fixed share of a sixth. The wife gets an eighth which is three shares, the grandfather gets a sixth which is four shares, the mother gets a sixth which is four shares and the two daughters get two-thirds which is sixteen shares. To accommodate all the heirs, the estate is redivided to twenty-seven.

Ta'seel

What are the Situations of Heirs?

Heirs can be either male agnates only or can be a combination of male and female agnates. They can also be agnates along with heirs with fixed shares; and they can be heirs with fixed shares only.

If the heirs consist of agnates only, the case is classified according to the heads. For example, if a person dies and is survived by only three sons; the estate is divided into three shares and each of them has a share. If the heirs are a combination of male and female agnates, the estate is also divided according to the number of their heads. However, in this case, a male gets twice as much as the share of a female. For example, if a person dies and is survived by a son and two daughters, the estate is divided into four shares, the son has two shares and each of the daughters has a share each.

If there is an heir with a fixed share among them, then the estate is divided in line with that fixed share. For instance, if a person dies and is survived by a husband, a son and a daughter, the estate is divided into four shares in consideration to the heir whose fixed share is a quarter. The husband gets a quarter of the estate which amounts to one share, the son gets two shares and the daughter gets a share on the basis that a male gets as twice as the share of a female.

What are the four concepts?

If an inheritance case involves one or more heirs with fixed shares, the situations have to be looked into through four considerations: matching (similarity), interlocking (intergradations), congruity and disparity. This is in order to standardize the case.

In a matching case such as two halves or two sixths, we make do with one of the two matching cases as the basis for the case and the division is done on that basis, for example, a husband and a full sister. The husband will have half of the estate and the full sister will have the other half. So, one of the two fixed shares is used as the basis because they are similar.

If the cases are interlocked such as six or three, only the bigger number is chosen because the smaller number is contained by the bigger one. So the bigger is regarded as the basis for dividing the estate.

The case here is that of the sixths. The mother gets a sixth which amounts to one share, the maternal brothers gets a third of the estate which amounts to two shares and the paternal uncle gets the residual as an agnate. Here, the sixth is reckoned with as the basis for dividing the estate because it is the larger number.

In case of Tawaafuq, the least of the two harmonious numbers will be looked into and the half of one of the two numbers is multiplied by the whole of the other number. The result of this multiplication will be regarded as the basis for the case upon which the estate is then divided.

Example: If a person dies and is survived by a husband, a mother, three sons and a daughter; the husband gets a quarter and the mother gets a sixth. There is a harmony between the two numbers (4 and 6) because each has a half. The half of one of the numbers is multiplied by the whole of the other number and the result is regarded as the basis for the case.

In the case of Takhaluf, that is when the case involves two numbers that are not harmonious in any way such as three and four. One of them is multiplied by the other and the result is regarded as the basis for the case upon which the estate is divided.

An example: If a person dies and is survived by a husband, a mother and a full brother; the husband gets the half whose denominator is two and the mother gets a third whose denominator is three. Since there is a disparity between these two numbers, two is multiplied by three. The result we get is six, so the number 6 is regarded as the basis for this case upon which the estate is divided.

What is the Inkisariyyah case?

This is a situation when some shares are not divisible to the heirs. A look is taken at the shares and the heirs. If there is a correspondence of ratios between them, the denominator is put on top of the basis of the share and the number of the heirs is multiplied by that denominator. The result is put in another column beside that of the basis column. What each of the heir has is then multiplied by the denominator put on top of the basis of the share and the result is shown in front of it under the detailing column. An example of this is when a person dies and is survived by a husband, two sons and two daughters.

If there is no correspondence of ratio between them, the number of the heirs is put on top of the share basis and this number is multiplied by the denominator. The result is put in another column. What each of the heirs has is then multiplied by the number on the top of the share basis and the result is shown in front of it, under the detailing column.

Example: If a person dies and is survived by a wife, a son and a daughter, the problem is that of eight shares. The wife will have an eighth which is one share. The remainder which is seven shares will be shared by the agnates, but this number is indivisible for they comprise of three heads on the basis of the male having as twice as the share of a female. Since there is a disparity between the shares and the number of the heads, the whole number of the heads of the heirs, which is three, is then put on top of the share basis and it is then multiplied by it.

That is if the indivisibility of the shares happens in the case of a group of heirs. If the indivisibility occurs in the case of more than a group, then a look must be taken at each group and its indivisible share in terms of Tawaafuq and Takhaluf. The numbers behind each group is then returned to and considered in the light of the four concepts. In Tamathul, one of the numbers is chosen, in Tadakhul, the bigger number is chosen because the smaller one is incorporated in the bigger one. In Tawaafuq, the result derived from multiplying denominator by the whole corresponding number is chosen and in Takhaluf, the entire different number is multiplied by the entire other number and the result is put on top of the share basis. This result is then multiplied by the share basis. The result gotten is put in another column.

Example of indivisibility of two groups:

If a person dies and is survived by two wives and two brothers, the problem is that of four shares. The wives will have one share, which is indivisible between them and the two brothers, as agnates, get the remaining three shares, which is also indivisible between them. The share of the two wives and the number of its heads will be looked into and it will be found that there is a disagreement between them, the number of their heads, which is two will then be put behind them. A look is also taken at the two

full brothers and their shares and it will be found that there is a disagreement between them because there is no compatibility between the numbers 2 and 3. The number of the heads of the two full brothers will then be put behind them.

When the number of the heads of the two full brothers and the two wives is then looked into, it will be discovered that there is compatibility between them, so one of the numbers is chosen and put on top of the share basis and multiplied by it and the result is put on another column

The example of a case in which there is a Tadakhul and a Takhaluf is if a person dies and is survived by four wives, three daughters and two full brothers.

It is noticed that the indivisibility is on three groups and each group was not compatible with the number of its shares. So the number of heads of each group was put behind it. Then when the number of the heads of each group was looked into, it was discovered that there is a Tadakhul between 2 and 4, so the biggest number which is 4 is then chosen. Then a look was taken at the 3 and 4 and it was found that there is a Takhaluf, so the whole of one of the two numbers was multiplied by the other (i.e. 3×4 or 4×3) and the result got was 12. So this result was put on top of the share basis and it is then multiplied by it and the result got was 288, and this number was then put in another column.

Division of the Estate

What are the ways of dividing the estate?

There are different ways of dividing the estate. We are going to mention only two ways.

One: If the inheritance is a commodity, it would be divided into twenty-four parts and each of these parts is called a qirat (a unit of measurement). How this is done is that the number 24 is put in a column beside the detailing column. If there is Tamathul between the numbers from which the share is detailed and the qirats, then the matter is easy. What you do is to take what each of the heirs has and put it under the column of qirats; that will be the heir's share of the qirats. Example of this is a problem of a person who dies and is survived by a wife, mother and a son.

If there is no Tamathul between the qirats and the numbers detailed from the share, but there is a common dividing factor between them in any form, the dividing factor of the qirats is put on top of the share column and the dividing factor of the share is put on in a column behind the qirats column and the share of each heir is multiplied by the dividing factor put on top of the share column. The result is then divided on the share factor put in another column behind the qirats column. If it is a whole number, it is put under the qirats column and if it consists of a whole number and a divisible number, the whole number is put under the qirats column and the divisible number is put under the other column which is the dividing factor of the share and the divisible number becomes a part of what is on the top.

While testing the process, the whole numbers are added together first, the divisible numbers are then added. If the result of this addition is twenty-four in accordance with the number of qirats, the action is valid; if not then it is invalid.

Example of this is when a person dies and is survived by a husband, mother, a son and a daughter.

It is noticed here that the origin of the problem is 12 detailed to 36 because it is impossible to divide the share of the son and the daughter between them. The action goes exactly according to the previous rule.

Another example is when a person dies and is survived by a wife, mother and a full brother.

Here, it is noticed that the lowest common denominator is half of a sixth. So the half of a sixth of the qirats is put on top of the share, and the rest of the process is done as earlier explained.

If there is disparity between the qirats and the numbers detailed from the share, the entire qirats which is 24 is put on top of the share and the whole number of the shares is put in another column behind the qirats column. What each of the heirs has is then multiplied by what is on top of the share. The result of this multiplication is then divided on the entire share that is then put in another column outside the division. If it is a valid number only, you put it in front of the heir to whom it is allotted under the qirats column. If there is an indivisible number there, the valid number is put under the qirats column and the indivisible number is put under another column and the indivisible number then becomes a part of that number.

If those indivisible numbers are added together, they form a valid number. This valid number is then added to the other valid numbers thereby making the number of qirats twenty four.

The example of this is when a person dies and leaves behind a wife, mother and two consanguine sisters.

Observation:

There is disparity between the share and the qirats because there is no commonness between 13 and 24 in any way. That is why we put the entire number of qirats on top of the share and the entire number of the shares in another column behind the qirats column.

The fractions that are under another column after they have been added together formed a valid number which is two. And these two are put under the qirats column. With these two, the number of the qirats becomes 24.

Two: If the estate is money such as dinar and dirham. The process is not different from the way of Taqrit. It is only that the entire estate (i.e. the number of dinars and dirhams) are put in the column in which the number of qirats is put.

Here is an example:

If a person dies and is survived by her husband and a son, and she leaves behind an amount of money which is forty riyals.

Here, if we look at the share and the estate, we would see that there is a common dividing factor between them. So we take the dividing factor of the estate and put it in a column. We then put the dividing factor of the estate which is 10 on top of the share and we multiply the share allotted to the husband, which is 1 by what is on top of the share and what we get is 10. This 10 is then divided by the factor of the share which is 1 and the result we get is the same 10, which is then put in front of the heir to whom it is allotted. We do the same with what is allotted to the son. So the husband gets 10 out of 40, which is a quarter and the son gets 30 which is three-quarters.

Another example: A person dies and is survived by a wife, mother and a full brother, and the estate is 60 dirhams. It is noticed here that there is common dividing factor of 1/6.

Another example for a case in which there is a difference between the share and the estate is when a person dies and is survived by a wife, mother and father, and the estate is 235 dirhams.

Here, it is observed that there is no conformity between the share and the estate. It is also observed that there is no difference between the procedure and the one followed in the case of Taqrit, except that the qirats is replaced by the estate. As for the rest, the same procedure is followed exactly.

The wife gets a quarter of the estate which is 3. This number is multiplied by the estate (235) and divided on the foundation of the share, which is 12. So she gets 58 dirhams; this number is put in front of her under the column of the estate. Then there remains a fraction, which is 9 and it is put under the foundation of the share which is 12 and tallied up against it like this: $9/12$, which is equal to the. The mother's share will be multiplied by the number put on top of the share column. The result is divided by 12 and we get 58. The father's share is also multiplied and then divided and the result will be 97 and

a fraction of 11 out of 12. If all the fractions are added together, the result will be 24, which means two valid numbers. The number 2 is then put under the numbers at the bottom of the chart.

Munasakhah

What is Munasakhah?

Munasakhah is a process by which what the heirs of a later deceased person deserve from the heirs of an earlier deceased person before the estate is divided. The way to do that is to detail the share of the first deceased person and to put the letter (d) as an indication of the death of the heir opposite of whom the letter is put.

Then the heirs of the earlier deceased person are mentioned with their new titles by which they deserve inheritance. For instance, a person who was a wife in the earlier estate can become a mother in the latter estate. So these heirs are mentioned in front of their shares in the earlier inheritance. If there are one or more new heirs, they are put in a chart beneath the first chart, then their problem is detailed and a consideration is made between the result of the detailing and the shares of the deceased. If the shares are divisible on the second share, then the two problems will be detailed by which the first share is detailed.

Example: A person dies and is survived by a husband, mother, a son and a daughter; the husband then dies and is survived by the earlier mentioned son and daughter. The first problem is of 12 but detailed to 36 because of the indivisibility of the shares of the son and the daughter between them.

The second problem consists of three in which the share of the deceased is nine.

The two problems then detailed to 36. Another column called Munasakhah column is formed. In this column, the number detailed from the first share which is 36 is transferred there and the shares are equally transferred and put beneath it. The heir who is not apportioned any share in the second problem will have his share from the first problem put under the Munasakhah column in front of him or her.

The heir who is apportioned a share in the second problems will have his share multiplied by the number on top of the share column. The result is then added to his share in the first problem, if he is apportioned anything thereof. And the total is put in front of him under the Munasakhah column.

If the shares of the deceased are not divisible on the second share, the matter is looked at as far as Muwafaqah and Mukhalafah are concerned. If the shares of the deceased have the lowest common dividing factor with the second share, then the wafq of the shares is taken and put on top of the share column, and the wafq of the share is taken and put on the earlier share. This later wafq is multiplied by the first share and the result is put in another column, which is Munasakhah column. Then what is in the hand of the heir is multiplied by what the wafq that is top of the first share and the result is put in front of the heir under the Munasakhah column. If the heir is allotted a portion of the second share, that portion is multiplied by what is on top of the second share and the result is added to his allotment of the first share. The total is then put in front of the heir under the Munasakhah column.

Example: A person died and is survived by a wife, a daughter and a full sister. Then the daughter died and is survived by her mother, who is a wife in the earlier estate, and her husband and a son.

The first problem is of eighths, and the second problem is of twelfths. Between the shares of the deceased which are 4 and the detailed second share which is 12 is Tawaafuq. The wafq of the shares which is 1 is then put on top of the second share; and the wafq of the second share, which is 3, is put on top of the first share. The rest of the procedure is done as earlier explained.

If there is a Mukhalafah between the shares of the first case and the shares of the second case, the shares in their entirety should then be put on the column of the second share. The second share is then put on

the first share and Corresponding proportionate number multiplied by it. A Munasakhah column is formed behind the column of the second share and the result of this multiplication is put in that newly-formed column. The rest of the procedure is the same as above.

Example: A person died and is survived by a wife, three sons and a daughter. The wife then died, leaving behind her three sons and daughter.

There are two observations here:

The deceased did not leave a new heir who could be put in a column under the first one.

The procedure is done exactly as above.

Share of a Hermaphrodite

Who is a Hermaphrodite?

Hermaphrodite is a person whose sex could not be ascertained at the time of birth. Such a person is expected until they reach an age of puberty so that his situation would be clear by then.

The most preponderant view of the scholars is that he is given the least of the two shares he is entitled to. The way to do this is to hypothetically allot him a share of a male heir as well as a share of a female heir. He is then given the less of these two shares. The remaining part of the allotment is then withheld until the sex he belongs to is clearly determined. If he dies, before this is determined, then the remainder is distributed to his heirs.

Application:

One: A person died and survived by a son, a daughter and a hermaphrodite child. If the hermaphrodite is hypothetically estimated to be a male child, the problem is of 5 due to involvement of two sons and a daughter. If the hermaphrodite is hypothetically regarded a daughter, the problem is of four due to involvement of a son and two daughters.

Here, we create a column for the two problems, the son gets eight shares, the daughter gets four and the hermaphrodite gets five. The remaining three shares are withheld until the sex the hermaphrodite actually belongs to is determined.

Two: A person died and is survived by a wife, mother, and a full hermaphrodite sibling. If the hermaphrodite is hypothetically estimated to be a female, the problem is of six shares that are accommodated to eight. If the hermaphrodite is hypothetically estimated to be a male, the problem is of six shares without any accommodation. The common number between the two is 24. The husband gets 9 shares, the mother gets six shares and the hermaphrodite gets 6 shares and five shares are withheld.

Three: A person died and is survived by a wife, a full sister and a consanguine hermaphrodite sibling. If the hermaphrodite is hypothetically estimated to be a male, the problem is of two shares and if the hermaphrodite is hypothetically estimated to be a female, it is of seven shares. The common between the two problems is 14. The husband gets six shares and the full sister gets six shares. The remaining two shares are withheld and the hermaphrodite sibling is not given anything.

Inheritance of the Fetus, the Lost Person and the Drowned

How is the estate divided if an unborn baby is involved?

As for the unborn baby, if the heirs like, they could postpone the division of the estate until the fetus is born. If they wish they could hasten the division. But in this case, the unborn baby is treated like a hermaphrodite, whereby its remaining share of the inheritance is withheld until it is born.

Example: If a person dies and is survived by a pregnant wife, the wife gets an eighth of the estate if the fetus is alive at birth; but if she is not pregnant or the fetus is stillborn, she gets a quarter. That is the basic rule. But here, she is given only an eighth of the estate because delivering the baby alive is what is uncertain. The rest of the estate is then withheld until the baby is born. If the baby is born alive, the wife will have nothing (in addition to the eighth she has already had). But if the baby is stillborn, her share of the estate, which is a quarter, is completed for her because her husband did not leave behind any child.

How is the estate distributed if a missing person is involved?

If a missing person is involved and the other heirs want to share the estate before it is ascertained whether the missing heir is alive or not, then their case is the same as that of the unborn baby with the other heirs. Each of the heirs is given the lesser of the two shares he or she is likely to have and the remainder is withheld until it is decided legally that the missing person is dead or alive.

Example: If a person dies and is survived by two sons of whom one is missing, the available son will be given a half of the estate and the second half is withheld until it is certain that the other son is dead or alive.

Another example: If a person dies and is survived by a wife, mother and two brothers of whom one is missing, the wife will be given a whole quarter -for the fact that a brother is missing or does not affect her. As for the mother, she is given a sixth of the estate. The brother will be given the half of remainder and the other half is withheld. If it is ascertained that the missing brother is dead, then the mother will have a third of the entire estate and the living brother will have the entire remainder after the wife and the mother have had their shares. The problem of 12 upgraded to 23.

What is the ruling, concerning drowned persons, persons crushed to death by a collapsed structure and persons who died in an inferno?

According to the people of knowledge, drowned persons, persons crushed to death by a collapsed structure and persons who died in an inferno cannot inherit from one another. It is only the heirs of each who can inherit him or her.

Example of this: If two brothers died in an accident and it is not known who died first, and one of them is survived by a wife, a daughter and a paternal uncle; and the other is survived by two daughters and the same uncle, the rule is that only the heirs of the each of them should inherit from him. The first brother should be inherited by his wife, who is given an eighth of his estate, his daughter gets the half of his estate, and his paternal uncle gets the remainder. As for the second brother, his two daughters get two-thirds of his estate and the same uncle gets the remainder, which amounts to a third.

Shares of Kith and Kin

Who are the kith and kin?

They are relatives for whom nothing is allotted of the inheritance and they are eligible to inherit as agnates. They are, for example, a maternal uncle, maternal aunt, paternal aunt, paternal female cousin, sister's son, sister's daughter and daughter's children.

What is the ruling, concerning apportioning to them shares from the estate?

The scholars differ on this case. Some of the Prophet's Companions, their successors and the leading Imams, such as Imams Malik and Ash-Shafi'i, are of the view that nothing should be apportioned to them, for Allah did not apportion anything to them in His Book. He Himself has undertaken the division of the estate and has clearly restricted it to those whom he allotted these statutory portions and the agnates.

However, there are scholars such as Imam Abu Hanifah and Imam Ahmad who believe that members of the kith and kin may be allowed to inherit. They support their view with a report that indicates that the Messenger of Allah allowed some members of the kith and kin to inherit from a person when none of the heirs, whom Allah mentions in His Book, were available, and that he said: "The maternal uncle is an inheritor to a person who has no inheritor." (Reported by Abu Dawood and At-Tirmidhi; but it is a weak narration)

The favored opinion is the second one. That is why many of the Maliki and Shafi'i scholars abandoned the view of their Madh-habs for it. This is because; the kith and kin are relatives who must be shown kindness. There is a tie of blood and Islam between them and the deceased, as opposed to the Muslim treasury with whom the deceased has no tie but only that of Islam.

What is the process followed in apportioning shares to members of the kith and kin?

They are put in place of those with statutory portions and agnates through whom they relate to the deceased. If a person dies and is survived by a daughter's daughter and a sister's son, each of them is given half of the estate. The daughter's daughter has her mother's share and the sister's son has his mother's share. For, if the deceased had been survived by his daughter and sister, each of them would have had a half of his estate.

If the sister is a full sister and there is with her a consanguine brother's daughter, the latter will have nothing because the relative through whom she relates to the deceased (the consanguine brother) is already excluded by the full sister. So, the estate is to be shared between the daughter's daughter and sister's son, each having a half.

Example: If a person dies and is survived by the daughter of a full sister, a daughter of a consanguine sister, a son of maternal sister and a daughter of a full uncle, the daughter of the full sister gets half of the estate on behalf of her mother through whom she gained relationship with the deceased, the daughter of the consanguine sister gets a sixth, which is the share of her mother with whom she gained relationship with the deceased, the son of the maternal sister gets a sixth which is the share of his mother, and the daughter of the full uncle gets the agnatic remainder, which belongs to her father who would have gotten it as an agnate had he been alive.

Another example: If a person is survived by a daughter's daughter, a full sister's son and a maternal sister's son, the daughter's daughter gets a half of the estate that would have been gotten by her mother had she been alive and the full sister's son gets the other half that would have been the share of his mother had she been alive. But the son of maternal sister gets nothing because his mother through whom he is related to the deceased would not have had anything had she been alive due to the existence of the daughter who already has excluded her. Equally, a paternal brother's daughter will get nothing because her father, through who she is related to the deceased, is excluded with the existence of the full sister.

Another example: If a person dies and is survived by a maternal aunt and a paternal aunt, the maternal aunt will have a third of the estate because that is the share of the mother through whom she becomes related to the deceased. The paternal aunt will have the residual two-thirds because that is the share of the father through whom she attained relationship with the deceased. And the father is an agnate who gets whatever remains of the estate after the statutory portions have been distributed to whom they are allotted.

Can the kith and kin inherit with the existence of an owner of a statutory portion or an agnate?

No, the kith and kin cannot inherit with the existence of an owner of a statutory portion or an agnate. Whatever is left should be redistributed to the available owners of the statutory portions and the agnate till nothing is left. The exception is when the available owner of a statutory portion is a husband or a wife. In that case, whatever is left can be inherited by the kith and kin.

If a person dies and is survived by a maternal or full brother and a paternal aunt, the brother gets the entire estate and the aunt gets nothing as she is only a member of the kith and kin and nothing remains of the estate from which she can have a share. Also, if a person dies and is survived by a mother and a maternal aunt, the mother gets the entire estate as a statutory portion and return of what is left. The aunt will have nothing.

But if a person dies and is survived by a wife, a daughter, and a brother's daughter, the wife will have a quarter of the estate as statutory portion and the brother's daughter will have the remainder on behalf of her father who would have gotten it as an agnate had he been alive.

How is the estate distributed if there are a group of members of the kith and kin?

They are treated as if they are the original heirs. The closer relative excludes the remoter relative and the full brother excludes the consanguine brother.

The relatives who have equal degree of relationship with the deceased are treated equally and none is given priority over the other. And a male gets double what a female gets.

Example: If a person dies and is survived by a daughter's daughter and a granddaughter's daughter or granddaughter's son, the daughter's daughter gets the entire estate; and the granddaughter's daughter or granddaughter's son gets nothing. This is because; the daughter's daughter is higher in degree of relationship than the granddaughter's daughter or granddaughter's son, and the higher in degree of relationship excludes the lower.

Another example: If a person dies and is survived by a daughter of a full brother and a daughter of consanguine brother, the daughter of the full brother gets the entire estate and the daughter of the consanguine brother gets nothing because the full brother excludes the consanguine brother. If persons gains relates to a deceased through a non-inheriting relative, he or she will also have no share of the inheritance. But if a person relates to a deceased through an inheriting relative, then he or she can inherit in the absence of that relative.

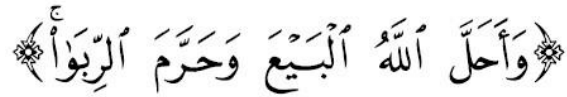
An example: If a person dies and is survived by a daughter or a son's daughter and a son of a daughter's son, the former gets the entire estate and the latter gets nothing. For, though both of them are of the same degree of relationship with the deceased, the former is related to the deceased through an inheriting relative while the latter is related to the deceased through a non-inheriting relative. Allah knows best.

Book of Interactions

Sales

What is the ruling, regarding sales?

Sales and trades are legalized by the glorious Qur'an. Allah says,



"Allah has permitted trading and forbidden Riba (usury)." Al-Baqarah 2:275

Trading is also legalized by the Prophet's oral and practical Sunnah. The Messenger of Allah himself engaged in buying and selling. And he said, "A town dweller should not sell things on behalf of a desert dweller." (Recorded by Al-Bukhari and Muslim)

What is the wisdom behind legalisation of trading?

It is in order for a man to attain his need of what is in his brother's hand without any inconvenience or harm.

What are the pillars of trading?

The pillars of trading are five:

1. The seller. The seller must be the owner of what he sells or have permission from the owner to sell it; and he must be sane and sensible and not be legally incompetent.
2. The buyer. The buyer must be legally competent to buy and sell. He should neither be a minor who is not permitted to engage in buying.
3. The commodity must be lawful, clean, transferable and known to the buyer, even if it has only its specifications.
4. Format of the contract: There must be a proposal and acceptance with clear expressions such as, 'sell me such and such' and 'I have sold you such and such'; or with the actions such as the buyer saying, 'sell me a garment', and the seller giving the garment to the buyer.
5. Mutual consent: No transaction is valid without the consent of the transacting parties. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "Transaction is only valid through mutual consent." (Recorded by Ibn Majah and Ibn Hibbaan)

What are the conditions that are valid in transactions?

It is acceptable to stipulate a particular specification in transaction. If the stipulated specification is found then the transaction is valid and if it is not found then the transaction is invalid.

An example of this is when a buyer stipulates that he wants a book with yellow papers or that he wants a house with an iron door.

It is also legal for a seller of a riding animal to stipulate that he ride it to a particular place before he gives it to the buyer or a seller of a house stipulating that he lives there for a month before the buyer can have it. It is equally legal for a buyer of a garment to stipulate that it should be sewn or a buyer of wood stipulating that it should be cut into pieces. The proof for all this is the Hadith reported by Al-Bukhari and Muslim on the authority of Gabir bin Abdillah - may Allah be pleased with him and his

father - who narrated, "While I was riding a (slow) and tired camel, the Prophet passed by and beat it and prayed for Allah's Blessings for it. The camel became so fast as it had never been before. The Prophet then said, "Sell it to me for one Uqiyya (of gold)." I said, "No." He again said, "Sell it to me for one Uqiyya (of gold)." I sold it and stipulated that I should ride it to my house. When we reached (Madinah) I took that camel to the Prophet and he gave me its price."

What are the conditions that are not valid in transaction?

1. Combining between the two conditions in one transaction. The Messenger of Allah said, "It is unlawful to hire and sell the same commodity neither is it permissible to make two stipulations in one transaction." (Recorded by Ahmad)

2. Making a stipulation that violates the foundation of the transaction such as the seller stipulating the buyer

that he should not sell the commodity or that he should not sell it to a particular person, or stipulating that he should lend it to him or that he should sell him a part thereof. The evidence for this is the Prophet's saying, "It is unlawful to hire and sell the same commodity neither is it permissible to make two stipulations in one transaction." (Recorded by Ahmad)

3. Making an invalid condition that does not affect the validity of the transaction but which, in itself, is null and void such as the seller stipulating that his selling the commodity to him should not lead his incurring a loss or that he should keep the patron-ship of a slave he is selling to the buyer. These kinds of stipulations are false and null and void, though the transaction is valid. The proof for the invalidity of these conditions is the Prophet's saying, "What is wrong with some people who stipulate things which are not in Allah's Laws? Any condition which is not in Allah's Laws is invalid even if there were a hundred such conditions." (Recorded by Al-Bukhari and Muslim)

What is the ruling about the right of option in transactions?

Right of option is legalized in transactions in a number of issues, which are:

1. As long as the seller and the buyer have not left the place of transaction each of them has the right to accept or terminate the transaction. The Messenger of Allah said, "The seller and the buyer have the right to keep or return goods as long as they have not parted or till they part; and if both the parties spoke the truth and described the defects and qualities (of the goods), then they would be blessed in their transaction, and if they told lies or hid something, then the blessings of their transaction would be lost."

2. If any of the two transacting parties stipulates a specified time for right of option and the other party agreed, then each of them has the right to keep or terminate the transaction while the specified period lasts. The proof for this is the Prophet's saying: "Muslims are bound to fulfill their conditions." (Recorded by Abu Dawood on the authority of Abu Hurayrah - may Allah be pleased with him).

3. If one of the transacting parties criminally defraud the other to the tune of up to a third of the commodity, like selling it to him for fifteen or twenty dirham when the commodity that is worth only ten dirham, the buyer has the right to return the commodity or have the excess amount back. The proof for this is the Prophet's instruction to a man who was being defrauded due to his mental weakness: "Whenever you enter into a transaction with anyone, you should say, no cheating!" (Recorded by Al-Bukhari and Muslim) For, whenever a fraud is discovered, he has right to go back to the person who defrauded him and take back the excess amount or have the transaction terminated.

4. If the buyer cheats the seller by showing the good part of the commodity and hiding the ugly part or by living a she-goat un-milked for a long time, the buyer

has the right to approve or terminate the transaction. The proof for this is the Hadith recorded by Al-Bukhari on the authority of Abu Hurayrah -may Allah be pleased with him -that the Messenger of Allah said, "Don't keep camels and sheep un-milked for a long time, for whoever buys such an animal has the option to milk it and then either to keep it or return it to the owner along with one Sa' of dates."

5. If the buyer discovers a devaluing defect in a commodity after he has purchased it, he has the right to leave the transaction as it is or to terminate it. Imam Ahmad, Ibn Majah and At-Tabarani recorded on the authority of Uqbah bin Amir - may Allah be pleased with him - that the Messenger of Allah said, "It is unlawful for a Muslim to sell something to his brother without telling its defects if it has any." Imam Muslim also recorded that the Prophet said, "He who cheats us is not one of us."

6. If the two transacting parties disagree on the price or the condition of a commodity each of them swears to the other and they are free to proceed with or terminate the contract. One of the scholars said: "If two transacting parties disagree concerning a commodity and none of them has a proof, then each of them should make an oath."

What is the ruling concerning buying a commodity and then selling it before one takes possession of it?

It is unlawful for a Muslim to buy a commodity and then resell it to another buyer before he takes possession of it from the first seller. The Messenger of Allah said, "If you buy a commodity, do not resell it until after you have taken possession of it." (Recorded by Ahmad and An-Nasa'i) Abdullah bin Umar - may Allah be pleased with him and his father - narrated that the Messenger of Allah (Peace and Blessings of Allah be upon him) forbade the reselling of foodstuff by somebody who had bought it unless he had received it with exact full measure. (Recorded by Al-Bukhari and Muslim) And Abdullah bin Abbaas -may Allah be pleased with him and his father said, "I think this applies to all other things." (Recorded by Al-Bukhari).

What is the ruling concerning a Muslim urging his brother to cancel a purchase he had made in order to buy his own commodity?

It is unlawful for a Muslim to tell his brother, who has purchased a commodity for five dirham, for instance, to return it so that he can sell it to him at a lesser price. It is also not permissible to ask a seller to terminate a transaction he has concluded with another Muslim by telling him that he would pay him more. The proof for this is the Hadith that Al-Bukhari and Muslim recorded on the authority of Abu Hurayrah -may Allah be pleased with him -that the Messenger of Allah, blessings and peace of Allah be upon him said, "And do not urge buyers to cancel their purchases to sell them (your own goods)."

What is the ruling concerning Najsh?

It is unlawful for a Muslim to offer a higher price for a commodity without intending to purchase it but only to deceive those who really want to buy it into paying more than the worth of that commodity. This action is forbidden whether it is done with the connivance of the owner of the commodity or not. The proof for this is the Hadith narrated ruling concerning forbidden or filthy things?

It is unlawful for a Muslim to sell a forbidden or filthy thing. It is also unlawful for him to trade in anything that could lead to a forbidden thing. Therefore, it is unlawful to sell alcohol, pigs, handmade images of living things, dead animals, statues or musical instruments. He is also not allowed to sell grapes to someone who uses them for making alcohol. Gabor bin Abdullah -may Allah be pleased with him and his father -narrated that the Prophet said, "Allah and His Messenger made illegal the trade of alcohol, dead animals, pigs and idols." (Recorded by Al-Bukhari and Muslim)

The Prophet also said, "May Allah curse those who carve images."

What is the ruling concerning Gharar?

It is unlawful to sell a commodity in which there is Gharar. Therefore, it is unlawful to sell the fish that is still in the water, or the wool that is still on the sheep, or a baby-goat that is still in the womb of its mother, or the fruits whose ripeness is not yet clear, or a commodity without it been seen and checked if it is present or without knowing its descriptions and its type and quantity if it is absent. The evidence for this is the Prophet's saying, "Do not buy fish while it is still in the water, for that is Gharar." (Recorded by Ahmad)

Ibn Umar - may Allah be pleased with him and his father - is reported to have said, "The Messenger of Allah (Peace and Blessings of Allah be upon him) forbade the sale of dates until they are ripe enough to eat, or the wool while still on the back of the animal, or milk while still in the animal's udder or fat while it has not yet been extracted from the milk."

Anas bin Malik -may Allah be pleased with him narrated that the Prophet forbade the sale of fruits till their benefit is evident; and the sale of date palms till the dates are almost ripe. He was asked what almost ripe' meant. He replied, "Became red and yellow."

Abu Saleed Al-Khudri - may Allah be pleased with him - narrated, "Allah's Messenger (Peace and Blessings of Allah be upon him), blessings and peace of Allah be upon him forbade us (from) two types of business transactions and two ways of dressing. He forbade Gharar literally means deception. In Islamic terms, it refers to uncertainty in the procedure of a transaction or when the transaction depends on chance.

Mulamasah and Munabadhah in transactions. Mulamasah means the touching of another's garment with his hand, whether at night or by day, without turning it over, except this much. Munabadhah means that a man throws his garment to another and the other throws his garment, and thus confirming their contract without the inspection of mutual agreement. (Recorded by Al-Bukhari and Muslim; and the version is Muslim's)

What is the ruling, concerning two transactions in one?

It is unlawful for a Muslim to make two transactions in one. He should rather make each deal separately. This is due to the uncertainty that could lead to harming a Muslim or usurping his money unjustly. There are a number of ways by which two transactions in one are conducted. An example is for a seller to tell a buyer, 'I am selling to you this commodity for ten dirham if you will pay me now and fifteen dirham if you are going to pay me at a later date', without specifying which of the two deals he is offering him.

Another example is to tell a buyer, 'I am selling you this house for such and such amount on the condition that you sell me such and such for such and such amount', or to sell one of two different commodities to a person for a dinar without the buyer knowing which of the two things he has bought. The evidence for this is the Hadith recorded by Malik, Abu Dawood, At-Tirmidhi and An-Nasa'i on the authority of Abu Hurayrah -may Allah be pleased with him -that Allah's Messenger forbade two sales on one sale.

What is the ruling concerning non-refundable deposit?

It is unlawful for a Muslim to engage in a transaction in which there is non-refundable deposit. Imam Malik said in his Al-Muwatta,, "That is, in our opinion, but Allah knows best, that for instance, a man buys a slave or slave-girl or rents an animal and then says to the person from whom he bought the slave or leased the animal, 'I will give you a dinar or a dirham or whatever on the condition that if I actually take the goods or ride what I have rented from you, then what I have given you already goes towards payment of the goods or hire of the animal. If I do not purchase the goods or hire the animal, then what I have given you is yours without liability on your part.'

However, the scholars disagree on the permissibility of this transaction. Majority of them are of the view that it is impermissible while some of them regard it as permissible. Allah knows best.

What is the ruling concerning selling a commodity that is not with one?

It is unlawful for a Muslim to sell something that is not with him or something that is not in his possession. For, this could cause harm to the buyer and the seller if it becomes impossible to get the commodity. That is why Messenger of Allah (Peace and Blessings of Allah be upon him) said, "Do not sell what is not in your possession." (Recorded by Ahmad) The Prophet also forbade selling a commodity before taking possession of the same from the first seller.

What is the ruling concerning selling a credit for a credit?

It is unlawful for a Muslim to sell a credit for another, for it is tantamount to bartering an unknown something for another, and Islam does not allow that. The example of selling a credit for another is when you lend someone a qintar[1] of wheat on credit and you then sell that (i.e. the qintar of wheat which you have not yet taken back into your possession) to another person for a hundred riyals on credit.

Another example is when you lend someone a goat and when the time for you to give it back is due, your debtor is unable to give it back but he rather tells you, 'I sell it to me for fifty riyals on credit'. If you agree, then it means that you have sold a credit for another credit. The evidence is a report recorded by Al-Bayhaqi that the Messenger of Allah (Peace and Blessings of Allah be upon him) prohibited selling a credit for a credit."

What is the ruling concerning 'Inah transaction?

It is illegal for a Muslim to sell something to somebody on credit and then buy it back in cash for a lesser price. If, for example, he sells something for ten riyals on credit and then buys it back from him for five riyals in cash, it is like lending him five riyals to be reimbursed at a later time as ten riyals, and this is usury that is forbidden by the Qur'an, the Sunnah and the consensus of the Ummah. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "When you enter into an Inah transaction, hold the tails of oxen, are pleased with agriculture, and give up conducting jihaad (struggle in the way of Allah). Allah will make disgrace prevail over you, and will not withdraw it until you return to your original religion." (Recorded by Ahmad, Abu Dawood and others on the authority of Abdullah bin Umar - may Allah be pleased with him and his father).

There is a report attributed to Abdur-Razzaq As-San'ani that a woman told A'ishah - may Allah be pleased with her - that she sold a slave to Zayd bin Al-Arqam - may Allah be pleased with him - for eight hundred dirham on credit and then bought back the same slave from him for six hundred dirham in cash. Thereupon Aishah (May Allah be pleased with her) told the woman, "Evil is the transaction that you made. Indeed, his (Zayd's) jihaad with Allah's Messenger is null and void unless he repents."

What is the ruling concerning a town-dweller selling on behalf of the country-dweller?

If a Bedouin, a country-dweller or a stranger comes to a town with a commodity which he wants to sell for the current market price, it is unlawful for the town-dweller to tell him 'I leave the commodity with me, I will sell it on your behalf tomorrow or in few days time for a price that is higher than today's price'. This is because, the Messenger of Allah instructed, "A town dweller should not sell things on behalf of a desert dweller." (Recorded by Al-Bukhari and Muslim)

What is the ruling concerning buying goods from the caravan before they enter the town?

If a Muslim hears of a caravan coming into town with a commodity, it is unlawful for him to go and meet it outside the town to buy the commodity from it and then come to the town and resell the same for whatever price he wants. The reason for this forbiddance is that such an action deceives the caravan that brought the goods and harms the inhabitants and the traders of the town in which the goods are

finally sold. That is why the Messenger of Allah commanded, "Do not go to meet the caravans on the way (for buying their goods without letting them know the market price); a town dweller should not sell the goods of a desert dweller on behalf of the latter." (Recorded by Al-Bukhari and Muslim on authority of Abdullah bin Abbaas - may Allah be pleased with him and his father).

What is the ruling concerning tying the udders of animals to give a wrong impression that they produce abundant milk?

It is unlawful for a Muslim to tie the udders of a goat, cow or camel to make it appear that it produces abundance milk, thereby deceiving people into buying it. This is a kind of cheating. The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "and do not tie up the udders of camels and sheep so that they appear to have a lot of milk, for a person who buys them after that has two recourses open to him after he milks them. If he is pleased with them, he keeps them and if he is displeased with them, he can return them along with a Sa' of dates."

What is the ruling concerning buying and selling after the second Adhaan for Jumu'ah prayer has been made?

It is unlawful for a Muslim to continue to engage in buying and selling after the second Adhaan for Jum'uah prayer has been made. Allah says:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَىٰ ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ﴾

"O you who believe (Muslims)! When the call is proclaimed for the Salaat (prayer) on the day of Friday (Jumu'ah prayer), come to the remembrance of Allaah (Jumu'ah religious talk (Khutbah) and Salat (prayer)) and leave off business (and every other thing)". (Al-Jumu'ah 62:9)

What is the ruling concerning Muzabanah or Muhaqalah?

It is unlawful for a Muslim to sell grapes for raisins by measure or to sell fresh dates for dried dates by measure. However, the Messenger of Allah (Peace and Blessings of Allah be upon him) permitted the produce of an Araya to be bartered for an estimation of what the produce would be when the crop was less than five awsuq or equal to five awsuq.

The proof for forbiddance of Muzabanah is the Hadith recorded by Al-Bukhari and Muslim on the authority of Abdullah bin Umar -may Allah be pleased with him and his father -that the Messenger of Allah (Peace and Blessings of Allah be upon him) forbade Muzabanah; Muzabanah, i.e. to sell ungathered dates of one's garden for measured dried dates or fresh ungathered grapes for measured dried grapes; or standing crops for measured quantity of foodstuff. He forbade all such bargains.

The proof for the permission of 'Araya is the Hadith recorded by Al-Bukhari on the authority of Zayd bin Thabit - may Allah be pleased with him - that the Messenger of Allah (Peace and Blessings of Allah be upon him) allowed the owner of 'Araya to sell the fruits on the trees by means of estimation."

What is the ruling concerning Thunya transaction?

It is unlawful for a Muslim to sell something to someone while exempting a part thereof without specifying that part. For example, if he sells a date farm, it is unlawful for him to exempt an unspecified date tree because of the uncertainty in that transaction. This is because of the Hadith narrated by Gabir bin Abdullah - may Allah be pleased with him - that the Messenger of Allah (Peace and Blessings of

Allah be upon him) forbade selling grapes for raisins by measure or selling fresh dates for dried dates by measure. He also forbade selling something to someone while exempting a part thereof without specifying that part." (Recorded by Abu Dawood on the authority of Gabir bin Abdullah - may Allah be pleased with him).

What is the ruling concerning the tree whose fruits have been sold?

If a Muslim sells a palm-tree or any other tree, and the palm tree has been pollinated or the fruits of the tree have started showing, the fruits shall be for the seller unless the buyer has made a stipulation that the tree should be included in the transaction. The evidence for this is the Prophet's saying, "If palm trees are sold after they have been pollinated, the fruit belongs to the seller unless the buyer makes a stipulation about its inclusion." (Recorded by Al-Bukhari on the authority of Ibn Umar - may Allah be pleased with him and his father).

Ribaa (Usury)

What is the meaning of Ribaa?

Ribaa means an increase over particular kinds of wealth. It is of two types: Ribaa Fadl and Ribaa Nasi'ah.

What is Ribaa Fadhl?

Ribaa Fadhl is selling one kind of commodity for another kind of commodity that is better in value or quantity, like selling a weight of wheat for one and a quarter weight of wheat, for instance; selling one Sa' of dates for one and a half Sa' of dates, or selling an ounce of silver for one ounce and one dirham of silver.

What is Ribaa Nasi'ah?

This is of two types:

Ribaa Al-Jahiliyyah (Ribaa prevalent during the pre-Islamic age of ignorance). It is in prohibition of this kind of Ribaa that Allah says:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُّضَاعَفَةً﴾

"O you who believe! Eat not Ribaa (usury) doubled and multiplied". Al 'Imraan 3:130

An illustration of this kind of Ribaa is when a person owes another a debt on delayed payment and when the time for payment is due, the creditor tells the debtor, 'You may either pay me now or I increase the amount of the debt and give you more time'. When the debtor is unable to pay still, the creditor increases the amount of the debt and gives him more time. It continues like this until the debt becomes multiplied with time.

Another example of Ribaa Al-Jahiliyyah is to lend a person ten dinar for the payment of fifteen dinar sooner or later.

The second category of Ribaa Nasi'ah is to sell something that involves Ribaa like one of the two currencies, or wheat or barley, or dates for another type of dates. For example, if a man sells a weight of dates for a weight of wheat to be paid at a specified time in the future, or sells ten dinars of gold for one hundred and twenty dirham of silver to be paid at a specified time in the future, that is Ribaa Nasi'ah.

What is the ruling of Ribaa?

Ribaa is forbidden by Allah's statement:

﴿وَإِحْلَ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا﴾

"Allah has permitted trading and forbidden Ribaa". Al-Baqarah 2:275

And His statement:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُّضَاعَفَةً﴾

"O you who believe! Eat not Ribaa doubled and multiplied". (3:130)

It is also forbidden by the following Hadiths:

Al-Bukhari and Muslim recorded on the authority of Gabir bin Abdullah -may Allah be pleased with him that the Prophet cursed the one who accepts Ribaa (usury and interest), the giver of it, the two witnesses of it, and the one who writes it.

Ahmad and At-Tabarani recorded on the authority of Abdullah bin Hanzalah - may Allah be pleased with him - that the Messenger of Allah (Peace and Blessings of Allah be upon him) said, "One dirham of Ribaa that a man devours, while knowing it is Ribaa, is more severe (in crime) than thirty-six acts of fornication (or adultery)."

Al-Hakim recorded on the authority of Ibn Mas'ood may Allah be pleased with him -that the Prophet said, "Ribaa has seventy-three doors. The least one (in sin) is like that of a man who sleeps with his mother. And the worst form of Ribaa is harming the honor of a Muslim man."

What is the wisdom behind prohibiting Ribaa?

Among apparent reasons for prohibiting Ribaa, in addition to the general wisdom in all other Islamic legal obligations -which is to test a Muslim's faith through obedience in carrying out the commandments and abstaining from forbidden things - are the following:

Preservation of the Muslim's wealth from being misappropriated.

Guiding the Muslim invest his wealth in noble ways that are free of fraud and deception, and that are far from all that could cause trouble and rancor among the Muslims. Some of these noble ways of investment are: farming, industry and authentic and decent commerce.

Preventing means that could make a Muslim harbor enmity and hatred against his brother.

Keeping the Muslim away from all that could lead to his own peril, for a devourer of Ribaa is a transgressor and a wrong-doer and the consequence of transgression and wrong-doing is dire. Allah says:

﴿يَا أَيُّهَا النَّاسُ إِنَّمَا بَغْيِكُمْ عَلَىٰ أَنفُسِكُمْ﴾

"O mankind! Your rebellion (disobedience to Allah) is only against yourselves". Yu'nus 10:23

Jabir bin Abdullah -may Allah be pleased with him narrated that the Messenger of Allah said, "Beware of oppression, for oppression will be darkness on the Day of Resurrection. Beware of stinginess, for it destroyed those who were before you. It incited them to shed blood and treat the unlawful as lawful." (Recorded by Muslim and Ahmad)

Prohibiting Ribaa creates the opportunities of righteous deeds for the Muslim so that he may prepare for his Hereafter. Therefore, he gives a loan to his Muslim brother without any return on his loan and gives him respite for paying back his debt. He waits for his brother to be in easier circumstances and he eases things for him and has mercy upon him, seeking the Pleasure of Allah. This helps spread love between the Muslims and creates the spirit of brotherhood and sincerity among them.

What are the basic things that involve Ribaa?

The basic things that can involve Ribaa are six. They are: gold, silver, wheat, barley, dates, and salt. Muslim reported on the authority of Ubaydah bin Saamit -may Allah be pleased with him -that the Messenger of Allah said, "Gold is to be paid for by gold, silver by silver, wheat by wheat, barley by barley, dates by dates, and salt by salt, like for like and equal for equal, payment being made hand to hand. If these classes differ, then sell as you wish if payment is made hand to hand."

The renowned scholars among the Companions, their successors and the Imams have made an analogy from these six basic items with anything that agrees with them in meaning and cause. That is everything by measure or weight or that is stored as food. These are like the rest of the grains, oils, honey and meats. Saeed bin Al-Musayyab said, "There is no Ribaa except in what is measured or weighed, from that which is eaten or drunk."

What are the ways in which Ribaa may occur in these items?

Ribaa can occur in these items in any of the following three ways:

One: To sell one kind of item for the same kind, getting a superior quality of the same item for inferior quality of the same kind. An example of this is to sell gold for gold, wheat for wheat, or dates for dates. Al-Bukhari and Muslim reported on the authority of Abu Saeid - may Allah be pleased with him - who said: Bilal (May Allah be pleased with him) came with fine quality of dates. Allah's Messenger said to him, From where (you have brought them)? Bilal said, We had inferior quality of dates and I exchanged two Sa's (of inferior quality) with one Sa' (of fine quality) as food for Allah's Messenger (Peace and Blessings of Allah be upon him)', whereupon Allah's Messenger (Peace and Blessings of Allah be upon him) said, 'Woe! It is in fact usury; therefore, don't do that. But when you intend to buy dates (of superior quality), sell (the inferior quality) in a separate bargain and then buy (the superior quality)."

Two: To sell different kinds of commodities for one another such as selling gold for silver or wheat for date when one item is present and the other is absent. This is due to the Prophet's statement, "Do not sell gold for gold unless equivalent in weight, and do not sell less amount for greater amount or vice versa; and do not sell silver for silver unless it is equivalent in weight, and do not sell less amount for greater amount or vice versa and do not sell gold or silver that is not present at the moment of exchange for gold or silver that is present." (Recorded by Al-Bukhari and Muslim on the authority of Abu Saeed Al-Khudri - may Allah be pleased with him)

He also said, "Sell gold for silver as you like as long as the payment is made on the spot." (Recorded by At-Tirmidhi on the authority of Ubadah bin Samit may Allah be pleased with him)

Three: Selling one kind for the same kind in equal amounts, but one of them is absent and financed on credit. For example, selling gold for gold or dates for dates, equal in amount and in kind, although one kind is absent. The Messenger of Allah said, "The bartering of gold for silver is Ribaa, (usury), except if it is from hand to hand and equal in amount, and wheat grain for wheat grain is usury except if it is from hand to hand and equal in amount, and dates for dates is usury except if it is from hand to hand and equal in amount, and barley for barley is usury except if it is from hand to hand and equal in amount." (Recorded Al-Bukhari and Muslim on the authority of Malik bin Anas - may Allah be pleased with him - and the version is Al-Bukhari's).

Is there Ribaa with cash payment and the items are of different kinds?

There is no Ribaa in a transaction in which there is a difference between the price and the item of value, except if one of them is on credit and is not of gold or silver. Therefore, it is permissible to trade gold for silver, a superior quality for an inferior quality. It is also permissible to sell wheat for dates or salt for barley, a superior quality of it for an inferior quality. It should be done hand to hand, meaning there is no delay in either of them (i.e. payment or receipt of the purchased commodity).

The Prophet said, "If these items differ, then sell as you wish if it is from hand to hand (i.e. the payment is made on the spot)." (Muslim, Ahmad and Abu Dawood)

Similarly, there is no Ribaa in selling these items for cash payment, whether present or absent, no matter the value or if the merchandise is absent. The Messenger of Allah bought a camel from Gabir bin IAbdullah, may Allah be pleased with him, on a journey. However, he did not pay its price until after reaching Madinah. The Messenger of Allah has also permitted advance payment in his statement, "Whoever pays in advance for anything must do so for a specific measurement and a specific weight at a specified time." (Al-Bukhari and Muslim)

What are the types of items that may involve Ribaa?

The items that involve Ribaa are of different types. According to the majority of the Companions and Imams, such items are as follows:

Gold, silver, wheat, barley, all types of dates are considered one category, legumes are of different categories, hence the bean is a category, the chickpea is a category, rice is a category, and corn is a category. All types of oils are considered one category, honey is a category, and all meats are of differing categories. Thus, the meat of camel is a category, the meat of cow is a category, the meat of sheep is a category, the meat of all birds is one category, and all different kinds of fish make up one category.

What are the kinds of food that cannot involve Ribaa?

Ribaa does not affect fruits and vegetables because on the one hand they are not stored, and on the other hand, from the ancient times, they were not measured or weighed. Above all, such were not considered part of basic foodstuffs like grains and meat, concerning which there are clear authentic texts narrated from the Prophet (Peace and blessings of Allah be upon him).

What is the ruling concerning contemporary banks?

The majority of the current banks that exist in the Islamic lands deal with Ribaa. Rather they are established purely upon the foundations of Ribaa. Therefore, it is not permissible to deal with such banks except in the case of necessity, for instance, transferring funds from one country to another.

In the light of this, it is incumbent upon the righteous Muslim brethren to establish purely Islamic banking systems that are free from any usurious dealings and interestbased transactions.

Here is an outline of the responsibilities of such a proposed Islamic banking system:

- a. Receive the deposits (preserve the trusts of the brothers) free of cost.
- b. Loan facilities: Give the Muslim brothers loans according to their incomes and revenues against no benefit (i.e. interest).
- c. Collaboration in the fields of agriculture, commerce, construction and industry. The treasury should invest shares in every field that is capable of earning profits and gain for the treasury.
- d. Help in transferring the currency of the brothers from one country to another free of cost, if the treasury has any branch existing in the land in which the money is to be received.
- e. Make account clearance from the treasury at the end of every year and distribute the profits to the shareholders, according to their number of shares in the treasury.

What is the ruling concerning insurance?

There is no harm if the righteous Muslim brothers in a country form a savings fund in which they all have invested shares according to their monthly incomes or according to what they agree to. Each shareholder would participate in it with a specific share in which all are equal.

This special fund would be exclusively for subscribers only. In case anyone of them has suffered any natural accidents such as fire, or stolen property, or physical injury, an amount should be granted to him in order to lighten his difficulty. The following matters should be considered:

1. The shareholder should intend the Face of Allah when he subscribes in order to obtain the reward from Allah.
2. Limiting the amounts that are granted to such victims, just as the shares of the shareholders are limited so that it (the insurance) will be established upon complete equality.
3. There is no objection to increasing the assets of the fund by trading, building contracting and permissible industrial activities.

As-Sarf

What is the meaning of Sarf?

Sarf is to barter a currency for another like exchanging gold dinar for silver dirham.

Its ruling

It is lawful since it is a kind of transaction and making transaction is lawful with proofs from the Qur'an, the Sunnah and the consensus of the scholars. Allah says:

﴿وَأَحَلَّ اللَّهُ الْبَيْعَ﴾

"Allah has permitted trading". Al-Baqarah 2:275

The Messenger of Allah said, "Barter gold for silver as you like and barter silver for gold as you like." (Recorded by An-Nasa'i on the authority of Abu Bakrah - may Allah be pleased with him)

What is the wisdom behind approving it?

The logical reason for approving currency exchange is to make it possible for the Muslim to exchange the currency he has for another that he needs.

Its conditions

For currency exchange to be valid, the exchange should be on the spot. This is due to the statement of the Prophet (Peace and Blessings of Allah be upon him), "Sell as you wish if it is from hand to hand (i.e. the payment is made on the spot)." (Muslim, Ahmad and Abu Dawood)

The Messenger of Allah (Peace and Blessings of Allah be upon him) also said, "The bartering of gold for silver is Ribaa, (usury), except if it is from hand to hand." (Recorded by Al-Bukhari and Muslim)

What are the major regulations of money exchange?

They are:

1. It is permissible to barter gold for gold and silver for silver if they are of the same weight. The Messenger of Allah said, "Do not sell gold for gold unless equivalent in weight, and do not sell less amount for greater amount or vice versa; and do not sell silver for silver unless equivalent in weight, and do not sell less amount for greater amount or vice versa; and do not sell gold or silver that is not present at the moment of exchange for gold or silver that is present." (Recorded by Al-Bukhari and Muslim on authority of Abu Sa'eed Al-Khudri - may Allah be pleased with him).

And the transaction has to take place on the spot. This is due to the Prophet's saying, "The bartering of gold for silver is Ribaa, (usury), except if it is from hand to hand." (Recorded by Al-Bukhari and Muslim).

2. It is permissible to exchange what is superior quality for what is of inferior quality as long as the transaction takes place on the spot. The evidence for this is the Prophet's (Peace and blessings of Allah be upon him) saying, "If these items differ, then sell as you wish if it is from hand to hand (i.e. the payment is made on the spot)." (Muslim, Ahmad and Abu Dawood).
3. If the two transacting parties part before each takes deliverance of what he has bargained for, then the transaction becomes invalid because that contravenes the injunction that the money should be from hand to hand and the payment should be done on the spot.

As-Sala'm

What is Sala'm?

Sala'm is a transaction in which the price is paid for a specified good to be delivered later. This is when a Muslim purchases a commodity of a particular specification such as food or animal to be delivered at a fixed time later. He then waits to take the delivery of the commodity when the appointed time is due.

What is its ruling?

It is permissible since it is a kind of transaction, and making transactions is permissible. The evidence for its permissibility is the statement of Allah's Messenger "Whoever pays in advance the price of a thing to be delivered later should pay it for a specified measure at specified weight for a specified period." (Recorded by Al-Bukhari and Muslim on the authority of Ibn Abbaas - may Allah be pleased with him and his father).

Abdullah bin Abbaas also narrated that Messenger of Allah (Peace and Blessings of Allah be upon him) came to Madinah and the people used to pay in advance the price of fruits to be delivered within one or two years. (Al-Bukhari and Muslim)

What are the conditions for validity of Salam?

For a Sala'm transaction to be valid, the following conditions have to be met:

The price must be in money such as gold or silver or whatever stands for them such as currency in order to avoid selling a commodity that involves RiMa with another on credit.

The commodity must be clearly and completely defined and specified by mentioning its kind, type and amount so that a disagreement that could lead to rancor and enmity would not occur between the Muslim and his brother.

The time for deliverance of the goods must be known, specified and far such as a month or more.

The price must be collected by the seller on the spot (immediately after the transaction is finalized) so that the transaction would not turn into a forbidden transaction of selling a credit for another.

The basic proof for all these conditions is the saying of the Prophet (Peace and Blessings of Allah be upon him) "Whoever pays in advance the price of a thing to be delivered later should pay it for a specified measure at specified weight for a specified period." (Recorded by Al-Bukhari and Muslim)

What are major regulations of Sala'm?

1. The specified time must be one in which markets change, for example, a month or the like. This is because, making Salam transaction in a short period is regarded as ordinary sale, and as such, it is a condition that commodity must be seen and checked before it is paid for.
2. The specified time must be a time in which the commodity is mostly found. Therefore, it is impermissible to make Salam transaction on fresh dates in the spring or grapes in the winter for doing so might cause disaffection among Muslims.
3. If the place for the deliverance of the good is not mentioned in the contract, then it should be delivered where the contract is made. If a particular place is stipulated, then it should be delivered at the mentioned place, for Muslims should respect their commitments.

Shuf'ah (Right of Pre-emption)

What is Shuf'ah?

It is when a partner buys the share of his partner, which the latter sold to a third party and he has the right to buy it for the same price for which his partner sold the share. It is otherwise known as right of pre-emption.

What is the proof for this?

The legality of right of pre-emption is established by the Prophet's (Peace and blessings of Allah be upon him) decision. Jabir bin Abdullah - may Allah be pleased with him and his father -narrated, "Allah's Messenger (Peace and blessings of Allah be upon him) decided the validity of pre-emption in every joint undivided property, but if the boundaries were well marked or the ways and streets were fixed, then there was no pre-emption." (Recorded by Al-Bukhari)

Is right of pre-emption permissible on an indivisible property?

Right of pre-emption is also permissible on divisible properties. If the property is not divisible such as bathrooms or narrow buildings, then there is no right of pre-emption.

Is right of pre-emption established in a divided property whose boundaries are well-marked and roads fixed?

Right of pre-emption is not established in a divided property whose boundaries are well-marked and roads fixed because the Messenger of Allah said, "If the boundaries were well marked or the ways and streets were fixed, then there is no pre-emption." This is because; after the division, the partner becomes a neighbor and a neighbor has no right of pre-emption, according to the correct opinion of the scholars.

Is there any right of pre-emption in a movable property?

There is no right of pre-emption in a movable property such as clothes and animals. Right of preemption is only applicable on joint-ownership landed properties and whatever could be regarded as such like a building or a garden. For, it is not imaginable that any harm could be done in a non-landed property, so there is no need for preemption.

Will a pre-emptor forfeit his right by attending the transaction or having knowledge of the same?

Yes, the pre-emptor forfeits his right by attending the transaction or having knowledge of the same as long as he does not request the right of pre-emption until the period has lapsed.

Will the right of pre-emption be forfeited if the buyer turns what he has purchased to an endowment or presents it to someone as gift?

Yes, the right of pre-emption is forfeited if the buyer turns what he has purchased to an endowment or gives it out as charity. For, establishment of the right of preemption would mean invalidation of these acts of worship. To retain acts of worship (which is a confirmed benefit) is, therefore, worthier than establishing the right of preemption, whose only goal is to remove a suspected harm.

Who owns the crops and separated proceeds of a pre-empted property?

If the land has produced a crop, the crop belongs to the buyer.

Is it permissible to sell right of pre-emption?

It is impermissible to sell or buy a right of pre-emption. The one upon whom a share in a property is subject to preemption must not sell his right in it or present it as a gift to another person. For, selling or presenting it as a gift is a contravention of the purpose for which right of preemption is legalized, which is to prevent his partner from being harmed.

Iqalah (Revocation of Contract)

What is Iqalah?

Iqalah is to revoke a transaction and return the money to the purchaser and the commodity to the buyer, if one or both of the two contracting parties regrets the transaction.

What is the ruling, concerning Iqalah?

It is desirable to allow the contract to be revoked if one of the two contracting parties requests that. The Messenger of Allah said, "If anyone rescinds a sale with a Muslim, Allah will cancel his slip on the Day of Resurrection." (Recorded by Abu Dawood)

Is revocation of contract regarded a termination of the earlier transaction or it is a new one?

Imams Abu Hanifah, Ash-Shafi'i and Ahmad are of the view that it is termination of the earlier transaction while Imam Malik is of the view that it is a new transaction.

Is revocation of contract permissible if part of the commodity has been perished?

Yes, revocation of contract is permissible if part of the commodity has been perished. **Is it permissible, while revoking a contract, to increase or decrease the price of the commodity?**

It is not permissible, while revoking a contract, to increase or decrease the price of the commodity. If there is an increase or a decrease in the price of the commodity, then there is no revocation of contract. It is rather a new transaction upon which the rules of transaction must be fully applied such as right of pre-emption, stipulation of taking possession of the commodity and all the other rules.

Shari'kah (Partnership)

What is the proof for permissibility of partnership?

Partnership in business is permissible in the Shari'ah.

The Messenger of Allah (Peace and Blessings of Allah be upon him) was reported to have related that Allah, High and Exalted said, "I make a third with two partners as long as one of them does not cheat the other, but when he cheats him, I depart from them." (Recorded by Abu Dawood)

What is the meaning of partnership?

It is for two persons to jointly enter into a business enterprise with money they possess by inheritance or the like or which they collect together in order to invest it on an enterprise, industry, farming or the like.

What is 'Inan partnership?

It is a kind of partnership in which two persons participate with their wealth and work on the condition that the generated profits will be shared by them and whatever loss incurred will also be shared by them, in proportion to each of the partners' share in the partnership.

What is the condition for the validity of 'Inan partnership?

It should be between two Muslims for a non-Muslim cannot be trusted as far as avoidance of RiMa and as far as using unlawful earnings are concerned. But if the responsibility of buying and selling lies with the Muslim partner, then there is no harm in having a non-Muslim as partner for the fear of bringing in unlawful money does not exist.

The capital should be well-known and the share of each partner should be clearly defined because the profit and loss are based upon the capital and the share of each partner.

Additionally, if the capital or the share of each partner is not clearly defined and known, it could lead to usurping people's wealth unjustly. And this is forbidden. Allah says:

﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ﴾

"And eat up not one another's property unjustly." Al-Baqarah 2:188 The

profits should be distributed according to the size of each partner's share.

The capital should be in money, and whoever wants to participate in the partnership with any other property should have the property evaluated in its current monetary value. This is necessary because value of a property is unknown until it is evaluated and transacting with an unknown thing is forbidden, for doing so could lead to people losing their rights or usurping people's wealth unjustly.

Each partner's work should be according to his share in the partnership. If, for example, a partner's share is a quarter, then his work should be once every four days. And if the partners decide to hire a laborer, each of them should contribute to his wage in proportion to the size of his share.

If any of the partners dies, the partnership is dissolved. The same is the case if any of them becomes insane. The heirs of the dead partner and the guardians of the insane partner have right to dissolve the partnership or to continue with it based on the earlier contract.

What is the ruling concerning corporal partnership?

It is when two or more people enter into a partnership to engage in physical work such as in a craft, sewing of garments or in laundry and that they share whatever they earn from this work equally or as they may otherwise agree upon.

The basic proof for validity of this is a report that Abu Dawood recorded from IAbdullah bin Maslood -may Allah be pleased with him - that he said, "I, Ammar, and SaId became partners in what we would receive on the day of Badr. SaId then brought two prisoners, but I and Ammar did not bring anything. And that was before the manner of distributing booties was revealed."

What are the conditions of corporal partnership?

1. Each of the partners has the right to ask for wages and to take the same from whoever makes use of their service.
2. If any of the partners becomes ill or absent due to an acceptable excuse, whatever the other partners earn should be divided among them all.
3. If any of the partners is absent for too long or is indisposed for too long, the healthy partners should find a replacement for him and the wage of that replacement should have the share of that sick or absent partner.

4. If the partnership involves only two persons and it becomes impossible for one of them to show up, then the other partner has the right to revoke the contract.

What is Sharikah Al-Wujuh?

Partnership upon credit is where two persons who do not contribute any property, become partners by agreeing to use their goodwill, creditworthiness, and good reputation to purchase goods jointly upon their personal credit and to sell them on their joint account. The profits and losses are also equally shared between them.

What is Sharikah Mutawadah?

It is more extensive than Shareekah al-'Inan, Sharfkahal-Wuju h and SharfkahAl-AMdan, for it is inclusive of all these three and also Al-MudharaMah. It is a partnership where each of the two partners has right to engage in all financial and physical activities pertaining to the partnership on behalf of the other. Each has the right to buy, sell, invest, delegate, mortgage and travel with the money, and the profit is shared between them as per the agreement and losses are shared according to the amount each of them has in the partnership.

Mudharabah

What is Mudharabah?

Al-Mudharabah is a kind of partnership where one partner gives money to another for investing it in a commercial enterprise and the profit is shared between them according to what they both agreed to.

If there is any loss, it will be offset from the capital only, for loss of the effort is enough for the laborer. So there is no need to burden him with additional loss.

What is its ruling?

Mudharabah is legal according to the consensus of the Prophet's Companions and the leading scholars. It was practiced during the time of Allah's Messenger (Peace and Blessings of Allah be upon him) and he approved it.

What are the major regulations of Mudharabah?

1. It should be between two Muslims who are eligible to engage in such partnership. There is no harm if it is between a Muslim and a non-Muslim and if the capital is from the latter and the labor is provided by the former. For, a Muslim can be trusted enough as far as dealing in Rib'a or unlawful money is concerned.
2. The capital must be fixed and known.
3. The share of the laborer must be determined from the profit. If such determination is not made, then he should be given his wages and the capital owner should have all the profit. If, at the time of making contract, both of them agreed that the profit should be between them, it means they have to share the profits equally.
4. If there is any disagreement on the stipulated part as whether it is a quarter or a half, the view of the capital owner is accepted, but with an oath.
5. It is illegal for the laborer to work with another person's money if doing so will harm the money of the first partner unless he allows him to do so. This is because, causing harm amongst the Muslims is forbidden.

6. The profit must not be distributed as long as the contract is valid except with mutual agreement of the two sides.
7. The capital is always restored by the profit. Therefore, the laborer deserves nothing from the profit until after the capital is completely restored, as long as the profit is not divided out. For example, if both of them trade in sheep and they earn profit and each of them takes his share of the profit; and they then trade in linen, for instance, and they incur a loss from their capital, the loss should be offset from the capital and the laborer is not liable to make up for that from the profit he earned from the earlier trade.
8. If the Mudharabah is terminated and there remains some money, property or a credit with someone and the capital owner requests for that in cash, the laborer is obliged to do so.
9. The laborer's statement concerning perish or loss of the capital must be accepted as long as there is no evidence contradicting his claim. If he claims that the money perished and provides a proof for that, his claim must be accepted.

Al-Musaqat

What is Al-Musaqat?

Musaqat refers to a contract in which the owner of a garden agrees to share its produce with someone in an agreed proportion in return for the latter's services in irrigating, tending the trees and looking after the garden.

What is its ruling?

It is permissible, and the basic proof for its permissibility is that it was practiced by the Prophet as well as his rightly-guided successors after him. Al-Bukhari recorded on the authority of Abdullah bin Umar - may Allah be pleased with him and his father - who said, "The Prophet concluded a contract with the people of Khaybar to utilize the land on the condition that half the products of fruit or vegetation would be their share." AbuBakr, Umar, Uthman and Ali - May Allah be pleased with them - continued with this contract.

What are the regulations of Musaqt?

1. The trees must be clearly known at the time of making the contract. Musaqt does not take place on an unknown condition to avoid an uncertain dealing which is forbidden.
2. The part of the produce given to the laborer must be clearly defined, for example, a quarter or a fifth. And the irrigation must cover all the trees, for if the irrigation is done on a particular tree, it may produce and it may not. And this is an uncertain dealing that Islam forbids.
3. The laborer should do all the necessary things to take care of the trees as customarily demanded in irrigation of trees.
4. If there is a tax on the irrigated land that will be the responsibility of the owner and not that of the laborer, for tax is due on the land even if the trees are not planted or the land is not cultivated.

As for Zakah, it is incumbent upon anyone of them whose share of the produce has reached the Nisa'b, for Zakah is connected with the produce itself.

5. Musaqt is permissible on the source. For example, a man can give money to another to plant palm trees and to irrigate and tend them until they bear fruits on an agreement that the latter will have a third or a quarter of the produce.

6. If the laborer cannot personally do the work, he can employ another person and should give him his due according to the agreement.
7. If the laborer flees before fruits start appearing, the landowner can terminate the contract, but if the fruits have started appearing before the laborer flees, he should employ another person to complete the job and pay him out of the wages due to the fleeing laborer.
8. If the laborer dies, his heirs can appoint a person from their side to finish the work. But if they and the landowner agree to terminate the contract, then it is revoked.

Muzara'ah (Leasing of Land for Agriculture)

What is Muzara'ah?

Muzara'ah is for a person to lease out a plot of land to another to cultivate on an agreement that the landowner has a certain percentage of the produce.

What is its ruling?

Majority of the scholars from among the Prophet's Companions, their successors and the Imams are of the view that it is permissible. There are other scholars who believe otherwise.

Those who believe in the permissibility of this transaction cite as a proof the Prophet's contract with the people of Khaybar to utilize the land on the condition that half the products of fruits or vegetation would be their share.

They interpret the report in which Muzara'ah is prohibited to apply only to the kind of Muzara'ah that is based upon unknown. They cited the Hadith recorded by Al-Bukhari and Muslim on the authority of Rafi" bin Khadij - may Allah be pleased with him - who said, "We worked on farms more than anybody else in Madinah. We used to rent the land so the yield of a specific delimited portion of it was to be given to the landlord. Sometimes the vegetation of that portion was affected by blights etc., while the rest remained safe and vice versa, so the Prophet (Peace and Blessings of Allah be upon him) forbade this practice." This means it is not forbidden; but only not desired.

This interpretation is corroborated by the statement of Ibn Abbaas - may Allah be pleased with him and his father, "The Messenger of Allah (Peace and Blessings of Allah be upon him) did not forbid that. He only said, 'For a person to give his land to his brother (for cultivation without getting anything from him in return) is better than getting from him a fixed toll.'" (Recorded by Muslim)

What are the regulations of Muzara'ah?

The period should be specified, such as a year, for example.

The amount of the produce to be paid to the landowner should be clearly defined and should cover all the produce of the land. The proof for this is the Hadith, recorded by Al-Bukhari on the authority of Rafi" who narrated, "We worked on farms more than anybody else in Madinah. We used to rent the land and say to the owner, The yield of this portion is for us and the yield of that portion is for you (as the rent)." One of those portions might yield something and the other might not. So, the Prophet forbade us to do so."

The seed should be from the landowner. If the seed is from the worker, then that is Mukhabarah; and the controversy regarding its permissibility is more severe than that of Muzara'ah. Jabir -may Allah be pleased with him -narrated, "The Messenger of Allah (Peace and Blessings of Allah be upon him) forbade Mukhabarah."

4. If the landowner stipulates that he should have the right to take back his seed before the produce is shared and that whatever is left is for him and the worker, such Muzara'ah is not permissible.

5. Working on a farm with wages in cash is better than Muzara'ah. This is due to the statement of Rafi" bin Khadij, "As for renting the land with gold and silver (as wages), we were not prohibited from that." (This is Muslim's version)

6. It is desirable for a person who has excess land to lease it to his brother free of charge. This is due to the statement of the Prophet (Peace and Blessings of Allah be upon him), "He, who has surplus land (in his possession), should cultivate it, or he should lend it to his brother for benefit, but if he refuses to accept it, he should retain it." (Recorded by Muslim on the authority of Jabir bin Abdullah may Allah be pleased with him).

He also said, "It is better for one to give the land to his brother free of charge rather than charge a certain amount for it." (Recorded by Al-Bukhari)

7. The majority of the scholars are of the view that it is impermissible to lease out a land for food for that is tantamount to selling food for food on credit and in differing quality or quantity, which is forbidden. The report attributed to Imam Ahmad on permissibility of that should be interpreted as meaning Muzara'ah and not as renting food for food.

Ijarah

What is Ijarah?

Ijarah is a contract made on the right to use and enjoy a particular property for a specific period in exchange for a fixed rent paid to the owner of the property.

What is its ruling?

It is permissible. The proof for this can be found in the Qur'an and the Sunnah. From the Qur'an, Allah informs us, concerning the story of Prophets Mu'sa and Shu'ayb -peace be upon them when Shu'ayb said,

"I intend to wed one of these two daughters of mine to you, on condition that you serve me for eight years; but if you complete ten years, it will be (a favor) from you. But I intend not to place you under a difficulty. If Allah will, you will find me one of the righteous." (Al-Qasas 28:27)

From the Sunnah, Al-Bukhari and Ibn Majah recorded on the authority of Abu Hurayrah - may Allah be pleased with him - that the Prophet related that Allah, High and Exalted, said, "I will be against three persons on the Day of Resurrection: One who makes a covenant in My Name, but he proves treacherous; a person who sells a free person (as a slave) and eats the price; and a person who employs a laborer and gets the full work done by him but does not pay him his wages."

Practically, the Messenger of Allah and Abu Bakr may Allah be pleased with him -hired the services of an experienced guide from the clan of Dayl to lead them to a road to Madinah while they were emigrating.

What are the conditions of Ijarah?

The type of the property to be rented or the services needed must be clearly defined. For, it is a kind of sale, and it is a condition that the commodity must be known.

The property to be hired out must be lawful. Therefore, it is not permissible to hire a slave woman out for sexual intercourse or to hire a woman for singing or wailing, or to lease a land for building a church or brewery.

The rent must be known.

What are the main regulations of Ijarah?

1. It is permissible to hire a teacher to teach a science or vocation. The proof for this is that the Messenger of Allah hired some captives of the Battle of Badr to teach Muslim children reading and writing in exchange for their freedom.
2. It is permissible to hire the services of a person in exchange for feeding and clothing him.
3. If a person rents something to another and prevents him from using and enjoying that thing for a period of time, he forfeits the rent of that particular period. If the lessee fails to use the rented property on his own volition, then he has to pay the complete rent.
4. The renting contract is automatically cancelled with the perishing of the rented property such as collapse of the house or death of the rented animal. In this case, the lessee pays only the rent for the period he used and enjoyed the property.
5. If a person rents a property and finds it defective thereafter, he has the right to revoke the contract. If he has made use of the property before discovering the defect, he pays for the period in which he has used the property.

6. In a contract that involves a workman, such as a tailor or a blacksmith, who gets jobs from different people at a time and a customer, the workman will be responsible for the item given to him for sewing or welding, if it is damaged by his action. However, he will not be held responsible if the item gets lost from his shop for, in this case, he is a trustee, and a trustee is not held responsible for the lost trust if that is not due to his negligence. As for a specially hired workman (who exclusively devotes his entire time for the jobs from a particular customer), he is regarded as a private employee. Therefore, he is not responsible for whatever damage that occurs in the items given to him as long as that is not caused by his negligence or transgression.
7. The rent becomes payable as soon as the contract is signed, and it must be paid after the property has been made use of and enjoyed or at the completion of the contracted job, unless it is stipulated that it should be paid immediately after the contract is made.
8. The workman can confiscate the item until he gets his wages if his work is connected with the item such as a tailor, for instance. But if his work is unconnected with the item such as a person employed to carry a commodity from one place to another, he has no right to confiscate the item. Rather, he should deliver the item and then ask for his wage.
9. If a person gives medical treatment to a patient without knowledge of medicine and damages a part of the patient's body, he must pay a compensation for that damage. This is due to the statement of the Messenger of Allah "He who practices medicine without knowledge should pay the compensation (if anything goes wrong)." (Recorded by Abu Dawood)

Al-Ju'alah (Reward or Prize)

What is Al-Ju'alah?

It linguistically means what is given to someone as a prize for something he has done.

In Shari'ah, it means: To set aside a prize of certain amount of money to be given to someone who carries out a known or unknown action. It is to say, for example, "Whoever builds this wall for me shall have such and such amount". So, if a person built the house, he is entitled to that specified prize, whether it is little or a lot.

What is its ruling?

It is permissible. The evidence for this is the statement of Allah, informing us about Prophet Yusuf (peace be upon him):

"They said: 'We have lost the (golden) bowl of the king and for him who produces it is (the reward of) a camel load; and I will be bound by it.'" (Yusuf 12:72)

From the Sunnah, Abu Sa'eed Al-Khudri - may Allah be pleased with him - made a narration concerning the chief of an Arab clan who was stung by a scorpion. Members of this clan told the Prophet's Companions who passed by that if they could do something to heal their chief, they would be paid a prize of a flock of sheep. One of them then recited Surah Al-Fatihah and puffed over the chief who became well as if he was released from a chain, and got up and started walking, showing no signs of sickness.

They paid them what they agreed to pay. Some of the Companions then suggested dividing their earnings among themselves, but the one who performed the recitation said, "Do not divide them till we go to the Prophet and narrate the whole story to him, and wait for his order." So, they went to Allah's Messenger (Peace and Blessings of Allah be upon him) and narrated the story. Allah's Messenger (Peace and Blessings of Allah be upon him) asked, "How did you come to know that Surah Al-Fatihah was recited as Ruqyah?" Then he added, "You have done the right thing. Divide (what you have earned) and assign a share for me as well." The Prophet (Peace and Blessings of Allah be upon him) smiled thereupon. (Recorded by Al-Bukhari and Muslim)

What are the regulations of Ju'alah?

1. It is a permissible contract. Each of the two contracting parties has the right to terminate it. If the termination is before the action is done, there is nothing wrong in that; but if it is terminated while the action is in progress, then the doer of the action is due a wage that is proportionate with the work he has done.
2. It is not a condition for the validity of Ju'alah that the period for carrying out the action must be known. For example, if someone says, whoever finds and returns my lost animal to me shall have a dinar", anyone who finds and returns the animal is entitled to the prize, even if he returns it after a month or a year.
3. If the work is jointly done by a group, the prize should be jointly shared among them.
4. It is not permissible to place a prize on a forbidden thing. For example, it is forbidden to say, if one sings music or plays musical instrument or beats a person or insults a person, he will have such and such".
5. If a person returns a lost and found item or carries out an action before he knows that there is a prize for it, he will not be entitled to that prize, because his action is initially carried out voluntarily.

However, he may be given the prize as an encouragement if the action he performed is bringing back of an absconding slave or rescuing a drowning person.

6. If a person says, whoever eats such and such or drinks such as such, which is Hala'l will have such and such", the prize should be given to him if he eats or drinks it.
7. If the owner of the prize and the worker differ on the amount of the prize, the opinion of the owner should be reckoned with, in addition to an oath which he must take. If they differ on whether there is a prize in the first place, then the opinion of the worker must be reckoned with, in addition to an oath he must take.

Hawalah (Transfer)

What is Hawalah?

It is a system whereby a debtor transfers the responsibility of payment of his debt to a third party who owes the former a debt. Thus the responsibility of payment is ultimately shifted to that third party. An example of this is to tell one's creditor: "I refer you to so and so, for he owes me an amount equal to what I owe you. You can take the amount from him." If the latter agrees, then the one who refers him is free of any obligation.

What is its ruling?

Hawalah is permissible. However, it is incumbent upon a creditor if he is referred to a wealthy third party, to accept that referral. The Messenger of Allah said, "Procrastination (delay) in paying debts by a wealthy man is injustice. So, if your debt is transferred from your debtor to a rich debtor, you should agree." (Recorded by Al-Bukhari and Muslim on the authority of Abu Hurayrah - may Allah be pleased with him).

What are the conditions of Hawalah?

The debt for which the third party is responsible should be a solid and genuine debt.

The two debts must be of the same kind, value and period of payment.

The transfer should be by mutual agreement between the debtor and the creditor; for though he is under an obligation, he is not obliged to fulfill this obligation through transfer. Rather, he is free to choose the way through which he carries out the obligation. As for the creditor who is referred to a third party, though the Shari'ah requests from him to accept the referral, he is only to accept it as a show of nobility, for transfer of the debt is not a binding contract. It is only undertaken in order to make things easy for the Muslims.

What are the regulations of Hawalah?

The debtor to whom the debt is transferred must be rich and capable of paying the debt. This is due to the Prophet's saying, "If your debt is transferred from your debtor to a rich debtor, you should agree."

If a debt is transferred to a person who was later discovered to be bankrupt, dead or absent, the creditor should go back to the debtor for his right.

If a debt is transferred to a person and that person also transfers the debt to another, it is permissible. For, repeated transfers does not cause any harm as long as the conditions are fulfilled.

Adh-Dhaman (Guarantee-ship)

What is Dhaman?

It is to stand as a guarantor for someone who is under an obligation. It is when someone is obliged to another and then a third party comes and says, the obligation is upon me and I am standing as a surety for him." In this case, the person to whom the right is due can demand his right from the one who stands as the surety.

What is its ruling?

It is permissible. The evidence for its permissibility is the verse from Surah Yusuf:

﴿وَلَمَنْ جَاءَ بِهِ حِمْلُ بَعِيرٍ وَأَنَا بِهِ زَعِيمٌ﴾

"And for him who produces it is (the reward of) a camel load; and I will be bound by it." Yusuf 12:72

From the Sunnah, the proof for this is the case of a man who died while having outstanding debts and the Messenger of Allah (Peace and Blessings of Allah be upon him) refused to perform funeral prayer on him. He insisted that his debts must be paid or someone guaranteed that he would pay the debt on his behalf before he could perform the prayer on him.

What are the regulations of guarantee-ship?

The consent of the person who is standing as a guarantor is compulsory while that of the person for whom he is standing as a guarantor is not necessary.

The one for whom another person is standing as a guarantor is not free of the obligation as long as the person who is standing for him is not free of that obligation.

It is not necessary that the guarantor should know the person for whom he is standing as a guarantor, for it is permissible for a person to stand as a guarantor for a person he does not know at all. This is because, surety ship is an act of charity and kindness.

There is no guarantee-ship except in an established obligation or in what can become an established obligation like Ju'alah, for instance.

There is nothing wrong in a person having more than one guarantor, as there is nothing wrong in a person standing as a guarantor for more than one person.

Al-Kafalah (Surety-ship)

What is Kafalah?

This is a situation when someone whose actions are permissible undertakes to fulfill an obligation due on another person or to undertake to produce him in court.

What is its ruling?

It is permissible. This is due to the statement of Allah, High and Exalted:

﴿قَالَ لَنْ أُرْسِلَهُ مَعَكُمْ حَتَّى تُؤْتُونِ مَوْثِقًا مِّنَ اللَّهِ لَتَأْتُنِي بِهِ إِلَّا أَنْ يُحَاطَ بِكُمْ فَلَمَّا آتَوْهُ مَوْثِقَهُمْ قَالَ اللَّهُ عَلَى مَا نَقُولُ وَكِيلٌ﴾

"He [Ya'qub (Jacob)] said: "I will not send him with you until you swear a solemn oath to me in Allah's Name, that you will bring him back to me unless you are yourselves surrounded (by enemies),"

And when they had sworn their solemn oath, he said: "Allah is the Witness over what we have said." Yusuf 12:66.

From the Sunnah, the Messenger of Allah (Peace and Blessings of Allah be upon him) said: "The one who stands surety is held responsible." (Recorded by Abu Dawood on the authority of Abu Umamah may Allah be pleased with him)

What are the regulations of surety-ship?

1. The surety must know the person he is standing for, especially if the surety-ship is that of producing the person in court.
2. It is necessary to have the consent of the surety.
3. If a person stands as a surety for another in a financial matter and the person for whom he stands dies, the surety must fulfill the financial obligation; but if the surety-ship is about producing a person in court and that person dies, then there is nothing on the surety.
4. The surety ceases to be bound by the surety-ship as soon as he produces the person in court.
5. Surety-ship is not valid except in rights in which representation is permissible such as financial obligations. As for matters in which representation is not permissible, such as Hudud and Qisas, no surety ship is valid in them.

Ar-Rahn (Mortgage)

What is Rahn?

Ar-Rahn is a property offered as security for a debt. An example of this is a person borrowing a certain amount of money from another. The creditor then asks the debtor to surrender a property of his, such as an animal or an estate, as a mortgage so that when the time to pay back is due and he fails to do so the debt will be taken from it.

What is its ruling?

Rahn is permissible. Allah says:

﴿وَإِنْ كُنْتُمْ عَلَىٰ سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهْنَ مَقْبُوضَةً﴾

"And if you are on a journey and cannot find a scribe, then let there be a pledge taken (mortgaging)."
Al-Baqarah 2:283

The evidence for its permissibility in the Sunnah is the Hadith recorded by Al-Bukhari on the authority of Anas bin Malik -may Allah be pleased with him -who narrated, "No doubt, the Prophet mortgaged his armor for barley grams. Once I took barley bread with some dissolved fat on it to the Prophet and I heard him saying, "The household of Muhammad did not possess except a Sa' (of food grain, barley, etc.) for both the morning and the evening meals although they were nine houses."

What are regulations of Rahn?

1. The mortgagee should take possession of the mortgaged property from the mortgagor. The mortgagor has no right to take back the property (as long as he has not paid his debt) while the mortgagee can return the property to the mortgagor (even if he has not been paid the debt) for it is his right.
2. It is impermissible to mortgage non salable properties with the exception of unripe fruits and crops. Though to sell unripe fruits and crops is forbidden, it is permissible to mortgage them. For, there

is nothing there to the mortgagee because his debtor remains under an obligation to pay him the debt even if the crops and fruits perish.

3. When the time for payment of the debt is due, the mortgagee asks the mortgagor to pay up. If the latter pays up, the former returns the mortgaged property to him. If he fails to pay up, then he sells the property, takes his due from the proceeds and returns whatever is left to the debtor if there is any. If the value of the mortgaged property is lesser than the debt owed, the debtor remains obliged to pay up the remaining debt.

4. The mortgaged property is a trust in the hand of the mortgagee, if the property is damaged as a result of his negligence or an act of transgression from him, then he becomes responsible for it. But if not, he will not be responsible for the damage and the mortgagor remains obliged to pay back the debt.

5. It is permissible to put the mortgaged property in the hand of another trustworthy person; for what is important is to keep the property as a security for the debt.

6. If the mortgagor stipulates that the mortgaged property should not be sold when the time for payment is due and he fails to pay up, then the mortgage becomes of null and void. Also, if the mortgagee stipulates that the mortgaged property becomes his if the time for payment of the debt is due and the mortgagor fails to pay up, the mortgage becomes null and void.

7. If the mortgagor and the mortgagee differ on the amount of the debt, the opinion to be reckoned with is that of the mortgagor unless the mortgagee produces proof. If they disagree on the mortgaged property and the mortgagor says, "I gave you an animal and its young one as a mortgage", and the mortgagee said, "No, you gave me the animal only", it is the statement of the mortgagee that is reckoned with, along with his oath unless the mortgagor produces a proof to support himself.

8. If the mortgagee claims that he has returned the mortgaged property to the mortgagor and the latter denies that, then the mortgagor's claim is reckoned with along with his oath unless the mortgagee can produce a proof indicating that he had actually returned the property.

9. The mortgagee can ride the mortgaged animal if it is an animal that can be ridden and can milk it if it is an animal that can be milked, in proportion to what he spends on its feeding and maintenance. He should maintain justice in all that and should not benefit from it more than what he spends on it. This is due to the statement of the Messenger of Allah "The mortgaged animal can be used for riding as long as it is fed and the milk of the milk animal can be drunk according to what one spends on it. The one who rides the animal or drinks its milk should provide the expenditures." (Recorded by AlBukhari on the authority of Abu Hurayrah -may Allah be pleased with him).

10. The fruits that a mortgaged property (such as a farm) bears shall be for the mortgagor as he should be responsible for its irrigation and all that the property needs.

11. If the mortgagee spends anything on the mortgaged property without the permission of the mortgagor, he has no right to reclaim that from the mortgagor. But if he wanted to seek his permission and it was impossible for him to do so due to the mortgagor being in a far-away place, he has the right to ask him for reimbursement if he spent that amount with the intention of asking for reimbursement. If he did not have that intention, then he cannot ask for that because it is unlawful for a volunteer to request payment for what he volunteered to do.

12. If the mortgaged property is damaged, and the mortgagee fixed the damage without the permission of the mortgagor, he is entitled to nothing from the mortgagor.

13. If the mortgagor dies or becomes bankrupt, the mortgagee is more entitled to the mortgaged property than any other creditor. If the time for the payment of the debt is due, he can sell the property, take his due from the proceeds and return the rest to the heirs. But if the value of the property is less than what he is owed, then he becomes equal to other credits in respect to what is left of his right.

Al-Wakalah (Delegation)

What is Al-Wakalah?

Al-Wakalah is for a person to appoint another to act on his behalf in all matters in which delegation is permissible such as buying, selling or litigation.

What are the conditions for Wakalah?

It is a condition that both the agent and the person who appoints him be legally qualified to perform such actions.

What is its ruling?

It is permissible in the Qur'an and the Sunnah. From the Qur'an, Allah speaks about those who deserve to be given Zakah and mentions among them, "And those employed to collect (the funds)." (At-TawMah 9:60) This indicates that it is permissible to appoint a person to perform an action on behalf of another.

In another verse, Allah says, informing us about the people of the Cave that one of them said:

﴿فَابْعَثُوا أَحَدَكُمْ بِوَرِقِكُمْ هَذِهِ إِلَى الْمَدِينَةِ فَلْيَنْظُرْ
أَيَّهَا أَزْكى طَعَامًا فَلْيَأْتِكُمْ بِرِزْقٍ مِنْهُ﴾

"So send one of you with this silver coin of yours to the town, and let him find out which is the good lawful food, and bring some of that to you." Al-Kahf 18:19

This also indicates the permissibility of appointing a person to act on behalf of others.

From the Sunnah, Al-Bukhari and Muslim recorded on the authority of Abu Hurayrah and Zaid bin Khalid Al-Juhani -may Allah be pleased with them -that they narrated, "A Bedouin came to Allah's Messenger (Peace and Blessings of Allah be upon him) and said, 'O Allah's Messenger (Peace and Blessings of Allah be upon him)! I ask you by Allah to judge my case according to Allah's Laws.'" His opponent, who was more learned than he, said, Yes, judge between us according to Allah's Laws, and allow me to speak." Allah's Messenger said, "Speak." He (i.e. the Bedouin or the other man) said, "My son was working as a laborer for this (man) and he committed illegal sexual intercourse with his wife. The people told me that it was obligatory that my son should be stoned to death, so in lieu of that I ransomed my son by paying one hundred sheep and a slave girl. Then I asked the religious scholars about it, and they informed me that my son must be lashed one hundred lashes, and be exiled for one year, and the wife of this (man) must be stoned to death." Allah's Messenger (Peace and Blessings of Allah be upon him) said, "By Him in Whose Hands my soul is; I will judge between you according to Allah's Laws. The slave-girl and the sheep are to be returned to you, your son is to receive a hundred lashes and be exiled for one year. You, Unais, go to the wife of this (man) and if she confesses her guilt, stone her to death." Unais went to that woman next morning and she confessed. Allah's Messenger (Peace and Blessings of Allah be upon him) ordered that she be stoned to death."

In the above Hadith, the Messenger of Allah appointed Unais to investigate the claim and carry out the punishment.

What are the major regulations of Wakalah?

1. Wakalah is established by any statement that indicates permission. No particular format is required.

2. It is permissible to appoint an agent in any personal transaction such as selling, buying, marriage contract and taking back a divorced wife (in a revocable divorce); and in revocations such as divorce and khul' (divorce at the instance of the wife). It is also permissible in rights belonging to Allah and in which delegation is permissible such as distribution of Zakah and performance of Hajj and 'Umrah on behalf of a dead or an infirm person.
3. Delegation is permissible in verifying the cause of Hudud (prescribed punishment) and in implementing it. The proof for this is the Prophet's instruction to Unais, "You, Unais, go to the wife of this (man) and if she confesses her guilt, stone her to death."
4. Delegation is not valid in acts of worship in which delegation is not permissible such as prayer and fasting (though there are proofs supporting the fact that it is permissible to observe fasting on behalf of a person who dies and has outstanding fasting or who vowed to observe fasting and died before he could observe it, but one must not fast on behalf of a living person). It is also impermissible to delegate another person to make Li'an or Zihar on one's behalf, or to give testimony and to make an oath on one's behalf. Equally, it is impermissible to delegate another person in doing an unlawful thing.
5. Delegation becomes automatically null and void with its termination by any of the two parties or by the death of any of them or his becoming insane.
6. If a person is delegated to sell or buy something on behalf of another, the person so delegated should not buy from or sell to himself, his children or his wife or anyone whose testimony is in his favor so is not legally acceptable due to favoritism. This same rule applies to the managing trustee (Mudharib), the guardian (Wasiyy), the partner (Shari'k), the judge, and the administrator of Waqf.
7. A delegate will not be responsible for whatever is damaged or lost as long as that is not due to his negligence or an act of transgression on his part.
8. It is permissible to appoint a person as an absolute agent in all personal right. The agent so appointed can act on behalf of the person who appoints him in all matters except divorce, for in case of divorce, the intention and determination of the person concerned are essential.
9. If a person stipulates that his agent should buy a particular commodity, he should not buy another. If he buys other than what he is asked to buy, the one who appoints him reserves the right to accept or reject it. Also, if he buys a defective commodity or buys a clearly fake commodity, the one he represents has the right to take or reject it.
10. It is legal to appoint a delegate on a fee; the fee must be fixed and the delegated work must be clearly defined.

As-Sulh (Peacemaking)

What is Sulh?

Sulh is to make peace between two warring factions or persons.

What is the ruling of Sulh?

It is permissible due to Allah's statement,

﴿فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ﴾

"And there is no sin on them Moth if they make terms of peace between themselves; and making peace is Metter." An-Nisa 4:128

From the Sunnah, Ahmad, Abu Dawood and At-Tirmidhi recorded on the authority of Abu Hurayrah - may Allah be pleased with him - that the Messenger of Allah said, "Making peace among Muslims is permissible except for peacemaking that makes a forbidden thing lawful or that forbids a lawful thing."

What are the types of peacemaking?

There are three types of peacemaking as far as financial matters are concerned:

- a. Peacemaking on acknowledgment: This is when a person claims that another owes him a right and the defendant acknowledges that. The claimant then forfeits a part of the right that the defendant owes him or he grants him a gift or favor for his acknowledgment, as a way of giving peace a chance.
- b. Peacemaking on denial: This is when a person claims that another owes him an obligation but the defendant denies that. In order to give peace a chance, he agrees to give the claimant something so that he could drop his demand and free him of litigation and oath-taking.
- c. Peacemaking on silence: This is when a person claims that another owes him an obligation and the defendant neither acknowledges nor denies that. Therefore, in order to make peace with the claimant, he agrees to give him something so that he could drop his claim and spare him litigation.

What are the major regulations of Sulh?

1. Making peace on a claimed property is like business transaction as far as what is allowed or forbidden are concerned. For instance, if a person claims that another owes him a house and the defendant makes peace with him by giving him a garment and stipulating that he should not wear that garment, such peacemaking is invalid. This is because; he makes an invalid stipulation, and since peacemaking is similar to business transaction, as far as permissible and forbidden things are concerned, such a stipulation invalidates it.

Also, if a person claims that another is obliged to pay him dinars on the spot and the defendant makes peace with him on the basis that he would pay him dirhams at a later date, such peacemaking is not valid. This is because, in money exchange transactions, it is a condition that the money must exchange hands on the spot.

If he claims that the defendant owes him a garden, and the defendant reaches a compromise with the claimant on one half of a house, the other co-owner of the house is entitled to demand the right of preemption for the half of the house on which a compromise is reached. If a defendant reaches a compromise with a claimant on an animal and the latter finds it defective, he has the right to return or keep it.

2. If one of the two peacemaking parties knows that he is telling a lie, then the peacemaking becomes null and void and whatever he takes from his opponent as a compromise is Hara m.

3. If a person acknowledges that he owes another some obligation and yet insists that he can only give the claimant just anything, it not permissible for him to do that. For example, if a person acknowledges that he owes another one thousand dinar and insists that his creditor should write off half of that, it is unlawful for him to do so. But if the creditor volunteers to write off a part of the debt or someone intercedes on behalf of the debtor to write off a part thereof, without being coerced into doing so, that would be regarded as an act of charity on the part of the creditor. The proof for interceding on behalf of the debtor is a Hadith recorded by Al-Bukhari and Muslim on the authority of Ka'ab bin Malik -may Allah be pleased with him who said: "In the mosque I asked Ibn Abi Hadrad to pay the debts which he owed to me and our voices grew louder. Allah's Messenger heard that while he was in his house. So he came to us raising the curtain of his room and said, "O Ka'b!" I replied, "Labbaik, O

Allah's Messenger (PBUH)!" He said, "O Ka'b! Reduce your debt to one half," gesturing with his hand. I said, "O Allah's Messenger! I have done so." Then Allah's Messenger (Peace and Blessings of Allah be upon him), blessings and peace of Allah be upon him said (to Ibn Abi Hadrad), "Get up and pay the debt to him."

4. If a person reaches a compromise with his partner concerning a fence that he would open a window or a door for a fixed fee, it is permissible. For, it is like a business transaction.

Reviving a Dead Piece of Land

What is the meaning of 'reviving a dead piece of land'?

When a Muslim comes to a piece of land that belongs to nobody and then revives it by planting trees, building a house or digging a well on it, such a piece of land becomes his property.

What is its ruling?

It is permissible to revive a dead piece of land. This is due to the statement of the Prophet "He who revives a dead land becomes its owner." (Recorded by At-Tirmidhi on the authority of Sa'eed bin Zayd)

What are the regulations for that?

Ownership of revived piece of land can only be established by the following two conditions:

One: The land must be actualized by planting a tree, building a house or digging a well on it.

Two: The land should not be the property of another person. This is due to the statement of the Prophet (Peace and Blessings of Allah be upon him) "Whoever inhabits a land which does not belong to anybody is more entitled to it." (Recorded by Al-Bukhari)

2. If the land is close to a town or is situated inside a town, no one should build anything on that land without the consent of the ruler. For, such a land could be among the public properties belonging to the Muslims.

3. If the land is rich with minerals, the minerals cannot become a personal property of anyone but that of the state because it is source of benefit for all Muslims. The Messenger of Allah allocated a land that was rich with mineral salt to one of his Companions. When his attention was called to that fact, he took back the land from the Companion he gave it to.

4. If a person revives a piece of land and discovers that there is a water spring in that land, he has greater right to the water than others. He can take from the water for his needs before anybody else, and if there is any surplus of water from the spring, then it belongs to the Muslims. This is due to the Prophet's saying: "Muslims have common share in three (things): grass, water and fire." (Recorded by Ahmad and Abu Dawood)

Excess Water

What is excess water?

It is when a Muslim possesses a well or a stream and the water is more than what he needs for his drinking, irrigation and other essentials.

What is its ruling?

The ruling is that if a Muslim has surplus water, he should allow the needy Muslims to have it free of charge. That is why the Messenger of Allah said, "The excess water should not be sold in order to enable the sate of herbage." (Recorded by Muslim)

He also said, "Do not withhold excess water, so that you may prevent the growth of herbage." (Muslim)

What are the regulations concerning excess water?

It is not obligatory to let others have the water until the owner has taken his own needs.

It should be ensured that the person allowed to have excess water really needs it.

The one giving excess water to others should not be exposed to harm in any way in the course of his giving out the water.

AJ-Iqta' (Land Allocation)

What is Iqta'?

Iqta is for the ruler to grant himself or others a piece of public land which is nobody's property to use for agriculture or construction.

What is its ruling?

It is permissible only for the leader of the Muslims to do so. The Messenger of Allah had done so; and so had Abu Bakr, Umar and others - may Allah be pleased with them.

What are its major regulations?

The ruler of the Muslim has the exclusive right to do so. For it is impermissible for any other person to dispose of the public property except the ruler.

Whoever is permitted to do so should not take more than he is able to revive or construct buildings on.

If the ruler allocates a piece of land to someone and the person is unable to erect a building or cultivate the land, the ruler should take back the land for the public interest.

The ruler has the right to allocate land to whoever he likes among the citizens as long as doing so is not detrimental to public interest. The person for whom the land is allocated should not regard it as his personal property; he is merely more entitled to use the land than others.

It is not permissible for someone to whom the ruler allocated a piece of land or who preceded others to it to harm anyone, such as blocking away light from them or preventing buyers from seeing their commodities displayed for sale. The Messenger of Allah said, "No person should harm another nor should there be reciprocation of harm." (Recorded by Ahmad and Ibn Majah)

Who should benefit when water overflows a valley?

When water overflows a valley, the Muslims on the upper part of the valley shall be the first to benefit from it and then those who are above them. Then the water is channeled to the farms that are meant for irrigation. If the farms are on an equal distance to the water source, the water is distributed to them according to the size of the farms. If there is a disagreement among the owners of the farms, then lots are cast among them to determine who should have his farm irrigated first. This is due to what Al-Bukhari and Muslim reported on the authority of Urwah that an Ansari man quarreled with Az-Zubair in the presence of the Prophet about the canals which were used for irrigating the date-palms. The Ansari man said to Az-Zubair, "Let the water pass." But Az-Zubair refused to do so. So, the case was brought before the Prophet who said to Az-Zubair, "O Zubair! irrigate (your land) and then let the water pass to your neighbor."

In another Hadith, recorded by Ibn Majah on the authority of Ubadah bin Samit - may Allah be pleased with him - the Messenger of Allah gave a judgment concerning the irrigation of date-palms that the upper side should be irrigated before the lower side and that the water should be left to flow until it reaches the ankles. Then it should be allowed to pass to the immediate lower side until the farms are all irrigated or the water is finished.

Al-Hima' (Sanctuary)

What is a sanctuary?

It is an uncultivated land whose grass is allowed to grow abundantly so that special animals could graze on it.

What is its ruling?

It is impermissible for any person to take even an arm's length of public land that belongs to the Muslims as a sanctuary. It is only the constituted authority that is allowed to do so if it is in the interest of the Muslims. This is due to the Prophet's statement, "There is no sanctuary except that of Allah and His Messenger." (Recorded by Al-Bukhari)

This Hadith indicates that no one has the right to take a sanctuary except Allah, His Messenger and the ruler of the Muslims; the ruler of the Muslims does not take any sanctuary except in the public interest. The rulers always spent properties that belong to Allah and His Messenger in the interest of the Muslims. The rules that apply to a fifth of war booties, a fifth of booty earned without fighting and a fifth of the buried treasure apply to such property.

In the Sunnah, the Messenger of Allah set aside a place called Naqi' exclusively as a grazing ground for Jiha'd camels and horses. It is also reported that Umar -may Allah be pleased with him -earmarked a piece of land for a purpose and when he was asked about that he said, "The property is Allah's and the servants are Allah's. By Allah, if my earmarking of the land had not been for the sake of Allah, I would not have earmarked even an inch of it."

What are the regulations of setting aside a piece of land as sanctuary?

1. No one has the right to set aside a public land for any purpose except the ruler of the Muslims. This is due to the Prophet's saying, "There is no sanctuary except that of Allah and His Messenger (Peace and Blessings of Allah be upon him)." (Recorded by Al-Bukhari)
2. The piece of land to be earmarked as a sanctuary should not be a property belonging to anybody.
3. The leader of the Muslims should not earmark any property for his personal use. Rather, he should do so for the use of the generality of the Muslims.
4. The state can, by analogical deduction, earmark some mountains in order to give protection to the trees in the forest, if doing so is in the interest of the Muslims. If doing so is not in the interest of the Muslims, then it is not permissible.

AJ-Qardh (Loan)

What is Qardh?

It is to give a certain amount of money to someone for his use with a promise to return the same amount later. It also includes lending a person some property such as a material or an animal for a certain period with a promise to return the same when the stipulated period is due.

What is the ruling of Qardh?

It is a recommended and desirable act. Allah says:

﴿مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضْعِفُهُ لَهُ ۗ وَ لَهُ أَجْرٌ كَرِيمٌ﴾

"Who is he that will lend to Allah a goodly loan, then (Allah) will increase it manifold to his credit (in repaying), and he will have (Mesides) a good reward (i.e. Paradise)." Al-Hadi'd 57:11

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "He who alleviates the suffering of a brother out of the sufferings of the world, Allah would alleviate his suffering from the sufferings of the Day of Resurrection." (Recorded by Muslim, Abu Dawood and others on the authority of Abu Hurayrah (may Allah be pleased with him) This is for the lender.

As for the borrower, it is permissible for a Muslim to borrow and there is nothing wrong in that (as long as what he borrows is lawful). The Messenger of Allah had himself borrowed a young camel and voluntarily paid back with an adult camel. He then said, "The best of the people is the best of them in terms of paying back (a debt or borrowed property)." (Recorded by Muslim, Maalik, Abu Dawood and others)

What are the conditions of Qardh?

1. The exact amount, weight or number of the property to be lent or borrowed must be specified.
2. The description and age must be known if it is an animal.
3. The person lending out an item must be someone who is legally permitted to donate things. As such, a person who owns nothing or a minor or an insane is not allowed to lend out anything.

What are its major regulations?

The borrower possesses the item by receiving it and therefore, he becomes responsible for it.

It is permissible to lend out an item for a specific period. However, lending out items without specifying a period for its return is more meritorious for it means showing compassion to the borrower.

If the item remains intact as it was the day it was borrowed, then it is returned to the owner. But if there is a change of addition or omission in it, the equivalent of what is borrowed is returned -if it has an equivalent. But if it does not have any equivalent, then its value in money should be returned to the lender.

If there is no additional burden in carrying the borrowed item, it is permissible to return it to the lender anywhere he likes. But if carrying it involves an additional burden for the borrower, then he is not obliged to return to the lender except at the place where he borrowed it from.

It is forbidden for the lender to derive any benefit whatsoever by lending the item to others, whether such benefit is in terms of getting more than what he lent out or getting what is better than what he lent out or any other benefit that results from his lending out the item, if that is mentioned in the lending agreement between both the lender and the borrower. However, if the benefit is a mere act of kindness from the borrower, there is nothing forbidden in that. For, the Prophet gave a bigger and fully grown camel in return for a young camel he borrowed from one of his Companions and said, "The best of the people is the best of them in terms of paying back (a debt or borrowed property)."

AJ-ladi'ah

What is Al-Wadi'ah?

It is to entrust or to leave money or any other property in another person's custody to be returned whenever it is requested.

What is the ruling concerning Wadi'ah?

It is legally permissible to keep things in another person's custody. The proof for this is Allah's statement:

﴿فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمْنَتَهُ﴾

"Let the one who is entrusted discharge his trust (faithfully)." Al-Baqarah 2:283

Allah also says:

﴿إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا﴾

"Verily! Allah commands that you should render back the trusts to those to whom they are due."
AnNisa 4:58

The Messenger of Allah said, "Pay the deposit to him who deposited it with you, and do not betray him who betrays you." (Recorded by Al-Bukhari and Muslim on the authority of Abu Hurayrah - may Allah be pleased with him)

The ruling of Wadi'ah is different from one situation to another. Its acceptance may be obligatory upon a Muslim if another Muslim direly needs to deposit his money with someone and the former is the only person he could find. It may be recommended, if a Muslim asks his brother to keep something for him in trust and the latter feels that he is capable of doing so. This is an example of cooperation in righteousness that Allah enjoins in His statement:

﴿وَتَعَاوَنُوا عَلَىٰ الْبِرِّ وَالتَّقْوَىٰ﴾

"Help you one another in Al-Birr and At-Taqwa (virtue, righteousness and piety)."

Al-Maidah 5:2

Sometimes, accepting of a trust could be disliked. That is when a person with whom the property is being entrusted is unable to preserve it.

What are the main regulations of Wadi'ah?

1. Both the keeper and the depositor must be legally obligated. Therefore, a minor or an insane person should not, entrust anything with anybody nor should anything be entrusted to him.

The keeper is not responsible for any damage that could occur to the property entrusted with him if such damage is not caused by an act of negligence or transgression on his part.

The depositor has the right to take back his property whenever he wants; the keeper also has the right to return the property kept in his custody whenever he likes.

It is impermissible for the keeper to make use of the property kept in his custody in any way except by explicit permission of the depositor.

If there is a dispute between the depositor and the keeper concerning the return of the deposit, the statement of the keeper is accepted along with an oath from him unless the depositor brings a proof establishing that the deposit has not been returned to him.

Al-Ariyah

What is Al-'Ariyah?

It is something that a person lends to another to make use of and be given back at a later date such as a garment or the like.

What is its ruling?

It is legal. Allah says:

﴿وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ﴾

"Help you one another in Al-Birr and At-Taqwa (virtue, righteousness and piety)." Al-Maidah 5:2

From the Sunnah, Safwaan bin Umayyah narrated that the Messenger of Allah (Peace and Blessings of Allah be upon him) borrowed coats of mail from him on the day of (the battle of) Hunayn. He asked: Are you taking them by force, Muhammad? He replied: No, it is a loan with a guarantee of their return." (Recorded by Abu Dawood)

Lending things to a fellow Muslim brother is desirable.

This is due to Allah's statement mentioned above. It may sometimes becomes obligatory upon a Muslim who owns a property to lend it to his brother if the latter is in dire need of it and the former is not in immediate need of the property.

What are the regulations for lending?

Regulations for lending are:

1. The material to be lent should be something permissible. As such, a slave girl should not be lent for sexual intercourse, a Muslim should not be lent to serve a non-Muslim and a perfume or garment should not be lent to a person in the state of Ihram. This is because, cooperation in sinful acts is forbidden. Allah says:

﴿وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ﴾

"Do not help one another in sin and transgression." Al-Maidah 5:2

2. If the lender stipulates that the borrower should be responsible for any damage done to the lent object while it is with him, the stipulation is binding on the borrower. This is due to the Prophet's saying, "Muslims are bound by their conditions, except a condition that forbids a lawful thing or a condition that allows a forbidden thing." (Recorded by At-Tirmidhi)
3. If the lender did not make such a stipulation and damage occurs to the property without neglect or an act of transgression from the borrower, then he is not responsible. However, it is desirable for him to compensate the lender for such damage. The proof for this is the Prophet's statement to one of his wives who had broken a vessel, "Food should be given in compensation for food and a vessel should be given in compensation for the vessel." (Recorded by At-Tirmidhi). If the borrowed object gets damaged as a result of transgression or negligence on part of the borrower, then compensation should be made with a similar object or its value. The Prophet said, "The hand is responsible for whatever it takes until it gives it back." (Recorded by Ahmad)

4. While returning the borrowed object, the borrower is responsible for the necessary expenses needed such as transportation expenses and the like. The Messenger of Allah said, "The hand is responsible for whatever it takes until it gives it back." (Recorded by Ahmad)
5. It is unlawful for a borrower to rent out the borrowed object. However, he can lend it to another person if the owner consents.
6. If a person lends another a piece of land for agricultural purpose, it is unlawful for him to take back the land until after the crops have been harvested, because doing so is tantamount to harming a Muslim and this is forbidden.
7. If a person lends out something to another for a specified period, it is undesirable that he should ask for the return of the object before the expiration of the period.

Al-Ghasb (Illegal Seizure of Property)

What is Al-Ghasb?

Al-Ghasb is to illegally and forcefully seize another person's property.

What is the ruling concerning Ghasb?

It is forbidden with the statement of Allah,



"And eat up not one another's property unjustly (in any illegal way e.g. stealing, robbing, deceiving, etc.)," Al-Baqarah 2:188

The Messenger of Allah (Peace and Blessings of Allah be upon him) said, "Indeed, your blood and wealth are inviolable to one another." (Recorded by Muslim)

He also said, "If a man unjustly usurps an inch of land, Allah will burden him to dig in it until he reaches the bottom of the seventh earth." (Recorded by At-Tabaraani).

He also said, "It is unlawful to take the property of a Muslim without his consent." (Recorded by Abu Dawud)

What are the major rulings concerning Al Ghasb?

They are:

1. The usurper should be punished for the sake of Allah, by jailing or flogging him to serve as a deterrent for him and others like him.
2. He should be made to return whatever he has usurped. If the usurped object is already damaged in his possession, he should be made to pay for it.
3. The proceeds of a usurped property should be returned completely with the property. As such, offspring of a usurped animal, products of usurped trees and rents acquired from a usurped animal should be returned completely with the property.
4. If the usurped property is a piece of land and the usurper has built a house on it or planted trees on it, he should remove the house and the trees and repair the piece of land that he has damaged with the building and cultivation. If he likes, he may leave what he has built or whatever he has planted and take its value from the owner of the land, if the former agrees to that. This is due to the statement of Allah's Messenger "The oppressor deserves nothing for the sweat he shed on unlawful enterprise." (Recorded by Ahmad, Abu Dawood and At-Tirmidhi)
5. If a usurper trades with the usurped property, he should return the property and whatever profits he gains from such transaction.
6. If there is a disagreement between the usurper and the property owner concerning the value or description of the usurped property, the statement of the usurper is reckoned with, in addition to his swearing, if the owner does not have a proof to support his claim.
7. If a person destroys another's property without the latter's permission, he should be made to compensate for it.

8. If a rapacious dog attacks a person as a result of its owner's negligence, the dog owner must pay compensation for whatever harm was caused by his dog.
9. If an animal is set loose during the night and it damages crops, its owner should compensate for that damage. This is due to the statement of Allah's Messenger (Peace and Blessings of Allah be upon him) "The people of the garden are responsible for guarding it in the day and the owner of the animals are liable for what the animals destroyed at night." (Recorded by Malik)
10. If an animal without a driver or a rider causes damages to a property, no compensation is due on that. The Messenger of Allah said, "There is no Diya for a person injured or killed by an animal." (Recorded by Al-Bukhari and Muslim on the authority of Abu Hurayrah - may Allah be pleased with him)

Al-Luqtah

What is Al-Luqtah?

Al-Luqtah is an ownerless property picked up from somewhere. Example is when a Muslim finds a dirham or a garment at a place and fears that it might get wasted if he did not pick it up.

What is its ruling?

It is permissible to pick up a Luqtah. The proof for this is the Hadith recorded by Al-Bukhari and Muslim on the authority of Zayd bin Khalid Al-Juhani -may Allah be pleased with him -that the Messenger of Allah was asked about it and he said, "Make public announcement of it for one year, then remember the description of its container and the string it is tied with, utilize the money, and if its owner comes back after that, give it to him."

When he was asked about the lost sheep, he said, "Take it, for it is for you or for your brother (i.e. its owner) or for the wolf."

However, picking up a lost property is only desirable for a person who believes that he is trustworthy enough to keep it. It is not desirable for a person who is not confident about his trustworthiness for exposing the Muslims' properties to neglect is not permissible.

What are the rulings concerning Luqtah?

They are:

1. If the Luqtah is something insignificant that people do not care about such as a date, a grape, a rag or a stick, there is nothing wrong in picking it and making use of it immediately without any public announcement of it. The evidence for this is the statement of Jabir -may Allah be pleased with him, "We were permitted to pick up and make use of a rod, a whip, a rope and the like." (Recorded by Ahmad)

2. If the Luqtah is something that people care about, the person who picked it up should make public announcement of it for a complete year at the doors of mosques, in public places or through media. If its owner comes forward and is able to give a matching description, it should be handed over to him. But if nobody comes forward after a year, then the person who picked it up should make use of it or give it out in alms if he likes. However, he should have the intention of compensating the owner if he comes forward one day.

3. It is not permissible to pick lost things up in Makkah unless one fears that it might get wasted. The person who picked it up should continue to make announcement about it as long as he is in Makkah. If the picker is leaving Makkah, he should hand over the picked up property to the city's authorities and it

is unlawful for him to take possession of it. Al-Bukhari recorded on the authority of Abdullah bin Abbaasmay Allah be pleased with him and his father -that the Messenger of Allah said, "Allah has made Mecca a sanctuary (sacred place) and it was a sanctuary before me and will be so after me. It was made legal for me (to fight in it) for a few hours of the day. None is allowed to uproot its thorny shrubs or to cut its trees or to chase its game or to pick up its fallen things except by a person who announces it publicly."

4. Picking up a lost animal: If a lost sheep is found in the wilderness, it is lawful to pick it up and make immediate use of it. This is due to the Prophet's saying when he was asked about the lost sheep, "Take it, for it is for you or for your brother (i.e. its owner) or for the wolf."

But if the lost animal is a camel, it is unlawful to pick it up immediately. This is due to the Prophet's saying when he was asked about a lost camel, "Leave it, as it has its feet, water container (reservoir), and it will reach a place of water and eat trees till its owner finds it."

The same rule applies to lost donkeys, mules and horses; it is unlawful to take them.

Laqit

What is the meaning of Laqit?

Laqit is a child found in a remote place and whose family lineage is not known and whose paternity is claimed by no one.

What is its ruling?

It is a collective obligation to pick him up and take care of him. This is due to Allah's injunction:

﴿وَتَعَاوَنُوا عَلَى الْبِرِّ وَالنَّقْوَىٰ﴾

"Help you one another in Al-Birr and At-Taqwa (virtue, righteousness and piety)."

Al-Ma'idah 5:2

Also, he is an honored soul; therefore, it should be preserved.

What is the ruling concerning a picked up child?

The rulings are:

1. The one who picked him up should seek witnesses on him and on whatever money or property he found with him.
2. If the picked up boy is found in a Muslim state, he is regarded as a Muslim, even if there are non-Muslims there.
3. If money is found with the picked up child, his maintenance should be drawn from that money; and if no money is found on him, then the Muslim treasury or the Muslim community should pay for his maintenance.
4. If a picked-up child dies or is killed, whatever estate he leaves behind belongs to the Muslim treasury. The Muslim ruler shall be his guardian in matters of Qisas and indemnity. If he likes he can avenge his death and if he likes he can accept indemnity and put it in the treasury.
5. If a man claims paternity of a picked up child, the child is given to him if it is logically possible that he could be his father. The same applies to any woman who claims maternity of the child.

Al-Hajr

What is Al-Hajr?

It is to declare a person legally incompetent to freely dispose of his own money as a result of his being a minor, an insane, a silly person or a bankrupt person.

What is its ruling?

It is in line with the Shari'ah. Allah says:

﴿وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَمًا وَارْزُقُوهُمْ

فِيهَا وَأَكْسُوهُمْ﴾

"And give not unto the foolish your property which Allah has made a means of support for you, but feed and clothe them there with." An Nisa 4:5

Who could be banned from having free disposal of their wealth?

They are:

1. A minor: This is a child who has not attained the age of puberty; the ruling concerning him is that his free disposal of his own wealth is impermissible without explicit permission from his parents or guardian, if he is an orphan. The ban on him continues until he attains the age of puberty, as long as he does not show any sign of imbecility. If he shows any sign of imbecility even after reaching the age of puberty, then the ban should not be lifted until he is wise enough. If he is an orphan under guardianship, the ban should continue to be in place after his attaining the age of puberty until he is found to be intellectually fit to wisely handle financial matters. Allah says:

﴿وَابْتَلُوا الْيَتَامَىٰ حَتَّىٰ إِذَا بَلَغُوا النِّكَاحَ فَإِنْ آنَسْتُمْ مِنْهُمْ رُشْدًا

فَادْفَعُوا إِلَيْهِمْ أَمْوَالَهُمْ﴾

"And try orphans (as regards their intelligence) until they reach the age of marriage; if then you find sound judgment in them, release their property to them." An-Nisa 4:6

2. A silly person: This is a person who wastefully spends his money on his lusts or on unreasonable ventures due to his ignorance of what is beneficial to him. Such a person is prevented from disposing of his money in any form through an application from his heirs until he becomes wise enough. If he disposes of anything of this wealth after he has been declared legally incompetent, then such disposal will be regarded as null and void and not binding; but whatever he has disposed before he was declared incompetent would be binding.

An insane person: A mentally sick person should also be declared legally incompetent to dispose of any of his properties until he is totally cured. This is due to the saying of the Messenger of Allah "The Pen has been raised from three: the one who is sleeping, until he awakens; the insane person, until he returns to his senses; and the child, until he reaches puberty." (Recorded by At-Tirmidhi and others on the authority of Ali bin Abi Talib -may Allah be pleased with him)

A sick person: If a person is terminally ill, his heirs may file an application to prevent him from disposing, from his money, of what is more than his immediate needs such as food, drinks, clothing and medicine until he gets well or dies.

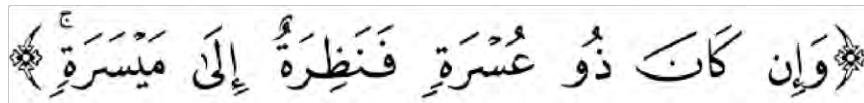
Bankruptcy

What is bankruptcy?

Bankruptcy is when the debts that a person owes are more than his entire possessions.

What are the major rulings concerning bankruptcy?

1. The bankrupt person should be prevented from disposing of anything of his wealth if his creditors demand that.
2. His entire possessions should be sold with the exception of his necessary needs such as food, drink and clothing; and the proceeds should be distributed to his creditors proportionally.
3. If any of the creditors find his particular commodity which he sold on credit to the debtor and the same has not changed, he has the right to take it with the exclusion of the other lenders. This is due to the Hadith that Ibn Majah recorded on the authority of Abu Hurayrah - may Allah be pleased with him - that the Messenger of Allah (Peace and Blessings of Allah be upon him) said, "If a person sold a commodity and found the particular commodity with the man to whom he sold it on credit and who has become bankrupt, and he has not received anything of the price of that commodity, then he is entitled to take it back."
4. If it is established in the presence of legal authorities that the bankrupt person has no money or properties from which the debts could be paid, then it is impermissible to ask him to pay or to bother him to do so. This is due to Allah's statement:



"And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay." Al-Baqarah 2:280

Another evidence for this is what the Messenger of Allah also told the creditors of some of his Companions, "Take whatever you get; that is all that you can have." (Recorded by Muslim on the authority of Abu Saleed Al-Khudri - may Allah be pleased with him)

If proceeds from the sold property of the bankrupt person are distributed to his creditors and then a creditor who is unaware of the sale of the debtor's properties appears, the proceeds should be retrieved and redistributed proportionately.

If any person is aware that a debtor has been legally banned from disposing of any of his property and goes on to deal with him financially, then he should have no share of the proceeds from the sold property of the said debtor. He should rather wait until it is easy for him to pay.

Al-Wasiyyah (Will and Testament)

What is Al-Wasiyyah?

It is to make a will that a particular property should be administered in a specific way or should be donated after one's death. With this definition, Wasiyyah is of two types:

- (1) To appoint someone to execute payment of a debt or fulfillment of an obligation or overseeing the affairs of minors until they come of age; to stipulate a specific amount to be spent on a specific area.

What is the ruling concerning Will and Testament?

It is permissible due to Allah's statement:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا شَهَدَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ﴾

"O you who Believe! When death approaches any of you, and you make a Mequest, then take the testimony of two just men of your own folk." Al-Ma'idah 5:106

The Messenger of Allah said, "It is not permissible for any Muslim who has something to will to stay for two nights without having his last will and testament written and kept ready with him." (Recorded by Al-Bukhari and Muslim on the authority of Abdullah bin Abbaas - may Allah be pleased with him and his father)

It is incumbent upon a debtor or someone who holds things in trust for people or who has other people's rights with him to write a will lest he dies and deprives people of their rights for which he would be held accountable on the Day of Resurrection. Preparing a will is also recommended for a person who has enormous wealth and his heirs are also rich to bequeath a part of his, such as a third or less, to his non-inheriting relatives or to any of the good causes.

Sa'd bin Abi Waqas - may Allah be pleased with him narrated, "The Prophet came visiting me while I was (sick) in Makkah, ("Amir the sub-narrator said, and he disliked to die in the land, whence he had already migrated). He (i.e. the Prophet) said, "May Allah bestow His Mercy on Ibn Afra (SaId bin Khaula)." I said, "O Allah's Messenger (Peace and Blessings of Allah be upon him)! May I will all my property (in charity)?" He said, "No." I said, "Then may I will half of it?" He said, "No". I said, "One third?" He said: "Yes, one third, yet even one third is too much. It is better for you to leave your inheritors wealthy than to leave them poor begging others, and whatever you spend for Allah's sake will be considered as a charitable deed even the handful of food you put in your wife's mouth. Allah may lengthen your age so that some people may benefit by you, and some others be harmed by you." (Recorded by Al-Bukhari and Muslim)

What are the conditions for making a will?

They are:

1. The overseer of the will should be a sane and judicious Muslim for a person lacking any of these qualities should not entrusted with giving rights to whom they are due or taking care of minors.
2. The sick person who is making a will should be sane and conscious; and he should be the owner of what he is bequeathing.
3. The will should be made on a lawful thing. For, any will made on unlawful things, such as a donation to a non-Muslim place of worship or to promote an innovation or to support a sinful act, should not be implemented.
4. It is a condition that the person to whom a property is bequeathed should accept it. If he rejects it, then the bequeathal becomes null and void, and he has no right to demand for it thereafter.

What are the rulings concerning the will?

They are:

1. It is permissible for someone who has made a will to revoke or adjust it as he likes. This is due to the statement of Umar - may Allah be pleased with him - that a person is free to adjust his will.
2. It is unlawful for a person who has heirs to bequeath more than a third of his property. This is due to the Prophet's instruction to Sa'd bin Abi Waqas - may Allah be pleased with him, "Yes, one third, yet even one third is too much. It is better for you to leave your inheritors wealthy than to leave them poor begging others."
3. It is impermissible to will anything to an heir, however small it is, unless it is approved by the other heirs. This is due to the Prophet's (Peace and Blessings of Allah be upon him) saying, "Allah has apportioned to each of the heirs his or her dues. Therefore, there should be no bequeathal to an heir." (Recorded by Ibn Majah on the authority of Anas bin Maalik -may Allah be pleased with him)
4. If the willed third of the property cannot cover all the mentioned beneficiaries according to the amount stipulated for each, then the entire will should be distributed to the beneficiaries proportionally.
5. The will should not be implemented before all the outstanding debts are paid. This is due to the statement of Ali bin Abi Talib - may Allah be pleased with him, "The debt should be paid before the will is implemented." (Recorded by At-Tirmidhi and Ibn Majah) This is so because paying debt is an obligation while a will is a voluntary donation; and an obligatory act is always given priority over voluntary one.
6. It is permissible to will a lost or unknown item, for it is only an act of favor and a donation. If it is found and attained, then it is good. But if it is not found, there is no harm in that. The example is when a person bequeaths the future products of his sheep or future harvests of his crops.
7. It is valid for the legatee to accept whatever is willed for him during the lifetime of the testator or after his death. It is also permissible for the testator to give up the right of making a will if he fears that any will that he makes might be exposed to neglect.
8. If a particular property is willed to someone, it is not permissible for him to dispose of other properties without the permission of their rightful owners.
9. If it becomes known after the testator's death that he owed debts, the overseer is not obliged to guarantee the payment of these debts before they were unknown to him and neither could he be accused of being negligent in what was put in his trust.
10. If a person wills a particular property and its becomes damaged before the death of the testator or before the legatee could take possession of the same, the will becomes null and void and the legatee should not be compensated with any of the testator's other properties.
11. If a person wills a particular property to one of his heirs and some of the heirs approved that while others disapproved it; the will is only implemented on the shares of those who approved it.
12. If a testator says: "I will such and such to the children of so and so", the willed property should be distributed to them equally regardless of their sex. This is because; the word children" includes both male and female. However, if the testator says: "I will such and such for sons or daughters of so and so", then it should be distributed among only the sons or the daughters of the person mentioned, accordingly.
13. If a person made a will and did not invite anybody to witness it; the will is valid as long as it is not known that he has withdrawn the will. If it is known that he has withdrawn the will, then it becomes null and void.

Al-Waqf

What is Al-Waqf?

Al-Waqf is to keep a property as an endowment that should not be inherited, sold or presented as a gift, and the proceeds of such a property is given to whom it is endowed. **What is its ruling?**

It is a recommended act. This is due to Allah's saying:

﴿إِلَّا أَنْ تَفْعَلُوا إِلَيَّ أَوْلِيَايَكُم مَّعْرُوفًا﴾

"Except that you do kindness to those brothers (when the Prophet joined them in brotherhood ties)."
Al-Ahza'b 33:6

And the statement of the Prophet "When a man dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him (for the deceased)." (Recorded by Muslim on the authority of Abu Hurayrah - may Allah be pleased with him).

Setting aside houses and lands and building mosques are, certainly, among the recurring charity.

What are the conditions for Waqf?

For a Waqf to be valid, the following conditions should be met:

1. The donor should be legally competent to do so; namely, he should be Muslim, adult, sane and judicious, and he should own what he is giving out as an endowment.
2. The property being endowed should be something that can be possessed. Therefore, the animal fetus in the womb of its mother or a slave possessed by another person could not be endowed. If the endowment is on an unspecified thing; it is a condition that the area to which the property is endowed is validly accessible. As such, any endowment on a church or a pub is forbidden.
3. The endowment should be made in clear, explicit and unequivocal words.
4. The endowed thing should be a long-lasting property even after its proceeds have been collected, such as houses or lands. As for things that cease to exist as soon as it is used, such as food or perfumes, it is invalid to set them aside as endowment. Such is not called endowment; it is only an ordinary charity.

What are the main regulations concerning Waqf?

They are:

1. It is valid to dedicate a property as an endowment for one's children. If a person says, "I dedicate such and such as endowment for my children", it includes both his sons and daughters and the children of his sons. But if he says: "I dedicated such and such as an endowment for my children and their descendants, then it includes children of his sons and daughters. If he says: "I dedicate such and such as an endowment for my sons or my daughters", then the endowment is for the ones he specifically mentions, accordingly.

This is if the differences between these expressions are understood; but if they are not understood, then the expressions should not be given any consideration.

2. It is obligatory to act upon the stipulations of the donor as far as the endowment is concerned. If, for example, he says, "I dedicate such and such as an endowment on such and such scholar of Hadith

or Fiqh, the endowment or a part thereof should not be given to a grammarian or an expert in prosody. If a donor says, "I dedicate such and such property on my children and then on their children", or he says, "the upper category excludes the lower category", the word should be implemented according to his wish. And the lower category (his children's descendants) have no right in the endowment until all of the members of the upper category are dead.

Likewise, if he dedicates some of his property as an endowment to three brothers and one of them is dead and leaves behind children, they are not entitled to their father's share. Rather, his share should be divided by his two brothers as long as the donor has stipulated that the higher category should exclude the lower.

Endowment becomes binding as soon as it is announced, taken into possession or delivered to the beneficiary. It is not permissible to revoke, sell, or present it as a gift afterwards.

If the endowed property becomes no longer usable, some scholars are of the view that it could then be sold, with proceeds spent on similar endowment. If anything is left of the proceeds, then it could be donated to a mosque or given to the poor and the needy as Sadaqah.

Hiba'h

What is Hibah?

Hibah is something that an adult, sane and judicious person gives out from his own lawful property as a gift such as a Muslim presenting a house, garment, food or money as a gift to another Muslim.

What is the ruling of Hibah?

It is a desirable act; for it is an act of kindness that Islam encourages and calls others to compete in it. Allah says,

﴿لَنْ نَنَالُوا الْبِرَّ حَتَّىٰ تُنْفِقُوا مِمَّا تُحِبُّونَ﴾

"By no means shall you attain Al-Birr (piety, righteousness - here it means Allah's Reward, i.e. Paradise), unless you spend (in Allah's Cause) of that which you love." Al Imra'n 3:92 He also says:

﴿وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ﴾

"Help you one another in Al-Birr and in At-Taqwa (virtue, righteousness and piety)." Al-Ma'idah 5:2

Allah says, describing some of the qualities of righteousness:

﴿وَأَتَىٰ الْمَالَ عَلَىٰ حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ﴾

"And gives his wealth, in spite of love for it, to the kinsfolk, to the orphans..."

Al-Baqarah 2:177

From the Sunnah, Aishah, mother of the faithful - may Allah be pleased with her -said: "The Prophet (Peace and Blessings of Allah be upon him) would accept gifts and compensate for it." (Recorded by Al-Bukhari, Abu Dawood and At-Tirmidhi)

In another Hadith, Anas bin Malik - may Allah be pleased with him - narrated that the Messenger of Allah (Peace and Blessings of Allah be upon him) said, "He who likes that his sustenance should be expanded and his age may be lengthened should join the tie of kinship." (Recorded by Al-Bukhari and Muslim)

What are the conditions of Hibah?

They are:

1. The giver's consent and pleasure in giving out the gift.
2. The beneficiary's acceptance of the gift by physically receiving it or verbally expressing his acceptance of the same. For, if a Muslim presented a gift to another and the beneficiary did not receive the gift until the giver is dead; it becomes part of the rights of the heirs and the proposed beneficiary has no right to it. This is because, one of the conditions, which is the acceptance of the gift, is lacking. For, if he had accepted the gift, he would have taken possession of the same in one of the forms of taking possession.

What are the rulings concerning giving gifts?

They are:

If the gift is for one of the giver's children, it is recommended that the other children are given equal gifts. This is due to the Prophet's injunction, "Fear Allah and be fair and just in your treatment of your children." (Recorded by Muslim on the authority of Nu'man bin Bashir -may Allah be pleased with him)

It is forbidden to take back one's gift. This is due to the Prophet's statement, "He who gets back his charity is like a dog which vomits, and then returns to that and eats it." (Recorded by Al-Bukhari and Muslim on the authority of Ibn Abbaas - may Allah be pleased with him and his father)

It is disliked to present someone with a gift with an intention of getting a better gift in return. Allah says,

﴿وَمَا آتَيْتُمْ مِّن رَّبًّا لِّيَرْبُوَ فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُوا عِندَ
اللَّهِ وَمَا آتَيْتُمْ مِّن زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُولَٰئِكَ هُمُ
الْمُضْعِفُونَ﴾

"And that which you give in gift (to others), in order that it may increase (your wealth) by expecting to get a better one in return) from other people's property, has no increase with Allah; but that which you give in Zaka't seeking Allah's Countenance, then those they shall have manifold increase."

ArRu'm 30:39

The beneficiary is free to accept or reject such a gift. If he accepts it, then it becomes incumbent upon the beneficiary to compensate the giver with an equal or better gift. This is due to the Hadith recorded by Al-Bukhari and others on the authority of Aishah - may Allah be pleased with her - that the Prophet (Peace and Blessings of Allah be upon him) would accept a gift and compensate for it.

In another Hadith, the Prophet said, "If a person acts kindly to his brother and the latter said to the former, may Allah reward you with good!", then he has done the utmost in praising him." (Recorded by At-Tirmidhi on the authority Usamah bin Zayd - may Allah be pleased with him)

Al-'Umra (Life Grant)

What is 'Umra?

It is for a Muslim to tell his brother, "My house or my garden or the proceeds of my garden become yours as long as you live."

What is its ruling?

It is permissible. This is due to the Hadith recorded by Muslim on the authority of Jabir bin Abdullah who narrated, "The 'Umra for which Allah's Messenger (Peace and Blessings of Allah be upon him) gave sanction that a person may say: This (property) is for you and for your descendants. And when he said: That is for you as long as you live; then it will return to its owner (after the death of the donee)."

What are the rulings concerning 'Umra?

They are:

1. If the donor says, "I give you this house as a life grant", then the house becomes that of the donee and his descendants after him. This is due to the Prophet's (Peace and Blessings of Allah be upon him) saying, "Umra belongs to the person to whom it was granted." (Recorded by Muslim, Abu Dawood and An-Nasa'i) The same rule applies if the donor says, "It is yours and that of your descendants after you." In this case, the property becomes that of the donee and his descendants; and in no circumstances should it be returned to the donor. This is due to the Prophet's (Peace and Blessings of Allah be upon him) injunction: "Whoever donates a property as a life grant to another person and his posterity; then it belongs to the donee. It should not return to the donor." (Recorded by Muslim)
2. If the 'Umra is restricted with an expression such as, "this is for you as long as you live and after your death it is returned to me or to my posterity", then it should be returned to the donor or his posterity after the death of the donee. This is due to the Prophet's (Peace and Blessings of Allah be upon him) saying, "But if he says, It is yours as long as you live; then it will return to its owner (after the death of the donee)." Allah knows best.

Ar-Ruqba

What is Ruqba?

This is when a Muslim tells his brother, for instance, "If I die before you, my house (or my garden) becomes yours; and if you die before me, your house becomes mine."

Or to tell him, "This is for you as long as you live. If you die before me, it returns to me; but if I die before you it remains yours." So the property becomes that of the one who died last.

What is ruling on Ruqba?

It is disliked. This is due to the injunction of the Prophet (Peace and Blessings of Allah be upon him).

"Do not practice Ruqba with your money and whoever practices Ruqba with his money, then the money becomes that of the person it was granted to and his heirs." (Recorded by Abu Dawood and An-Nasa'i on the authority of Jabir bin Abdullah - may Allah be pleased with him)

Ruqba is disliked because it could lead to the person granted the property to wish for the death of the person who granted him the property so that it could become his and his heirs". This wish could also lead him to kill the donor.

What are the regulations of Ruqba?

If a Muslim defies the undesirable situation of this transaction by granting a person his property on Ruqba, then the rules that apply to 'Umra (life grant) apply to it as well.