

HIGH BOARD OF RELIGIOUS AFFAIRS

FATWAS



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ





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General Coordinator
Prof. Dr. Huriye MARTI

Chief Editor
Assoc. Prof. Dr. Fatih KURT

Editorial Coordinator
Yunus YÜKSEL

Translated by
Ayşe Zuhâl SARI
Burak YUMAT
Ege ÖZAKÇE
Onur Tercüme

Proofreading
İsmail ERİŞ
Commission

Graphic - Design
Ali Çınk - Uğur ALTUNTOP

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Contact

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General Directorate of Religious Publications
Department of Publications in Foreign Languages and Dialects
Üniversiteler Mah. Dumlupınar Bulvarı
No:147/A 06800 Çankaya - ANKARA/TÜRKİYE
Tel : +90 312 295 72 81
Fax : +90 312 284 72 88
e-mail: yabancidiller@diyanet.gov.tr

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The Presidency of Religious Affairs is the only official authority responsible for carrying out all religious services in Türkiye.



The Republic of Türkiye is a country established in 1923 as the continuation of an ancient civilization. The vast majority of the population of Türkiye, which is located at the crossroads of civilizations, is Muslim.

TABLE OF CONTENTS

FOREWORD	49
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ISLAMIC CREED

BELIEF IN ALLAH	55
1. What does “al-Asma al-Husna” mean?.....	55
2. Can you give information about the 99 names of Allah?.....	55
3. What does “al-Ism al-A’zam” mean?.....	58
4. Is it permissible to use the word “God” instead of the word “Allah”?.....	59
5. What does the word “mawlana” mean? Is it appropriate to use this expression for Allah, the Prophet and humans?.....	59
6. Is it permissible to name children after the names of Allah?.....	60
7. Where is Allah?.....	60
8. What does the expression “Allah is beyond time and space” mean?.....	61
9. Does it mean that a specific place is attributed to Allah when mosques are referred to as “the houses of Allah”?.....	61
BELIEF IN ANGELS AND JINNS	62
10. How can one prove that angels exist?.....	62
11. What does “Kiraman Katibin” mean?.....	63
12. Is there any creature called “jinn”?.....	63
13. Are jinns and demons able to give harm to humans?.....	64
BELIEF IN DIVINE BOOKS	65
14. How many verses are there in the Holy Qur’an?.....	65
15. What are the proofs about the fact that the Qur’an is protected and authentic?.....	65
BELIEF IN PROPHETS	66
16. Was a prophet sent to every community, and what is the number of prophets?.....	66
17. May one refer to the previous divine religions as Islam?.....	67
18. What kind of miracles did the Prophet Muhammad perform?.....	68

19. What does karamah mean, does it have a place in Islam?	68
HEREAFTER, DEATH, GRAVE, AND JUDGMENT DAY	69
20. What does “End of the Time” mean, do we live in the end of the time?	69
21. What does “Life in Barzakh” mean?	69
22. Is it permissible to wish for death?	69
23. Is it permissible to cry and mourn after a deceased person?	70
QADAR AND QADA (PREDESTINATION AND DECREE)	70
24. Is believing in the predestination (qadar) and Allah’s decree (qada) a pillar of Islamic creed??	70
25. What is the meaning of the expression of “the Good and the Evil come from Allah” in Amantu?	71
26. Does qadar change?	72
27. Are troubles and calamities part of qadar?	73
28. Is it permissible to say that “Allah predestined so, what can I do?”	73
BID'AH (INNOVATION IN RELIGION) AND SUPERSTITIONS/SORCERY AND MAGIC	74
29. Is magic real? What is the religious status of those who practise it?	74
30. What can be done to be protected from sorcery and magic?	75
31. Is it permissible to wear evil eye beads against the evil eye?	76
32. What is wafq? Is it permissible to practise it or have it practised?	77
33. Is it permissible to use amulet?	77
34. What is the ruling of practising yoga?	78

— ﷻ — TAHARAH/CLEANLINESS — ﷻ —

MINOR ABLUTION/WUDU	81
35. What do ritual impurity/hadath and ritual purification/taharah from hadath mean?	81
36. How should we perform ablution?	81
37. Is it obligatory to state intention while performing wudu?	83
38. Is there a difference among schools of Islamic law in terms of the fardh acts of minor ablution/wudu?	83
39. Would an ablution be valid if only its required acts are performed?	84
40. Is it compulsory to recite certain invocations while performing ablution?	84
41. What is the ruling on using miswak? Would brushing the teeth by using a toothbrush for using miswak?	85

42. May a person who urinated perform ablution before waiting for a certain period?	85
43. Are the substances such as dye, nail polish, lipstick, and hair gel obstacles to perform minor and major ablution?	85
44. Are the substances such as medicine applied on skin for treatment obstacles to perform minor ablution?	86
45. Are the eye lenses obstacles to perform minor and major ablution?	86
46. Are tooth filling, dental veneers, or dental braces obstacles to perform wudu and ghusl?	87
47. May one wipe (apply masah) over headscarf while performing minor ablution? 8	
48. What should a person do when he forgets or doubts whether or not he is in the state of ablution?	87
49. Does crying during or outside a prayer invalidate ablution?	87
50. Is there any harm in splashing the ablution water on our dress?	88
51. Do fainting or losing mind invalidate ablution?	88
52. Does the ablution of a person whose gingiva/gum bleeds become nullified? ..	88
53. Does sleeping invalidate ablution?	88
54. Does touching the opposite gender invalidate ablution?	89
55. Does ear discharge invalidate ablution?	89
56. Do intestinal worms such as taenia/tapeworm, etc. invalidate ablution?	89
57. Does vomiting invalidate ablution?	89
58. Does donating blood platelet invalidate ablution?	90
59. Do prosthetic eyes or inflammation running from eyes invalidate ablution? ..	90
60. Does the ablution of a patient who undergoes peritoneal dialysis become nullified?	91
61. How does a person who underwent mouth or nose surgery perform ablution? 91	
62. May a member of Hanafi school imitate Shafi'i school with regard to ablution when a part of his body bleeds?	92
63. May a woman perform tayammum and establish prayer if she cannot find a convenient environment to perform ablution?	92
OTHER ISSUES RELATED TO ABLUTION AND CLEANLINESS	92
64. May one greet a person who is performing ablution?	92
65. Would clothes be deemed as ritually impure after touching dry najasat?	93
66. Does baby vomit on clothes hinder a person from establishing prayer?	93
67. Is it permissible to use substances containing alcohol in cleaning?	93
CONDITION OF BEING EXCUSED	93
68. What does the condition of being excused mean and when should an excused person perform ablution?	93
69. How long does the ablution of an excused person performed for fajr prayer last?	95

70. Does the dirt that result from the excuse and contaminate the clothes or body of an excused person prevent him from establishing prayer?	95
71. Are the patients who use urinary drainage bag included in the scope of excused persons?	96
72. What is the ruling about a person who cannot maintain ablution due to colectomy?	96
73. Does the bleeding caused by hemorrhoids nullify ablution?	97
74. How should a person who underwent colostomy (surgical anastomosis of large intestines into anterior abdominal wall) operation act in terms of ablution?	97
75. May an excused person lead a congregational prayer?	98

WIPING OVER (MASAH) 98

76. How does a person wipe over khuffs (leather socks) and what are its conditions?	98
77. Is it necessary to only wipe over the khuffs that are worn after performing ablution?	99
78. Is it permissible to apply masah over bare foot?	100
79. Is it permissible to apply masah over the socks worn on the khuffs?	100
80. Is it permissible to apply masah over boots?	100
81. Is it permissible to apply masah over anti-varicose socks?	101
82. Is it permissible to apply masah over socks?	101
83. Does taking off the khuffs and wearing them again while in state of ablution invalidate ablution?	102
84. How should a person who has bandage, cast, or wound on his body or a limb perform ablution?	102
85. What is the duration of validity of masah over khuffs for excused people?	103

GHUSL 103

86. How is ghusl performed in accordance with the sunnah?	103
87. What is the measure for taking water into mouth and nose in ghusl for a fasting person?	104
88. Is the ghusl or minor ablution valid when a person forgets to make intention or to recite Basmalah?	104
89. Is it not proper to talk while performing minor ablution or ghusl?	104
90. Is it obligatory to wash inside earring holes while performing ghusl?	104
91. Does having wet dream require performing ghusl?	105
92. Does giving birth by cesarean section require performing ghusl?	105
93. Do acupuncture bands prevent performing minor ablution and ghusl?	105
94. Is it necessary to perform ablution again after ghusl?	106
95. What should a person who has waswasa (extreme anxiety or misgivings) while performing ghusl and minor ablution do?	106

96. Is it permissible to sleep, eat, and drink when one is in the state of janabah?	106
97. Is a person with mental disability obliged to perform ghusl?	107
98. What should a person in the state of janabah do in the event that s/he cannot find a suitable place to have a bath?	107

TAYAMMUM: DRY ABLUTION **107**

99. How is tayammum performed? What are the things that invalidate tayammum?	107
100. In which situations tayammum can be performed instead of ablution?	108
101. May a person, who fears that the prayer time will pass until he finishes performing minor ablution, establish prayer with tayammum although there is water?	109
102. How can an imprisoned person establish prayer if he cannot find clean water or earth that is not clean enough to practise tayammum?	109

CONDITIONS SPECIFIC TO WOMEN **110**

103. When do the girls who are over the age of puberty, but have not had their first period yet be accountable (mukallaf)?	110
104. Does the white and odorless vaginal discharge of women nullify ablution?	110
105. What are the practices that women cannot do in their menstruation and postnatal periods?	110
106. Can a menstruating woman touch the Holy Qur'an?	111
107. Can a menstruating woman recite the Holy Qur'an?	112
108. Can a woman in menstruation or postnatal period enter mosques?	113
109. Can women make dua in their menstruation and postnatal periods?	113
110. Is it permissible for menstruating women to be near a deceased and visit graves?	114
111. Can a menstruating woman perform tawaf al-ziyarah, wada, and umrah?	114
112. How should a woman who menstruates more than 10 days fulfill her acts of worship?	115
113. How is the menstruation period of a woman who has menstrual bleeding regularly for less than three days or more than ten days determined?	116
114. Is a woman who uses period delaying tablets and menstruates intermittently deemed as in menstruation period?	116
115. What is the ruling about the colorful discharge that starts before menstrual period? Can a woman perform worship in this situation?	116
116. Does a woman whose menstruation starts while she is in the state of major impurity (janabah) need to perform ghusl separately?	117
117. What is the ruling about a woman who menstruates continuously?	117
118. How long is the postnatal period? What is the ruling about the acts of worship that are not performed during this period?	118

119. What is the ruling on the bleeding of a pregnant woman? Can such women perform the acts of worship during that period?	119
120. What is the judgment on the bleeding of a woman who had a miscarriage?	119
121. What is the judgment on the blood seen during ectopic pregnancy?	120
122. What is the ruling on the blood seen after termination of ectopic pregnancy?	120
123. How does a woman who has bleeding in the transition period to menopause fulfill her acts of worship?	121
124. How should one perform acts of worship during menopause?	121
125. Is it permissible to do general body cleaning in menstrual period, postnatal period, and in the state of janabah?	121

— ﷻ SALAH (RITUAL PRAYER) ﷻ —

126. What does ibadah mean and how is it categorized?	125
127. Did ritual prayer (salah) exist before the Prophet Muhammad (saw)?	126
128. When and in which situations a Muslim is exempted from performing ritual prayer?	126
129. How were the numbers of rakats and the ways to perform prayer determined?	127
130. Could there be an excuse for not establishing prayer?	127

FARDHS OF PRAYER **128**

131. May one establish the fajr prayer before dawn?	128
132. What do “asr al-awwal” and “asr al-thani” mean?	129
133. When does the time of ‘asr prayer start and end?	130
134. Until when may one establish maghrib prayer?	131
135. Until when may one establish ‘isha prayer?	131
136. Is the prayer invalidated if the time passes while it was still being established?	132
137. What are the makruh times to perform prayer; what is the reason for this rule?	132
138. How are the prayers performed in places where prayer times cannot be determined?	133
139. May the prayers be established by being combined (jam’)?	134
140. Is it sufficient to make intention (niyyah) for a prayer only by heart? Is it necessary to make the intention by specifying as fardh or sunnah?	135
141. Is a prayer established without turning to the direction of qiblah valid?	135
142. What should be done about the mosques which were built toward the wrong direction?	136
143. Can a woman establish prayer without wearing a headscarf?	136

144. Why do we recite aloud in some prayers while we do it in a low voice in some others?	137
145. May one recite translation of surahs in prayers?	137
146. Is it permissible to perform recitation (qiraat) by looking at and reading from the Qur'an during prayer?	139
147. Is a prayer deemed valid if one recites the obligatory recitation (qiraat) without moving lips but only by thinking them?	140
148. How do the hearing-impaired people practise recitation and tasbeehat while establishing prayer?	140
149. Is reciting only Fatiha in a prayer enough to fulfill the obligatory recitation?	140

WAJIBS (NECESSARY ACTS) OF PRAYER 141

150. What is the ruling on ta'dil al-arkan in prayers?	141
151. Would the prayer of a person who establishes it individually be valid if he performs qiraat aloud in the prayers where it should be performed in a low voice?	141
152. What is the ruling on recitation of the invocations of Qunut in the fajr prayer according to the Shafi'i school? Would a person's prayer be valid if he does not recite these invocations while performing fajr prayer by following a Hanafi imam?	142
153. What is the judgment on touching our nose to the ground while prostrating? Is a prayer performed without touching our nose to the ground valid?	142
154. How does a person who forgets first sitting in fardh prayers complete his prayer?	142
155. What is the ruling on qawma and jalsah in prayer, and how long should one wait during qawma and jalsa?	143
156. Is the prayer of a person, who ends prayer without performing salam in the last sitting, valid?	143
157. What is the ruling on the salam given at the end of the prayer?	144

SUNNAHS AND RECOMMENDED ACTS OF PRAYER 144

158. What is the ruling on raising hands in the takbir al-iftitah?	144
159. What is the ideal space between feet in qiyam (standing) while performing ritual prayer?	145
160. Why do we not recite the "wa jalla thanauk" part of Subhanaka in prayers?	145
161. What is the ruling on saying "ameen" in ritual prayer after Surah al-Fatiha is recited?	145
162. Should one recite Basmalah before starting the recitation of verses or chapters to be recited after Fatiha in prayer?	146
163. Why do we not recite any additional verses or chapters after Fatiha in the third and fourth rakats of fardh prayers?	146

164. What is the judgment on reciting the verses or surahs recited in the first two rakats again in the following rakats?	146
165. Are men required to cover their heads in the prayer?	147
166. Is it permissible for men to establish prayer with folded sleeves or short-sleeve shirt?	147
167. Can women fold their hands like men in the prayer?	147
168. Where should one look in qiyam while establishing prayer at al-Masjid al-Haram?	148
169. What should be done to perform prayer in khushu (proper focus and humility)?	148
170. Can women perform prayer without covering their feet?	149
171. Is it permissible for men to establish prayer without wearing socks?	149
172. May one perform prayer in work-clothes?	149
THINGS THAT INVALIDATE PRAYER	150
173. Does laughing invalidate prayer?	150
174. Do the mistakes in recitation invalidate prayer?	150
175. Does mispronunciation of letters invalidate the prayer?	151
176. Does having worldly thoughts while performing prayer invalidate it?	152
177. Is the prayer of a person invalidated if a part of his/her body that should be covered is uncovered?	153
178. Does passing in front of a person who is performing prayer invalidate that person's prayer?	153
179. Does hitching up pants while going down to ruku or sajdah invalidate the prayer?	153
180. What is the ruling on repeating an act that is not part of prayer many times and without an excuse?	154
181. How should a person who mistakenly sits down by assuming that he is in the last rakat complete his prayer?	154
182. Under which circumstances may one invalidate the prayer?	155
183. Should one leave prayer if his parents call while he is performing prayer?	155
184. While establishing prayer in congregation, is it permissible to leave prayer in order to help a person who faints, falls down due to an illness, or has a heart attack?	156
185. What should one do if he sees wetness on his underwear after establishing prayer?	156
186. Does removing feet off the surface in prostration harm the validity of the prayer?	157
187. May one establish prayer while he is drunk?	157

ACTIONS THAT ARE MAKRUH IN PRAYER

158

188. May one stand for prayer in the back row when there is a space in the front row? 158
189. While establishing prayer in congregation, is it permissible for muazzins to establish prayer alone in muazzin's lodge? 158
190. Is it permissible to establish prayer when one needs to use toilet? 159
191. What is the judgment on reciting surahs in prayer according to their order in the Qur'an? 159
192. May one establish prayer in clothes with pictures? 160

MAKING UP (QADA) PRAYERS

160

193. What is the proof for the permissibility of qada prayer? 160
194. In which times it is forbidden to establish qada and nafl (voluntary) prayers? 161
195. Is it permissible to establish qada or nafl (voluntary) prayers other than the rawatib (sunnah cycles) of fajr prayer between dawn and sunrise? 162
196. How do we make intention for qada prayers? 163
197. May one establish a prayer by making intention for both qada and sunnah? 163
198. Can we perform sunnah prayers when we have qada prayers to be performed? 163
199. Is it necessary to make up the missed sunnah prayers? 164
200. Is the sin of missing a prayer deemed as forgiven when a qada prayer is established afterwards for the prayer that was not established on time? 164
201. May other people perform the qada prayers for us? 165
202. Can we perform qada prayers in congregation? 165
203. May one continue to establish qada prayer if adhan is recited while he is performing it? 165
204. Is it compulsory to follow an order between the missed prayers for which qada prayers will be established? 166
205. Is it permissible to perform a qada prayer before performing the prescribed prayer of that time period? 166
206. Should a woman whose period starts before establishing the prayer of the time perform qada prayer for it after her menstruation period? 166

NAFL (SUPERORGATORY) PRAYERS

167

207. What is the basis for the sunnah (rawatib) prayers established along with fardh prayers? 167
208. Is it permissible not to establish the sunnahs of daily prayers? 167
209. Is it more virtuous to perform nafl prayers at mosque or at home? 168
210. Can a person who works at fields such as health and security perform only fardhs of prayers and abandon performing the rawatibs? 168

211. May one abandon the sunnah of fajr prayer in order to catch up with the congregation?	169
212. May one establish the last sunnahs of dhuhr and 'isha prayers as four rakats?	170
213. Why do we recite the invocations of Salli and Barik in the first sittings of the sunnah of 'asr and 'isha prayer and recite Subhanaka at the beginning of the third rakat?	170
214. In how many rakats one must give salam in the nafl prayers other than rawatib sunnahs?	170
215. How is the salat al-hajat (prayer for fulfilment of a need) performed?	171
216. What is the judgment on the tahiyat al-masjid prayer? Is it permissible to perform it in the prohibited times?	172
217. May a person who enters a mosque while the Qur'an is being recited establish the tahiyat al-masjid prayer?	173
218. How is tasbih prayer performed?	173
219. Can we establish tasbih prayer in congregation?	174
220. What is awwabin prayer and how is it performed?	174
221. How is tahajjud prayer performed?	175
222. When and how is ishraq or duha (mid-morning) prayer established?	176
223. How do we establish istikhara prayer? How do we perform istikhara?	176
224. Is there a prayer for being saved from the punishment in the grave?	177
225. Is there a prayer for being saved from the rights of people on us?	178
226. Is there a prayer or fasting special for the month of Muharram?	178
227. Is there a form of prayer or an act of worship specific to the holy nights? How should we spend time at such holy nights?	179
228. How is the sajdah al-shukr (prostration of gratitude) performed?	180
ADHAN, IQAMAT, AND TASBIHAT	180
229. What is adhan and iqamat? When and how were they established?	180
230. May adhan be recited in languages other than Arabic?	181
231. May adhan be recited via playing CD, cassette, etc. in order to announce prayer time?	181
232. May imam recite iqamat?	182
233. What are the required features for the person who is to recite iqamat in a congregational prayer? Can kids recite iqamat?	182
234. When should we stand up while iqamat is being recited in a congregational prayer?	183
235. Can an imam start to perform prayer before the completion of the iqamat?	183
236. What is the ruling on muazzin's walking while reciting iqamat?	184
237. May the invocation of adhan be recited after iqamat?	184
238. Should a person who was late to attend the congregation recite iqamat while performing prayer individually at a mosque?	184

239. Should the sentences of adhan and iqamat be recited once or twice?	185
240. Do we need to recite adhan and iqamat before qada prayers?	185
241. What is the ruling on tasbihat after prayers and how is it done?	186
242. What is the ruling on chanting the tasbihat after prayer in the company of the muazzin?	186
243. Is it permissible to leave the mosque without saying tasbihat?	187
244. What is the basis for saying “astaghfirullah” after fardh prayers?	187
245. Is it bid’ah to recite parts from the Qur’an after ‘asr prayer?	187
246. What is the ruling on reciting Ayat al-Kursi (Threone Verse) after prayers? ...	188
247. Is it compulsory to listen to the recitation of the Qur’an? Is it permissible to perform prayer while the Qur’an is being recited?	188
248. What is the meaning and the place of sala in Islam?	189

IMAMATE AND CONGREGATION **190**

249. What is the ruling on performing prayer in congregation?.....	190
250. Does an imam need to make intention separately for the women who follow him? May a woman come afterwards and follow a man as her imam who is establishing prayer alone?	191
251. How should a person make intention (niyyah) for following an imam in prayer?	191
252. Which of the fardh, wajib, and nafl prayers should be established in congregation/alone?	191
253. Can a person who has already established a prayer alone or led it as the imam be the imam of another congregation for the same prayer?	192
254. Can a woman lead the prayer as imam for a congregation consisting of only women?	193
255. Can a woman lead the prayer as the imam of a congregation consisting of men?	193
256. Is it permissible for a person who has committed a major sin to lead the prayer (as imam)?	194
257. May a person who does not know how to read the Qur’an perform prayer as imam for those who can read the Qur’an?	194
258. Can a stutterer lead a prayer as the imam?	194
259. May a person who cannot pronounce some letters correctly lead a prayer? ...	195
260. May a person who does not have one or two arms lead the prayers as imam?...	195
261. Can we follow an imam for prayer who follows another madhhab (jurisprudential school)?.....	195
262. May a person who is in a different location follow an imam through audio connection?.....	196
263. May one follow an imam for prayer via TV or radio?.....	196
264. What do mudrak, masbuq, and lahiq mean? How do they establish prayers?...	197
265. May a person who follows an imam recite Surah al-Fatiha?	197

266. What should the congregation do if an imam stands up without performing the last sitting?	198
267. Is it permissible to walk to the front row while establishing prayer in congregation in order to fill an empty space in the front row?	198
268. Is it permissible for men and women to establish prayer in the same row at al-Masjid al-Haram?	199
269. While establishing prayer at al-Masjid al-Haram in congregation, will the prayers of those who stand beyond the imam's row be valid?	199
270. How should an imam whose ablution is nullified during prayer act?	200
271. What should a person do if his/her ablution is nullified while performing prayer in congregation?	200
272. Does it invalidate the prayer if a person who is not a member of the congregation corrects a mistake of the imam?	201
273. Is it bi'dah to do musafahah (handshaking) after the prayer in mosques?	201
274. Can a person receive salary for the religious services? Can we establish prayer behind paid officials?	202

FRIDAY AND EID PRAYERS **203**

275. What is the place and ruling of Friday prayer in Islam?	203
276. How many rakats are there in Friday prayer?	203
277. What is dhuhur al-akhir prayer? Is it necessary to perform it?	203
278. For the validity of Friday prayer, is it required to establish it in a city?	204
279. What is the minimum number of people required for performing Friday prayer?	205
280. What is the ruling on reciting interior adhan in Friday prayer?	206
281. Is it permissible for children who have not reached the age of puberty to give khutbah ?	206
282. Can we recite salawat when Prophet Muhammad's name is mentioned in the khutbah? Can we say ameen to the dua made in the khutbah?	206
283. May one make dua in other languages in the khutbah?	207
284. Is it permissible to say "ameen" to the dua made in the Friday khutbah?	207
285. Is the prayer of a person who misses khutbah in Friday prayer valid?	208
286. How should a person who attends Friday prayer before salam establish the missed rakats after salam?	208
287. Is it obligatory for women to establish Friday prayer?	209
288. Can men and women who do not attend Friday prayer establish dhuhur prayer before the Friday prayer is performed?	209
289. May one establish Friday prayer outdoors?	210
290. May one establish Friday prayer in masjids at the basement of workplaces or buildings?	210
291. May the start time of Friday prayer be postponed to wait for more people to arrive and attend congregation?	210

292. What is the ruling on working on Friday during the time of Friday prayer and on the gain obtained in that time?	210
293. If working time coincides with Friday prayer's time, would it be a valid excuse for not establishing the Friday prayer?	211
294. May the people who work without break attend Friday prayers in turns?	212
295. Is it permissible for a prisoner to perform Friday prayer as imam in jail?	212
296. What is the ruling on tashriq takbirs, by whom and when should these takbirs be recited?	212
297. Are women required to perform eid prayer?	213

BEING TRAVELER (SAFARI/MUSAFIR) AND RITUAL PRAYER **213**

298. What do watan al-asli, watan al-iqamah, and watan al-sukna mean?	213
299. How is the beginning of being a traveler determined?	214
300. May a traveler lead prayers as imam?	214
301. How does a traveler establish his prayer behind a resident imam?	215
302. How should we make up the prayers we missed while we were on a journey and deemed as a safari (traveler)?	215
303. How should people establish their prayers while traveling by ship?	215
304. Can we establish fardh or nafl prayers in transportation vehicles?	216
305. Does a person who moves to a city to work but does not take his family there establish his prayers as a traveler or a resident?	217
306. Is a person who works in a different city on weekdays due to his job and goes back to his home at the weekends deemed as a traveler in the city where he works?	218
307. Is a person who has houses in more than one place deemed as a traveler when he stays in his other houses?	218
308. Is a person who goes to the town where his parents reside deemed as a traveler?	218

WITR PRAYER AND THE SUNNAHS ESTABLISHED TOGETHER WITH FARDHS (RAWATIB) **219**

309. What is witr prayer and how is it performed?	219
310. What is the textual proof for witr prayer? Why are there differences among madhhabs (jurisprudential schools) about witr prayer?	220
311. Why do we raise up and then fold our hands again in the third rakat of witr prayer?	220
312. What should a person who forgets to recite takbir in the third rakat of witr prayer do?	220
313. How does a person who forgets to recite the supplications of Qunut duas in witr prayer complete his prayer?	221
314. What should a person who does not know the supplications of Qunut by heart do?	221

TARAWIH PRAYER **222**

315. What is the ruling on and the nature of tarawih prayer? 222
316. What is the time of tarawih prayer? Will it be valid if it is performed before 'isha prayer? 222
317. How many rakats are there in the tarawih prayer? 222
318. May one establish the entire tarawih prayer by one intention? 224
319. What is the ruling on establishing tarawih prayer in congregation? 224
320. Can women establish tarawih prayer at mosques? 224

PRAYER OF PATIENTS **225**

321. How should a person who is unable to perform ablution and tayammum establish his prayer? 225
322. Is it permissible for the people with knee disorders to establish prayer by sitting on a chair? 226
323. May a pregnant woman establish her prayers by sitting or doing symbolic moves if she has difficulty in establishing prayer in a regular mode? 227
324. Is a person who falls into a vegetative state free from the responsibility of prayer and fasting? 228
325. How is prayer established by symbolic moves? May one establish prayer by just moving his/her eyes? 228

SAJDH AL-SAHW AND THE SAJDH AL-TILAWAH **229**

326. Why do we need to perform sajdah al-sahw (prostration of forgetfulness)? How is it performed? 229
327. What should we do when we hesitate about the number of rakats we have established in the prayer? 230
328. What should we do when we give salam in the first sitting by thinking that it is the last sitting? 231
329. What should a person who stands up before performing the last sitting in prayer do? 231
330. Does saying "Allahumma salli ala Muhammad" after reciting al-Tahhiyat in the first sitting of fardh prayers necessitate sajdah al-sahw? 232
331. What should an imam do if he has not recited a surah or some verses after Fatiha in the first two rakats of fardh prayers? 232
332. Should a person who has recited a surah or some verses in the 3rd or 4th rakats of fardh prayers perform sajdah al-sahw? 232
333. What should a person who forgets to perform sajdah al-sahw do? 233
334. How is the sajdah al-tilawah performed inside or outside the prayer? 233
335. Is a person rewarded (gains thawab) for listening to the recitation of the Holy Qur'an on TV or radio? Should one perform sajdah al-tilawah if a verse of prostration is recited while listening? 234

RULINGS RELATED TO FUNERAL **234**

336. What is the ruling on funeral prayer?.....	234
337. Is there a specific time to establish funeral prayer? May the burial of deceased be postponed?.....	234
338. How is funeral prayer performed?.....	235
339. What should be done if one recites takbirs more or less than the required number in the funeral prayer?.....	236
340. May a single funeral prayer be established for more than one deceased?.....	236
341. May more than one funeral prayer be established for one deceased?.....	236
342. May a funeral prayer in absentia be established?.....	236
343. Can we establish funeral prayer with our shoes on?.....	237
344. How should women who attend a funeral prayer form rows?.....	237
345. May the funeral prayer be performed inside a mosque?.....	237
346. May funeral prayer be performed with tayammum?.....	238
347. May a funeral prayer be performed for a person who has committed suicide?.....	238

OTHER ISSUES RELATED TO FUNERAL AND GRAVE **239**

348. What is the ruling on reciting sala for a funeral?.....	239
349. What is the ruling on washing the deceased? Is it necessary to unearth and wash the deceased which had been buried without being washed?.....	239
350. How is the deceased enshrouded? Can the deceased be buried with its clothes on without being enshrouded?.....	239
351. May one recite the Qur'an in a place where a corpse is present?.....	240
352. Is it permissible to uncover and look at the deceased person's face after having been washed and enshrouded?.....	240
353. Can a deceased be taken from the place of death to another place and buried there?.....	241
354. Can more than one deceased be buried in the same grave?.....	241
355. Is it permissible in Islam to construct multi-layered cemeteries?.....	242
356. May a buried corpse be taken from the grave and transferred to another place?.....	242
357. Is any procedure applied for the deceased when it is realized afterwards that it was not buried towards the qiblah?.....	242
358. May the amputated body parts such as leg or arm be buried?.....	242
359. Can a non-Muslim be buried in a Muslim cemetery or vice versa?.....	243
360. What is the meaning and ruling on tazkiyah for a dead person?.....	243
361. What is talqin, how is it performed, and what is the ruling on it?.....	244
362. Is it possible for a dead person to know about the state of the alive?.....	244
363. Is it permissible in Islam to attend funeral prayers of non-Muslims?.....	245
364. May non-Muslims attend the funeral prayers of Muslims?.....	245
365. What is the ruling on expressing condolences?.....	245

366. What is the ruling on crying and mourning after a dead person?.....	245
367. Is it permissible for the relatives of the deceased to serve treats like food to the attendees of funeral ceremony?.....	246
368. What is the ruling on standing up when seeing a funeral being carried?.....	246
369. Is a will requesting the washing and burial of the corpse binding?.....	247
370. Can we donate the thawab of charitable acts or Qur'an recitations to the name or soul of a dead person?.....	247
371. Is there any religious basis for the customs practiced in the society such as seventh, fortieth, and fifty second night after the death?.....	248
372. Is dawr (circulate) and isqat (annulment) have a place in Islam?.....	248
373. Is it permissible to applaud, shout slogan, and whistle in a funeral?.....	249
374. Is it permissible in Islam to send wreath or flowers to funerals?.....	250
375. What is the ruling on having a grave or a tomb constructed?.....	250
376. What is the etiquette to be followed during grave visits?.....	250
377. Can women pay visit to graves?.....	251
378. May a woman pay visit to a grave while in her menstruation period?.....	251
379. Is it a sinful act to sit on a grave?.....	252
380. Is it permissible to let a road pass over graves?.....	252
381. May mosques or other buildings be constructed on a land that was cemetery before?.....	252
382. Is there torment in grave (adhab al-qabr)?.....	253

OTHER ISSUES RELATED TO RITUAL PRAYER 253

383. Is it permissible to be busy with something between the sunnah (rawatib) and fardh rakats of prayers?.....	253
384. Does nullification of ablution between sunnah and fardh require re-establishment of the former?.....	254
385. May one establish prayer inside the Ka'bah?.....	254
386. What are the differences of women's and men's prayers in terms of the way of their establishment?.....	254
387. Can a person who is not allowed to establish prayer at workplace establish his/her prayer by symbolic bodily motions?.....	255
388. Is one deemed to have violated the right of a person because of establishing daily prayers within working hours?.....	256
389. Is a person held responsible for his/her spouse who does not perform prayers?.....	256

ZAKAT AND SADAQAH AL-FITR

THE NATURE OF AND RULINGS ON ZAKAT AND

THE WEALTH SUBJECT TO ZAKAT	261
390. What is zakat?.....	261
391. When did zakat become obligatory (fardh)? What is the wisdom behind the obligation of zakat?.....	261
392. Who are obliged to give zakat? What are the conditions for its validity?.....	262
393. What are hawajj al-asliyya (essential needs)?.....	263
394. What kind of debts are deducted while calculating zakat?.....	263
395. Is zakat payable on the tools and materials used for need?.....	264
396. Is a person who lives with his father liable for the payment of zakat?.....	264
397. Is it necessary to give zakat out of the wealth of rich children who have not reached the age of puberty?.....	264
398. Should a student whose scholarship is more than the amount of nisab give zakat?.....	265
399. Is rental income subject to zakat?.....	265
400. Is it required to pay zakat for the real estate bought for trade or investment purposes?.....	265
401. How is the amount of zakat calculated for tradable goods?.....	265
402. Can we pay the zakat of tradable-goods with goods of the same kind?.....	266
403. Are paper money/banknotes subject to zakat?.....	266
404. How should a person who trades in gold give zakat?.....	266
405. How should a person who has gold in different grades of fineness calculate his zakat?.....	267
406. Should women give zakat for their jewelry?.....	267
407. May the zakat of animals be paid in cash?.....	267
408. Is a real estate agent obliged to give zakat of the real estates that are owned by him?.....	267
409. Should one give zakat for the means of production?.....	268
410. Is it necessary to pay zakat on stocks?.....	268
411. How do shareholders of a company pay zakat?.....	268
412. What does 'ushr mean, and what is its religious ground?.....	269
413. How is zakat paid for agricultural products?.....	269
414. Is it necessary to give zakat for such products as tea and beet?.....	270
415. If the product whose 'ushr was paid is not sold but stored, should one give zakat and 'ushr again for this crop after one year?.....	270
416. Should one pay 'ushr for the crops that grow by themselves such as reed and weed?.....	270

417. Should one pay ‘ushr for perished products?.....	271
418. Are the costs incurred in growing the crop taken into account when paying the ‘ushr?.....	271
419. Who should pay the ‘ushr of the land given to another person for the purpose of sowing?.....	271
420. Does tax substitute for zakat?.....	272
421. Should one give zakat out of the income obtained by illegal ways?.....	273
422. Should one give zakat for receivables?.....	273
423. May a cheque or promissory note of a future receivable be given as zakat?.....	273
424. Is there a specific time for giving zakat?.....	274
425. Can we pay zakat by proxy, transfer, EFT, etc.?.....	274
426. May zakat be paid in instalments?.....	274
427. Can we give zakat before its due date?.....	274
428. How should a person who has not given the zakat of previous years pay his/her zakat debts later?.....	274
429. If a person liable for giving zakat becomes poor before giving his/her zakat and then dies, will s/he be freed from the responsibility?.....	275

THE PLACES TO GIVE ZAKAT 275

430. To whom can zakat be given?.....	275
431. To whom can zakat not be given?.....	276
432. May one give zakat to his/her foster mother and father?.....	276
433. May one give zakat to a poor sibling?.....	276
434. May one give zakat to his/her step mother, step father, and step children?.....	277
435. May one give zakat to his/her son-in-law and daughter-in-law?.....	277
436. May one give zakat to his/her mother-in-law and father-in-law?.....	277
437. May one give zakat to adopted (cared) children?.....	277
438. Can zakat be given to the people who live by salary or wage?.....	278
439. Are the schools, Qur’an courses, mosques, and similar charitable organizations included in the scope of “fi sabilillah” expressed in the verse of zakat?.....	278
440. May one give zakat to non-governmental organizations?.....	279
441. May one give zakat to the organizations that provide medical treatment to the poor and the needy?.....	279
442. May one give zakat or sadaqah al-fitr to those who commit haram actions such as drinking alcohol and gambling?.....	280
443. May one give zakat to non-Muslims?.....	280
444. Is the money spent for the poor to have them circumcized or married substitute for zakat?.....	281
445. Do the iftar tables established by municipalities, associations, or charitable organizations or the foods distributed at foodbanks in the month of Ramadan substitute for zakat and sadaqah al-fitr?.....	281

446. May one be deemed to have given zakat by not receiving rent from his/her poor tenant?	282
447. Do the medical devices supplied to hospitals substitute for zakat?	282
448. Does the money spent on a tree-planting campaign substitute for zakat?	283
449. May a company consider the aids it distributes to its employees as zakat?	283
450. What should we do if we find out that the person to whom we gave zakat was rich?	283

SADAQAH AL-FITR 284

451. What is sadaqah al-fitr and when is it paid?	284
452. Who must give sadaqah al-fitr?	284
453. Who are eligible and ineligible to receive sadaqah al-fitr?	285
454. Is it obligatory to give sadaqah al-fitr as wheat, barley, date, or grape?	286
455. May one give sadaqah al-fitr for construction of a mosque?	286
456. How should one pay the debt of a sadaqah al-fitr that was not paid in time?	286
457. How does a person who lives abroad give sadaqah al-fitr; does s/he abide by the conditions of his/her residence country or that of their country of origin?	287

— ﷻ FASTING (SAWM) ﷻ —

FEATURES AND TYPES OF FASTING 291

458. What are the conditions to be obliged to fast?	291
459. Is it a must to observe the crescent to start fasting in Ramadan?	291
460. May one fast in order to welcome Ramadan?	292
461. When and how should one make intention for fasting?	293
462. What is imsak? When does it start? May one continue to eat and drink for a short while when the adhan for fajr prayer starts to be recited?	293
463. What is the importance of suhoor meal in Islam?	294
464. What is the ruling on fasting in the month of Shawwal? May one fulfill the missed fasts of Ramadan with the intention of Shawwal fasting?	295
465. What is the importance of the first ten days of the month of Dhu al-Hijjah?	295
466. What is the importance of fasting in the month of Dhu al-Hijjah and on the Day of Arafah?	296
467. What is the importance of the month of Muharram and fasting in that month, especially on the 10th day of Muharram?	296
468. What is the place of the three holy months in Islam and what is the ruling on fasting in these months?	297
469. Is there any religious obligation about fasting in the days of the holy nights?	297

470. Should a person who wants to fast for the holy nights fast on the day of that night or on the next day?	298
471. What is Dawud's fasting?	298
472. When is the fasting of ayyam al-beed (white days) and what is its importance?	299
473. How is fasting in fulfillment of a vow (nadhr) observed?	299
474. What are the prohibited days for fasting?	299
475. Can we observe fasting on the days of eid?	301
476. What is the ruling on fasting on Fridays?	301

THE THINGS THAT INVALIDATE AND DO NOT INVALIDATE THE FAST 301

477. What are the things that invalidate the fast?	301
478. Does eating or drinking something forgetfully invalidate the fast?	302
479. Should we remind a person who eats forgetfully that s/he is fasting?	302
480. What should be the limit of the relations between spouses when they are fasting?	302
481. Is the fasting observed while one is in the state of janabah (major impurity) valid?	302
482. Does masturbation invalidate fasting?	303
483. What is the ruling on having wet dream or waking up in the state of janabah while observing fasting?	303
484. What should a woman do if she makes intention for fasting but menstruates within the day?	303
485. Do using mouth spray or chewing gum in order to prevent bad breath harm fasting?	304
486. Do waxing or epilation prevent fasting?	304
487. Do applying make up and dying hair invalidate the fast?	304
488. Does nicotine band invalidate fasting?	305
489. Does having kidney stone removed while fasting invalidate it?	305
490. Does the insulin shot taken by diabetic patients invalidate the fast?	305
491. Does a transfused radioactive substance invalidate fasting?	305
492. Does eyedrop invalidate fasting?	306
493. Do having endoscopy or colonoscopy and having anal or vaginal ultrasonography invalidate the fast?	306
494. Do viewing urinary canal and infusing medicine into the canal invalidate fasting?	306
495. Does anesthesia invalidate fasting?	306
496. Do eardrops invalidate fasting?	307
497. Does having ears washed invalidate fasting?	307
498. Do using suppository or having enema invalidate fasting?	308
499. Is fasting invalidated by undergoing dialysis?	308
500. Does donating blood for platelet supply invalidate fasting?	309

501. Does having an angiography invalidate the fast?	309
502. Does having biopsy invalidate the fast?	310
503. Does the sublingual pills used by cardiac patients invalidate the fast?	310
504. Does nasal drop invalidate the fast?	310
505. Does being vaccinated or having an injection invalidate fasting?	310
506. Does acupuncture treatment invalidate fasting?	310
507. Do giving blood and taking blood into body when one is observing fasting invalidate it?	311
508. Does using ointment and medicated band invalidate the fast?	311
509. Do the spray and asthma medicine used by asthma patients invalidate fasting?	311
510. Does having dental treatment invalidate fasting?	312
511. Do dental bleeding and swallowing the blood coming out of dental wound with saliva invalidate the fast?	312
512. Is fasting invalidated by swimming?	313
513. Does having a bath invalidate the fast?	313
514. Does brushing teeth invalidate the fast?	313
515. Does vomiting invalidate the fast?	313
516. Is the fast of a person invalidated if s/he swallows waterdrop by mistake while performing ablution?	314
517. Does committing a forbidden (haram) action harm the fast?	314
<u>QADA, KAFFARAH, FIDYAH, ISQAT AL-SAWM</u>	314
518. What are the excuses that allow one not to fast?	314
519. What are the situations that invalidate fasting but only qada is required?	316
520. What should be done if a person who fasts sets out on a journey in Ramadan and nullifies his fasting due to journey?	317
521. Is there an obligation to make up for the missed Ramadan fastings within a certain period?	318
522. How should a person who has many dasts to make up observe them?	318
523. Is it necessary to observe qada for the wajib and nafl fastings that are invalidated?	319
524. What should a person who breaks the fast early due to the recitation of the call for maghrib prayer two minutes early by mistake do?	319
525. What is the ruling on nullifying the fast deliberately?	319
526. When someone who observes kaffarah fasting sets out on a journey, may s/ he give a break to the kaffarah?	319
527. What should a woman who observes kaffarah fasting do for the missed days during menstruation period?	320
528. Is kaffarah required for each missed day separately in the month of Ramadan in the event that more than one fastings are nullified?	320

529. What should a person, who falls into a state that he cannot observe fasting before observing his/her qada fastings, do?	320
530. What is required to do if a person starts fasting in Ramadan but gives up in the following days?	321
531. What is fidyah? In which situations does it become necessary?	321
532. How is the fidyah for fasting paid?	322
533. Who are eligible to receive fidyah?	322
534. Does a person who is healthy enough to observe fasting be freed from the debt of fasting by giving fidyah for the days s/he did not fast?	323
535. What should the people who cannot pay fidyah do?	323
536. What does isqat al-sawm mean?	324

OTHER ISSUES RELATED TO RAMADAN AND FASTING **325**

537. What should those who spend the month of Ramadan and eid in other countries do if the calculations/calendars of those countries are different than that of their own country? Which one should they follow for celebrating the eid?	325
538. How does a person observe fasting in polar regions?	325
539. How should a person traveling by plane break his/her fast?	325
540. How should a person who always travels due to his job perform his prayers and fasts?	326
541. Is it permissible to run a restaurant in the month of Ramadan?	326
542. Is it permissible for spouses to have sexual intercourse on the nights of Ramadan?	327
543. Does spending the daytime sleeping while observing fasting in Ramadan pose any problem regarding the validity of the fasting?	327
544. Is it permissible for working people not to observe fasting with the concern of a decrease in productivity?	327
545. What should a person advised by a specialist doctor not to observe fasting do?	328
546. May women observe fasting on their special days (such as menstruation and postnatal period)?	328
547. Can women observe fasting during pregnancy?	329
548. Can a woman who has had a miscarriage observe fasting?	329
549. How should a woman who has irregular menstrual bleeding observe her fast?	330
550. What does itikaf mean and how is it performed?	330
551. How should we interpret the narratives about the timing of the Lailat al-Qadr?	331

HAJJ AND UMRAH

CONDITION OF BEING FARDH, TYPES OF Hajj AND THE UMRAH	335
552. What are the months of hajj?	335
553. For whom hajj is a fardh?	335
554. Does hajj become obligatory on those who had the opportunity to see the Ka'bah or perform umrah?	336
555. Is it a requirement to have wealth equal to the amount of nisab in order to perform hajj?	336
556. Does a person who does not have a safe place to entrust his children if he leaves for hajj have to go to hajj?	337
557. May a person who has a single child in the marriageable age postpone going to hajj?	337
558. Is it proper to go to hajj by borrowing money?	337
559. May one go to hajj by using the money kept in deposit account in a bank?	338
560. What does hajj al-ifrad mean and how is it performed?	338
561. What does hajj al-tamattu mean and how is it performed?	338
562. What does hajj al-qiran mean and how is it performed?	339
563. Is it permissible for a person who will perform hajj al-tamattu to perform another umrah until he enters ihram for hajj after performing the umrah of hajj al-tamattu and ending the state of ihram?	339
564. May a person who has performed tawaf al-qudum change this hajj with tamattu or qiran?	339
565. May a person who made intention for hajj al-qiran change his intention to hajj al-tamattu before performing tawaf and sa'y?	340
566. May a person who makes niyyah for the umrah of hajj al-tamattu change this hajj with qiran?	340
567. Can a person who makes niyyah for hajj al-tamattu or qiran fast instead of sacrificing an animal even though he can afford it?	340
568. What is the status of being traveler for those who come from distant countries before or after Arafat waqfah (ritual standing) within the period of their presence in Mecca?	341
569. Does the worship of hajj become valid in the event that the eid al-adha starts in Saudi Arabia before or after the pilgrim's home country?	341
570. Is the obligation of hajj of a person who goes to hajj on duty deemed as fulfilled?	342
571. What should the heirs of a person who was obliged to perform the worship of hajj but died before performing it do?	342
572. What is the ruling on reciting specific duas while performing the duties of hajj and umrah?	343

573. What is the ruling on asking for forgiveness from the people around us before going to hajj?	343
574. Are the narratives expressing that “the sins of a person who performs hajj will be forgiven” authentic?	344
575. What do hajj al-akbar (great pilgrimage) and hajj al-asghar (minor pilgrimage) mean?	344
576. What are hajj al-wada (farewell pilgrimage) and khutbah al-wada (farewell sermon)?	345
577. Can we perform umrah on the days of eid-al adha?	346
578. May a person who enters ihram to perform umrah and comes to Mecca postpone his umrah due to health problems?	346
579. Is it permissible to bring sand or stone from Mecca and Medina with the belief that they are sacred places?	346
580. What is the ruling on performing forty times of prayer in Masjid al-Nabawi?	347
IHRAM AND MIQAT	348
581. Is it necessary to go to the places of miqad for every umrah?	348
582. Is Jeddah within the limits of miqat? May afaqis enter ihram in Jeddah?	348
583. What is the ruling of salat al-ihram?	348
584. What is the ruling on entering Mecca without ihram?	349
585. What should a person, who wears clothes for one day or night without an excuse before performing tawaf and sa’y although he entered into the state of ihram for umrah, do?	349
586. What should a person in the state of ihram do if he wears sewed clothes or underwear?	349
587. What should a person do if he wears clothes for one day due to an illness before performing tawaf and sa’y?	350
588. What should a person who wears clothes before shaving although he reached to the phase of exiting ihram do?	350
589. What should a person who enters ihram for hajj but shaves before performing any of the hajj rites do?	350
590. What should a person who shaves or cleans the pubic or armpit hair while in ihram do?	351
591. What should a person who shaves beard while in the state of ihram do?	351
592. What is the ruling on cutting the nails or pulling off a nail that is about the drop in the state of ihram?	351
593. Is any penalty required for a person who shaves before sacrificing a qurbani in Hajj?	352
594. What should a person who ends the state of ihram by shaving after performing tawaf al-umrah but before completing sa’y do?	352
595. What should a person who performs sa’y without performing tawaf and ends the ihram by shaving do?	352

596. What should a person who leaves the state of ihram by shaving without performing tawaf and sa'y do?	353
597. What should a person who forgets to shave although he has completed tawaf and sa'y of umrah do?	353
598. Is any penalty required for a person who performs tawaf and sa'y but postpones shaving?	353
599. May a person in ihram shave another person who is in the phase of ending the ihram?	353
600. May one end the state of ihram by shaving his beard?	354
601. What is the ruling on a person in ihram to use products such as hair cream, etc.?	354
602. May a person in ihram use soap or detergent while taking a bath or doing laundry?	355
603. What kind of shoes should the person in the state of ihram wear? Can this person wear slippers with a belt on the heel?	355
604. Does the amount of penalty change for a person when he intends for hajj al-qiran but violates one of the prohibitions of the state of ihram?	355

TAWAF AND SA'Y 355

605. What is tawaf and how many types of tawaf are there?	355
606. May one perform tawaf al-ziyarah the state of ihram?	357
607. What should be done in the event that the shawts of tawaf are not performed completely?	358
608. What should a person whose ablution is nullified during tawaf do?	358
609. Is the ablution of a person whose hand touches to that of an opposite sex while entering and exiting Haram al-Sharif or performing tawaf nullified?	358
610. What should a person whose ablution is nullified while performing tawaf al-umrah but completes both tawaf and sa'y without knowing in which shawt it was nullified do?	359
611. What should a person who performs tawaf al-umrah without being in the state of ablution or whose ablution gets nullified but continues and completes tawaf without re-performing ablution?	359
612. May a member of Hanafi school imitate the Shafi'i school when his hand, nose, or another body part bleeds during tawaf al-umrah or tawaf al-ziyarah?	359
613. May one establish tawaf prayer in prohibited times for prayer?	360
614. Does the tawaf become valid if it is performed by walking backwards?	360
615. Where is tawaf prayer established?	360
616. Can we perform tawaf in makruh times for prayer?	360
617. Is it permissible to perform tawaf for a few times without establishing tawaf prayer?	361
618. May one establish tawaf prayer after fajr prayer?	361

619. Should those who are in Mecca for hajj or umrah prefer to perform another umrah or nafl tawaf in the remaining days after completing an umrah?.....	361
620. What does a person who does not perform all the shawts of sa'y do?.....	361
621. What should a person who performs sa'y after an invalid tawaf do?.....	362
622. What should a person whose ablution is nullified during sa'y do?.....	362
623. Is the sa'y of a person who completes it on a wheelchair without an excuse valid?.....	362
624. Is there a prayer to be established after sa'y?.....	362
625. What should the spouses who complete tawaf and sa'y of umrah but have sexual intercourse before ending the state of ihram by having their hair cut do?.....	363
626. What is the wisdom behind greeting and kissing al-Hajar al-Aswad?.....	363

STONING THE DEVIL AND SACRIFICING ANIMAL IN HAJJ 364

627. May one stone the Jamrat al-Aqabah on the first day of eid before midnight?.....	364
628. How is stoning made up when it could not be fulfilled on time?.....	364
629. What should a person who has to leave Mecca for an excuse before completing the stoning the Devil do?.....	365
630. When does one slaughter the animal (offer qurbani) in hajj?.....	365
631. Can the hajj-related qurbani of a person who goes to hajj be slaughtered in one's own country?.....	366
632. Is a person who fulfills the worship of hajj responsible for sacrificing an animal in his hometown as well?.....	366

PERFORMING HAJJ ON SOMEONE ELSE'S BEHALF (HAJJ AL-BADAL) 367

633. Can one fulfill hajj by proxy (or on someone else's behalf)? What are its conditions?.....	367
634. May a person who has not performed hajj before go to hajj on behalf of another person as a wakil (proxy/agent)?.....	368
635. May a person perform hajj both for himself personally and for another person by proxy within the same year?.....	368
636. May a person who is not healthy enough to perform hajj be freed from this responsibility if he gives the money as sadaqah instead of sending someone to hajj as proxy?.....	368
637. When sending someone as a wakil (proxy) to hajj, is it required that the representative set out from the hometown of the sender? May one appoint a person from Mecca and Medina as his/her wakil?.....	369
638. For a hajj candidate who is in coma and is about to die before performing the ritual standing at Arafat, is it permissible to appoint another person from his/her current location to perform the hajj on his/her behalf?.....	369
639. Which type of hajj should a person who will perform hajj al-badal make intention for?.....	369

640. What should a person do if he performs the umrah on his own behalf while performing the hajj al-tamattu on somebody else's behalf?.....	370
641. Should a person who goes to hajj as proxy sacrifice an animal on his own behalf?.....	370
642. May an official who goes to hajj for duty and whose expenses are covered by the related institution also perform hajj as proxy on behalf of another person?.....	370
SOME ISSUES RELATED TO WOMEN IN HAJJ AND UMRAH	371
643. Can a married woman go to hajj or umrah without getting permission from his husband or having her husband or a mahram with her?.....	371
644. Is the discharge coming from the women in the period of menopause prevent them from fulfilling the rites of hajj or umrah?.....	372
645. What should a woman do if she passes Miqat and enters Mecca without entering the state of ihram due to menstruation or being in the postnatal bleeding period?.....	372
646. May a woman who makes intention for hajj al-tamattu or qiran but cannot perform umrah due to her special condition (menstruation, etc.) go to Arafat directly?.....	373
647. May a woman who goes to Arafat while she menstruates end the state of ihram by stoning the devil after the waqfah of Arafat and Muzdalifah?.....	373
648. May a woman who sees the signs of menstruation even though she uses menstrual retardant pills perform tawaf al-umrah or tawaf al-ziyarah?.....	373
649. What should a woman who performs tawaf and sa'y of umrah while in menstruation or postnatal period and ends the state of ihram by cutting her hair do?.....	374
650. What should a woman do if she fulfills hajj and umrah rites and ends ihram by cutting her hair before completion of her maximum menstruation period thinking that her normal menstruation is over but then she sees bleeding again?.....	375
651. May a woman who has to leave Mecca before her menstruation is over perform tawaf al-ziyarah in this condition?.....	375
652. Is penalty required for a woman who cannot perform the farewell tawaf (tawaf al-wada) because her convoy leaves Mecca?.....	376
653. May a woman change clothes when she is in state of ihram?.....	376
654. How much of their hair should women cut in order to end the state of ihram?.....	376

QURBANI (SACRIFICE)

THE NATURE AND THE RULING OF QURBANI	379
655. What is the nature and the ruling of the worship of qurbani?.....	379
656. What is the religious ground of qurbani?.....	380
657. Who is obligated to sacrifice qurbani?.....	381
658. May the amount of nisab required to be responsible for the worship of qurbani be determined over the value of silver?.....	381
659. Should each spouse in a family sacrifice a separate animal if they are wealthy? When the head of the family offers a qurbani, will the other wealthy family members be exempted from the obligation of offering qurbani?.....	382
660. Does a traveler have to offer qurbani?.....	382
661. When does the time to offer qurbani starts and ends?.....	383
662. To what should the attention be paid when sacrificing qurbani?.....	383
663. What is the ruling on reciting the name of Allah (swt) or saying Basmalah while performing qurbani? Which invocations may be recited while slaughtering the animal?.....	383
664. Is it permissible to sacrifice the animal by stunning it with electricity or narcosis?.....	384
665. Is it necessary to perform ritual prayer after performing qurbani?.....	385
666. How should one make use of the qurbani meat?.....	385
667. How should one make use of the skin of the qurbani?.....	385
668. What are the inedible parts of an animal? What needs to be done with these parts?.....	386
669. Is it permissible to pay a fee to the butcher who slaughters the qurbani animal? May a portion of the meat or skin of the qurbani be given as a slaughter fee?.....	386
670. Is it permissible to sell the parts of the sacrificial animal such as the meat, skin and intestines?.....	386
671. May a person benefit from the milk and strength of an animal that he/she has fed and decided to sacrifice?.....	387
672. Will the worship of qurbani be fulfilled by giving sadaqah (charity) instead of sacrificing an animal?.....	387
673. May people be partners in sacrificing the same cattle with different intentions such as offering it as aqiqah, adaq, udhiyya, and nafI?.....	388
674. Is it more virtuous to sacrifice a female or male animal as qurbani?.....	388
675. Is there a religious basis for fasting before performing qurbani on the Eid al-Adha?.....	389
676. Does smearing the blood of qurbani animal on forehead have basis in Islam?.....	389

TYPES OF QURBANI **389**

677. What is qurbani of aqiqah? 389
678. What is the qurbani of shukr (gratitude)? 390
679. Is there a kind of qurbani called qurbani of the deceased? 390
680. May people come together and sacrifice qurbani in the name of Prophet Muhammad (saw)? 391

ISSUES RELATED TO THE PEOPLE WHO SACRIFICE THE QURBANI **391**

681. Did Prophet Muhammad (saw) personally slaughtered a qurbani? 391
682. May the qurbani be performed by appointing someone as wakil who lives? What is the ruling on performing qurbani on somebody else's behalf outside the city or country where the person is located? 392
683. May qurbani be performed without being in the state of wudu (ablution)? 392
684. May the meat of the sacrificial animal slaughtered by a non-Muslim be eaten? 393
685. Is it permissible to buy sacrificial animal by credit card? 393
686. May qurbani be offered by slaughtering a sacrificial animal bought with bank loan? 393
687. May one buy sacrificial animal in installments? 394
688. May qurbani be paid out of the illegitimately earned money? 394
689. If a person purchases and sacrifices an animal with money donated by his son or someone else, is it considered a qurbani? 394
690. What is the ruling for the poor and the wealthy who cannot perform qurbani on time because of an excuse? 395
691. What should be done if the sacrificial animal dies while it is still on safekeeping of the vendor after being sold or cannot be sacrificed for any other reason? 395
692. What should be done if the purchased sacrificial animal dies? 396
693. What should a person who does not perform qurbani due to negligence do? 396
694. What should be done if it is learned that the person who was appointed to offer sacrifice on the person's behalf did not fulfill his/her duty? 396
695. May new partners be added to an animal bought as qurbani? 396
696. If two cattle are sacrificed by more than seven people without determining their shares, and the meat is divided in a mixed manner and distributed to the shareholders after slaughtering, is this transaction permissible? 397
697. Is it permissible for some of those who share in the cattle bought as sacrifice, to include someone else in their shares afterwards? 397
698. May charity organizations that sacrifice animals on behalf of people as their agent and the people who are given surplus qurbani meat sell the meat? Can they give that meat to the butchers to take back same quantity of meat later? 398

699. Does the fact that grocery stores sell the same amount of shares of a qurbani animal, at a cheaper price to those who have a discount card affect the validity of qurbani worship?	398
700. Is it permissible for a person, supermarket, or company to sell an animal/a share that has not been owned by them yet as qurbani?	398

DEFECTS RELATED TO SACRIFICIAL ANIMALS **399**

701. What qualities should sacrificial animals have?	399
702. What is the minimum age for sacrificial animals?	399
703. Is it permissible to sacrifice cattle before they reach the age of two?	400
704. Is it permissible to sacrifice bovine animals that have not completed the age of two but have grown teeth?	401
705. May qurbani worship be performed by sacrificing animals with a cut or pierced ear?	401
706. May sheep without tail or with a cut tail become qurbani?	401
707. May neutered animals be sacrificed?	402
708. May an animal with defective udders become qurbani?	402
709. May animals be sacrificed if they are born without horns or have broken horns, or if their horns have been blunted with electricity after birth?	402
710. If an animal whose defect could not be detected before slaughter is found to be sick after being sacrificed and experts decide that its meat cannot be eaten, is the sacrifice religiously valid?	402
711. Is it permissible to prevent conception of sacrificial animals?	403
712. Is it permissible to sacrifice a pregnant animal? What should be done if the sacrificial animal gives birth before being sacrificed?	403
713. Is there any harm in sacrificing animals produced by artificial insemination as qurbani?	404

— ﴿﴾ **NADHR AND OATH** ﴿﴾ —

NADHR **407**

714. What is nadhr, what is its place in Islam?	407
715. What are the conditions of nadhr?	408
716. Is it valid to vow something as nadhr that is beyond our strength?	409
717. What is the ruling of slaughtering a votive sacrifice? Who cannot eat its meat?	410
718. May votive sacrifice be served in meetings such as wedding, etc.?	410
719. What are the qualities that are required for votive sacrifice?	410
720. When should the votive sacrifice be slaughtered?	411
721. May a person who vows to offer a sacrifice give this vow up?	411

722. Is it a requirement for a person who vows to sacrifice a ram to sacrifice a ram? May he be partner in sacrificing a cattle?	412
723. Should a person who vows to sacrifice an animal in his dream fulfill this vow?	412
724. How many animals should a person who vows to offer a sacrifice by saying, "I will sacrifice an animal if my child is born healthily" sacrifice if he has twin children?	412
725. If two or more people vow to offer sacrifice regarding the same subject, should each of them sacrifice animal separately?	412
726. Is the nadhr of a person who vows to donate to a certain charity or poor person, but donates to another charity or another poor person deemed as fulfilled?	413
727. May one vow a nadhr for tombs?	413
728. What is the judgment on vowing to fast for one year or more?	413
729. Is it a requirement for a person who vows to fast more than once to observe these fastings consecutively?	414
730. If certain conditions related to time, place and other qualifications are attached to a vow, do such conditions become binding?	414

OATH AND ITS KAFFARAH **416**

731. What does oath mean, what is the religious judgment of it?	416
732. How many types of oath are there?	416
733. What is the ruling of an oath taken unintentionally just as a habit?	417
734. How can one fulfill the kaffarah of an oath?	417
735. What should a person who cannot fulfill the kaffarah of an oath do?	418
736. Should one pay separate atonements for each broken oath or would one single atonement be enough for all of them?	418
737. If a person who pays atonement for an oath swears again on the same subject and breaks his oath again, should he pay a new atonement for it?	419
738. What should a person who took an oath for not fulfilling a religious command or for committing a haram action do?	419
739. What is the status of a woman who takes oath not to enter in the house of her husband?	420
740. Are the phrases of oath that do not match with common phrases of taking an oath but have been produced by public and have become a custom valid as an oath?	420
741. What is judgment on a person's saying, "If I do this, I will deny Allah", "I will become apostate" or "I will become a disbeliever"?	421
742. If a person takes an oath or vows to do something in his mind, do such cases necessitate the provisions of the oath and vows?	421

DUA, TAWBAH, DHIKR, AND THE QUR'AN

DUA	425
743. What is the importance of dhikr and how should one make dua?.....	425
744. Are there prerequisites for acceptance of duas?.....	426
745. What is the nature of verses of dua that take place in the Qur'an?.....	427
746. How should hands be positioned while making dua? Is there a religious basis for rubbing hands on face after dua?.....	428
747. Can we always make dua? Are there special times to make dua?.....	429
748. Is it permissible to make dua while lying down?.....	429
749. What does the word "ameen" said at the end of duas mean? What is the religious basis for it?.....	430
750. Should we make dua and dhikr silently or loudly?.....	430
751. What does actional dua mean?.....	431
752. What is the religious judgment of dua of adhan and how is it made?.....	431
753. Is it permissible to make dua of adhan loudly in mosques?.....	432
754. Is there a narrative that the dua made between the adhan and the iqama will be accepted?.....	432
755. Is there a dua called "Ism al-Azam"?.....	433
756. What is salat al-salam? How and with which words should one send salat al-salam upon Prophet Muhammad (saw)?.....	434
757. Is there any religious ground for the duas of salat al-munjiyah and salat al-tafrijiyah?.....	435
758. How can one protect oneself from the evil eye? Is there any dua against the evil eye?.....	435
759. What is the dua for rain? How is it made?.....	436
760. What should a person whose child is born do and how should he make dua?.....	437
761. Is there a narrated dua named Kanz al-arsh?.....	437
762. Is there a dua named the dua of ant?.....	438
763. Is there a dua to make a loved person come back?.....	438
764. Do djinns harm people? Which duas should one make in order to be protected against their harm?.....	438
765. Is there a special dua for strengthening memory?.....	439
766. Is the rumour that Safar is an inauspicious and troublesome month correct? Is there an act of worship or dua special to this month?.....	441
767. Can a person be a sinner because of bad words that come to the mind due to waswasa? Is there a dua to get rid of these?.....	441
768. What is the relation between dua and qadar, what does it mean that dua changes the time of death and keeps troubles away?.....	442

769. What does tawassul mean in dua? Is there a religious ground of wasilah in dua?.....	443
770. Is it permissible to make dua for, wish mercy on, and pray for forgiveness of non-Muslims?.....	443
TAWBAH (REPENTANCE)	444
771. What is the place of repentance in Islam and how is it performed?.....	444
772. Which duas should one recite while repenting to Allah?.....	445
773. What is the dua for istighfar?.....	446
DHIKR AND THE QUR'AN	447
774. Is there a religious basis for reciting kalimat al-tawhid for seventy thousand (70.000) times?.....	447
775. Is there a religious basis for chanting dhikr in certain numbers such as 4444?.....	447
776. Is it makruh to engage in acts of worship such as reciting the Qur'an, making dhikr and duas until the time of ishraq after the time of fajr prayer ends?.....	447
777. Is it permissible to touch the Holy Qur'an without being in the state of ablution?.....	448
778. What are the rules and standard for reciting the Holy Qur'an quickly or slowly?.....	449
779. What is the ruling on reciting the Qur'an by intonating?.....	450
780. What is the ruling on listening to the Holy Qur'an while it is being recited?.....	451
781. Is a person who listens to the muqabalah on TV, radio, or via another device deemed to have made a khatm (i.e. recited the Qur'an from beginning to the end)?.....	451
782. Is it permissible to recite Qur'an with the intention of healing?.....	451
783. Is the ruqyah that is recited in order to recover and to be protected from the evil with the permit of Allah permissible?.....	452
784. Is it permissible to receive payment for reciting Qur'an?.....	453
785. Is there any spiritual reward in reciting Mawlid al-Sharif?.....	453
786. Is it permissible to enter places such as toilets, etc. with amulets, religious books, and ornaments on which the name of Allah is written?.....	454

— ﷻ — FAMILY LIFE — ﷻ —

BEFORE MARRIAGE	457
787. May a man propose to a woman to whom someone else had previously proposed and who is in the phase of making a decision, or to a woman who is bound to a promise to wed?.....	457

788. Is it permissible for the fiancées to hold their wedding ceremony so that they can meet comfortably?	457
789. Does the wedding, which was held during the engagement, become void with the breaking of the engagement?	458

MARRIAGE (NIKAH) 459

790. What is the religious judgment on marriage?	459
791. Who are the women who are forbidden to marry?	460
792. Which relatives can a person not marry?	461
793. Is it permissible to marry someone from the People of the Book?	462
794. Can a Muslim woman marry to a non-Muslim man?	463
795. Is registration of marriage a requirement?	463
796. Should a person who had a civil marriage ceremony also need to have a religious marriage ceremony?	463
797. What is the judgment on having witnesses in marriage?	464
798. Is a nikah solemnized without guardians valid?	465
799. What is the judgment on having a secret nikah?	466
800. Is the nikah contract that is concluded under duress valid?	466
801. Is the nikah solemnized under threat of parents or other guardians valid?	467
802. What does mahr mean?	467
803. In which situations a woman cannot get mahr?	468
804. Can a woman who donates her mahr to her husband return this donation later?	468
805. What is the judgment on the mahr of a woman who dies before her mahr is paid?	469
806. May a woman demand something that is not a property as mahr?	469
807. Is it permissible to marry between two eids?	470
808. May the spouse of a person, who has been missing for a while and there is no information as to whether the missing is alive, marry to someone else?	470
809. Is the father obligated to marry off his child?	471
810. Is the marriage of a person who does not know the requirements of Islam invalid?	472
811. Is it permissible for a woman to get married while menstruating?	472
812. How can the marriage be performed in case of marrying a woman from the People of the Book? Is it permissible for witnesses to be from the People of the Book?	472
813. What is the ruling on renewing the marriage ceremony held in some mosques on Friday nights?	472
814. Does the nikah of a person who misses Friday prayer three times in a row without an excuse become void?	473
815. How can the Prophet's (saw) polygamy be explained?	473
816. What does "nikah al-mut'ah" mean, what is the ruling of it?	474

817. What is the ruling of having fun in a wedding?	475
BREASTFEEDING (RADA'AH)	476
818. What is the textual basis of marriage prohibition due to milk kinship? What are the conditions of establishment of milk kinship?	476
819. May a milk kinship be established if a child sucks a breast with no milk?	477
820. Do two children breastfed by one woman in separate births become milk siblings?	477
821. Does the milk taken from "milk bank" establish milk kinship? Is the fact that the milk in the milk bank is mixed change the ruling?	478
822. If a woman's milk is mixed with cow's, sheep's or goat's milk and a child is given this mixed milk to drink, will it create milk kinship?	478
823. Does dropping milk in the eyes or ears of the baby establish milk kinship?	478
824. What is the extent of the prohibitions that occur due to milk kinship?	478
825. May someone marry his milk father's child born by another wife of the said milk father?	479
826. May someone marry his brother's milk sibling?	479
827. What is the situation of couples if it is understood after marriage that they are milk siblings?	479
828. Is it permissible to hire a milk mother? What are the liabilities of the family towards milk mother?	480
829. What are the duties of a person towards his milk mother?	481
830. May a non-Muslim woman breastfeed a Muslim's child?	481
DIVORCE (TALAQ)	481
831. Is it possible to transfer the authority to divorce to one's spouse or another person?	481
832. Is it required to have witnesses during divorce?	482
833. How many talaqs are necessary for a divorce?	483
834. Does divorce happen through allusive expressions that may be interpreted as divorce?	484
835. Does divorce occur if woman says "I want to break up" and her husband accepts?	484
836. Does divorce occur by only passing the words used in divorce through the mind without being spoken?	484
837. What is the judgment if a person lays down someone's action as a condition for a divorce?	485
838. In conditional divorce, may the person who set a condition for getting divorced revoke his condition before it occurs?	485
839. What is the judgment about someone who deliberately makes a false statement as to he had divorced his wife although he is still married?	486

840. Does divorce take place in case of using the words of divorce as a threat to the spouse, although the intention is not to divorce?.....	486
841. Does divorce occur when someone says his wife “to me, you are like my mother or my sister?”.....	486
842. What is the judgment on divorce before consummating the marriage?.....	487
843. How many divorces (talaq) occur if a spouse is divorced three times in a row before consummating the marriage?.....	487
844. Is the divorce made in anger valid?.....	488
845. Is the divorce made when one is drunk valid?.....	488
846. Is the divorce made under duress and threat (iqrāh) valid?.....	489
847. Is a divorce made during the menstruation period of the wife valid?.....	489
848. Is it acceptable to divorce a woman in absentia?.....	490
849. Does the divorce by a man someone who was diagnosed with schizophrenia become valid? May a woman get divorced from such a spouse?.....	490
850. How can a married woman without a civil marriage divorce?.....	490
851. May a woman request to get divorced if her husband fails to meet the requirements of a marriage?.....	491
852. Is marital conflict a justification for a woman to divorce?.....	492
853. May someone divorce his/her spouse who is aware of the fact that he/she is infertile and is hiding it from the other party?.....	492
854. Is being unable to have children a justification for getting divorced?.....	493
855. Is a couple who got divorced by a court verdict also considered to be divorced in religious terms?.....	493
856. Is a divorce verdict rendered by the court considered a new talaq after the divorce made in religious terms?.....	494
857. Is it considered a separate divorce if someone tells people in different times and places that he has divorced his spouse?.....	494
858. What is the effect of uttering the words that require converting out of religion (alfaz al-kufr) on nikah?.....	494
859. Does swearing to sacred values such as Allah, the Holy Qur’an, and religion due to the habit of using certain expressions harm nikah?.....	495
860. Does the nikah of the spouses who do not see each other a long time get harmed?.....	495
861. Is the salary received by spouses who were divorced legally in order to receive the salary of a deceased relative but continue their marriage in religious terms halal to them?.....	495
862. Is it permissible to get divorced in order to achieve material gains?.....	496
863. Is it permissible to continue marriage if spouses give up on the divorce suit before final court decision?.....	496
864. What does iddah mean?.....	496

865. Is it valid to divorce a woman, who has already been divorced with a bain talaq and is waiting for iddah, once again?	497
866. May a woman who is divorced with one or two talaqs marry another man after the iddah period is over?	498
867. May divorced spouses marry again?	498
868. May a woman who was divorced with a bain talaq marry another man?	498
869. Who should get the presents given in the weddings in the case of divorce?	499

ISSUES SUCH AS NAFAQAH, COMPENSATION, ETC. 499

870. What are the financial rights of a divorced woman?	499
871. Is it permissible to receive the compensation ruled by court?	500
872. Is it permissible to receive severance payment?	500
873. May woman take his husband's money without his consent in order to meet her own personal needs?	501
874. Is the nafaqah that a woman receives until the finalization of divorce halal?	501
875. To whom should the custody of children be given in case of divorce?	501
876. Who will be responsible for the nafaqah of children after divorce?	503
877. Is a man responsible for supporting his sister who is single?	503

ADOPTION 504

878. What is the judgment on being foster-parents?	504
879. Is it permissible to receive the money paid for the adopted child by the state within the scope of being foster parents?	505

— ﴿﴾ INHERITANCE AND WILL (WASIYYAH) ﴿﴾ —

WILL (WASIYYAH) 509

880. What is wasiyyah and what is the ruling of it?	509
881. Is it permissible for a person to donate all or part of his property to one or some of his children while he is alive, by discriminating among his children?	510
882. If the father deprived the others and make a donation only to one of his children, would that child be responsible for it, what should he/she do?	511
883. Can a person with children bequeath his property to his grandchildren?	512
884. May a Wasiyyah that will end kinship relations be applicable?	512
885. Is it necessary to fulfill the will of a person who made a will to be buried in his wife's grave?	512
886. Is it a requirement to execute the wasiyyah of a person who wanted the entire Qur'an to be recited for his soul?	513

887. If a person, who could not go to Hajj himself, leaves a will to his child to go to Hajj on behalf of him and dies, may the siblings share the money he left for Hajj as inheritance or should they wait and perform the duty of Hajj first?.....	513
888. Is it permissible to use the money bequeathed for a certain purpose for another purpose?.....	513
889. Is it permissible for a person to give bequeath that his property will be given to his spouse when she is alive and donated to a pious foundation after her death?.....	514
890. May a person leave all of his property to the (foster) child he took care?.....	514
891. Is it permissible for a person to endow all his property to pious foundations?.....	515
892. Do the parents of a person have the right to interfere in their children's use of their property?.....	515
893. If a person endows his property to a charity when he is alive, may his children have this donation canceled after his death?.....	516

INHERITANCE **516**

894. Is there a responsibility of not complying with the commands of Islam on inheritance?.....	516
895. Is it inconvenient to delay sharing the inheritance?.....	517
896. What is the share of the parents of the deceased in the inheritance?.....	517
897. What is the status of woman in inheritance?.....	518
898. If the deceased has children and a wife, will his siblings have a share in his inheritance?.....	519
899. Would a child (grandfather's orphan) whose father dies before his grandfather be the heir of his grandfather when his grandfather dies?.....	519
900. Should daughters and sons share real estates that are left as inheritance equally?.....	520
901. After which procedure are the property and rights (estate) left by the deceased transferred to his heirs?.....	521
902. Can one of the heirs renounce the inheritance in favor of the other?.....	521
903. Can a person give his share of inheritance to someone else?.....	521
904. May heirs be deprived of inheritance?.....	521
905. Does a person who was given out for adoption have a right on his biological father's inheritance?.....	522
906. Are the properties bought with haram gains deemed halal to heirs after the owner dies?.....	522
907. Is the pension considered inherited property?.....	523
908. If a father distributes his property between his children when he is alive, would heirs be obliged to abide by this division?.....	523

909. After the death of the person who adopted his nephew and left him as the sole heir, can the brothers and sisters of the deceased religiously claim rights from this property?	524
910. May spouse of a person be heir of a deceased person if they are married but consummation of marriage is not realized?	524
911. Can the person who caused the death of his testator in a traffic accident inherit his wealth?	524
912. May a Muslim be heir of a non-Muslim? Is difference of religion an obstacle to inheritance?	525
913. May a married woman use the inheritance left by parents to her as she desires, without consulting to her husband?	525
914. When is the share of inheritance given to a child whose father died at a young age?	525
915. Is the increase in the property of a person that occurs after his death included in the inheritance?	526
916. May a person who marries again after his previous spouse's death deprive his next spouse of his property acquired by him when he was married with his previous spouse?	526
917. If the father dies after marrying a few of his children, would his single children have the right to cover their marriage expenses out of the estate in addition to their shares in inheritance?	526
918. May the children who are registered under their step mother's name be her heirs?	527
919. May a woman leave a Wasiyyah of, "May my husband be deprived of my inheritance if he marries after my death"?	527
920. While the property left by father is divided, may the child who contributed to earning or protection of this property be favoured in division?	528
921. If the deceased person works and earns his property with his spouse, what is the right of his wife in the inheritance after his death?	528
922. How should the debt of a person who dies in debt be paid?	529
FOUNDATION	530
923. What should be done religiously about real estate belonging to a foundation but not officially registered?	530

❦ COMMERCIAL LIFE ❦

COMMERCE	533
924. Is there a profit margin in trading?	533
925. Is it permissible to sell the things that are haram in Islam to non-Muslims? ..	534
926. Is it obligatory to record the contracts made?	535

927. Is it permissible to sell a product in installments for more than one price?.....	535
928. May a commercial agreement be terminated with the mutual consent of the parties without any reason?.....	536
929. Does the purchaser have the right to terminate the purchase contract upon seeing the product that he/she purchased without seeing it?.....	537
930. Can the parties stipulate to terminate the purchase contract within a certain period of time?.....	537
931. If a vendor misleads or misrepresents the purchaser about the qualities of the product, what can the purchaser do if he/she becomes aware of this situation after the transaction is concluded?.....	538
932. If a defect occurs in purchased goods while in the possession of the purchaser and it is also found that there is a pre-existing defect, can the purchaser return the goods?.....	538
933. Does the purchaser have the right to choose one of the several goods he/she takes with the intention of purchasing one of them?.....	539
934. Is it permissible to exchange two goods of the same kind provided that difference is paid by one of the contractors?.....	539
935. Is it permissible to exchange an animal with another one?.....	539
936. Can a person sell his/her house on the condition that he/she lives in it for free for a certain period of time?.....	540
937. Is it permissible to make a contract of sale (called salam) with money in advance and goods on credit?.....	540
938. Is it permissible to sell unripe vegetables and fruits?.....	541
939. Is it permissible to sell some of the crops, vegetables and fruits on the field, garden and tree by exempting a part of them?.....	541
940. Is it permissible to sell fresh tea in exchange for processed dried tea, tomato in exchange for tomato paste and olive in exchange for olive oil?.....	541
941. Is it permissible to sell vegetables such as tomatoes and eggplants, which can be harvested even though the roots remain fixed, while in the form of seedling?.....	542
942. What is the ruling on cultivating and trading plants such as “aniseed, opium poppy, cannabis” which are suitable for use for bad purposes?.....	543
943. Is it permissible to purchase goods offered for sale through judicial sale?.....	543
944. Is it permissible to breed and sell pigs for commercial purposes?.....	544
945. Is it permissible to buy and sell pork intestines to be used in the manufacture of sausages?.....	545

RENT **545**

946. May the rental agreement be terminated unilaterally?.....	545
947. May a person rent or let a third party use a movable or immovable property he/she rented, without the permission of the owner?.....	545
948. How do the parties act if no time or fee has been set in the rental (ijarah) agreement?.....	546

949. Is it permissible to pay a deposit in return for a rented property?.....	546
950. May a person, who rents a house with cash for a certain period of time and leaves the house before the expiration of rent period, get the rent back for the days he/she is not staying in that house?.....	547
951. In cases where crops cannot be produced from a rented field due to reasons such as drought, hail or flood, should the rent still have to be paid to the land owner?.....	547
LOAN/DEBT (QARDH)	548
952. Is it permissible give gold as loan/qardh?.....	548
953. Is it permissible to receive financial compensation imposed to the person who does not pay his/her debt on time?.....	548
954. Is it permissible to pay surplus while the money borrowed from charity fund is repaid?.....	548
955. Is it permissible to pay with another currency instead of the borrowed currency in the forward sales or debt (istiqradh) agreements?.....	549
INTEREST, CREDIT, CREDIT CARD, STOCK MARKET, AND INSURANCE	549
956. For purchases made with credit cards, would it be regarded as interest for the bank to receive a commission from the business owners in return for its service?.....	549
957. Is it permissible to use prepaid bank cards?.....	549
958. Is it permissible to sell gold by credit card?.....	550
959. Is it permissible to pay some extra fee (carrying charge) compared to the cash price in installment shopping made by credit card?.....	550
960. Is the Private Pension System permissible?.....	551
CONTEMPORARY COMMERCIAL ISSUES	551
961. Is it permissible to collect valuable documents such as checks, bills etc. before their payment day by making a discount?.....	551
962. Is deposit permissible? Should the deposit be returned if trade is cancelled?.....	552
963. Is it permissible to sell customer discount cards?.....	553
964. Is it halal to download and use programs, software, books, music, etc. from the Internet?.....	554
965. Is it permissible to use a “trademark” belonging to someone else without permission, to do business by using it and to make money?.....	555
966. Is it permissible to trade with the leasing system?.....	555
OTHER CONTRACTS	556
967. Is bank promotion permissible?.....	556
968. Who is responsible for the back charges of the borrowed goods?.....	556
969. May a person who has entrusted goods benefit from them?.....	556

970. Can a trustee demand a fee in return for safekeeping?.....	556
971. Can an entrusted thing be entrusted to someone else without permission of its owner?.....	557
972. May a person who is appointed as a proxy to sell goods or products at a certain price sell these goods at a higher price?.....	557
973. May a proxy who is appointed to sell goods or products buy the goods himself/herself or sell them to his/her first degree relatives?.....	557
974. Is it permissible for a person to receive a fee in return for being a guarantor for a debt?.....	558
975. Is it permissible to pay a fee for paying a debt via EFT and wire transfer?.....	558
976. Is it permissible for a person to transfer his/her debt to a second person?.....	558
977. Is it permissible for one of the company partners to donate (as grant or sadaqah), give loans or zakat from the company's property?.....	559
978. Is it permissible for the person who acts as an intermediary to receive a bank loan to get a commission?.....	559
979. Is it permissible to rent a workplace to persons or companies that are known to commit haram acts?.....	560

HALALS AND HARAMS

(THE LAWFUL AND THE PROHIBITED)

FOOD	563
980. What is the textual proof for the identification of the animals whose meat can or cannot be eaten?.....	563
981. Which of the land animals are edible or inedible?.....	564
982. Is horse meat halal?.....	565
983. Is seafood such as crabs, lobsters, shrimps, calamari, mussels, frogs, etc. edible?.....	565
984. Is it permissible to put slaughtered chickens in hot water without emboweling?.....	566
985. How should an animal be slaughtered in order to make its meat halal?.....	566
986. What are the required qualifications of the people who will slaughter an animal?.....	567
987. Is it permissible to eat the food cooked, and the meat of animals slaughtered by the people of the book?.....	568

— ﴿﴾ MEDICINE AND HEALTH ﴿﴾ —

988. Is euthanasia permissible?.....	571
989. Is organ donation permissible?.....	571
990. Is cardiac valve replacement using that of a pig permissible?.....	573
991. Is it permissible to get treatment by means of substances that are haram to eat or use or of medicines that are produced from such substances?.....	573
992. Is in vitro fertilization method permissible?.....	574
993. What is the religious judgment on birth control?.....	574
994. Is it permissible to use such methods as having tubal ligation in order to prevent pregnancy?.....	574
995. Is it permissible to have an abortion?.....	575
996. Is it permissible to end live(s) of one or a few of the fetuses in multiple pregnancies?.....	575
997. Is having tattoo permissible?.....	575
998. Is having a botox application permissible?.....	576
999. Is it permissible to have a hair implant or wearing a wig?.....	576
1000. Is it permissible to use gold in dental treatment?.....	577
1001.	
Is it permissible for a patient who undergoes treatment to uncover his/her private parts?.....	577
1002.	
May a woman who has a breastfed baby continue breastfeeding if she gets pregnant again?.....	578

— ﴿﴾ SOCIAL LIFE ﴿﴾ —

1003. How to give salam to each other, what is the ruling of it?.....	581
1004. What is the ruling of violating other people's rights? How can one compensate other people's violated rights?.....	582
1005. Is it permissible to receive the blood money determined by court?.....	583
1006. Is it permissible to eat by using left hand?.....	583
1007. What is the place of music in Islam?.....	584
1008. What is the religious judgment on growing and shaving beard?.....	584
1009. Is it permissible for men and women to dye their hair?.....	585
1010. Is it permissible to cut off plants such as trees and herbs grown in the cemetery?.....	586
1011. Is it permissible to search for treasure and own it when it is found?.....	586
1012. What are the rulings about found things?.....	586
1013. Is it permissible for high-authority persons to receive gifts?.....	587

1014. Is it permissible to make a bet over sports competitions?.....	588
1015. Is it permissible to receive rewards obtained from competitions?.....	588
1016. Is it permissible for women to receive the money they collect in turns in the periodical meetings they organize among themselves?.....	588
1017. Are the gifts awarded by coupons given in exchange for shopping in markets and stores halal?.....	589
1018. Is it permissible to sell the old carpets or other unused things in a mosque and spend the money for the needs of the mosque?.....	589
1019. What is the judgment on a woman's looking at the private parts of a man as she takes care of him?.....	589
1020. Is it permissible to work in a workplace where alcohol and other haram products are sold?.....	590
1021. Is it permissible to neuter animals?.....	590
1022. Is it permissible to kill the excessive queen bees or their larvae in a hive for any reason?.....	590
1023. Is it permissible to get animals such as cats or dogs that are sick or have incurable diseases killed by a veterinary?.....	591

BIBLIOGRAPHY

INDEX

FOREWORD

In the name of Allah, the Most Gracious, the Most Merciful.

Praise be to Allah Who guides us to the right path with His Book, teaches us the good and the beautiful with the sunnah of His Messenger, thus, shows us the path of happiness in this world and Hereafter! May peace and blessings be upon the mercy to the worlds, our Prophet Muhammad Mustafa (saw), who explains the commands and wisdom of the Holy Qur'an with his beautiful example in the most beautiful way, and be upon his family, his Companions, and those who follow their way!

It is obligatory on every Muslim to learn all the religious knowledge that is needed in his daily life. As every act of us is within the scope of religious rules such as fardh, wajib, sunnah, mubah, haram, and makruh, there is nothing outside the religious framework in a Muslim's life. Therefore, it is necessary for us to know the religious nature of attitudes and behaviors in order to spend our life in compliance with the religion. Here, the study of fiqh, which is broadly defined as "a person's knowledge of his religious rights and obligations", emerged as a result of this need in the historical process and made it possible to live life according to religious criteria.

Emergence of new issues to be solved within the changing conditions of life led scholars with the capacity of ijtihad to look for solutions for the said issues. Fatwa, which is the term used for these solutions and independent reasoning produced by competent Muslim jurists has been effective in regulation and guidance of Muslims' religious life since the period of Prophet Muhammad (saw) and played an important role in maintaining the up-to-dateness of fiqh.

In today's world where the life changes rapidly with the developments in the fields of technology, medicine, and economy, the need for the institution of fatwa is felt even more intensely. In this respect, it has been inevitable to establish important fatwa institutions that will come up with solutions to the complex issues which have emerged in modern times and that will work with a common mind.

Since its first establishment under the name of Consultation Board in 1924, High Board of Religious Affairs has tried to identify the religious ruling on the new issues that came forth and has become a reliable authority for our nation in religious subjects.

Questions are asked to the Board from all segments of society, from state institutions to ordinary citizens. An important part of these questions is the classical issues that have been dealt with by the jurists before and whose judgments have been given. In these fatwas, the opinions on the subject are generally updated and transmitted according to the needs, are essentially based on the views of Hanafi school to which the majority of people in Türkiye are members; however, opinions and views of other schools are also referred when needed. In addition to the classical issues, the Board also addresses several current issues on which there are no ruling found in the conventional sources of Islamic law, based on the principles of benefit of the society and necessity as well as secondary evidences such as customs and traditions while forming an opinion on these issues, and consults the knowledge and experience of field experts according to needs. It also follows the results reached by fiqh councils in Islamic countries.

The Board adopts principles and grounds such as adopting a facilitating procedure, using a unifying language, protecting the common religious understanding, paying attention to Islamic legal heritage and making use of them as much as possible. It carefully avoids from bringing up some individual or exceptional opinions regarding religious subjects and presenting the expressions, which are customary or recorded for identification of a fact, as immutable rules of Islam.

This book has been prepared by thorough review of the archive acquiſ that consist of the fatwas have been given by the Board since before now and rewriting of the selected ones by updating and addressing them in terms of their rulings, style and evidence. The book has been prepared in order to, first of all, ensure unity of discourse between the officials in mufti's offices and in the Board commissioned to answer religious questions, and then, to be made available to the public.

In addition to the issues related to fundamental principles of Islam, the book also includes general Islamic legal issues that our people may need. These have been gathered under the main headings of Islamic Creed, Taharah, Ritual Prayer (Salah), Zakat and Sadaqah al-Fitr, Fasting, Hajj and Umrah, Sacrifice, Nadhr and Oath, Dua, Tawbah, Dhikr, and the Qur'an, Family Life, Will and Inheritance, Business Life, the Lawful and Prohibited (Halals and Harams), and Social Life. Some of the fatwas in the book contain general judgments that interest everyone, some others contain judgments on special conditions such as excuse and disease. In

order to facilitate benefiting from the book, references between fatwas are given from time to time and an index of some concepts and words are prepared.

Consisting of 1023 fatwas, this book has been embodied as a result of the long and meticulous works of the Board members and the experts and assistant experts. We wish from the Almighty Allah that the book is going to contribute to development of our religious life and conduce to good results.

**High Board of Religious Affairs
Ankara, 2022**



ISLAMIC CREED





ISLAMIC CREED

BELIEF IN ALLAH

1. What does “al-Asma al-Husna” mean?

Being an adjective clause formed with the combination of the words “asma”, which is the plural form of the word “ism” meaning “name” in Arabic, and “husna”, which means “the most beautiful”, “al-asma al-husna” is a term used for all names of Allah the Exalted and means “the most beautiful names”. The most beautiful names belong to Allah, as stated in the Holy Qur’an as, “*Allah - there is no deity except Him. To Him belong the best names.*” (Ta-Ha, 20/8); “*...to Him belong the best names. Whatever is in the heavens and earth is exalting Him. And He is the Exalted in Might, the Wise.*” (Hashr, 59/24). Because He (swt) is the possessor all the perfection and the best attributes. His names are sacred characterizations that express the most exalted and absolute supremacy.

Allah the Exalted has many names mentioned in the Qur’an and authentic hadiths. Servants know and love Allah by learning these names and become true servants to Him (swt). By stating as, “*And to Allah belong the best names, so invoke Him by them. ...*” (A’raf, 7/180) the Qur’an asks people to invoke Him by al-asma al-husna. The fact that al-asma al-husna is more than one does not require that the being they refer be more than one. All these names refer to the one God, Allah: “*Say, ‘Call upon Allah or call upon the Most Merciful [ar-Rahman]. Whichever [name] you call - to Him belong the best names.*” (Isra, 17/110)

2. Can you give information about the 99 names of Allah?

Prophet Muhammad (saw) informed us that those who recite and memorize the 99 names of Allah will enter heaven. (Bukhari, Da’awat, 68;

Tawhid, 12; Muslim, Dhikr, 2; Tirmidhi, Da'awat, 82). The words "to recite" (ihsa) and "to memorize" (hifz) mentioned in the hadiths mean to know Allah with His beautiful names and to believe in, worship, and obey to Him (swt).

The names of Allah are not limited to 99; He has other names as well. The mention of the number 99 in the hadith is not in the sense of limitation, but because these names are the most famous names of Allah.

In the hadith narrated by Tirmidhi and Ibn Majah, the 99 names are listed one by one (Tirmidhi, Da'awat, 87; Ibn Majah, Dua, 10).

These names are as follows:

Allah, al-Rahman (The Beneficent), al-Rahim (The Merciful), al-Malik (The Sovereign), al-Quddus (Free from deficiencies), al-Salam (The Author of Safety), al-Mu'min (The Giver of Peace to the Believers), al-Muhaymin (The Protector), al-Aziz (The Supreme, Winner), al-Jabbar (The Compeller), al-Mutakabbir (The Majestic), al-Khaliq (The Creator), al-Bari (The Maker), al-Musawwir (The Former), al-Ghaffar (The Great Forgiver), al-Qahhar (The Oppressor of Rebels), al-Wahhab (The Bestower), al-Razzaq (The Sustainer), al-Fattah (The Opener, The Reliever, The Judge), al-'Alim (The All-Knowing), al-Qabid (The Retainer, Withholder of Souls, Life Taker), al-Basit (The Enlarger, Life Extender), al-Khafid (The Degradator of Disbelievers), al-Rafi' (The Elevator of Believers), al-Mu'izz (The Honourer), al-Mudhill (The Humiliator), al-Sami' (The All-Hearing), al-Basir (The All-Seeing), al-Hakam (The Judge, Discriminator of the Good and the Evil), al-'Adl (The Just), al-Latif (The Subtle to His Servants), al-Khabir (The Aware), al-Halim (The Clement), al-'Azim (The Mighty), al-Ghafur (The Forgiving), al-Shakur (The Most Reward Bestower for even a few deeds), al-'Aliyy (The High, The Sublime), al-Kabir (The Great), al-Hafiz (The Preserver/Protector), al-Muqit (The Feeder and The Sustainer of Souls and Bodies), al-Hasib (The Reckoner), al-Jalil (The One with Supremacy Qualities), al-Karim (The Bountiful, The Gracious), al-Raqib (The Watcher), al-Mujib (The Responsive to Duas), al-Wasi' (The Vast in Scholarship and Mercy), al-Hakim (The Wise), al-Wadud (The Lover of Muslims), al-Majid (The Glorious), al-Ba'ith (The Raiser [from death] and The Sender of Prophets), al-Shahid (The Witness of Everything), al-Haqq (The Truth Itself), al-Wakil (The Trustee of the Servants), al-Qawiyy (The Strong), al-Matin (The Firm), al-Waliyy (The Protecting Friend of Believers), al-Hamid (The Praiseworthy), al-Muhsi (The Counter and Knower of Everything), al-Mubdi (The Originator of

Everthing from Nothing), al-Mu'id (The Reproducer), al-Muhyi (The Restorer, The Giver of Life), al-Mumit (The Destroyer), al-Hayy (The Alive), al-Qayyum (The Supporter of Everything), al-Wajid (The Finder of Everything when He wants), al-Majid (The One with High Glory and Many Grace), al-Wahid (The One), al-Samad (The Independent), al-Qadir (The Capable), al-Muqtadir (The Dominant), al-Muqaddim (The Promoter), al-Mu'akhkhir (The Retarder), al-Awwal (The First), al-Akhir (The Last), al-Zahir (The Manifest), al-Batin (The Hidden), al-Wali (The Owner), al-Muta'ali (The High Exalted), al-Barr (The Most Beneficent), al-Tawwab (The Relenting), al-Muntaqim (The Avenger), al-'Afuww (The Forgiver), al-Ra'uf (The Compassionate), Malik al-Mulk (The Real Owner of Sovereignty), Dhu'l Jalal wa'l-Ikram (The Lord of Majesty and Bounty), al-Muqsit (The Equitable), al-Jami' (The Gatherer, The Collector of Opposite Things), al-Ghani (The Rich, Self-Sufficient), al-Mughni (The Enricher), al-Mani' (The Withholder of Whatever He Desires), al-Darr (The Distresser), al-Nafi' (The Propitious), al-Nur (The Light), al-Hadi (The Guide to True Path), Al-Badi' (The Beautiful Creator), al-Baqi (The Everlasting), al-Warith (The Heir), al-Rashid (The Guide to the Right Path), al-Sabur (The Patient).

اللَّهُ الرَّحْمَنُ الرَّحِيمُ الْمَلِكُ الْقُدُّوسُ السَّلَامُ الْمُؤْمِنُ الْمُهَيِّمُنُ الْعَزِيزُ الْجَبَّارُ الْمُتَكَبِّرُ
 الْخَالِقُ الْبَارِئُ الْمُصَوِّرُ الْعَفَّارُ الْقَهَّارُ الْوَهَّابُ الرَّزَّاقُ الْفَتَّاحُ الْعَلِيمُ الْقَابِضُ الْبَاسِطُ
 الْخَافِضُ الرَّافِعُ الْمُعِزُّ الْمُنِذِرُ السَّمِيعُ الْبَصِيرُ الْحَكَمُ الْعَدْلُ اللَّطِيفُ الْخَبِيرُ الْحَلِيمُ
 الْعَظِيمُ الْعَفُورُ الشَّكُورُ الْعَلِيُّ الْكَبِيرُ الْحَفِيفُ الْمُقْبِيتُ الْحَسِيبُ الْجَلِيلُ الْكَرِيمُ
 الرَّقِيبُ الْمُجِيبُ الْوَاسِعُ الْحَكِيمُ الْوَدُودُ الْمَجِيدُ الْبَاعِثُ الشَّهِيدُ الْحَقُّ الْوَكِيلُ
 الْقَوِيُّ الْمَتِينُ الْوَلِيُّ الْحَمِيدُ الْمُحْصِي الْمُبْدِئُ الْمُعِيدُ الْمُحْيِي الْمُمِيتُ الْحَيُّ الْقَيُّومُ
 الْوَاحِدُ الْمَاجِدُ الْوَاحِدُ الصَّمَدُ الْقَادِرُ الْمُفْتَدِرُ الْمُقَدِّمُ الْمُؤَخِّرُ الْأَوَّلُ الْآخِرُ الظَّاهِرُ
 الْبَاطِنُ الْوَالِي الْمَتَعَالَى الْبَرُّ التَّوَّابُ الْمُنتَقِمُ الْعَفُو الرَّءُوفُ مَالِكُ الْمُلْكِ ذُو الْجَلَالِ
 وَالْإِكْرَامِ الْمُقْسِطُ الْجَامِعُ الْعَنِّي الْمَغْنِي الْمَانِعُ الضَّارُّ النَّافِعُ الثَّوْرُ الْهَادِي الْبَدِيعُ
 الْبَاقِي الْوَارِثُ الرَّشِيدُ الصَّبُورُ

3. What does “al-Ism al-A’zam” mean?

Al-Ism al-A’zam literally means “the greatest name”. Terminologically, it is used for some names that are among the most beautiful names of Allah. While some Islamic scholars accept that all names of Allah are equal in terms of virtue and superiority, some others, by taking into consideration the hadiths, claim that some names have greater importance and virtue than others.

Al-Ism al-A’zam is mentioned in a number of hadiths of Prophet Muhammad (saw), and declared that when people invoke Allah using it, their invocation will certainly be accepted. (See Abu Dawud, Wittr, 23; Tirmidhi, Da’awat, 64, 65, 100; Nasa’i, Sahw, 58; Ibn Majah, Du’a, 9, 10). Yet, it is not possible to know exactly which name of Allah is the greatest one. This is because in some of these hadiths the name “Allah” is identified as the greatest name while in some others, the names “al-Rahman, al-Rahim” (the Gracious, the Merciful), “al-Hayy, al-Qayyum” (the Alive and the Supporter of Everything), and “Dhu al-Jalal wa al-Ikram” (the Lord of Majesty and Bounty) are referred to be more superior.

A hadith regarding this subject is as follows: “Prophet Muhammad (saw) heard someone supplicating by saying ‘O Allah, indeed, I ask you by my testifying that You are Allah, there is none worthy of worship except You, the One, al-Samad (you need nothing, and everything needs you), the one who does not beget (you are not the father of anyone), nor was begotten (you are not child of anyone), and there is one who is like You.’” Then Prophet Muhammad (saw) said, “*By the One in Whose Hand is my soul, he has asked Allah by His Greatest Name, the one which if He is called upon by it, He responds, and when He is asked by it, He gives.*” (Tirmidhi, Da’awat, 65) Another hadith is as follows, “I was sitting with the Messenger of Allah (pbuh) and a man was offering prayer. He then made the following supplication: ‘O Allah, I ask You by virtue of the fact that praise is due to You, there is no deity but You, Who shows favor and beneficence, the Originator of the Heavens and the earth, O Lord of Majesty and Splendor, O Living One, O Eternal One.’” (Hearing this dua) the Messenger of Allah (saw) asked, “*Do you know what this man conduce to his dua?*” “Allah and His Messenger know better”, they replied. The Messenger of Allah (saw) continued, “*By the One in Whose Hand is my soul, he has asked Allah by His Greatest Name, the one which if He is called upon by it, He responds, and when He is asked by it, He gives.*” (Abu Dawud, Salat, 368)

4. Is it permissible to use the word “God” instead of the word “Allah”?

The word “God” is the equivalent of the Arabic word “ilah”. “ilah” is rather used for beings that are considered as worthy of worship other than Allah. The word “Allah” is a special name which expresses Himself (swt) in person. In this respect, according to the scholars of Islamic theology, the word “Allah” is the special name referring to His supreme personality and all His perfect attributes. There is no other word in any language to cover its special meaning. On the other hand, the word “Allah” is like a common bond that represents the belief of tawhid for all Muslims. Therefore, it would be more accurate for Muslims to call their only creator, to Whom they worship, as “Allah”. Therefore, “Allah” should be remembered with either this name or one of His 99 names called “al-Asma al-Husna”. However, calling Allah, Who has the absolute perfection as informed by our religion, and is free from any deficiencies, as “God” is also not contrary to the Islamic belief.

5. What does the word “mawlana” mean? Is it appropriate to use this expression for Allah, the Prophet and humans?

Mawla has several meanings in dictionary such as Rabb, master, fellow, friend, helper, lord, owner, slave liberator, liberated slave, a person who does or manages a job. When it is attributed to Allah, the meanings such as “to love, to protect, to help, to have at one’s discretion and under one’s guardianship” stand out. The gist of the word mawla is love and spiritual closeness (Ibn al-Athir, al-Nihayah, see the Arabic root “wly”; Ibn Manzur, Lisan al-Arab, see the Arabic root “wly”).

In the Holy Qur’an, the word mawla is used to refer both to Allah and humans. It is used to refer to Allah in the verses “*Know that Allah is your mawla (protector). Excellent is the mawla (protector), and Excellent is the helper.*” (Anfal, 8/40), “*You are our mawla (protector).*” (Baqarah, 2/286); and to human in the verse “*The Day when no mawla (relation) will avail a mawla (relation) at all.*” (Dukhan, 44/41). In many hadiths, the word mawla is used as one of the names of Allah: “*Allah is our Mawla.*” (Bukhari, Jihad, 14, Maghazi, 17)

Therefore, the word mawlana, formed by adding the suffix (pronoun) “-na”, meaning “our”, at the end of the word “mawla”, can be used to refer to Allah, prophets, and humans.

When it is used to refer to Allah, it means “Our Rabb, our Lord”; when it is used for prophets or humans it means “our fellow” or “our master”.

6. Is it permissible to name children after the names of Allah?

One of the duties of parents towards their children is to give them a beautiful name. In this regard, the Prophet Muhammad (saw) stated, “Give your children beautiful names.” (Abu Dawud, Adab, 69) and expressed that people would be called with their names on the Day of Judgment.

When it comes to naming children after the names of Allah, we need to express that the names specific to Allah should not be given to children with the same wording. If one wants to name their children with names that will bring Allah to mind, they should add the word “abd” before the name meaning “servant”, and give names such as “Abdullah” (Servant of Allah), “Abdurrahman” (Servant of al-Rahman), “Abdurrahim” (Servant of al-Rahim), “Abdulqadir” (Servant of al-Qadir).

Some of the names from al-Asma al-Husna such as Karim, Latif, Rauf etc. are common names which can be used to define humans as well and such names can be given to the children. (Ibn Abidin, Radd al-Muhtar, IX, 598)

7. Where is Allah?

Being in a place and in a venue is a qualification of creatures. Allah is not a creature; He is the Creator. Then, it is not appropriate to designate a place or venue to Him (swt). Blessed is He in whose hand is dominion, and He is over all things competent (Mulk, 67/1). To Him belongs the dominion of the heavens and the earth (Zumar, 39/44). Unquestionably, to Allah belongs whoever is in the heavens and whoever is on the earth. (Yunus, 10/66). Therefore, it is not an appropriate approach to attribute Him to a place in the universe that is created and owned by Him (swt). The opinions of some Salafi scholars, which indicate that Allah is in the heavens, based on the verses such as “(Allah) Most Gracious is firmly established on the throne.” (Ta-Ha, 20/5, Hadid, 57/4) and “Do you feel secure that He Who is in Heaven will not cause you to be swallowed up by the earth when it shakes (as in an earthquake)?” (Mulk, 67/16) have not been approved by the majority of scholars. Because these and similar verses and hadiths are metaphoric expressions that point out the supremacy of Allah. On the other hand, like the sun is present everywhere by means of its light, Allah is also everywhere with the manifestation of His names

and attributes. When it comes to His being, He (swt) is beyond all our comprehension and imagination. What falls upon us is to turn to Him (swt) with our faith and deeds, and try to fulfill our duty of worship.

8. What does the expression “Allah is beyond time and space” mean?

It means that He (swt) should not be associated with time and place in any way. Because time and place are creatures/created beings. But, Allah is the creator. For this reason, He (swt) is beyond, in other words, far from the characteristics specific to the creatures. To explain it further, “a place” is where beings and things exist. For instance, a fruit is on a tree, a tree is in a garden, a garden is in a region, a region is in the world, our world is in the solar system, the solar system is in the galaxy, and the galaxies are in the space. All these are creatures; they are created beings. Speaking of time, it is the unitary expression of the movement of beings and it is not independent from beings. Consequently, it is a creature as well, so it was created too. Allah is the creator of all things (An'am, 6/102). “[All] praise is [due] to Allah, Creator of the heavens and the earth...” (Fatir, 35/1). Then, Allah is beyond any kind of limitations of time and place.

9. Does it mean that a specific place is attributed to Allah when mosques are referred to as “the houses of Allah”?

Arabic equivalent of the phrase “House of Allah” is “Bayt Allah” and it is an expression used for the Ka'bah. What is meant by “bayt” is the Ka'bah. Also, the word “house” is attributed to Allah in the following verse: “We charged Abraham and Ishmael, [saying], “Purify My House for those who perform tawaf and those who are staying [there] for worship and those who bow and prostrate [in prayer].” (Baqarah, 2/125).

The Ka'bah is called as Bayt Allah (House of Allah) because it is the first temple constructed on earth to worship Allah, the symbol of the Hanif religion that was sent for guiding people to the true path and establishing the belief of tawhid by eliminating idolatry, and it is the place to which all Muslims turn while establishing prayer. Allah glorifies its honor by stating, “Indeed, the first House [of worship] established for mankind was that at Bakkah [i.e., Makkah] - blessed and a guidance for the worlds.” (Al-i 'Imran, 3/96). The phrase “House of Allah” is also used for all mosques and masjids that are for worshipping Allah. The Prophet

Muhammad (saw) said, “*Houses of Allah in the world are masjids. Allah bestows blessing to those who come there.*” (Tabarani, Mu‘jam al-Kabir, X, 10346)

In this respect, we should interpret the phrase of “House of Allah” as the place where people worship Allah, we should never interpret it as a place attributed to Allah. Because Allah (swt) is beyond time and place. That is to say, He (swt) cannot be associated with time and place. He is not in a place, He is the One Who surrounds all places. Time and place are creatures/created beings. And Allah is the Creator. Therefore, He is free from the characteristics specific to creatures.

BELIEF IN ANGELS AND JINNS

10. How can one prove that angels exist?

Angels are metaphysical beings that are out of the field of interest of positive sciences which are based on observation and experiment. But the fact that they are beings which cannot be perceived by eyes or other sense organs does not constitute a ground to deny them. It is a fact that people believe in the existence of many beings that are out of the field of interest of positive sciences. Human mind does not deny the existence of angels, but rather sees it to be possible.

There are many verses and hadiths with clear meanings that give certain information on this subject. They eliminate the doubts of humans about the existence of angels. We can list some of the proofs on the existence of angels as follows:

a) All prophets mentioned about the existence of angels while conveying their message. Thus, belief in angels exist in all divine religions.

b) In the Holy Qur’an, for which there is no doubt that it is the Word of Allah, there are tens of verses on the existence and characteristics of angels. (See. Baqarah, 2/30-34; Hijr, 15/28-29; Hud, 11/69-70; Dhariyat, 51/24-28; Najm, 53/5; Tahrir, 66/6; Fatir, 35/1)

c) The Prophet Muhammad (saw), who never lied throughout his life, talked about angels, their characteristics, and that he saw them from time to time. (See Ahmad ibn Hanbal, al-Musnad, VI, 168; Muslim, Zuhd, 60)

d) It is an acceptable fact for human mind that there are special beings that see and evaluate the unique beauty and excellence in the creatures created by the Supreme Creator in macro and micro world, and thereby glorify Allah by remembering Him.

11. What does “Kiraman Katibin” mean?

“Kiraman Katibin” literally means “valuable writers”, and refers to the angels who are present on the both sides of humans and are assigned with the duty to write down the deeds of humans in the book of deeds. The Holy Qur’an states, *“Noble and recording; they know whatever you do.”* (Infitar, 82/11-12) Also called as “hafaza (guardian)” and “Raqib-Atid” angels, they will also bear witness to the deeds on the Day of Judgment along with their duty of writing down. This fact is stated in verses as follows, *“And the Horn will be blown. That is the Day of [carrying out] the threat. And every soul will come, with it a driver and a witness.”* (Qaf, 50/20-21) On the other hand, Islamic scholars state that a certain view cannot be put on how these angels fulfill their duty of writing down, in other words, recording.

12. Is there any creature called “jinn”?

The word “jinn” literally means “the covered and hidden being, the unseen thing, unknown (ghaib)” in the dictionary. We do not have much information about the nature of these beings which cannot be perceived with sense organs of humans. Information on the existence and nature of jinns can be known only by means of revelation.

It is stated in the Holy Qur’an that jinns are created from scorching/smokeless flame of fire (See. Hijr, 15/27; Rahman, 55/15). Moreover, there is a surah named “Surah al-Jinn” in the Qur’an, and the jinns are mentioned in many more verses and authentic hadiths. In this respect, the existence of jinns is real and all Muslims have to believe in it.

As jinns are in an unseen dimension, it is not possible to make certain judgments on issues such as their way of living and relations with humans except the information given through revelation. On the other hand, jinns cannot know “the absolute unknown (ghaib)”. Because the information of the absolute ghaib belongs to Allah only. In this regard, Allah the Exalted states, *“And when We decreed for him [i.e., Solomon] death, nothing indicated to them [i.e., the jinn] his death except a creature of the earth eating his staff.1 But when he fell, it became clear to the jinn that if they had known the unseen, they would not have remained in humiliating punishment.”* (Saba’, 34/14).

And it is stated in the 56th verse of Surah al-Dharyyat that jinns are, like humans, responsible for knowing and worshipping Allah.

13. Are jinns and demons able to give harm to humans?

Jinns were created as responsible creatures, just like humans. (Dhariyat,51/56). There are jinns that believe in and worship Allah and do good deeds as well as the disbeliever jinns that want to harm people and try to withhold them from having faith and doing good deeds. The devils of humans and jinns are stated in the Holy Qur'an as, *"And thus We have made for every prophet an enemy - devils from mankind and jinn, inspiring to one another decorative speech in delusion. But if your Lord had willed, they would not have done it, so leave them and that which they invent."* (An'am,6/112). As pointed out in the verse, jinns that commit deeds like that of devils are called as devil. *It is stated in the 50th verse of Surah al-Kahf that Iblis, the head of the devils, is one of jinns as follows, "And [mention] when We said to the angels, "Prostrate to Adam," and they prostrated, except for Iblees. He was of the jinn and departed from [i.e., disobeyed] the command of his Lord. Then will you take him and his descendants as allies other than Me while they are enemies to you? Wretched it is for the wrongdoers as an exchange."*

When we think about the Holy Qur'an in general and particularly about these two verses whose English meanings are given below, we see that the devils and jinns want to give harm to people primarily related to belief and deeds. Because when we look at the Holy Qur'an and the explanations of the Prophet (saw), we see that the hostility of devils and the jinns that commit bad deeds are in the nature of deceiving people and encouraging them to be evil; so any material or physical harm is not mentioned. For this reason, it is expressed in the Holy Qur'an, *"... and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy."* (Baqarah, 2/208) Here it is clear that what is meant by the expression "not to follow the footsteps of devil" is to not commit bad deeds by obeying the misgivings of devils and jinns. It is stated in the 6th verse of Surah al-Jinn, *"And there were men from mankind who sought refuge in men from the jinn, so they [only] increased them in burden [i.e., sin]."* As explained in this verse, jinns harm people because of humans' desire to communicate and get help from them despite all the clear warnings of Allah (swt).

This point is mentioned in the Surah al-Falaq and al-Nas and people are encouraged to take refuge in Allah against the evil and misgivings of humans, jinn, and all kinds of creatures. It means that it is not possible for devils and jinns to dominate over and give harm to true believers of

Allah. The domination of devils and the devils of jinns will only be over those who become friends with them and associate partners to Allah (see Nahl, 16/99-100).

In this respect, believers must take refuge with Allah against all the evil and harm of jinn and human devils and should not be afraid of them. The people who do not incline towards them by any means and who use their will in line with only the right and the truth will be protected from all effects and harms that may come from jinns and devils.

BELIEF IN DIVINE BOOKS

14. How many verses are there in the Holy Qur'an?

As it is known, ayah is the term used for the sentences in the Qur'an. The Holy Qur'an has reached us without any changes since the time of the Prophet Muhammad. Yet, when the Holy Qur'an was punctuated, some small differences were made in division and numeration of verses. For example, a phrase which is accepted as a separate verse by some scholars is considered as two verses by some other scholars. Thus, minor differences emerged in the numbering of the verses.

Although there is a common belief among the public that the number of verses in the Qur'an is 6666, the correct number is 6236.

15. What are the proofs about the fact that the Qur'an is protected and authentic?

The Qur'an is the last divine message that the Almighty Creator has sent down to all people who will come until the Day of Judgment. He (swt) did not only send down these supreme words, but also took it under His protection. This fact is explained in the Holy Qur'an as, "*We have, without doubt, sent down the Message (i.e., Qur'an); and we will assuredly guard it (from corruption)*" (Hijr, 15/9). This divine declaration is the greatest guarantee for Muslims about its protection. Indeed, history is the living witness to this. Because when the Holy Qur'an started to be revealed, it was both written down and memorized by Companions, constantly recited in prayers, and moreover, was reflected in their lives by being applied and manifested in the beliefs and deeds of Muslims. Following the demise of the Prophet Muhammad, the disorganized

written pieces of the Qur'an were collected and a Mushaf was compiled in the period of Abu Bakr (ra).

Subsequently, with the increase in Islamic conquests and inclusion of new regions to the Muslim land in the period of the third caliph Uthman (ra), he convened a commission and the copies of Qur'an reproduced by this commission were sent to Mecca, Kufa, Basra, Damascus, Bahrain, and Yemen. Muslims prepared many copies of the Qur'an based on these first copies and this divine book has reached our era without any change. (For detailed information, see. "Mushaf", DIA, XXXI, 242-248)

BELIEF IN PROPHETS

16. Was a prophet sent to every community, and what is the number of prophets?

The Qur'an informs us that Allah sent prophets to every community and there had been several prophets between the first Prophet Adam (as) and the last Prophet Muhammad (saw). *It is stated in the 10th verse of Surah al-Hijr, "And We had certainly sent [messengers] before you, [O Muhammad], among the sects of the former peoples." and in the 36th verse of Surah al-Nahl, "And We certainly sent into every nation a messenger, [saying], "Worship Allah and avoid taghut." And among them were those whom Allah guided, and among them were those upon whom error was [deservedly] decreed. So proceed [i.e., travel] through the earth and observe how was the end of the deniers."* These verses indicate that Allah the Almighty never left the communities without a prophet throughout the history. It is stated in the 78th verse of Surah al-Mu'min, "And We have already sent messengers before you. Among them are those [whose stories] We have related to you, and among them are those [whose stories] We have not related to you."

It is stated in 15th verse of Surah al-Isra as follows, "And never would We punish until We sent a messenger." As understood from this verse, Allah sent prophets to all communities. However, the names of only 25 of them are mentioned in the Qur'an. Considering that it was informed through hadiths that there were 124,000 prophets (Ahmad ibn Hanbal, Musnad, v, 266), it can be concluded that Allah (swt) has sent prophets to each region but not all of their names are mentioned in the Holy Qur'an, Bible, and Torah. Because the Holy Qur'an clearly states that there were

no communities and ummahs to which a prophet was not sent. (Fatir, 35/24; Nahl, 16/63; Yunus, 10/47).

17. May one refer to the previous divine religions as Islam?

Islam means to submit oneself and obey Allah. According to the Qur'an, Islam means to submit oneself only to Allah, be the servant of Him, and worship none but Him (swt). This is the requirement of tawhid.

In this sense, Islam is not limited to the religion introduced by the Prophet Muhammad (saw), but it is also the belief system introduced by all prophets. In this respect, the duty of all prophets were the same in terms of inviting humanity to adopt basic principles of faith.

Accordingly, all prophets invited to tawhid firstly. Because tawhid is the beginning of being on the path to the truth and the first step of believing in Allah. Allah the Almighty commanded all prophets to invite their ummah to tawhid as follows, *“And We sent not before you any messenger except We revealed to him that, ‘There is no deity except Me, so worship Me.’”* (Anbiya 21/25)

The true religion started with the first human and the first prophet Adam and ended with the Prophet Muhammad. Therefore, the essence of the religion sent by Allah in different times through prophets is the same; it is called “Islam” and its believers are called “Muslim”. The Holy Qur'an clearly expresses it as, *“He [i.e., Allah] named you “Muslims” before [in former scriptures] and in this [revelation].”* (Haji, 22/78)

The word “Muslim” is used for the Prophet Abraham in the following verse: *“Abraham was neither a Jew nor a Christian, but he was one inclining toward truth, a Muslim [submitting to Allah].”* (Al-i 'Imran, 3/67). Moreover, the following verse states that the message of prophets are one and the same and it is Islam as: *“Say, [O believers], “We have believed in Allah and what has been revealed to us and what has been revealed to Abraham and Ishmael and Isaac and Jacob and the Descendants [al-Asbat]1 and what was given to Moses and Jesus and what was given to the prophets from their Lord. We make no distinction between any of them, and we are Muslims [in submission] to Him.””* (Baqarah, 2/136) However, Judaism and Christianity in their current situation cannot be called Islam as their originality could not be preserved in the way revealed to the prophets.

Essentially, there is no change in the basic principles of the true religion. However, the Almighty Allah has made some changes in the forms of worships and the provisions on mu'amalat (dealings).

Jews and Christians are called as non-Muslim because they do not believe in the last prophet Muhammad and the religion sent through him by Allah.

18. What kind of miracles did the Prophet Muhammad perform?

Islamic scholars classify the miracles of the Prophet Muhammad (saw) under three categories: rational, sensory, and informational. The biggest example of rational miracles is the Holy Qur'an. Because the Qur'an is a great and eternal miracle that addresses and amazes rational people of all ages, and cannot be imitated by others. This fact is stated in the Holy Qur'an as follows, *“And if you are in doubt about what We have sent down [i.e., the Qur'an] upon Our Servant [i.e., Prophet Muhammad], then produce a sūrah the like thereof and call upon your witnesses [i.e., supporters] other than Allah, if you should be truthful.”* (Baqarah, 2/23) The Prophet Muhammad (saw) also expressed that the Holy Qur'an was the biggest miracle as, *“There was no prophet among the prophets but was given miracles because of which people had belief, but what I was given was the Qur'an which Allah revealed to me.”* (Bukhari, I'tisam, 1)

Besides the miracle of Qur'an, the seal of prophethood on Prophet Muhammad, splitting the moon into two parts, flowing water between his fingers, being informed in advance that people intended to poison him during a feast, the sound heard from a grieving date log, etc. can be given as examples of sensory miracle.

Prophet Muhammad's (saw) informing about the conquest of Mecca and future wars before their realization can be given as examples of informational miracles.

19. What does karamah mean, does it have a place in Islam?

Karamah, which literally means “value” and “worth”, technically refers to an extraordinary happening that occurs in a believer who does good deeds, irregardless of the claim of prophethood. If the person to whom this happening occurs is not a person who has good deeds, that extraordinary happening is called as “istidraj”.

The statement “Karamah appears but not is manifested” means that it occurs when Allah desires and cannot be exhibited whenever one

wants. It is not necessary for a believer to show karamah in order to be a pious servant. In the aqaid (Islamic creed) books, there is a judgment as “Karamah is true and a reality.” This means that karamahs may happen to a pious servant. Therefore, karamah should be seen as a gift of Allah to the god-fearing people.

HEREAFTER, DEATH, GRAVE, AND JUDGMENT DAY

20. What does “End of the Time” mean, do we live in the end of the time?

“The End of the Time/Latest Time” is a concept used to identify the last period of time of the life in the world before the Final Hour. According to the Islamic belief, the world has an end just as it has a beginning. However, humans are not informed about when this end will come. The knowledge on the predestination of the world’s lifetime, just like that of humans’, belongs to Allah. This fact is stated in the Holy Qur’an as follows, “*They ask you, [O Muhammad], about the Hour: when is its arrival? Say, “Its knowledge is only with my Lord. None will reveal its time except Him.”* (A’raf, 7/187); “*Indeed, Allah [alone] has knowledge of the Hour.*” (Luqman, 31/34) On the other hand, as there will not be any other messenger sent after the Prophet Muhammad (saw), he is called as “the prophet of the latest time”, and his ummah is called as “ummah of the latest time”. In this sense, we live in the end of the time.

21. What does “Life in Barzakh” mean?

Dictionary meaning of the word “barzakh” is an obstacle, curtain, and separative border between two things. Its meaning as a religious term is “the grave life which starts after death and will continue until resurrection on the Judgment Day.” This is what is meant with the word “barzakh” that takes place in the verse “*And behind them is a barrier until the Day they are resurrected.*” (Mu’minun, 23/100). According to this, every deceased person is going to enter the barzakh life.

22. Is it permissible to wish for death?

No matter how much difficulty a believer faces, s/he should not wish for death. Because these hardships are also a part of the divine test and those who show patience will win a great reward. The Prophet

Muhammad (saw) said, “None of you should wish for death due to any hardship he faces. If he is in an extraordinary trouble so that he wants to die, he should say: “O Allah! Keep me alive so long as life is good for me, and take my life when death is good for me.” (Tirmidhi, Qiyamah, 26)

23. Is it permissible to cry and mourn after a deceased person?

It is normal for people to become sad, feel grief, and mourn because of death of a person. Moreover, it is permissible for people to cry and weep silently by disclosing their pain. The Prophet Muhammad (saw) also cried in tears silently when his son Ibrahim, his daughter, and his daughter's child died. (Bukhari, Jana'iz, 43) But, he also declared that it was not appropriate to oppose to the predestination of Allah and sob with excess behaviors as the people used to do in pre-Islamic period. However, the Prophet's words after demise of his son at a young age constitutes an example for believers in this subject: “*The eyes are shedding tears and the heart is grieved, but we will not say except what pleases our Lord. ...*” (Bukhari, Jana'iz, 32, 42, 43).

QADAR AND QADA (PREDESTINATION AND DECREE)

24. Is believing in the predestination (qadar) and Allah's decree (qada) a pillar of Islamic creed??

Destiny and Allah's decree are not mentioned in the verses that talk about the principles of faith (Baqarah, 2/177, 285; Nisa, 4/136). However, this principle is emphasized in the verses that point out to the fact that everything depends on the decree and predestination of Allah as well as the ones that indicate the divine knowledge encompasses all beings and incidents that happened in the past and will happen in the future. In some of these verses, Allah the Exalted states, “...*And everything with Him is by due measure.*” (Ra'd, 13/8); “... *and has created each thing and determined it with [precise] determination.*” (Furqan, 25/2); “Say, “*Never will we be struck except by what Allah has decreed for us...*” (Tawbah, 9/51)

In addition to these verses, the verses which inform us about the facts that Allah is the creator of everything, that He leaves some servants in perversion and guides some others to the right path in accordance with the choice of the servant, and that He predestines the time of death of people (see Zumar, 39/62; Saffat, 37/96; A`raf, 7/178; Waqi'ah, 56/60, etc.) reveal that

everything in the universe is dependent on a certain destiny in terms of scope and that this is determined by Allah. In the hadith known as “the hadith of Jibril,” the Prophet (saw) mentioned destiny among the things that should be believed. According to this hadith, when Jibreel asked the Prophet “What is iman?”, he replied as, “*That you affirm your faith in Allah, in His angels, in His Books, in His Apostles, in the Day of Judgment, and you affirm your faith in the Divine Decree about good and evil.*” (see. Muslim, Iman, 1; Abu Dawud, Sunnah, 15; Ibn Majah, Muqaddimah, 9).

The scholars of ahl al-sunnah considered faith in qadar and qada among the pillars of iman within the framework of the verses and hadiths mentioned above.

25. What is the meaning of the expression of “the Good and the Evil come from Allah” in Amantu?

The expression of “The Good and The Evil come from Allah” means that their Creator is Allah. Because the Creator is Allah and there is none other than Him who can create. The aspect of the matter relevant to the servant is that good and evil are chosen by the servant’s free will. Therefore, people are responsible for all their good and bad actions, be they good and bad.

As indicated in the principles of “Amantu”, every Muslim believes in qadar and that the good and the evil come from Allah. That is to say, Allah, Who is the Creator of the worlds, wishes and creates the good and the bad with complete will. Because everything in the world is under His will, predestination, and power. There is no other entity in the world other than Him who has real authority and power, and has the power to dispose. However, Allah is contended with the good but not with the evil. Those who choose the good will be rewarded and those who choose the evil will be punished. That the evil comes from Allah means that Allah creates the evil so that the deed of the servant can be implemented. Otherwise, Allah is not contended with committing the bad deeds and does not command the evil.

According to the Islamic scholars, the fact that Allah wants and creates the evil is not bad and ugly. However, that the servant commits and prefers the evil deed is bad and ugly. For example, if an expert painter draws a picture of an ugly man by complying with all the delicacy of his art, people say, “what a beautiful picture” in order to appreciate him and express their admiration for his art. In this situation,

the fact that the man whose picture is drawn is ugly does not require that the picture is going to be ugly, too.

The Almighty Allah is the only Being who does absolutely wise and regular work. There are some hidden and explicit wisdom in His creation of the evil. In order to make difference between the alive and the dead, the good and the bad, and the goodness and the evil, Allah created the things with their opposites. Moreover, He showed humans how to protect themselves from the evil and bad things and gave them the power to avoid from the evil. If there were no evil in the world, the good would not be meaningful and the wisdom behind this world's being a world of test would not be realized. The evil is created as required by Allah's justice and wisdom and in order to conduce to a good deed that will happen after the bad one or ward off a worse evil.

In every work that happens with the power of Allah, there may be some benefits either for individuals or for the society. Everything we see as evil or good may not be as we see it in terms of its consequences. This issue is stated in a verse as follows, *“But perhaps you hate a thing and it is good for you; and perhaps you love a thing and it is bad for you. And Allah knows, while you know not.”* (Baqarah, 2/216)

26. Does qadar change?

Man does not know what his destiny is. Therefore, what is required from man is to be zealous and enthusiastic to perform his duties in the best way possible within the framework of the mind, will and possibilities that Allah has bestowed upon him. In respect to Allah, qadar refers to His knowledge of everything that happened and will happen. In fact, His knowing everything is a requirement of His absolute divinity. When we think about from this perspective, talking about the change in qadar means to talk about the change in the knowledge of Allah; which is not possible. Therefore, any change in qadar is out of question.

However, some Islamic scholars said that qadar may change if Allah wants. To them, qadar is the predestination of Allah and qada is realization of it. Sometimes Allah bestows His kindness upon His servant and does not realize His predestined judgment on him.

The scholars, who state that qadar may be changed, classify qadar into two types absolute qadar (fixed qadar) and suspended qadar (conditional qadar). They noted that the change may happen in the

latter, the suspended qadar, not in the former. According to them, the hadiths that mention that charity wards off the troubles and visiting our relatives expands life-span confirm this. Essentially, when it is considered within the context of the eternal knowledge of Allah, we can say that there is no change in the second type of qadar, either, because Allah predestines the qadar by knowing how His servants are going to act when they face the conditional situations.

27. Are troubles and calamities part of qadar?

We need to evaluate troubles and calamities in three groups: a) The troubles and calamities in which the human will is not in question (like natural disasters). b) The troubles and calamities in which the human will is partly in question (like traffic accidents in which we are partly to blame). c) The troubles and calamities in which the human will is in question (such as accidents caused by drunk driving, diseases caused by carelessness and carelessness, etc.).

All those mentioned above happen with the predestination of Allah. What is required from a believer is to take precautions against all kinds of troubles and calamities because he does not know his destiny, and when he is tested by such troubles and calamities, to be patient and surrender by believing in destiny. This surrender does not mean consenting to the impunity of responsibilities in cases of negligence, fault or willful acts and leading to the violation of rights. We need to remember that Allah has limitless mercy and blessing. Therefore, He will grant great rewards to those who suffer from calamities if they show patience. Moreover, as Allah tests humans, He may send a number of troubles and calamities if He wishes. As a matter of fact, as informed by Prophet Muhammad (saw), the prophets and pious persons had been subjected to the greatest difficulties throughout the history (Ahmad ibn Hanbal, al-Musnad, I, 173). Therefore, humans should adopt an attitude required by their servitude.

28. Is it permissible to say that “Allah predestined so, what can I do?”

Belief in destiny and Allah’s decree (qadar and qada) is among the pillars of faith. However, humans cannot free themselves from responsibility by using destiny as an excuse. Just like it would not be appropriate for a person to commit a crime by saying, “Allah predestined

so, this was my destiny, what can I do?”, it is not permissible for him to plead himself not guilty by using destiny as an excuse.

The servant is the one who wills the actions that create responsibility, but he is not the creator of them; because Allah is the only Creator. It is stated in the Holy Qur’an, “*That is Allah, your Lord; there is no deity except Him, the Creator of all things, ...*” (An’am, 6/102). The fact that Allah is the Creator of all the things should not lead us to free ourselves from responsibility and leave all the bad and wrong deeds to Allah. This will be exploitation of qadar. Moreover, it is incompatible with the Islamic understanding of destiny to stop working by relying on fate and destiny, not to hold on to the necessary reasons and take the necessary measures to ensure positive results or prevent negative consequences. Because Allah linked everything to certain causes. If humans fulfill these reasons, Allah creates their results. This is a divine law and qadar.

Consequently, it is not appropriate for people to say, “What can I do, this is my destiny.” As humans are free in the area where people are responsible towards Allah, they will be questioned for their belief and actions.

BID'AH (INNOVATION IN RELIGION) AND SUPERSTITIONS/SORCERY AND MAGIC

29. Is magic real? What is the religious status of those who practise it?

Sorcery and magic are defined in the literature as cheating and deception performed by sleight of hand, eyewashing, and uttering fancy words or as receiving help from devil by being friend with him and as the claim of changing the shape of things (See. “Sihir”, DĪA, XXXVII, 170-172). Activities of sorcery cannot be associated with religious values and those who practice them generally do not seek any moral purposes. The main objective of such activities are to take advantage of others.

The phenomenon of magic has been referred to in the Holy Qur’an, (Baqarah, 2/102; A’raf, 7/116; Taha, 20/66); and Prophet Muhammad (saw) listed practice of magic among the seven biggest sins (Bukhari, Wasaya, 23; Muslim, Iman, 145).

It is against Islamic faith to believe that the sorcerers know everything and that there is nothing they cannot achieve. Therefore, some Muslim scholars rejected the magic on the grounds that it is a trick and nonsense which is not real. (See. Jassas, Ahkamu’l-Qur’an, I, 50; Nawawi, Rawda, IX, 128, 346).

A person who is subject to sorcery should firstly refer to the methods of protection advised by Prophet Muhammad (saw) in order to get rid of it and should not be deceived by hodjas who exorcise jinn or the quack who claim to cure by breathing. The mental patients who think that they are the victims of a sorcery should consult to a doctor or psychiatrist.

30. What can be done to be protected from sorcery and magic?

Islam is a religion which strictly prohibits magic, which is considered as one of the biggest sins. It is emphasized in the Holy Qur'an that those who practice sorcery will have no blessings in the hereafter and people should take refuge in Allah against those who practice it (Baqarah, 2/102; Falaq, 113/4). Prophet Muhammad (saw) regarded practice of sorcery among the seven major sins (Bukhari, Wasaya, 23; Muslim, Iman, 145).

In the period of ignorance, sorcery/magic was highly common. Some practices such as incantation, soothsaying, interpreting stars, consulting to fortune-telling arrows, and breathing on ropes by knotting them used to be performed. Under the influence of this situation, the polytheists went so far as to claim that the Qur'an was a work of magic (Sad, 38/4; Dhariyat, 51/52).

It is against Islamic faith to believe that the sorcerers know everything and that there is nothing they cannot achieve. Therefore, some Muslim scholars rejected magic on the grounds that it is a trick and nonsense which is not real. (See. Jassas, Ahkamu'l-Qur'an, I, 50; Nawawi, Rawda, IX, 128, 346).

The most effective solution against sorcery and magic is to take refuge in Allah and trust Him. Prophet Muhammad (saw) recited chapters of Nas and Falaq along with Ayat al-Kursi continuously by taking refuge in Allah against all kinds of evil. (Bukhari, Wakala, 10; Fadhail al-Qur'an, 10; Tirmidhi, Fezailu'l-Qur'an, 3). Moreover, he recited the following invocation in order to protect his grandchildren Hasan and Husayn (ra) from evil eye, magic, and similar negativities:

أَعُوذُ بِكَلِمَاتِ اللَّهِ التَّامَّةِ مِنْ كُلِّ شَيْطَانٍ وَهَامَّةٍ وَمِنْ كُلِّ عَيْنٍ لَامَّةٍ

“O Allah! I seek refuge with Your Perfect Words from every devil and from poisonous pests and from every evil, harmful, envious eye.” (Bukhari, Ahadith al-Anbiya, 10; Ibn Majah, Tibb, 36)

Besides this, it is permissible to recite Qur'an and make dua for people who think they are exposed to magic if they consult to trustable

people by expecting that Allah will heal them. In the decision dated 28 September 1979 and numbered 1883 of the High Board of Religious Affairs, it was declared that it is permissible to recite Qur'an and the duas on patients with the hope that Allah will heal them and that it is prohibited in Islam to deceive public and claim curing by breathing in order to foretell the future.

31. Is it permissible to wear evil eye beads against the evil eye?

Although the nature and causes of evil eye are not known with certainty, it is also accepted by religion that some people may cause negative effects with their sights. In a hadith, it is stated as, "*Seek refuge with Allah, for the evil eye is real.*" (Ibn Majah, Tibb, 32) It is narrated that Prophet Muhammad (saw) recited Ayat al-Kursi and the chapters of Ikhlas and Mu'awwidhatayn (Falaq and Nas) against the evil eye, advised his companions to do so, and he prayed to Allah directly to get rid of these. (Bukhari, Tibb, 32, 38; Tirmidhi, Tibb 16; Ibn Majah, Tibb 32, 36; Kamil Miras Tecrid Tercemesi, XII, 90).

It is a requirement of Islamic belief to expect the result from Almighty Allah after following the advice of the Prophet about the evil eye. The attitudes, behaviors, and beliefs that attribute the final effect to anyone but Allah are prohibited in our religion. For this reason, it is not permissible to wear on neck or attach somewhere the evil eye beads by expecting them to protect a person. Prophet Muhammad (saw) said the following about those who act in such way, "*Whoever wears an amulet, may Allah not fulfill his need.*" (Ahmad ibn Hanbal, al-Musnad, XXVIII, 623). In another hadith it is stated that those who wear evil eye beads and think that they will protect them assign partners to Allah (Ahmad ibn Hanbal, al-Musnad, XXVIII, 637). In order to be protected from the evil eye we need to quit superstitious acts and make the du'as taught us by Prophet Muhammad (Bukhari, Tibb 38; Tirmidhi, Tibb 16; Ibn Majah, Tibb 32; Kamil Miras Tecrid Tercemesi, XII, 90). Within this framework, the following dua made for his grandchildren by Prophet Muhammad should be recited along with chapters of Falaq and Nas, "*O Allah! I seek Refuge with Your Perfect Words from every devil and from poisonous pests and from every evil, harmful, envious eye.*" (Bukhari, Ahadith al-Anbiya, 10; Ibn Majah, Tibb, 36)

32. What is wafq? Is it permissible to practise it or have it practised?

Meaning harmony in Turkish, wafq is a shape formed by dividing a rectangle into parts and writing some numbers and letters in the divisions and those who practice this claim that Allah will assign a jinn to protect them by means of wafq.

The religion of Islam strictly prohibits fortune-telling, amulet, and magic as they are against the belief of tawhid. (al-Fatawa al-Hindiyya, V, 459).

Magics and amulets which means to ask help from jinns and demons and whose meaning cannot be understood are practices that may lead one to assigning partner to Allah (Nawawi, al-Majmu', IX, 66). Because there is always deception, evil and harm in such practices. (Jassas, Ahkam al-Qur'an, I, 61)

33. Is it permissible to use amulet?

An amulet is a text containing some verses, hadiths and prayers that people carry with them for purposes such as to be protected against illness, evil eye, and disasters. It is often used wrapped in a protective material.

It is permissible to make dua and recite verses of the Holy Qur'an in order to be protected from fear and the evil eye and recover from some diseases. (Bukhari, Fadha'il al-Qur'an, 9; Ibn Majah, Tibb 35-36). There is no tradition narrated from Prophet Muhammad about writing texts such as verses and duas on somewhere and wearing or carrying them with. However, Abdullah ibn Umar informed about Prophet Muhammad's command of "If one of you scares in sleep, he should say: 'I seek refuge in Allah's perfect words from His anger, the evil of His servants, the evil suggestions of the devils and their presence.' *Then nothing can harm him.*" and told that Abdallah ibn Amr taught this dua to his children who are at the age of discernment and wrote and made them wear it for his children who were yet at the age of discernment (Abu Dawud, Tibb, 19).

It is indicated in some fiqh books that there are some scholars who see no harm in writing verses from the Holy Qur'an and wearing them by making an amulet (al-Fatawa al-Hindiyya, V, 435). However, it is not permissible to use amulet if it will cause negative situations such as expecting an effect from amulet, perceiving it as a protector, and expecting what should be expected from Allah from an amulet. In this context, we should also be on alert against those who exploit the feelings of people.

34. **What is the ruling of practising yoga?**

Yoga is a method applied to help people be purified and achieve the truth by having them acquire certain religious knowledge and talents in Hinduism and Buddhism.

In recent years, most of the yoga centers, which have become widespread in our country as activities of physical exercise and psychological therapy, operate by dissociating themselves from these religions and say that they are independent yoga practitioners. However, the discourses of yoga's not having a religious aspect and only being exercises for mental purification do not fully reflect the truth. Because yoga exists as a religious practice in Indian religious ("Brahmanism", DĪA, VI, 331).

Accordingly, it is not appropriate for a Muslim to practice yoga by knowing that it depends on the belief and worships of another religion.



TAHARAH/CLEANLINESS





TAHARAH/CLEANLINESS

MINOR ABLUTION/WUDU

35. What do ritual impurity/hadath and ritual purification/taharah from hadath mean?

Ritual impurity means the state of spiritual impurity which is considered to have caused by not being in the state of minor ablution and being in the state of major impurity (janabah), in religious literature. In religious books, this is identified with the concept of hadath (Bukhari, Wudu, 2, Maydani, al-Lubab, I, 5).

Hadath is divided into two types as minor hadath and major hadath. Ritual impurities such as being in the state of major impurity (janabah) and being in menstruation and postnatal period are the states of major hadath and the ritual impurity which requires minor ablution (wudu) is minor hadath (Maydani, al-Lubab, I, 5).

Major ritual impurity is cleaned with ghusl while minor ritual impurity is cleaned with minor ablution. One can be cleaned from both conditions with tayammum in the event that there is no water or one cannot use it due to an excuse although it exists (Kasani, Bada'i, I, 44).

36. How should we perform ablution?

Wudu or minor ablution is explained as *“the practice of washing certain organs with water and apply masah over some others with a wet hand by following a procedure”* (Marghinani, al-Hidayah, I, 93-94).

It is stated in the Holy Qur'an on ablution, *“O ye who believe! When ye prepare for prayer, wash your faces, and your hands (and arms) to elbows; rub your heads (with water); and (wash) your feet to the ankles...And ye find no water, then take for yourselves clean sand or*

earth, and rub therewith your faces and hands.” (Ma'idah, 5/6) Prophet Muhammad (saw) practically showed Muslims how to perform ablution (Marghinani, al-Hidayah, I, 102) and also stated that no prayer established without ablution would be accepted in the presence of Allah (Bukhari, Wudu, 2; Ibn Majah, Taharah, 47).

Sunni schools of Islamic jurisprudence have agreed on the four essential pillars of ablution that are stated in this verse. However, it can be seen that the other three Sunni schools except Hanafi added some more essential pillars to them. For example, intention (niyyah) is a fardh for these three schools, for Hanbali school to recite Basmalah while starting to perform ablution, for Shafii and Hanbali schools to perform these four essential pillars in the order stated in the verse (tartib), and for Maliki and Hanbali schools to perform these acts without giving a break between them (muwalat). According to Hanafi School, the above mentioned acts are sunnah acts of minor ablution (wudu).

In accordance with its sunnah and recommended acts, minor ablution is performed as follows: (Bukhari, Wudu, 7; Abu Dawud, Taharah, 50)

Start ablution by intending to perform ablution and reciting Basmalah, firstly, wash your hands three times up to the wrists by rubbing the spaces between your fingers. Clean the materials such as dough, dye, and gum on the skin, if any. Move the ring on your finger. Clean your teeth by means of miswak or toothbrush, if not available, by means of the fingers of the right hand. Rinse your mouth and draw water into your nose three times with your right hand and blow it out with the help of your left hand. Wash your face three times. Then, wash your right and left lower arms up to and including the elbows three times. Wipe over your head once by wetting your right hand and using palm and inner part of your fingers. Although it is enough to wipe over one fourth of the head in this manner, it is a requirement for Maliki school and sunnah for other schools to wipe over the whole head by two hands (Ibn Juzay, al-Qawanin, p. 84). Wet your hands again and wipe back of your ear by your thumbs and inside of your ears by index finger or little finger, after that, wipe over on the neck by the back of the both hands together. Wash right foot first, then wash left one up to the ankles starting from fingertips, including ankle bones. Take due care for washing the space between fingers (Kasani, Bada'i, I, 23-25).

37. Is it obligatory to state intention while performing wudu?

Intending while performing minor ablution is sunnah according to the Hanafi school and fardh according to other three schools. Hanafis take the absence of intention among the actions mentioned in the verse known as the verse of wudu (Ma'idah, 5/6) as evidence. On the other hand, the facts that intention is not required in "purification from material impurities" and "satr al-awrat (covering certain parts of the body)", which are among the required preparatioes done before the ritual prayer just like ablution, and that ablution is not considered as a separate act of worship in itself but it is a condition for some acts of worship also show that intention is not a fardh in ablution according to Hanafis. (Kasani, Bada'i, I, 19-20; Marghinani, al-Hidayah, I, 103-104; Aliyy al-qari, Fath Bab al-'Inayah, I, 55-56).

Other schools state that intention is fardh in ablution, as it is in other acts of worship (Shirbini, Mughni'l-muhtaj, I, 86), on the grounds of the verse of Allah, "*And they have been commanded no more than this: to worship Allah, offering him sincere devotion, being true (in faith); to establish regular prayer; and to practice regular charity; and that is the religion right and straight,*" (Bayyinah, 98/5) and of the hadith of Prophet Muhammad (saw), "*All deeds are (judged according) to intentions ...*" (Bukhari, Bad' al-wahy, 1; Muslim, Imara, 155).

38. Is there a difference among schools of Islamic law in terms of the fardh acts of minor ablution/wudu?

According to Hanafis, the fardh acts of ablution are, as stated in the Holy Qur'an (Ma'idah, 5/6), as follows: to wash face, to wash lower arms up to the elbows, to wipe over the head, and to wash feet including the ankles (Mawsili, al-Ikhtiyar, I, 40-42).

According to Shafi'is, in addition to these obligatory acts, intention and tartib (following the same sequence mentioned in the Qur'an while washing the organs) are also fardh acts. (Shirbini, Mughni'l-muhtaj, I, 85-95)

As for the Hanbalis, following the order mentioned in the verse about ablution (tartib) (Ma'idah, 5/6) and in one view doing all the acts of ablution continuously without giving a break (muwalat) are fardh acts (Ibn Qudamah, al-Mughni, I, 189, 191); and Maliki accept obligatory to rub the limbs besides intention and muwalat (Harasi, Sharhu Mukhtasar, I, 120).

There are also some differences between schools on the details of the agreed fardh acts of ablution. According to Hanbalis, washing face includes taking water into mouth and drawing water into the nose (Ibn

Qudamah, al-Mughni, I, 166). Likewise, according to the view preferred by both Malikis and Hanbalis, wiping the entire head is within the scope of the obligatory wiping of the head. (Ibn Qudamah, al-Mughni, I, 175-176; Harasi, Sharhu Mukhtasar, I, 124-125).

39. Would an ablution be valid if only its required acts are performed?

A Muslim needs to perform the fardh and wajib acts of a worship, for which he is responsible, in order to be freed from its responsibility. Sunnahs of that worship conduces to an increase in the rewards of the worship, but they do not cause a responsibility if they are not performed. However, it is makruh not to perform sunnah deliberately (Cf. Ibn Abidin, Radd al-Muhtar, I, 219-221).

40. Is it compulsory to recite certain invocations while performing ablution?

Some sources include separate invocations to be recited while washing each organ in ablution (Nawavi, al-Adhkar, pp. 32-35). However, according to authentic narratives, Prophet Muhammad (saw) did not make a special dua while performing ablution. Therefore, it is not compulsory to recite these duas although they have good meanings. However, it is permissible to recite them.

According to the authentic narratives, Prophet Muhammad (saw) gave glad tidings that eight doors of heaven will be open for those who recite the following dua at the end of ablution,

أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ اللَّهُمَّ
اجْعَلْنِي مِنَ التَّوَّابِينَ وَاجْعَلْنِي مِنَ الْمُتَطَهِّرِينَ

“I testify that none has the right to be worshiped but Allah, there are no partners for Him. And I testify that Muhammad is His servant and Messenger. O Allah! Make me among the repentant, and make me among those who purify themselves.” and then he will be allowed to enter in whichever door he wants (Tirmidhi, Taharah, 41).

41. What is the ruling on using miswak? Would brushing the teeth by using a toothbrush for using miswak?

It is sunnah to clean mouth and teeth with miswak or similar instrument while performing ablution (Mawsili, al-Ikhtiyar, I, 44). Because this cleaning is considered as part of the nature of humans (Muslim, Taharah, 56; Abu Dawud, Taharah, 29). Messenger of Allah (saw) said in a hadith, *“Were it not that it would be too difficult for my ummah, I would have commanded them to use the tooth stick at every time of prayer.”* (Ibn Majah, Taharah, 7).

In the practice of Prophet Muhammad (saw), the significant issue was to clean mouth and teeth and miswak was the tool used for cleaning teeth at that time. Today we use toothbrush instead of miswak. One can fulfill this sunnah by means of using any instrument and method suitable to oral and dental health.

42. May a person who urinated perform ablution before waiting for a certain period?

After urinating, more or less leakage is possible depending on the person, conditions, and even the age. It would be more appropriate to wait for a while so that this leakage ends fully. This waiting period of time is called *istibra* (Ibn Abidin, Radd al-Muhtar, I, 558).

Istibra may be performed by walking, coughing, moving, etc.

If a person performs ablution after urinating without performing *istibra* and discharge comes after ablution, his ablution is nullified and he will have to perform ablution again (Marghinani, al-Hidayah, I, 106-107). Moreover, if cleaning is not done well the leakage of urine will contaminate the clothes and if it reaches a certain extent (covers a part as big as palm of a hand) it prevents establishing a valid prayer (Mawsili, al-Ikhtiyar, I, 110-111).

It is permissible for those, who do not have such leakage problem after urinating, to perform ablution right away without waiting. People who show necessary sensitivity on the issues of *istibra* and cleaning should not exaggerate it and pay attention to unnecessary anxiety or misgivings.

43. Are the substances such as dye, nail polish, lipstick, and hair gel obstacles to perform minor and major ablution?

The organs that should be washed need to be washed in a way that no part of them is left dry while performing *ghusl* and ablution.

Otherwise, major (ghusl) and minor (wudu) ablutions will not be valid. Therefore, the person who will perform ghusl or wudu should not have any substance on his body or organs that will prevent water contacting the skin (Aliyy al-qari, Fath Bab al-'Inayah, I, 73). However, painters who stick paint on their nails while performing their profession, or farmers who get mud between their nails and cannot remove it and other similar professionals are exempt from this rule. (al-Fatawa al-Hindiyya, I, 6; Ibn Abidin, Radd al-Muhtar, I, 288). For such people, things like dough, wax, gum, paint etc. that stick to the skin and stay between the nails do not prevent wudu and ghusl.

However, substances that are optionally applied or stuck to the body and that prevent the contact of water with the body are excluded from this concession. If such substances prevent water from contacting skin, they prevent performing ablution and ghusl too. Such substances need to be removed before performing ablution or ghusl. The hair gel does not prevent one from performing ablution or ghusl as it does not constitute a layer.

44. Are the substances such as medicine applied on skin for treatment obstacles to perform minor ablution?

If washing the substances such as ointment, etc. that are applied for treatment to an organ to be washed in ablution but form a layer on skin does not harm the treatment, these organs should be washed. If washing gives harm to them, one should wipe over them with wet hand. If wiping is also harmful, one should not perform it (Ibn Abidin, Radd al-Muhtar, I, 217, 472).

If these substances do not form a layer on skin, they do not affect the validity of ablution.

45. Are the eye lenses obstacles to perform minor and major ablution?

It is not obligatory in major and minor ablution to wash inside of the eyes. Because washing these parts are difficult. Moreover, this practice may damage eyes. (Mawsili, al-Ikhtiyar, I, 40, 57). Therefore, wearing eye lens does not prevent one from performing ghusl and ablution.

46. Are tooth filling, dental veneers, or dental braces obstacles to perform wudu and ghusl?

It is permissible to have teeth filled or coated. Filling, coating, dental braces, implant, or fixed denture do not interfere with the validity of wudu and ghusl. However, the removable/unfixed dentures need to be removed while washing mouth (mazmaza) in ghusl.

After having teeth filled and coated in order to protect the filling, the outer parts of filling and coating are considered as the outer part of the teeth. Therefore, when one washes his mouth, it is considered that he washes his teeth, too. For this reason, a person may have his teeth filled or coated and then perform ablution and ghusl to worship. It is possible to have the said treatments when one is not in the state of ablution or in the state of ceremonial impurity (janabah) or in menstruation period.

47. May one wipe (apply masah) over headscarf while performing minor ablution?

Lexical meaning of masah is to remove the remnants on something by wiping over with hand. Accordingly, it is obligatory to touch the head with wet hand in order to apply masah on it. Therefore, applying masah over the things such as headscarf, bonnet, wig, etc. that will block wet hand's touching head is not a valid way of wiping over the head (Ibnu'l-Humam, al-Fath, I, 159). However, women may perform masah in ablution by putting their hand under headscarf without removing it. Because Prophet Muhammad (saw) applied masah by putting his hand under his turban without removing it (Abu Dawud, Taharah, 57).

48. What should a person do when he forgets or doubts whether or not he is in the state of ablution?

If a person is sure that he performed ablution but he doubts if his ablution is invalidated, he is deemed as ritually clean. On the other hand, a person who knows for sure that his ablution is invalidated and doubts if he performed ablution afterwards, he is deemed as ritually unclean. Because a certain information cannot be eliminated by doubt. (Mawsili, al-Ikhtiyar, I, 56; Ibn Abidin, Radd al-Muhtar, I, 283).

49. Does crying during or outside a prayer invalidate ablution?

Ablution is not invalidated by crying and having teardrops for any reason outside prayer. However, crying for a worldly concern aloud

during prayer invalidates prayer but does not invalidate ablution (Marghinani, al-Hidayah, II, 4,5). In addition to this, crying due to fear from Allah, remembering heaven or hell, etc. during prayer neither invalidates nor harms the ritual prayer.

50. Is there any harm in splashing the ablution water on our dress?

The water used in ablution and ghusl is called 'ma al-musta'mal' (used water). Although used water loses its characteristics to clean ceremonial impurity (hadath) it is not considered as najis (ritually impure). Therefore, such water does not make impure the places where it splashes. (Mawsili, al-Ikhtiyar, I, 70-71).

51. Do fainting or losing mind invalidate ablution?

The things that takes away the mind's ability to perceive such as fainting for a while or for a long time, losing mind, going crazy, being too drunk to walk normally, or having an epileptic seizure invalidate ablution. These conditions themselves do not invalidate ablution. Ablution is invalidated as people do not know what they did during that situation (Mawsili, al-Ikhtiyar, I, 53).

52. Does the ablution of a person whose gingiva/gum bleeds become nullified?

According to Hanafis, the blood that comes from a wound and flows invalidates minor ablution. And the blood coming from gingiva/gum invalidates ablution when it is half or more of saliva (Mawsili, al-Ikhtiyar, I, 52). According to Shafi'is, the ablution is invalidated only by the things coming from front or back private parts of people. The fluids coming from other parts of body do not invalidate ablution. Therefore, according to Shafi'is, one's ablution is not invalidated by bleeding of the gingiva (Mawardi, al-Hawi, I, 199-200).

53. Does sleeping invalidate ablution?

The measure of sleep to invalidate ablution is whether sit on the ground firmly or not. Accordingly, minor ablution is invalidated when a person lies on one side and sleep by staying in the position of prostration outside the prayer. However, sleeping in a state between sleep and wakefulness or in a position of sitting on the ground firmly and without one's joints relaxed do not invalidate minor ablution (Mawsili,

al-Ikhtiyar, I, 53). In this respect, for example, minor ablution of passengers, who travel by means of transportation by sitting up straight and sleep, are not invalidated.

54. Does touching the opposite gender invalidate ablution?

It is a sin for man to touch a stranger woman; however, Hanafi school states that minor ablution of both man and woman are not invalidated in such situation (Mawsili, al-Ikhtiyar, I, 54). According to Shafi'i school, if a person touches the bare skin of the opposite gender with whom she/he has no obstacle to marry in religious terms, ablutions of both are invalidated. (Mawardi, al-Hawi, I, 183-187). However, touching hair or nail of the opposite gender does not invalidate ablution.

55. Does ear discharge invalidate ablution?

The discharge coming from belly or eye without any pain or ache do not invalidate ablution. However, Hanafis say that ablution is invalidated if the discharge comes out with pain or ache. Because pain constitutes an evident of the existence of a wound. And the fluid coming out of a wound invalidates ablution (Ibn Abidin, Radd al-Muhtar, I, 279). According to Shafi'i school, the ablution is invalidated only with the things coming from front and back private parts of people. The fluids coming from the parts except these two places do not invalidate ablution (Mawardi, al-Hawi, I, 199-200).

56. Do intestinal worms such as taenia/tapeworm, etc. invalidate ablution?

All kinds of blood, inflammation, and discharge coming out of body, and everything coming out of front and back private parts invalidate ablution. Likewise, taenia/tapeworm and similar worms coming out of anus (the back private part) invalidate ablution, too. Because they come out of a najis (ritually impure) place (Marghinani, al-Hidayah, I, 117).

57. Does vomiting invalidate ablution?

It is narrated that Prophet Muhammad (saw) re-performed ablution due to vomiting (Tirmidhi, Taharah, 64). However, vomiting should be mouthful in order to invalidate the minor ablution. A mouthful of vomit, whether it is food, bile or blood, invalidates minor ablution. Sputum, on the other hand, is like saliva and does not invalidate minor

ablution. The measure of mouthfulness is not being able to keep the vomit in mouth without difficulty. If a person vomits more than once without changing place and the vomits exceed mouthful amount in total, then ablution is also invalidated (Marghinani, al-Hidayah, I, 110-113; Mawsili, al-Ikhtiyar, I, 49-52; Maydani, al-Lubab, I, 12).

According to Shafi'is, vomiting does not invalidate ablution (Mawardi, al-Hawi, I, 199-200).

58. Does donating blood platelet invalidate ablution?

Blood platelets are the cells that exist in the blood and stop bleeding by forming the blood clots. It is also known as white blood among the people. Blood platelet is obtained in two ways:

a) By method of normal blood donation: In this method, minor ablution is invalidated as normal blood donation is involved.

b) By apheresis device: In this method, blood is taken from an arm of the volunteer with apheresis device, the platelets in it are sorted out and given back to the volunteer from the other arm. Although the blood taken is given back to the same person from the other arm, ablution is invalidated as the blood comes out of the body.

These rulings are according to the Hanafi school. As for the Shafi'is, giving blood does not invalidate ablution (See. Mawardi, al-Hawi, I, 199-200; Shirbini, Mughnil'l-muhtaj, I, 64).

59. Do prosthetic eyes or inflammation running from eyes invalidate ablution?

Scholars agreed on that there is no need to wash inside of eyes in ablution (Mawsili, al-Ikhtiyar, I, 40, 57; Ibn Abidin, Radd al-Muhtar, I, 97; Nawawi, al-Majmu', I, 369). Therefore, prosthetic eyes do not prevent one from performing ablution. Just as the prosthesis placed on the eye itself does not prevent minor ablution, if it causes something that is religiously clean, such as tears, to come out of the eye, the minor ablution will not be invalidated. In a hadith it is stated, "*Ablution is not required because of tears and runny nose.*" (Abd al-razzaq, al-Musannaf, I, 146, Hadith No: 559). However, Hanafi school says that ablution is invalidated when things that are considered najis (ritually impure) in religious terms such as blood, pus, and inflammation come out from eyes (Marghinani, al-Hidayah, I, 17).

According to the Shafi'i school, since minor ablution is not invalidated by things coming out from other parts of the body, except

for those coming out from the front and the back, ablution is not invalidated by fluids such as inflammation and blood flowing from the eye. (Mawardi, al-Hawi, I, 199-200; Shirbini, Mughnil'l-muhtaj, I, 64)

60. Does the ablution of a patient who undergoes peritoneal dialysis become nullified?

Peritoneal dialysis is a method of treatment used in kidney failure. With this method, a catheter is placed in abdominal cavity. Abdominal cavity is filled with the dialysis fluids given patient through this catheter. Periton functions as a filter. The harmful substances and excess fluids in the blood transfer to the fluid in the abdominal cavity. With discharge of this fluid, harmful substances and excess fluids accumulated in the body are eliminated from the body.

The fluids that are injected to the abdominal cavity of the kidney patients, to whom peritoneal dialysis treatment is administered as explained above, and afterwards eliminated from body are considered as najis (ritually impure) substances in religious terms. In this respect, one should show sensitivity to avoid himself from touching this water just as he does so for urine. Discharge or coming out of the aforesaid fluid from body as explained nullify ablution as in najis (ritually impure) substances coming out from body under normal conditions. If it gets on clothes or body these parts need to be washed (Kasani, Bada'i, I, 119; Marghinani, al-Hidayah, I, 118).

61. How does a person who underwent mouth or nose surgery perform ablution?

The ruling of mazmaza and istinshaq (taking water into mouth and nose) is contraversial among scholars. This is because whether mouth and nose is included in the face that has to be washed as a required act of ablution. According to the majority including Hanafi, Shafi'i, and Maliki schools, taking water into mouth and nose is one of the sunnah acts of ablution (Marghinani, al-Hidayah, I, 16; Nawawi, al-Majmu', I, 465; Khattab, Mawahib, I, 245). Hanbali school says that taking water into mouth and nose is fardh in both ghusl and ablution (Ibn Qudamah, al-Mughni, I, 88).

In this matter, the proofs of the majority is stronger and more accurate. Accordingly, as it is sunnah to wash mouth and nose in ablution, that a person do not perform these during ablution due to a

disease or surgery or without any reason does not affect validity of the ablution.

62. May a member of Hanafi school imitate Shafi'i school with regard to ablution when a part of his body bleeds?

It is permissible for a member of a Hanafi school who has bleeding anywhere in his body to imitate Shafi'i school in the event that he has hardship in performing ablution or that he fears to miss Friday, funeral, or eid prayers. Because, in matters that are in conflict between schools, it is not obligatory to adhere to a particular school, and it is permissible to act with the opinion of another school based on an excuse. (Ibn Abidin, Radd al-Muhtar, I, 177).

63. May a woman perform tayammum and establish prayer if she cannot find a convenient environment to perform ablution?

If body parts of a woman that are haram to be seen for foreigners will be uncovered while she is performing ablution, she is accepted as not being able to use water and she may perform her prayer by performing tayammum. However, a woman who is in this situation should wait until the end of prayer time to find a suitable environment to perform ablution. If she has concerns that she will miss the prayer time she performs tayammum and then establishes prayer. (Ibn Abidin, Radd al-Muhtar, I, 289-290, 399; Tahtawi, Hashiyah, p. 118)

OTHER ISSUES RELATED TO ABLUTION AND CLEANLINESS

64. May one greet a person who is performing ablution?

Giving salam is one of the most important symbols of our religion. Prophet Muhammad informed us that exchanging salams will spread love among Muslims. (Abu Dawud, Adab, 143). However, it is not permissible to give salam to the people who are not in a suitable position to respond salam. For example, it is makruh to give salam to people who are reciting adhan and Holy Qur'an, delivering or listening to the sermon. It is more appropriate not to give salam to the people who are performing ablution for it is considered as preparation to worship and as a worship in a way.

65. Would clothes be deemed as ritually impure after touching dry najasat?

Clothes and the place where prayer will be established need to be clean in order for the prayer to be valid. Therefore, as the dried najasat on clothes or body prevents one from establishing prayer, so they need to be cleaned. However, if the dirt only touches but does not leave mark on the clothes, one may establish prayer.

66. Does baby vomit on clothes hinder a person from establishing prayer?

Vomit, which is mouthful and comes from a person's stomach, is najis (ritually impure). Baby vomit is included in this ruling. In the event that a baby vomits right after he is breastfed and the milk he drank comes up, this vomit is also najis according to Hanafi school. As vomit is considered as najasat al-ghaliza (gross impurity), if it is in solid form and more than 3 gr approximately when it gets on clothes, one may not perform prayer. If it is fluid and spreads on an area as big as or bigger than a palm, one may not perform prayer. Vomit which is less than these quantities is permitted and does not hinder a person from establishing prayer. However, it is makruh to establish prayer while even that small amounts are on our clothes if we have opportunity to clean them as the spirit of prayer command this. (Ibnu'l-Humam, al-Fath, I, 202-205; Ibn Abidin, Radd al-Muhtar, I, 506, 522-526).

67. Is it permissible to use substances containing alcohol in cleaning?

Although it is haram to drink the fluids such as spirit, cologne, etc. and the alcoholic substances produced for cleaning (Bukhari, Adab, 80; Muslim, Ashriba, 73), it is permissible to use them for cleaning. One does not have to wash the parts where these products are applied (Kasani, Bada'i, V, 115; Elmalih, Hak Dini, II, 763-764).

CONDITION OF BEING EXCUSED

68. What does the condition of being excused mean and when should an excused person perform ablution?

Situations that nullify ablution incessantly are the issues in which the concept of excuse is mostly used in fiqh. Physical disorders such as

continuous nose bleeding, urine incontinence and leakage, continuous vomiting, passing wind, continuous bleeding and leakage of a wound, and istihadha (abnormal menstrual bleeding) are called “excuses”, and the people who have such conditions are called “excused persons”. (Kasani, Bada’i, I, 28, 29; Marghinani, al-Hidayah, I, 217-219; Ibn Abidin, Radd al-Muhtar, I, 504).

For a person to be deemed as excused, his/her excuse should not cease within one prayer time even for a while to perform ablution and establish prayer, and it should repeat at least once in every prayer time. The condition of being excused ends when the cause of excuse ceases for a complete prayer time (Ibn Abidin, Radd al-Muhtar, I, 504-505).

In Hanafi school, an excused person performs ablution in each prayer time because the Prophet Muhammad (saw) told an excused woman to do so (Bukhari, Wudu’, 63). An excused person can establish fardh, wajib, sunnah, qada, Friday, and eid prayers as much as s/he wants in the same prayer time, can circumambulate the Ka’bah and touch the Qur’an with that ablution by assuming that the ablution is not invalidated by the condition of being excused, and unless another condition to invalidate ablution happens. (Marghinani, al-Hidayah, I, 219-220). However, the ablution of the excused person is nullified when the prayer time ends. Therefore, the excused person needs to perform ablution again in the next prayer time.

The ablution of the excused person is also invalidated by the things that nullify ablution other than the excuse (Kasani, Bada’i, I, 28). For example, the ablution of a person whose excuse is urine incontinence is nullified if his nose bleeds or he passes wind.

According to Imam Shafi’i, an excused person needs to perform ablution separately for each fardh prayer to be established in the same prayer time. Because his ablution ends when his prayer is over. Yet, he may establish voluntary (nafl) prayers as much as he wants with this ablution (Shirbini, Mughni al-muhtaj, I, 175).

According to the Maliki school, the ablution of an excused person is not nullified by the beginning and end of the prayer time but by the things that invalidate ablution other than the excuse (Ibn Rushd, Bidayah, I, 35; Dasuqi, Hashiyah, I, 114-118).

In the event that the excuse of a person causes an extreme hardship to him/her and s/he has serious difficulties while performing ablution, s/he may act by this view of the Maliki school.

69. How long does the ablution of an excused person performed for fajr prayer last?

According to the view preferred by the Hanafi school, the ablution of an excused person is invalidated when the prayer time ends. Accordingly, an ablution performed for fajr prayer is invalidated when the fajr time ends (when the sun rises). However, if an excused person performs ablution when his/her excuse ceases temporarily within fajr time and the sun rises before his/her excuse reoccurs and any other thing to invalidate his ablution happens, his/her ablution is not invalidated even when the prayer time ends.

The excused person may establish as many prayers as s/he wants until the end of duhr time, including Friday prayer, with the ablution s/he performed after sunrise unless other things that may invalidate his/her ablution happens because the prayer time has not ended yet (Marghinani, *al-Hidayah*, I, 223; Kasani, *Bada'i*, I, 29).

According to the Maliki school, the ablution of an excused person is not nullified by the beginning or end of the prayer times but by the things that invalidate ablution other than one's excuse. (Ibn Rushd, *Bidayah*, I, 35; Dasuqi, *Hashiyah*, I, 114-118).

In the event that the excuse of a person causes an extreme hardship to the excused person and s/he has serious difficulties while performing ablution, s/he may act by this view of the Maliki school.

70. Does the dirt that result from the excuse and contaminate the clothes or body of an excused person prevent him from establishing prayer?

Obligations are identified in proportion to the power and the ability of the mukallaf (accountable) persons in Islam. The verse "*Allah does not charge a soul except [with that within] its capacity.*" (Baqarah, 2/286) clearly lays this basic principle. Islam introduced some conveniences so that excused persons can fulfill their worships. Within this framework, the things such as blood, purulence, urine, and suppuration which come from the place of excuse and spread over the underwear of the excused person do not prevent one from establishing prayer as long as the condition of being excused continues. However, the dirt needs to be cleaned if it will not get on the underwear or clothes again by taking some precautions (Ibn Abidin, *Radd al-Muhtar*, I, 506-507).

71. Are the patients who use urinary drainage bag included in the scope of excused persons?

People who need to use urinary drainage bag due to urine incontinence or other diseases are considered as excused persons (Kasani, Bada'i, I, 28, 29; Marghinani, al-Hidayah, I, 219,220). Such people perform their prayers by performing ablution for each prayer time separately according to the Hanafi school. They may establish as many voluntary or fardh prayers as they want with this ablution within the same prayer time (Marghinani, al-Hidayah, I, 219). According to the Maliki school, the ablution of an excused person is not nullified by the beginning and end of the prayer time but by the things that invalidate ablution other than the excuse (Ibn Rushd, Bidayah, I, 35; Dasuqi, Hashiyah, I, 114-118).

In the event that the excuse of a person causes an extreme hardship to him and he has serious difficulties while performing ablution, he may act by this view of the Maliki school.

72. What is the ruling about a person who cannot maintain ablution due to colectomy?

Things like blood, purulence, urine, feces, and suppuration which come from the place of excuse and get on the underwear of the excused person do not prevent him/her from establishing prayer as long as the condition of being excused continues. Because it is not possible to avoid this situation for the condition of being excused continues (Ibn Abidin, Radd al-Muhtar, I, 506-507).

A person, who underwent colectomy, defecates constantly or defecates throughout a prayer time without cease and repeats it at least once within each prayer time is considered as an excused person. Such people perform their prayers by performing ablution for each prayer time separately according to the Hanafi school. They may establish as many nafl or fardh prayers as they want with this ablution within the same prayer time (Marghinani, al-Hidayah, I, 219)

According to the Maliki school, the ablution of an excused person is not nullified by the beginning or end of the prayer time but by the things that invalidate ablution other than the excuse (Ibn Rushd, Bidayah, I, 35; Dasuqi, Hashiyah, I, 114-118).

In the event that the excuse of a person causes an extreme hardship to him and he has serious difficulties while performing ablution, he may act by this view of the Maliki school.

73. Does the bleeding caused by hemorrhoids nullify ablution?

As the ablution is invalidated by hemorrhoid or bleeding of any other organ according to Hanafis, a person who has constant bleeding may benefit from the conveniences provided to excused persons. However, the bleedings that do not leak and overflow the place from which it comes do not invalidate ablution (Mawsili, al-Ikhtiyar, I, 49-50). According to Shafi'i and Maliki schools, bleeding does not invalidate ablution regardless of its quantity and quality (Ibn Qudamah, al-Mughni, I, 247).

74. How should a person who underwent colostomy (surgical anastomosis of large intestines into anterior abdominal wall) operation act in terms of ablution?

In the colostomy operation, the feces coming to a bag that is directly stuck to the abdominal wall is emptied in an uncontrolled manner. Patients who are in this situation are accepted as excused, and may benefit from the conveniences provided to the excused persons. Only the state of performing ablution is different than the unexcused people. They act like unexcused people in other religious duties except ablution.

According to the Hanafi school, excused persons perform ablution for each prayer time separately because the Prophet Muhammad (saw) told an excused woman to do so (Bukhari, Wudu', 63). Excused people may establish fardh, wajib, sunnah, qada, Friday, and eid prayers as much as they want in the same prayer time, may circumambulate the Ka'bah and touch the Qur'an with that ablution unless another condition to invalidate the ablution happens. (Marghinani, al-Hidayah, I, 219-220). However, the ablution of them is nullified when the prayer time ends. Therefore, they need to perform ablution again in the next prayer time.

Ablution of the excused people is also invalidated by the things that nullifies ablution other than their excuse (Kasani, Bada'i, I, 28). For example, the ablution of a person whose excuse is urine incontinence is nullified if his/her nose bleeds or s/he passes wind.

According to the Shafii school, excused persons need to perform ablution separately for each fardh prayer to be established in the same prayer time. Because their ablution ends when their prayer is over. They may establish nafl prayers as much as they want with this ablution (Shirbini, Mughni al-muhtaj, I, 175).

According to Maliki school, the ablution of excused persons is not nullified by the beginning or end of a prayer time but by the things

that invalidate ablution other than the excuse (Ibn Rushd, Bidayah, I, 35; Dasuqi, Hashiyah, I, 114-118).

In the event that the excuse of a person causes an extreme hardship to him and he has serious difficulties while performing ablution, one may act by this view of the Maliki school.

At this point we need to add that the najis (ritually impure) substances such as blood, purulence, urine, feces, and suppuration coming from the place of excuse of the excused persons and gets on their underwear do not prevent them from establishing prayer. This ruling does not change according to the amount of the ritually impure substance. Because one cannot avoid this situation as long as the excuse continues. However, if these najis (ritually impure) substances will not get on the underwear or clothes again, they need to be washed (Ibn Abidin, Radd al-Muhtar, I, 506-507).

75. **May an excused person lead a congregational prayer?**

A person who is excused in terms of ablution may lead a congregation consisting of people who are also excused like him. However, this person cannot lead a congregation of unexcused people. Because the condition of an imam should not be lower than that of the congregation (Marghinani, al-Hidayah, I, 374,375; Ibn Qudamah, al-Mughni, III, 11 ff.). According to the Shafi'i school, unexcused people may follow an excused person in prayer (Shirbini, Mughni al-muhtaj, I, 367).

WIPING OVER (MASAH)

76. **How does a person wipe over khuffs (leather socks) and what are its conditions?**

Khuffs are a kind of shoes which cover the feet with ankles.

The conditions required for the masah (wiping) over khuffs to be permissible are as follows:

- a) They need to be worn after an ablution in which feet are washed,
- b) They need to be durable enough to walk at least 5 km. or more with a normal walking while they are worn,
- c) Khuffs must be stiff and thick enough to stand without tying shoelaces after being worn,
- d) The khuffs must not have a hole three times wider than the little toe,

e) They should not immediately absorb water and take it into the feet.

Masah is a kind of ritual cleaning. During ablution, it is applied over a limb, a worn khuff, or a bandage on a wound with wet hand. For tayammum, it is applied over face and arms after touching hands on earth.

Wiping over khuffs while performing ablution is established by the sunnah of the Prophet Muhammad (saw). As a matter of fact, there are many narrations stating that the Prophet (saw) performed ablution and wiped over his khuffs. (Bukhari, Wudu, 35, 48; Muslim, Taharah, 72, 73)

A person who wears khuffs on his feet while being in the state of ablution may apply masah over his khuffs for one day if he is a resident, and for three days if he is a traveler, starting at the time of invalidation of his ablution after wearing the khuffs. Prophet Muhammad (saw) stated that the period of applying masah over khuffs was three days and three nights for a traveler (musafir), and was one day and one night for a resident person (Nasa'i, Taharah, 98).

As the hadath (the state of being ritually impure) is deemed to have passed to his feet when a person takes off his either one or both of his khuffs when he is in the state of ablution after performing ablution by applying masah over khuffs, he just needs to wash his feet and wear khuffs again without. If one takes his khuffs off when he is not in the state of ablution, he needs to wash his feet while performing ablution again. When the validity period is over, one should just take off khuffs and wash his feet if he is in the state of ablution; if he is not in the state of ablution, he needs to perform a complete ablution by also washing his feet (Kasani, Bada'i, I,9).

77. Is it necessary to only wipe over the khuffs that are worn after performing ablution?

If the khuffs are worn while one is in the state of ablution after washing feet, there is no need to apply masah over them again until one needs to perform ablution again. However, when a person whose ablution is nullified will perform a new ablution, he needs to wipe over khuffs (Mawsili, al-Ikhtiyar, I, 90-91).

78. Is it permissible to apply masah over bare foot?

It is stated in the Holy Qur'an about ablution: *“O you who have believed, when you rise to [perform] prayer, wash your faces and your forearms to the elbows and wipe over your heads and wash your feet to the ankles.”* (Ma'idah, 5/6).

All schools of the ahl al-sunnah agree that it is fardh to wash the body parts commanded in this verse, which are face, lower arms with elbows, and feet with ankles (Ibn Rushd, Bidayah, I, 15-16).

The hadiths stating that the Prophet and his Companions would wash their feet while performing ablution (that have been narrated close to the degree of tawatur) (Bukhari, Wudu 7, 24, 28, 38, 39, 41, 42; Muslim, Taharah, 3, 4, 18; Ibn Hanbal, al-Musnad, XI, 558, 672; see: Kattani, Nazm al-mutanasir, p. 59) are the proofs that washing feet during ablution is a fardh. Moreover, when the Prophet Muhammad (saw) saw that some people were washing their feet like applying masah (wiping) over them and water did not reach their heels, he said, *“Woe to (dry) heels, because of Hell-fire.”* (Bukhari, Wudu 27, 29; Muslim, Taharah, 25-30). Also, the Prophet (saw) warned a person who left a dry part on his feet during ablution by saying, *“Go back and perform a complete ablution”* (Muslim, Taharah, 31; Abu Dawud, Taharah, 67; Ibn Majah, Taharah, 139), which is also an evidence that washing feet in ablution is a fardh.

Considering the verse and hadiths above, scholars of Islamic jurisprudence do not consider it permissible to apply masah (wipe) over bare foot in ablution.

79. Is it permissible to apply masah over the socks worn on the khuffs?

It is permissible to apply masah over socks worn on the khuffs provided that they are thin and they pass the water through themselves when one applies masah (wipes) over them. If water does not pass through them, masah will not be valid (Marghinani, al-Hidayah, I, 201; Mawsili, al-Ikhtiyar, I, 92, 93).

80. Is it permissible to apply masah over boots?

Shoes like boots that cover feet with anklebones just like the khuffs are also considered as khuffs. In this respect, a person may apply masah over boots that are worn when he is in the state of ablution, and may establish prayer without taking them off. However, if there is something ritually impure on or under boots which prevents one from establishing

prayer, he needs to clean it first. (Marghinani, al-Hidayah, I, 201, 202; Mawsili, al-Ikhtiyar, I, 92, 93)

81. Is it permissible to apply masah over anti-varicose socks?

Special socks worn for treatment of varicose are considered as the bandages on broken/dislocated bones. One may wipe over the bandages on broken/dislocated bones. (Ibn Majah, Taharah, 134; Kasani, Bada'i, I, 13-14; Ibn Abidin, Radd al-Muhtar, I, 468). In this respect, it is permissible to wipe over anti-varicose socks while performing ablution. However, if the anti-varicose socks worn are not covering feet entirely, the uncovered parts must be washed.

82. Is it permissible to apply masah over socks?

Islamic scholars reached a consensus that applying masah over khuffs made from stiff and durable substances such as leather and similar materials and worn on feet in the state of ablution, is a sunnah of the Prophet Muhammad (s.a.w.) (Bukhari, Wudu 35, 48; Muslim, Taharah, 72, 73; Ahmad ibn Hanbal, al-Musnad, I, 248, 249). However, there are some different views on applying masah over socks. This conflict results primarily from the disagreements about the authenticity and strength of the narratives regarding Prophet Muhammad's (saw) applying masah over socks and shoes. Moreover, different opinions were put forward about the features of the socks over which Prophet Muhammad (saw) applied masah (Ibn Rushd, Bidayah, I, 19-20).

According to the opinion preferred by the Hanafi school, it is permissible to wipe over the socks with these characteristics:

- a) They should be durable enough to walk around 5 km. (at least one league) or more with a normal walking while they are worn,
- b) They should be stiff and thick enough to stand without tying shoelaces after being worn,
- c) They should cover feet with anklebones,
- d) They should not pass water through themselves instantly by absorbing water,
- e) They should be thick enough to not show inside.
- f) Neither of the khuffs should have a hole, tear, and rip three times wider than the little toe (Marghinani, al-Hidayah, I, 201-202; Mehmed Zihni, Ni'met-i Islam, p. 132, 133).

83. Does taking off the khuffs and wearing them again while in state of ablution invalidate ablution?

The ablution of a person who wears his khuffs after washing his feet in ablution is not invalidated by taking off and wearing them back as long as he maintains his state of ablution. In the event that he completed ablution by wiping over khuffs, not his state of ablution but only wiping over the khuffs will be nullified when he takes off the khuffs afterwards. In that case, his ablution will be valid again if he wears the khuffs back after washing his feet again. (Marghinani, al-Hidayah, I, 198,199; Mawsili, al-Ikhtiyar, I, 90, 95).

84. How should a person who has bandage, cast, or wound on his body or a limb perform ablution?

If washing an organ that is broken or wounded harms the wound or set back its recovery, one may wipe over the cast and bandage applied for treatment or the cotton tied with something, in ablution and ghusl. The validity of masah over bandage is confirmed with the sunnah. Ali (ra) said, *“One of my ankles was broken. I asked the Prophet (saw) and he commanded that I should apply masah over the bandages.”* (Ibn Majah, Taharah, 134)

When one has bandages in any part of body due to broken or displaced bones or wounds, these bandages are opened, organs are washed, and the place of wound is wiped over while performing ablution or ghusl if that does not give harm to the wound. However, in the event that it is harmful to open the bandage, one may just wipe over the bandage without opening it.

It is enough to apply masah over bandage once. That limb becomes ritually cleaned when the bandage is wiped. The fact that the limb was bandaged when a person was not in the state of ablution or was in the state of janabah does not prevent the validity of masah. Applying masah over bandage does not have a certain validity period; one may wipe over the same bandage until the broken bone or the wound recovers. If masah would be harmful for health, too, one may omit it as well (Kasani, Bada'i, I, 13-14).

In the event that bandage is changed or drops after applying masah over it, the masah is not invalidated nor is it required to be re-performed. However, when the wound recovers, masah becomes invalid whether or not the bandage is opened.

If bandage or cast covers most of limbs of minor or major ablution, one performs tayammum instead of ablution (Ibn Abidin, Radd al-Muhtar, I, 217, 434, 470 ff.). The verse *“And if you are in a state of janabah, then purify yourselves. But if you are ill or on a journey or one of you comes from the place of relieving himself or you have contacted women and do not find water, then seek clean earth and wipe over your faces and hands with it.”* (Ma'idah, 5/6) indicates that one may perform tayammum in such situations.

85. What is the duration of validity of masah over khuffs for excused people?

The validity period of masah over khuffs for excused people is 24 hours for residents and 72 hours for travelers, as it is for healthy people (Kasani, Bada'i, I, 9; Ibn Abidin, Radd al-Muhtar, I, 453, 454).

GHUSL

86. How is ghusl performed in accordance with the sunnah?

Ghusl means the ritual cleaning required to be purified from the state of major ritual impurity such as janabah, menstruation, and postnatal period. It is stated in the Holy Qur'an, *“If you are in a state of ceremonial impurity, bathe your whole body.”* (Nisa, 4/43; Ma'idah, 5/6). In the sunnah of Prophet Muhammad (saw), it is also commanded to perform ghusl when a person becomes junub after wet dream or sexual intercourse, or after menstruation and postnatal period (Bukhari, Ghusl, 22, 28; Muslim, Haidh, 87, 88; Abu Dawud, Taharah, 127).

Ghusl is performed by taking water into mouth and gargling to the throat, taking water into nose, and washing whole body until no dry part is left. The practices mentioned here are the fardhs of ghusl according to Hanafis. If one of these are missing, ghusl will be invalid. Other than these fardhs of ghusl, it has sunnah acts as well.

Ghusl is performed as follows with its sunnahs as follows:

A person who wants to perform ghusl makes intention (niyyah) and recites the Basmalah. He washes his hands, cleans his body from any filth/physical impurity, if any, and washes his private parts. Then he takes water into his mouth three times with his right hand and gargles completely. Afterwards, he takes water into his nose for three times, cleans it, and then completes the ghusl like minor ablution. After that, he washes every part of his body thoroughly. Finally, he washes his

feet in case of accumulation of water in the place where the ghusl is performed, and thus completes the ghusl.

87. What is the measure for taking water into mouth and nose in ghusl for a fasting person?

It is fardh to take water into mouth and nose in ghusl. It is sunnah to gargle the water to the throat and inhale the water into nose thoroughly. This ruling is valid for those who are not fasting at the time. It is not proper for those who observe fasting to do so as the water may go into throat or nasal passage. They perform ghusl like they do in ablution without exaggerating while taking water into mouth and nose (Ibn Abidin, Radd al-Muhtar, I, 237, 291).

88. Is the ghusl or minor ablution valid when a person forgets to make intention or to recite Basmalah?

It is sunnah to make intention and recite Basmalah while starting to perform ablution and ghusl (Marghinani, al-Hidayah, I, 98,103). In this respect, the ablution and ghusl performed without intention and Basmalah are valid. However, forgetting to make intention or recite Basmalah before ablution and ghusl will result in being deprived of the reward of practicing a sunnah act.

According to the Shafi'i school, intention is fardh in minor ablution and ghusl, and reciting Basmalah before ghusl is a sunnah (Shirbini, Mughni al-Muhtaj, I, 85-86, 125; Ardabili, al-Anwar, I, 31-39).

89. Is it not proper to talk while performing minor ablution or ghusl?

Talking while performing minor ablution or ghusl does not give any harm to the validity of them. However, it is not proper to speak unless it is needed. A person who starts to perform ablution or ghusl should focus on his worship and distance themselves from worldly affairs, feelings, and thoughts as much as possible (Shurunbulali, Mara'iq al-falah, I, p. 44).

90. Is it obligatory to wash inside earring holes while performing ghusl?

It is not fardh to wash the parts of the body that are hard and troublesome to wash such as eyes and closed earring holes (Ibn Abidin, Radd al-Muhtar, I, 285-286). It is needed to move earrings and tight rings during

ghusl. In this subject, one should not exaggerate by having waswasa (extreme anxiety or misgivings), rubbing the ear holes will be enough to have a valid ghusl (Ibn Abidin, Radd al-Muhtar, I, 288-289).

91. Does having wet dream require performing ghusl?

If a person has wet dream but does not see wetness on his body or underwear when he wakes up, he does not have to perform ghusl (Ibn Abidin, Radd al-Muhtar, I, 302). On the other hand, if he does not remember having wet dream but sees wetness on his body or underwear when he wakes up, he needs to perform ghusl (Abu Dawud, Taharah, 96; Tirmidhi, Taharah, 82).

Aisha (r.a) narrates: *“The Prophet (saw) was asked about a person who found moisture (on his body or clothes) but did not remember the sexual dream. He replied: ‘He should take a bath.’ He was asked about a person who remembered that he had a sexual dream but did not find moisture. He replied: ‘Bath is not necessary for him.’ Umm Salamah then asked: ‘Is washing necessary for a woman if she sees that (in her dream)?’ He replied: ‘Yes. Women are counterpart of men.’”* (Abu Dawud, Taharah, 96; Tirmidhi, Taharah 82). Again Aisha (ra) narrates, *“Umm Sulaym (ra) asked the Messenger of Allah (saw), ‘If a woman sees what a man sees in dream, should she take a bath or not?’ The prophet (saw) replied: ‘Yes, she should take a bath if she finds the liquid (vaginal secretion).”* (Muslim, Haidh, 33; Abu Dawud, Taharah, 97; Nasa’i, Taharah, 135). Therefore, women also need to perform ghusl after having wet dream if they see wetness on their underwear, just like men do.

92. Does giving birth by cesarean section require performing ghusl?

Giving birth by cesarean section is considered as normal birth in terms of postnatal period. If no blood comes from the womb after cesarean, such woman performs ghusl at the earliest convenience and cleans herself from postnatal period. If blood comes from womb, she needs to perform ghusl after the bleeding stops (Sarakhshi, al-Mabsut, III, 210; Mawsili, al-Ikhtiyar, I, 60, 108).

93. Do acupuncture bands prevent performing minor ablution and ghusl?

If it is not possible to remove and insert the needles or the plasters of the acupuncture during the acupuncture treatment, or if it causes great

difficulties, they do not prevent one from performing ablution or ghusl as long as they are needed. In this case, the rulings on masah (wiping) over bandage are applied.

94. Is it necessary to perform ablution again after ghusl?

As ghusl includes ablution, one does not need to perform ablution again. Because Aisha narrated that the Messenger of Allah (saw) did not perform minor ablution separately after the ghusl (Tirmidhi, Taharah, 79). Also, Abdullah ibn Umar expressed that ablution is not needed after ghusl by saying, “*Which ablution is more comprehensive than ghusl!*” (Tabarani, al-Mu’jam al-Kabir, XII, 371)

95. What should a person who has waswasa (extreme anxiety or misgivings) while performing ghusl and minor ablution do?

Waswasa is the state of quandary, doubt, and delusion faced by people due to various reasons. It generally occurs as obsessive doubts of a person on whether or not he performed ablution and ghusl, whether he has performed it properly and completely or not, or if they are nullified or not. A person who performs ghusl or ablution does not need to repeat his ghusl or ablution due to waswasa. Besides, one should not give credit to such waswasa (Ibn Majah, Taharah, 48), tell himself that this condition of doubt and quandary is baseless, and if needed, he should consult to a doctor for psychological treatment. Also, as spiritual support, he should recite chapters of al-Falaq and Nas by pondering over their meanings, and pray to Allah to be saved from this condition.

96. Is it permissible to sleep, eat, and drink when one is in the state of janabah?

A junub person cannot perform certain acts of worship and Islamic duties such as establishing prayer and reciting the Qur’an. Therefore, he should try to get purified from this condition which prevents him from performing his worships by performing ghusl as soon as possible.

However, a person who needs to perform ghusl, if needed, may sleep, eat and drink, and deal with other things by performing ablution after cleaning his private parts or only washing his hands and mouth, on condition that it does not cause to miss a prayer time (Bukhari, Ghusl, 27; Muslim, Haidh, 21, 22, 24). Because being junub does not prevent one from doing things that do not require a special cleaning such as ablution

and ghusl. Indeed, the Prophet (saw) said that a Muslim would not be considered as physically unclean when he is junub (Bukhari, Ghusl, 23).

Yet it is haram for a junub person to postpone washing oneself in a way to miss the prayer time, and it is makruh to eat and drink without washing his hands and mouth. In this respect, such person should perform ghusl and get washed and cleaned as soon as possible if there is no compulsory situation.

97. Is a person with mental disability obliged to perform ghusl?

The condition for being accountable and responsible in religious terms is to be sane and to have reached puberty. Everyone with these two qualifications is considered as religiously responsible.

As people with mental disabilities do not have this qualification, they are not responsible for religious duties such as ghusl, ablution, prayer, etc. (Tirmidhi, Hudud, 1; Bukhari, Kashf al-Asrar, IV, 371-373).

98. What should a person in the state of janabah do in the event that s/he cannot find a suitable place to have a bath?

A junub person who cannot find water to have bath, thinks that s/he will get sick if s/he performs ghusl in cold weather, or cannot find a suitable place to perform ghusl establishes his/her prayer by performing tayammum. Because there is a situation that necessitates it (Marghinani, al-Hidayah, I, 173,174; Mawsili, al-Ikhtiyar, I, 82).

TAYAMMUM: DRY ABLUTION

99. How is tayammum performed? What are the things that invalidate tayammum?

Tayammum is the ritual cleansing performed in the form of wiping the face and both arms with clean soil or something of the type of soil in order to remove the state of ritual impurity such as not being in the state of minor or major ablution when there is no water or it is not possible to use the water available. It is performed by touching hands on clean soil or something of the type of soil and wiping over face and both arms with these hands.

It is stated in the Holy Qur'an, *"But if you are ill or on a journey or one of you comes from the place of relieving himself or you have contacted*

women and do not find water, then seek clean earth and wipe over your faces and hands with it.” (Nisa, 4/43; Ma'idah, 5/6).

The person who is going to perform tayammum makes intention for which type of ritual purification he will perform tayammum (for minor ablution or ghusl). He strikes his hands on a clean soil or something of the type of soil as his fingers are separated from each other, moves his hands back and forth, raises and shakes them off smoothly. He wipes over his entire face with their palms once. Then he strikes his hands on soil again and wipes over right lower arm to the elbow by using the palm of his left hand; then he wipes over his left lower arm to the elbow similarly by using the palm of his right hand.

The things that invalidate ablution also invalidate tayammum. Moreover, tayammum is invalidated when the excuses that allow one to perform tayammum, such as finding enough water for ablution or ghusl, recovery from a disease, and having the possibility to use water, end (Mawsili, al-Ikhtiyar, I, 86).

100. In which situations tayammum can be performed instead of ablution?

Tayammum is an exceptional practice which substitutes ablution and ghusl under certain circumstances; however, it can only be practiced if there is a certain excuse. Tayammum is performed in place of both minor ablution and ghusl if one cannot find enough water to perform these or he finds the water but cannot use it.

The fact that tayammum may be performed when one cannot find water is clearly stated in verses (Nisa, 4/43; Ma'idah, 5/6). Also the hadiths about tayammum confirm the ruling of the Qur'an to perform tayammum when a person cannot find water. As a matter of fact, the Messenger of Allah saw a person who kept standing aside and did not attend prayer with community, and asked him, "O man! Why do not you attend community?" and the man replied, "O Messenger of Allah, I am junub and there is no water." Then Prophet Muhammad (saw) said, "*Use the earth, it is enough for you.*" (Bukhari, Tayammum, 9)

Tayammum is performed in the following circumstances:

- a) If one cannot find enough water for ablution or ghusl,
- b) Lack of access to water even though there is water,
- c) Although there is water, if one cannot use it due to some obstacles such as extremely cold weather or not finding a place to have a bath,

- d) If it poses a risk to use water due to health conditions,
 e) If one will get sick, his sickness will exacerbate, or his recovery period will be extended in the event that he has a bath or washes the organs of ablution,
 f) If one is unable to wash half or more of his body or organs of ablution due to wounds, burns, etc.

A person less than half of whose organs are wounded washes his healthy organs and wipes over the wounded ones. As expressed in a narrative about this subject, a junub person who was wounded was asked to perform ghusl and he died because of this. When the Messenger of Allah heard about it he said, *“They killed him! However, tayammum was enough for him.”* (Abu Dawud, Taharah, 128)

101. May a person, who fears that the prayer time will pass until he finishes performing minor ablution, establish prayer with tayammum although there is water?

It is not permissible to establish with tayammum the prayers such as Friday prayer and daily prayers for which qada prayers can be established when missed, if one has the opportunity to perform minor ablution. Because if a person misses these prayers when he performs ablution, he may establish dhuhur prayer in place of Friday prayer and qada prayer in place of daily prayers (Marghinani, al-Hidayah, I, 187). However, a person who fears that he will miss funeral and eid prayers if he performs ablution may attend these prayers by performing tayammum.

According to the opinion preferred in the Maliki school, if the time of one of the fardh prayers will pass when ablution or ghusl is performed, one may establish this prayer by performing tayammum even though he has the means and opportunity to perform ablution. (Nafrawi, al-Fawakih al-Dawani, I, 239)

102. How can an imprisoned person establish prayer if he cannot find clean water or earth that is not clean enough to practise tayammum?

According to the opinion preferred by the Hanafis, a person who is imprisoned somewhere and cannot find water or something like clean earth to perform ablution or tayammum, imitates the actions of those who establish prayer out of respect to the prayer time, and establishes qada prayer when he is out of the prison (Kasani, Bada'i, I, 50; Haskafi, al-Durr

al-Mukhtar, I, 184-185, 423). The opinion accepted as authentic in Shafi'i school is same as well (Nawawi, al-Majmu', II, 323). According to the Hanbali school, establishing qada prayer afterwards is not needed as they think that one may establish prayer in this situation (Ibn Qudamah, al-Mughni, I, 328).

CONDITIONS SPECIFIC TO WOMEN

103. When do the girls who are over the age of puberty, but have not had their first period yet be accountable (mukallaf)?

Accountability for religious rules starts with puberty. Girls are considered to have reached puberty, when they start to menstruate.

A girl who has not reached puberty until the age of 15 is considered legally to have reached puberty and accountable as of the date when she completes the age of 15 (Mawsili, al-Ikhtiyar, II, 234-235; Tahtawi, Hashiyah, 108; Ibn Abidin, Radd al-Muhtar, IX, 226).

104. Does the white and odorless vaginal discharge of women nullify ablution?

There is no information narrated from the Prophet Muhammad (saw) about whether the genital discharge of women except that of menstruation, postnatal period, and the abnormal bleeding after menstruation nullify ablution or not. In the sources of Islamic law, it is stated that everything coming from two ways (front and back private parts) nullify ablution of both men and women (Marghinani, al-Hidayah, I,106; Ibn Qudamah, al-Mughni, I, 230; Nawawi, Rawda, II, 102; Kasani, Bada'i, I,24; Ibn Juzayy, al-Qawanin, 89).

According to today's medical data, it is considered as normal for every healthy woman to produce white and odorless vaginal discharge (rutubat al-farj). This discharge does not come from the womb but from lower parts, and does not mix with any najis (ritually impure) substance. Therefore, the discharge is accepted as clean and it neither nullifies ablution nor prevents someone from establishing prayer when it gets on underwear (Kasani, Bada'i, I, 24; Ibn Abidin, Radd al-Muhtar, I, 305).

105. What are the practices that women cannot do in their menstruation and postnatal periods?

There are some special rulings on women who menstruate and are in postnatal period. The women who have one of these conditions:

a) may not have sexual intercourse. The Holy Qur'an states as follows on this subject, *"And they ask you about menstruation. Say, "It is harm, so keep away from wives during menstruation. And do not approach them until they are pure..."* (Baqarah, 2/222)

b) cannot establish prayer and observe fasting because the Prophet (saw) informed that women in such conditions cannot establish prayer and observe fasting (Bukhari, Haidh, 6). Mujtahids agree on this subject. The missed prayers during menstruation and postnatal period do not need to be made up; however, the Ramadan fastings that were not observed in such conditions should be made up later. Aisha (ra) answered a woman who asked if she should establish qada prayers when her postnatal period was over as, *"In the period of the Messenger of Allah we were commanded to observe missed fastings but were not commanded to establish qada prayers for missed prayers."* (Muslim, Haidh, 67- 69).

c) cannot circumambulate the Ka'bah. The Prophet Muhammad (saw) said to Aisha (ra) who cried as she worried that she would not be able to perform hajj due to menstruation, *"Do what all the pilgrims do with the exception of the Tawaf around the Ka'bah."* (Bukhari, Haidh, 1)

d) may not enter mosques and masjids unless it is necessary (Mawsili, al-Ikhtiyar, I, 73-74; Mawwaq, at-Taj, I, 552; Shirbini, Mughni al-Muhtaj, I, 119).

e) Islamic scholars put forward different opinions on women's touching the Holy Qur'an and reciting it during their special conditions.

106. Can a menstruating woman touch the Holy Qur'an?

According to Hanafi, Shafi'i, and Hanbali schools and to the dominant opinion of Maliki school, it is not permissible for menstruating women to touch the Holy Qur'an. On this subject, they generally use as evidence the verses *"Indeed, it is a noble Qur'an. In a Register well-protected, none touch it except the purified. [It is] a revelation from the Lord of the worlds."* (Waqi'ah, 56/77-80), the hadith narrative of *"No one but clean people touch Qur'an."* (Muwatta, Qur'an, 1) which is stated in the letter written by Prophet Muhammad (saw) to Amr ibn Hazm, as well as the narrations about his prohibiting junub and menstruating people to touch the Qur'an in the letters he wrote to some communities (Sarakhsi, al-Mabsut, III, 152) (Aliyy al-qari, Fath Bab al-Inayah, I, 142; Mawardi, al-Hawi, I, 384; Rafii, al-'Aziz, I, 293; Ibn Qudamah, al-Mughni, I, 202-203; Ibn Qudamah, al-Maqdisi, al-Kafi, I, 135; Qarafi, al-Zahira, I, 378).

107. Can a menstruating woman recite the Holy Qur'an?

According to the Hanafi, Shafi'i, and Hanbali schools, a woman who menstruates or is in postnatal period cannot recite the holy Qur'an, just like those who are junub. Because the Prophet Muhammad (saw) said, *"The menstruating woman does not recite - nor the Junub - anything from the Qur'an."* (Tirmidhi, Taharah, 98; Ibn Majah, Taharah, 105). Also, Ali (ra) said *"Nothing except being junub used to withhold the Messenger of Allah from reciting Qur'an."* (Abu Dawud, Taharah, 92; Nasa'i, Taharah, 175; Ibn Majah, Taharah, 105; Ibn Khuzaymah, Sahih, I, 104; Bayhaqi, Sunan al-Kubra, Taharah, 98). According to a narrative with different wording, Ali (ra) said, *"Allah's Messenger would recite the Qur'an in all conditions, as long as he was not Junub."* (Tirmidhi, Taharah, 111).

Besides this general approach, there are some detailed ijtihaads within the mentioned three schools. Hanafis and Shafi'is said that one may recite the verses consisting of the meaning of dua for the purpose of making dua and dhikr; Shafi'is said that one may follow the Qur'an only with her eyes without moving her tongue and pronouncing the words; and Hanbalis told that one may recite some dhikrs such as Basmalah, hamdalah, etc. without the intention to recite the Qur'an (Sarakhshi, al-Mabsut, III, 152; Ibn Qudamah, al-Mughni, I, 199-200; Shirbini, Mughni al-Muhtaj, I, 120-121, 172).

There are two opinions in the Maliki school regarding this issue. (Ibn al-Jallab, at-Tafri', I, 206; Qarafi, az-Zahira, I, 379). Some later Malikis preferred the ijtihaad which allows women in menstruation period to touch the Holy Qur'an and recite it for educational purposes, out of these two opinions (Dasuqi, Hashiyah, I, 174; Azhari, Jawahir, I, 32; Ulaysh, Sharhu Minah, I, 175).

Today, one may practice according to the opinion of Maliki school in order to ensure uninterrupted Qur'an education. However, as there are very different ways and methods to teach Qur'an, the method of teaching Qur'an to the women in such periods by giving them education through listening to those who recite it or listening it from CD, DVD, or cassette, and by focusing on the proper recitation of the letters of the Qur'an by dividing verses into words is one of the methods that can be applied. This method may be safer in order to avoid conflict if possible.

108. Can a woman in menstruation or postnatal period enter mosques?

According to a great majority of Muslim scholars, it is not permissible for women in menstruation or postnatal period to enter mosques (Mawsili, al-Ikhtiyar, I, 73-74; Mawwaq, al-Taj, I, 552; Shirbini, Mughni al-Muhtaj, I, 119).

The conditions of menstruation and postnatal period are considered as ritual impurity in Islam and they prevent one from performing certain acts of worship. Mosques are places of worship. The Prophet Muhammad (saw) said, *“I do not consider a menstruating or junub person to enter a masjid/be in masjid as halal.”* (Abu Dawud, Taharah, 94; Ibn Khuzaymah, Sahih, II, 284); *“Masjid is not halal to those who menstruate and are junub”* (Ibn Majah, Taharah, 126). Some scholars think that it is permissible for a woman who menstruates to enter a mosque when necessary, e.g. in order to pick up something in the mosque or walk through it if her road will be shorter in this way. (Ibn Qudamah, al-Mughni, I, 166; Shirbini, Mughni al-Muhtaj, I, 119). Hanafis also say that it is permissible for a junub person to walk through a masjid on condition that s/he performs tayammum, and that s/he may stay there as long as it is needed (Kasani, Bada'i, I, 38). One of the grounds of this opinion is Prophet Muhammad's (saw) asking Aisha to extend a cover to masjid when she was menstruating (Muslim, Haidh, 11; Abu Dawud, Taharah, 105). According to an opinion from Hanbalis, those who menstruate or are in postnatal period may enter a masjid on condition that they perform minor ablution (Mardawi, al-Insaf, I, 347). According to Zahiris, a woman who menstruates may enter a masjid and stay there (Ibn Hazm, al-Muhalla, V, 196). One may adopt these views when needed.

These rulings about the persons who menstruate or are in postnatal period are valid for the places that are constructed as masjids by being surrounded with walls or other things and in which it is proper to perform itikaf. Therefore, the places situated in the yards of masjids and outbuildings, and are used by the congregation when needed, are evaluated differently. These places are not subject to the rulings on masjid in this subject, according to the authentic opinion from Hanafis, Malikis, and Hanbalis (See. al-Mawsuat al-Fiqhiyya, V, 224).

109. Can women make dua in their menstruation and postnatal periods?

Women can make dua and recite the verses that bear the meaning of dhikr and dua in their menstruation and postnatal periods. Besides,

they can recite kalimat al-shahadah, kalimat al-tawhid, invocation for repentance, and salawat. They can also read the books of Qur'anic exegesis, hadith, and fiqh, and examine them (See. Ibn Nujaym, al-Bahr, I, 210; Aliyy al-qari, Fath Bab al-'inayah, I, 142; Ibn Abidin, Radd al-Muhtar, I, 319-320; Shirbini, Mughni al-Muhtaj, I, 120-121, 172).

110. Is it permissible for menstruating women to be near a deceased and visit graves?

It is permissible for women to be near a deceased, to open the deceased person's face and look at it, and visit graves whether they menstruate or not (Ibn Nujaym, al-Bahr, II, 283; Haskafi, al-Durr al-mukhtar, I, 488).

111. Can a menstruating woman perform tawaf al-ziyarah, wada, and umrah?

Women who enter ihram while they menstruate or start to menstruate after entering ihram may perform all rites of hajj except tawaf. However, they cannot enter where the Ka'bah is (mataf) and cannot circumambulate the Ka'bah. Because the Messenger of Allah (saw) said to Aisha, *“This is a thing which Allah has ordained for the daughters of Adam. So do what all the pilgrims do with the exception of the Tawaf round the Ka'bah.”* (Bukhari, Haidh, 1).

Woman who cannot perform tawaf al-ziyarah on the days of eid as they menstruate, perform this tawaf when their menstruation ends. There is no penalty for them due to this delay. If the women who menstruate after performing tawaf al-ziyarah cannot find opportunity to perform the tawaf al-wada (which is wajib according to Hanafis) before going back to their countries, they do not perform it. No penalty is required because of this either (Samarqandi, Tuhfa, II, 410, 414).

If they do not have the opportunity to stay in Mecca, they perform tawaf al-ziyarah while menstruating, as taharat (cleaning/purification) is not fardh but wajib acts for tawaf according to the Hanafi school; however, they need to sacrifice a camel or cattle (badanah) as penalty for the violation of a wajib act. If such women find the opportunity and perform this tawaf after ghusl, then this penalty is cancelled (Kasani, Bada'i, II, 129).

According to the Shafi'i school, the tawaf performed by a woman who menstruates is not valid under any circumstances. She needs to do it after cleaning herself (i.e. performing ghusl) (Nawawi, al-Majmu, VIII,

14, 17). As expressed in some sources of Hanbali and Maliki schools, if menstruation ceases and the woman assumes this as cleanliness, she performs ghusl and then performs tawaf. If she sees bleeding again within the menstruation period, her menstruation continues after the period of cleanliness. No penalty is required because of this. It will be permissible for the women in this situation to inform the related people thereof and act by their answer (Sahnun, al-Mudawanah, I, 152; Hattab, Mawahib, I, 539; Ibn Qudamah, al-Sharh al-Kabir, I, 346).

When it comes to tawaf al-umrah; as taharah is not fardh but wajib for tawaf according to the Hanafi school, if a woman performs tawaf al-umrah while she menstruates, she needs to sacrifice a sheep or goat as penalty. If she finds the opportunity and performs this tawaf after being cleaned, then this penalty is cancelled (Kasani, Bada'i, II, 129).

112. How should a woman who menstruates more than 10 days fulfill her acts of worship?

The number of menstruation days are not the same for every woman. According to the Hanafi school, this period last three days at least and ten days at most. If bleeding of a woman who menstruates regularly continues after normal period of menstruation, this bleeding is considered as menstruation on condition that it does not exceed ten days. However, if it exceeds ten days, it is considered as ongoing partial istihadha (abnormal bleeding after menstruation) by taking as basis the previous normal menstruation period. If the time of bleeding exceeds ten days in the second month too, the menstruation period of this woman changes to ten days. The period of cleanliness between two menstruations is at least 15 days (Ibn Nujaym, al-Bahr, I, 120; Aliyy al-qari, Fath Bab al-'Inayah, I, 133-134).

For example, if bleeding of a woman whose menstruation period is six days continues at the end of the sixth day in the following month, the days added to the normal days are included in menstruation period as long as this situation does not exceed ten days (Mawsili, al-Ikhtiyar, I, 107). However, if the bleeding of that woman continues at the end of these six days and this period exceeds ten days and reaches, for example, twelve days, then the menstruation period of this woman is accepted as six days. The second six days are considered as istihadah, that is to say, abnormal bleeding after menstruation (Mawsili, al-Ikhtiyar, I, 99). As the blood seen after the tenth day is an abnormal bleeding after menstruation, that

woman establishes her prayers and observes her fast in these days. She establishes qada (makes up) for the prayers that she misses after the first six days, which is her normal menstruation period.

113. How is the menstruation period of a woman who has menstrual bleeding regularly for less than three days or more than ten days determined?

According to the Hanafi school, the bleeding that lasts less than three days and more than ten days are not accepted as menstruation but as an abnormal bleeding (Mawsili, al-Ikhtiyar, I, 99; Ibn Nujaym, al-Bahr, I, 120). According to the Shafi'i school, the minimum period of menstruation is one day and the maximum period of menstruation is fifteen days (Shirbini, Mughni al-Muhtaj, I, 171).

According to the information provided by obstetricians and gynecologists, some women may menstruate less than three days or more than ten days regularly although it is rare. If medical examination supports this, it will be permissible for women who have bleeding less than three days or more than ten days to consider their bleedings less than three days and up to fifteen days as menstruation.

114. Is a woman who uses period delaying tablets and menstruates intermittently deemed as in menstruation period?

Use of medicine that affects menstrual bleeding may not be a definite solution in every case. Sometimes this medicine may not cease bleeding completely. Therefore, the discharge coming due to the medicine used is considered as menstrual bleeding.

115. What is the ruling about the colorful discharge that starts before menstrual period? Can a woman perform worship in this situation?

The colorful discharge of a woman (who menstruates regularly) before menstruation period is considered as menstruation and she is considered to be in menstruation period starting from that time to the end of menstruation. Therefore, she cannot establish prayer or fast on the days of having colorful discharge. However, if the discharge continues after 10 days, the discharge on the following days is not menstruation but istihadah. A woman whose discharge continues more

than 10 days performs ablution like excused people do and continues her prayers (Mawsili, al-Ikhtiyar, I, 99).

Although this is the general ruling recorded in the sources of Islamic jurisprudence, if it is known that the discharge seen before menstruation period result from premenstrual hormonal changes and it is identified by a doctor that this is not menstrual bleeding, the colored discharge coming from the women, (whose menstruation periods are fixed) before and after their menstruation are considered as an abnormal bleeding.

116. Does a woman whose menstruation starts while she is in the state of major impurity (janabah) need to perform ghusl separately?

A woman whose menstruation starts before performing ghusl while she is junub does not need to perform ghusl immediately, she may postpone it until the end of menstruation period (Haddad, al-Jawhara, I, 13; Ibn Nujaym, al-Bahr, I, 64).

117. What is the ruling about a woman who menstruates continuously?

According to the Hanafi school, a woman who experiences incessant bleeding has three conditions:

1- Menstruation of a girl who bleeds before reaching puberty and sees blood continuously also after reaching puberty is accepted as having menstruation for ten days in every month, and her cleanliness is accepted as twenty days. So, ten days of a month is accepted as menstruation period while remaining twenty days of it is accepted as istihadha.

2- A woman who experiences incessant bleeding after having menstruation regularly and remembers her menstruation in the past (mu'tadah) takes as basis her menstruation in her previous condition of menstruation and cleanliness. In other words, if she used to experience five days of menstruation and twenty days of cleanliness previously, she continues the same way. Therefore, she accepts five days of every month as menstruation period and twenty days of every month as cleanliness period.

3- When it comes to the woman who experiences incessant bleeding after having menstruation regularly and does not remember her menstruation in the past (mutahayyirah); it cannot be judged whether such woman is in period of menstruation or cleanliness. She needs to be

cautious about religious judgments, which means that she cannot enter masjid, recite the Qur'an, or have sexual intercourse; she performs ghusl for each prayer time separately and establishes her prayer in this way (Zaylai, Tabyin, I, 62-63). The dominant opinion of the Shafi'i school regarding mutahayyirah women is also in this direction (Shirbini, Mughni al-muhtaj, I, 181).

According to the Maliki school, if a mutahayyirah woman can discriminate menstrual bleeding by its odor, color, change in its solidity, or having pain, that is deemed as menstrual bleeding. Therefore, she is accepted in her menstruation period in these days and as istihadha in other days (Dasuqi, Hashiyah, I, 171).

According to the Hanbali school, if a mutahayyirah woman forgets both the time and the number of days of menstruation or forgets the number of days although she remembers its time, her menstruation is considered as six or seven days for every month. She identifies if it is six or seven days by considering menstruation of herself or her relatives by prevailing opinion. She is accepted as having bleeding other than menstruation in the other days. If she remembers the number of duration of her menstruation but forgets its time, she accepts the days in the beginning of each hijri month as the days of her menstruation while other days are accepted as istihadha for her (Ibn Qudamah, al-Mughni, I, 403-403).

Consequently, there is no hardship for the women in the first and second conditions to determine their menstruation and cleanliness days. However, it is clear that both mutahayyirah woman and her family will face some hardships if she acts by the views of Hanafi or Shafi'i schools. In this respect, such women may act in line with the opinions of Hanbali and Maliki schools. These women act by being subject to the excused (istihadha) judgments in the days accepted as period of cleanliness.

Notwithstanding that the judgments in the sources of Islamic law are as mentioned above, today one may benefit from the diagnoses of expert doctors in order to eliminate hesitations on whether the bleeding is menstrual or not.

118. How long is the postnatal period? What is the ruling about the acts of worship that are not performed during this period?

Postnatal period (nifas) refers to the condition in which a woman's bleeding continues after giving birth or having miscarriage, or abortion. That period is called pospartum. Duration of this period differs for

every woman. It depends on women's physical structure, heredity, and environmental conditions.

There is no lower limit in the postnatal period. Upper limit is forty days according to the Hanafi school and sixty days according to Shafi'i school. The blood seen after exceeding the upper limit is not postnatal but excuse blood. Moreover, if the blood coming in the days of postnatal period ceases for a while and then continues, the days when bleeding ceases are also deemed to be included in the postnatal period (Aliyy al-qari, Fath Bab al-'Inayah, I, 144-145; Shirbini, Mughni al-muhtaj, I, 185).

Women cannot have sexual intercourse in their postnatal period (Baqarah, 2/222); cannot establish prayer, nor can they observe fasting (Bukhari, Haidh, 6; Muslim, Haidh, 16, 67-69), and cannot circumambulate the Ka'bah (Bukhari, Haidh, 1, 7).

Women do not establish qada prayer for the prayers they cannot perform due to their menstruation and postnatal periods; however, they make up for the missed fardh fasts (Muslim, Haidh, 67-69).

If the bleeding of a woman who gives birth ceases before forty days, she gets washed (performs ghusl) and starts to perform her acts of worship.

119. What is the ruling on the bleeding of a pregnant woman? Can such women perform the acts of worship during that period?

The bleeding of a pregnant woman is not menstrual but istihadha (excuse). Istihadha blood is judged as the blood flowing from any part of the body. Ablution is nullified when this blood flows; ghusl is not required (Mawsili, al-Ihtiyar, I, 99).

If the istihadha blood comes continuously, the judgments of general excuse are applied. Accordingly, a pregnant woman who sees blood continuously performs ablution for each prayer time, and this ablution becomes valid until the next prayer time unless it is nullified by any other reason (Mawsili, al-Ikhtiyar, I, 105-106).

120. What is the judgment on the bleeding of a woman who had a miscarriage?

According to Hanafis and Hanbalis, the blood coming from a woman who had a miscarriage of a baby, whose organs such as hands, feet, or fingers became apparent, is postnatal blood. On the other hand, the blood seen after a miscarriage, which occurs before baby's organs such

as hands and feet become apparent, is *istihadha* (excuse) blood (See. Marghinani, *al-Hidayah*, I, 226; Ibn Qudamah, *al-Mughni*, I, 431). According to Shafi'i and Maliki schools, miscarriage is a cause of being in the postnatal period in both cases (Ramli, *Nihayat al-muhtaj*, I, 212; Dasuqi, *Hashiyah*, I, 174-175).

It should be taken into account that these judgments were given by jurisprudential schools in the times when it was possible to decide if the thing coming from womb was a fetus or not only by its organs such as hand or foot (See. Kasani, *Bada'i*, I, 43). Today as it is possible to identify if it is a fetus or not regardless of its phase in the womb, it will be more appropriate to act accordingly. In this respect, whether its organs are apparent or not, as it is known that the miscarried thing is a fetus, the blood seen after miscarriage should be accepted as postnatal blood.

121. What is the judgment on the blood seen during ectopic pregnancy?

According to the information provided by the experts, in the ectopic pregnancy in which fertilized egg places in fallopian tube rather than uterus, the embryo developing in the tube may cause one or a few of the veins in that part of the body to be torn and bleed in time. As the bleeding seen during ectopic pregnancy does not stem from the uterus but from the torn veins, it is deemed as an excuse (*istihadha*).

The condition of being excused occurs when bleeding continues throughout one prayer time without cease and repeats in every prayer time at least once. A woman in that state performs a separate ablution for every prayer time like other excused persons because the Prophet Muhammad (saw) told an excused woman to do so (Bukhari, *Wudu'*, 63; Abu Dawud, *Taharah*, 110, 112)

122. What is the ruling on the blood seen after termination of ectopic pregnancy?

Ectopic pregnancy is recognized within 4-5 weeks' time and pregnancy is terminated by medical intervention in abdomen. The change that occurs in the uterus in normal pregnancy also occurs in ectopic pregnancy to some extent. The blood coming from the uterus after surgeries of ectopic pregnancy is not an excuse but postnatal bleeding. Therefore, such woman is subject to the rulings of postnatal period.

123. How does a woman who has bleeding in the transition period to menopause fulfill her acts of worship?

Menopause means the end of women's ability to get pregnant and give birth, and not having menstrual bleeding anymore. Irregularities in menstruation and changes in menstruation days may be experienced during the transition period to menopause.

As expressed by experts, a woman who enters menopause may menstruate again within the first year. Such woman performs her worships like she did in the menstruation period. However, the blood seen after one year passes is accepted as a state of excuse. It will be appropriate for the woman who is in transition period to menopause to get examined by a gynecologist, have the doctor identify whether her bleeding is menstrual or excuse-based, and perform her worships accordingly.

124. How should one perform acts of worship during menopause?

Regardless of her age, the bleedings of a woman, who is in menopause period, after the first year of menopause are not accepted as menstrual but as *istihadha*/excuse (See Kasani, Bada'i, III, 200).

In this situation, as a woman with continuous bleeding is considered as an excused person, she performs ablution for every prayer time and establishes as many prayers as she wants with this ablution within the same prayer time, and performs other acts of worship unless one of the conditions that invalidate ablution other than her excuse occurs. When the prayer time ends or any other condition which invalidates the ablution occurs, the ablution is nullified (Mawsili, al-Ikhtiyar, I, 106-107)

125. Is it permissible to do general body cleaning in menstrual period, postnatal period, and in the state of janabah?

In some sources, there are opinions stating that it is *makruh tanzih* (discouraged but close to be permissible) to cut hair and nails, and clean armpit and pubic hair before performing *ghusl* in menstrual period, postnatal period, and in state of *janabah*. (al-Fatawa al-Hindiyyah, V, 338). However, there is no strong proof on this subject. In fact, some other sources express that this evaluation is not appropriate (Bujayrimi, Tuhfa, I, 364; Dimiyati, Hashiyatu i'aneti't-talibin, I, 137).

For this reason, it is permissible for people who are in menstrual period, postnatal period, and in the state of janabah to cut their hair and nails, and clean their armpit and pubic hair before performing ghusl.



SALAH
(RITUAL PRAYER)





SALAH (RITUAL PRAYER)

126. What does *ibadah* mean and how is it categorized?

Ibadah means “worship, obedience, submission, servitude, acting modestly, adopt as god.” As a religious term, it means “the conscious obedience that expresses glorifying Allah and being close to Him (swt), and that is rewarded depending on the action and intention.” Worshipping Allah is the peak of obedience and respect. It is stated in the Holy Qur’an that mankind was created to worship Allah (Dhariyat, 51/56), and all prophets invited people to worshipping Allah (Baqarah, 2/83).

The concept of worship is used in the Holy Qur’an in such meanings as *tawhid* (Nisa, 4/36), obedience (Baqarah, 2/172), *dua* (invocation) (Mu’min, 40/60), submission (Fatiha, 1/5), faith and good deeds (Nisa, 4/172-173), *tasbih* (extolling) and prostration to Allah (A’raf, 7/206), and being aware of and knowing Allah (Dhariyat, 51/56). In accordance with these meanings, it refers to observing the commands and prohibitions of Islam and protecting the limits set by Allah in the broadest sense.

In order for a behavior to be considered as an act of worship, one should have faith (*iman*), intention (*niyyah*), and sincerity (*ikhlas*). Worship should be performed for the consent of Allah and should comply with Islam.

Acts of worship are generally examined under four categories in terms of practicing:

a) Acts of worship performed by heart such as *iman*, sincerity, intention, contemplation, *marifah*, patience, and *taqwa* (piety).

b) Acts of worship performed by body such as *salah* (prayer), fasting, *dua* and *dhikr*, benevolence to parents, good treatment to people, and visiting relatives (*silat al-rahim*).

c) Acts of worship performed with wealth and property such as zakat, sadaqah, helping the relatives and the poor, and infaq (spending for the sake of Allah).

d) Acts of worship performed with both body and wealth such as hajj (going on pilgrimage) and jihad.

127. Did ritual prayer (salah) exist before the Prophet Muhammad (saw)?

It is stated in the Qur'an that the prophets before Prophet Muhammad (saw) were also responsible for ritual prayer (Baqarah, 2/83; Yunus, 10/87; Hud, 11/87; Ibrahim, 14/37, 40; Maryam, 19/30-31, 54-55; Ta-Ha, 20/14; Anbiya, 21/72-73; Luqman, 31/17). It is understood from these verses that ritual prayer was not specific to the followers of the Prophet Muhammad (saw) but also existed in the time of the previous ummahs. Likewise, although it is reported that there were basic pillars such as standing, bowing and prostration in the ritual prayers of the previous ummahs, there are no detailed explanations about the performance of their ritual prayer.

128. When and in which situations a Muslim is exempted from performing ritual prayer?

Prayer is fardh upon every Muslim who is sane and has reached puberty. Those who do not have these qualifications are not responsible for prayer. Because Prophet Muhammad (saw) said that children and insane people were not responsible for prayer (Abu Dawud, Hudud, 16).

In some cases, people with health issues are exempted from the ritual prayer. According to Hanafis, a person who is so sick that he is unable to establish ritual prayer even by moving his head is not responsible for anything. If such a person dies from this disease, s/he will not have any debt of prayer in the presence of Allah as he had no chance to establish qada (make-up) prayers. But if one recovers, s/he needs to make up for the missed prayers unless the number of missed prayers exceeds five. If it is more than five, that person is not required to make up the missed according to the preferred opinion. The same provisions are valid for the unconscious person in consideration to the duration of the unconsciousness. (Kasani, Bada'i, I, 106, 107, 108). Imam Shafi'i said that if a person stays unconscious for the duration of a whole prayer time, s/he does not need to perform qada (make up) prayer (Shirbini, Mughni al-muhtaj, I, 204).

A person who is confined to bed for lifetime may perform tayammum by using a brick, tile, or stone near him if he cannot get up to perform ablution or cannot find anyone to help him to perform it. A person who cannot get up from his bed and face the qiblah on his own, and if there is no one to help him, performs his prayer by moving his head, and turning his face towards the qiblah as much as he can, without getting up. (Sarakhsi, al-Mabsut, I, 112-113; Kasani, Bada'i, I, 48).

Those who cannot perform tayammum alone due to sickness and cannot find another person to help them may establish prayers by considering themselves as ritually clean and by moving their head if they want; or they may establish qada for the missed prayers later if they wish to do so. They make up their missed prayers when they recover, and such people are exempted from the ritual prayer if they do not recover (Ibn Nujaym, al-Bahr, I, 246-249, 151; Haskafi, al-Durr al-mukhtar, I, 184-185, 423; Ibn Abidin, Radd al-Muhtar, I, 185, 423).

129. How were the numbers of rakats and the ways to perform prayer determined?

Acts of worship are *tawqifi*, which means that it is not possible to know their reasons for being *fardh* and their practices with logic in all aspects. The issues related to the acts of worship are generally commanded in the Qur'an and were explained in more detail with the practices of the Prophet Muhammad (saw).

It is expressed in the Qur'an that prayers are obligatory to be established in certain times (Nisa, 4/103), and that they have some pillars such as *qiyam*, *qira'at*, *ruku*, and *prostration*; details and the required acts were determined and fixed with Prophet Muhammad's (saw) *sunnah* (Bukhari, Adhan, 95; Muslim, Salat, 45, Masjid, 176; Abu Dawud, Salat, 150; Ibn Majah, Salat, 1; Tirmidhi, Salat, 114). As a concise explanation, the Prophet (saw) said, "*Pray as you have seen me praying.*" (Bukhari, Adhan, 18). According to this, general judgment on prayer is that its pillars and conditions are determined by the Qur'an and the details about them are determined by the *sunnah* of Prophet Muhammad (saw).

130. Could there be an excuse for not establishing prayer?

As it is known, ritual prayer (*salah*) is the most important one of the acts of worship commanded by Islam. It is the first one out of the five pillars on which Islam is built after *kalimat al-shahadah*. It is *fardh* upon

every Muslim who is sane and at the age of puberty to establish prayer. It is a sin not to establish prayer or to postpone it to establish as qada later without any legitimate excuse which would make it permissible to postpone it. Prayer cannot be postponed to establish as qada later if there is not a legitimate excuse such as falling asleep, forgetting, and being too sick to even establish it by head or eye moves. The Prophet Muhammad (saw) said *“If one of you falls asleep or forgets to establish a prayer in time, he should establish it when he wakes up or remembers to do.”* (Bukhari, Mawaqit, 37; Muslim, Masajid, 314-316).

Conditions such as being too busy, working for the sustenance of family members, and travelling cannot be excuses to postpone prayer. It is stated in the Holy Qur’an as follows, *“[Are] men whom neither commerce nor sale distracts from the remembrance of Allah and performance of prayer and giving of zakah. They fear a Day in which the hearts and eyes will [fearfully] turn about.”* (Nur,24/37).

The employer or the authorized person of a workplace needs to allow his employees and workers, who want to establish prayer, to establish their Friday prayers and daily prayers (five times). However, workers should not slack off and should get permission from their employers or authorized persons in order to protect the working discipline. Even if they do not give permission, the prayer established is valid. A person who works in a place where s/he cannot have the opportunity to establish prayer needs to search for another job that will give him/her this opportunity.

If workers search for a suitable job but cannot find it, they may establish prayers by combining (jam’) dhuhur and ‘asr, by either establishing dhuhur and ‘asr prayers early in dhuhur prayer’s time, or establishing them together late in ‘asr prayer’s time; and by combining maghrib and ‘isha, by either establishing maghrib and ‘isha prayers together late in ‘isha time or establishing them together early in maghrib prayer’s time. However, they should not forget that this is a ruling for situations of absolute necessity.

FARDHS OF PRAYER

131. **May one establish the fajr prayer before dawn?**

The time for the fajr prayer starts from the rise of fajr al-sadiq, which is the time when the dawn breaks, and lasts until the rise of

the sun. Therefore, fajr time, in other words, the time to start fasting prohibitions, starts with fajr al-sadiq, that is to say, when the dawn breaks. It is stated in the Holy Qur'an, "*It has been made permissible for you the night preceding fasting to go to your wives [for sexual relations]. So now, have relations with them and seek that which Allah has decreed for you [i.e., offspring]. And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night]. Then complete the fast until the night [i.e., sunset].*" (Baqarah, 2/187). As the time of fajr prayer starts with imsak (dawn), the fajr prayer can be performed after dawn. On the other hand, Hanafis find it more appropriate (mustahab) to establish it a while later (close to sunrise in isfar time) on grounds of some narratives about the subject (Ibn al-Humam, Fath, I, 227; Ibn Qudamah, al-Mughni, II, 29-30; Zaylai, Tabyin, I, 82). Indeed, the Prophet Muhammad also recommended this (Tirmidhi, Salat, 5).

The time of the fajr prayer lasts until the sun rises. Because according to the hadith regarding Gabriel's leading the Prophet (saw) in prayer, he led the fajr prayer at dawn on the first day, and at a time close to sunrise and when it was day light on the second day, and said, "*It is time for you and your ummah to establish fajr prayer between these two times.*" (Tirmidhi, Salat, 1; Nasa'i, Mawaqit, 5,9; Muwatta, Wuqut, 3)

132. What do "asr al-awwal" and "asr al-thani" mean?

"Asr al-awwal" means the first time of 'asr prayer and "asr al-thani" means the second time of 'asr prayer. The time for 'asr prayer starts when the time of dhuhur prayer ends. As the end time of dhuhur prayer is controversial among fuqaha due to difference in the evidences they use, the beginning of 'asr prayer's time is controversial as well. According to this, Imam Abu Yusuf, Imam Muhammad and imams of other three schools say that the time of dhuhur prayer ends and the time for 'asr starts when the shadow of anything gets as long as itself except the shadow formed during the sun's movement from the meridian to the west (fay al-zawal) (Marghinani, al-Hidayah, I, 255-256; Shirbini, Mughni al-Muhtaj, I, 190; Dasuqi, Hashiyah, I, 177; Ibn Qudamah, al-Mughni, II, 12-14). This time is called "asr al-awwal" (the first time of asr prayer).

According to Imam Abu Hanifa, the time of dhuhur prayer ends when the shadow of something gets two times longer than itself, except "fay al-zawal". This time is called "asr al-thani" (the second time of 'asr prayer) (Kasani, Bada'i, I, 122; Marghinani, al-Hidayah, I, 255-256; Zaylai, Tabyin, I, 80).

133. When does the time of 'asr prayer start and end?

As the beginning of 'asr time depends on the end of dhuhur time, the dissensus about the end of dhuhur time affected the start of 'asr time too. Therefore, according to Imam Abu Yusuf, Imam Muhammad and imams of other jurisprudential schools, dhuhur time ends and 'asr time starts when the shadow of everything gets one time longer than itself, except "fay al-zawal". This is called "asr al-awwal" (the first time of 'asr prayer). According to Imam Abu Hanifa, the time of dhuhur prayer ends and 'asr starts when the shadow of something gets two times longer than itself, except "fay al-zawal". This is called "asr al-thani" (the second time of 'asr prayer). Presidency of Religious Affairs takes as basis the practice of asr al-awwal in its calendars.

The last time of 'asr prayer is the time just before sunset. However, one should not postpone it until this time without a valid excuse. The Prophet Muhammad (saw) described establishing asr prayer negligently by postponing it until sun gets yellow as the prayer of hypocrites (See. Abu Dawud, Salat, 5). But if one could not establish it earlier, s/he may establish it even the sun is about to set (Kasani, Bada'i, I, 124; Marghinani, al-Hidayah, I, 256, 261-262; Zaylai, Tabyin, I, 80; Ibn Qudamah, al-Mughni, II, 15-16). Indeed, the Prophet (saw) said, *"Whoever could get one rakat of 'asr prayer before sunset, he has got the 'asr prayer."* (Bukhari, Mawaqit, 28)

According to the Shafi'i school, the time of 'asr prayer is divided into five in itself: "virtuous", "optional", "permissible without makruh time", "permissible with makruh time", and "excuse". Excuse time is the establishment of 'asr and dhuhur prayers within dhuhur's time by combining them due to journey or rain. As for the other classifications, virtuous time is the time until the shadow of everything becomes one and a half times longer than itself; optional time is the time when the shadow of an object becomes two times longer than itself; permissible without makruh time starts with the optional time until the sun gets yellow; and permissible with makruh time starts when the sun gets yellow until it sets. It is not permissible to postpone 'asr prayer until the time of permissible with makruh time unless there is an excuse. However, one who establishes even one rakat of 'asr prayer before sunset is deemed to have established it in time (Nawawi, al-Majmu', III, 27).

134. Until when may one establish maghrib prayer?

The time of maghrib prayer starts with sunset and, according to Imam Abu Hanifa, lasts until the light on the horizon disappears after sunset. The Prophet Muhammad (saw) said, “*The beginning of the time of maghrib is when the sun sets, and the end of its time is when the twilight has vanished (i.e., the horizon is invisible because of darkness).*” (Tirmidhi, Salat, 2; 282). As told in a narrative, the Prophet Muhammad (saw) established ‘isha prayer after the disappearance of twilight (Daraqutni, I, 496).

According to Imam Abu Hanifa, the words “twilight” or “horizon” in narratives mean the whiteness seen after glow. Moreover, Imam Abu Hanifa bases his view on the hadith of, “*The time for maghrib prayer ends when horizon gets dark.*” (Ibn Hanbal, al-Musnad, XI, 570; see. Abu Dawud, Salat, 2; Tabarani, al-Mu’jam al-Kabir, XXVII, 160)

According to other schools along with Imam Abu Yusuf and Imam Muhammad, the time of maghrib prayer lasts until the glow after the sunset disappears. Because the “twilight” mentioned in the hadith is the glow after the sunset. Indeed, the Prophet Muhammad (saw) said, “*Twilight is the reddish glow, when it disappears, prayer becomes wajib.*” (Daraqutni, as-Sunan, I, 506; see. Muwatta, Wuqut al-Salat, 23; Zaylai, Nasb al-Raya, I, 233).

135. Until when may one establish ‘isha prayer?

The time of ‘isha prayer starts after that of maghrib prayer ends, and lasts until “fajr” time (start of dawn’s breaking) (Tahawi, Sharh ma’ani al-asar, I, 159; Kasani, Bada’i, I, 124; Marghinani, al-Hidayah, I, 258; Zaylai, Tabyin, I, 81). One may establish ‘isha prayer any time within this period. However, some scholars said that, like every fardh prayer, it is more virtuous to establish ‘isha prayer within the first part of its time, as advised by the Prophet (saw). On the contrary, there are some scholars who say that it is more appropriate to establish ‘isha prayer in later parts of night, based on some other narratives (Ibn Qudamah, al-Mughni, II, 28).

According to the Shafi’i school, the time of ‘isha prayer starts when the glow in the western horizon disappears, and lasts until the dawn breaks. However, the time of ‘isha prayer is divided into four in itself according to the Shafi’i school as: “virtuous”, “optional”, “permissible”, and “excuse”. Virtuous time is to perform it at the beginning of the time. Optional time is the first one third of the night. The time after this until dawn is permissible time. Although it is permissible to establish ‘isha prayer in this time, it is considered as makruh. Excuse time is the time

of maghrib prayer when 'isha will be established by means of jam al-taqdim (Nawawi, al-Majmu', III, 31).

136. Is the prayer invalidated if the time passes while it was still being established?

Scholars have consensus on the view that prayer is not invalidated if prayer time ends while it is being established, except fajr and Friday prayers. Imam Abu Hanifa, based on the hadiths which prohibit establishing prayer when the sun rises, says that sunrise invalidates the prayer that is being established. On the other hand, Imam Abu Yusuf and Muhamamd expressed that prayer will not be invalidated if one sits for a duration enough at least to recite tashahhud in the last sitting (Kasani, Bada'i, I, 124; Ibn al-Humam, Fath, I, 397). Other jurisprudential schools express that prayer is not invalidated if it is being established when the prayer time ends by taking as reference the hadith (Bukhari, Mawaqit, 27) of Prophet Muhammad (saw) saying that prayer may be completed and will be valid if sun rises after its one rakat is established or sun sets after one rakat of 'asr prayer is established (Ibn Rushd, Bidayah, I, 95; Ibn Qudamah, al-Mughni, II, 16-17).

Accordingly, although there is a conflict about fajr prayer, the prayer that is being established when the next prayer time starts is not nullified.

137. What are the makruh times to perform prayer; what is the reason for this rule?

It is makruh to establish prayer from rise of the sun to its moving up; when the sun is at the meridian; and when the sun sets.

Islam prohibits worshipping to anyone but Allah as well as all the attitudes and behaviors that may bring it to mind. The fact that it is makruh or prohibited to establish prayer within some specified times should be evaluated in this context. The mentioned three times are the times of worship for Zoroastrians. Establishing prayer in these times is prohibited or limited in order to prevent Muslims from resembling them by coinciding with the worship times of fire-worshippers. In this way, it is aimed to develop a consciousness of identity and worship among Muslims. Moreover, it is expressed that these times have a characteristic that prevents one from performing prayer in a perfect manner (Nasa'i, Mawaqit, 29; Ibn Majah, Iqamat al-salati was-sunan, 148; Zaylai, Tabyin, I, 85; Ibn Abidin, Radd al-Muhtar, II, 384).

According to the Shafi'i school, it is makruh to perform only nafl prayers during the sunrise, sun is at the meridian, and sunset. They showed as evidence the following hadith: *“Do not establish prayer after fajr prayer until the sun rises, and after ‘asr prayer until the sun sets.”* (Muwatta, Qur'an, 48). One may establish fardh prayers, qada prayers, rawatib sunnahs, and tahiyat al-masjid prayers in these times. Moreover, it is makruh tanzihī to establish nafl prayers after ‘asr prayer from when the sun gets yellow until it sets (Nawawi, Rawda, I, 192-195).

138. How are the prayers performed in places where prayer times cannot be determined?

Time is one of the conditions of prayer. Although there are some Islamic scholars who say that it is not fardh to establish prayer in places where prayer times cannot be determined because “time is a condition of prayer”, the majority of scholars state that prayers have to be performed by estimation in such regions, based on the opinion that the real cause of prayer is the divine addressing (Ibn Abidin, Radd al-Muhtar, II, 18-19). The Prophet’s (saw) hadith stating that prayers need to be established by estimation in the days before Judgment Day when prayer times cannot be determined concretely because days will be too long (Muslim, Fitān and Esrat as-saat, 110) constitute the basis for this opinion. This hadith puts forward that undetermined prayer times do not free a person from responsibility, and clearly shows that prayers need to be established by being estimated in regions where and when prayer times cannot be determined. It is understood that all Muslims are responsible for five prayers every day which is 24 hours as required by divine addressing, Prophet Muhammad’s (saw) sunnah, and the practice which reached to the level of tawatur. Otherwise, some of the Muslims who live in the poles and places near the poles would establish only five times of prayers within a year (as they experience six months’ night and six months’ day). So, if the time of any prayer does not occur or cannot be determined precisely in a region, people establish that prayer by estimation, i.e. by estimating the time of prayers and comparing it with that of the nearest region where the prayer times takes place regularly, or by means of another method of estimation.

139. **May the prayers be established by being combined (jam')?**

It is fardh for every Muslim, who has certain qualifications, to establish prayer five times a day. Each prayer is fardh to be established within its specified time. It is stated in the Holy Qur'an, "*Regular prayers are enjoined on believers at stated times.*" (Nisa, 4/103) In this respect, one needs to perform each prayer within its own time under normal conditions. However, if there is a valid excuse, one may perform prayers by combining them.

"Jam" means "to combine two prayers", and refers to establishing dhuhr and 'asr prayers in dhuhr's or asr's time, and establishing maghrib and 'isha prayers in maghrib's or 'isha's time together.

According to Hanafis, jam' is permissible for pilgrims only. On the day of Arafah, 'asr is established earlier within dhuhr's time together with dhuhr prayer in Arafat by means of jam al-taqdim. Maghrib prayer of the same day is established within 'isha's time together with 'isha prayer (jam al-takhir) in Muzdalifah. Except this, it is not permissible to establish prayers by combining them (Kasani, Bada'i, I, 127). According to other jurisprudential schools, (although there are some differences of opinion on some related issues) it is permissible to establish dhuhr and 'asr or maghrib and 'isha by jam al-taqdim or jam al-takhir due to excuses such as travel, rain, and storm. One of the evidences of this opinion is the narration from Ibn Abbas: "The Messenger of Allah combined dhuhr prayer with 'asr and maghrib prayer with 'isha prayer in the expedition to Tabuk." (Muslim, Salat al-Musafirin, 51, 52, 53). Hanafis say that the jam mentioned in this hadith and similar hadiths was suri jam' or jam' in appearance (combination by establishing one prayer at the end of its time and the other at the beginning of its time) [Muwatta, Salat, 59 (Shayybani narrative); Tahawi, Sharh ma'an al-asar, I, 162; Ibn Rushd, Bidayah, I, 173-174].

In the cases when there are important excuses, a Hanafi Muslim may perform the mentioned prayers by combining them by acting in accordance with the views of other schools. For example, one may establish dhuhr and 'asr prayers and maghrib and 'isha prayers with jam al-taqdim and jam al-takhir in obligatory or necessary conditions such as being on a journey, prayer time's coinciding with an exam time, or a doctor's missing prayer time while in an operation.

The person who will perform prayers by combining them establishes those prayers one after the other and by following their order; sunnah rakats between two fardhs are not performed, and one should not deal

with anything else in between. Fardh cycles of dhuhur and ‘asr prayers are established in dhuhur or ‘asr prayer’s time, and fardhs of maghrib and ‘isha prayers are established in time of maghrib or ‘isha prayer one after the other without interruption. As fajr prayer cannot be combined with ‘isha nor with dhuhur, one cannot combine ‘asr and maghrib or ‘isha and fajr either.

140. Is it sufficient to make intention (niyyah) for a prayer only by heart? Is it necessary to make the intention by specifying as fardh or sunnah?

Niyyah (Intention) is one of the conditions of the prayer. It is an act of the heart and it means that the person decides something and knows what s/he will do and why s/he will do it. The significant point in prayer is the intention in the heart. Although it is mustahab (desirable) to utter it with tongue, prayer will be valid even though it is not uttered (Marghinani, al-Hidayah, I, 297). A person who performs a fardh or wajib prayer needs to identify which prayer s/he is starting. But for the sunnah prayers (rawatib), it is not compulsory to identify the sunnah of which prayer is being performed (Shurunbulali, Mara’iq al-falah, 83).

141. Is a prayer established without turning to the direction of qiblah valid?

A prayer which is established by turning to another direction other than the qiblah intentionally is invalid. A person who does not know the direction of qiblah makes research about it and establishes the prayer according to the decision s/he takes after the information s/he obtained. If one understands that s/he is mistaken about the direction after completion of the prayer, that prayer will be valid so that person does not need to establish it again. If one understands during prayer that s/he turned to the wrong direction although s/he made research, s/he turns to the correct direction while in the prayer and continues the prayer. A person who establishes prayer without making any research or asking anyone should re-establish that prayer if the direction is wrong (Ibn Abidin, Radd al-Muhtar, II, 119).

142. What should be done about the mosques which were built toward the wrong direction?

It is one of the fardhs of prayer for those who can see the Ka'bah to turn to the Ka'bah directly and for those who do not see it to turn to the direction of the Ka'bah (istiqlal al-qiblah) while performing a prayer. Turning to the Ka'bah from distant places may be implemented approximately. The significant point in this regard is that the face of the worshipper should not turn aside from the direction of the Ka'bah completely. A person is deemed to have turned to the Ka'bah as long as the Ka'bah or its upright direction to the skies stays within the face angle of him/her (al-Fatawa al-Hindiyyah, I, 70).

According to this, face of a person who establishes prayer will not turn aside from the direction of the Ka'bah completely unless he turns an exact 45 (forty five) degrees directly to the left or right. Therefore, it does not pose a risk for a valid prayer. However, a person who performs prayer should try to identify the exact direction of the Ka'bah as much as s/he can.

Previous prayers established in the mosques whose qiblah directions partially deviate from the Ka'bah are valid. However, qiblah deviations should be corrected in the best possible way. In the event that this correction cannot be made, it is not permissible to hesitate about the validity of the prayers to be established in such mosques. But people should pay utmost attention for preventing deviations from the qiblah direction while building new mosques.

143. Can a woman establish prayer without wearing a headscarf?

A woman who has reached puberty has to cover her body parts completely as required by Islam while establishing prayer just like she should near the men except her mahrams. Head is one of the body parts that should be covered. In a hadith narrated from Aisha (ra), the Prophet Muhammad (saw) said, "Allah does not accept the prayer of a woman who has reached puberty unless she wears a headscarf." (Abu Dawud, Salat, 87) Moreover, there are hadiths informing us that the wives of Prophet Muhammad (saw) would cover their heads while establishing prayer in their house, and that he warned the young girls and women who have reached puberty to establish prayer by covering their heads (Abu Dawud, Salat, 87). The practice since the period of Prophet Muhammad (saw) has been the same.

144. Why do we recite aloud in some prayers while we do it in a low voice in some others?

Worships are *tawqifi*, which means it is not possible to know their reasons to be *fardh* and their practices with logic. They are preformed as commanded by Allah and in the way performed by Prophet Muhammad (saw). This applies to prayer as well. The Prophet (saw) said, “*Pray as you have seen me praying.*” (Bukhari, Adhan, 18)

Likewise, the practices of reciting silently in *fardh* prayers established in daytime and aloud in *fardh* prayers established at night are based on Prophet Muhammad’s (saw) *sunnah* and the practices of his Companions who learned the religion directly from him and taught it to the following generations (See. Bukhari, Salat, 96-105; Abu Dawud, Salat, 131, 134, 137).

145. May one recite translation of surahs in prayers?

It is not permissible to recite translations of surahs in prayer. On this issue, it is stated decision number 103 of the High Board of Religious Affairs dated 04.12.1997 as follows:

As it is stated in the Holy Qur’an, “*So recite what is easy from it, ...*” (Muzzammil, 73/20), Prophet Muhammad (saw) recited the Holy Qur’an in every prayer and told a companion who did not know well how to establish prayer, “... then recite one of the parts from the Qur’an that you remember and is easy for you” while explaining him how to do it (Muslim, Salat, 45). In this respect, *qira’at* in prayer, which means to recite parts from the Holy Qur’an, is a *fardh* established by the Holy Qur’an, *Sunnah*, and *ijma* (consensus).

As it is known, the Holy Qur’an is the name of the words sent down by Allah to Prophet Muhammad (saw) by means of Jibreel. It was sent down not only with its meaning but also with its words to the heart of Prophet Muhammad (saw). In this respect, what is understood from these words and the meanings expressed in other words are not the Qur’an itself. Because, except the exact words revealed, the meaning expressed in other words, even if it is in Arabic, is not the word of Allah, but it is only the interpretation of the translator. However, the concept of the Qur’an includes not only the meaning but also its words as one of its essential parts.

“*And indeed, it [i.e., the Qur’an] is the revelation of the Lord of the worlds. The Trustworthy Spirit [i.e., Gabriel] has brought it down upon your heart, [O Muhammad] that you may be of the warners in a clear*

Arabic language.” (Shu’ara, 26/192-195); “*And thus We have sent it down as an Arabic Qur’an*” (Ta-Ha, 20/113); “*[It is] an Arabic Qur’an, without any deviance that they might become righteous.*” (Zumar, 39/28); “*A Book whose verses have been detailed, an Arabic Qur’an for a people who know, ...*” (Fussilat, 41/3). and similar ten other verses (Yusuf, 12/2; Rad, 13/37; Nahl, 16/103; Shura, 42/7; Zukhruf, 43/3; Ahqaf, 46/12) clearly express that not only the meaning but also the wording is included in the concept of the Qur’an. For this reason, there is a consensus among Islamic scholars on the fact that its translation cannot be called as the Qur’an and it does not possess the same feature as the Qur’an.

As it is known, translation means transferring the meaning of a word into another language by using its equivalent in the target language. However, every language has its own unique characteristics of expression, tone, and wording. Therefore, except some plain expressions that do not have a literal and emotional aspect, no translation can substitute for the original text and no translation can entirely comply with the original text. Then, the difference between the original of such a book as the Holy Qur’an, which has divine rhetoric and ijaz (miracle/succinctness), and its translation is as great as the difference between the created and the creator. Because one of them is the word of the Supreme Creator Allah and the other is the weak declaration of the created. Would it be possible to replace such a translation with the word of Allah or consider it as being in the same position with the word of Allah?

Besides, Islam is a universal religion. It is a requirement of Islam as a universal religion that all Muslims who speak different languages use a common language in worship.

If everyone starts to perform worships in their own languages, this will be contrary to the way taught by the Prophet (saw) and has been practised until today, and will undoubtedly give rise to some conflicts.

On the other hand, it does not seem possible to select one among more than hundreds of translations on which everyone will agree, without violating the freedom of religion and conscience, in order to be recited in prayers and to make everyone adopt it.

People should not be confused at this point about making dua in their own language. Because dua is a servant’s supplication to Allah. Therefore, it is quite natural that everyone does it in their own language.

On the other hand, one of the most important characteristics of the Holy Qur'an is its *ijaz* (miraculous character). The Qur'an challenges entire humanity to form a similar book. We cannot say that *ijaz* only covers its meaning. On the contrary, it is understood from the challenge verses such as “*And if ye are in doubt as to what We have revealed from time to time to Our servant, then produce a surah like thereunto.*” (Baqarah, 2/23-24; Yunus, 10/37-38; Hud, 11/13; Isra, 17/88; Tur, 52/33-34), that this feature is rather related to its wording.

Moreover, it is clearly understood from the 88th verse of Surah al-Isra which states that a similar book cannot be formed by humans and jinns even if they come together and support each other, and in this respect, a translation cannot be considered as the word of Allah, cannot have the status of it, therefore, its translation cannot be recited in prayers.

Undoubtedly, it is of vital importance and not a difficult job for a Muslim to know at least the meanings of the parts they recite from the Holy Qur'an, and recite these in prayers by understanding and feeling them. Yet, the judgments on translating the Holy Qur'an to understand its meaning, benefit from its guidance, and learn the commands, prohibitions, and recommendations of the Almighty Allah and reading its translation for these purposes are different. The judgment on substituting the Qur'an with these translations and considering them as the Qur'an itself are also different.

The Holy Qur'an is recited with its original wordings in the prayers and as a worship. One may read the translations, meanings and explanations of it in order to learn the recommendations, commands, and prohibitions of the Almighty Allah and to benefit from its guidance. Reading translations and explanations of the Qur'an for this purpose is quite rewarding and is a separate worship in general terms.

146. Is it permissible to perform recitation (qiraat) by looking at and reading from the Qur'an during prayer?

According to Imam Abu Hanifa, reciting surahs and verses in the prayer by looking at the Qur'an invalidates the prayer. On the other hand, Imamayn says that prayer is not invalidated although it is a *makruh* act (Ibn Nujaym, al-Bahr, II, 11). According to Shafi'i's, one's prayer will be valid if s/he recites Surah al-Fatiha by looking at the Qur'an (Shirbini, Mughni al-muhtaj, I, 240-241). Performing qiraat by heart will be the safest way on this subject.

147. Is a prayer deemed valid if one recites the obligatory recitation (qiraat) without moving lips but only by thinking them?

Recitation (qiraat) is not valid if a person who has the ability to speak thinks about Fatiha and other surahs in prayer without moving his/her tongue and lips or making any sound. Such people will not be deemed to have performed the qiraat, which is a pillar of prayer. One needs to recite them in a voice s/he can hear him/herself, like whispering, by pronouncing letters correctly and in a manner that will not disturb the people around (Marghinani, al-Hidayah, I, 352-353).

148. How do the hearing-impaired people practise recitation and tasbihat while establishing prayer?

The hearing-impaired people are equal to other Muslims in terms of being accountable for worships. Therefore, they are responsible for establishing prayer, observing fast, and performing other worships. Takbir al-iftihah and qiraat, which are among the fardhs of the prayer, need to be uttered. However, it is enough for the hearing-impaired people to only think them; they do not need to move their tongues (al-Fatawa al-Hindiyyah, I, 76; Ibn Abidin, Radd al-Muhtar, II, 181). Because on no soul does Allah place a burden greater than it can bear (Baqarah 2/286).

149. Is reciting only Fatiha in a prayer enough to fulfill the obligatory recitation?

It is fardh to recite some from the Qur'an in the prayer. According to the opinion preferred by Hanafis, this amount needs to be at least the length of three short verses, or one surah equal to this amount. It is wajib to recite especially Surah al-Fatiha. Therefore, one fulfills both the fardh and wajib qiraat in prayer by reciting Surah al-Fatiha. However, it is also wajib to recite at least three short verses or one surah equal to this amount after Fatiha. For this reason, those who do not recite a surah or a few verses after the Fatiha in the first two rakats of fardh prayers and in all rakats of sunnah prayers are deemed to have abandoned a wajib act of prayer. If one does not perform it due to forgetfulness, then s/he needs to perform sajdah al-sahw (prostration of forgetfulness). If one does not perform it deliberately, then it is wajib for him/her to perform the prayer again (Ibn Abidin, Radd al-Muhtar, II, 149-150, 543).

According to the Shafi'i school, Fatiha should be recited at least to fulfill the fardh of qiraat. It is sunnah to recite a surah or a few verses in addition to this (Shirbini, Mughni al-muhtaj, I, 240-241, 248).

WAJIBS (NECESSARY ACTS) OF PRAYER

150. What is the ruling on ta'dil al-arkan in prayers?

Ta'dil al-arkan means to perform the pillars (rukn) of prayer properly, timely, and regularly. The word "tuma'nina" used in a meaning close to ta'dil al-arkan means being convinced that the pillar which is being performed is done properly as it should be, and it is a consequence of complying with the ta'dil al-arkan. Ta'dil al-arkan is in question especially in ruku, qawma (standing upright after ruku), sajdah, and jalsah (sitting between two sujud).

According to the strong opinion in the Hanafi school, ta'dil al-arkan is wajib in the aforementioned four positions. According to some other jurisprudential schools and Imam Abu Yusuf from the Hanafi school, ta'dil al-arkan is fardh (Marghinani, al-Hidayah, I, 204,205; Ibn Abidin, Radd al-Muhtar, II, 157-158; Ibn Rushd, Bidayah, I, 135).

151. Would the prayer of a person who establishes it individually be valid if he performs qiraat aloud in the prayers where it should be performed in a low voice?

While establishing prayer alone, it is one of the wajibs to recite silent, that is to say, pronounce with tongue in a voice that one can hear himself only, in the prayers that are established during daytime, i.e. dhuhr and 'asr prayers and rawatib prayers (Ibn Abidin, Radd al-Muhtar, II, 163, 545).

Abandoning one of the wajibs of prayer deliberately requires re-establishment of it. If it is done due to forgetfulness, one needs to perform sajdah al-sahw. Therefore, a person who recites aloud where he needs to recite silent should re-establish his prayer if he did it deliberately, and he should perform sajdah al-sahw at the end of the prayer if he did it unintentionally (Ibn Abidin, Radd al-Muhtar, II, 545).

152. What is the ruling on recitation of the invocations of Qunut in the fajr prayer according to the Shafi'i school? Would a person's prayer be valid if he does not recite these invocations while performing fajr prayer by following a Hanafi imam?

In Shafi'i school, it is a strong sunnah to recite the Qunut duas after standing up after performing ruku in the last rakat of the fardh of fajr prayer. When a Shafi'i person follows a Hanafi imam, s/he recites the Qunut duas as s/he stands up after ruku if s/he has time. If one does not have enough time to recite it, s/he does not recite it but performs sajdah al-sahw after the prayer independently, according to the strong opinion within the school (Nawawi, al-Majmu', IV, 290). However, his/her prayer will be valid even if s/he does not perform sajdah al-sahw.

153. What is the judgment on touching our nose to the ground while prostrating? Is a prayer performed without touching our nose to the ground valid?

Sajdah is one of the pillars of the prayer. It means putting feet, knees, and hands on the ground along with the forehead after ruku. It is fardh to perform two sujud in every rakat. One should put both his/her forehead and nose on the ground while performing sajdah (Marghinani, al-Hidayah, I, 328,329; Ibn Qudamah, al-Mughni, II, 193-196; Mehmed Zihni, Ni'met al-Islam, p. 254-255). Because the Messenger of Allah (saw) used to put his forehead and nose on the ground, leave some space between his arms and sides of his body, and place his hands in a way to align with his shoulders (Tirmidhi, Salat, 89). Accordingly, it is makruh not to put nose on the ground in sajdah without any excuse although forehead is put. However, the prayer performed is still valid. Yet, the prayer will be invalid if one does not put his/her forehead on the ground.

154. How does a person who forgets first sitting in fardh prayers complete his prayer?

First sitting is one of the wajibs of the prayer. One should perform sajdah al-sahw if he forgets to perform a wajib act. It is makruh tahrimi not to perform the first sitting, therefore, such prayer should be re-established (Ibn Nujaym, al-Bahr, I, 310; Ibn Abidin, Radd al-Muhtar, II, 157).

155. What is the ruling on qawma and jalsah in prayer, and how long should one wait during qawma and jalsa?

Qawma means straightening up completely while standing up after ruku in prayer and before going down for sajdah, and standing still long enough to recite “Subhana Rabbiya’l-Azim” at least once. Jalsa means sitting long enough to recite “Subhana Rabbiya’l-Azim” at least once between two sujud. Jalsa and qawma are wajib according to Hanafis. If they are not performed by mistake, one needs to perform sajdah al-sahw. It is makruh tahrimi not to perform them deliberately and one should re-establish that prayer. According to Imam Shafi’i, Malik, and Ahmad ibn Hanbal, jalsa and qawma are fardh, therefore prayer is invalidated if one does not perform them intentionally (Ibn Abidin, Radd al-Muhtar, II, 149, 157; Ibn Qudamah, al-Mughni, II, 423; Nawawi, Rawda, II, 356-357).

Abu Hurayra (ra) narrates as follows, “Allah’s Messenger (saw) entered the mosque and a person followed him. The man prayed and went to the Prophet and greeted him. The Prophet (saw) returned the greeting and said to him, “Go back and pray, for you have not prayed.” The man went back prayed in the same way as before, returned and greeted the Prophet who said, “Go back and pray, for you have not prayed.” This happened thrice. The man said, “By Him Who sent you with the Truth, I cannot offer the prayer in a better way than this. Please, teach me how to pray.” The Prophet (saw) said, “*When you stand for Prayer say Takbir and then recite from the Holy Qur’an (of what you know by heart) and then bow till you feel at ease. Then raise your head and stand up straight, then prostrate till you feel at ease during your prostration, then sit with calmness till you feel at ease (do not hurry) and do the same in all your prayers.*” (Bukhari, Adhan, 95)

156. Is the prayer of a person, who ends prayer without performing salam in the last sitting, valid?

According to Imam Abu Hanifa, a person who establishes prayer needs to end it by his own act that is performed deliberately and voluntarily at the end of the prayer. According to Imam Abu Yusuf and Muhammad, prayer is completed in terms of its rukns by sitting for tashahhud period (long enough to recite al-tahiyyat). Such person’s prayer is complete even if he does not give salam or commit an act out of prayer. However, it means to abandon a wajib of the prayer.

This dissensus has some results in terms of Islamic jurisprudence. Accordingly, if a person voluntarily commits an act that cannot be associated with prayer, after sitting for tashahhud period in qa'dah akhirah (the last sitting in prayer), for example, if he speaks to respond to someone's greeting, says "bless you" or "yarhamukallah" to a person who sneezes, or he just stands up and leaves, his prayer will be valid according to the three imams mentioned (Marghinani, al-Hidayah, I, 386; Zaylai, Tabyin, I, 125, Bilmen, Ilmihal, p. 118).

However, if one's prayer is invalidated by a cause other than his own will after sitting for tashahhud period, Imam Abu Yusuf and Muhammad says that his prayer is complete, but Imam Abu Hanifa says the exact opposite. Likewise if the prayer time ends before he leaves prayer voluntarily and by his own will after sitting for tashahhud period again in the last sitting, Imam Abu Yusuf and Muhammad say that his prayer is complete. But Imam Abu Hanifa says his prayer is nullified (Kasani, Bada'i, I, 124; Ibn al-Humam, al-Fath, I, 397).

157. What is the ruling on the salam given at the end of the prayer?

According to the opinion preferred in the Hanafi school, it is wajib to give salam to the right side first, and then to the left side by turning head. One should re-establish his prayer if he does not perform this deliberately. Nothing is required if it is not performed unintentionally. In this salam, it is wajib to recite the part "as-salam" and it is sunnah to add the part "alaykum wa rahmatullah" of the sentence "as-salamu alaykum wa rahmatullah". According to another opinion, it is wajib to give salam to the right side and it is sunnah to give salam to the left side. The prayer is finished with one salam according to all imams, i.e. prayer ends with it (Ibn al-Humam, al-Fath, I, 328; Zaylai, Tabyin, I, 125).

According to Shafi'is, for whom it is fardh to give the first salam, if one does not perform it, his prayer is invalidated (Shirbini, Mughni al-muhtaj, I, 273).

SUNNAHS AND RECOMMENDED ACTS OF PRAYER

158. What is the ruling on raising hands in the takbir al-iftitah?

It is sunnah to raise hands up while reciting the takbir al-iftitah. Because the Prophet Muhammad (saw) would raise his hands up while

reciting this takbir (Nasa'i, Iftitah, 2; Tahawi, Sharhu ma'ani'l-asar, I, 195-196). According to the Hanafi school, men raise their both hands by turning their palms to qiblah direction and aligning their thumbs with ear lobes. Women raise their hands up to their shoulders' level (Marghinani, al-Hidayah, I, 307-309). Men also raise their hands up to their shoulders' level according to other schools.

159. What is the ideal space between feet in qiyam (standing) while performing ritual prayer?

As there is no authentic hadith regarding the space between feet while we are in qiyam, Islamic scholars expressed different opinions about the ideal space.

According to the Hanafi school, the space between feet in qiyam should be as wide as four fingers (Shurunbulali, Mara'iq al-falah, p. 95). According to the Shafi'i school, the distance between the feet should be around a hand span (Zakariyya Al-Ansari, Asna Al-Matalib, I, 162). According to Maliki and Hanbali schools, one should not open his feet too much but should not join them completely either (Zuhayli, al-Fiqh al-Islami, I, 695).

160. Why do we not recite the “wa jalla thanauk” part of Subhanaka in prayers?

The part “wa jalla thanauk” is not included in the authentic hadiths about the supplication of “Subhanaka” which is recited at the beginning of prayers (Abu Dawud, Salat, 124). For this reason, that part is not recited in prayers (Marghinani, al-Hidayah, I, 315).

As funeral prayer is a dua for the deceased person, the expression of “wa jalla thanauk”, which means “O my Allah your glory is supreme”, can be added to the “Subhanaka”, just like it is possible to make other duas. (Tahtawi, Hashiyah, p. 58; Mehmet Zihni, Nimet al-Islam, p. 427). Because this expression takes place in narratives about some dhikrs and duas made outside prayers.

161. What is the ruling on saying “ameen” in ritual prayer after Surah al-Fatiha is recited?

“Ameen” is the word uttered at the end of duas in order to express our hope that Allah accepts them. The Prophet Muhammad (saw) advised to say “ameen” at the end of duas (Bukhari, Adhan, 111; Muslim, Salat, 72, 74, 75; Ibn Majah, Iqamat al-Salat, 14).

According to Hanafi school, it is sunnah to utter “ameen” silently at the end of Fatiha. There is no difference about this issue between imam, the congregation, or those who perform prayer individually (Ibn Abidin, Radd al-Muhtar, II, 172).

According to the Shafi'i school, “ameen” is uttered loudly in prayers with aloud qiraat, and with a low voice in prayers with silent qiraat (Shirazi, al-Muhadhdhab, I, 139-140).

162. Should one recite Basmalah before starting the recitation of verses or chapters to be recited after Fatiha in prayer?

One should recite Basmalah at the beginning of every rakat in the prayer and after Subhanaka before starting the qiraat. It is not required to recite Basmalah separately for the surahs recited after the Fatiha (Zaylai, Tabyin, I, 112).

163. Why do we not recite any additional verses or chapters after Fatiha in the third and fourth rakats of fardh prayers?

Worships are commanded in the Holy Qur'an without giving their details. The Prophet Muhammad (saw) determined how to perform all fardh, wajib, and nafl worships. The Prophet (saw) explained and showed the number of rakats in prayers, how and where to perform qiraat, dhikr, tasbih, tahmid, or duas; how many times to perform ruku and sajdah and said, *“Pray as you have seen me praying.”* (Bukhari, Adhan, 18). So, we have to perform worships just like they are commanded to us.

We need to evaluate the question in this framework. However, it will not make the prayer invalid if one recites a surah after Fatiha in the last two rakats of fardh prayers. According to the opinion accepted in the Hanafi school, sajdah al-sahw is not required in this situation (Ibn Nujaym, al-Bahr, II, 102; Halabi, Saghir, p. 175).

164. What is the judgment on reciting the verses or surahs recited in the first two rakats again in the following rakats?

As each two rakats are accepted as independent in rawatib prayers with four rakats, (Ibn Abidin, Radd al-Muhtar, II, 456) reciting the surahs recited after Fatiha in the 1st and 2nd rakats again in the 3rd and 4th rakats does not harm the prayer. However, it will be better for those, who know other surahs, to recite them rather than repetition.

165. Are men required to cover their heads in the prayer?

The Prophet Muhammad (saw) and the Companions covered their heads after adopting Islam just like they did before Islam as a custom and as required by climate conditions. The Messenger of Allah (saw) established prayer with his daily clothes and did not wear additional or special clothes for worship. Sometimes he wore a turban on his cap and sometimes he used a cap without turban or a turban without a cap (See. Tirmidhi, Libas, 12, 42; Ibn al-Qayyim, Zad al-ma'ad, I, 135; Muttaqi, Kanz al-ummal, VII, 121).

Some scholars accepted it as sunnah for men to cover their heads in prayer considering these practices of the Messenger of Allah (saw). According to this approach, it is deemed makruh tanzihī to perform prayer without covering one's head as it will mean not performing a sunnah act (Ibn Abidin, Radd al-Muhtar, II, 407; Shurunbulali, Marāqī al-falah, p. 130).

Some other scholars stated that establishing prayer without a headwear is permissible as they accept this practice as a custom (See. Shatibi, al-Muwafaqat, II, 489). Consequently, it is better to cover head with something like a cap, a turban, etc. However, it is also permissible to establish prayer without a headwear.

166. Is it permissible for men to establish prayer with folded sleeves or short-sleeve shirt?

A person who establishes prayer spiritually stands in the presence of Allah the Exalted. For this reason, one should wear proper clothes. In the past, establishing prayer with folded sleeve clothes was accepted as makruh because folding sleeves was considered as a sign of arrogance (al-Fatawa al-Hindiyyah, I, 118). However, this perception is not in question today. Besides, it is permissible for men to establish prayer with short-sleeve shirts. Because this attitude, too, is no more an odd situation, as in folded or rolled up sleeves.

167. Can women fold their hands like men in the prayer?

It is sunnah to fold hands in prayer in a way to put the right hand on top of the left hand (Bukhari, Adhan 87; Muslim, Salat 54; Abu Dawud, Salat 122; Tirmidhi, Salat 75; Ibn Majah, Iqamat al-Salat 3). However, there are different narratives about the place of this folding. Men fold their hands under their belly in some schools, on their chest or between chest and belly in some others, depending on these narratives as well as the practices of the Companions and Successors (tabi'un).

Women fold their hands on their chest as agreed by the scholars who claimed that it is sunnah to fold hands in prayer. This way of folding is interpreted as a more suitable behavior to the essence of Islamic dressing in terms of the body structure of women. This interpretation and the longstanding practice allow us to claim that this was the case in Prophet Muhammad's (saw) period as well (Mawsili, al-Ikhtiyar, I, 163-164; Tahanawi, l'la' as-sunan, II, 669-675). As the opinions on the place for folding hands in prayer are not among the issues regarding the essence of prayer, the prayer of a person who acts according to any of these opinions will not be invalidated.

168. Where should one look in qiyam while establishing prayer at al-Masjid al-Haram?

A person who establishes prayer in al-Masjid al-Haram looks at the place of sajdah, just like in any other place. Because the Prophet Muhammad (saw) would look at the place of sajdah while he was standing in prayer (Mawsili, al-Ikhtiyar, I, 158; Ibn Abidin, Radd al-Muhtar, II, 176). There is nothing prohibited in looking at a point within our limits of vision without turning our head (Marghinani, al-Hidayah, II, 18). Accordingly, a person who establishes prayer may look at the Ka'bah, too.

169. What should be done to perform prayer in khushu (proper focus and humility)?

Establishing prayers with khushu is stated in the Holy Qur'an as one of the distinguishing characteristics of a believer (Mu'minin, 23/2). The Messenger of Allah (saw) pointed out the special condition of prayer by saying, "*Prayer is the light of my eye*" (Nasa'i, Ishrat a'n-nisa, 1; Ibn Hanbal, al-Musnad, XIX, 305). Khushu can be achieved in prayer when a person is away from the external factors that will distract him and his heart from connecting with Allah. The things experienced by the person in his inner world and his thoughts affect the khushu in the prayer and reflect on his behaviors, too. For this reason, a person should be aware that he is in the presence of Allah during prayer, focus on the prayer with his mind and heart, and should stay away from conditions and behaviors such as looking around, tidying up his clothes, and not complying with ta'dil al-arkan. One should try to focus on understanding the meanings of the surahs and dhikrs he recites. In addition, one should try not to follow the unrelated thoughts that occur in his mind in prayer, and

should try to gather his thoughts by remembering that he is before the Almighty Allah.

170. Can women perform prayer without covering their feet?

As feet of women are not private parts according to the opinion preferred by Hanafi school, they may establish prayer without covering their feet on condition that their body above the heels are covered (Marghinani, al-Hidayah, I, 289,290; Mawsili, al-Ikhtiyar, I, 101-103). According to the other schools, on the other hand, feet should be covered as they are one of the body parts that are fardh to be covered. According to this opinion, the prayer established by a woman without covering feet will not be valid (Ibn Qudamah, al-Mughni, II, 328-329; Shirbini, Mughni al-muhtaj, I, 285). It will therefore be a cautious action for women to cover their feet while establishing prayer.

171. Is it permissible for men to establish prayer without wearing socks?

It is recorded in sources that the Prophet Muhammad (saw) performed prayer without socks (Abu Dawud, Salat, 91). For this reason, it is permissible to establish prayer without socks. However, if entering masjids without socks is not welcomed due to some reasons such as health, cleanliness, etc., it will be better to obey this. Those who wear socks should wear clean pairs of socks.

172. May one perform prayer in work-clothes?

One of the conditions of prayer is taharah from najasat. There should not be any material impurities which prevent one from performing prayer such as blood, urine, vine, feces in the place, on the body, or clothes of a person who will perform prayer (Marghinani, al-Hidayah, I, 228,229).

As the material impurities getting on the work-clothes such as whitewash, dye, mineral oils, rust, and similar filths according to the type of the job are not najasat, they do not affect the establishment of prayer (Marghinani, al-Hidayah, I, 228-248). However, it is advised in the Holy Qur'an that a person who will enter a mosque or masjid for prayer should wear clean clothes (A'raf, 7/31).

THINGS THAT INVALIDATE PRAYER

173. Does laughing invalidate prayer?

The essence of prayer is the servant's establishing prayer with khushu with the consciousness of being in the presence of the Almighty Allah. However, the effect of involuntary laughing in the prayer can be evaluated as follows:

1- If a person laughs loud enough that those near him can hear it; Hanafis say that it invalidates both the state of minor ablution and prayer (Sarakhsi, al-Mabsut, I, 172; Marghinani, al-Hidayah, 116, 117).

It is stated in the hadith narrated by Ibn Usama from his father, "A blind person fell in a hole while we were performing prayer under the imamah of the Messenger of Allah. We laughed at the situation of that man. Then, the Messenger of Allah commanded us to perform ablution and prayer again." (Daraqutni, as-Sunan, I, 295)

According to Shafi'is, laughter does not invalidate ablution although it invalidates prayer. As laughter does not invalidate minor ablution outside prayer, it does not invalidate it in prayer either (Shirbini, Mughni al-muhtaj, I, 64, 108).

2- If a person who establishes prayer laughs as loud as only he can hear, only his prayer is invalidated.

3- If a person smiles in a way that neither himself nor the people around him hears it, neither his ablution nor his prayer is invalidated (Mawsili, al-Ikhtiyar, I, 55-56).

174. Do the mistakes in recitation invalidate prayer?

Scholars of Islamic jurisprudence introduced some criteria on whether the qiraat mistakes (dhallatu'l-qari) made in prayer invalidate prayer or not. These may be summarized as follows:

Prayer is invalidated if the Qur'an is recited wrong deliberately in a way that its meaning changes. In the event that it is recited wrong by mistake or by forgetfulness:

a) If the mistake is in the harakat (vowels) of letters, prayer is not invalidated even if there is a change in meaning.

b) If the mistake is on the places of pause, which means a person continues when he is supposed stop or stops when he is supposed to continue, prayer is not invalidated irregardless of the change in the meaning.

c) In a mistake occurring by pronouncing another letter instead of a letter, it depends on whether the meaning changes or not. Accordingly, if a letter changes but the meaning of the word does not change after this mistake and if a similar word takes place in the Qur'an, then prayer is not invalidated. If the meaning of the word does not change after the mistake in a letter but a similar word does not take place in the Qur'an, Imam Abu Hanifa and Imam Muhammad say that prayer is invalidated although Imam Abu Yusuf says that it is not invalidated. If the meaning changes by the mistake in the letter and there is not a similar word in the Qur'an, the prayer is invalidated. The prayer is not invalidated by skipping a few or many verses during the prayer. The prayer of a person who performs qiraat so mistakeful that it invalidates his prayer but corrects his mistake by going back, then his prayer becomes valid (al-Fatawa al-Hindiyyah, I, 87 ff.; Ibn Abidin, Radd al-Muhtar, II, 393-396).

175. Does mispronunciation of letters invalidate the prayer?

Reciting a part from the Qur'an in prayer is a fardh of it. The Qur'an should be recited correctly and duly in order to fulfill this fardh. Slip of tongue and mistake of the reciter is called dhallatu'l-qari or lahn.

The prayer is not invalidated when the letters cannot be pronounced from the exact articulation point, in the pieces recited in prayer where there are letters whose articulation points are close like the letters sin and sad. If some letters are used instead of others as they are confused commonly although there is no closeness in their articulation points, many scholars say that prayer is not invalidated. This applies when the letter (ذ) is recited instead of letter (ض), or the letter (ظ) is recited instead of (د). Because in such conditions there is an unintentional and ineluctable situation (umum al-balwa). However, if the letters with different articulation points are pronounced in place of each other and the meaning changes, the prayer is invalidated. The prayer will be valid if one goes back and pronounces them correctly (al-Fatawa al-Hindiyyah, I, 87; Ibn Abidin, Radd al-Muhtar, II, 394-396).

According to the Shafi'i school, if a person changes a letter with another in Surah al-Fatiha although he has the ability and opportunity to learn it correctly, his qiraat will not be valid. However, if he recites the correct version right after the mistake, his prayer will be valid. In this context, for example, if a person who has the chance to learn the

articulation point of letter (ض) in the expression “waladdallin” in Surah al-Fatiha, pronounces letter (ظ) instead of this letter, his prayer is invalidated according to the preferred opinion. However, if he does not have the ability and opportunity to learn the correct pronunciation, his prayer is not invalidated (Ramli, Nihayatul-Muhtaj, I, 481). Mistakes in recitation and articulation points in surahs or verses other than Surah al-Fatiha do not affect the validity of the prayer.

176. Does having worldly thoughts while performing prayer invalidate it?

Thinking about worldly issues while establishing prayer is something faced by many people. However, it is important that a person who establishes prayer is in khushu and peace (Mu'minun, 23/2). Therefore, we should focus on prayer as much as we can. In order to ensure this, one needs to perform worship as if s/he sees Allah (Bukhari, Iman, 37) and turn to Him (swt) by thinking it as if it is his/her last prayer (Ibn Majah, Zuhd, 15).

The Prophet Muhammad (saw) said regarding the unrelated thoughts in prayer, *“When the Adhan is pronounced Satan takes to his heels and passes wind with noise during his flight in order not to hear the Adhan. When the Adhan is completed he comes back and again takes to his heels when the Iqama is pronounced and after its completion he returns again till he whispers into the heart of the person (to divert his attention from his prayer) and makes him remember things which he does not recall to his mind before the prayer and that causes him to forget how much he has prayed. So, one of you who cannot tell how many rakats, three or four, he established should establish two sujud (sajdah al-sahw) while sitting.”* (Bukhari, Adhan, 4; Sahw, 6, 7; al-Amal fi's-Salat, 18)

Based on this hadith, Islamic scholars express that the thoughts that occur in one's mind in prayer do not invalidate prayer (Kasani, Bada'i, I, 215; Shawkani, Naylu'l-awtar, III, 392). However, one should not deal with worldly thoughts. Because if a person does not try to make himself free from such thoughts but deals with them, it will decrease both the power of prayer to deter a person from committing unpleasant deeds and the rewards he will get. Therefore, one should not follow the unrelated thoughts which come to mind in prayer, and should remember that he is in the presence of Allah and try to gather his thoughts.

177. Is the prayer of a person invalidated if a part of his/her body that should be covered is uncovered?

If an organ that should be covered is uncovered unintentionally during prayer that is being established in congregation or individually, prayer is not nullified if that body part is covered back immediately. The prayer is invalidated if the uncovered part is at least one fourth of the organ and stays uncovered for long enough to perform a rukn (to say Subhanallahi'l-azim). If a person uncovers a body part deliberately, prayer will be invalid (Marghinani, al-Hidayah, I, 290-291).

178. Does passing in front of a person who is performing prayer invalidate that person's prayer?

One should not pass in front of a person who is performing prayer whether in an indoor or outdoor venue unless there is an obligation. The Prophet Muhammad (saw) said that it would have been better to wait for 40 years instead of passing in front of a person who establishes prayer (Muslim, Salat, 261). A person who will establish prayer also should take some precautions such as standing in a suitable place or putting an object (sutra) in front of him in order to hinder people from passing directly in front of him. Because the Prophet (saw) advises to the people who establish prayer in places where there is the possibility for humans and animals to pass in front of them to place a sutrah (a stick or some other object) in front of themselves (Muslim, Salat, 241, 242). It is makruh not to use a sutrah.

In the prayers established in congregation, it is enough when only the imam has a sutrah; others do not need to place a sutrah (Bukhari, Salat, 90). Passing in front of the sutrah does not pose a problem. Prayer of the person is not invalidated when someone passes in front of him although the person who passes becomes responsible. But in big mosques, it is permissible to pass a long distance away from those who are establishing prayer (Kasani, Bada'i, I, 217).

179. Does hitching up pants while going down to ruku or sajdah invalidate the prayer?

While performing prayer, a person should avoid from behaviors that may harm the integrity of it; he needs to turn his heart to Allah just like he controls his organs. Prayer is invalidated if the behaviors that are contrary to the nature of prayer, called as "amal kathir" are done. Simple

acts called as “amal qalil”, on the other hand, do not invalidate prayer. Although we cannot make a certain definition for amal kathir, one of its definitions is moving so much that an onlooker thinks that the person is not in prayer. Amal qalil is just the opposite. According to another description, the acts that are generally done with two hands are accepted as amal kathir and the acts that are done with one hand are accepted as amal qalil. Hitching up dress or pants while going down to ruku or sajdah, unless it is obligatory, is makruh as the person deals with an unrelated job within prayer and contradicts with the khushu necessary in prayer; but it does not invalidate prayer (Kasani, Bada’i, I, 215; Marghinani, al-Hidayah, II, 16,17). But, hitching up pants in a way to be interpreted as amal kathir invalidates prayer.

180. What is the ruling on repeating an act that is not part of prayer many times and without an excuse?

Repeating an act, which is not part of prayer, many times without an excuse, that is to say, performing amal kathir, invalidates prayer according to Hanafis. It is hard to draw a certain line for amal kathir. For some scholars, it means performing an act unrelated to prayer by means of two hands and for some others it means performing an act three times in a row. According to the other opinion preferred, it means performing an act which makes an onlooker think that the person is not in prayer. In this respect, if a behavior that is not similar to the acts in prayer and cannot be associated with prayer gives the impression that a person is not in prayer, it is included in amal kathir and invalidates prayer. The person who establishes prayer should evaluate his acts in the prayer and whether they invalidate prayer or not according to these explanations (Ibn Abidin, Radd al-Muhtar, II, 385, 406-407).

181. How should a person who mistakenly sits down by assuming that he is in the last rakat complete his prayer?

While establishing a fardh or nafl prayer, a person who gives salam after reciting tashahhud at the end of any rakat before the last rakat by thinking that it was the last rakat can stand up immediately and complete the remaining rakats if he did not perform any acts contrary to prayer such as turning his chest away from the qiblah, speaking, and laughing. He performs sajdah al-sahw at the end of prayer and completes the prayer. But if he does an act that invalidates prayer after

giving salam although he did not complete the missing rakats, he needs to perform the prayer again (Marghinani, al-Hidayah, II, 81; Ibn Nujaym, al-Bahr, I, 311; Ibn Abidin, Radd al-Muhtar, II, 558-559).

182. Under which circumstances may one invalidate the prayer?

It is haram to leave prayer unfinished without an excuse. However, it may be wajib (obligatory), mubah (allowed), or mustahab (desirable) to leave prayer unfinished in some cases. It is wajib for a person to leave a prayer unfinished if somebody's life is under risk; for example, if a person who is being attacked or falls into fire or water asks for help. It is mubah to leave prayer unfinished in order to avoid a good from being destroyed or stolen. On the other hand, it is mustahab (desirable) for a person to leave prayer unfinished while he is establishing it individually in order to catch the congregation to get reward of establishing prayer in congregation (Ibn Abidin, Radd al-Muhtar, II, 504-505).

183. Should one leave prayer if his parents call while he is performing prayer?

If a person's mother or father calls when he is establishing a fardh prayer, he is not supposed to leave prayer unfinished. However, if his parents or another person asks help from him due to a danger or need, then he leaves the prayer unfinished (Ibn Abidin, Radd al-Muhtar, II, 504-505).

While establishing a nafl prayer, one leaves prayer unfinished and obeys them if his parents call him although it is not a serious need. However, if one's parents call their children for invalidating their prayer as they object to their child's performing prayer, obedience to them is not required. In the events other than this exception, obeying parents comes before completing a nafl prayer. The evidence for this ruling is the parable of Juraij (Ibn Abidin, Radd al-Muhtar, II, 504). It was informed by the Prophet Muhammad that Juraij, who lived in the time of previous ummahs, had not answered his mother who called him while performing a nafl prayer, and he then experienced some difficult situations because her mother cursed him (Muslim, Birr, 7, 8).

184. While establishing prayer in congregation, is it permissible to leave prayer in order to help a person who faints, falls down due to an illness, or has a heart attack?

Islam deems the protection of life, property, religion, mind and generation obligatory. Everything done for protecting these is fardh and everything that is harmful to these is haram in Islam (Shatibi, al-Muwafaqat, I, 31 et al). Accordingly, human life is of vital importance and should be protected. Prayer is one of the five pillars of religion and it is the building block of religion (Tirmidhi, Iman, 8; Ibn Hanbal, al-Musnad, XXXVI, 344-345, XXXVI, 387).

A prayer that is started to be performed is not left unfinished under normal conditions. However, one may leave fardh and nafl prayers unfinished in order to protect property and life and prevent something from being damaged under necessary conditions (al-Fatawa al-Hindiyyah, I, 121). In this respect, in the event that a person faints, has a heart attack, is shot with gun, is under the risk of falling into the sea or a well, etc., people around him should leave prayer unfinished and help that person. These people re-establish their prayer later (Ibn Nujaym, al-Bahr, I, 276). Because Allah wants us to prioritize the rights of humans in necessary conditions (Sarakhshi, al-Mabsut, II, 186).

185. What should one do if he sees wetness on his underwear after establishing prayer?

Waiting for a while after urinating so that urine drops and leakages that may stay in urinary tract cease completely and then cleaning the urine leakages on body is called as “istibra” in fiqh literature. Istibra is especially important for men. If there is not an excuse, ablution is not valid as long as there is a urine leakage from the body. Therefore, a person needs to wait for a while until urine does not drop anymore and should move a little, walk or cough for this purpose (Ibn Abidin, Radd al-Muhtar, I, 558). Because the Prophet Muhammad (saw) said, “*Avoid from urine, because most of the grave punishment is caused by not avoiding from it.*” (Bukhari, Wudu, 55; Ibn Majah, Taharah, 26)

In this respect, if a person, who sees wetness on his underwear although he performs istibra, does not know if the wetness is urine, he should assume that it is caused by the clean water he used when cleaning himself and does not pay attention to waswasa. Moreover, if that person has waswasa, he is advised to spread some clean water over

his underwear after performing istibra so that he can think the wetness he will see in the future is not urine but water (Ibn Nujaym, al-Bahr, I, 252; al-Fatawa al-Hindiyyah, I, 55). However, if a person knows that the wetness on his underwear is a drop of urine spread before or during prayer and remembers the moment it came from the body, then he is deemed to have established prayer when he is ritually unclean. Because the discharges coming from urinary tract invalidate ablution and prayer should be re-established (Marghinani, al-Hidayah, I, 106). In addition, if the amount of the wetness is wider than the palm of a hand, he needs to change his underwear or wash the filthy part.

186. Does removing feet off the surface in prostration harm the validity of the prayer?

While prostrating, it is enough to touch one of the toes on the ground for a period long enough to perform a rukn (i.e. long enough to say Subhanallahi'l-azim). Prayer will not be valid unless at least one of the toes touches the ground for this period (Aliyy al-qari, Fath Bab al-'Inayah, I, 228; Shurunbulali, Maraqi al-falah, 85-86).

187. May one establish prayer while he is drunk?

First of all, we need to state that drinking alcoholic beverages and using drugs are haram (prohibited) in Islam. For this reason, it is unthinkable for a Muslim to drink alcohol and use drugs. However, a person who commits these sins is still a Muslim as long as he does not deny their state of being haram. Therefore, he is responsible to fulfill worships. But, as drunkenness affects the consciousness of a person, the prayer established in this state is not valid. Allah the Almighty states in the Holy Qur'an, "*O you who have believed, do not approach prayer while you are intoxicated until you know what you are saying.*" (Nisa, 4/43)

Undoubtedly, dua and worship is a matter of comprehension and consciousness. This is why being sane is also a prerequisite for all acts of worship along with being a Muslim and having reached puberty. For the validity of the acts of worship, they need to be performed with the intention of worshipping and sincerity. For this reason, the person who will establish prayer, observe fasting, or make dua should be sober enough to know what he says. In this respect, a person who drinks alcoholic beverages and uses drug although they are haram should establish his prayers if he is not so drunk to the extent that he is not able

to know what he is saying, in other words, he is conscious enough to know what he does and recites. There is not a specific time designated for this issue.

ACTIONS THAT ARE MAKRUH IN PRAYER

188. **May one stand for prayer in the back row when there is a space in the front row?**

It is one of the etiquettes of the prayer to comply with the arrangement and order of rows while performing prayer in congregation. Imams should pay attention to this matter and, when needed, warn the congregation to arrange rows in a proper manner to its procedure. The Prophet Muhammad (saw) paid attention to straightening and compacting rows before starting to establish prayer and warned his companions on several occasions not to leave space between rows (Bukhari, Adhan, 71,72; Muslim, Salat, 128).

Accordingly, it is not permissible to follow the imam from back rows while there is space in the front rows. However, prayers of people who follow the imam outside rows due to their excuses are valid.

189. **While establishing prayer in congregation, is it permissible for muazzins to establish prayer alone in muazzin's lodge?**

While performing prayer in congregation, rows should be straightened and compacted, and there should be no space left between people in rows.

The Prophet Muhammad (saw) said regarding the arrangement of rows, "*Straighten your rows as the straightening of rows is essential for a perfect and correct prayer.*" (Bukhari, Adhan 72, 74, 76; Muslim, Salat, 124; Abu Dawud, Salat, 96)

Although leaving too much space between imam and congregation is not an obstacle for following him, it is makruh for a person to follow the imam independently from the congregation unless there is an excuse. Also, it is not permissible for the muazzin to stay away from the rows (Kasani, Bada'i, 1/218). However, it is permissible for muazzins to follow the imam from the place designated for them in the mosque due to an excuse such as the need to use the microphone, etc.

190. Is it permissible to establish prayer when one needs to use toilet?

Prayer needs to be established in khushu and with the consciousness of standing before Allah. Therefore, it is of vital importance to eliminate the conditions that will distract a person in prayer as much as possible. For example, if the prayer time is not about to end, it is not permissible for a hungry person to establish prayer when his meal is ready. As the need to use toilet will also distract a person and prevent him from being in khushu, it is makruh to establish prayer in this state. The Prophet Muhammad (saw) said that the prayer of a person who starts establishing prayer when he needs to urinate or when the meal is ready will not be honored completely (Muslim, Masajid, 67).

191. What is the judgment on reciting surahs in prayer according to their order in the Qur'an?

It complies with sunnah to recite the surahs and verses in prayer according to their order in the Qur'an, both within the same rakat and in the next rakats. After reciting a surah or some verses, reciting other surahs or verses which comes before in the order of the Qur'an is makruh. But this is not a practice that invalidates one's prayer. The mentioned order is a wajib of tilawat rather than a wajib related to the prayer (Ibn Abidin, Radd al-Muhtar, II, 148, 269). The opinion that it is wajib to abide by the tartib (order) is based on the accepted opinion that the order of surahs and verses were not decided by humans but by the Prophet Muhammad (saw) (i.e. it is tawqifi). However, although Islamic scholars agree that the places of the verses within the surahs are tawqifi, there is not a consensus that the tartib between surahs are tawqifi too. For this reason, different views have been put forward on recitation of surahs in the same order in the prayer. Hanafi school considers it necessary to recite by following the order and abiding by the tartib between both surahs and verses. It is stated that the incident where the Prophet Muhammad (saw) recited Surah al-Nisa first and then Al-i 'Imran in a night prayer without abiding by the order occurred in a time when the order between surahs had not been decided yet (Nawawi, Sharhu Muslim, VI, 62).

It is also accepted as makruh to skip one surah or verse while moving on to following parts during recitation. However, this is a less-degree makruh than the previous issue. If a person will recite from the

following parts in the next rakat, reciting by skipping at least two verses or surahs is more appropriate.

Some of the scholars said that not observing the order is not makruh in nafl prayers but only in fardh prayers (Ibn Abidin, Radd al-Muhtar, II, 148, 269). Those who do not agree with this opinion show the following as evidence: When the Prophet Muhammad (saw) heard that Bilal Habashi (ra) skipped from a surah to another while establishing tahajjud prayer, which was a nafl prayer, he (saw) said to him, “*Recite surahs as they are.*” (Ibn Abi Shaybah, al-Musannaf, III, 629)

Consequently, it is makruh not to observe the order of surahs or verses in the prayer. But it is not a deficiency that will invalidate prayer or require the re-establishment of the prayer.

192. May one establish prayer in clothes with pictures?

It is makruh to establish prayer in clothes with pictures of animate beings on them. One should establish prayer after changing these clothes if possible. Although it is makruh to establish prayer in such clothes, the prayer that is established in this situation will be valid (Marghinani, al-Hidayah, II, 25). Besides, small pictures that cannot be recognized easily by an onlooker are not included in this scope.

MAKING UP (QADA) PRAYERS

193. What is the proof for the permissibility of qada prayer?

Although there is not a clear expression in the Holy Qur’an about establishment of qada prayer for the missed prayers, the Prophet Muhammad (saw) made up the prayers he missed, and advised to his companions to do so.

The Prophet (saw) said, “*Whoever forgets a prayer, let him offer it as soon as he remembers. There is no expiation except to perform the same.*” (Bukhari, Mawaqit al-Salat, 37; Muslim, Masajid, 314) Also, the Prophet (saw) missed ‘asr prayer during the Battle of Trench because the battle got severe, then he cursed, “*They caused us to miss ‘asr prayer. May Allah fill their homes and graves with fire!*” and established qada prayer for it between maghrib and ‘isha times (Muslim, Masajid, 205). Moreover, they fell asleep at an accommodation place while returning from the Conquest of Khaybar, and established qada prayer for the missed fajr prayer after sunrise (Muslim, Masajid, 309).

Qada prayer is established for fardh cycles of daily prayers (five times) and witr prayer. If qada prayer will be performed for a missed fajr prayer before dhuhur time, its sunnah cycles (rawatib) should also be performed. In addition, four-rakat first sunnah of dhuhur prayer should also be established after its fardh unless the prayer time ends. On the other hand, missed prayers are established in the way they are missed, that is to say, if one missed them when he was a traveler, he should establish qada as a traveler; and if one missed a prayer while being a resident (mukim) he should do it as a resident (Mawsili, al-Ikhtiyar, I, 220).

There is not any hadith about making up for the prayers that are not performed deliberately without such excuses as forgetting or sleeping. But this does not mean that one does not need to establish qada prayer for them. Because the fact that Prophet Muhammad (saw) commanded to a person who broke his fasting by having sexual intercourse deliberately in the month of Ramadan to both perform qada for that day's fasting and perform atonement (kaffarat) (Bayhaqi, Sunan al-Kubra, IV, 382) is accepted as evidence to the requirement of performing qada when one does not perform a fardh act of worship deliberately. On the other hand, if we consider that the Prophet Muhammad (saw) performed qada for prayers missed due to an excuse and advised his companions to do so, we understand that performing qada prayers for the prayers missed without an excuse should be established first (Nawawi, al-Majmu', III, 68).

194. In which times it is forbidden to establish qada and nafl (voluntary) prayers?

Performing some acts of worship is prohibited at some specific times. These times are called waqt al-karahah (forbidden times). Uqba ibn Amir transmitted from al-Juhani as follows, "*There were three times at which Allah's Messenger (saw) forbade us to pray, or bury our dead: When the sun begins to rise till it is fully up, when the sun is at its height at midday till it passes over the meridian, and when the sun draws near to setting till it sets.*" (Muslim, Musafirin, 293; Abu Dawud, Janaiz, 55; Tirmidhi, Janaiz, 41).

No prayer can be established within these three times mentioned in the hadith. The beginning and end of these times are approximately as follows:

- a) From sunrise until 40-50 minutes later,
- b) When the sun is at its zenith (From approximately 10 minutes before the start of dhuhur time until the start of dhuhur time),

c) When the sun turns dull in radiance such that one can look at it until sunset (From 40-50 minutes before sunset until beginning of maghrib's time) (Marghinani, al-Hidayah, I, 265-269).

Just as wajib prayers such as qada and witr cannot be performed in such times, funeral prayer for the deceased person prepared before a prohibited time cannot be established in the mentioned times. On the other hand, the funeral prayer of a deceased person that is prepared within one of these times may be established. One cannot perform prostration of recitation (sajdah al-tilawah) due to the recitation of a verse that requires prostration recited before the prohibited times. However, prostration required for the recitation of such a verse in the prohibited time may be performed in these times although it is better to postpone it.

In the prohibited time before sunset, one may establish only the fardh of 'asr prayer of that day. But it is makruh to postpone 'asr prayer that much without an excuse.

Except these, it is makruh to establish only nafl prayers in the following times:

- a) Within the period from the beginning of fajr time until sunrise except the rawatib of fajr prayer,
- b) After establishment of 'asr prayer until sunset,
- c) Before establishment of fardh cycles when maghrib prayer's time starts,
- d) After khatib goes up to the pulpit on Friday (Marghinani, al-Hidayah, I, 269-271).

Abu Said al-Khudri narrated as follows, *"I heard Prophet Muhammad (saw) saying, 'There is no other prayer after establishing fajr prayer until sunrise. There is no other prayer after establishing asr prayer until sunset.'"* (Abu Dawud, Tatawwu', 9; Ibn Hanbal, Musnad, I, 271)

195. Is it permissible to establish qada or nafl (voluntary) prayers other than the rawatib (sunnah cycles) of fajr prayer between dawn and sunrise?

Although it is more appropriate to perform the prayer of that time after the time of a prayer has entered, it can be performed before the missed prayer as long as there is no danger of missing the prayer of that time. Therefore, after performing the sunnah of the fajr prayer, if there

is still time for the sun to rise, the qada prayer can be performed in the meantime.

It is not permissible to establish a sunnah or nafl prayer other than two rakat sunnah of fajr prayer after the dawn. Because the Prophet Muhammad (saw) did not establish any prayers except two rakat sunnah of fajr prayer following the dawn although he is fond of establishing prayer (Mawsili, al-Ikhtiyar, I, 134-135).

It is accepted as makruh to perform nafl prayer after establishing fajr prayer due to the narration (Bukhari, Mawaqit al-Salat, 30) that the Prophet (saw) prohibited performing prayers until sun goes up in one spear-length after establishing fajr prayer and until sun sets after establishing 'asr prayer (Marghinani, al-Hidayah, I, 269).

196. How do we make intention for qada prayers?

It is essential for a person who will establish qada prayer to make intention by identifying the prayer he will establish. But if one has too many qada prayers to establish, he may make intention for previous prayers such as, "to establish the first fajr/dhuhr/'asr/maghrib/'isha prayer that I failed to establish on time" or "to establish the last fajr/dhuhr/'asr/maghrib/'isha prayer that I failed to establish on time".

197. May one establish a prayer by making intention for both qada and sunnah?

One prayer cannot be performed with the intention of both qada and sunnah. We should clearly specify the prayer, for which qada prayer will be established, and make our intention for it. If we make intention for both qada and sunnah of that time's prayer, the prayer will be counted as a qada prayer. It will not substitute for both qada and sunnah of that time's prayer (al-Fatawa al-Hindiyyah, I, 73).

198. Can we perform sunnah prayers when we have qada prayers to be performed?

According to the Hanafi school, those who have missed prayers continue to perform the (rawatib) sunnahs before and after fardh prayers. They try to make up for their missed prayers as soon as possible.

According to the Shafi'i school, those who have missed prayers cannot perform any nafl prayers, including rawatibs, eid and witr

prayers, before performing qada prayer for all the missed prayers. A person who has missed prayers needs to spend all his/her time to perform qada prayer for them. Moreover, it is not permissible for such people to deal with nafl prayers as they need to establish qada prayers for the missed prayers in all their time remaining after doing important daily affairs such as sleeping and providing sustenance for their home (Dimiyati, Hashiyatu i'anat al-talibin, I, 39-40).

199. Is it necessary to make up the missed sunnah prayers?

Qada prayers are established for fardhs of the missed daily prayers and the wajib witr prayer. There is no qada for the missed sunnah prayers after their time ends. However, qada prayer is established with its sunnah for the missed fajr prayer when it is established within the same day before dhuhur prayer time (Mawsili, al-Ikhtiyar, I, 223). Because the Prophet Muhammad established qada prayer with its sunnah for a missed fajr prayer before dhuhur prayer time (Abu Dawud, Salat, 11).

Besides, a person who starts to establish fardh cycles in a dhuhur prayer in order to catch up with congregation performs the first sunnah he missed after the fardh. He may establish it before or after the last sunnah.

200. Is the sin of missing a prayer deemed as forgiven when a qada prayer is established afterwards for the prayer that was not established on time?

Daily works, vocational and occupational activities, and works and travels made for earning livelihood are not considered as excuses for not establishing prayers on time. It is stated in the Holy Qur'an, "[Are] men whom neither commerce nor sale distracts from the remembrance of Allah and performance of prayer and giving of zakah. They fear a Day in which the hearts and eyes will [fearfully] turn about." (Nur, 24/37)

It is a great sin to miss a prayer without a valid excuse such as forgetting or falling asleep. We should definitely perform qada for the missed prayers no matter for what reason we have missed them. A person who misses a prayer due to a valid excuse is not responsible for that and is deemed to have made up for that prayer by performing qada prayer. The Messenger of Allah (saw) said, "*Whoever forgets a prayer or falls asleep let him establish it when he remembers it. He does not have any other expiation (kaffarah)...*" (Bukhari, Mawaqit al-Salat, 37; Muwatta, Wuqut, 25).

A person who misses a prayer due to negligence and laziness is freed from the debt of the missed prayer by establishing qada prayer for it. But he also needs to repent in order to be saved from the sin of not performing it on time (Ibn Nujaym, al-Bahr, II, 85; Qurtubi, al-Jami' XI, 178).

201. May other people perform the qada prayers for us?

For the worships that are performed only with body, it is not valid to perform that worship instead of another person (Ibn Abidin, Radd al-Muhtar, II, 535; Shayhizada, Majma' al-anhu, I, 455). Because everyone will account for their own deeds (Isra, 17/13; Ya-Sin, 36/54; Tur, 52/16, 21; Muddaththir, 74/38). In this respect, a person cannot perform qada prayers on behalf of a deceased or alive person. Therefore, everyone should pay attention to establishing their prayers while they are alive and healthy, and make efforts for not standing before Allah as a servant in debt.

202. Can we perform qada prayers in congregation?

Qada prayers may be established within congregation on condition that a person performs the prayer of the same time with the imam (Marghinani, al-Hidayah, I, 377; Harashi, Sharhu Mukhtasar, II, 39). Because the Prophet Muhammad (saw) could not find the opportunity to establish four times of prayer due to the severe conditions of the Battle of Trench, and performed them in congregation when the conditions allowed. The narrative of Abdullah ibn Mas'ud on this subject is as follows, *“The idolaters kept Allah’s Messenger distracted from four prayers on the Day of Al-Khandaq (the battle of the Trench) until as much as Allah willed of the night had passed. So he ordered Bilal to call the Adhan, then he called the Iqamah to Zuhr; then he called the Iqamah to pray Asr; then he called the Iqamah to pray Maghrib, then he called the Iqamah to pray Isha.”* (Tirmidhi, Salat, 20; Nasa'i, Mawaqit, 55; Tecrid Tercemesi, II, 535)

203. May one continue to establish qada prayer if adhan is recited while he is performing it?

Start of the recitation of adhan for any prayer time does not harm the qada prayer that is being performed in the meanwhile. There is not a specified time to perform qada for the missed prayers. One may establish qada prayers in all times except the prohibited times. The times when performing prayer is prohibited are expressed in the hadith narrated by Uqba ibn Amir: *“There were three times at which Allah’s*

Messenger (saw) forbade us to pray, or bury our dead: When the sun begins to rise till it is fully up, when the sun is at its height at midday till it passes over the meridian, and when the sun draws near to setting till it sets.” (Muslim, Musafirin, 293; Abu Dawud, Janaiz, 55; Tirmidhi, Janaiz, 41)

One may perform only the fardh of that day’s ‘asr prayer in the prohibited time before sunset. However, it is makruh to postpone ‘asr prayer until that time without an excuse.

204. Is it compulsory to follow an order between the missed prayers for which qada prayers will be established?

Whether qada prayers will be established in an order or not depends on the condition of the person. Accordingly, a person who is called as “sahib al-tartib”, which refers to the one who has not missed six or more prayers, establishes qada prayers by starting from the first missed prayer and continues in an order; then he establishes the prayer of the time he is in. According to Hanafis, it is fardh for sahib al-tartib to follow this order (Samarqandi, Tuhfa, II, 231; Aliyy al-qari, Fath Bab al-‘Inayah, I, 357). A person who is not sahib al-tartib does not have to follow an order for qada prayers.

205. Is it permissible to perform a qada prayer before performing the prescribed prayer of that time period?

If a person who missed a prayer and already had missed prayers before, and the number of them has not been six in total, which means this person is a sahib al-tartib, he should first perform qada for the missed prayers and then perform the prayer of the time. If he has six or more missed prayers, which means this person is not a sahib al-tartib, he may perform them whenever he wants except prohibited times (Haddadi, al-Jawhara, I,80; Mawsili, al-Ikhtiyar, I, 221-223).

206. Should a woman whose period starts before establishing the prayer of the time perform qada prayer for it after her menstruation period?

If a mukallaf woman menstruates after the prayer time starts but before performing that prayer, she will not be responsible for performing qada prayer for the prayer of the time according to the Hanafi school. Because establishment of prayer will be fardh for the mukallaf people at the end of the prayer time if not established before. In this regard, if a woman finds out that she has started to menstruate when she goes to

bed clean and wakes up, she is considered to have started menstruating from the moment she wakes up and does not perform the prayer of the time. On the other hand, if a menstruating woman finds out that she has been cleansed when she wakes up after the time has come, she is considered to have been cleansed as a precautionary measure and she has to perform the prayer of that time. (Ibn Abidin, Radd al-Muhtar, I, 485).

NAFL (SUPERORGATORY) PRAYERS

207. What is the basis for the sunnah (rawatib) prayers established along with fardh prayers?

The Prophet Muhammad (saw) established sunnah prayers before and after fardh prayers, and advised it to his ummah, too. For this reason, the regular (rawatib) sunnahs that are performed along with daily prayers should be established as much as possible. Prophet Muhammad (saw) said in a hadith, *“If any Muslim servant (of Allah) prays for the sake of Allah twelve rak’ahs (of Sunan) every day, over and above the obligatory ones (two rakats before fajr, four before and two after dhuh, two after maghrib and two after ‘isha), Allah will build for him a house in Paradise, or a house will be built for him in Paradise.”* (Muslim, Salat al-Musafirin, 101) He also said about ‘asr prayer, *“May Allah have mercy upon the person who establishes a four-rakat prayer before ‘asr.”* (Abu Dawud, Tatawwu’, 8).

In another hadith he said, *“The first thing about which the people will be called to account out of their actions on the Day of Judgment is prayer. Our Lord, the Exalted, will say to the angels - though He knows better: Look into the prayer of My servant and see whether he has offered it perfectly or imperfectly. If it is perfect, that will be recorded perfect. If it is defective, He will say: See there are some optional prayers offered by My servant. If there are optional prayer to his credit, He will say: Compensate the obligatory prayer by the optional prayer for My servant. Then all the actions will be considered similarly.”* (Abu Dawud, Salat, 151; Tirmidhi, Salat, 193)

208. Is it permissible not to establish the sunnahs of daily prayers?

Rawatib sunnahs that are established before and after fardh prayers are divided into two parts as mu’akkadah and ghair mu’akkadah sunnahs. Mu’akkadah sunnahs refer to the sunnah prayers that were established by Prophet Muhammad (saw) all the time but not performed

sometimes in order to show that they were not binding while ghair mu'akkadah sunnahs are the sunnahs which were established by him from time to time and not performed at other times. Ghair mu'akkadah sunnahs are also called as mustahab. It is not permissible to not perform mu'akkadah sunnahs without an excuse. If they are not performed without an excuse, it will be a wrongful and faulty act; however, it does not require a punishment. On the other hand, ghair mu'akkadah sunnahs may not be performed sometimes without an excuse (Ibn Abidin, Radd al-Muhtar, I, 218-221; II, 170, 451-453).

209. Is it more virtuous to perform nafl prayers at mosque or at home?

Prophet Muhammad (saw) advised people to establish fardh prayers in congregation and said, *“The prayer in congregation is twenty seven times superior to the prayer offered by a person alone.”* (Bukhari, Adhan, 30; Muslim, Masajid, 249-250) In another hadith, he said, *“If people knew the reward for the ‘isha and fajr prayers in congregation, they would join them even if they had to crawl.”* (Bukhari, Adhan, 32).

Prophet Muhammad (saw) would perform sunnah and nafl prayers both before and after five daily prayers and independently from fardh prayers, and express that it would be better to perform sunnah and nafl prayers at home. On one occasion he said, *“You should pray in your houses, for the best prayer of a person is that which he prays in his house except the compulsory prayers.”* (Bukhari, Adhan, 81; Muslim, Salat al-Musafirin, 213). In another hadith, Prophet Muhammad (saw) said, *“When any one of you observes prayer in the mosque he should reserve a part of his prayer for his house, for Allah would make the prayer as a means of betterment in his house.”* (Muslim, Salat al-Musafirin, 210; Ibn Majah, Iqamat al-Salat, 186); he even warned people, *“Pray in your houses, and do not make them graves.”* (Bukhari, Salat, 52)

Accordingly, although it is possible to perform all nafl prayers, including sunnahs of fardh prayers, at mosque, it is more superior and virtuous to perform them at home.

210. Can a person who works at fields such as health and security perform only fardhs of prayers and abandon performing the rawatibs?

Sunnah or rawatib prayers, which are established before and after daily prayers, are evaluated as the worships that prepare one to fardh

cycles of prayers and complete the missing parts which may occur in these prayers. Moreover, they are accepted as the indicators of loyalty to Prophet Muhammad (saw). For this reason, it is advised that one should establish these prayers as much as possible.

The Prophet Muhammad (saw) declared that the missing prayers of servants will be completed with nafl prayers on the Day of Judgment when one is brought to account for his/her deeds. It is stated in a hadith narrated by Abu Hurayra (ra) from the Messenger of Allah (saw) that:

“The first thing about which the people will be called to account out of their actions on the Day of Judgment is prayer. Our Lord, the Exalted, will say to the angels - though He knows better: Look into the prayer of My servant and see whether he has offered it perfectly or imperfectly. If it is perfect, that will be recorded perfect. If it is defective, He will say: See there are some optional prayers offered by My servant. If there are optional prayer to his credit, He will say: Compensate the obligatory prayer by the optional prayer for My servant. Then all the actions will be considered similarly.” (Tirmidhi, Salat, 193; Abu Dawud, Salat, 151; Nasa'i, Salat, 9, Ibn Majah, Iqamah, 202).

Therefore, the regular nafl prayers (rawatib sunnahs) should be established with fardh prayers. Those who have important excuses may leave these sunnahs when required as long as they do not make a habit out of it.

211. May one abandon the sunnah of fajr prayer in order to catch up with the congregation?

The two-rakat prayer established before the fardh of fajr is the strongest sunnah because the Prophet (saw) talked about the virtue of this prayer with words that he did not use about any other nafl prayers. He (saw) said, *“The two rakats at dawn are better than this world and what it contains.”* (Muslim, Salat al-Musafirin, 96).

It is makruh to establish a nafl prayer when iqamat is started to be recited for any prayer or when the imam starts prayer; however, two-rakat sunnah that is established before the fardh of fajr prayer is exempted from this due to its virtue although one needs to attend congregation (Kasani, Bada'i, I, 297). One should not miss this virtue when it is possible.

In this respect, if a person thinks that s/he will catch up with the last rakat or, according to some opinions, tashahhud of the fardh of fajr

prayer that is being established in congregation, s/he should establish the sunnah rakats. On the other hand, if one worries that s/he will miss the fardh completely provided that s/he performs the sunnah, s/he needs to attend the congregation by skipping the sunnah (Ibn Maza, al-Muhit, I, 448-449; Ibn Abidin, Radd al-Muhtar, II, 510-511).

212. May one establish the last sunnahs of dhuhur and 'isha prayers as four rakats?

One may establish the last sunnahs of dhuhur and 'isha prayers in two or four rakats because there are narratives stating that the Prophet Muhammad (saw) established the last sunnah of dhuhur prayer in four rakats and advised it (Abu Dawud, Tatawwu', 7; Tirmidhi, Salat, 205) while other narratives express that he established it in two rakats and also advised it (Bukhari, Tahajjud, 29, 34; Abu Dawud, Tatawwu', 1). However, as the narratives which support that he established it in two rakats are stronger and more famous, this opinion is preferred and the general practice has been placed accordingly.

213. Why do we recite the invocations of Salli and Barik in the first sittings of the sunnah of 'asr and 'isha prayer and recite Subhanaka at the beginning of the third rakat?

As Hanafis generally consider every two rakats of nafl prayers as a separate prayer except the first sunnah cycles of dhuhur and Friday prayers, the first sittings are considered equal to the last sittings. This is why we recite duas of Salli and Barik in the first sittings of nafl prayers that are established before fardh cycles of 'asr and 'isha prayers. Recitation of Subhanaka in the following rakat after standing upright from the first sitting also results from this. (Bilmen, Ilmihal, p. 141-142)

214. In how many rakats one must give salam in the nafl prayers other than rawatib sunnahs?

According to the Hanafi school, it is more virtuous to give salam once in every two rakats in the nafl prayers established at night, and once in every four rakats in the nafl prayers established in daytime. It is makruh to establish more than four rakats with one salam in the nafl prayers established in daytime, and more than eight rakats with one salam in the nafl prayers established at night (Mawsili, al-Ikhtiyar, I, 231-233; Aliyy al-qari, Fath Bab al-'Inayah, I, 331).

According to the Shafi'i school, one should give salam once in every two rakats in the nafl prayers established both at night and in daytime (Mawardi, al-Hawi, II, 289; Marghinani, al-Hidayah, II, 37, 38).

215. How is the salat al-hajat (prayer for fulfilment of a need) performed?

Muslims should try to fulfill the causes and laws taught by Allah as much as possible in order to obtain something they need, and should wait for its results by relying on Allah. Besides, it is suitable for us to establish prayer for the consent of Allah, by demanding realization of a wish related to the life in the world and the Hereafter. Such prayer is called as "hajat prayer". In this regard, the Prophet Muhammad (saw) says, "*Whoever has some need from Allah or from any of His creation, let him perform ablution and perform a two rakat prayer, then let him say:*

لَا إِلَهَ إِلَّا اللَّهُ الْحَلِيمُ الْكَرِيمُ سُبْحَانَ اللَّهِ رَبِّ الْعَرْشِ الْعَظِيمِ الْحَمْدُ لِلَّهِ رَبِّ
الْعَالَمِينَ أَسْأَلُكَ مُوجِبَاتِ رَحْمَتِكَ وَعَزَائِمَ مَغْفِرَتِكَ وَالْغَنِيمَةَ مِنْ كُلِّ بَرٍّ وَالسَّلَامَةَ
مِنْ كُلِّ إِثْمٍ لَا تَدْعُ لِي ذَنْبًا إِلَّا غَفَرْتَهُ وَلَا هَمًّا إِلَّا فَرَجْتَهُ وَلَا حَاجَةً هِيَ لَكَ رِضًا
إِلَّا قَضَيْتَهَا يَا أَرْحَمَ الرَّاحِمِينَ

"None has the right to be worshipped but Allah, the Forbearing, the Most Generous. Glory is to Allah, the Lord of the Mighty Throne. Praise is to Allah, the Lord of the worlds. O Allah, I ask You for the means of Your mercy and forgiveness, the benefit of every good deed and safety from all sins. I ask You not to leave any sin of mine but You forgive it, or any distress but You relieve it, or any need that is pleasing to You but You meet it" (Tirmidhi, Salat, 236; Ibn Majah, Iqamat al-Salat, 189).

Hajat prayer may be established in four or two rakats. There is also a narrative saying that it may be established in twelve rakats. The person who will establish this prayer in four rakats recites Ayat al-Kursi three times after Surah al-Fatiha in the first rakat and Nas, Ikhlas, and Falaq in other rakats after Fatiha for each one of the next three rakats. Then s/he makes the above mentioned supplication (Ibn Abidin, Radd al-Muhtar, II, 472-473).

216. What is the judgment on the tahiyyat al-masjid prayer? Is it permissible to perform it in the prohibited times?

It is sunnah to perform the tahiyyat al-masjid prayer (the prayer of greeting the mosque) when a person enters a mosque. The Prophet Muhammad (saw) said, *“If any one of you enters a masjid, he should perform two rakats before sitting.”* (Muslim, Salat al-musafirin, 69)

The tahiyyat al-masjid prayer is established in two or four rakats according to Hanafis, and in two rakats according to Malikis. Although the Shafi'i school says that two rakats are essential, both Shafi'is and Hanafis express that one may establish as many rakats as s/he wants with this intention.

Hanafis are of the opinion that tahiyyat al-masjid prayer cannot be established in the times when establishing nafl prayers is considered makruh. According to Shafi'is, as tahiyyat al-masjid is a nafl prayer which is not an absolute prayer, but rather is performed for a reason, it may be established in these times as well (Shirbini, Mughni al-muhtaj, I, 200).

It is makruh for Hanafis to establish this prayer for a person who enters a masjid while the adhan is being recited while Shafi'is do not consider it as makruh. However, the fuqaha agree that it is makruh for a person to establish tahiyyat al-masjid prayer while muazzin is giving iqamat or congregational prayer has started.

Hanafis say that it is makruh for a person, who enters a masjid while the khatib is in the minbar in the Friday prayer, to establish tahiyyat al-masjid prayer as people need to sit and listen to the khutbah. According to Shafi'is, such people should establish it on condition that it does not take long and is not more than two rakats.

In the event that a person who enters a masjid does not establish this prayer due to reasons such as business or the start of a prohibited time, it is mustahab for him to recite, “Subhanallahi walhamdulillahi wa la ilaha illallahu wallahu akbar”; some scholars also add the sentence of, “wa la hawla wa la quwwata illa billahil ‘aliyyil ‘azim.”

Hanafis state that establishing any prayer or establishing a fardh prayer in congregation will be enough for honoring the mosque, therefore, the prayer of a person who enters a masjid with the intention of establishing at least two rakats of fardh or nafl prayer will substitute for the tahiyyat al-masjid prayer even if he does not make intention for it, and so he will have its rewards too (Kasani, Bada'i, I, 190-191).

The tahiyat (greeting) of al-Masjid al-Haram is to circumambulate the Ka'bah; those who enter there with the intention of tawaf should start performing it immediately and those who enter there without the intention of tawaf should establish the tahiyat al-masjid prayer.

217. May a person who enters a mosque while the Qur'an is being recited establish the tahiyat al-masjid prayer?

A person should not deal with any other thing unless it is obligatory, but just listen to the Qur'an when it is being recited. In the following verse, believers are commanded to listen to the Qur'an when it is being recited: *“When the Qur'an is read, listen to it with attention, and hold your peace: that ye may receive mercy.”* (A'raf, 7/204)

However, as listening to the Qur'an recitation is a fardh al-kifayah (communal obligation), if there are other people listening to the recitation, then it is permissible to establish tahiyat al-masjid prayer (Ibn Abidin, Radd al-Muhtar, II, 268, 458-459).

218. How is tasbih prayer performed?

Tasbih prayer is a mandub (recommended) prayer which is advised to be established at least once in a lifetime. The Prophet Muhammad (saw) advised it to his uncle Abbas as, *“O my uncle, shall I not give you, shall I not present to you, shall I not donate to you, shall I not produce for you ten things? If you act upon them, Allah will forgive you your sins, first and last, old and new, involuntary and voluntary, small and great, secret and open.”* and taught this prayer to him. When Abbas told that they could not be able to do it every day, he expressed that it would be enough if one can establish it once in a week, once in a month, once in a year, or once in a lifetime (Abu Dawud, Tatawwu', 14; Tirmidhi, Salat, 238).

Tasbih prayer consists of four rakats and is performed as follows: Start prayer after making intention by saying “I intend to establish tasbih prayer for the consent of Allah”. After Subhanaka, recite “Subhanallahi walhamdulillahi wa la ilaha illallahu wallahu akbar” for 15 times. Then recite isdi'adha and basmalah, recite Fatiha and a short surah, and then recite 10 more times “Subhanallahi walhamdulillahi wa la ilaha illallahu wallahu akbar” The same tasbih is recited for 10 times when bowed down for ruku, 10 times when stood upright after ruku, 10 times in the first sajdah, 10 times when sitting after the first sajdah, and 10 more times in the second sajdah. Thereby the tasbih is recited for 75 times in

every rakat. When stood up for the second rakat, the tasbih is recited for 15 times and then the person recites the basmalah, Fatiha, a short surah, and the tasbih for 10 times. Remaining rakats are performed the same way, thereby completing 4 rakats and reciting three hundred tasbihs in total.

One cannot establish tasbih prayer in the prohibited times (Ibn Abidin, Radd al-Muhtar, II, 30-31). If something that requires sajdah al-sahw occurs in tasbih prayer, sajdah al-sahw is performed normally and the tasbihs specific to tasbih prayer are not recited in those sajdahs (Tahtawi, Hashiyah, p. 361).

219. Can we establish tasbih prayer in congregation?

Our sources do not mention tasbih prayer among the nafl prayers that are established in congregation. As no practice on this issue is narrated from the Prophet Muhammad (saw), it is more appropriate to establish tasbih prayer individually.

In our sources, out of nafl prayers, only the prayers of tarawih, kususuf (solar eclipse), and according to an opinion, istisqa (dua for rain) may be established in congregation. It is makruh to establish all sunnah and nafl prayers in congregation except these (Sarakhshi, al-Mabsut, II, 144).

220. What is awwabin prayer and how is it performed?

“Awwabin” refers to those who repent, take refuge in, and turn to Allah. Prophet Muhammad (saw) informed that the time of awwabin prayer is the same as the time of duha prayer (Muslim, Salat al-Musafirin, 143, 144; Ibn Hanbal, al-Musnad, IV, 366, 367, 372; Darimi, Salat, 153). Besides, the term “awwabin prayer” is also used for the nafl prayer established after maghrib prayer (Tabarani, al-Mu’jam al-awsat, I, 250; VII, 191). This usage is more common both in fiqh tradition and among the public.

Although it has a weak sanad (chain of narrators), the following narrative from the Messenger of Allah (saw) is associated with awwabin prayer by some scholars: “*Whoever establishes six-rakat prayer after maghrib prayer without saying bad words, this will be equal for him to twelve years’ prayer.*” (Tirmidhi, Salat, 209; Ibn Majah, Iqamah, 185). In addition, it is narrated that the Prophet Muhammad (saw) himself also established a six-rakat prayer after maghrib prayer (See. Shawkani, Nayl al-awtar, III, 525).

The six-rakat awwabin prayer may be established all at once with one salam, or may be established with a total of three salams by giving salam in every two rakats (Shurunbulali, Mara'iq al-falah, I, 148).

221. How is tahajjud prayer performed?

Tahajjud prayer is a nafl prayer that is established when one wakes up at night after sleeping for a while following the establishment of 'isha prayer. The Prophet Muhammad (saw) said, *"If a man awakens his wife at night, and then both pray or both offer two rak'ahs together, the (name of the)man will be recorded among those who mention the name of Allah, and the (name of the) woman will be recorded among those who mention the name of Allah."* (Abu Dawud, Tatawwu', 18) The fact that it is stated in another hadith as, *"The most excellent prayer after the fardh prayers is the prayer during night."* (Muslim, Siyam, 202; Abu Dawud, Siyam, 55), points out that the nafl prayers established at night are more virtuous than the prayers established in daytime. The Prophet (saw) tried to establish this prayer continuously, in addition to his verbal encouragements, which shows that tahajjud prayer is a sunnah for us (Ibn Abidin, Radd al-Muhtar, II, 467-468). In some narratives, it is stated that the Prophet Muhammad (saw) would sleep after 'isha prayer without establishing witr prayer, and wake up after midnight, establish night prayer for a while, then establish witr prayer, and afterwards establish fajr prayer when its time started (Muslim, Salat al-musafirin, 182).

The person who will establish tahajjud prayer may make niyyah (intention) as, "I intend to establish tahajjud prayer for the consent of Allah." It is advised that tahajjud prayer is established in even numbers between 2 to 8 rakats. However, whoever wishes may perform more rakats as well. Although it is better to give salam in every two rakats, one may give salam in every four rakats too (Ibn Abidin, Radd al-Muhtar, II, 468-469). While establishing in more than two rakats, if a person does not perform acts outside the prayer such as eating, speaking, drinking, etc., he does not need to repeat his intention. While it is established in four rakats, when we sit for tashahhud at the end of the second rakat, we recite the duas of Salli and Barik after al-Tahiyyat. And when we stand upright for the third rakat, we start with reciting Subhanaka, then recite isti'adha, basmalah, and Fatiha.

222. When and how is ishraq or duha (mid-morning) prayer established?

Ishraq or duha prayer is established when the prohibited time ends with sun's rising five degree (a spear length) on the horizon, that is to say, in the first mid-morning approximately 40-50 minutes after sunrise. The importance of this prayer is explained in a hadith qudsi as follows, "O, children of Adam, do not fail to establish four-rakat prayer for me in the early hours of day so I give guarantee to protect you at the end of the day." (Abu Dawud, Tatawwu', 12)

Duha prayer, which is highly advised in hadith books, may be established in four, eight, or twelve rakats (Muslim, Salat al-Musafirin, 78-83). It is said that it may be established at least in two rakats. It is more virtuous to give salam in every two rakats. However, one may give salam in every four rakats, too (Tahtawi, Hashiyah, p. 395).

223. How do we establish istikhara prayer? How do we perform istikhara?

Istikhara means to perform a two-rakat prayer and make dua to Allah before going to bed in order to have a sign about the goodness or badness of a deed which is intended to be done by a person. Sometimes people cannot tell what is better for them both for their life in the world and in the Hereafter when they need to make an important decision about their lives or make a choice. For this purpose, they consult each other and ask for Allah's help. In this respect, istikhara is to wish that the deed will be good and that it is realized with the help of Allah if it is good. The Prophet Muhammad (saw) taught istikhara to his companions as if he was teaching them a chapter of the Qur'an (Bukhari, Tahajjud, 25; Abu Dawud, Witr, 31).

Istikhara prayer is mandub (recommended). Surah al-Kafirun is recited after Fatiha in its first rakat and Surah al-Ikhlâs is recited after Fatiha in its second rakat. The dua of istikhara is made after the prayer. The Prophet Muhammad (saw) recommended to make the following dua for istikhara:

اللَّهُمَّ إِنِّي أَسْتَخِيرُكَ بِعِلْمِكَ وَأَسْتَقْدِرُكَ بِقُدْرَتِكَ ، وَأَسْأَلُكَ مِنْ فَضْلِكَ الْعَظِيمِ ،
فَإِنَّكَ تَقْدِرُ وَلَا أَقْدِرُ وَتَعْلَمُ وَلَا أَعْلَمُ وَأَنْتَ عَلَّامُ الْغُيُوبِ ، اللَّهُمَّ إِنْ كُنْتَ تَعْلَمُ

أَنَّ هَذَا الْأَمْرَ خَيْرٌ لِي فِي دِينِي وَمَعَاشِي وَعَاقِبَةِ أَمْرِي - أَوْ قَالَ عَاجِلِ أَمْرِي
وَأَجَلِهِ - فَأَقْدُرْهُ لِي وَيَسِّرْهُ لِي ثُمَّ بَارِكْ لِي فِيهِ ، وَإِنْ كُنْتَ تَعْلَمُ أَنَّ هَذَا الْأَمْرَ شَرٌّ
لِي فِي دِينِي وَمَعَاشِي وَعَاقِبَةِ أَمْرِي - أَوْ قَالَ فِي عَاجِلِ أَمْرِي وَأَجَلِهِ - فَاصْرِفْهُ
عَنِّي وَاصْرِفْنِي عَنْهُ ، وَأَقْدِرْ لِي الْخَيْرَ حَيْثُ كَانَ ثُمَّ أَرْضِنِي .

“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, then You ordain it for me and make it easy for me to get, And then bless me in it, and if You know that this job is harmful to me In my religion and subsistence and in the Hereafter, 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.” (Bukhari, Tahajjud, 25; Da’awat: 48; Tirmidhi, Salat, 237)

Istikhara is not performed for the things that are certainly good such as acts of worship and good deeds, or that are certainly known to be evil such as the haram and evil acts. It is performed when a person cannot decide if doing a deed would be right or wrong, and can be repeated for seven times. After istikhara, the heart of a person relieves and s/he acts by accepting that the first thing s/he feels is good (Ibn Abidin, Radd al-Muhtar, II, 470-471). There is no ground of having a dream after istikhara and interpreting it as bad or good. In the event that istikhara prayer cannot be performed, one may recite its dua only.

224. **Is there a prayer for being saved from the punishment in the grave?**

There is no narrative transmitted from the Prophet Muhammad (saw) and his Companions’ establishing a prayer for this purpose. Therefore, it will be a bid’ah to establish a prayer with this intention.

However, people may establish as many nafl prayers as they want whenever they wish, and may seek refuge in Allah against the punishment in the grave and the things in the grave by making dua after prayers. Because the Prophet Muhammad (saw) advised to seek refuge in Allah against the punishment in the grave while making dua (Bukhari, Jana’iz, 86).

225. Is there a prayer for being saved from the rights of people on us?

Acts of worship in Islam are determined by Allah and His Messenger. A prayer to be performed for the purpose of being saved from the violation of other people's rights is mentioned neither in the Holy Qur'an nor in the Sunnah of the Prophet Muhammad. The way to be saved from the rights of people on us is to return the rights to their rightful owners and ask for forgiveness from whoever we have wronged. One should also repent to Allah for the wrongdoing and oppression s/he committed. It is mandub to establish a two-rakat prayer before repenting (tawbah). The Prophet Muhammad (saw) said, *"Whoever has oppressed another person concerning his reputation or anything else, he should beg him to forgive him before the Day of Resurrection when there will be no money (to compensate for wrong deeds), but if he has good deeds, those good deeds will be taken from him according to his oppression which he has done, and if he has no good deeds, the sins of the oppressed person will be loaded on him."* (Bukhari, Mazalim, 10)

226. Is there a prayer or fasting special for the month of Muharram?

There is no binding special methods of worship that is fardh or wajib and practised in the holy days and nights. There is no narrative in authentic sources about the existence of a nafl prayer special to the month of Muharram either.

It will be permissible for those who have missed prayers to establish qada prayers for them in the holy days and nights. Additionally, we should not forget to be occupied with acts such as reciting and understanding the Qur'an, benefitting from religious books, and reciting dhikr and salawat.

Observing fast in the month of Muharram is mustahab. One may observe fast in the beginning, end, or middle of this month, which correspond to the 13th, 14th, 15th days; or may fast on its 9th and 10th or 10th and 11th days.

Prophet Muhammad (saw) said, *"The most excellent fast after Ramadan is that of Allah's month al-Muharram; and the most excellent after the fardh prayer is the prayer during night."* (Muslim, Siyam, 202-203; Abu Dawud, Sawm 55; Tirmidhi, Salat, 212; Nasa'i, Qiyam al-lail, 6)

The tenth day of Muharram is called the Day of Ashura. The Prophet Muhammad (saw) advised his ummah to observe fast on this day by

saying, “Fast the Day of Ashura, for indeed I anticipate that Allah will forgive (the sins of) the year before it.” (Tirmidhi, Sawm, 48). Ibn Abbas told about observing fast on the Day of Ashura, “The Prophet (saw) came to Madinah and saw the Jews fasting on the day of Ashura. He asked them about that. They replied, ‘This is a good day, the day on which Allah rescued Bani Israel from their enemy. So, Moses fasted this day.’ The Prophet (saw) said, ‘We have more claim over Moses than you.’ So, the Prophet fasted on that day and ordered (the Muslims) to fast (on that day).” (Bukhari, Sawm, 69; Muslim, Siyam 127; Abu Dawud, Sawm, 65).

As the Jews observed fast only on the 10th (Ashura) day of Muharram in the period of Prophet Muhammad (saw), he advised to observe fast by adding one day before or after in order not to resemble with the practice of Jews. In some narratives, he advised to fast for three days in total by adding one day before and one day after it (Muttaqi, Kanz al-ummal, VIII, 570). For this reason, what is important while observing fast on the Day of Ashura is not to fast for only one day. One may observe a two-day fast by adding one day before or after it, or a three-day fast by adding both.

227. Is there a form of prayer or an act of worship specific to the holy nights? How should we spend time at such holy nights?

The Prophet (saw) advised to benefit from some sacred days and nights by spending them well (Tirmidhi, Sawm, 39). However, he did not mention a form of prayer or worship specific to these blessed days and nights. In this context, we need to consider sacred days and nights as an opportunity to be forgiven and to put our lives in order. Therefore, Muslims should benefit from these opportunities by contemplating upon the course of events in their lives, repenting of their mistakes and sins, making dua, reciting and trying to understand the Qur’an, and establishing qada and nafl prayers.

It is mustahab to observe fast in the daytime of holy nights, that is to say, on the days following that nights. Because the Prophet Muhammad (saw) said, “Spend the fifteenth day of the month of Shaban by observing a fast and its night in prayer. Because, when the sun sets at that night, Allah Ta’ala manifests Himself at the nearest heaven in a state which we cannot know of, and until the time of dawn He says, ‘Is there nobody asking for forgiveness? Forgive I shall! Is there nobody asking for

sustenance? Sustenance I shall give him! Is there nobody suffering a calamity? Felicity I shall give him!” (Ibn Majah, Iqamat al-Salat, 191).

228. How is the sajdah al-shukr (prostration of gratitude) performed?

“Prostration of gratitude” is the name of the sajdah performed by Muslims who are granted to a blessing or whose hardships are eliminated in order to show their gratitude to Allah. It is narrated that the Messenger of Allah (saw) used to prostrate when he was happy or heard good news or heralds, in order to thank Allah (Abu Dawud, Jihad, 174; Ibn Majah, Iqamat al-Salat, 192).

There is no hadith stating that this kind of sajdah should be performed in the state of minor ablution, i.e. in a ritually clean state. Some Muslim jurists say that being in the state of minor ablution is needed by comparing it to the prayer in general sense.

Prostration of gratitude is performed as follows: Turn to qiblah, recite takbir and go down to sajdah, recite tasbih in the sajdah and express your praise and gratitude to Allah, and then recite takbir again and stand upright (Ibn Abidin, Radd al-Muhtar, II, 597-598).

ADHAN, IQAMAT, AND TASBIHAT

229. What is adhan and iqamat? When and how were they established?

Adhan and iqamat are two of the sunnahs of fardh prayers. The basis for the adhan which is recited in order to call for fardh prayers is the Holy Qur’an and the Sunnah. It is stated in the Holy Qur’an, “*And when you call to prayer, they take it in ridicule and amusement.*” (Ma’idah, 5/58); “*O you who have believed, when [the adhan] is called for the prayer on the day of Jumu’ah [Friday], then proceed to the remembrance of Allah and leave trade. ...*” (Jumu’ah, 62/9) The Messenger of Allah (saw) said, “*When it is the time for the prayer, one of you should pronounce the adhan...*” (Bukhari, Adhan 17, 18, 49, Muslim, Masajid, 292).

Although prayer was rendered fardh in the period of Mecca, the practice of adhan started after migration (hijrah) to Medina. When the construction of Masjid al-Nabawi was completed after migration to Medina and people started to establish prayer in congregation regularly, the Prophet Muhammad (saw) exchanged views with his friends on

what could be done to inform people of the beginning of prayer times, then the adhan was taught to the Prophet (saw) by revelation, and some companions including Umar and Abdullah ibn Zayd in their dreams (Abdurrazzaq, al-Musannaf, I, 456; Abu Dawud, Marasil, p. 81; Ibn Abidin, Radd al-Muhtar, II, 48).

Adhan is the sign (symbol) of Islam and a sunnah mu'akkadah. Not only people are informed of the prayer time's beginning through the adhan, but also the uniqueness and greatness of Allah, the fact that Prophet Muhammad is his messenger and servant, and that salah is the way to salvation are declared. Imam Muhammad said, "I will fight with the community of a city if they stop reciting adhan completely." (Kasani, Bada'i, I, 146).

Iqamat, on the other hand, is the words similar to the words of adhan, and it is recited before fardh prayers and informs people of the actual start of prayer. Unlike adhan, the sentence of "qad qamat as-salat" is added to it after the sentence of "hayya ala'l-falah". According to narratives, iqamat was taught to the above-mentioned companions in the same dream (Abu Dawud, Salat, 28).

230. **May adhan be recited in languages other than Arabic?**

Adhan, whose words are based on the sunnah of Prophet Muhammad (saw), is an indicator of the existence and identity of Muslims anywhere in the world. There is a tradition and a consensus of 15 centuries to recite adhan in the same way revealed to Prophet Muhammad (saw) and practised in his period. As the main objective of adhan is to inform people of the start of prayer time and deliver this invitation to all Muslims who speak different languages, this is only possible by addressing to their common conscience, which can only be implemented by recitation with its original wording in Arabic language (Ibn Abidin, Radd al-Muhtar, II, 185). Therefore, it is not permissible to recite adhan in another language other than its original form.

231. **May adhan be recited via playing CD, cassette, etc. in order to announce prayer time?**

As it is known, "adhan" is the special expressions recited for fardh prayers. Adhan both announces that the prayer time has started and prayer will be established in congregation and declares the uniqueness and greatness of Allah, the prophethood of Prophet Muhammad (saw), and the fact that salah leads to salvation. As adhan is the

announcement of prayer times, there is no difference between making this announcement with or without a loudspeaker on condition that its certain structures are preserved and presented.

Nevertheless, recitation of the Qur'an via playing cassette or CD means to simplify the adhan which is one of the signs of Islam, and to fail to show it due respect. Moreover, its recitation via a recording does not comply with the custom that has been transmitted until today since the period of Prophet Muhammad (saw). For this reason, we cannot say that it is permissible to recite the adhan via CD or cassette. The approach of fuqaha which states that audio replication of the Qur'an cannot be deemed the same with the Qur'an supports this judgement as well (Maydani, al-Lubab, I, 60). On the other hand, adhan is a sunnah. Performance of a sunnah by a legally competent and responsible believer is the supplementary element of the sunnah.

232. **May imam recite iqamat?**

Iqamat is one of the sunnahs of fardh prayers (Muslim, Salat, 5; Tirmidhi, Salat, 28). Therefore, it is makruh to abandon it as iqamat is regarded as a preparatory element for starting a prayer. It is a practice which informs people that the prayer is about to start. There is no limitation in the person who will perform it; it could be an authorized person, a member of the congregation, or the imam. Therefore, it is permissible for an imam who leads the prayer to recite iqamat at the same time (al-Fatawa al-Hindiyyah, I, 63-64).

233. **What are the required features for the person who is to recite iqamat in a congregational prayer? Can kids recite iqamat?**

The person who is going to recite iqamat should be male, sane, and purified from hadath (spiritual impurity). Accordingly, it is makruh for those who are ritually unclean or junub, insane, drunk, or women to recite iqamat. It is mustahab for the person who recites iqamat to be a faithful person (Ibn Nujaym, al-Bahr, I, 267; Aliyy al-qari, Fath Bab al-'Inayah, I, 208-209).

The person who is going to recite iqamat should be at least mumayyiz (at a stage of differentiating between good and evil). The ability of tamyiz (the age of discernment) starts around the age of 7 and continues until reaching puberty. The adhan and iqamat recited by a child who is not mumayyiz will not be valid (Ibn Abidin, Radd al-Muhtar, II, 59). The adhan and iqamat recited by mumayyiz children, though, are valid

(Sarakhsi, al-Mabsut, I, 138). Nevertheless, it is considered more virtuous for a person who has reached puberty to recite iqamat (al-Fatawa al-Hindiyyah, I, 60).

234. When should we stand up while iqamat is being recited in a congregational prayer?

The issue of when the congregation should stand up for prayer is not related to the essence of prayer but to its customs and mustahabs.

According to Imam al-A'zam, it is an etiquette of the prayer that the imam start the prayer just when "qad qamat as-salat", which means "prayer has started", is said in the iqamat. Thus, the imam confirms the word of muazzin. According to this ijtiḥad, both the imam and the congregation need to form the rows before recitation of this sentence (al-Fatawa al-Hindiyyah, I, 64). However, it is also permissible to start prayer after completion of the iqamat. Besides, according to Imam Abu Yusuf and many other mujtahids, this is the appropriate practice (Aliyy al-qari, Fath Bab al-'Inayah, I, 211; Ibn Abidin, Radd al-Muhtar, II, 177; Mehmed Zihni, Ni'met al-Islam, p. 304).

According to another opinion in the Hanafi school, the imam and congregation stand up when muazzin recites the sentence of "hayya ala'l-falah", which means "*come to salvation*" (Ibn Nujaym, al-Bahr, I, 270), the imam starts the prayer and the congregation follows him.

According to the Shafi'i school, it is mustahab to stand up for prayer after iqamat is finished (Nawawi, al-Majmu', III, 252-253). The congregation should not stand up for prayer before the imam stands up or arrives.

As the issue of when to stand up for prayer while iqamat is being recited is not related to the essence of prayer but to its customs, the size of mosque, forming rows, and starting prayer with imam need to be taken into consideration. It will be better in normal-size mosques or masjids to stand up after seeing that imam walks towards mihrab. Because the Messenger of Allah (saw) said, "*When iqamat is recited for prayer, do not stand up until you see me.*" (Bukhari, Adhan, 22) According to this, congregation should stand up before a period that is not too late to follow the imam and is enough to start prayer with him (See. Zuhayli, al-Fiqh al-Islami, I, 560).

235. Can an imam start to perform prayer before the completion of the iqamat?

Prayer has customs or etiquettes along with its fardhs, wajibs, and sunnahs. According to Imam al-A'zam, it is a custom of the prayer that

the imam start prayer just when “qad qamat as-salat”, which means “prayer has started”, is said in the iqamat. Thus, the imam confirms the word of muazzin. However, it is also permissible to start prayer after the completion of iqamat. Furthermore, according to Imam Abu Yusuf and imams of other three schools of jurisprudence, this is the appropriate practice (Ibn Abidin, Radd al-Muhtar, II, 177; Mehmed Zihni, Ni'met-i Islam, p. 304).

236. What is the ruling on muazzin's walking while reciting iqamat?

Iqamat is a sunnah which is given while starting fardh prayers according to the practice of Prophet Muhammad (saw). So, the due respect and dignity should not be neglected. Therefore, it is accepted makruh for the person who recites iqamat to walk at the same time (Ibn Abidin, Radd al-Muhtar, II, 55).

237. May the invocation of adhan be recited after iqamat?

No information was conveyed from Prophet Muhammad (saw) on recitation of the dua of adhan after iqamat. Therefore, it is not considered appropriate to be busy with such dua after iqamat (Tahtawi, Hashiyah, p. 190). However, the words of iqamat may be repeated like adhan until the prayer starts or other duas may be made during iqamat before the imam starts prayer (Ibn Nujaym, al-Bahr, I, 273; al-Fatawa al-Hindiyyah, 64).

238. Should a person who was late to attend the congregation recite iqamat while performing prayer individually at a mosque?

Those who enter a mosque in order to establish the fardh prayer of that time do not need to recite iqamat again no matter if they will establish prayer with or without congregation. Nevertheless, it will be more virtuous to establish prayer by reciting adhan and iqamat at masjids and mosques where five-time prayers are not established regularly (Alauddin, al-Hadiyya al-'Alaiyya, p. 71), but reciting iqamat alone will be enough. On the other hand, by contrast with this approach of Hanafis, many other schools say that it is mandub to recite iqamat in both situations.

239. Should the sentences of adhan and iqamat be recited once or twice?

The differences in practice regarding how many times a person should recite the sentences in iqamat result from the different narratives from the Prophet Muhammad (saw).

Besides the Hanafi school, some other scholars such as Sufyan al-Thawri and Ibn al-Mubarak said that the sentences of adhan and iqamat, except the takbir sentences recited four times at the beginning, should be recited twice for each. They take as evidence the narrative of a dream on adhan and iqamat had by Abdullah ibn Zayd and approved by the Prophet Muhammad (saw). The takbir at the beginning of adhan and iqamat is repeated four times and other sentences are repeated twice according to the narratives about this dream (Abu Dawud, Salat, 28). They also show the following narrative as evidence: *“Sentences were repeated twice in the adhan and iqamat of the Messenger of Allah (saw).”* (Tirmidhi, Salat, 30; Shaybani, Asar, I, 134; Sarakhsi, al-Mabsut, I, 128; Ibn Abidin, Radd al-Muhtar, II, 55).

According to Shafi'i and Hanbali schools, first takbirs are recited four times and other sentences are recited twice while adhan is being recited, like it is stated in the opinion above. When it comes to iqamat, according to these schools, the takbir at the beginning and the sentence of “qad iqamat as-salat” is repeated twice and other sentences are recited once. According to the Maliki school, only the takbirs are repeated twice and other sentences are recited once in iqamat (Nawawi, al-Majmu', III, 91-93). Supporters of this opinion takes the following narrative as basis: *“The Messenger of Allah (saw) told Bilal to recite adhan by repeating sentences twice and to give iqamat by reciting them once.”* (Bukhari, Adhan, 2,3)

240. Do we need to recite adhan and iqamat before qada prayers?

As adhan and iqamat are not the sunnahs of time but of the prayer, they are also sunnah while establishing qada prayer. Although the prayer that is established without adhan and iqamat is valid, it is not permissible.

If a person will establish more than one qada prayers at the same place, although it will be better for him to recite separate adhans and give separate iqamats for each prayer, it is sufficient to recite adhan once at the beginning and give iqamat separately for each qada prayer (Ibn Abidin, Radd al-Muhtar, II, 57-58).

241. What is the ruling on tasbihat after prayers and how is it done?

Although the tasbihat and duas recited after prayers are not included in the prayer, they are mustahab as they are among the recommended acts of worship. The Prophet Muhammad (saw) used to give special advices to Muslims about tasbihat. He would pray for forgiveness three times after prayers and say,

اللَّهُمَّ أَنْتَ السَّلَامُ وَمِنْكَ السَّلَامُ تَبَارَكْتَ يَا ذَا الْجَلَالِ وَالْإِكْرَامِ

“O Allah! You are the peace, and peace comes from You; blessed are You O Possessor of Glory and Honor!” (Muslim, Masajid, 135)

Besides, it is advised in authentic hadiths to utter the Allah’s name by saying “Subhanallah”, “Alhamdulillah”, and “Allahu akbar” thirty three times each after prayers. Prophet Muhammad (saw) said in a hadith, “If anyone extols Allah after every prayer thirty-three times, and praises Allah thirty-three times, and declares His Greatness thirty-three times, ninety-nine times in all, and says to complete a hundred:

لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، لَهُ الْمُلْكُ وَلَهُ الْحَمْدُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ

‘There is no god but Allah, having no partner with Him, to Him belongs sovereignty and to Him is praise due, and He is Potent over everything,’ his sins will be forgiven even If these are as abundant as the foam of the sea.” (Muslim, Masajid, 146). In another hadith it is stated that no one would reach the rank of those who recite this tasbihat after prayers (Abu Dawud, Witr, 24).

242. What is the ruling on chanting the tasbihat after prayer in the company of the muazzin?

There were Companions who were famous for their duty as muazzin in the period of Prophet Muhammad (saw). Bilal Habashi, Abdallah ibn Umm Maktum, Sa’d al-Qarazi, and Abu Mahzura (Samura ibn Mi’yar) are some of them (Ibn Majah, Adhan, 1-3, 6; Nasa’i, Adhan, 9-10). They would recite adhan in order to announce the start of prayer time and give iqamat before fardh prayers.

There is no information about muazzins’ leading the tasbihat after prayers in Asr al-Sa’adah. But, it is seen that this practice has been settled in time in some regions including Türkiye. Guiding those who do

not know or ensuring that the congregation does not neglect tasbeeh by making dhikr of Allah and making dua collectively are permissible in religious terms; so it cannot be said that the practice of today's muazzins is a bid'ah.

243. Is it permissible to leave the mosque without saying tasbeeh?

Tasbeeh may be performed individually or collectively. As it is a mustahab worship that is independent from the prayer, not performing tasbeeh will not be a deficiency of the prayer. In this respect, it cannot be said that it is not permissible to leave the mosque without performing tasbeeh after establishing prayer. But, we should remember that it is a great opportunity to remember and utter the name of Allah and gain thawabs (spiritual rewards).

244. What is the basis for saying “astaghfirullah” after fardh prayers?

It is sunnah to pray for forgiveness after prayers. Because Prophet Muhammad (saw) would say “astaghfirullah, astaghfirullah al-azim wa atubu ilayh” three times after ending prayer by giving salam, or pray for forgiveness with similar words and say “*Allahumma antas salam wa minkas salam ...*” (Muslim, Masajid, 135; Tirmidhi, Salat, 112).

A person prays for forgiveness due to the deficiencies in his/her prayer by reciting astaghfirullah. In this regard, saying astaghfirullah individually after completing a prayer as an imam or congregation complies with the sunnah.

245. Is it bid'ah to recite parts from the Qur'an after 'asr prayer?

It is sunnah not to leave the place we established prayer and to continue with dhikr and tasbeeh for a while after completing prayer unless there is an excuse. The Prophet Muhammad (saw) encouraged people to do so after prayers and gave the glad tidings that angels continue to pray the person as long as he does not leave the place where he established prayer (Bukhari, Salat, 87; Muslim, Masajid, 272). On the other hand, Prophet Muhammad (saw) advised to recite the last three verses of Surah al-Hashr after fajr prayer and to recite the last two verses of Surah al-Baqarah at nights (Bukhari, Fadhail al-Qur'an, 10; Tirmidhi, Fadhail al-Qur'an, 22).

Except for fajr prayer, there is no specific part or surah of the Qur'an advised by Prophet Muhammad (saw) to be recited after

prayers. However, the fact that it is stated in the Holy Qur'an, "*When ye pass (congregational) prayers, celebrate Allah's praises, standing, sitting down, or lying down on your sides,*" (Nisa, 4/103) shows that there is no limit on this subject, and dhikr and tasbeehat are not special to certain times or prayers. The essential point in the qiraat, dhikr, and tasbeehat that are performed outside prayers is that they are performed individually by everyone. This was the practice in the period of Prophet Muhammad (saw). However, performance of tasbeehat collectively under the leadership of muazzin and recitation of the "ashr" (certain parts of the Qur'an) have become widespread in some countries, and have been passed down until today.

Accordingly, although there is no narrative about recitation of a part from the Qur'an after 'asr prayer, in the light of the verses and hadiths above, it can be said that it is permissible to recite the Qur'an on condition that a person does not believe that it is an obligation prescribed by religion.

246. What is the ruling on reciting Ayat al-Kursi (Throne Verse) after prayers?

It is mandub to recite Ayat al-Kursi after prayers because the Prophet (saw) recited it especially before sleeping and after prayers, and recommended Muslims to do so (Bukhari, Vakalah, 10; Tirmidhi, Fadha'il al-Qur'an, 2; Tabarani, al-Mu'jam al-Kabir, VIII, 134; Bayhaqi, Shu'ab al-Iman, IV, 51).

247. Is it compulsory to listen to the recitation of the Qur'an? Is it permissible to perform prayer while the Qur'an is being recited?

A Muslim should listen to it when the Qur'an is being recited. Because it is stated in the Holy Qur'an, "*So when the Qur'an is recited, then listen to it and pay attention that you may receive mercy.*" (A'raf, 7/204).

Although Muslims need to listen to the Holy Qur'an without speaking when it is recited, scholars have put forward different opinions on whether it is fardh or whether this judgment is absolute if it is fardh. According to the opinion of some scholars, it is always fardh to listen to the Qur'an when it is being recited. According to some others, the verse above does not bear the meaning of an obligation but a recommendation (nadb). According to some, the verse is only about listening only to the Qur'an recited in the prayer and it is mustahab to listen to the Qur'an recited outside of prayer (Abus-suud, Irshad, II, 459).

In the Hanafi school, there are two opinions about the ruling on listening to the Qur'an that is recited outside of prayer. One of them states that it is fardh al-'ayn (individual obligation) while the other says that it is a fardh al-kifayah (communal obligation). According to those who say that it is a fardh al-kifayah, if there are other people who listen to it in the place where Qur'an is being recited, the others will not be responsible for listening. Moreover, according to the both opinions, those who do not listen to the Qur'an while it is being recited due to an excuse will not be responsible for it. It is stated that if someone recites the Qur'an especially in places such as bazaar, workplace, etc. where people are busy with their jobs, not those who do not listen to it but the person who recites the Qur'an near them will have committed a sin (Ibn Abidin, Radd al-Muhtar, II, 268).

Accordingly, it is permissible to establish prayer in a mosque without distracting anyone while the Qur'an is being recited aloud.

248. **What is the meaning and the place of sala in Islam?**

The meaning of sala (salawat), which is recited as, "Assalatu wa as-salamu alayka ya Rasul Allah, assalatu wa as-salamu alayka ya Habib Allah, assalatu wa as-salamu alayka ya sayyid al-awwalina wal akhirin, wa salamun alal-mursalin, wal hamdu lillahi Rabbil alamin", in mosques before the adhan on some special days or to announce a funeral prayer that will be performed, is as follows: "Salat and salam (mercy and peace of Allah) be upon you O, Messenger of Allah, His beloved servant, the best among the past and future people! Salat and salam be upon all prophets. Praise and gratitude be to Allah, the Lord of the Worlds."

Sala consists of the words of greetings (salam) and praise to Prophet Muhammad (saw). Although it is advised in the Holy Qur'an and hadiths to recite salat and salam for Prophet Muhammad (saw) on several occasions (Ahzab, 33/56; Tirmidhi, Da'awat, 66; Abu Dawud, Witr, 23), sala was recited in mosques neither in the 'Asr al-Sa'adah nor in the early periods of Islam. However, there has been many sala texts in different wordings in our tradition based on the examples of reciting salat to Prophet Muhammad (saw) and other prophets in the Qur'an and sunnahs.

Consequently, reciting sala may be accepted as a beautiful practice to remember the days and nights that are special in religious terms, and to announce a death or a funeral prayer to be established. It can be said that it is permissible in religious terms.

IMAMATE AND CONGREGATION

249. What is the ruling on performing prayer in congregation?

Islam attaches great importance to unity and solidarity. Establishment of five-time daily prayers (Baqarah, 2/43), Friday prayers once in every week, and eid prayers twice in a year has the function of contributing to Muslims' being aware of each other's situation, seeing each other and socializing, and helping one another. In this respect, establishing prayer in congregation plays a crucial role in strengthening and sustaining the spirit of unity.

The Prophet Muhammad (saw) always led the congregation for five-time daily prayers as their imam since it was declared to be fardh until the last days of his life, and encouraged Muslims to perform their prayers in congregation (Abu Dawud, Salat, 49).

There are a great number of hadiths indicating the importance of attendance to congregation. In one of them, Prophet Muhammad (saw) says, *"If there are three men in a village or in the desert among whom prayer is not offered (in congregation), the devil has got the mastery over them. So observe (prayer) in congregation, for the wolf eats only the straggling animal."* (Abu Dawud, Salat, 47). In another hadith he seriously warns those who do not attend congregation by saying, *"By Him in Whose Hand my soul is I was about to order for collecting firewood (fuel) and then order Someone to pronounce the Adhan for the prayer and then order someone to lead the prayer then I would go from behind and burn the houses of men who did not present themselves for the (compulsory congregational) prayer."* (Bukhari, Adhan, 29, 34; Muslim, Masjid, 251-254). Moreover, he expressed that the reward of the prayer that is established in congregation will be 27 times greater than that of the prayer that is established individually (Bukhari, Adhan, 30; Muslim, Masjid, 249).

With reference to these and other similar hadiths and related verses that express the importance of establishing prayer in congregation, Hanbalis say that establishment of prayer in congregation is fardh al-'ayn for men while Shafi'is say that it is fardh al-kifayah. According to Hanafis and Malikis, establishing the fardh prayers in congregation is sunnah mu'akkadah except Friday prayer for men who are able to perform it (Marghinani, al-Hidayah, I, 362; Kasani, Bada'i, I, 155; Jaziri, al-Madhab al-Arba'a, I, 368-369).

In this respect, people should try to establish their prayers in congregation unless there is a condition which prevents them from attending. Indeed, the Prophet Muhammad (saw) gave the glad tidings

that the rank of a person will be elevated and one of his sins will be forgiven for each step he takes while going to the mosque (Bukhari, Adhan, 30; Abu Dawud, Salat, 49).

250. Does an imam need to make intention separately for the women who follow him? May a woman come afterwards and follow a man as her imam who is establishing prayer alone?

According to Hanafis, an imam needs to make intention for leading the prayer of women for the validity of women's following him (Kasani, Bada'i, I, 128; Ibn al-Humam, Fath, I, 372). However, the general intention made by imam for imamah includes women, too. But a woman cannot come afterwards and follow a man who is establishing prayer alone.

According to the Shafi'i school, imam's intending for establishing prayer with men or women is not obligatory but mustahab (Shirbini, Mughni al-muhtaj, I, 383). Therefore, a woman may come afterwards and follow a man who is establishing prayer alone.

251. How should a person make intention (niyyah) for following an imam in prayer?

Intention is one of the conditions of the prayer. A person should specify which kind of prayer (fardh, wajib, or nafl) and which time's prayer s/he will establish as well as clarifying if s/he will perform it alone or by following an imam. The important point is to know it by heart; uttering it by tongue is seen as a nice act as it strengthens one's will about this subject (Marghinani, al-Hidayah, I, 297, 298).

Accordingly, the person who will establish prayer by following an imam should make intention for this in his/her heart. Otherwise, the prayer to be established without the niyyah to follow the imam will be invalid. Moreover, it will be appropriate for him/her to utter it as, "I follow the imam who is present."

252. Which of the fardh, wajib, and nafl prayers should be established in congregation/alone?

It is fardh for men who are responsible for establishing Friday prayer to perform it in congregation in a mosque and it is sunnah mu'akkadah for Hanafis and Malikis to establish fardhs of daily prayers in a mosque in congregation. With reference to the verses and hadiths that emphasize the importance of establishing prayers in mosque in congregation,

Hanbalis say that establishing daily prayers in congregation is a fardh al-'ayn for men while Shafi'is say that it is a fardh al-kifayah (Marghinani, al-Hidayah, I, 362; Kasani, Bada'i, I, 155; Jaziri, al-Madhahib al-Arba'a, I, 368-369).

The prayers of Eid al-Fitr and Eid al-Adha are among wajib prayers and are established in congregation (Mawsili, al-Ikhtiyar, I, 283). Tarawih prayer, which is one of sunnah prayers, may be established in congregation. When tarawih prayer is established in congregation, witr prayer may also be established in congregation. It is makruh to establish witr prayer in congregation except the month of Ramadan (Mawsili, al-Ikhtiyar, I, 239).

Kusuf (solar eclipse) prayer, one of the nafl prayers, and istisqa prayer (see Fatwa 762 for the dua and prayer for rain), according to Imamayn, are also established in congregation (Mawsili, al-Ikhtiyar, I, 241-242, 245). It is seen appropriate to establish alone and makruh to establish in congregation all the sunnah and nafl prayers except the mentioned ones. (Sarakhshi, al-Mabsut, II, 144).

As there is no information on establishment of tasbih prayer (Abu Dawud, Tatawwu, 14), which is a nafl prayer, in congregation, it will be better to establish it individually as well.

253. Can a person who has already established a prayer alone or led it as the imam be the imam of another congregation for the same prayer?

The condition of an imam should not be lower than that of the congregation in terms of the type of the prayer to be performed while the condition of the congregation can be lower than that of the imam. Therefore, a person who is performing a nafl prayer cannot be the imam of those who are establishing a fardh prayer, but a person who is performing a fardh prayer can be the imam of people who are performing a nafl prayer (Marghinani, al-Hidayah, I, 377; Ibn al-Humam, Fath I, 381; Ibn Abidin, Radd al-Muhtar, II, 339; Dasuqi, Hashiyah, I, 340; Buhuti, ar-Rawd, p. 134).

The Prophet Muhammad (saw) said, “A *fardh prayer cannot be performed twice in the same day.*” (Daraqutni, as-Sunan, II, 285; Ibn Abi Shaybah, al-Musannaf, III, 206) For this reason, the second prayer will be nafl. In this case, as the imam will be in a lower condition than the congregation, that person's imamah will not be valid.

According to the Shafi'i school and to the opinion preferred by Hanbalis, a person who will establish a fardh prayer may follow someone who is establishing a nafl prayer. According to these ijtihaads,

a person who has established a time's prayer may be the imam of others for the same time's prayer. The prayer established by the imam will be valid as *nafl* and the prayer established by the congregation will be valid as *fardh* (Mawardi, *al-Hawi*, II, 316; Ibn Qudamah, *al-Mughni*, III, 67-68).

254. Can a woman lead the prayer as imam for a congregation consisting of only women?

According to the Shafi'i and Hanbali schools, it is permissible for a woman to lead the prayer as the imam for a congregation consisting of only women. Those who support this opinion shows Prophet Muhammad's (saw) allowing Umm Waraqah to lead prayer as imam for her family (Abu Dawud, *Salat*, 62; Ibn Hanbal, *al-Musnad*, VI, 255; Bayhaqi, *Sunan al-Kubra*, I, 597) as evidence. Although it is permissible in the Hanafi school for women to perform prayer as the imam for a congregation consisting of only women, it is considered as *makruh* (Mawsili, *al-Ikhtiyar*, I, 207). It is not permissible in the Maliki school (Ibn Rushd, *Bidayat*, I, 145; Ibn Juzay, *al-Qawanin*, 156).

In the event that a woman performs prayer as imam for a congregation of women, she should not stand in front of the congregation but should stay near/among other women (Abdurrazzaq, *al-Musannaf*, III, 140-141; Ibn Qudamah, *al-Mughni*, III, 37-38; Ibn Abidin, *Radd al-Muhtar*, II, 305-306).

255. Can a woman lead the prayer as the imam of a congregation consisting of men?

It is not permissible in any jurisprudential school for women to lead the prayer as the imam of a congregation consisting of men (Ibn Qudamah, *al-Mughni*, III, 32-33; Ibn Abidin, *Radd al-Muhtar*, II, 306, 321; Jaziri, *al-Madhahib al-Arba'a*, I, 372). The permission given by Prophet Muhammad (saw) to Umm Waraqah stating that she could perform prayer as imam for her family (Abu Dawud, *Salat*, 62; Bayhaqi, *Sunan al-Kubra*, I, 597) is interpreted as a practice special to her. According to some other interpretations, this permission of Prophet Muhammad (saw) was valid for the women in that house or quarter. The following command of the Prophet (saw) supports this as well: "*No woman should be appointed as Imam over a man.*" (Ibn Majah, *Iqamat al-Salat*, 78; Bayhaqi, *Sunan al-Kubra*, III, 128) Because there has been no other examples of this practice throughout history, including the Prophet's age. Stating that this is a permissible act means to add something new to the religion, which is called *bid'ah* (innovation in religion). The Prophet (saw) said that *bi'dah* is error (Muslim, *Jumu'ah*, 867; Abu Dawud, *Sunan*, 6).

256. Is it permissible for a person who has committed a major sin to lead the prayer (as imam)?

The person who is going to lead a prayer as imam should possess the qualifications of being an imam (enough religious knowledge, reciting the Qur'an beautifully, being sane and adolescent). A Muslim may lead a prayer as imam even if he committed a major sin unless he calls a haram thing as halal or a halal thing as haram, and the prayer established by following him is valid. The Prophet Muhammad (saw) said, *“Establish prayer by following every Muslim, good or bad, pious or impious, even if he has committed sins”* (Abu Dawud, Salat, 64, Jihad, 35; Daraqutni, as-Sunan, II, 404; Bayhaqi, Sunan al-Kubra, IV, 29). The principle is put forward in the hadith stating that a person who is a Muslim and has minimum knowledge of imamah may lead a prayer (Sarakhsi, Sharhu siyar al-kabir, I, 110-111; Ibn Nujaym, al-Bahr, I, 370). However, it is preferred for imam to be a person who avoids from committing sins, is someone whom the congregation likes, and has good morals. It is makruh in Hanafi, Shafi'i, and Maliki schools for a person who is a fasiq, that is to say, commits major sins clearly or insists on minor sins, to become the imam while there is a person with above-mentioned qualifications (Ibn al-Humam, Fath, I, 360; Ibn Abidin, Radd al-Muhtar, II, 298-299; Harashi, Sharhu Mukhtasar, II, 23). According to the Hanbali school, it is not permissible for fasiq people to be the imam of those who are not fasiq. However, in the event that there is no other person to be lead the prayer, it is permissible for Friday and eid prayers due to necessity (Ibn Qudamah, al-Mughni, III, 17-23; Ibn Qudamah, al-Kafi, I, 293-294).

257. May a person who does not know how to read the Qur'an perform prayer as imam for those who can read the Qur'an?

A person who cannot recite the Qur'an enough to establish a valid prayer cannot be the imam of those who can recite it. Because the condition of an imam should not be lower than that of the congregation who follows him (Ibn al-Humam, Fath, I, 376; Ibn Qudamah, al-Mughni, III, 11 ff.).

258. Can a stutterer lead a prayer as the imam?

Imams should not have any excuses and need to have a precise/proper qiraat (Ibn Abidin, Radd al-Muhtar, II, 284, 294-295). A stutterer may be imam of others if he can recite the Qur'an correctly. However, if he cannot recite it correctly and properly, he cannot be imam of those who have

proper qiraat although he may be imam of the people who are stutterers like him (Ibn Abidin, Radd al-Muhtar, II, 327, 328; see. Ibn Qudamah, al-Mughni, III, 29).

259. May a person who cannot pronounce some letters correctly lead a prayer?

According to the preferred opinion, a person who cannot pronounce some letters due to his mouth structure may be the imam of the congregation if there is not any person among the congregation who can pronounce them correctly. But the imamah of such people is not permissible if there is someone among the congregation who can pronounce the letters correctly (Ibn Abidin, Radd al-Muhtar, II, 327-329; al-Fatawa al-Hindiyyah, I, 95).

260. May a person who does not have one or two arms lead the prayers as imam?

In order to be an imam, one must have a healthy body to perform the rukns of the prayer, as well as being able to recite the Qur'an by heart (qiraat) well enough to perform a valid prayer and knowing the conditions of the prayer. As the fact that a person does not have one or two arms does not prevent one from performing one of the rukns of the prayer, it is permissible for such people to be imam (Ibn Qudamah, al-Mughni, III, 29).

261. Can we follow an imam for prayer who follows another madhhab (jurisprudential school)?

It is permissible to establish prayer in congregation by following an imam who follows another jurisprudential school. Because difference of schools does not pose an obstacle in terms of iqtida (following an imam). Although there is an ijihad that states, "*if an imam from another school commits an act that invalidates prayer according to the school of the muqtadi (follower), the prayer of the muqtadi will be invalidated*" (al-Fatawa al-Hindiyyah, I, 93; Ibn Abidin, Radd al-Muhtar, II, 302-303), a more correct approach to this subject is that as long as the prayer of the imam is not invalidated according to his own school, the prayer of the muqtadi will be valid as well.

The latter opinion is both suitable to the practice of the predecessors and complies with the requirement of the spirit of being a congregation. For example, Imam Abu Yusuf established prayer by following Caliph

Harun Rashid who performed imamah without performing ablution after getting blood drawn (hijama) (Ibn Abu a'l-'iz, Sharh al-'aqidati'-Tahawiyya, p. 545). Besides, it is not necessary to examine if the imam has committed an act against the conditions of his school (Ibn Abidin, Radd al-Muhtar, II, 302-303).

262. May a person who is in a different location follow an imam through audio connection?

The imam and the congregation need to be in the same place physically or ritually for the congregational prayers. This unity is ensured with rows' being next to each other. If prayer is established within the same building, the places of those who are inside are considered the same. In this respect, it is valid for the congregation to follow the imam upstairs or downstairs in multi-storey buildings on condition that the storey used as masjid is not big enough for the congregation and that the congregation which stands in storeys next to this storey hears the directives of the imam via loudspeaker or by means of announcement of muazzin. It is not obligatory for the congregation to see the imam or to see those who are seeing the imam. In the event that voice connection is cut, prayers of those who fail to follow the directives of the imam will be invalidated as they will not be able to follow the movements of imam (Ibn Abidin, Radd al-Muhtar, II, 285-286, 333-334). It is not permissible for those, who are in places which are falled apart from the place of imam by obstacles such as roads, rivers, etc. that distrust the unity of place, to follow an imam from that distance.

263. May one follow an imam for prayer via TV or radio?

It is a must of the congregational prayers that the congregation follows the imam. The imam and the congregation needs to be present in the same place for ensuring this. For this reason, even though a person who is not in the place where the imam is present establishes his prayer by making niyyay to follow the imam, his prayer will not be valid. Even a river that flows or a broad road that goes between the imam and congregation are considered obstacles for following an imam (Ibn Nujaym, al-Bahr, I, 384; II, 127; al-Fatawa al-Hindiyyah, I, 96). Accordingly, a prayer established by following an imam via TV or radio is not valid as the unity of place will not be ensured.

264. What do mudrak, masbuq, and lahiq mean? How do they establish prayers?

The lexical meaning of mudrak is “the one who comprehended, caught, reached”. As a religious term, it refers to the person who establishes prayer with an imam by catching him in the ruku of the first rakat at latest.

Lahiq is a person who starts prayer with imam but has to give a break while in prayer due to a cause such as invalidation of ablution, and fails to establish a part of the prayer with imam. If s/he knows how to do it, such person may continue his prayer by attending congregation again after performing ablution. Such a person completes the missed rakats after the imam gives salam. But if s/he does not know how to continue the prayer in such situation, s/he performs prayer from the beginning.

Masbuq refers to a person who fails to attend prayer in congregation on time but follows an imam some time after the ruku of the first rakat. A person who does not spend time in ruku long enough to say “subhanallah” with imam is deemed to have missed that rakat. After the imam gives salam and if he does not perform sajdah al-sahw, the masbuq stands up and completes the missed rakats alone. Masbuq is like a person who establishes prayer individually while establishing the missed rakats. While continuing prayer alone, s/he recites a surah or some verses after Fatiha if it is normally required, otherwise s/he does NOT (al-Fatawa al-Hindiyyah, I, 102; Ibn Abidin, Radd al-Muhtar, II, 344-350).

265. May a person who follows an imam recite Surah al-Fatiha?

According to the Hanafi school, a person who follows an imam does not recite with imam Surah al-Fatiha and the verses or surahs that are recited after Fatiha. The person who follows an imam has no responsibility of reciting the Qur’an in the prayer (Mawsili, al-Ikhtiyar, I, 170-171).

According to the Shafi’i and Hanbali schools, one is not completely exempted from the responsibility of reciting Qur’an. The person who follows an imam recites Fatiha and a surah in the prayers in which the imam recites silently. For the prayers in which imam recites aloud, the congregation only recites Fatiha during the short pause given by the imam after reciting Fatiha (Shirbini, Mughni al-muhtaj, I, 249-250).

Hanafis accept as evidence the verse, “*When the Qur’an is read, listen to it with attention, and hold your peace: that ye may receive mercy.*”

(A'raf, 7/204) and the hadiths, “*Whoever has an imam, the recitation of the imam is his recitation.*” (Ibn Majah, Iqamat al-Salat, 13), “*The imam is appointed to be followed.*” (Bukhari, Adhan, 51), and “*When the imam recites, then listen quietly.*” (Ibn Majah, Iqamat al-Salat, 13). Shafi’is, on the other hand, takes as reference the following hadith, “*Whoever does not recite al-Fatiha in his prayer, his prayer is invalid.*” (Muslim, Salat, 34) and similar hadiths.

266. What should the congregation do if an imam stands up without performing the last sitting?

If an imam stands up without performing the last sitting by forgetfulness, congregation does not stand up with the imam, continues to recite tashahhud and waits for him to sit back. Meanwhile, “subhanallah” is recited aloud in order to warn the imam. A person who follows an imam cannot give salam and finish the prayer as long as the imam does not perform the prostration of the rakat in which he stood up as there is a possibility for him to go back and perform it. One’s prayer is invalidated if he gives salam in that situation. If the imam does not go back but continues prayer without recognizing his mistake and performs prostration of the rakat for which he stood up, both the prayer of the congregation and of the imam are invalidated as the imam did not perform the last sitting.

If the congregation stands up with the imam and imam sits back without performing prostration by recognizing his mistake, the congregation also sits. If the congregation goes down to prostration without noticing that the imam sat, this prostration does not invalidate their prayer. Because what matters in this situation is the validity of imam’s prayer (Ibn Nujaym, al-Bahr, II, 110).

267. Is it permissible to walk to the front row while establishing prayer in congregation in order to fill an empty space in the front row?

Walking to the front row while establishing prayer with congregation in order to fill an empty space in the front row is not considered amal kathir and does not invalidate prayer. On the contrary, it is a mustahab act (Ibn Abidin, Radd al-Muhtar, II, 312-313, 388-389; Tahtawi, Hashiyah, p. 323).

268. Is it permissible for men and women to establish prayer in the same row at al-Masjid al-Haram?

While establishing prayer in congregation, the order of the rows should be as follows: men, boys, and women. This order was taught by the Prophet Muhammad (Muslim, Salat, 132; Abu Dawud, Salat, 99; Tirmidhi, Salat, 54; Nasa'i, Imamah, 33; Ibn Majah, Iqamat al-Salat, 52). It is fardh to obey this order between men and women and sunnah to obey it between men and boys (Marghinani, al-Hidayah, I, 370; Kasani, Bada'i, I, 159).

If men and women stand on the same line in the prayers established in congregation, it is called muhadhat al-nisa (aligning with women), which means women's establishing prayer in the same row side by side or in front of men. It is not a permissible practice for any schools for women and men to establish prayer in a mixed form. However, there are different opinions on the effect of the mentioned situation on men's prayer.

According to Hanafis, the prayer of the man behind or near them is invalidated if a woman or a girl who has reached puberty or has a short time before reaching puberty establishes prayer in front of or near a man without any cover, a similar obstacle, or a difference of height at least equal to a man's height between them (Ibn Abidin, Radd al-Muhtar, II, 316-317).

According to Shafi'i, Maliki, and Hanbali schools, on the other hand, it does not invalidate the prayer of either side when a man and woman establish prayer next to each other. However, it is a disliked act (Rafii, a-'Aziz, II, 174; Ibn Qudamah, al-Mughni, III, 89; Hattab, Mawahib, II, 435; Buhuti, Kashshaf, II, 385-386; Jaziri, al-Madhahib al-Arba'a, I, 268). This displeasure is not considered in the Ka'bah as it is an obligatory situation. Because it is too hard for men and women to stand and establish prayer separately there.

In this regard, in the event that the men and women who are followers of Hanafi school cannot find the opportunity to establish prayer in separate places during Hajj, they may establish their prayers by following the rules of the mentioned three schools. Necessity and impossibility are the grounds of this ruling.

269. While establishing prayer at al-Masjid al-Haram in congregation, will the prayers of those who stand beyond the imam's row be valid?

According to Hanafi, Shafi'i, and Hanbali schools, it is a must for the congregation not to stand in front of the imam while establishing prayer

in congregation even around the Ka'bah. Therefore, if the congregation located on the side of the imam stands in front of him, their prayer will not be valid and they will not be deemed to have followed the imam. On the other hand, the fact that the other parts of congregation who stands in other sides are closer to the Ka'bah than the imam does not prevent them from following him. According to the Maliki school, it is not a must for the imam to stand in front of the congregation. However, it is makruh for the congregation to stand in front of the imam unless there is a situation necessitating it (Ibn Qudamah, al-Mughni, III, 52-53; Ibn Abidin, Radd al-Muhtar, III, 168; Jaziri, al-Madhabib al-Arba'a, I, 376).

270. How should an imam whose ablution is nullified during prayer act?

If the ablution of an imam is nullified during prayer unavoidably, for example, due to nose bleeding, he lets a person who is behind him and eligible to be the imam and take his place by leaving the mihrab. This is called as istikhlaf (Marghinani, al-Hidayah, I, 381). For example, Umar (ra) gave his place to Abdurrahman ibn Awf (ra) when he was wounded due to an attack whilst in prayer so that he could continue leading the prayer instead of him. Likewise, Ali (ra) assigned a member of congregation as imam instead of himself when his nose bled during prayer (Aliyy al-qari, Fath Bab al-'Inayah, I, 296).

If the imam whose ablution is nullified leaves imamat without assigning a person to be imam instead of himself, prayer of the congregation is invalidated (Kasani, Bada'i, I, 226).

271. What should a person do if his/her ablution is nullified while performing prayer in congregation?

If the ablution of a person who performs prayer in congregation is nullified, s/he performs ablution and re-establishes the prayer, which is the better act to do in such a case. Or s/he leaves prayer without doing any act that invalidates prayer, then performs ablution again, comes back and continues prayer with imam starting from the part where s/he left. If imam has already completed the prayer by the time s/he arrives, s/he waits in the remaining rakats without reciting, like a person who follows an imam, approximately as long as the imam would wait, and completes the prayer by reciting only the words in ruku and sajdah as

well as the dua and salawats in the sitting (Marghinani, al-Hidayah, I, 381,382, Ibn Abidin, Radd al-Muhtar, 368 ff.).

A person whose ablution is nullified while performing prayer in the front rows of the congregation in a crowded mosque may continue prayer by imitating another jurisprudential school if his ablution is not deemed to have been invalidated according to any other school. For example, a member of Hanafi school part of whose body bleeds during prayer may complete his prayer by imitating Shafi'i school or other schools which say that bleeding does not invalidate ablution. However, if something like urinating or passing gas, which invalidates prayer according to all Islamic scholars, happens and he cannot go to the ablution place due to crowd, he sits and waits for the prayer to end or acts like nothing happened in order not to distract other people in the congregation. Afterwards, he performs ablution and establishes the prayer again.

272. Does it invalidate the prayer if a person who is not a member of the congregation corrects a mistake of the imam?

If an imam recites wrongly during qiraat or forgets a part he needs to recite, correction or reminder of a member of congregation invalidates neither the prayer of the imam nor that of the congregation (Marghinani, al-Hidayah, II, 6-8, Mawsili, al-Ikhtiyar, I, 210). However, the prayer becomes invalid in the event that a person who is not a member of the congregation corrects imam's mistake and the imam acts accordingly. Because this act is regarded as a learning and teaching (Zaylai, Tabyin, I, 156; al-Fatawa al-Hindiyyah, I, 110). This correction is not regarded as an act that invalidates prayer for some other schools. According to a narrative, Uthman (ra) corrected the mistake of a person who was establishing prayer near him while he was sitting in the Maqam Ibrahim (Ibn Qudamah, al-Mughni, II, 460).

273. Is it bi'dah to do musafahah (handshaking) after the prayer in mosques?

Musafahah is a way of socialization that is practised by handshaking as an expression of friendship and peace. The Prophet Muhammad (saw) attached great importance to this practice (Bukhari, Isti'dhan, 27; Abu Dawud, Adab, 154) and encouraged people to do musafahah by saying, *"If two Muslims meet and shake hands, their sins will be forgiven before they separate."* (Abu Dawud, Adab, 154) .

It is permissible in religious terms to shake hands after prayer as it conduces to getting closer, friendship, and tolerance among Muslims (Ibn Abidin, Radd al-Muhtar, IX, 547). However, it is not permissible to interpret handshaking after prayers in or out of mosques as an indispensable part of establishing prayer in congregation and turn it into a collective ceremony .

274. Can a person receive salary for the religious services? Can we establish prayer behind paid officials?

As a principle, it is not permissible in Islam to receive payment for worship. Because worships are performed for Allah (swt). Everyone whose was eligible would be imam and lead prayers in the first periods of Islam. Therefore, it was not needed to assign certain people as imams. Officials who will be present in masjids all the time are required due to reasons such as differentiation of cultural level in the Islamic society, increase in being occupied with different jobs, and decrease in the number of people who are eligible to perform imamah. Therefore, officials who will perform imamah for every time's prayer are assigned and these people who are assigned to fulfill the duty of performing imamah are paid so that they can earn their livelihood. As a matter of fact, Muslim scholars have considered it permissible to receive wages or salaries for works such as imamate, muazzin and religious teaching, on the grounds that these duties should not be left unattended. (Ibn Nujaym, al-Bahr (Addition of Ali at-Turi), VIII, 33; Ibn Abidin, Radd al-Muhtar, II, 60, 302).

Today, imam-khatibs and muazzins are paid salary not because they perform prayer as imams but because they spare all their working time for this duty (habs al-nafs) instead of dealing with any other job. Because prayer is established and led only for the consent of Allah (swt). On the other hand, leading prayers is not the only duty of imam-khatibs and muazzins. Mosque officials provide several services such as opening mosques for prayers, keeping them ready for worship, cleaning, maintenance, and protection of them as well as delivering sermon, delivering the message of Islam to people, and teaching the Qur'an.

Accordingly, the salaries received by the imam-khatibs and muazzins who fulfill religious services in today's world are halal and the prayers led by them are valid.

FRIDAY AND EID PRAYERS

275. What is the place and ruling of Friday prayer in Islam?

Friday prayer is a fardh al-‘ayn. It became fardh with the judgments of the Holy Qur’an, Sunnah, and ijma. The Almighty Allah states in the Holy Qur’an, “O you who have believed, when [the adhan] is called for the prayer on the day of Jumu’ah [Friday], then proceed to the remembrance of Allah and leave trade. That is better for you, if you only knew. And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed.” (Jumu’ah, 62/9-10). Also, the Prophet Muhammad (saw) said, “Attending Friday prayer is fardh to every Muslim man who has reached to puberty.” (Abu Dawud, Taharah, 130; Bayhaqi, al-Sunan al-Kubra, III, 245-246). Friday prayer has been performed since the period of Prophet Muhammad (saw) to today and there has been no difference of opinion regarding it’s being obligatory.

276. How many rakats are there in Friday prayer?

The fardh of Friday prayer consists of two rakats. In addition, there are eight-rakats of sunnah whose four rakats are established before and four are established after the fardh (Kasani, Bada’i, I, 269).

According to Imam Abu Yusuf and Imam Muhammad, the sunnah to be established after fardh consists of six rakats: four rakats are established with one salam and two rakats are established with one salam. It is narrated that this opinion was narrated from Ali (ra) (Kasani, Bada’i, I, 285).

277. What is dhuhur al-akhir prayer? Is it necessary to perform it?

Dhuhur al-akhir means the last dhuhur prayer. Some Islamic scholars suggested to establish that day’s dhuhur prayer as a cautionary act based on the opinion that establishing Friday prayer in more than one place in the same city may not be valid. This prayer is called as dhuhur al-akhir, it is established in four rakats and is not included in Friday prayer. There is no prayer established and named like this among the narratives of the period of the Prophet (saw) and the early periods of Islamic history.

Dhuhur al-akhir is a prayer that has been brought to the agenda because it is impossible to establish Friday prayer in a single mosque in a city like it was in the period of Prophet Muhammad (saw), due to expansion of Islamic geography and increase in the population of

the cities, which brings together the obligation to establish Friday prayer in more than one mosque. It is based on the assumption that the prayer established first will be valid among the Friday prayers that are established in separate mosques in a region and that the ones established in other mosques might be invalid. Some scholars consider it permissible to establish a four-rakat prayer by making intention for dhuhur al-akhir, that is to say, “the last dhuhur prayer which could not be established whose time is reached” by meaning the Friday time, in order to eliminate this doubtful situation (Ibn Abidin, Radd al-Muhtar, III, 16-18; Qarafi, az-Zahira, II, 354-355; Ibn Qudamah, al-Mughni, III, 212; Shirbini, Mughni al-muhtaj, I, 420-422).

But there is no ground of such an assumption. Although establishing Friday prayers in one mosque is suitable to the very meaning of it, it is not possible to practise it today when there are great cities with millions of residents. Indeed, according to the opinion which constitutes the basis for the fatwa in Hanafi school, more than one Friday prayer may be established in a city (Ibn Abidin, Radd al-Muhtar, III, 15-16). When imam Shafi'i went to Baghdad and saw that Friday prayer was being established in more than one place, he did not oppose it either (Nawawi, al-Majmu, IV, 585; Shirbini, Mughni al-muhtaj, I, 420-422). Therefore, the Friday prayers established in each mosque are valid separately; there is no difference between them in this regard, and those who establish Friday prayer do not need to establish dhuhur al-akhir.

However, it is permissible for those who are willing to establish this prayer knowing that it is not included in Friday prayer.

278. For the validity of Friday prayer, is it required to establish it in a city?

Islamic scholars stated that it is compulsory to establish Friday prayer in a city or a residential area equal to a city. This judgment is based on Prophet Muhammad's (saw) hadith saying that Friday prayer cannot be established in places other than cities or places that are that has similar characteristics of a city (Bayhaqi, al-Sunan al-Kubra, III, 179). The condition of being a city mentioned in the sources should be interpreted as big or small residential areas today. Because the Prophet Muhammad (saw) performed the first Friday prayer in a valley where the children of Salim ibn Awf resided and which was called Ranuna, during his migration from Mecca to Medina (Ibn Hisham, as-Sira, I, 494).

Moreover, the Prophet Muhammad (saw) said, “*It is fardh to establish Friday prayer even if there are only four people in a residential area.*” (Bayhaqi, al-Sunan al-Kubra, III, 255). Accordingly, the Friday prayer that is established in all residential areas big or small such as village, town, or city where there are enough people to perform the fardh is valid. However, wherever it is established, permission should be taken from religiously authorized bodies.

279. What is the minimum number of people required for performing Friday prayer?

Although all Islamic scholars agree that jama’ah (congregation) is a must for the validity of Friday prayer, they put forward different opinions on the minimum number of people required to perform it.

According to Imam Abu Hanifa and Imam Muhammad, three people except the imam need to be present. According to Imam Abu Yusuf, at least two people should be present other than the imam (Ibn al-Humam, Fath, II, 58). Although Imam Shafi’i says in his qawl jadid (new views) that there must be forty people in the congregation for Friday prayer to be valid, three people are considered enough in his qawl qadim (old views). According to Hanbali school, at least forty people should be present (Nawawi, al-Majmu, IV, 487; Zakariyya al-Ansari, al-Gurar, II, 8; Ibn Qudamah, al-Mughni, III, 202-203). According to Maliki school, at least twelve people are required to be present (Harashi, Sharhu Mukhtasar, II, 76-77).

Forty people were present in the Friday prayer that was established in Naqi’ al-Khadamat (a place near Medina) before Prophet Muhammad’s migration to Medina (Ibn Majah, Iqamat al-Salat, 78). However, it is also known that Friday prayer was performed with less people. For example, Mus’ab ibn Umayr performed Friday prayer for a community of 12 people in Medina with the command of Prophet Muhammad (saw) (Bayhaqi, al-Sunan al-Kubra, III, 255).

It is also recorded in authentic hadith sources that everyone except twelve people went out upon hearing that trade caravan came while performing Friday prayer with the Messenger of Allah (saw) (Bukhari, Jum’ah, 38). On the other hand, Prophet Muhammad (saw) declared that it is fardh to perform Friday prayer even if there are only four people in a residential area (Bayhaqi, al-Sunan al-Kubra, III, 255).

As it is seen, the narratives coming from the Prophet Muhammad (saw) show that Friday prayer may be established in places where at

least four people, one of whom is imam, are present. This determines the minimum number of people required to establish Friday prayer.

280. What is the ruling on reciting interior adhan in Friday prayer?

The adhan to announce dhuhur time on Friday in the period of the Prophet (saw) was the interior adhan that was recited in mosque after the khatib took his seat on the pulpit. For this reason, it is one of the sunnahs of khutbah that the interior adhan which is recited before khutbah on Friday is performed before khatib.

Upon the expansion of the city in the period of Uthman, the interior adhan could not be heard everywhere. Therefore, the adhan was started to be recited outside in order to announce the start of prayer time. Prophet Muhammad's (saw) practice of interior adhan was also continued to be practised (Kasani, Bada'i, I, 152).

281. Is it permissible for children who have not reached the age of puberty to give khutbah ?

A child who is not adolescent but intelligent may deliver khutbah with the permission of the authorities, but the prayer must be led by an adult (Ibn Abidin, Radd al-Muhtar, III, 39; Shaykh'zadah, Majma al-anhur, I, 254).

282. Can we recite salawat when Prophet Muhammad's name is mentioned in the khutbah? Can we say ameen to the dua made in the khutbah?

While the Friday khutbah is being delivered, the congregation should stay silent and listen to it, should not give and take salam, and should not establish nafl prayers. The Messenger of Allah (saw) expressed the importance he gave to the congregation's listening to the khutbah saying, "*When the Imam is delivering the khutbah, and you ask your friend to keep quiet and listen, then no doubt you have done an evil act.*" (Bukhari, Jumu'ah, 36)

A person who enters a mosque while the khutbah is being delivered should sit without establishing the first sunnah and listen to the khutbah (Kasani, Bada'i, I, 264; Ibn Abidin, Radd al-Muhtar, III, 36; Ala'uddin, Hadiyyat al-Alaiyya, p. 119).

According to the Islamic scholars who take the practice of the Messenger of Allah (saw) into account, it is mandub for the khatib to pray for forgiveness of the believers and for their health and prosperity. Hanafi scholars who consider the period from khatib's taking seat at

minbar to the end of prayer as a whole adopt the principle that all the things prohibited during the prayer are prohibited during the khutbah as well. In this regard, they express that one should listen to the khatib attentively, should not speak but keep silent, not give and take salam and not establish nafl prayers; but state that it is permissible to say “ameen” when a dua is made in khutbah or recite salawat silently when the name of our Prophet (saw) is uttered (Kasani, Bada’i, I, 264; Ibn Abidin, Radd al-Muhtar, III, 36). But it is not appropriate to say “ameen” aloud (Ala’uddin, Hadiyyat al-Alaiyya, p. 119).

283. May one make dua in other languages in the khutbah?

It is not a must to make dua in a certain language. Because dua means to turn to Allah, beg Him and ask from Him (swt). Therefore, it is permissible for people to make dua in their mother tongue to be aware of what they are asking. However, it is more appropriate to make the duas that take place in the Holy Qur’an or taught by Prophet Muhammad (saw) in their original forms as much as possible. For this reason, one should exert effort to make khutbah duas in their original forms. However, it is also permissible to make dua in a language that is understood by the congregation at the end of the second khutbah.

284. Is it permissible to say “ameen” to the dua made in the Friday khutbah?

Islamic scholars identified the requirements and the etiquettes of a valid khutbah along with the essentials of the khutbah by considering the practice of the Messenger of Allah (saw) and the hadiths regarding Friday prayer (Kasani, Bada’i, II, 196). There are several hadiths stating that it is not a correct act for the congregation to speak while the khutbah is being delivered (Bukhari, Jumuah, 36; Muslim, Jumuah, 11; Muwatta’, Jumu’ah, 6; Abu Dawud. Salat, 237; Tirmidhi, Salat, 256; Nasa’i, Jumu’ah, 22). Hanafis and Shafi’is accept speaking during khutbah as makruh based on these narratives while Hanbali and Maliki schools accept it as haram unless there is an obligation (Kasani, Bada’i, II, 198; Shirbini, Mughni al-muhtaj, I, 429-430). On the other hand, again considering the practice of Prophet Muhammad (saw), Islamic scholars say that it is mandub or a rukn to make dua for believers in the khutbah (Kasani, Badai, II, 196).

Therefore, one should not deal with other things but listen to the khutbah, and should not speak while it is being delivered. However, as

reciting salawat silently when the name of Prophet Muhammad (saw) is uttered and saying ameen to the dua of khatib are not considered as speaking, there is no harm in doing them (See. Kasani, Bada'i', I, 264; Ibn Abidin, Radd al-Muhtar, III, 35).

285. Is the prayer of a person who misses khutbah in Friday prayer valid?

Khutbah is one of the conditions of validity of Friday prayer. A Friday prayer established without giving khutbah is not valid. For this reason, at least one man should be present while the khutbah is being delivered. However, it is not a must to catch and listen to the khutbah in order to establish Friday prayer. Therefore, the Friday prayer that is established by a person who missed or could not hear the khutbah due to an excuse will be valid. A person who misses khutbah completes his prayer by standing up and establishing one more rakat after imam gives salam even though he catches only the second rakat of Friday prayer (Ibn al-Humam, Fath, II, 63).

286. How should a person who attends Friday prayer before salam establish the missed rakats after salam?

A person who attends Friday prayer before the imam gives salam is deemed to have caught it. This person completes his prayer alone after the imam gives salam. A person who comes to the mosque after the salam of imam is deemed to have missed the prayer (Kasani, Bada'i', I, 267).

A person who catches the second rakat of Friday prayer establishes one more rakat by standing up after the salam of imam and then gives salam. In this rakat that is established alone, he recites Subhanaka, Basmalah, Fatiha, and a surah or a few verses. A person who catches the imam while he recites tashahhud (during the sitting) stands up after the salam of imam and gives salam after establishing two rakats. Thereby he completes Friday prayer. A person who misses Friday prayer establishes that day's dhuh prayer. A person who fails to catch eid prayer misses that prayer; he does not need to establish another prayer instead.

According to Malikis and Shafi'is, one should establish at least one rakat with imam in order to be deemed to have caught the Friday prayer. Accordingly, a person who catches and starts to follow an imam after standing up from second rakat's ruku completes his prayer to four as dhuh prayer (Shirbini, Mughni al-muhtaj, I, 419; Harashi, Sharhu Mukhtasar, II, 84).

287. Is it obligatory for women to establish Friday prayer?

Friday prayer is fardh upon the men who are sane, have reached puberty, are healthy, free, and resident (not a guest). Women, those whose independence is restricted, travelers, and those who have valid excuses not to attend congregation are not responsible for establishing Friday prayer. However, in the event that they establish it, their prayer will be valid and they do not need to establish dhuhr prayer separately.

The Prophet Muhammad (saw) said, “*The Friday prayer in congregation is a necessary duty for every Muslim, with four exceptions; a slave, a woman, a boy, and a sick person.*” (Abu Dawud, Salat, 217; Ibn Abi Shaybah, al-Musannaf, II, 550; Bayhaqi, al-Sunan al-Kubra, III, 246).

From ‘Asr al-Sa’adah to today, all scholars have agreed that Friday prayer is not fardh upon women (Ibn al-Humam, Fath, II, 59; Nawawi, al-Majmu, IV, 483-484; Ibn Qudamah, al-Mughni, III, 216).

The fact that Friday prayer is not fardh for women is not a deprivation but an exemption about them. There is no obstacle in religious terms for women to go to a mosque and establish Friday prayer in congregation whenever they want. They may even be advised to attend Friday prayer continuously so that they can benefit from khutbahs and sermons.

288. Can men and women who do not attend Friday prayer establish dhuhr prayer before the Friday prayer is performed?

If women and those who are sick or have an excuse and for whom Friday prayer is not fardh establish dhuhr prayer at their homes before the imam ends Friday prayer, their prayers will be valid.

It is makruh for the people who are in this group to establish prayer by forming a congregation. They need to establish it individually.

If a person for whom Friday prayer is fardh does not attend Friday prayer without a valid excuse and establishes that day’s dhuhr prayer in his house before imam completes Friday prayer, his prayer will be valid according to Hanafis but he will be a sinner for not attending Friday prayer. According to other three schools and to Imam Zufar from Hanafi school, the prayer that is established by him is invalid. This person should re-establish dhuhr prayer after Friday prayer ends (Marghinani, al-Hidayah, II, 115-117; Halabi, as-Sagir, p. 321).

289. May one establish Friday prayer outdoors?

According to the majority of Islamic scholars, Fiday prayer may be established in the mosques in residential areas and the outdoor areas near them. Malikis who say that establishing Friday prayer in residential areas is required also state that it should be established in mosques (Ibn Rushd, Bidayah, I, 159-160; Mawwak, al-Tach, I, 520; Shirbini, Mughni al-muhtaj, I, 419; Kasani, Bada'i, I, 259-261; Ibn Qudamah, al-Mughni, III, 202-209). However, wherever it is established, permission should be taken from religiously authorized bodies.

290. May one establish Friday prayer in masjids at the basement of workplaces or buildings?

A person may establish Friday prayer in the places reserved for prayer in the offices or apartment buildings on condition that they are open to every Muslim who wants to enter and the religious authorities' permission is taken.

291. May the start time of Friday prayer be postponed to wait for more people to arrive and attend congregation?

The time of Friday prayer is that of dhuhr prayer (Mawsili, al-Ikhtiyar, I, 274). Friday prayer is valid as long as it is established within the prescribed time for dhuhr prayer. Although establishing prayers at the beginning of prayer times is more virtuous, it is also permissible to postpone it a while in order to establish it with more people.

Accordingly, it is permissible to perform Friday prayer in an hour when attendance will be more, considering the condition or working times of community. It can even be said that this will be more appropriate.

292. What is the ruling on working on Friday during the time of Friday prayer and on the gain obtained in that time?

The Friday prayer is a fard al-'ayn prayer established by the Book, Sunnah and consensus, includes the sermon, has two rak'ahs and is different from other prayers by being performed in congregation. It should be performed by every competent and responsible believer. (Mawsili, al-Ikhtiyar, I, 271-272). Allah the Almighty states in the Holy Qur'an about working and trading in the time of Friday prayer, *"O you who have believed, when [the adhan] is called for the prayer on the day of*

Jumu'ah [Friday], then proceed to the remembrance of Allah and leave trade. That is better for you, if you only knew. And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed.” (Jumu'ah, 62/9-10).

As understood from the verse, it is permissible in working and trading before and after Friday prayer. However, those who are responsible to perform Friday prayer should stop their business in the time of Friday prayer and go to mosques. In this respect, those who are not responsible for establishing Friday prayer may do shopping in that time. It is makruh tahrimi for those who are responsible for establishing Friday prayer to be busy with trading in the time of Friday prayer, although their gain is halal. Besides, it is permissible for a tradesman who is responsible for Friday prayer to employ a person who is not responsible for Friday prayer in his workplace and make profit in this way (Ibn Abidin, Radd al-Muhtar, III, 41).

293. If working time coincides with Friday prayer's time, would it be a valid excuse for not establishing the Friday prayer?

Friday prayer is fardh al-'ayn for every Muslim man who is free, does not have a valid excuse, and is resident (Jumu'ah,62/9). In addition, there are authentic hadiths in hadith books saying that Friday prayer is a bountiful and strong fardh and not establishing it without a valid excuse is a major sin as follows:

“Whoever abandons Friday prayer three times negligently, a seal will be placed over his heart.” (Abu Dawud, Salat, 212; Ibn Majah, Iqamat al-Salat, 93; Tirmidhi, Salat, 247; Nasa'i, Jumu'ah, 2)

“People must cease to neglect Friday prayer or Allah will seal their hearts and then they will be among the negligent (ghafil).” (Muslim, Jumu'ah, 40; Nasa'i, Jumu'ah,2)

These hadiths are enough to express how bad it is for a Muslim to not establish Friday prayer. According to Islam, establishing Friday prayer is fardh for every Muslim man who is sane and has reached puberty except those who are sick, traveler, and give service in places with strategic importance. Restriction of liberty or the possibility of losing his job if he leaves to establish Friday prayer are deemed to be temporary excuses for that person.

294. May the people who work without break attend Friday prayers in turns?

Daily jobs, vocations and professions, the works performed to earn livelihood of family members, and travels are not excuses for not establishing prayer. It is stated in the Qur'an as, "*[Are] men whom neither commerce nor sale distracts from the remembrance of Allah and performance of prayer and giving of zakah. They fear a Day in which the hearts and eyes will [fearfully] turn about.*" (Nur, 24/37).

Employers or the authorized people of a workplace need to allow their employees and workers, who want to establish prayer, to establish their Friday prayers and daily prayers (five times), at least the fardh cycles of prayers. But, workers and employees should not slack off by using prayer as an excuse and should receive permission from their employers or authorized persons in order to protect the working discipline and order. Those who cannot find the opportunity to establish Friday prayer due to their conditions establish that day's dhuhr prayer.

In this respect, if only some of the employees in a workplace are allowed to leave for prayer, those who have permission attend Friday prayer and others establish that day's dhuhr prayer.

295. Is it permissible for a prisoner to perform Friday prayer as imam in jail?

Prisoners in jail are not responsible for establishing Friday prayer (Ibn Abidin, Radd al-Muhtar, III, 28-29). Those who cannot find the opportunity to establish Friday prayer under the conditions in prison will not be sinners for missing it. However, they are responsible for establishing dhuhr prayer. Besides, they may establish Friday prayer in jails and prisons if permission is taken from the authorities. In the event that prisoners have this opportunity, it is permissible for a prisoner to lead Friday prayer as imam.

296. What is the ruling on tashriq takbirs, by whom and when should these takbirs be recited?

Narratives record that Prophet Muhammad (saw) would recite tashriq takbirs starting from fajr prayer in the eve of eid al-adha until 'asr prayer of the fourth day of the eid after fardh prayers including the last day's 'asr prayer (Bayhaqi, al-Sunan al-Kubra, III, 315; Daraqutni, as-Sunan, III, 439, 440).

According to the opinion preferred by Hanafis, it is wajib for every male and female Muslim to recite tashriq takbirs after every fardh prayer, 23 prayer times in total, from fajr prayer in the eve to ‘asr prayer of the fourth day of the eid. A person also recites tashriq takbirs while s/he performs qada prayers for the prayers missed in tashriq days, in the same days. If s/he performs qada prayers for them after tashriq days pass, then s/he does not recite tashriq takbirs. Qada may not be performed for takbirs unless qada prayers are established for missed prayers in those days (Sarakhsi, al-Mabsut, II, 43-44; Ibn al-Humam, Fath, II, 82). According to Shafi’i school, tashriq takbirs are sunnah (Mawardi, al-Hawi, II, 500-501).

297. Are women required to perform eid prayer?

According to the consensus of Islamic scholars, women are not responsible for Friday and eid prayers (Samarqandi, Tuhfa, II, 161, 166; Halil, Mukhtasar, 45, 47; Ibn Rushd, Bidayah, I, 157; Shirbini, Mughni al-muhtaj, I, 462). However, the Prophet Muhammad (saw) encouraged women to attend eid prayer (Bukhari, ‘Eidayn, 15, 21; Hajj, 81; Muslim, Salat al-‘eidayn, 1-3, 10-12). In this regard, women may attend Friday and eid prayers when possible.

BEING TRAVELER (SAFARI/MUSAFIR) AND RITUAL PRAYER

298. What do watan al-asli, watan al-iqamah, and watan al-sukna mean?

Islam introduces some special rulings about travelers’ worships such as prayer and fasting. Accordingly, those who are deemed traveler (safari or musafir) in religious terms establish four-rakat fardh prayers as two rakats, and postpone Ramadan fasting to observe them later. These are among such kind of facilitating rulings.

There are two criteria to be deemed a traveler in religious terms. One of these is place and the other is distance.

Regarding the subject of travel, the place where a person is located can be either “watan al-asli”, “watan al-iqamat”, or “watan al-sukna.”

Watan al-asli: It means the permanent residence of a person. It is the place where a person is born and lives or comes and resides to make his livelihood and settles with his family by buying a house.

Watan al-iqamah: It is the place at least 90 kilometers away from a person's watan al-asli, where he is present to stay more than fifteen days without the intention to settle there.

Watan al-sukna: It is the place where a person intends to stay less than fifteen days and at least 90 kilometers away from his watan al-asli or watan al-iqamah (Haddad, al-Jawhara, I, 104).

These judgments are applicable in the Hanafi school. According to the Shafi'i school, a person should set off to go to a place that is 90 km away and stay there less than four days except the arriving and leaving days, in order to be deemed a traveler. In the event that one intends to stay four days or more, the condition of being a traveler ends (Ramli, Nihayat al-muhtaj, II, 257).

299. How is the beginning of being a traveler determined?

A person who sets off to go to a place which is deemed far enough to be eligible for the distance of travel (safar) in religious terms is accepted as a musafir (guest) when he leaves his residential area. This person starts to benefit from judgments and concessions of being a traveler (Marghinani, al-Hidayah, II, 101). Accordingly, a person who starts his/her journey and leaves the residential area of a city establishes four-rakat fardh prayers as two rakats.

Today cities have expanded and, as in the example of Istanbul, the distance between its two sides has become distant enough almost to be considered as a safar. For this reason, when they set off by their private vehicle, those who live in big cities like Istanbul are deemed travelers as soon as they get out of the municipal border of the district they reside in, and the rulings related to being a traveler applies to them. In the event that they set off by public transportation vehicles such as bus, train, plane, or ship, the starting point of being a traveler can be accepted as the terminal, train station, airport, or port.

300. May a traveler lead prayers as imam?

A traveler may lead prayer as imam for both traveler and resident congregations. It is appropriate for a traveler imam to warn the resident congregation by saying before prayer, "I am a traveler, so I will give salam at the end of the second rakat. When I give salam, stand up without giving salam and complete your prayer," in order to avoid confusion as he will establish four-rakat fardh prayers as two rakats

(Kasani, Bada'i, I, 101-102; Marghinani, al-Hidayah, II, 104,105). As a matter of fact, the Prophet Muhammad (saw) led prayers by reducing them as long as he stayed in Mecca after the conquest of Mecca and said, “*We are guests, you complete your prayers.*” (Abu Dawud, Salat al-Musafirin, 10). Likewise, Umar (ra) also performed four-rakat fardhs as two rakats when he arrived at Mecca, and told the resident community, “*O people of Mecca! Complete your prayers; we are guests.*” (Muwatta, Qasr al-Salat, 19).

301. How does a traveler establish his prayer behind a resident imam?

If a traveler follows a resident imam, he establishes his prayer in full (Mawsili, al-Ikhtiyar, I, 269). Because the Prophet Muhammad (saw) said, “*Imam is meant to be followed.*” (Bukhari, Salat, 18) and expressed that the prayer of congregation should be the same with that of the imam. If a traveler gives salam before completing his prayer with imam while following a resident imam, the prayer will not be valid. In this situation, the person whose prayer is invalid establishes the same prayer alone again but in two rakats rather than four rakats.

302. How should we make up the prayers we missed while we were on a journey and deemed as a safari (traveler)?

Qada prayers for the missed prayers are performed just like establishing them in their original time. Therefore, qada prayers of four-rakat prayers that are missed during travel are established as two rakats both during and after the travel. Likewise, when a person wants to establish qada prayer during travel for a prayer that was missed while s/he was not a traveler, s/he establishes it in four rakats (Marghinani, al-Hidayah, II, 106-107). According to Shafi’is, the qada prayer of a prayer missed during travel is established in four rakats when the person is resident (muqim) (Shirbini, Mughni al-muhtaj, I, 396).

303. How should people establish their prayers while traveling by ship?

The fundamental issue while establishing prayer in vehicles such as ship on which one is able to stand is to establish prayer by standing and turning to the qiblah. If it is not possible to establish it by standing due to reasons such as dizziness, one may establish it by sitting on ship and, if possible, he should do it by performing ruku and prostration rather

than moving the head only. One turns to the qiblah at the beginning of prayer, if possible, and he needs to keep turning to the qiblah as the ship changes its direction. Unlike performing prayers on the animals (such as horse), people may establish prayer by forming a congregation while on ship (Kasani, Bada'i, I, 109-110).

304. Can we establish fardh or nafl prayers in transportation vehicles?

Although it is permissible to establish nafl prayer in transportation vehicles such as car, bus, plane, and train, it is not deemed appropriate to establish fardh prayers in them under normal circumstances. Because it is not possible to perform fardh acts of the prayer such as qiyam, ruku, sajdah, and istiqlal al-qibla when it is established in the said vehicles. For example, the Messenger of Allah (saw) used to establish nafl prayers while riding an animal no matter which direction it turned. When he wanted to establish a fardh prayer, he used to dismount and establish it by turning to the qiblah (Bukhari, Salat, 31).

Yet, it is considered permissible to establish fardh prayers on mount in the events that people fear from a harm against their lives or property or under necessary conditions such as ground's being muddy or failure to find an appropriate place to perform prayer (Kasani, Bada'i, I, 108).

There were no means of transportation similar to ours in the time of Prophet Muhammad (saw) and in the period of mujtahid scholars. Animals and ship were the only means of transportation back then. People used to travel on their animals and they would give a break whenever they wished and would continue whenever they wished. For this reason, they did not have to establish prayer on the back of their animals. And those who traveled by ship would establish their prayers as if they were establishing it in a normal place by turning to the qiblah and performing ruku and sajdah when the ship did not move. When ship was moving, they would establish prayer by turning to the qiblah according to the movement of ship and, if possible, by performing ruku and sajdah normally; if they could not do it, then they would establish their prayers by performing ruku and sajdah by sitting (Samarqandi, Tuhfa, II, 156; Kasani, Bada'i, I, 109).

Today, as it is not possible for those who travel by bus, train, or plane to establish prayer by turning to the qiblah and on their feet generally, they may establish it by head movements while sitting. However, they

may also establish their prayers by combining them before or after travel or in resting places. But it is advised to bus companies to arrange their resting times in a way to coincide with prayer times by paying attention to the religious sensitivity of their passengers.

Jam' (combining prayers) can be applied for only between the dhuhr and 'asr prayers and maghrib and 'isha prayers. Dhuhr and 'asr prayers may be combined by establishing 'asr in dhuhr's time after dhuhr prayer (jam al-taqdim) or establishing dhuhr in 'asr's time before 'asr prayer (jam al-takhir). Maghrib and 'isha prayers may be combined by establishing 'isha in maghrib's time after maghrib prayer (jam al-taqdim) or establishing maghrib in 'isha's time before 'isha prayer (jam al-takhir).

The prayers to be combined are established one after another without interruption. Moreover, in the case of in jam al-taqdim, one should intend by heart to combine the prayers at the beginning of first prayer and in the case of jam al-takhir should intend to combine the prayers within the time of the first prayer.

305. Does a person who moves to a city to work but does not take his family there establish his prayers as a traveler or a resident?

The place where a person is born or works, earns livelihood, resides with his family and intends to stay permanently is called watan al-asli. Watan al-asli changes only by adopting another place as one's watan al-asli.

When a person migrates to and resides in another place by bringing his wife and children together, that place will turn into his watan al-asli. His previous residential area will not be his watan al-asli anymore. If he comes to that place (to his former hometown) afterwards as a guest (for less than 15 days), he establishes four-rakat fardh prayers as two rakats. Because the Prophet Muhammad (saw) and his Companions established four-rakat fardh prayers as two rakats when they visited Mecca after settling in Medina (Bayhaqi, al-Sunan al-Kubra, III, 212-213).

The places where a person resides in for a long time due to temporary reasons such as education, work, and military service without thinking to leave the place he normally lives, or decides to settle or where a person intends to stay for fifteen days or more while traveling are called watan al-iqamah. Prayers are established as resident in watan al-iqamah. According to Hanafis, if one will stay at a place for less than 15 days and his accommodation place is not his own property or he did

not rent that place, he may establish his prayers as a safari by shortening them (see. Haddad, al-Jawhara, I, 104; Ibn Abidin, Radd al-Muhtar, II, 614; Bilmen, Ilmihal, p. 163).

306. Is a person who works in a different city on weekdays due to his job and goes back to his home at the weekends deemed as a traveler in the city where he works?

If a person whose workplace, to which he commutes all the time, is at least 90 kilometers away from his house and who stays in the place where his workplace is situated for less than 15 days according to Hanafis and for less than 4 days according to Shafi'is; stays in a place such as hotel, guesthouse, etc. in the city where his workplace is situated, he is deemed as a traveler there. If he stays in a place owned or rented by him, he is not deemed as a traveler in the place where his workplace is situated (see. Ibn Abidin, Radd al-Muhtar, II, 614; Bilmen, ilmihal, p. 163).

307. Is a person who has houses in more than one place deemed as a traveler when he stays in his other houses?

The place other than one's original hometown in which a person intends to reside for fifteen days or more is called watan al-iqamah. There is no difference between watan al-iqamah and watan al-asli in terms of performing religious duties. That is to say, a person who is in watan al-iqamah cannot benefit from the concessions provided to a musafir (Ibn Abidin, Radd al-Muhtar, II, 614-616).

According to an opinion in fiqh books, a person who has houses in which he resides in two different places is a resident in both of them (see. Ibn Abidin, Radd al-Muhtar, II, 614; Bilmen, ilmihal, p. 163). Accordingly, a person will not be a traveler when s/he goes to a city where s/he has a house in which s/he resides.

According to some contemporary approaches, the place where a person's summer house is situated is like his/her watan al-asli. Therefore, such person establishes his/her prayers in full in places where his/her summer and winter houses or time-sharing property are situated.

308. Is a person who goes to the town where his parents reside deemed as a traveler?

If an adult leaves his watan al-asli where he was born and raised up or settled in to live permanently, and settles in another place to live

permanently for any reason, that place will be his watan al-asli instead of the former watan al-asli.

The fact that his parents or adult children reside in his former watan al-asli does not change this situation. This is the preferred opinion (Ibn Abidin, Radd al-Muhtar, II, 614-615).

Accordingly, if a person leaves the city where he lives permanently and goes to another place that is 90 km or more away from his house in order to, for example, visit his parents who are resident there, he will be subject to the judgments of being a traveler. Therefore, he will be a traveler if he intends to stay there for less than 15 days according to Hanafis and less than 4 days according to Shafi'is (Mawsili, al-Ikhtiyar, I, 268).

WITR PRAYER AND THE SUNNAHS ESTABLISHED TOGETHER WITH FARDHS (RAWATIB)

309. What is witr prayer and how is it performed?

Witr is a wajib prayer that is established after the 'isha prayer and consists of three rakats according to Hanafis. Fatiha and a surah or a few verses are recited in each rakat of witr prayer. One recites only al-Tahiyyat while sitting at the end of the second rakat. In the third rakat, s/he recites takbir by raising hands after completing qiraat (reciting Fatiha and a surah or a few verses after it) and recites supplications of Qunut. This wajib prayer may be established any time after establishing 'isha prayer until the beginning of fajr's time. Because Prophet Muhammad (saw) said, *"Allah the Exalted has given you an extra prayer which is better for you than the red camels (i.e. high breed camels). This is the witr which Allah has appointed for you between the night prayer and the daybreak."* (Abu Dawud, Witr, 1; Tirmidhi, Salat, 220; Ibn al-Humam, Fath, I, 426). It is bountiful to establish witr prayer at the end of night some time before the fajr time, if one can wake up in that time (Muslim, Salat al-Musafirin 162; Tirmidhi, Salat, 222). However, it is appropriate for those who worry about not being able to wake up in that time to establish it before sleeping. It is wajib to establish qada for the missed witr prayers (Ibn al-Humam, Fath, I, 426).

According to other schools, establishing witr prayer is sunnah (Ibn Qudamah, al-Mughni, II, 591-594).

310. What is the textual proof for witr prayer? Why are there differences among madhhabs (jurisprudential schools) about witr prayer?

We learn about witr prayer through the words and practices of Prophet Muhammad (saw). He (saw) said, “*The witr is a duty upon every Muslim.*” (Abu Dawud, Witr, 2; Nasa’i, Qiyam al-lail, 40), and advised and encouraged people to establish witr prayer as the last prayer of the night and in odd-numbered rakats (Muslim, Salat al-Musafirin, 148).

Although fiqh schools agree that witr prayer is established by the sunnah of Prophet Muhammad (saw), they have some dissensus about its ruling, number of rakats, and Qunut duas. The main reason for that is the difference in the interpretation of the relevant narratives. According to the Hanafi school, witr prayer is accepted as “wajib” as Prophet Muhammad (saw) established it all the time and it was commanded in a strict language although it is a dhanni (conjectural) evidence. (Kasani, Bada’i, I, 270; Ibn Nujaym, al-Bahr, II, 40). According to other schools, witr is one of “sunnah” prayers (Ibn Qudamah, al-Mughni, II, 591-595).

311. Why do we raise up and then fold our hands again in the third rakat of witr prayer?

Acts of worship are tawqifi matters in Islamic law, that is to say, they are performed as commanded by Allah and described by the Prophet Muhammad (saw). The practice of raising hands before Qunut duas during takbir and folding them again in witr prayer is based on some narratives coming from the Prophet Muhammad (saw) (Abu Yusuf, al-Asar, p. 21; Zaylai, Nasbu’r-roya, I, 389-391; Mubarakfuri, Tuhfa, II, 567).

312. What should a person who forgets to recite takbir in the third rakat of witr prayer do?

If a person forgets to recite takbir and the supplications of Qunut and remembers it after ruku, he does not go back to recite it (Kasani, Bada’i, I, 274). In that case, the prayer is completed by going down to sajdah al-sahw (prostration of forgetfulness) at the end of the prayer (Ala’uddin, Hadiyyat al-Alaiyya, p. 95).

313. How does a person who forgets to recite the supplications of Qunut duas in witr prayer complete his prayer?

Qunut, whose lexical meaning is to be a sincere servant to Allah, extend prayer and dua, keep silent, make dua, stand for worship, etc. terminologically means making dua by standing before or after ruku in the prayer.

It is wajib to recite Qunut duas in witr prayer. Therefore, we need to establish sajdah al-sahw if we abandon or delay to recite them (Haddad, al-Jawhara, I, 92).

If a person who establishes witr prayer goes down to ruku by forgetfulness or mistake before reciting Qunut duas, he continues his prayer and performs sajdah al-sahw at the end of the prayer. If this person recites Qunut duas after straightening up from ruku, he goes down to prostration without performing ruku again, and performs sajdah al-sahw at the end of the prayer (Kasani, Bada'i, I, 274; al-Fatawa al-Hindiyyah, I, 141).

314. What should a person who does not know the supplications of Qunut by heart do?

According to Hanafis, it is wajib to recite qunut duas in the third rakat of witr prayer. One recites takbir first, and then the duas of “Allahumma inna nasta’inuka” and “Allahumma iyyaka na’budu”, which are known as Qunut duas (Ibn Abi Shaybah, al-Musannaf, III, 245; Tahawi, Shahu ma’ani’l-asar, I, 249; Ibn Abidin, Radd al-Muhtar, II, 442). Those who do not know these duas by heart should exert effort to memorize them; however, they can recite the dua of “Rabbana atina” until they memorize them, or only say “Allahummaghfirli” for three times.

According to Shafi’is and Malikis, one recites Qunut duas in the second rakat of fajr prayer after ruku. Reciting Qunut in fajr prayer is sunnah for Shafi’is and mustahab for Malikis. A member of Hanafi school who establishes prayer behind an imam from Shafi’i or Maliki school may recite Qunut duas if he wants, or may wait silently (Marghinani, al-Hidayah, II, 32,33).

TARAWIH PRAYER

315. What is the ruling on and the nature of tarawih prayer?

Tarawih is the plural form of the word “tarwiha”, which lexically means to relax or rest. As a religious term, it refers to the nafl prayer that is established between ‘isha and witr prayers in the month of Ramadan.

The Messenger of Allah (saw) established this prayer with his companions; but stopped establishing it in congregation when he saw their over enthusiasm and started establishing it alone at home fearing that it may become obligatory upon the ummah (Bukhari, Salat at-Tarawih, 1; Muslim, Salat al-Musafirin, 177-178). Also, he encouraged people to establish tarawih prayer saying, *“Whoever prayed at night in it (the month of Ramadan) out of sincere faith and hoping for a reward from Allah, then all his previous sins will be forgiven.”* (Bukhari, Salat at-Tarawih, 1; Muslim, Salat al-Musafirin, 173) In this respect, tarawih prayer is a sunnah mu’akkadah (emphasized sunnah) for both men and women.

Although it is permissible to establish tarawih prayer by giving salam in every four rakats, it is more virtuous to establish it by giving salam in every two rakats. It is mustahab to sit and have a rest for a while at the end of every four rakats. During these rests, it is appropriate to recite tahlil (saying la ilaha illallah) and salawat.

316. What is the time of tarawih prayer? Will it be valid if it is performed before ‘isha prayer?

The time of tarawih and witr prayer is that of ‘isha prayer. However, both tarawih and witr prayers are established after the fardh of ‘isha prayer. With respect to this, the tarawih and witr prayers that are established before the fardh of ‘isha prayer should be established again. If the time has ended, there is no need to establish qada for tarawih but one should perform qada for witr prayer (Ibn al-Humam, Fath, I, 487; Kasani, Bada’i, I, 290).

317. How many rakats are there in the tarawih prayer?

There is no agreed narrative regarding the number of rakats in tarawih prayer that was established by Prophet Muhammad (saw). Although there are some narratives saying that Prophet Muhammad (saw) established twenty three rakats including witr (Ibn Abi Shaybah, al-Musannaf, III, 395; Bayhaqi, al-Sunan al-Kubra, II, 698), they were interpreted differently by Muslim jurists. Therefore, scholars tried to reach a

conclusion about it with reference to Aisha's (ra) narrative about Prophet Muhammad's (saw) night prayer in the month of Ramadan, and from Umar on Prophet Muhammad's (saw) starting to establish tarawih prayers in congregation. The narratives on this subject may be explained as follows:

When night prayers of the Messenger of Allah (saw) in the month of Ramadan were asked, Aisha (ra) replied, "*Allah's Messenger never exceeded eleven rakats (of prayer) in Ramadan or in other months.*" (Bukhari, Tahajjud, 16). In another narrative, this number is mentioned as thirteen (Muslim, Salat al-Musafirin, 123-124). First of all, it is not clear whether this hadith is about tarawih or not. On the other hand, the fact that Aisha said that Prophet Muhammad (saw) used to pray eleven or thirteen rakats in Ramadan and in other months shows that there was a night prayer other than tarawih he established continuously. It is stated in the Holy Qur'an, "*And from [part of] the night, pray with it [i.e., recitation of the Qur'an] as additional [worship] for you; it is expected that your Lord will resurrect you to a praised station.*" (Isra, 17/79).

It is understood as mentioned above that the question was asked to know whether Prophet Muhammad (saw) established more rakats in night prayers in the month of Ramadan as he increased other acts of worship in that month, and that it is not related to tarawih prayer. The following hadith narrated by Aisha supports this view: "*With the start of the last ten days of Ramadan, the Prophet (saw) used to tighten his waist belt (i.e. work hard) and used to pray all the night, and used to keep his family awake for the prayers.*" (Bukhari, Fadhli Lailat al-Qadr, 5; Muslim, Itikaf, 7, 8) On the other hand, it is not clear if this hadith was said before or after establishment of tarawih.

There are two narratives regarding the number of rakats in the tarawih prayers established in congregation in the period of Umar as twenty and eleven (Ibn Abi Shaybah, al-Musannaf, III, 392, 394). Although there are different narratives about the period of Umar in our sources, it is stated that the number of rakats in tarawih was settled as twenty afterwards and it is established in this form today as well (See. Ibn al-Humam, Fath, I, 485; Ayni, Umdah, XI, 126-127; Mawardi, al-Hawi, II, 291; Shawkani, Nayl al-awtar, III, 516, 521).

Tarawih prayer has been established in congregation in twenty rakats since the periods of Umar, Uthman, and Ali (ra). Any of the companions did not object to this practice, and scholars accepted it the same way.

Today, tarawih prayer is established in 20 rakats in several Islamic countries including Türkiye.

Besides, we need to express that as tarawih is a nafl prayer, it is not permissible to be considered as fardh. For this reason, the sunnah will have been fulfilled if tarawih prayer is established in 8, 10, 12, 14, 16 or 18 rakats at home due to tiredness, business, or similar reasons. But it is more virtuous to try to attend congregation.

318. **May one establish the entire tarawih prayer by one intention?**

Hanafi scholars have different opinions on whether it is a must to make intention separately after every for tarawih prayer. According to the preferred opinion, it is not obligatory to make intention after giving salam in every two or four rakats as tarawih prayer is a whole (Ibn Nujaym, al-Bahr, I, 294; al-Fatawa al-Hindiyyah, I, 130).

319. **What is the ruling on establishing tarawih prayer in congregation?**

Although it is more virtuous to establish nafl prayers alone, tarawih prayer was established in congregation by the Prophet Muhammad (saw). In this respect, the Prophet (saw) performed tarawih prayer by leading the congregation for a few times but afterwards he gave up on this practice thinking that it may become obligatory (Bukhari, Salat al-Tarawih, 1; Muslim, Salat al-Musafirin, 177).

When Umar (ra) become the caliph, he saw that people were establishing tarawih prayer separately; and thought that it would be better to establish it in congregation and after consultation with the Companions, started the practice of establishment of this prayer in congregation again. Seeing that people were establishing it enthusiastically, he expressed his appreciation by saying, “*What a beautiful custom it has been!*” (Bukhari, Salat al-Tarawih, 1) Ali (ra) prayed to him as follows for this practice: “May Allah illuminate the grave of Umar just like Umar illuminated our masjids with the light of tarawih.” (Muttaqi, Kanz al-ummal, XII, 576).

320. **Can women establish tarawih prayer at mosques?**

The Prophet Muhammad (saw) expressed on many occasions that women may come to masjid but performing their prayer at home is more superior, and said, “*Do not prevent your women from visiting the*

mosque; but their houses are better for them (for praying).” (Abu Dawud, Salat, 53; Hakim, al-Mustadraq, I, 327)

It is known that the Prophet Muhammad allowed women to go masjids, even encouraged them to attend eid prayer in the joyous days like Eid al-Fitr and Eid al-Adha which were celebrated altogether so that they could experience the joy of the eid (Bukhari, 'Eidayn, 15, 21; Muslim, Salat al-Eidayn, 1-3, 10-12). However, the Messenger of Allah (saw) gave some advices to the women who will come to mosque, and prohibited them to wear too attractive clothes (Muslim, Libas, 125) and wear fragrance (Muslim, Salat, 141-142).

Accordingly, although it is more virtuous for women to establish their prayers at their homes, it is permissible for them to establish fardh and tarawih prayers in congregation at mosques on condition that they show due sensitivity (Zaylai, Tabyin, I, 139, 168; Ibn Nujaym, al-Bahr, I, 380).

PRAYER OF PATIENTS

321. How should a person who is unable to perform ablution and tayammum establish his prayer?

People are held responsible only for the acts they are able to do. Because on no soul places our religion a burden greater than it can bear. It is Allah who gives the disease and imposes obligations. Therefore, a person is responsible for doing the acts he is able to do (Hajj, 22/78; Fath, 48/17). It is stated in the Holy Qur'an: "*Allah does not charge a soul except [with that within] its capacity.*" (Baqarah, 2/286). This principle also applies to the way of performing worships along with their necessity. For example, prayer is not fardh upon those who are not sane.

Accordingly, a person who cannot perform ablution and has no one to help him establishes his prayer by performing tayammum.

However, if a person who is unable to use clean water and earth or is seriously ill although his arms and feet are healthy cannot perform ablution or tayammum by himself and does not have anyone to help him, if possible, he performs the moves of the prayer out of respect for prayer even though he is not ritually clean and establishes qada prayer when he gets well (Haskafi, al-Durr al-muhtar, I, 184-185, 423). The opinion accepted as valid in the Shafi'i school is also like this (Nawawi, al-Majmu', II, 323). According to Hanbalis, he does not need to establish qada prayer

for it as one may establish prayer in this situation (Ibn Qudamah, al-Mughni, I, 328).

If a person is unable to perform ablution as he does not have arms and feet and does not have anyone to help him, in the event that he is also unable to perform tayammum, he is not responsible for performing ablution and tayammum. He may establish prayer in a way the he can do by considering himself as ritually clean. It is not required for him to establish qada prayers later (Ibn Nujaym, al-Bahr, I, 151, 246-249; Ibn Abidin, Radd al-Muhtar, I, 185, 423).

322. Is it permissible for the people with knee disorders to establish prayer by sitting on a chair?

Responsibilities are determined according to the power of a servant in our religion (Baqarah, 2/286). The principle of facilitating is introduced for conditions that are beyond a servant's power (Baqarah, 2/185). The excuses that prevent one from performing any of the pillars of the prayer are included in this scope (Abu Dawud, Salat, 181). Accordingly, a person who cannot establish prayer in a normal way by standing on feet may establish it by sitting. Such person may establish prayer by kneeling down or sitting cross-legged, or extending his legs to his side or to the direction of qiblah according to his situation. In this respect, the Prophet Muhammad (saw) told a sick Companion who asked how to establish prayer, "*Establish prayer on your feet, if you cannot, establish it by sitting, if you cannot do this too, then establish it by leaning on your side.*" (Bukhari, Taqdir as-salat, 19).

Accordingly, a person who can stand on his feet but cannot perform sajdah although he can sit on the ground starts prayer on his feet, sits after ruku, and then performs prostrations by symbolic moves. A person who cannot stand up after sitting although he can stand on his feet completes his prayer by sitting after sajdah. According to Hanafis, a person who cannot perform prayer by moving his head establishes qada prayer later; he cannot establish prayer by moving his eyes, eyebrows, or by heart only (Marghinani, al-Hidayah, II, 83-85; Mawsili, al-Ikhtiyar, I, 260). A person who can perform ruku and stand on his feet but cannot sit on the ground starts prayer on his feet and does prostration by sitting on a stool, etc. after performing ruku. A person who is unable to stand on his feet and cannot sit on the ground even by extending his legs to his sides or to the direction of the qiblah may establish prayer by sitting on

a stool, chair, or a similar thing and perform rukus and prostrations by symbolic moves.

We should never forget that one should be really sincere in his worship to Allah and show due diligence for fulfilling the required forms specified by the religion. For this reason, the excuses put forward by a believer to establish his prayers on a stool, chair, or similar objects should be valid enough to appease his conscience. The excuses that do not prevent one from establishing prayers in its original form are not seen as valid justifications.

On the other hand, one should know that placing fixed chairs in the form of rows at mosques in order to establish prayers on them does not accord with the essence and culture of mosques.

323. May a pregnant woman establish her prayers by sitting or doing symbolic moves if she has difficulty in establishing prayer in a regular mode?

If performing ruku or sajdah will harm a pregnant woman or her baby, she may establish her prayers by choosing one of the practices given below:

A person who cannot perform ruku and sajdah due to his sickness establishes prayer by sitting in a way he is comfortable, for example, by sitting cross-legged or extending his legs by sides or forward. A person who is unable to sit on the ground even by extending his legs by sides or to the direction of the qiblah may establish his prayer on his feet or by sitting on places such as a stool, sofa, etc. and doing symbolic moves.

Because the Prophet Muhammad (saw) told a person who had hemorrhoids when he asked how to establish prayer, “*Establish it on your feet if you can do, by sitting if you cannot do it, or by lying on your side if you cannot do it either.*” (Abu Dawud, Salat, 181). Such person may establish his prayer by doing symbolic moves according to its rules. A person who establishes prayer by symbolic moves bows his head a bit for ruku, and a bit more than ruku for sajdah. However, he is deemed to have performed by bowing down whole body along with head. If a person is able to stand on his feet but cannot perform ruku and prostration, then he may do symbolic moves on his feet or by sitting; however, it is more appropriate to do it by sitting. According to Hanafis, a person who cannot perform by head moves establishes qada prayer

later; he cannot establish prayer by moving his eyes, eyebrows, or by heart (Mawsili, al-Ikhtiyar, I, 260).

324. Is a person who falls into a vegetative state free from the responsibility of prayer and fasting?

A person who is not conscious for more than one day is exempted from the responsibility of prayer. With this respect, a person who falls into a vegetative state and cannot recover from it will not be responsible for prayers anymore. Those who lose their consciousness for less than one day have to establish qada prayer when they recover (Samarqandi, Tuhfa, II, 192).

A person is exempted from the responsibility of fasting in the event that his loss of consciousness lasts for one month. He will need to perform qada for the missed fasts if it lasts for less than one month (Samarqandi, Tuhfa, II, 350).

However, there is no responsibility of performing qada for the missed fasts of a person who dies before completing one month in the vegetative state. Therefore, it is not necessary for them to give fidyah (monetary compensation) either.

325. How is prayer established by symbolic moves? May one establish prayer by just moving his/her eyes?

Responsibilities are determined according to the power of a servant in our religion. The principle of facilitating is introduced for conditions that are beyond a servant's power. Disease is one of the causes of providing facilities. In this respect, the Prophet Muhammad (saw) said, *“Establish prayer on your feet, if you cannot, establish it by sitting, if you cannot do this too, then establish it by leaning on your side.”* (Bukhari, Taqdir as-salat, 19).

A person who is unable to perform ruku or sajdah establishes his prayer by doing symbolic moves. It means moving head instead of going down to complete ruku and sajdah. A person who establishes prayer by symbolic moves bows his head a bit for ruku, and a bit more than ruku for the sajdah. It is not permissible for a person who is unable to prostrate on the ground to raise something up to put his forehead on it. If a person is able to stand on his feet but cannot perform ruku and prostration, then he may perform them by symbolic moves on his feet or by sitting; however, it is more appropriate to do it by sitting

(Marghinani, al-Hidayah, II, 83-87). A person who is unable to sit on the ground even by extending his legs by sides or to the direction of qiblah due to his sickness may establish his prayer on his feet or by sitting on places such as a stool, sofa, etc. and doing symbolic moves. A person who is unable to sit may do moves by lying on his back or leaning on his side.

According to Hanafis, symbolic moves must be performed with head. A person who cannot do it by his head establishes qada prayer later; he cannot establish prayer by just doing moves with his eyes, eyebrows, or by heart (Marghinani, al-Hidayah, II, 83-85; Mawsili, al-Ikhtiyar, I, 260).

According to Zufar from Hanafis and to Shafi'i school, a person who is unable to move his head establishes his prayer by doing symbolic signs with his eyes. If he is not able to do it even with his eyes, he does it from the heart only. That is to say, he imagines himself in prayer by heart and recites the required duas. Afterwards, he does not need to establish qada prayers for the ones he established in this way. However, if he recovers enough to establish prayers by standing on his feet, it will be mustahab for him to re-establish the prayers he established by heart and eyes (Sarakhsi, al-Mabsut, I, 217; Mawsili, al-Ikhtiyar, I, 260; Ramli, Nihayat al-Muhtaj, I, 468-470).

However, if a person who is able to perform prayer with heart or eyes only wants to establish prayer in order not to break his connection with Allah, he may act according to this last opinion.

SAJDAH AL-SAHW AND THE SAJDAH AL-TILAWAH

326. Why do we need to perform sajdah al-sahw (prostration of forgetfulness)? How is it performed?

Sajdah al-sahw is the prostration performed at the end of the prayer due to situations such as doing a mistake, forgetfulness, etc. In case of delaying, repeating, or performing early a rukn or not performing, delaying, or changing a wajib by forgetfulness in prayer, it is wajib to perform sajdah al-sahw in order to make up for the deficiency (al-Fatawa al-Hindiyyah, I, 138 ff.).

Sajdah al-sahw is performed as follows: Give salam to the right side after reciting al-Tahiyyat in the last sitting of the prayer and go down into prostration by reciting takbir without waiting. Recite "Subhana rabbiya'l-a'la" three times in the prostration. Then sit by reciting takbir

and go down into prostration again by saying “Allahu akbar” and recite “Subhana rabbiya’l-a’la” three times and sit by saying “Allahu akbar”. In this sitting, recite the dhikr and duas of “Al-Tahiyyat, Allahumma salli, Allahumma barik, and Rabbana atina...” and give salam to the right and left. It is permissible to recite Salli-Barik and other duas also in the sitting before performing sajdah al-sahw. Although some are of the opinion that sajdah al-sahw may be performed by giving salam to both sides; majority prefers that it is performed by giving salam only to the right side (Mawsili, al-Ikhtiyar, I, 247; al-Fatawa al-Hindiyyah, I, 139; Ibn Abidin, Radd al-Muhtar, II, 540 ff.).

It is more virtuous and safe to perform sajdah al-sahw after giving salam only to the right side in order to prevent the congregation from ending the prayer by mistake while praying in congregation.

327. What should we do when we hesitate about the number of rakats we have established in the prayer?

Worships and deeds need to be free from any kind of doubt. A person who doubts about the number of the rakats that he established should re-establish that prayer if this is happening for the first time. Because the Prophet Muhammad (saw) stated, *“If one of you doubts about the number of the rakats he established, let him establish it again.”*

(Ibn Abi Shaybah, al-Musannaf, II, 421; see. Zaylai, Nasbu’r-raya, II, 173)

A person who doubts in prayer from time to time and cannot decide precisely about the number of rakats that he has established continues his prayer considering the minimum number of rakats about which he is sure to have established. The Prophet Muhammad (saw) said, *“If one of you is not sure about his prayer, let him forget about what he is unsure of and complete his prayer on the basis of what he is sure of. When he is sure that he has completed it, let him prostrate twice while he is sitting.”*

(Nasa’i, Sahw, 24; Ibn Majah, Iqamat al-Salat, 132).

Accordingly, if a person who starts to a four-rakat prayer gets confused and cannot tell if he is in the first or second rakat, he is deemed to have established one rakat and sits at the end of every rakat and recites al-Tahiyyat as the rakat accepted as the first one may be the second one and the third one accepted as the second one may be the fourth one. So, he performs four sittings and completes his prayer by performing sajdah al-sahw at the end of it (Kasani, Bada’i, I, 165, 166).

328. What should we do when we give salam in the first sitting by thinking that it is the last sitting?

A person who gives salam in the first sitting due to by mistake thinking that he is in the last sitting continues his prayer provided that he did not do any act not related to the prayer such as speaking and turning away from the qiblah, and performs sajdah al-sahw at the end of the fourth rakat. Otherwise, he should establish that prayer again.

If the mistake of giving salam in the first sitting results from lack of information rather than making a mistake, he will need to re-establish it. For example, if a person establishes a four-rakat prayer in two rakats thinking that he is a musafir (traveler) although he is not, he will need to establish the prayer in four rakats again (Ibn Abidin, Radd al-Muhtar, II, 559).

329. What should a person who stands up before performing the last sitting in prayer do?

If a person who is establishing prayer stands up before performing the last sitting by forgetfulness, he may complete his prayer by sitting back and performing sajdah al-sahw after reciting al-Tahiyyat unless he goes down into prostration.

If he did not perform prostration of the rakat from which he stood up, Imam Abu Hanifa and Imam Abu Yusuf say that it will not be possible for him to complete this prayer as a fardh prayer anymore. If the prayer that is being established consists of two or four rakats, he completes his prayer by establishing one more. By this way, he turns the prayer in to a nafl prayer. Afterwards, he needs to establish this fardh prayer again.

The reason for adding one more rakat to the prayer in the case above is because nafl prayers are established in even-numbered rakats. (Ibn Nujaym, al-Bahr, II, 112). If he is establishing maghrib prayer and did not perform the prostration of the rakat from which he stood up, he completes his prayer by sitting back and performing sajdah al-sahw as in above. If he did perform prostration of the rakat from which he stood up, then he is deemed to have established a four-rakat prayer. As the prayer that is established then turns into a nafl prayer, he needs to establish the fardh of maghrib prayer again.

330. Does saying “Allahumma salli ala Muhammad” after reciting al-Tahhiyat in the first sitting of fardh prayers necessitate sajdah al-sahw?

It is wajib to perform sajdah al-sahw in order to make up for the deficiencies in the prayer in the events of delaying or repeating a rukn, or not performing or delaying a wajib act by forgetfulness. According to Imam al-A'zam, a person who says “Allahumma salli ala Muhammad” in a prayer in which one normally needs to stand up after reciting al-Tahiyat in the first sitting performs sajdah al-sahw as he delays qiyam that is a fardh and completes the prayer in this way. According to Imam Abu Yusuf and Imam Muhammad, sajdah al-sahw is not required (Kasani, Bada'i, I, 164).

331. What should an imam do if he has not recited a surah or some verses after Fatiha in the first two rakats of fardh prayers?

It is wajib to recite a bit more (dhamm surah, i.e. additional surah) from the Qur'an after Fatiha in the first two rakats of prayers. It is a sin not to perform wajibs deliberately while not performing or delaying them by forgetfulness is not a sin, but it requires performing sajdah al-sahw at the end of the prayer. Accordingly, if an imam does not recite a surah or some verses from the Qur'an after Fatiha in the first two rakats of fardh prayers with four or three rakats, he needs to perform sajdah al-sahw at the end of the prayer whether or not he recites these surahs or verses in the third and fourth rakats after Fatiha because he has delayed or not performed a wajib of the prayer (Kasani, Bada'i, I, 166; Marghinani, al-Hidayah, II, 70,71).

332. Should a person who has recited a surah or some verses in the 3rd or 4th rakats of fardh prayers perform sajdah al-sahw?

It is contrary to the sunnah to recite a surah or verses after Fatiha in the third and fourth rakats of fardh prayers. However, although reciting a surah by mistake causes to a delay in ruku and prostration that are fardh, one does not need to perform sajdah al-sahw in this situation as qiyam is the place of qiraat (recitation) (Ibn Nujaym, al-Bahr, II, 102).

333. What should a person who forgets to perform sajdah al-sahw do?

If a person who has not performed sajdah al-sahw by mistake or forgetfulness does acts not related to the prayer such as laughing, speaking, or turning his direction away from the qiblah, after giving salam, or does not have enough time to perform sajdah al-sahw, then he will not be responsible for it. And he does not need to re-establish that prayer either. However, if he remembers to perform sajdah al-sahw before committing an act irrelevant to prayer, he immediately performs it (Kasani, Bada'i, I, 174).

334. How is the sajdah al-tilawah performed inside or outside the prayer?

It is wajib for a person who recites or listens to the verses of prostration to perform sajdah al-tilawah. If a person who recites a verse of prostration is not in prayer, he performs sajdah al-tilawah either right after reciting the verse or later (Mawsili, al-Ikhtiyar, I, 254).

If the person performing the prayer recites the verse of prostration during the prayer, if he does not recite more than three verses after the prostration verse and bows down, he intends to prostrate for recitation and goes down to ruku. This ruku also substitutes for sajdah al-tilawah. If he is going to recite more than three verses, he intends to recite prostration and goes straight down to prostration, and after prostrating once, he gets up and continues the recitation from where he left off. (al-Fatawa al-Hindiyyah, I, 147).

Although sajdah al-tilawah is not a ritual prayer, the requirements of prayer such as taharah, turning to the qiblah, intention, and covering the required parts of the body apply to it as well. However, takbir al-iftitah is a sunnah in sajdah al-tilawah.

In order to perform sajdah al-tilawah, one says "Allahu akbar" without raising his hands up, goes to prostration directly and says "Subhana Rabbiya'l-a'la" three times in that position, then stands up from the prostration by saying "Allahu akbar" again. Sajdah al-tilawah is completed by this way. That is to say, sajdah al-tilawah does not include sitting for a while to recite tashahhud and giving salam.

If a person who hears the verses which require performing sajdah al-tilawah does not have the opportunity to perform it immediately, it is mustahab for him to say "Sami'na wa ata'na ghufuranaka Rabbana

wa ilayka'l-masir". He performs the sajdah later when he finds the opportunity to do it (Shurunbulali, Maraqi al-falah, p. 183).

335. Is a person rewarded (gains thawab) for listening to the recitation of the Holy Qur'an on TV or radio? Should one perform sajdah al-tilawah if a verse of prostration is recited while listening?

Listening to the Qur'an on TV or radio is a meritorious act. One should perform sajdah al-tilawah if a verse of prostration is recited while listening.

RULINGS RELATED TO FUNERAL

336. What is the ruling on funeral prayer?

Funeral prayer is fardh al-kifayah (communal obligation). The primary religious duties of Muslims towards their deceased brothers and sisters are to establish their funeral prayers and make the necessary preparations for them. The fardh will be fulfilled when this prayer is established by one person either man or woman. Funeral prayer consists of praise to Allah (swt), salat to the Messenger of Allah (saw), and dua for the deceased person. It is stated in the Holy Qur'an about the hypocrites who did not go on Expedition of Tabuk without an excuse, *"And do not pray [the funeral prayer, O Muhammad], over any of them who has died - ever - or stand at his grave. Indeed, they disbelieved in Allah and His Messenger and died while they were defiantly disobedient."* (Tawbah, 9/84) This verse points out funeral prayer's being a fardh. Moreover, the Messenger of Allah (saw) said upon a Muslim's death, *"A brother of yours has died; so stand up and offer prayer for him."* (Muslim, Jana'iz, 66)

337. Is there a specific time to establish funeral prayer? May the burial of deceased be postponed?

There is no specific time for performing funeral prayer. It may be performed in any time of a day. However, it is not appropriate to establish it in prohibited times unless there is a necessity (Tirmidhi, Jana'iz, 41). It is appropriate to bury a deceased that is prepared without waiting long by establishing its prayer quickly (Tirmidhi, Jana'iz, 30). However, the deceased may be kept waiting for a while in order to ensure that the congregation gets crowded and that his/her relatives, friends, and

neighbors learn about his death and come to fulfill their last duty towards him/her.

338. How is funeral prayer performed?

Funeral prayer is a prayer without ruku and prostration; its pillars are qiyam and takbir. Funeral prayer consists of four takbirs including takbir al-iftitah (beginning). Giving salam is wajib. Its sunnah acts are: offering praise and thanks to Allah, salat and salam to the Prophet Muhammad (saw), and making dua both for the deceased person and Muslims.

In order to establish funeral prayer, rows are formed by placing the deceased in front of the congregation and turning to the qiblah, and intention is made for funeral prayer. Both the imam and the congregation recite takbir, fold their hands, and recite “Subhanaka” by adding the sentence of “wa jalla thana’uk”. After that, takbir is recited without raising hands, and duas of “Salli-Barik” are recited. Then, takbir is recited again without raising hands. Those who know it recite the funeral dua (Tirmidhi, Jana’iz, 38), and those who do not know it by heart recite Surah al-Fatiha with the intention of dua, or another dua they know (Tirmidhi, Jana’iz, 39). After the fourth takbir, salam is given to right and left sides. Thus, prayer is completed.

The requirements such as taharah, turning to the qiblah, satr al-awrat (covering the parts of the body that are needed to be covered), and intention are to be fulfilled in funeral prayer. The corpse for which funeral prayer will be established should be Muslim, be washed and enshrouded, and be placed in front of the congregation. Besides, according to Hanafis and Malikis, whole or more than half of the deceased person’s body or only his/her head with at least half of the body should be present. According to Shafi’is, a deceased person’s funeral prayer may be established even a single limb of his/her body is found. Because the Companions established funeral prayer of a Companion whose hand was found only (Shirbini, Mughni al-muhtaj, I, 518). A child who was born alive but has died for a while later should also be washed and his/her funeral prayer should be performed (al-Fatawa al-Hindiyyah, I, 174).

339. What should be done if one recites takbirs more or less than the required number in the funeral prayer?

Funeral prayer is a prayer without ruku and prostration; its pillars are qiyam and takbir. There are four takbirs in funeral prayer including takbir al-iftitah. Giving salam is wajib. Its sunnah acts are: offering praise and thanks to Allah, salat and salam to Prophet Muhammad (saw), and making dua both for the deceased person and Muslims.

If the imam recites more than four takbirs, the congregation should not follow him and wait for him to give salam in order to give salam with him. But if the imam recites less takbir than needed out of forgetfulness and gives salam, prayer will not be valid as the imam's prayer is invalidated, even if the congregation recites the fourth takbir on its own. In this situation, the prayer needs to be established again.

In the event that the prayer is performed with less takbirs than the required but it is understood after the burial of the corpse, the prayer is established by the grave again if the person is not buried a long time ago (Kasani, Bada'i, I, 313-315).

340. May a single funeral prayer be established for more than one deceased?

If more than one deceased is ready for burial, establishing a single prayer is enough for them although it is more appropriate to establish their prayers separately (Sarakhsi, al-Mabsut, II, 65; Mehmed Zihni, Ni'met al-Islam, p. 591).

341. May more than one funeral prayer be established for one deceased?

The fardh will be fulfilled when funeral prayer is established once. For this reason, it is not needed to be established again. However, those who failed to attend funeral prayer may establish it afterwards individually or by forming a separate congregation. Indeed, the Prophet Muhammad (saw) established funeral prayer for Umm S'ad later as he could not attend the funeral prayer on time (Tirmidhi, Jana'iz, 47).

342. May a funeral prayer in absentia be established?

The essential point in performing funeral prayer is that the corpse is present. However, funeral prayer may be established for a corpse that is not present as well. Because the Messenger of Allah (saw) informed people about the death of Najashi (Negus) of Abyssinia, then went in

front of the congregation in order to perform his funeral prayer, and the Companions formed rows behind him (Bukhari, Jana'iz, 55; Muslim, Jana'iz, 63). Jabir ibn Abdullah (ra) who was present there said, “*The Messenger of Allah (saw) performed funeral prayer (in absentia) for al-Najashi. and I was in the second or third row.*” (Bukhari, Jana'iz, 53)

Also, it is known that the Messenger of Allah (saw) performed funeral prayer in absentia for Uhud martyrs (Bukhari, Jana'iz, 73) and for the deceased that were buried without informing him (Bukhari, Jana'iz, 56).

343. Can we establish funeral prayer with our shoes on?

As in all prayers, one should eliminate all kinds of filth (tahirah from najasat), which prevent one from establishing prayer, in funeral prayer, too. Accordingly, it is permissible in religious terms for a person to establish funeral prayer with shoes on if there is no filth on shoes that may prevent one from establishing the prayer. Because the Messenger of Allah (saw) started a funeral prayer with his shoes on and took them off upon Jibreel's informing him about the filth on them (Abu Dawud, Salat, 91).

344. How should women who attend a funeral prayer form rows?

It is not appropriate for women who attend a funeral prayer to take place in the same row with men unless there is a situation that necessitates it. With this respect, women need to form a row behind men when they establish prayer with men no matter which prayer it is. Because the Prophet Muhammad (saw) arranged the rows of prayer in the order of men, boys, and women (Muslim, Masajid, 266). Although this is the procedure which complies with sunnah, it does not affect the validity of the prayer if women establish funeral prayer among men. Because funeral prayer is not evaluated as a full prayer with ruku and prostration. However, it is makruh for women to act like this.

345. May the funeral prayer be performed inside a mosque?

Funeral prayer is established outside mosques unless there is an excuse. But it is permissible to establish it inside mosques in the event of excuses such as rain, mud, cold weather, etc. (al-Fatawa al-Hindiyyah, I, 181).

According to Shafi'i's, it is mustahab to establish it inside if there is no worry about contaminating the mosque (Nawawi, al-Majmu, V, 213). When Sa'd ibn Abi Waqqas died, Aisha wanted the corpse to be taken into the masjid so that she could establish funeral prayer too but the

Companions did not welcome this demand. Upon this event, Aisha (ra) said, *“How forgetful these people are! The Messenger of Allah (saw) established the funeral prayer of Suhayl ibn Bayda’ in the masjid.”* (Muslim, Jana’iz, 101).

346. **May funeral prayer be performed with tayammum?**

Funeral prayer has the same requirements with other prayers. The requirements such as taharah, turning to the qiblah, satr al-awrat, and niyyah are to be met in this prayer, too. It is not permissible to establish funeral prayer without ablution. However, in the event that a person will miss funeral prayer if he performs ablution, then he may establish it by performing tayammum (Mawsili, al-Ikhtiyar, I, 86).

347. **May a funeral prayer be performed for a person who has committed suicide?**

Life is a trust given to the servants by Allah. It is a major sin for a person to commit suicide just like it is a sin to kill other people. On many occasions, the Prophet Muhammad (saw) informed people about suicide’s being a major sin and the punishment of those who commit suicide. He said, *“Whoever purposely throws himself from a mountain and kills himself, will be in the (Hell) Fire falling down into it and abiding therein perpetually forever; and whoever drinks poison and kills himself with it, he will be carrying his poison in his hand and drinking it in the (Hell) Fire wherein he will abide eternally forever; and whoever kills himself with an iron weapon, will be carrying that weapon in his hand and stabbing his abdomen with it in the (Hell) Fire wherein he will abide eternally forever.”* (Bukhari, al-Tibb, 56) It is stated in this impressive hadith that the heavy and permanent punishment that will be faced in the Hereafter by the person who commits suicide will be the consequence of his/her own deed.

Islamic scholars expressed that the record of the punishment in the hadith is valid for those who commit suicide by thinking that it is halal, and that it is a metaphoric expression used for referring to a long term punishment (Ayni, Umdah, XXI, 292).

It is clear that the act of suicide, which means ending the life entrusted by the Almighty Allah in a way that is not welcome by Him, cannot be committed by a reasonable person. However, people pray to Allah to have mercy on that person by thinking that he committed this

act in a state of insanity. Because scholars state that funeral prayer of every person who recites kalimat al-shahadah shall be established with reference to the general meaning of the hadith of, “*Establish prayer of every person who says ‘la ilaha illallah’.*” (Tabarani, al-Mu’jam al-Kabir, XII, 447) (Ibn Qudamah, al-Mughni, III, 508; Nawawi, al-Majmu, V, 211; Ibn Rushd, Bidayah, I, 239).

OTHER ISSUES RELATED TO FUNERAL AND GRAVE

348. What is the ruling on reciting sala for a funeral?

There is no information in religious sources regarding the recitation of sala in the period of Prophet Muhammad. However, it is sunnah to announce the news of death by means of different ways. Because it was narrated that the Messenger of Allah (saw) informed his Companions about death of al-Najashi (Negus of Abyssinia) (Bukhari, Jana’iz, 4) and reproached to them about a corpse buried without him being informed by saying, “*Why did you not inform me?*” (Bukhari, Jana’iz, 5, 56). It is permissible to recite sala in order to announce a funeral without believing that it is a fardh or wajib act.

349. What is the ruling on washing the deceased? Is it necessary to unearthen and wash the deceased which had been buried without being washed?

It is fardh al-kifayah (communal obligation) to perform a Muslim’s funeral prayer after s/he is washed and enshrouded (Kasani, Bada’i, I, 300, 306 318; Mawsili, al-Ikhtiyar, I, 303, 310). When this duty is fulfilled by some Muslims, others become freed from its responsibility. A corpse that was buried without being washed for any reason is not unearthened to be washed after burial (Ibn Abidin, Radd al-Muhtar, III, 145).

350. How is the deceased enshrouded? Can the deceased be buried with its clothes on without being enshrouded?

Enshrouding (takfin) means covering the corpse with a cover prepared in due form after the corpse is washed. Enshrouding a corpse is fardh al-kifayah upon Muslims. It is one of the last two duties to be fulfilled by living believers towards the deceased Muslim along with funeral prayer. In this respect, the Prophet (saw) said, “*When one of you*

undertake the duty of shrouding his brother, he should do it well.” (Muslim, Jana’iz, 1,2).

Enshrouding is done with three pieces of cover for men: qamis (shirt), izar (wraparound), and lifafa (outer sheet); and with five pieces for women by adding a headscarf and a cover of chest to these.

In the event that there is not enough shroud for enshrouding, two pieces, i.e. izar and lifafa, are used for men and three pieces, i.e. izar, lifafa, and a headscarf, are used for women. If these are not available either, just one piece of cloth that will cover the whole of the corpse’s body is sufficient (Muslim, Jana’iz, 44). In this case, there is no difference between enshrouding of men and women.

Qamis (shirt), which is one of the pieces of shroud, covers the corpse from neck to feet and izar, which is another piece of shroud, covers it from head to feet. Lifafa, on the other hand, is the piece of sheet that covers it from head to feet and is the outer piece of shroud. It is a bit longer than others to be tied above feet and head.

It is more virtuous that the shroud is made of a white cotton cloth. The Prophet Muhammad (saw) said, *“Enshroud your deceased people with white shroud.”* (Ibn Majah, Jana’iz, 12).

According to Islam, a deceased person cannot be buried with the clothes on him/her without being enshrouded. However, those who are martyred while fighting in the way of Allah are excluded from this rule. Those who are deemed martyrs both in the world and in the Hereafter are not enshrouded, they are buried with their bloody clothes after their funeral prayers are established, because their shroud are their clothes.

351. **May one recite the Qur’an in a place where a corpse is present?**

According to Hanafis, it is makruh to recite the Qur’an in the room where a corpse is present until it is washed. It is permissible to recite in another place. After the deceased is washed, the Qur’an may be recited near it as well (al-Fatawa al-Hindiyyah, I, 173; Ibn Abidin, Radd al-Muhtar, III, 83-84). According to Shafi’is, it is makruh to recite Qur’an before burial (Ramli, Nihayat al-muhtaj, II, 438).

352. **Is it permissible to uncover and look at the deceased person’s face after having been washed and enshrouded?**

It is permissible for the relatives and friends of a corpse to uncover and look at the corpse’s face or kiss him/her for the last time after it is

washed and enshrouded. Because it is known that Prophet Muhammad (saw) did so when Uthman ibn Maz'un (ra) and the Prophet's son Ibrahim died (Abu Dawud, Janaiz, 40). Likewise, it is stated in hadith books that when Prophet Muhammad (saw) passed away, Abu Bakr (ra) uncovered his face, kissed him on the face between his eyebrows with respect, and started to cry.

It is makruh for non-mahram to look at a deceased woman's face unless there is a reason that necessitates it although it is permissible for women and mahram men to look at it. It is permissible for women to look at a deceased man's face (Kasani, Bada'i, I, 304-305; Shirbini, Mughni al-muhtaj, I, 531-532).

353. Can a deceased be taken from the place of death to another place and buried there?

It is mustahab to bury a person to the cemetery of his/her place of death. Except some cases, the Companions were generally buried at where they died. However, it is permissible in religious terms to take it to another city or country and bury there if there is no worry about corpse's being decayed. As a matter of fact, it is narrated that the Companion Sa'd ibn Abi Waqqas and Said ibn Zayd (ra) died in a place named Akik outside Medina but were buried in Medina (Muwatta, Jana'iz, 31; Aliyy al-qari, Fath Bab al-'inayah, I, 457).

354. Can more than one deceased be buried in the same grave?

Under normal circumstances, only one corpse is buried in one grave. However, more than one deceased are buried in the same grave if there is an obligation or necessity. As a matter of fact, the Prophet Muhammad (saw) did so for the martyrs of Uhud. But corpses should be separated with something like earth, etc. in this situation (Ibn Maza, al-Muhit, II, 193).

Unless the corpse that was buried before is decayed, it is not permissible to uncover his/her grave and bury a second corpse in it. Yet, after the corpse is decayed and transforms into soil, another corpse may be buried in the same grave (Ibn Qudamah, al-Mughni, III, 443-444; Mawsili, al-Ikhtiyar, I, 320; Nawawi, Rawda, I, 658; Mehmed Zihni, Ni'mat al-Islam, p. 602).

The issue of decaying time of a corpse changes according to the type of the soil and the climate of the region. When it is thought that the previous corpse is decayed, a second corpse may be buried in the same grave. If it is seen that there are some bones left in the grave when it is

opened thinking that corpse was decayed, these bones are collected to a side, earth is thrown on them to form a layer between, and the second corpse is buried after that.

355. Is it permissible in Islam to construct multi-layered cemeteries?

It is permissible in religious terms to construct multi-layered cemeteries whose divisions are split from each other by means of concrete caps and a layer of earth as well, due to limited land and economical necessities, and bury corpses in them.

356. May a buried corpse be taken from the grave and transferred to another place?

It is not permissible in religious terms to take a corpse from the grave to be transferred to another place unless there are obligatory conditions such as a road construction on the place of the grave or the grave's being submerged, or the landlord's not letting it be buried in his land (Ibn Abidin, Radd al-Muhtar, III, 146; Shurunbulali, Maraqi al-falah, s. 223; Mehmed Zihni, Ni'met al-Islam, p. 603).

Reasons such as the dead person's will, his relatives' having difficulty in visiting the grave, or not having a road to the grave are not excuses for transferring a grave.

357. Is any procedure applied for the deceased when it is realized afterwards that it was not buried towards the qiblah?

It is sunnah to place the corpse in his/her grave on his/her right side, with his/her face towards the qiblah. But a corpse that was buried towards another direction other than the qiblah unknowingly should be left as it is. Because it is not permissible to unearth a grave without a legitimate excuse (Ibn Abidin, Radd al-Muhtar, III, 146).

358. May the amputated body parts such as leg or arm be buried?

A person's arm or foot that is cut or chopped from the body for any reason is covered with a clean piece of cloth, taken to a cemetery, and buried to a suitable place without establishing funeral prayer (Tahtawi, Hashiyah, p. 575).

359. Can a non-Muslim be buried in a Muslim cemetery or vice versa?

Burying a person to a cemetery where his coreligionists are buried is a general practice. This is because every religion has its own funeral practices and procedures. It is important to bury Muslims away from the members of other religions in order to sustain some practices of Islamic tradition such as burial of a deceased person by being washed and enshrouded, grave visit, and praying for the deceased person; and to keep religious culture alive in this field. For this reason, Muslims have been sensitive on this issue throughout the history and paid due attention not to mix graves of Muslims with that of other religions. However, if there is not a cemetery reserved for his coreligionists and it is not possible to transfer it to another place, a non-Muslim who lives and dies among Muslims may be buried in a suitable part of Muslim cemetery. Likewise, if a Muslim dies among a non-Muslim community and there is no Muslim cemetery to bury him, his body may be buried in a suitable part that is away from other graves of a non-Muslim cemetery (al-Fatawa al-Hindiyyah, I, 175). However, Muslims who live as a minority should exert effort for the allocation of a cemetery for them in the country they live.

360. What is the meaning and ruling on tazkiyah for a dead person?

Tazkiyah means to express testimony that the dead person was a good person. Every Muslim should try to live a life for which people will be witnesses in a good way when s/he dies. However, it is hoped that the dead person will benefit from good testimony of his/her relatives (even if s/he is not good in every aspect). The Prophet Muhammad (saw) stated, *“When a Muslim dies if four households out of his close neighbors testify about him as, ‘All we know about this man is good’, Allah the Exalted commands, ‘O ye believers! I accept your knowledge, your witnessing about this dead person, and I forgive his mistakes that are not known by you.’”* (Ibn Hanbal, al-Musnad, XXI, 174)

In order to perform tazkiyah, it will be appropriate to testify for the dead person by answering the question of “What kind of person was this man?” asked before or after funeral prayer, those who think that the dead person was a good one should say, “We know him as a good man”. Those who do not think that the dead person was a good one should keep silent, and those who do not know him should say, “may Allah

have mercy on him”. Because Prophet Muhammad (saw) said, “*Make a mention of the virtues of your dead, and refrain from (mentioning) their evils.*” (Abu Dawud, Adab, 49; Tirmidhi, Jana’iz, 34).

361. What is talqin, how is it performed, and what is the ruling on it?

Talqin means reminding a person who is about to die of kalimat al-tawhid and the dead person of the principles of iman after burial near his/her grave.

The Prophet Muhammad (saw) said, “*Exhort to recite “la ilaha illallah” to those of you who are dying.*” (Muslim, Jana’iz, 1,2) It is mustahab to make people, who are about to die, lie on their right side by turning their face towards the qiblah. One should give talqin of kalimat al-tawhid to those who are sane and able to speak. The purpose of talqin is to help a patient remember the belief of tawhid while leaving this world. We should only recite “kalimat al-tawhid” and “kalimat al-shahadah” during talqin; we should not force him/her to say it. The Prophet Muhammad (saw) also encouraged people to recite Surah Ya-Sin near a person who is about to die (Abu Dawud, Jana’iz,24).

Moreover, although the talqin performed by a person who stays near the grave when the crowd leaves after burial and reminds the dead of the principles of iman loudly by addressing to him/her is not seen legitimate by some scholars, there are also other scholars who say that this may be performed near the grave of a person who dies after being accountable in religious terms (Ibn al-Humam, Fath, II,105; al-Fatawa al-Hindiyyah, I,173).

362. Is it possible for a dead person to know about the state of the alive?

It is known that the Prophet Muhammad (saw) addressed to the dead people of the polytheists in the Battle of Badr, spoke to them, and said that they heard them (Bukhari, Jana’iz, 86; Muslim, Jana’iz, 9). Also, he advised people to give salam to the dead people when they visited graves, in addition, he went to the Cemetery of Baqi and gave salam to the dead people buried there (Muslim, Jana’iz, 102). Besides, according to a narrative, the Prophet Muhammad informed people that the deeds of the alive people will be showed to their dead relatives and friends, and they will be upset for their bad deeds and happy for their good deeds (Tabarani, al-Mu’jam al-Kabir, IV, 129). Based on these hadiths, some Islamic scholars

expressed that the dead people will be informed about the conditions of the alive to the extent Allah allows them.

363. Is it permissible in Islam to attend funeral prayers of non-Muslims?

Muslims may attend the funeral ceremonies of non-Muslims only for humanitarian purposes such as offering condolences or consoling them. However, it is not permissible for a person who attends such ceremonies to attend the prayers, worships, and similar religious rituals and ceremonies of other religions and ask mercy from Allah for non-Muslim persons who are dead. The Messenger of Allah (saw) gave talqin of “La ilaha illallah” to his uncle Abu Talib when he was about to die, but he did not believe, then the Prophet (saw) said, “*By Allah, I will keep on asking forgiveness for you unless I am forbidden (by Allah).*” Upon this incident, the 113th verse of Surah al-Tawbah which prohibits asking forgiveness for non-Muslims was revealed (Bukhari, Jana’iz, 80).

364. May non-Muslims attend the funeral prayers of Muslims?

There is no religious objection to the participation of non-Muslims in the funeral ceremony of Muslims.

365. What is the ruling on expressing condolences?

Expressing condolences is to share the grief of the relatives of the deceased person and to say words to console and give relief to them. Prophet Muhammad (saw) said about visiting a person who experiences a catastrophe: “*Whoever consoles a person with an affliction, then he gets the same reward as him.*” (Tirmidhi, Jana’iz, 72). Likewise, he said by advising to give condolences to those whose relative dies, “*Whoever consoles a bereaved mother will be dressed in Paradise.*” (Tirmidhi, Jana’iz, 75).

One should not give condolences after three days in order not to refresh the grief of the relatives of a dead person (Ibn Hajar, Fath, III, 146). A person who gives condolences wishes patience and strength for the deceased person’s relatives and makes good duas for the dead person (Nasa’i, Jana’iz, 120).

366. What is the ruling on crying and mourning after a dead person?

Crying after a dead person is an expression of the feeling of compassion bestowed by Allah. The Prophet Muhammad (saw) also

cried when his son Ibrahim died and shed tears when he was informed about one of his grandchildren who was about to die. When he was asked about the reason he said, *“It is mercy which Allah has lodged in the hearts of His slaves, and Allah is merciful only to those of His slaves who are merciful (to others).”* (Bukhari, Jana’iz, 43; Muslim, Jana’iz, 11, 12; Abu Dawud, Jana’iz, 28) But crying loudly and screaming after a person by tearing clothes is not permissible. The Prophet Muhammad (saw) said, *“Those who tear his clothes, hit his face or cheeks, or do the practices of the Age of Ignorance when they face with calamity are not one of us.”* (Abu Dawud, Jana’iz, 29) *It was narrated from Abu Umamah that the Messenger of Allah (saw) cursed the woman who scratches her face and rends her garment and cries that she is doomed (i.e. because of the death of this person).* (Ibn Majah, Jana’iz, 52).

367. Is it permissible for the relatives of the deceased to serve treats like food to the attendees of funeral ceremony?

It is seen makruh for the relatives of a deceased person to prepare and serve food to the guests who come to give condolences as they are already in grief and sadness and this will be an additional rush and hardship for them (Ibn Abidin, Radd al-Muhtar, III, 148). Instead, it is sunnah for the neighbors or friends to bring food for the family of the deceased person and the guests (Tirmidhi, Jana’iz, 21).

Besides, the relatives’ distributing such foods like halwa and bread in the cemetery or at home has no religious ground. Although it can be said that it is permissible to do it by not considering it as a religious requirement, there is a risk that such practices may be interpreted as a religious ruling on funeral. Therefore, if these treats are served as a religious obligation, they are deemed as bid’ah.

368. What is the ruling on standing up when seeing a funeral being carried?

According to Islam, all humans are respectable whether they are Muslim or not. There are verses in the Holy Qur’an referring to this aspect of humans (Isra, 17/70). People deserve to be respected also after death just like they do when they are alive. For this reason, one should avoid from acting against this respectability both before and after burial. The Prophet Muhammad (saw) stood up for a funeral being carried near him and when others informed him that it was the corpse of a

Jew he said, “*Was not he a human?*” (Bukhari, Jana’iz, 49; Nasa’i, Jana’iz, 45-47). Another hadith about this subject reads as follows, “*If one of you sees a funeral procession, then he should stand and remain standing till he gets behind it or it leaves him behind.*” (Bukhari, Jana’iz, 47) Therefore, if possible, it complies with sunnah to stand up while a funeral is being carried.

369. **Is a will requesting the washing and burial of the corpse binding?**

The will of a person, which is left behind when one was healthy, to determine a specific person to wash oneself, perform one’s funeral prayer and bury, or to determine a specific place to be buried is not binding. However, relatives of the deceased person may realize this will if they wish (al-Fatawa al-Hindiyah, I, 179).

370. **Can we donate the thawab of charitable acts or Qur’an recitations to the name or soul of a dead person?**

It is permissible to donate the spiritual rewards of worships and good deeds to another person. A person may grant the reward of partial or complete recitation of the Qur’an and a good deed to another person. It is hoped that a person to whom the thawab is granted will benefit from it no matter if s/he is alive or dead. Although the debts of worship (missed or not fulfilled) on a person are not fulfilled by means of the rewards spiritually donated to him/her by another person, they may conduce to the increase of his benevolences and thawabs and rise of his spiritual rank.

A man from Banu Salama tribe asked if he could do any favour for his parents after their death. The Prophet Muhammad (saw) replied as, “*Yes, you can invoke blessings on them, forgiveness for them, carry out their final instructions after their death, join ties of relationship which are dependent on them, and honor their friends.*” (Abu Dawud, Adab, 130; Ibn Majah, Adab, 2).

When a Companion said that his mother died suddenly, he thought that she would leave a will for him to give sadaqah if she could speak, and asked whether he could give in charity on her behalf and whether the rewards could reach her, the Prophet (saw) said, “*Yes! Give in charity on her behalf.*” (Bukhari, Wasaya, 19; Muslim, Zakat, 51).

371. Is there any religious basis for the customs practiced in the society such as seventh, fortieth, and fifty second night after the death?

It is fardh to wash and enshroud a Muslim according to its procedure and bury it after establishing the funeral prayer (Kasani, Bada'i, I, 300, 306, 318). Except this, there is no duty to be performed in a specific form and time such as a ceremony or dua on the seventh, fortieth, and fifty second day. Such practices do not have any religious ground. In this respect, it is bid'ah to arrange ceremonies for a dead person in the mentioned days, and *“Every bid'ah is an error.”* (Muslim, Jumu'ah, 43; Abu Dawud, Sunnah, 6). However, one may make duas with various occasions along with doing acts of charity in order to grant their rewards to the soul of a deceased person (See. Bukhari, Wasaya, 19; Muslim, Zakat, 51).

372. Is dawr (circulate) and isqat (annulment) have a place in Islam?

Isqat means clearing a person's debts of religious obligations such as fasting, nadhr (votive acts of worship) and kaffarat (atonement) unperformed while the person was alive because of various reasons and therefore, saving that person from those debts. It is stated in the Qur'an: *“And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day].”* (Baqarah, 2/184). According to this verse, those who are not able to fast in Ramadan or any other time later because of their excuses must pay fidyah for each unobserved day. Based on this verse, majority of Muslim jurists stated that fidyah may be paid for fasting debts of a deceased person who did not observe fasting with or without an excuse and did not perform qada, and further stated that such persons need to make a will for this. The condition of a person who dies in state of being unable to observe fasting may be compared with that of a person who cannot observe it due to an excuse. If the deceased person left a will in this regard, this judgment of comparison will be stronger. If there is no will, heirs do not have to do it. If the deceased person did not leave inheritance or the property left as inheritance is not enough, they may give out of their own property as donation. The isqat which is performed in this way for fasting complies with religious rulings.

When it comes to isqat of salah, there is no evidence or a sign in the Holy Qur'an and sunnah supporting the payment of the prayer debts

with fidyah. In this respect, it cannot be said that prayer debts will be cleared off with fidyah. However, it is hoped that they will conduce to forgiveness of sins and manifestation of Allah's forgiveness as the help given to the needy people is deemed as sadaqah given on behalf of the deceased person. Because it is stated in the Holy Qur'an, "*For those things that are good remove those that are evil.*" (Hud, 11/114). However, there is neither rational nor textual ground for the practice of dawr (circulate) which means giving a certain amount of money to a poor person and his donation of this money back to its giver by, so to say, acting benevolent and repeating of this act of acceptance and donation (or circulating the money between them) until the amount enough to cover the fidyah is completed.

In conclusion, giving sadaqah to the poor as much as possible, doing acts of charity, and donating to charitable organizations are the best acts that may be done by living people on behalf of the deceased. But if there are poor, orphan and needy people among the heirs of a person, it is not permissible at all to behave unjustly towards them by making isqat and transfer and giving sadaqah out of the property of the deceased (other than his will) (Ibn Nujaym, al-Bahr, IV, 117; Ibn Abidin, Radd al-Muhtar, II, 532-534).

According to the prevailing opinion in Shafi'i school, it is not permissible for the relatives of a person who dies with the debt of unfulfilled prayer or votive itiqaf to perform these worships on behalf of the deceased person by giving fidyah and clearing these debts off in this way (Nawawi, al-Majmu, VI, 372).

373. Is it permissible to applaud, shout slogan, and whistle in a funeral?

It is sunnah to go to the grave after the funeral. The Prophet Muhammad (saw) included the duties related to funeral while listing the duties of a Muslim towards another Muslim. Funeral prayers aim to remind living people of death and help them to draw lessons by thinking about the Hereafter along with being the last duty to be fulfilled towards a deceased Muslim. For this reason, it is not permissible to scream and shout, cry loudly, applaud, shout slogan, whistle, etc. in funeral ceremonies. Let alone such behaviors, Islamic scholars accept even reciting takbir aloud as makruh (al-Fatawa al-Hindiyyah, I, 178). In this regard, those who are present in the funeral prayer need to follow the

funeral quietly and in a dignified manner. This is also a requirement of respect for the deceased person.

374. Is it permissible in Islam to send wreath or flowers to funerals?

Sending wreath or flowers to funeral ceremonies or placing them on graves have no benefit for the deceased person. On the other hand, such expenses are considered as extravagance as they have no point. With this respect, it is more suitable to donate the money to be spent for wreath to a charity or poor people by donating its thawab to the soul of the deceased person.

375. What is the ruling on having a grave or a tomb constructed?

It is permissible in religious terms to construct graves that are not luxurious, to place plain stones and the like, which include the identity details of the deceased person, at the graves in order to avoid the risk of losing them. When Uthman ibn Maz'un (ra) died, he was buried in a place outside Medina. The Messenger of Allah (saw) wanted a stone to mark the place of Uthman's grave and said after placing the stone at the head of the grave, *"I am marking the grave of my brother and I shall bury my deceased family members beside him."* (Abu Davud, Jana'iz, 63).

However, constructing graves higher than one-two inches, constructing buildings or domes on them, or writing excessive compliments or expressions of complaint about death and predestination are not permissible.

376. What is the etiquette to be followed during grave visits?

Visiting cemeteries and thereby remembering death and drawing lessons from the dead lying in graves are recommended by Islamic creed.

A person who visits a grave should remember the Hereafter, think that life is temporary and one day s/he will die, too. The Prophet Muhammad (saw) would visit al-Baqi cemetery at nights and say, *"Peace be upon you, abode of a people who are believers. What you were promised would come to you tomorrow, you receiving it after some delay; and God willing we shall join you. O Allah, grant forgiveness to the inhabitants of al-Baqi."* (Muslim, Jana'iz, 102). It is appropriate for people who visit graves to pray for the deceased, and to recite the Qur'an and grant its reward to the souls of those who are buried there.

However, one should stay away from acts and behaviors that are contrary to the essence of Islam and the understanding of tawhid and are harmful in terms of faith while visiting graves and tombs. Crying loudly and making noise near graves, kissing the fences and stones of graves, and crying by hugging the grave stones do not comply with Islam. As it is not right to regard the dead people in tombs as superhuman beings and think that they will accept duas or they have divine powers, submitting our needs and wishes to them, hoping for their help, seeing these visits as religious duty and asking for their help by wrapping pieces of clothes, lighting candles, sacrificing animals, and serving treats such as candy, etc. do not comply with Islam which is the religion of tawhid. Hoping for the help of deceased people and expecting something from them are dangerous acts in terms of Islamic faith.

377. Can women pay visit to graves?

All Muslims can visit graves. The Prophet Muhammad (saw) had banned grave visit for a while in the period when the habits of the jahiliyya continued; however, he removed the ban later and said, “*I forbade you to visit graves, but you may now visit them, for in visiting them there is a reminder (of death).*” (Muslim, Jana’iz, 106; Abu Dawud, Jana’iz, 81)

With this respect, women may visit graves too. Because the Prophet (saw) advised a woman who was crying near the grave of her child to be patient and did not forbid her to visit the grave (Bukhari, Jana’iz, 7, Ahkam, 11; Muslim, Jana’iz, 15).

The hadiths narrated about Prophet Muhammad’s (saw) cursing women who visited graves much (Tirmidhi, Jana’iz, 62; Ibn Majah, Jana’iz, 49) are about the period in which grave visits were prohibited. Great hadith scholar Tirmidhi continues as follows after mentioning the related hadith, “*Some scholars say that the hadiths including curses upon women who visited graves were before permission of grave visits. When grave visits were permitted, this permission became general and included both men and women.*” (Tirmidhi, Jana’iz, 62)

378. May a woman pay visit to a grave while in her menstruation period?

There is no verse or hadith that prohibits women from visiting graves when they menstruate. For this reason, it is permissible for women to

visit graves and recite dua verses by heart with the intention of making dua when they are in this state.

379. **Is it a sinful act to sit on a grave?**

Just as a living person is honorable, so is his/her dead body. Therefore, we should respect the deceased and should avoid from behaviors that have the meaning of disrespect for them. For this reason, walking over graves and sitting on them are not permissible in religious terms if there is not a situation necessitating it. The Prophet Muhammad (saw) said, *“It is better that one of you should sit on live coals which would burn his clothing and come in contact with his skin than that he should sit on a grave.”* (Muslim, Jana'iz, 96). However, it is permissible to sit near graves.

380. **Is it permissible to let a road pass over graves?**

No matter how old is a cemetery and even if it is not needed anymore, it should be preserved as a cemetery unless there is a situation necessitating it. Selling a cemetery, transferring the bones of the deceased to another cemetery, and constructing buildings and similar structures on the cemetery are not permissible. However, graves may be transferred to another place if there is no other alternative and it is obligatory to meet an inevitable need by letting a road pass over a cemetery for the benefit of the public. Because a public place or property may be sold or its status may be changed if needed by keeping its benefit utilizable for public (Zaylai, Tabyin, III, 331). Letting a road pass over a cemetery may be evaluated in this framework.

381. **May mosques or other buildings be constructed on a land that was cemetery before?**

Cemeteries are generally endowments; that is to say, they are allocated for public service for the purpose of burying deceased people. Unless there is an obligation, it is not permissible to misuse and change an endowment. With this respect, it is not permissible to allocate a place endowed as cemetery to another service as long as it can be used as cemetery. Moreover this place should be preserved as a cemetery although new corpses are not going to be buried there anymore. Selling a cemetery and transferring the bones of the deceased to another cemetery in order to construct building or to make use of it for similar purposes are not permissible (See Marghinani, al-Hidayah, IV, 448-450).

However, in the events that public interest requires it as there are no other options, the land may be used for other purposes such as mosque, etc. by transferring the cemetery to another place.

382. Is there torment in grave (*adhab al-qabr*)?

Torment of grave is another ghaib (unseen/imperceivable) subject which cannot be known by means of senses and reasoning but known by means of revelation. This issue is known by means of the references stated in the verses (Tawbah, 9/101; Mu'min, 40/46) and clear expressions in various hadiths (Bukhari, Jana'iz, 86). The Prophet Muhammad (saw) says, *“Grave is the first station of the Hereafter. If a person gets out of that station, he passes next stations easier. If he fails to get out of it, it will be harder for him to pass next stations.”* (Tirmidhi, Zuhd, 5) and expresses that the life of Hereafter starts with death. When a person is placed in the grave after death, two angels named Munkar and Nakir will come and ask questions to the deceased. Those who have iman and good deeds will answer these questions correctly and the doors of heaven will be opened and heaven will be showed to them. Disbelievers and hypocrites will not be able to answer them correctly and the doors of hell will be opened and the hell will be showed to them. While disbelievers and hypocrites are tortured in pain and suffering, believers will live a happy and peaceful life with blessings (Tirmidhi, Jana'iz, 71). For this reason, the Prophet Muhammad (saw) prayed many times to Allah for protection from the torment of the grave (Bukhari, Adhan, 149; Muslim, Kusuf, 8, Jana'iz, 85; Abu Dawud, Salat, 155).

OTHER ISSUES RELATED TO RITUAL PRAYER

383. Is it permissible to be busy with something between the sunnah (*rawatib*) and fardh rakats of prayers?

According to the preferred view of the Hanafi school, it is makruh to speak without any need between the fardh and sunnah prayers, to eat or drink something, because it reduces the reward of the prayer. (Ibn Nujaym, al-Bahr, II, 53; Ibn Abidin, Radd al-Muhtar, II, 461; Tahtawi, Hashiyah, p. 313). However, it is permissible to perform tasbih, dhikr, and Qur'an recitation between the sunnah and fardh of prayers, or within the time that passes while going to masjid from home when the sunnah is performed at home as they are not considered as an interruption (giving break).

384. Does nullification of ablution between sunnah and fardh require re-establishment of the former?

Prayer starts with takbir al-iftitah and ends with salam. Any of the conditions of a proper prayer should not be left incomplete between the two. For example, as being ritually clean (having performed wudu) is one of the conditions of prayer, this state should be sustained until the end of the prayer. However, when a prayer is completed by giving salam, the situations that will happen later will not affect the prayer established before.

385. May one establish prayer inside the Ka'bah?

The Prophet Muhammad (saw) entered the Ka'bah and established prayer inside (Bukhari, Hajj 51, 52, Salat 30, 81, 96; Muslim, Hajj, 388-394; Muvatta', Hajj 193). Therefore, the prayers established in the Ka'bah are valid. Because what is meant by "Ka'bah" is not the building but the area on which the building is located (Ibn Abidin, Radd al-Muhtar, II, 114). A person who establishes prayer in the Ka'bah may turn to any direction s/he wishes.

386. What are the differences of women's and men's prayers in terms of the way of their establishment?

Women's and men's ways of establishing prayer have some differences. These differences are based on some narratives and practices of the Companions.

The parts of prayer that are different for women from that of men are as follows:

a) Men who will establish prayer alone recite adhan and give iqamat. Women, though, do not recite adhan nor do they give iqamat.

b) It is sunnah to raise hands up while reciting the takbir al-iftitah. Men raise their hands to touch their earlobes with their thumbs. Woman raise their hands up to bring their fingertips to the level of their shoulders.

c) Men fold their hands under their belly in the prayer, they put their right hand on their left hand and hold their left wrist with their right hand. Women, on the other hand, fold their hands on their chest and put their right hand on their left hand without forming a ring (i.e. without holding as men do).

d) Men hold their knees straight and their back flat in the ruku. Women, on the other hand, do not hold their back flat but bend it slightly.

e) Men hold their arms and thigh away from their sides and do not touch their arms on the floor in the sajdah. Women put their bellies on their thigh and touch their arms on their sides in the sajdah.

f) While sitting for al-Tahiyyat and during the breaks between prostrations, men sit on their left foot by placing their feet on the right side and keep their right foot erect turning its fingertips towards the direction of qiblah. Women, though, sit on the ground by placing their feet on their right side (Sarakhsi, al-Mabsut, I, 25; Marghinani, al-Hidayah, I, 337; Ibn Nujaym, al-Bahr, I, 320; Ibn Qudamah, al-Mughni, II, 225-226) (See. 165, 166, 167 numbered fatwas).

387. Can a person who is not allowed to establish prayer at workplace establish his/her prayer by symbolic bodily motions?

It is stated in the Holy Qur'an, "*Allah does not charge a soul except [with that within] its capacity.*" (Baqarah, 2/286). Based on this verse, a main principle of "*Ta'at (worship) is performed in proportion to a person's power.*" (Marghinani, al-Hidayah, II, 83) is introduced. The essential thing is to perform the conditions and pillars of the prayer completely. Establishing prayer by moves of head is only permissible when one is not able to establish prayer normally. The Prophet Muhammad (saw) said, "*If you can perform sajdah on the floor, do it. If you cannot perform it on the floor, do it by moving your head. While doing so, bow your head a bit more than you do for the ruku.*" (Abu Ya'la, al-Musnad, III, 345-346). Establishment of prayers by symbolic moves is considered as a method to be followed only when a person is sick and it is discussed under the title of "patient's prayer" in fiqh books (Sarakhsi, al-Mabsut, I, 212).

The fact that a person is not allowed to establish prayer at workplace does not eliminate that person's power to establish prayer physically but eliminates his opportunity to establish it although he is able to do it. Failure to find the opportunity to establish prayers although a person is healthy is not included in the situations that make it permissible to establish prayer by symbolic movements. For this reason, a person who is in a place where establishing prayer is not allowed cannot establish his prayer by this way.

A person who works at such a workplace, first of all, should search for another job where he can perform his worships freely. If he fails

to find such a job and faces with the risk of not being able to earn sustenance of his dependents in the event of leaving his present job, he establishes his prayers by jam/combining them according to its procedure, if possible. That is to say, he establishes them by combining dhuhur and 'asr, by either establishing 'asr earlier within dhuhur's time or establishing dhuhur later within 'asr's time, and by combining maghrib and 'isha, by either establishing maghrib later in 'isha's time or establishing 'isha earlier in maghrib's time. But one should remember that this is an exceptional judgment. If this is not possible either, he may miss the prayer in order to establish qada prayer for it at earliest convenience. Because the Prophet Muhammad (saw) also established qada prayer for the prayer he missed due to battle (Bukhari, Jihad, 98).

388. Is one deemed to have violated the right of a person because of establishing daily prayers within working hours?

The right to worship is an aspect of the freedom of religion and conscience. As a requirement of the freedom of belief, a person who believes in a religion has the right to fulfill its requirements. Establishing a prayer without exploiting working hours with or without information of the employer does not mean violation of another person's right. Moreover, it is possible to compensate the time passed and the loss of labor faced while establishing prayer.

389. Is a person held responsible for his/her spouse who does not perform prayers?

According to Islam, every individual is responsible for their own deeds. We are not responsible for the deeds of others. It is stated in the Holy Qur'an, "*And no bearer of burdens will bear the burden of another. And if a heavily laden soul calls [another] to [carry some of] its load, nothing of it will be carried, even if he should be a close relative.*" (Fatir, 35/18). Islam informs us that every human has a will and freedom of choice and, as a result of it, they will be responsible for their deeds as stated in the following verses: "*Every person, for what he earned, is retained.*" (Tur, 52/21); "*So whoever does an atom's weight of good will see it, and whoever does an atom's weight of evil will see it.*" (Zalzalah, 99/7-8); "*He cannot be questioned for His acts, but they will be questioned (for theirs).*" (Anbiya, 21/23)

If a Muslim does not perform his/her worships, s/he will account for it to Allah (swt). What falls upon other Muslims is to give advises and suggestions (amr bil-ma'ruf, i.e. enjoining the good) to him/her. A person should start enjoining the good from the closest relatives, starting from his/her family. Because the Prophet Muhammad (saw) was commanded like this as well. The Almighty Allah stated while commanding him to notify people, "*And admonish thy nearest kinsmen.*" (Shu'ara, 26/214). It is stated in a hadith that every Muslim is responsible for his dependents (Bukhari, Jumu'ah,11; Muslim, Imara, 20). Spouses have responsibilities towards each other and their children in spiritual issues as in material issues. This responsibility is to teach the requirements of religion and to give recommendation to perform them. Because Allah the Exalted commanded by addressing the Prophet (saw), "*And enjoin prayer upon your family [and people] and be steadfast therein. We ask you not for provision; We provide for you, and the [best] outcome is for [those of] righteousness.*" (Ta-Ha, 20/132)

With this respect, a person should explain the spiritual and material blessings and merits of prayers nicely to his/her spouse who does not establish prayer so that s/he establishes daily prayers on their times, should invite him/her to repent of his/her past negligence and try to convince her/him to establish prayers. If s/he does not establish prayer despite the recommendations given nicely, it is completely under the person's own responsibility.



ZAKAT AND SADAQAH AL-FITR





ZAKAT AND SADAQAH AL-FITR

THE NATURE OF AND RULINGS ON ZAKAT AND THE WEALTH SUBJECT TO ZAKAT

390. What is zakat?

Zakat refers to a certain amount that should be given to certain people for the sake of Allah by those who own the amount of wealth (nisab) which is accepted as a measure of being rich in Islam. The conditions for zakat to be fardh are as follows: in addition to having wealth more than the nisab amount, the wealth must be reproductive and increasing, must be in possession for at least one year, and excess the amount of one-year debt and basic needs.

Nisab refers to the minimum amount of wealth and possessions that a Muslim must own for being obliged to pay zakat. This measure corresponds as; 20 mithqal (80.18 gr) for gold, 5 for camels, 30 for cattle, 40 for sheep and goats.

To whom zakat must be given is explained in the Holy Qur'an in details (Tawbah, 9/60), and the nisab amount is stated in the hadiths (Bukhari, Zakat, 32, 36, 38, 43). Accordingly, those who are in possession of wealth in nisab amount in addition to their basic needs must give zakat for it. (Kasani, Bada'i, II, 4 ff.).

391. When did zakat become obligatory (fardh)? What is the wisdom behind the obligation of zakat?

Zakat became obligatory in Medina in the second year after the Hijrah. Zakat is cited along with prayer in the Holy Qur'an in several

verses (Baqarah, 2/43, 110; Hajj, 22/78; Nur, 24/56); and Prophet Muhammad (saw) declared it as one of the basic Islamic acts of worship (Bukhari, Zakat, 1).

The fact that prayer and zakat are cited one after the other in the Holy Qur'an and hadiths is noteworthy because it shows the role of these two acts of worship in terms of ensuring that the communities reach spiritual maturity. The Holy Qur'an expresses that one of the most important conditions of reaching goodness and becoming a wise believer is to give zakat (Baqarah, 2/177). Giving zakat is also one of the qualities of the believers who attain salvation (Mu'minun, 23/1, 4). In addition, zakat is one of the ways to attain the mercy of Allah (swt) (A'raf, 7/156). In short, zakat is a worship that both purifies the worldly goods and conduces to spiritual purification (Tawbah, 9/103). Neglecting the payment of zakat that is often commanded in the verses and hadiths is considered as one of the characteristics of polytheists and this situation is criticized in the Holy Qur'an (Fussilat, 41/6-7).

Zakat also has many benefits for the society. For example, it contributes to fulfillment of the needs of the poor, decreases the gap between the rich and the poor, and helps love and sincerity to emerge between them. With this aspect, zakat boosts the social solidarity. It purifies societies of moral diseases such as grudge and selfishness. The fact that recipients of zakat covers people from all walks of life guarantees the social solidarity as well.

392. Who are obliged to give zakat? What are the conditions for its validity?

The conditions regarding zakat are handled under two titles as the conditions for being obliged to give zakat and the conditions for its validity.

In order to be obliged to give zakat, one must be Muslim, mentally healthy, have reached puberty, and free (Kasani, Bada'i, II, 4-5), must have wealth "in nisab amount" in addition to one-year's basic needs and debts, and the property must be increasing and deriving a profit. What is meant by increase is that the goods in possession must be providing income, profit and benefit, or having the quality to multiply and reproducing.

For being obliged to give zakat, one lunar year must have passed after gaining the wealth in nisab amount (Kasani, Bada'i, II, 13 onwards; Ibn Qudamaah, al-Mughni, IV,73-74). Increases and decreases in the amount of wealth

throughout the year are not taken into account. Zakat may be given before this time runs out (Kasani, Bada'i, II, 15).

When it comes to the conditions for the validity of zakat, first of all, intention/*niyyah* is essential. As in all acts of worship, the obligation of zakat cannot be fulfilled without intention as well (Kasani, Bada'i, II, 40; Ibn Qudamah, *al-Mughni*, IV, 88). Besides, "conveyance (*tamlik*)" which means giving and granting zakat to the poor, is also essential (Kasani, Bada'i, II, 39). Other ways such as preparing food and giving them to the poor is not considered as zakat.

393. What are *hawajj al-asliyya* (essential needs)?

As in the other physical and financial obligations in Islam, some reasonable and bearable responsibilities are given to the obligant by taking the situation of him/her into consideration. Therefore, Islamic scholars have sought the condition of having possession of goods in *nisab* amount in addition to the basic needs of the person and dependants (family members) for zakat and sadaqah al-fitr to be obligatory.

Basic necessities are the things which a person is in need to safeguard his life and liberty. These can be listed as sheltering, *nafaqa* (expenses for food, clothing and healthcare), transportation, education, household goods, tools and devices necessary for craftsmanship and business, books, tools to use for safety, current expenditures such as electricity, water, fuel, dues etc. and the money held to afford these basic needs (Mawsili, *al-Ikhtiyar*, I, 332-333; Ibn Abidin, *Radd al-Muhtar*, III, 178).

394. What kind of debts are deducted while calculating zakat?

Those who are obligant to give zakat deduct debts involving the rightful shares from the goods in possession liable to zakat. According to the general stance of the Hanafi school, due or *nondue* debts are subject to the same judgment. However, according to the view of some Hanafi scholars, only the due debts and those which are demanded to be paid by creditors are deducted while the debts not due yet are not deducted. Because these non-due debts are generally not demanded by creditors, but due debts are demanded to be paid (Kasani, Bada'i, II, 6).

According to the commonly-accepted view of the Shafi'i school, no debt is deducted from any goods liable to zakat; therefore, being indebted does not pose an obstacle to give zakat (Nawawi, *al-Majmu'*, V, 344).

The depth to be paid in a long-term payment plan and be paid regularly in the future years such as cooperative and credit debts must not be deducted from zakat goods completely. Because such payments cover very long terms as 10-20 years, and the person does not have to pay them all at once in the same year.

In this regard, only “the debts to be paid that year, and due or to be due debts of that zakat year” must be deducted. Because zakat is an annual worship.

395. Is zakat payable on the tools and materials used for need?

Tools, devices, machines and materials necessary to carry out craftsmanship and business are in the scope of essential needs. Therefore zakat is not payable on them. However, if these are not for someone’s personal profession, but produced with the purpose of trade, sales and purchase, zakat must be given for them (Zaylai, Tabyin, I, 253; al-Fatawa al-Hindiyyah, I, 190).

396. Is a person who lives with his father liable for the payment of zakat?

Ownership of the property is essential in Islam. Even if a person lives with his/her father, if s/he is in possession of goods in nisab amount, s/he is liable for paying zakat. However, if they have not separated their properties and earn and cover expenses jointly, the one who is in power of disposition of these goods in hand is the one liable for paying zakat.

397. Is it necessary to give zakat out of the wealth of rich children who have not reached the age of puberty?

Only those who are mentally healthy and have reached puberty are obliged to give zakat (Kasani, Bada’i, II, 9 ff.). In this regard, according to Hanafis, it is not necessary to give zakat for the wealth of children who have not reached puberty yet even if they are rich. However it is necessary to give zakat for agricultural products farmed in agricultural fields owned by a child (Sarakhsi, al-Mabsud, III, 50; Ibn Nujaym, al-Bahr, II, 255).

According to Shafi’i school, mental health and puberty are not conditions to give zakat. Children and mentally ill people must give zakat as well (Shirbini, Mughni al-Muhtaj, I, 602).

398. Should a student whose scholarship is more than the amount of nisab give zakat?

Those who are in possession of at least 80.18 gr gold or money or trade goods with the same value except their one-year debt and basic needs expenses are liable for giving zakat when one year passes upon being owner of these goods (Mawsili, al-Ikhtiyar, I, 330). The fact that the money mentioned in the subject of zakat is earned through financial supports or scholarships does not change this rule.

399. Is rental income subject to zakat?

Those who are in possession of at least 80.18 gr gold or money or property of the same value except one year's debt and essential needs expenses are considered as rich in religious terms. Excluding debts and basic needs, if rental income reaches to nisab amount (80.18 gr gold or equivalent value) it will be subject to zakat together with other wealth after the passage of one year over them, and zakat must be given at the rate of 1/40 (2,5%) (Marghinani, al-Hidayah, II, 165, 190-191).

400. Is it required to pay zakat for the real estate bought for trade or investment purposes?

Real estate owned with the purpose of trade is subject to zakat. This applies to the real estate properties that a person purchases and sells with the purpose of trade as well. Accordingly, zakat must be given at the rate of 1/40 (2.5%) out of real estate properties owned not for use as residency or office but for sale and purchase, after deducting their annual expenditures and after one year passes upon being in possession and if their value reaches to nisab amount (Kasani, Bada'i, II, 20).

The zakat for real estate properties purchased with the purpose of trade or investment, meaning in order to sell when their value increases later, is calculated based on their market value of that very year. On the other hand, the lands purchased to construct residency or workplace on or with the purpose of farming are not subject to zakat.

401. How is the amount of zakat calculated for tradable goods?

“Tradable goods” are described as the goods sold or purchased for the purpose of making profit. Those who have tradable goods equal or more than the value of 80.18 gr gold, if one year passes upon owning such goods in nisab amount, must give zakat at the rate of 1/40 (2.5%).

Along with other conditions, zakat is given out of the goods which are owned really (haqiqi) or constructively (hukmi) for one year. Possible future increases are not taken into account in the calculation of zakat. The same principle is applicable to tradable goods. In this regard, while giving zakat for tradable goods, regardless of profit to be gained upon sale, the cost value on the date when the zakat is given is taken as basis as if zakat is paid in kind (or out of the goods itself).

402. Can we pay the zakat of tradable-goods with goods of the same kind?

Zakat on trade goods can be calculated over the value of the goods and given in cash, or it can also be given in kind of the goods itself.

403. Are paper money/banknotes subject to zakat?

Today, the money used as the instrument of exchange is banknote. Banknotes are used as the price of goods, sales and purchase are done with them, salaries are paid by them and they are accepted as a measurement of wealth. Therefore, banknotes have replaced gold and silver as the instrument of exchange. In this regard, as zakat must be given for gold and silver, banknotes are also subject to zakat (Jazari, al-Madhahib al-Arba'a, I, 546; Zuhayli, al-Fiqh al-Islami, II, 772).

404. How should a person who trades in gold give zakat?

People who engage in gold trade should give zakat according to the gold in their possession plus the income they earn. If they have gold of different fines, zakat is given differently for each fine, either in kind or based on its value. However, when calculating the nisab amount, all the gold in hand is weighed together regardless of difference in fines. (Kasani, Bada'i, II, 20).

While determining the amount of zakat gold, the last year's zakat date is taken as basis. For example, if zakat was paid on the first day of Ramadan the previous year, present year's zakat is given based on the current gold amount in hand on the first day of Ramadan. Increases and decreases in the amount in hand throughout the year are not taken into consideration.

The zakat of ornaments in hand for trade is not given solely based on their mineral values, but over their costs, taking into account the

additional values gained by things such as workmanship and precious stones used.

405. How should a person who has gold in different grades of fineness calculate his zakat?

Fine difference of gold is not important in calculation of the amount of nisab. Because regardless of its fine, it is considered as gold. In this regard, even if there is gold in different fines, it is subject to zakat as long as the total weigh of all gold types reaches to 80.18 gr and meets other conditions. However, in this situation, zakat of gold with different fines is given at the rate of 1/40 (2.5%) by calculating each fine according to its value (Kasani, Bada'i, II, 20).

406. Should women give zakat for their jewelry?

Women's jewelry made of gold or silver is subject to zakat according to Hanafis if other conditions are met, too. In this regard, the zakat for golden jewelry is given at the rate of 1/40 if total weigh reaches the minimum limit of 80.18 gr and one year passes upon its ownership. Aside from gold or silver, jewelry made of other metals or stones is not subject to zakat (Ibn Nujaym, Al-Bahr, II, 243).

According to Shafi'i, Maliki and Hanbali scholars, jewelry (ornament) that women use daily is considered as an essential need, and not subject to zakat (Nawawi, al-Majmu', VI, 46; Ibn Qudamah, al-Mughni, IV, 220).

407. May the zakat of animals be paid in cash?

The zakat of animals may be given both in kind and in cash according to their value (See. Kasani, Bada'i, II, 41). However it is more appropriate to choose the type of payment that is beneficial to the poor.

408. Is a real estate agent obliged to give zakat of the real estates that are owned by him?

For the real estate agents, real estate property they sell and purchase with the purpose of trade is subject to zakat. Accordingly, real estates owned by real estate agents for the purpose of buying and selling are subject to zakat at the rate of one fortieth (2.5%) if their value reaches the amount of nisab after deducting the debts arising from them. (Kasani, Bada'i, II, 20). Hence, zakat is given by calculating real estate entering in possession together with the other estates after the moment the person

becomes responsible for the payment of zakat. While giving zakats of the estates in this scope, the market value at the time when zakat is given is taken as basis.

409. **Should one give zakat for the means of production?**

Means of production are not subject to zakat. If the products or the income produced by these, alone or together with the other goods, reach nisab amount and one year passes in possession, they become subject to zakat at the rate of 1/40 (2,5%).

410. **Is it necessary to pay zakat on stocks?**

A person who purchases shares of a company becomes partners on the building, machines and stocks of the company at the rate of his shares. In this situation the shareholder has right jointly on profit or loss of the company. If the company makes profit and the profit share of the shareholder, alone or together with his other goods, reach nisab amount and one year passes upon ownership, the zakat for the profit share of the shareholder is given at the rate of 1/40 (2,5%).

If the mentioned shares are owned with the purpose of sale and purchase instead of being kept for profit, these shares are considered as tradable goods. If their value reaches nisab amount together with the other goods subject to zakat, their zakat is given at the rate of 2,5% according to their market value (Zuhayli, al-Fiqh al-Islami, II, 774, 799).

411. **How do shareholders of a company pay zakat?**

Because the companies are legal entities, if not the company itself but the shares of each shareholder reach nisab amount alone or, together with the other goods, if there is any, they are subject to zakat. In this regard, those who are in possession of goods except their essential needs in nisab amount (80.18 gr gold or equivalent value) must give zakat out of these if one year passes after these goods are owned.

Fixed assets (production tools, machinery, etc.) of the companies operating in the industrial sector are exempt from zakat. After calculating and deducting the expenses such as debts, material, labor, production, marketing, management and financing etc. for one year, liquid assets (semi-products and products, raw material, cash money, cheque, etc.) together with net profit are subject to zakat at the rate of 1/40 (2,5%) (Zuhayli al-Fiqh al-Islami, II, 864-865).

Therefore, a person who is a partner of such a company must give zakat if the amount of his share from liquid assets, apart from real assets such as office, devices etc. of the company, reaches nisab amount and one year passes upon being owned. This situation also applies to the companies working in the field of trade.

If the shareholders give over the responsibility of zakat to the management, the management is allowed to give the zakat of their shares instead of them by proxy. In this case, the management calculates the zakat amount the same way as real persons do. If the company does not pay zakat for the shares, the shareholders must give zakat for their shares themselves (Majma al-Fiqh, Qararat and Tawsiyat, 6-11 February 1988 dated decision, p. 143-145).

Inventory/balance sheets are prepared once a year based on Lunar Year. Liquid assets, cashes, cheques and account receivables are accumulated in value. After deduction of the debts, if there is any, 2,5% of the rest of the balance is paid as zakat.

412. What does ‘ushr mean, and what is its religious ground?

‘Ushr literally means “one tenth”, and as a religious term, it means zakat of agricultural products. It is also cited in the Holy Qur’an that agricultural products are subject to zakat.

Allah the Almighty states: “O you who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth.” (Baqarah, 2/267) “And He it is who causes gardens to grow, [both] trellised and untrellised, and palm trees and crops of different [kinds of] food and olives and pomegranates, similar and dissimilar. Eat of [each of] its fruit when it yields and give its due [zakah] on the day of its harvest. And be not excessive. Indeed, He does not like those who commit excess.” (An’am, 6/141)

The amount of zakat for these products were determined by the Prophet Muhammad (saw) himself. He said, “*Ushr must be given one tenth for agricultural products watered by rainfalls and rivers, and one twentieth for the ones watered by buckets.*” (Bukhari, Zakat, 55).

413. How is zakat paid for agricultural products?

According to Imam Abu Hanifa, all agricultural products, little or much, are subject to zakat (Mawsili, al-Ikhtiyar, I, 372). According to Imam Malik and Imam Shafi’i, agricultural products that may be stored for

one year and consumed as food are subject to zakat (Ibn Juzay, al-Qavanin, 208; Shirazi, al-Muhadhdhab, I, 288).

According to Ibn Hanbal, long-lasting foodstuffs that may be measured, weighed and dried, and the products that are produced on earth such as cotton and linen are subject to zakat (Ibn Qudamah, al-Mughni, IV, 155-160).

According to the majority of modern-day scholars, agricultural products that may be stored such as wheat, barley, corn and rice are subject to zakat if it reaches to nisab amount (Five Wasqs/between 653kg and 1000 kg depending on the product, e.g. 653 for wheat) after deduction of extra expenses such as fertilizer, disinfection etc.

For the products apart from these, 'ushr is given when its value reaches to the value of five wasqs of the least valuable one from aforementioned products (Shaybani, al-Jami al-Saghir, p. 130-131). This opinion is considered as more appropriate because it corresponds to the essence of the nass and is in favor of the poor.

414. **Is it necessary to give zakat for such products as tea and beet?**

According to the preferred opinion, zakat/'ushr is payable on all kinds of agricultural products and fruits (Kasani, Bada'i, II, 53). Hence tea and beet are also subject to zakat.

415. **If the product whose 'ushr was paid is not sold but stored, should one give zakat and 'ushr again for this crop after one year?**

Agricultural products whose 'ushr was already given are not subject to zakat again regardless of storage time as long as they are not sold by the owner (Ibn Abidin, Radd al-Muhtar, III, 186-187, 228).

However, if a product whose 'ushr was already given is sold and exchanged with money, this cash money is considered together with other zakat property.

416. **Should one pay 'ushr for the crops that grow by themselves such as reed and weed?**

As a general principle, agricultural products grown by human effort and with the purpose of earning income are subject to zakat ('ushr). It is not necessary to pay 'ushr for things such as tree, reed, weed and similar which do not possess the mentioned features but rather grow naturally (Sarakhsi, al-Mabsud, III, 2; Ibn al-Humam, Fath, II, 249). On the other hand, zakat must

be given for products that are grown by people with the purpose of earning income such as reed and poplar.

417. Should one pay ‘ushr for perished products?

‘Ushr for the product must be given after harvesting. The farmer whose products are destroyed on the field before harvesting is not subject to pay zakat/‘ushr. However, one is subject to give zakat for the products even if it is destroyed after harvesting (Ibn Abidin, Radd al-Muhtar, III, 273). As a matter of fact Allah (swt) says, “*Eat of their fruit in their season, but render the dues that are proper on the day that the harvest is gathered.*” (An’am, 6/141)

418. Are the costs incurred in growing the crop taken into account when paying the ‘ushr?

As a principle, ‘ushr is paid as one tenth for the products farmed in fields whose watering is costless and one twentieth the products farmed in fields whose watering is costly and requires effort. It is a controversial subject whether modern-day farming expenses such as fertilizer, pest control and gasoline along with watering should be considered while calculating the ‘ushr. The idea of including these to calculation of the ‘ushr is much favorable because these additional expenses take a significant part of the cost of the production. In this regard, agricultural products are subject to zakat/‘ushr at the rate of 1/10 if it reaches to nisab amount after the deduction of these additional expenses including watering. If zakat is given without the deduction of these expenses, it must be at the rate of 1/20.

The nisab amount on agricultural products is five wasqs for storable products such as wheat, barley, corn and rice. Today’s equivalent of this measure changes depending on the product between 653-1000 kg; for example, it corresponds to 653 kg for wheat. For the products apart from these, the amount is equivalent to the value of five wasqs of the least valuable one from the aforementioned products. The same conditions are valid for the products farmed in greenhouses.

419. Who should pay the ‘ushr of the land given to another person for the purpose of sowing?

There are two different approaches in Türkiye regarding giving a land to another person with the purpose of sowing. One of these is to

give the land in exchange of a certain amount of money as rental. In this method, the owner is paid a certain amount of money and does not take any share from the harvest. The other method is that the land is given as joint venture. It is also named as usufructuary in some regions. In this method, the owner is not paid a certain amount of money, but the harvest is shared between the owner and the usufructuary tenant at the rate agreed.

According to the majority's opinion including Imam Abu Yusuf and Muhammad from the Hanafi school, the tenant is subject to the 'ushr for the rented land. Because the 'ushr is due for the harvest, not for the land itself. As the tenant takes all of the harvest, it is under the responsibility of the tenant to give the 'ushr. After the tenant who farms the land deducts the lease amount along with other additional expenses such as fertilizer, pesticide etc., he must give the 'ushr for the land if the rest of harvest reaches nisab amount (five wasqs/between 653 kg and 1000 kg depending on the product, e.g. 653 kg for wheat). (Ibn Abidin, Radd al-Muhtar, III, 267-277; Qaradawi, Fiqh Zakat, I, 400,402)

The 'ushr for the usufructuary land is given by the owner and the tenant according to the rate of their shares. Each of them pays 'ushr if their harvest share reaches to nisab amount (Ibn Abidin, Radd al-Muhtar, III, 278; Qaradawi, Fiqh Zakat, I, 398-399).

It is an encouraged behavior in Islam to lend farms without exchange of money to relatives or the poor for charitable reasons or doing good to relatives. The 'ushr for the land lend this way is under the responsibility of the one using the land. The owner does not have any obligation. (Qaradawi, Fiqh Zakat, I, 398).

420. Does tax substitute for zakat?

Tax is a civic responsibility; on the other hand, zakat is a religious obligation. Besides, tax and zakat differ from each other on the subject of liability, main goal, rate, amount, and means of use (Tawbah, 9/60). In this regard, tax does not substitute for zakat. Zakat needs to be given separately (Qaradawi, Fiqh Zakat, I, 39 ; Today Issues of Islamic Trade Law, (decision notices) p. 996).

421. Should one give zakat out of the income obtained by illegal ways?

If the actual owner of the income gained by illegal ways is certain, it needs to be returned to the actual owner. If not, it needs to be disposed by giving to the poor or charitable organizations without expecting gaining any *thawabs* in return (Sarakhsi al-Mabsud, XII, 172). In this regard, as the illegal income needs to be returned to the actual owner or disposed by giving as donation, the zakat for it is out of question.

422. Should one give zakat for receivables?

Receivables are examined under three classes in terms of being subject to zakat or not:

a) Strong Receivable: It is the receivable for lent money as debt and as price of trade goods. If this receivable is acknowledged by debtor or there is a solid evidence for the debt, the creditor needs to give zakat for it every year. If its zakat due for the previous years was not paid, they need to be paid after the debt is collected.

b) Medial Receivable: It is the receivable sourced by income of a good that is not for sale, e.g. receivable for a house's rent. One needs to give zakat for the previous years for this kind of receivable as well. But the creditor needs to collect nisab amount of debt in order to be obliged to pay for the previous year's zakat.

c) Weak Receivable: It is the costless receivable such as will, dowry, blood money etc. Because this kind of receivable is not a debt caused by exchange of goods. This kind of receivables do not require zakat for the previous years. Zakat is given after one year passes upon collecting it (Ibn Abidin, Radd al-Muhtar, III, 238; Mehmed Zihni, Ni'mat al-Islam, p. 739, 740).

The creditor is not responsible for giving zakat every year for the receivables denied and impossible to be collected. If this kind of receivable for which there is no hope to be taken back is somehow collected, one gives zakat for it just for the present year after one year passes upon receiving. One does not need to pay zakat for the previous years (Marghinani, al-Hidayah, II, 166-167).

423. May a cheque or promissory note of a future receivable be given as zakat?

Zakat may be given as foodstuff and clothing, or as money, foreign currency and gold. Cheque or note payable are the documents issued

between two or more people to declare the owner of the money or goods. Therefore, it represents the money written on it. Accordingly, a rich obligant of zakat may give the poor on account of zakat this note payable that he knows certainly to be paid. However, the obligation will be fulfilled only when the money is recovered. If the note is not paid, one needs to pay zakat again (Ibn Abidin, Radd al-Muhtar, III, 227-233).

424. **Is there a specific time for giving zakat?**

There is no specific time for giving zakat. As in fasting and hajj, lunar year is taken as basis for calculating whether one year passes after one owns property of nisab amount. It needs to be given as of the moment it becomes obligatory. It is not necessary to wait for a specific lunar month or Ramadan. Those who are obligant to give zakat need to pay it as soon as it becomes a fardh upon them. Because zakat is a duty of servitude to Allah (swt) and it needs to be fulfilled as soon as possible (Ibn Abidin, Radd al-Muhtar, III, 175, 191-192, 223).

425. **Can we pay zakat by proxy, transfer, EFT, etc.?**

A person may give zakat by himself personally; but may also give it by wiring the money or appointing someone as proxy. What is important is that zakat be delivered to the recipient (Ibn Abidin, Radd al-Muhtar, III, 187, 189).

426. **May zakat be paid in instalments?**

The essential point for zakat is to give it as soon as possible after becoming obliged. But if one is not able to pay it all at once, it may be given within one year in instalments. (See Ibn Abidin, Radd al-Muhtar, III, 191, 192).

427. **Can we give zakat before its due date?**

As in fasting and hajj, lunar year is taken as basis for zakat as well. One lunar year must pass after reaching nisab amount for zakat to be obligatory. But, if the owner wishes, s/he may give zakat for the property in nisab amount before one lunar year passes (Kasani, Bada'i, II, 15; Ibn al-Humam, Fath, I, 179).

428. **How should a person who has not given the zakat of previous years pay his/her zakat debts later?**

Those who are liable to give zakat but did not give it for the previous years must give as well if they have enough possessions. For example, a

person who did not give zakat for two years must give the zakat of the first year, then give 2,5% of the remaining properties as the second year's zakat (Mawsili, al-Ikhtiyar, I, 329-333, 391).

429. If a person liable for giving zakat becomes poor before giving his/her zakat and then dies, will s/he be freed from the responsibility?

One who did not give zakat on time is not freed from the obligation of zakat even if s/he becomes poor later and dies afterwards before paying the zakat. This person must leave a will to the inheritors to pay his/her zakat debt. If s/he dies without leaving a willing about it to his/her inheritors, s/he becomes a sinner. It is hoped that s/he will be saved from this debt if the inheritors pay zakat instead of him/her.

According to Hanafis, after properties are subject to zakat, if those properties are destroyed in an unintentional way such as being stolen, lost, or seized, the obligation of zakat for those properties is removed regardless of the owner's ability to pay. It is not required to give zakat as long as the property in question is not found. According to other fiqh scholars, the obligation of zakat continues. The obligant needs to pay it. However it is accepted by consensus that one needs to give zakat for the properties that are donated or sold (Ibn Abidin, Radd al-Muhtar, III, 176, 183; Bilmen, Ilmihal, p. 321-322).

THE PLACES TO GIVE ZAKAT

430. To whom can zakat be given?

Eligible recipients for zakat are stated in the Holy Qur'an. These are the poor, the needy, the officials assigned to collect zakat, those whose hearts are desired to be reconciled to Islam (muallafat al-qulub), to be freed from slavery, those in debt, those who are in the jihad for the cause of Allah (swt), and the stranded (travelers). (Tawbah, 9/60).

The poor and needy are those who do not have property in nisab amount apart from the ones for basic needs. Zakat is not given to the people who have property in nisab amount (increasing or not) because they are not considered as poor or needy (Ibn al-Humam, Fath, II, 266).

Debtor is the one who is indebted to someone as rightful share and does not have wealth in nisab amount apart from the ones to pay his/her debt with (Ibn al-Humam, Fath, II, 268).

A (stranded) traveler person is the one who runs out of money on his journey and is not able to access to his money even if he has property where he resides, in other words, who are stranded because of lack of money and not able to return homeland. Zakat can be given to such people at an amount that is enough for them to return where their property is and for their needs till they return. (Kasani, Bada'i, II, 43-46). Today, zakat cannot be given to a traveler who is able to use money in his/her homeland via bank cards or some other means whenever s/he needs.

The expression of “Fi Sabilillah”, which means “in the way of Allah (swt)”, is interpreted as real persons who dedicated their lives to the path of Allah (swt) and Islam such as pilgrims, soldiers, and travelers in search of knowledge.

431. To whom can zakat not be given?

According to the Hanafi school, zakat al-mal and zakat al-fitr cannot be given to the following:

- a) Parents and grandparents,
 - b) Son and his children, daughter and her children, and grand grandchildren from them,
 - c) Spouse,
 - d) Non-Muslims,
 - e) The rich who has wealth in nisab amount apart from basic needs,
 - f) A child who has not reached puberty yet but has a rich father
- (Marghinani al-Hidayah, II, 223-228).

432. May one give zakat to his/her foster mother and father?

Zakat cannot be given to parents, grandparents, sons and daughters, and grandchildren (i.e. ascendants and descendants) (Mawsili, al-Ikhtiyar, I, 381). Because if a person gives zakat to these dependants, zakat returns to that person indirectly. However, the one who gives zakat must not profit from and take advantage of their own zakat. Furthermore, it will be the violation of the condition that zakat should be given to the possession of the one in need. As foster parents are not dependants, zakat may be given to them.

433. May one give zakat to a poor sibling?

One may give zakat to a poor sibling. Nephews and nieces, both maternal and paternal uncles and aunts, and children of these are

the ones to whom one may give zakat to (Marghinani, al-Hidayah, II, 224; Ibn al-Humam, Fath, II, 275; Ibn Abidin, Radd al-Muhtar, III, 172, 293). Furthermore, it is more rewarding to prioritize poor relatives while giving zakat. Because it includes both fulfilling the obligation of zakat and observing the relatives (silat al-rahm). The Prophet Muhammad (saw) encourages it saying, *“There are double rewards for the one who gives sadaqah to relatives: One for helping the relatives, and the other for giving zakat.”* (Bukhari, Zakat, 44; Ibn Majah, Zakat, 24).

434. May one give zakat to his/her step mother, step father, and step children?

Zakat may be given to one’s step mother, step father and step children if they are poor. Because the giver and recipient do not have an ascendant-descendant relationship and they are not dependants of this person under normal conditions (Ibn, al Humam, II, 275; Ibn Abidin, Radd al-Muhtar III, 172, 293).

435. May one give zakat to his/her son-in-law and daughter-in-law?

Zakat may be given to a poor son-in-law and daughter-in-law. Because the giver and recipient do not have an ascendant-descendant relationship and they are not dependants of this person under normal conditions (Ibn Abidin, Radd al-Muhtar III, 172, 293).

436. May one give zakat to his/her mother-in-law and father-in-law?

Zakat may be given to poor a mother-in-law and father-in-law. Because the giver and recipient do not have an ascendant-descendant relationship and they are not dependants of this person under normal conditions (Ibn Abidin, Radd al-Muhtar III, 172, 293).

437. May one give zakat to adopted (cared) children?

Although caring and protecting abandoned children are advised in our religion, adoption that will bear legal consequences is not accepted (Ahzab, 33/4-5). In this regard, adoption does not create an ascendant-descendant relation between the adopting and the adopted. For this reason, a person may give zakat to a child, with the condition of being poor, whom s/he cares voluntarily and is not from his/her own lineage.

438. **Can zakat be given to the people who live by salary or wage?**

Eligible recipients of zakat in Islam are determined regardless of the occupation of the person. In this regard, zakat may be given to persons who have a certain income but are not able to cover basic needs with this income or do not have wealth in an amount of 80.18 gr gold or the same value after covering basic needs. It does not matter if these persons are paid, officer, tradesmen or unemployed. However because there are some scholars of the opinion that zakat may not be given to those who are able to cover basic needs expenses of themselves and their dependants even though they don't have nisab amount of wealth (Rafi'i, al-Aziz, VII, 377), it would be more appropriate to prioritize poorer people while giving zakat.

439. **Are the schools, Qur'an courses, mosques, and similar charitable organizations included in the scope of "fi sabilillah" expressed in the verse of zakat?**

Eligible recipients of zakat are determined in the Holy Qur'an (Tawbah, 9/60). Besides, the Prophet Muhammad (saw) told a person who demanded to receive share from the collected zakat, *"Allah is not pleased with a Prophet's or anyone else's decision about sadaqat till He has given a decision about them Himself. He has divided those entitled to them into categories, so if you come within those categories, I shall give you what you desire."* (Abu Dawud, Zakat, 24)

In this regard, it is not considered as permissible by majority of fiqh scholars to give zakat and sadaqah al-fitr to any place other than the ones determined in the Qur'an by Allah the Exalted (swt) or to donate to charity works as building mosques, bridges, highways, schools, dormitories, waterways etc. Because one of the conditions for the validity of zakat and sadaqah al-fitr is the conveyance (transferring the ownership). It expresses handing over the property right on a property or a financial right to another person.

Therefore, it is not considered as permissible to give zakat and sadaqah al-fitr, which are the rightful share of the poor and needy Muslims and may be fulfilled by only conveyance, to legal entities and charitable organizations (al-Fatawa al-Hindiyyah, I, 207). The expression of "Fi Sabilillah" in the verse which means "in the way of Allah (swt)" is interpreted as real persons who dedicated their lives to the path of

Allah and Islam such as pilgrims, soldiers and travelers in search of knowledge.

440. May one give zakat to non-governmental organizations?

Eligible recipients of zakat are determined in the Holy Qur'an (Tawbah,60). In principle, zakat and sadaqah al-fitr are the rights of the poor and needy. In this regard, it is not considered as permissible by Hanafis to give zakat and sadaqah al-fitr that are subject to Muslim people who bear certain conditions to any place other than those that are determined in the Qur'an by Allah the Exalted (swt) or to donate to charity works such as building mosques, bridges, highways, schools, dormitories, waterways etc. If not done by observing this principle, payments with the intention of zakat are not considered valid as zakat. Zakat may be delivered directly to persons to whom it is permissible to give zakat; and it may also be delivered through a mediator. There is no difference between real persons and foundations in terms of being mediators. Therefore, if an endowment or a non-governmental organization conveys the collected zakats to those determined in the Qur'an, i.e. to poor and needy, zakat may be entrusted to these mediator foundations.

Zakat cannot be given to the foundations that use the collected zakat for general services such as construction, lighting, office expenses, etc. instead of delivering it to the rightful owners.

It is important to support such charitable foundations that provide public service. However, this should be made by voluntary supports instead of zakat. Besides, individual and corporate supervisions should not be ignored.

441. May one give zakat to the organizations that provide medical treatment to the poor and the needy?

Delivering the zakat and sadaqah al-fitr directly is one of the conditions for their validity. It expresses handing over the property right on a goods or a financial right to another person. Zakat and sadaqah al-fitr may be given to charitable organizations and foundations (by appointing the managers as proxy) that collect zakat and sadaqah al-fitr in a separate fund to deliver to the poor and needy and managed by trustworthy people (Kasani, Bada'i, II, 4).

If such organizations and waqfs are given permit and appointed as proxy to receive and use zakat to support treatment expenses of people who are eligible recipients for zakat, they may receive zakat on behalf of them. For those who have not reached puberty yet, the permission to be proxy should be taken from their parents. Certainly, those who will be proxies should be trustworthy people; zakat should not be used for other things, and relevant supervisions should not be ignored.

Zakat, fitr and fidyah funds should not be used for those who are getting treatment on such foundations but are not poor or needy.

442. **May one give zakat or sadaqah al-fitr to those who commit haram actions such as drinking alcohol and gambling?**

As expressed in the 60th verse of Surah al-Tawbah, zakat is given to eight categories of people, prioritizing the poor and needy. Even though it is advised to prioritize the poor and needy with religious sensitivity, it may be also given to people who commit some unlawful acts with the condition of being Muslim.

While giving zakat to a poor person who commits unlawful acts considering his/her family's needs, if s/he is predicted to use zakat for haram acts, it would be more appropriate to give zakat as support of foodstuff or clothing rather than cash money.

443. **May one give zakat to non-Muslims?**

Majority of fiqh scholars including the imams of four great schools achieved a consensus that zakat cannot be given to non-Muslims. Because, essentially zakat is the rightful share of the poor Muslims (Kasani, Bada'i, II, 49; Nawawi al-Majmu, VI, 197; al-Fatawa al-Hindiyyah, I, 207; Ibn Nujaym, al-Bahr, II, 261).

However "muallafat al-qulub", whose hearts are to be reconciled to Islam, is listed in the Qur'an among the eligible recipients of zakat (Tawbah, 9/60). Besides, the Prophet Muhammad (saw) allocated a share from zakat or other state incomes to those whose hearts are desired to be reconciled to Islam. (Bukhari, Fardh al-Humus, 19; Tirmidhi, Zakat, 30)

Some people demanded a share from zakat income from the Head of State Abu Bakr after the demise of Prophet Muhammad (saw). Upon learning about the situation, Umar (ra) cited as, "Say, 'The truth is from your Lord': Let him who will believe, and let him who will, reject (it).'" (Kahf, 18/29) and rejected their demand stating that there was no muallafat

al-qulub anymore (See. Kasani, Bada'i, II, 45; Zaylai, Nasbu Raya, II, 394-395; Ali al-Qari, Fathu Bab al Inaya, I, 530).

For this reason, majority of fiqh scholars reached the conclusion that the share mentioned in the 60th verse of Surah al-Tawbah was not to be applied anymore based on the fact that any share was not allocated to this category (Ibn Abi Shayba al-Musannaf, IV, 361) in the age of the four rightly-guided caliphs and the mentioned judicial opinion of Umar. However the reason why Umar rejected those who demanded a share of zakat from muallafat al-qulub category is not because the ruling of the regarding verse was abolished but because he did not consider them in that category.

Therefore, it may be considered appropriate today as well to give zakat to non-Muslims as "muallafat al-qulub" to reconcile their hearts to Islam, to ensure that no harm will come from them, or are hoped that they will be beneficial to Muslims. Scholars defending that zakat may be given to this category say that an act in this direction depends on the decision of government authorities; zakat could be given to the muallafat al-qulub if deemed appropriate by them, and that it might be needed from time to time (Qaradawi, Fiqh Zakat II, 607-608).

444. Is the money spent for the poor to have them circumcized or married substitute for zakat?

One of the groups to give zakat is the poor (Tawbah, 9/60). A person may pay zakat the same kind as goods at hand, or with other goods of the same value, or in cash. In this regard, zakat may be given to a person soon to be married as goods they need if that person is eligible for receiving zakat. The circumcision expenses of a child whose family is poor may be covered with the intention of zakat as well. However, it is more appropriate to give zakat to the needy and let them spend it themselves.

445. Do the iftar tables established by municipalities, associations, or charitable organizations or the foods distributed at foodbanks in the month of Ramadan substitute for zakat and sadaqah al-fitr?

Food for iftar that has been prepared and distributed by municipalities or charitable organizations does not substitute for zakat. This is because, there is no tamlik (transfer of the ownership of zakat to the poor), which is a condition of validity for zakat, and there are many

people among those who eat the fast-breaking meal for whom it is not permissible to give zakat. However, if the prepared food is delivered to the poor with the intention of zakat, it becomes zakat.

446. May one be deemed to have given zakat by not receiving rent from his/her poor tenant?

In order for zakat to be valid, the money or property to be given to the poor must be transferred to him, that is, the ownership must be transferred to him. This requirement is fulfilled by giving zakat to the poor actually (Ibn Abidin, Radd al-Muhtar, III, 171). For instance, preparing food and announcing that only the poor is allowed to eat from it is not considered as conveyance of the food. But if the food is prepared and delivered to the poor with the intention of zakat, then the conveyance is fulfilled and thus, the zakat is validly given. Accordingly, when a person lends money to another person without the intention of zakat, and then decides to consider it as zakat, conveyance is not fulfilled because the money is not present itself.

Therefore if some amount of money is given to a person initially as debt and donated with the intention of zakat afterwards, zakat does not become valid. Scholars of the four schools have agreed on this opinion.

Some scholars who interpreted the term of tamlik more widely evaluated it as conveyance to donate a receivable to the poor debtor, and considered it as permissible. (Qaradawi, Fiqh Zakat, II, 848-850; Zuhayli, al-Fiqh al-Islami, II, 895). One may choose to act according to this opinion as well.

447. Do the medical devices supplied to hospitals substitute for zakat?

Recipients of zakat are stated in the Qur'an one by one. They are the poor, the needy, those who are to be freed from slavery, debtors, those who make jihad in the way of Allah (fi sabilillah), stranded travelers, officials assigned for collecting zakat, and muallafat al-qulub (whose hearts are to be reconciled to Islam) (Tawbah, 9/60). The ones cited in this verse are not institutions but individuals. In this regard, zakat must be given to an individual or his/her agent. According to this general rule, zakat is not given to institutions regardless of their names. Majority of scholars are of this view (Kasani, Bada'i, II, 43-46; Ibn al-Humam, Fath, II, 272; Ibn Qudamah, al-Mughni IV, 125). However, voluntary supports could be given to these foundations which provide public service.

448. Does the money spent on a tree-planting campaign substitute for zakat?

The money donated to a tree-planting campaign is not considered as zakat or sadaqah al-fitr. Recipients of zakat are determined as eight categories in the Qur'an. They are the poor, the needy, those who are to be freed from slavery, debtors, those who make jihad in the way of Allah (fi sabilillah), stranded travelers, officials assigned for collecting zakat, and muallafat al-qulub (whose hearts are to be reconciled to Islam) (Tawbah, 9/60). Zakat and sadaqah al-fitr cannot be given to the recipients other than these.

However, we should be aware that the Qur'an draws attention to planting trees which are essential to our ecosystem, and protect the green. (Baqarah, 2/266; Abasa, 80/25-32). Also, the Prophet Muhammad (saw) directed people to plant trees and encouraged them saying, *"There is none amongst the Muslims who plants a tree or sows seeds, and then a bird, or a person or an animal eats from it, but is regarded as a charitable gift for him."* (Bukhari, Muzaraa, 1; Muslim, Musaqat, 7) Each and every Muslim should adopt this behavior of Prophet Muhammad (saw).

449. May a company consider the aids it distributes to its employees as zakat?

The aids and donations by a company must fulfill the following conditions in order to substitute for zakat:

- a) Be given with the intention of zakat,
- b) Supported persons must be eligible to receive zakat,
- c) If it is a stock company, shareholders must appoint the managers as proxy for giving their zakat,
- d) Support to be made must not be within the scope of another payment agreed on the contract such as promotion etc.

450. What should we do if we find out that the person to whom we gave zakat was rich?

The believer who is responsible for the payment of zakat must research the one to whom s/he will give zakat. If one gives zakat to a person whom s/he concludes after doing research to be an eligible recipient, the zakat given to him/her becomes valid. If one gives zakat to someone without doing research and later it turns out that this person is one of those whom zakat can be given, his zakat is valid. However, if

it is understood that this is not the case, the zakat will not be valid, it must be given again. (Ibn Abidin, Radd al-Muhtar, III, 302, 303).

SADAQAH AL-FITR

451. What is sadaqah al-fitr and when is it paid?

Sadaqah al-fitr is a charity which is wajib upon those who are considered as rich in religious terms and who reach to the last days of Ramadan as an act of gratitude of being created as human, fasting in Ramadan, and reaching Eid al-Fitr (Nawawi, al-Majmu', VI, 103-105). Its ruling as wajib was determined by the sunnah of the Prophet (saw) (Bukhari Zakat, 70-78; Muslim, Zakat, 12-16; Abu Dawud, Zakat, 18; Ibn Majah, Zakat, 21).

A person is obliged to give fitrah for himself and his little children. The Prophet Muhammad (saw) said that every Muslim, free or slave, young or old, man or woman, needs to give fitrah (Abu Dawud, Zakat, 20).

The time of obligation for sadaqah al-fitr starts on the first day of Eid al-Fitr, but it may also be given before the eid. The latter is even more virtuous. Giving it before the eid prayer is accepted as mustahab. Besides, it may be given on the day of the eid or later. However it is makruh to give it after the eid.

According to the Shafi'i school, postponing the fitrah until the sunset of the first day of eid without a valid excuse is haram. It is also permissible to give fitrah on early days of Ramadan (Nawawi, al-Majmu', VI, 128).

The goal of fitrah is to cover the expense of one-day-foodstuff of a poor according to the life standard of the society s/he lives in and thus, helping him/her to share the joy of the eid.

While determining the amount of sadaqah al-fitr, it is more appropriate to take as basis the amount to cover a person's one-day-foodstuff expenses (two meals). One cannot give sadaqah al-fitr to those who are considered as rich in religion, to ascendants (mother, father, grandparents) and descendants (children and grandchildren), and spouse. Fitrah may be given to one poor person wholly or more than one poor separately (Marghinani, al-Hidayah, II, 224). But the amount to be given to each person should not be lesser than one fitrah.

452. Who must give sadaqah al-fitr?

Muslims who have nisab amount of wealth (80.18 gr gold or the same value) apart from basic needs and one-year debt, and reach Eid

al-Fitr must give sadaqah al-fitr for themselves and their dependants (Kasani, Bada'i, II, 70, 72).

However, to be obliged to give sadaqah al-fitr, it is not necessary for the wealth in nisab amount to be in increasing feature, and one lunar year does not need to pass upon ownership.

One is responsible for giving fitrah for himself and his children who have not reached puberty yet (Kasani, Bada'i, II, 70). But, a person does not need to give fitrah for his parents, adult children, spouse, siblings and other relatives (Kasani, Bada'i, II, 70, 72). Yet, if he pays for them without being appointed by them as their proxy, it is still valid.

According to the Shafi'i school, giving sadaqah al-fitr is "fardh" and one does not need to have nisab amount of wealth in order to be responsible for giving sadaqah al-fitr (Shirbini, Mughni al-Muhtaj I, 594). In this regard, every Muslim, rich or poor, who has foodstuff enough for the eid day and night apart from basic needs are obliged to pay fitrah (Shirbini, Mughni al-Muhtaj, I, 594). Besides, a rich person must give sadaqah al-fitr for his Muslim spouse, parents, children and other relatives as well (Shirbini, Mughni al-Muhtaj, I, 595; Ibn Rushd, Bidayah, I, 279-280).

453. Who are eligible and ineligible to receive sadaqah al-fitr?

Sadaqah al-fitr is given to poor Muslims who are not dependant to the giver. A person who is obliged to give sadaqah al-fitr and to pay the monetary compensation (fidyah) for missed fasts must not benefit from these payments directly or indirectly. The same rule applies to zakat as well. In this regard, one cannot give zakat, sadaqah al-fitr and fidyah to their ascendants and descendants (parents, grandparents, children, grandchildren, and grand grandchildren). In addition, spouses cannot give zakat, fitrah and fidyah to each other.

According to Hanafis, those who are ineligible to receive fitrah are as follows;

- a) Parents and grandparents,
- b) Son and his children, daughter and her children, and grand grandchildren from them,
- c) Spouse,
- d) The rich, i.e. who has wealth in nisab amount apart from basic needs,
- e) A child who has not reached puberty yet but has a rich father (Marghinani al-Hidayah, II, 223-228).

According to Shafi'i's and Imam Abu Yusuf, fitrah is not given to a non-Muslim (Mawardi, al-Hawi, III, 387; X, 519; Marghinani, al-Hidayah, II, 223).

Zakat, fitrah and fidyah may be given to relatives such as siblings, aunts, uncles, and their children, daughter-in-law, son-in-law, mother-in-law and father-in-law if they are not rich. (Zaylai, Tabyin, I, 301)

454. Is it obligatory to give sadaqah al-fitr as wheat, barley, date, or grape?

Sadaqah al-fitr may be given both in kind of the food items mentioned in the question and in cash of the equal value. However it is more appropriate to choose the method that is more beneficial to the poor. (Ibn Abidin, Radd al-Muhtar, III, 321, 322).

455. May one give sadaqah al-fitr for construction of a mosque?

One of the conditions of validity of sadaqah al-fitr is tamlik. Tamlik means to transfer the property right on a goods or a financial right to another person. Sadaqah al-fitr cannot be given for a mosque, school, bridge, highway etc. as the condition of tamlik will not be fulfilled in that way (Ibn Abidin, Radd al-Muhtar, III, 291, 325).

456. How should one pay the debt of a sadaqah al-fitr that was not paid in time?

As in all acts of worship, sadaqah al-fitr must be fulfilled on time without delay. However, if not paid on time, it should be paid as soon as possible.

According to Imam Shafi'i, Ibn Hanbal and, one of the views attributed to Imam Malik, the obligation of the payment of fitrah takes place with the sunset of the last day of Ramadan; and according to Imam Abu Hanifa and some other mujtahid imams, it happens with the breaking of dawn on the day of eid. Yet, fitrah may be given within the month of Ramadan. Furthermore, it is better to be paid before the eid so that the poor may satisfy their needs for the eid. However, if sadaqah al-fitr is not given until the morning of the eid, it needs to be paid within the eid days. The fitrah which could not be paid on time should be paid as soon as possible (Ibn Abidin, Radd al-Muhtar, III, 312, 322).

According to Shafi'i school, giving fitrah on the early days of Ramadan is permissible and delaying it until after the sunset on the first day of the eid without a valid excuse is haram (Nawawi, al-Majmu, VI, 128).

According to the majority of Muslim jurists, leaving the payment of fitrah after the eid is makruh, and such delayed payment is not accepted as qada, but rather a payment done on time (ada). Yet, some Muslim jurists consider leaving the payment of fitrah after the eid as haram and describe the payment done afterwards as qada (Jaziri, al-Madhahib al-Arba'a, I, 570).

457. How does a person who lives abroad give sadaqah al-fitr; does s/he abide by the conditions of his/her residence country or that of their country of origin?

Because life standards change from country to country, one should give sadaqah al-fitr in the amount calculated in his/her residential country or region (Ibn Abidin, Radd al-Muhtar, III, 319-322).

However even if a person lives abroad but goes to another country at the time of the payment of sadaqah al-fitr, s/he pays it according to the conditions of the latter country.



FASTING (SAWM)





FASTING (SAWM)

FEATURES AND TYPES OF FASTING

458. What are the conditions to be obliged to fast?

One needs to be Muslim, sane, and have reached puberty in order to be deemed accountable in Islam. These criteria are also the conditions for being accountable for fasting. Therefore, in order for an individual to be accountable for the Ramadan fasting, they need to be Muslim, sane, and have reached puberty. (Kasani, Bada'i, II, 87).

Although some people have the qualities to be accountable for acts of worship, they are permitted not to fast due to certain circumstances.

(For more information, see Fatwa No. 518 and 520)

Although children who have not reached puberty yet are not accountable for worships, they may be encouraged to perform prayer and fast so that they may get accustomed to them. In this respect, the Prophet Muhammad (saw) recommended that children from seven years of age until ten be made accustomed to performing prayer (Abu Dawud, Salat, 26).

459. Is it a must to observe the crescent to start fasting in Ramadan?

The beginning and end of lunar months are determined according to the movements of the Moon. To begin fasting, the beginning of the month of Ramadan needs to be determined, and Ramadan changes every year according to lunar calendar. The Prophet Muhammad (saw) said, *“When you see the crescent (of the month of Ramadan), start fasting, and when you see the crescent (of the month of Shawwal), stop fasting; and if the sky is overcast (and you can't see it) then regard the month of Ramadan as of 30 days.”* (Bukhari, Sawm, 5, 11; Muslim, Siyam, 3-4, 7-9)

At first glance, this hadith leads to the opinion that one may not begin to fast and observe the eid until seeing the crescent with bare eyes. Evaluating the other hadiths regarding the matter, it is understood that the aim of these hadiths is to teach the most appropriate practice of the conditions of the day. As a matter of fact, the Prophet Muhammad (saw) said, *“We are an illiterate nation; we neither write, nor know accounts. The month is like this and this, i.e. sometimes of 29 days and sometimes of thirty days.”* (Bukhari, Sawm, 13; Muslim, Siyam, 15; Abu Dawud, Sawm, 4) and indicated that calculating may be used as the method to determine the beginning of lunar months.

The moon continues to its usual movements regardless of being seen with bare eyes or not. It is stated in the Holy Qur’an that the Sun and the Moon move according to a certain order (Rahman, 55/5); that they were created also as a calculation system apart from the other functions (An’am, 6/96); phases were determined for the Moon for us to know the number of years and the count of time (Yunus, 10/5); when skies and earth were created, an order was assigned as twelve months (Tawbah, 9/36); it is a time measurement for people and hajj that the moon begins to be seen as a crescent from the earth and later seen in different forms gradually (Baqarah, 2/189).

Therefore, Prophet Muhammad (saw) advised to see the moon with bare eyes to determine the start of lunar months probably because it was the most assurable way for the time, not because it is the only way to use. The purpose of watching the crescent is to determine the month of Ramadan has started or not. For this reason, it is possible to benefit from other methods to serve the purpose apart from watching the moon with bare eyes.

Today’s technological advancement makes it possible to watch even the slightest movements of the Moon in detail. Today, it is even possible to prepare calendars with prayer times for several years ahead by detailed astronomical calculations. Therefore it is legitimate to determine the beginnings of lunar months by calculation method.

460. **May one fast in order to welcome Ramadan?**

It is known that the Prophet Muhammad (saw) would observe more nafl fasting in the months of Rajab and Shaban than the other months (Bukhari, Sawm, 52; Muslim, Siyam, 173-179). However, considering this practice of the Prophet (saw) as welcoming Ramadan is not correct. There is

no religious basis for fasting to welcome Ramadan. It is makruh to fast one or two days before Ramadan as a precaution in case Ramadan has started. As a religious term, this day is called “yawm al-shakk” (the day of doubt). Yet, one may fast on the day of doubt without the intention of welcoming Ramadan. The Prophet Muhammad (saw) said, “*None of you should fast a day or two before the month of Ramadan unless he has the habit of fasting (Nawafil) (and if his fasting coincides with that day) then he can fast that day.*” (Bukhari, Sawm, 14; Muslim, Siyam, 21)

461. **When and how should one make intention for fasting?**

Intention (niyyah) is one of the conditions of fasting. Fasting without intention is not valid. While intending only by heart is enough, expressing it verbally is mandub. Waking up for suhoor is also considered as an intention.

The time of making intention for Ramadan fasting and nafl fasts is from the sunset until when the sun is at its zenith the next day. But, for the validity of the intention after imsak, nothing should have been eaten and drunk and no action contrary to fasting should have been conducted. Otherwise, intention after fajr does not become permissible (Kasani, Bada'i, II, 85). An absolute intention as “to observe fasting tomorrow” is sufficient for such fasts. Yet, it is more virtuous to make intention at night and determine the fasting as “to fast tomorrow.” One needs to make intention for each Ramadan day separately (Mawsili, al-Ikhtiyar, I, 397,400)

One needs to make intention for fastings such as qada, kaffarah and votive fastings regardless of a certain time from sunset until fajr. While making intention for such fasts, one needs to clarify to which qada, kaffarah or votive fasting s/he is intending.

According to the Shafi'i school, one needs to make intention at night for all kinds of fasts except for nafl. If one has not made intention until fajr time, fasting of that day is not valid. One may make intention for a nafl fast until when the sun is at its zenith (Shirazi, al-Muhadhdhab, I, 331-332).

462. **What is imsak? When does it start? May one continue to eat and drink for a short while when the adhan for fajr prayer starts to be recited?**

Imsak, which literally means “to refrain, restrain, resign and abstain from”, as a religious term means to refrain and abstain from eating, drinking, sexual intercourse and other things that invalidate fasting

from dawn (fajr al-sadiq) until the sunset (the time of iftar). Iftar is the opposite of imsak.

Among the people, “imsak” is used to mean the time when fasting begins. In this regard, imsak is the time to begin fasting.

The time to begin and finish fasting is described in the Qur’an as: *“And (at Ramadan nights) eat and drink, until the white thread of dawn appear to you (when dawn breaks/fajr al-sadiq) distinct from its black thread; then complete your fast (without eating, drinking, and sexual intercourse) till the night appears.”* (Baqarah, 2/187)

The imsak time shown on calendars describes the time to begin fasting. Imsak is also the moment when the night ends, the time for ‘isha prayer ends and that of fajr prayer begins. The adhan starts to be recited with the beginning of imsak time. Therefore, one needs to stop eating and drinking with the beginning of adhan. But one may swallow the piece in the mouth when the adhan starts to be recited.

463. **What is the importance of suhoor meal in Islam?**

Suhoor is the meal eaten before imsak at night by people who are going to fast. The Prophet Muhammad (saw) would wake up for suhoor and advise it to the ummah (Bukhari, Sawm, 19, 20).

The Prophet Muhammad (saw) expressed that there is a “blessing (barakah)” in suhoor meal (Bukhari, Sawm, 20) and stated that suhoor is one of the most important differences between the fasting of Muslims and of the People of the Book (Muslim, Siyam, 46). Based on his hadiths and practices about suhoor, Muslim jurists said that waking up for suhoor and having the suhoor meal as late as possible is sunnah (Kasani, Bada’i, II, 105).

Scholars state that suhoor gives one strength for fasting and causes one to attain blessings both materially and spiritually. Because when people wake up for suhoor, they would be awake at the time of fajr and attain the virtues of people of heaven by praying and asking for forgiveness at this time (Dhariyat, 51/18). By this way, one begins to fast as livelier and more spirited with these spiritual joys. Possessing such blessings both morally and materially, suhoor should not be ignored.

464. What is the ruling on fasting in the month of Shawwal? May one fulfill the missed fasts of Ramadan with the intention of Shawwal fasting?

Fasting for six days in the month of Shawwal after Ramadan is mustahab. The Prophet Muhammad (saw) said, “*Whoever fasts Ramadan, then follows it with six from Shawwal, then that is (equal in reward) to fasting the whole year*” (Muslim, Siyam, 204; Tirmidhi, Sawm, 53; Abu Dawud, Sawm, 59) This fasting may be performed consecutively or with breaks. (Ibn Abidin, Radd al-Muhtar, III, 421, 422).

The fasting performed as nafl in Shawwal does not substitute for the missed Ramadan fasting, so, it is fardh to make qada separately for the missed Ramadan fastings. As it is not valid to make intention for both qada and nafl for one fasting, one should make intention for only one of these while fasting in Shawwal, too. While fasting in Shawwal, if one makes intention for the qada of missed Ramadan fastings, it will be valid as a qada fasting.

465. What is the importance of the first ten days of the month of Dhu al-Hijjah?

According to the preferred interpretation, what is meant by the phrase “ten nights” mentioned in the second verse of Surah al-Fajr is the first ten days of the month of Dhu al-Hijjah, which is the month for hajj. (Razi, Mafatih al-ghayb, XXXI, 163). Indicating the importance of the first ten days of the month of Dhu al-Hijjah, the Prophet Muhammad (saw) said, “No good deeds done on other days are superior to those done on these (first ten days of Dhu al-Hijjah).” Then some companions of the Prophet (saw) said, “Not even Jihad?” He replied, “*Not even Jihad, except that of a man who does it by putting himself and his property in danger (for Allah’s sake) and does not return with any of those things.*” (Bukhari, Eidayn, 11).

The importance and virtue of these ten days of Dhu al-Hijjah is because hajj is performed in this month (Ibn Hajar, Fath, II, 459). Some of the manasik (rites) of hajj is performed on these days, and the other part (tawaf al-ziyarah, stoning the devil etc.) is performed on the following tashriq days. It is mentioned in the narratives that fasting on the eve of Eid al-Adha (Day of Arafah), which is the ninth day of the month of Dhu al-Hijjah, is also very meritorious (Muslim, Siyam, 196, 197; Abu Dawud, Sawm, 64; Tirmidhi, Sawm, 46).

466. What is the importance of fasting in the month of Dhu al-Hijjah and on the Day of Arafah?

Fasting on the first nine days of Dhu al-Hijjah is considered as mustahab. One may fast for the whole or for a few of those days as s/he wishes.

The Day of Arafah, which is the ninth day of Dhu al-Hijjah, has an important place in Islam. Regarding fasting on this day, Prophet Muhammad (saw) said, *“It is hoped from Allah that fasting on the day of Arafah may atone for the sins of the preceding and the coming years.”* (Muslim, Siyam, 196-197). However, for those who are performing hajj at this time, not fasting is more appropriate in order to not delay the required worships or have hardship and exhaustion (Abu Dawud, Sawm, 64).

467. What is the importance of the month of Muharram and fasting in that month, especially on the 10th day of Muharram?

“Muharram” means respected. This month is described as “the month of Allah” by the Prophet Muhammad (saw) (Muslim, Siyam, 202; Abu Dawud, Sawm 55; Tirmidhi, Sawm, 40). This description indicates the virtue and abundance of blessings of the month of Muharram.

The Prophet Muhammad (saw) said, *“The most excellent fast after Ramadan is the Month of Allah, al-Muharram, and the most excellent prayer after what is prescribed is prayer during the night.”* (Muslim, Siyam, 202-203; Abu Dawud, Sawm, 55; Tirmidhi, Sawm, 40)

Tenth day of Muharram is the day of Ashura. According to some scholars, fasting on this day is sunnah (Sarakhsi, al-Mabsud, III, 92). Because the Prophet (saw) himself fasted on this day and advised it to the ummah (Bukhari, Sawm, 69). When he came to Medina, the Prophet Muhammad (saw) witnessed Jews fasting on the day of Ashura and asked, “Why are you fasting on this day?” Jews replied, *“It is the day on which Allah granted victory to Moses and (his people) Bani Isra’il over the Pharaoh and we observe fast out of gratitude to Him.”* Upon this the Messenger of Allah (saw) said: *“We have a closer connection with Moses than you have”, and he commanded to observe fast on this day.* (Bukhari, Sawm, 69; Muslim, Siyam 127; Abu Dawud, Sawm, 65). Prophet Muhammad (saw) has some other hadiths that encourage fasting on this day. One of them reads as follows *“Fast on the day of Ashura, for indeed I anticipate that Allah will forgive (the sins of) the year before it.”* (Tirmidhi, Sawm, 48). On another occasion, the Prophet said referring to the fasting of ASHura, *“The*

most virtuous fasting after the month of Ramadan is Allah's month, al-Muharram." (Tirmidhi, Sawm, 40)

In order to oppose the practice of the Jews, the Prophet's (saw) saying that he would perform Ashura fasting next year by adding the ninth day of Muharram as well (Abu Dawud, Sawm, 66) indicates that it is more appropriate to perform this fasting on either the ninth and tenth days or the tenth and eleventh days of Muharram (See. Ibn Hanbal, al-Musnad, IV, 52; Abdurrazzak, al-Musannaf, IV, 287).

Besides, it should be known that after Ramadan fasting was prescribed as fardh, the Prophet Muhammad (saw) stated that one may perform Ashura fasting if he wishes; if not, he is allowed not to do so (Bukhari, Sawm, 69; Muslim, Siyam, 113-126).

468. **What is the place of the three holy months in Islam and what is the ruling on fasting in these months?**

The months of Rajab, Shaban and Ramadan, which are known as three months among the public, are blessed and holy months. When the month of Rajab started, Prophet Muhammad (saw) prayed as, "O Allah! Make the months of Rajab and Shaban blessed for us, and let us reach the month of Ramadan." (Ibn Hanbal, Musnad, I, 259). It is obligatory to fast in the month of Ramadan (Baqarah, 2/184-185). It is reported in hadith sources that Prophet Muhammad (saw) would perform nafl fasting in Rajab and Shaban relatively more than the other months, but Ramadan was the only month in which he fasted for the whole month (Bukhari, Sawm, 52-53; Muslim, Siyam, 173-79). In this regard, there is no religious basis for fasting in Rajab and Shaban uninterruptedly. One may perform nafl fasting in these months as much as s/he wishes if s/he is healthy and able to perform it.

469. **Is there any religious obligation about fasting in the days of the holy nights?**

The Prophet Muhammad (saw) said, "When it is the night of the middle of Sha'ban, spend its night in prayer and observe a fast on that day. For Allah descends at sunset on that night to the lowest heaven and says: 'Is there no one who will ask Me for forgiveness, that I may forgive him? Is there no one who will ask Me for provision, that I may provide for him? Is there no one who is afflicted by trouble, that I may relieve him?' And so on, until dawn comes." (See. Tirmidhi, Sawm, 39; Ibn Majah, Iqamat al-Salat, 191).

On the other hand, the Prophet (saw) would fast on the first nine days of Dhu al-Hijjah, on Mondays and Thursdays, on the days of Ashura and Arafah (Muslim, Siyam, 196, 197; Ibn Majah, Siyam, 41,42) and replied people who asked about fasting on Mondays as, “*It is (the day) when I was born and revelation was sent down to me.*” (Muslim, Siyam, 198)

Based on this and similar hadiths, some Islamic scholars said that it is mustahab for the other days and nights which are considered as virtuous to be revived with acts of worship.

470. **Should a person who wants to fast for the holy nights fast on the day of that night or on the next day?**

In religious terms, a day finishes with sunset and a new day begins. Night comes before daytime (Qurtubi, al-Jami’, XIV, 15). Therefore, because the month of Ramadan begins with the sunset on the last day of Shaban, tarawih prayer is performed that night, and because Shawwal begins on the last day of Ramadan with sunset, tarawih prayer is not performed that night. Friday begins when the sun sets on Thursday and continues till the evening on Friday. For example, when one says “the first Friday night of Rajab,” we should know that it is the first night that connects Thursday to Friday (the time from sunset to fajr). Likewise, “the 15th night of Shaban” is the night that connects the 14th day to the 15th day of the month, and “the eid night” is the night that connects the day of arafah to eid day.

In this regard, the true time to fast nafl for the holy nights is the day following the night, but one also may fast by adding the former day.

471. **What is Dawud’s fasting?**

“Dawud’s Fasting” means fasting by every other day; one day you perform and the other day you do not. It is called as such because the Prophet Dawud (as) fasted this way. This fasting was named by Prophet Muhammad himself and he stated its importance as, “*The best fasting is the one Dawud performed; He fasted one day and gave up fasting for a day.*” (Bukhari, Sawm, 56; Muslim, Siyam, 181) Also, the Prophet Muhammad (saw) said, “*The most beloved fast to Allah is the one Dawud performed.*” (Bukhari, Tahajjud, 7)

472. When is the fasting of ayyam al-beed (white days) and what is its importance?

Ayyam al-beed (the White Days) are the 13th, 14th and 15th nights of hijri months when the moon is brightest (Bukhari, Sawm, 60). This name was given because the moon is seen as full on these nights and brightens the night more than usual. The Prophet Muhammad (saw) advised to fast on these days in every month (Abu Dawud, Sawm, 69; Tirmidhi, Sawm, 54) and stated that fasting on these days is considered like fasting for the whole year (Ibn Majah, Siyam, 29).

473. How is fasting in fulfillment of a vow (nadhr) observed?

A nadhr or vow means that a person makes it obligatory to himself by making a promise to Allah that he will perform a fard or wajib type of worship that is not fard or wajib upon him. Absolute vows without a certain condition and time needs to be fulfilled as soon as possible after the moment of making the vow. Conditional vows need to be fulfilled when the condition is realized. Fulfilling the requirement of the vow before the condition happens is invalid, and the person needs to fulfill it again after the condition is realized. Nadhr fasting with a certain time needs to be performed on its due time. While making intention for such fasting, one is not required to state clearly that it is a fasting of nadhr. Nadhr fastings without a specified time may be performed anytime except Ramadan and the days when fasting is prohibited. But this fasting needs to be performed with the intention of nadhr. In this regard, nadhr fasting is performed the same way it is promised. For example, if it is promised to be observed consecutively, then the person should perform it consecutively without break. If not, one can observe it by giving breaks. But it is not performed on the days when fasting is not permissible (Ibn Abidin, Radd al-Muhtar, III, 334, 422, 424).

474. What are the prohibited days for fasting?

In Islam, while there are days when fasting is commanded or advised, there are also days when fasting is prohibited or considered as disliked. According to the nature and strictness degree of the prohibition, on some of these days, fasting is haram or makruh tahrimi (disliked close to be prohibited), and on the others, it is makruh tanzih (disliked close to be permissible).

The days of eid come on top of the list of days when fasting is prohibited. Prophet Muhammad (saw) informed about two days when one is not allowed to fast; one is the first day of eid al-fitr, and the other is all four days of eid al-adha. (Bukhari, Sawm, 66-67). It is prohibited to fast on the first day of eid al-fitr only and all four days of eid al-adha (Mawsili, al-Ikhtiyar, I. 395-396). The reason for this prohibition is that eid days are for eating, drinking and enjoyment. Eid al-fitr is considered as “a general iftar feast” offered after one-month fasting performed for the sake of Allah (swt). Therefore, it is also called as “fitr/iftar eid.” In this regard, the first day of eid al-fitr is like the iftar of the whole Ramadan fasting. Fasting on such a mass iftar day is considered as not attending to the symbolic feast of Allah (swt) and this is, at least, disrespectful. The days of eid al-adha when sacrifices are made for the sake of Allah (swt) are also the days of feast. The Prophet Muhammad (saw) stated that tashreeq days are for eating, drinking and praising Allah (swt) (Bukhari, Sawm, 66-67; Abu Dawud, Sawm, 49).

If there is a possibility for pilgrims to be tired and fall into weakness, it is more appropriate for them to not fast on the eighth day (tarwiyah), and on the ninth day (arafah) of Dhu al-Hijjah. The Prophet (saw) prohibited fasting on the Day of Arafah for those who are at the Mount of Arafah. (Abu Dawud, Sawm, 64). Because it is more favourable for pilgrims to be energetic and lively while performing hajj prayer then performing nafl fasting.

On some days apart from these, fasting is considered as makruh for various reasons. For example, fasting only on the day of Ashura (10th of Muharram) is considered as makruh because it means to resemble Jews and resemble them (Abu Dawud, Sawm, 66).

It is makruh to fast on the Day of Shekk (The day doubted whether it is a day of Shaban or Ramadan). The Prophet (saw) also forbid to welcome Ramadan by fasting one or two days before the month of Ramadan (Bukhari Sawm, 11, 14; Muslim, Siyam, 21; Abu Dawud, Sawm, 11).

It is makruh to fast consecutively as more than one days without breaking it. This is called as wisal fasting (sawm al-wisal). According to what Aisha (ra) stated, Prophet Muhammad (saw) forbid to perform wisal fasting and replied those who reminded him that he himself did so: “*I am not like you; I am fed and supplied drink (by Allah).*” (Muslim, Siyam, 55-58).

475. Can we observe fasting on the days of eid?

The days of eid come on top of the list of the days when fasting is prohibited. It is makruh tahrimi to fast on the first day of eid al-fitr and all four days of eid al-adha (Mawsili, al-Ikhtiyar, I, 395-396; Ibn Abidin, Radd al-Muhtar, III, 336). The reason why it is unliked and forbidden to fast on these days is because eid days are for eating, drinking and enjoyment. Eid al-fitr is considered as “a general iftar feast” offered after one-month fasting performed for the sake of Allah (swt). The first day of eid al-fitr is like the iftar of one-month Ramadan fasting. To fast on such a mass iftar day is considered as not attending to the symbolic feast of Allah (swt) and this is obviously disrespectful. The days of eid al-adha when sacrifices are made for the sake of Allah (swt) are also days of feast. The Prophet Muhammad (saw) stated that tashreeq days are for eating, drinking and praising Allah (swt) (Bukhari, Sawm, 66-67; Abu Dawud, Sawm, 49).

476. What is the ruling on fasting on Fridays?

It is considered as makruh tanzihī to perform nafl fast only on Fridays. The Prophet (saw) said, “*None of you must fast on Friday unless he fasts the day before or the day after.*” (Abu Dawud, Sawm, 50). It is permissible to fast on Friday to make up a missed fardh fasting or to fulfill a wajib fasting such as a votive fasting. It is permissible to fast before or after Friday for those who want to fast on Friday. The reason why fasting only on Friday is makruh is because Friday is considered the weekly eid for Muslims.

THE THINGS THAT INVALIDATE AND DO NOT INVALIDATE THE FAST

477. What are the things that invalidate the fast?

As the primary element of fasting is to abstain from eating, drinking and sexual intercourse, these and similar acts done while fasting invalidate the fast. Eating and drinking includes all things possible to eat and drink. All smoky and pleasure inducing substances with tobacco origin such as cigarette and hookah, and all substances consumed due to addiction such as narcotic drugs fall into the scope of the things that invalidate fasting (Ibn Abidin, Radd al-Muhtar, III, 386-387). Whatever the reason might be, medication consumed orally is subject to the same judgment as well.

478. Does eating or drinking something forgetfully invalidate the fast?

Eating or drinking something forgetfully does not invalidate the fast. The Prophet Muhammad (saw) said, *“If somebody eats or drinks forgetfully then he should complete his fast, for what he has eaten or drunk, has been given to him by Allah.”* (Bukhari, Sawm, 26)

A person who eats or drinks forgetfully while fasting should spit that thing and wash his/her mouth immediately, and then continue fasting. If something is swallowed after remembering that one was fasting, it invalidates fasting. (Marghinani, al-Hidayahh, II, 253-254).

479. Should we remind a person who eats forgetfully that s/he is fasting?

If the person who eats or drinks something forgetfully while fasting is old, ill, weak and not healthy enough to fast, then the one witnessing this should not remind him/her that s/he was fasting. Otherwise, s/he should be reminded (Shurunbuali Maraq al-Falah, 238).

480. What should be the limit of the relations between spouses when they are fasting?

A person must avoid everything that invalidates fasting as well as doubtful acts and behaviors that decrease the degree and rewards of fasting. Having sexual intercourse intentionally in Ramadan while fasting invalidates the fast; and requires both qada and kaffarah (Bukhari, Sawm, 30). Kissing and hugging between spouses do not invalidate the fast. However if ejaculating happens in this situation, fasting is invalidated and qada is required for the day (Marghinani, al-Hidayah, II, 256).

481. Is the fasting observed while one is in the state of janabah (major impurity) valid?

The state of janabah is not an obstacle for fasting. In this regard, it does not matter whether the situation that causes the state of janabah happens before beginning to fast, or caused by a reason that does not invalidate fasting such as having wet dream while fasting. However, those who are junub need to have a bath and get cleaned as soon as possible. One prayer time should not pass upon being in the state of janabah. It is a sinful act to delay ghusl longer than one prayer time.

Because if it is delayed, the prayer will also be unperformed (Ibn Abidin, Radd al-Muhtar, III, 372).

482. Does masturbation invalidate fasting?

Fasting is a training of self control with the aspect of consciously abstaining from desires of nafs (inner self). It is an effective method to take desires of nafs under control, and purify and exalt the soul. It turns out that those who are defeated by their lustful desires have failed in this training of will.

Masturbating while observing fasting invalidates the fast and requires a one-day make up (qada). Those who commit this act need to both perform qada for the invalidated fasting and repent to Allah to be forgiven.

The fact that masturbated does not require kaffarah (atonement) does not mean that it is an insignificant sin. On the contrary, those who invalidate their fast without a valid excuse commit a major sin (Zaylai, Tabyin, I, 323; Ibn Nujaym, al-Bahr, II, 293).

483. What is the ruling on having wet dream or waking up in the state of janabah while observing fasting?

Having wet dream while fasting does not invalidate the fast and waking up as junub by delaying ghusl does not hinder fasting either (al-Fatawa al-Hindiyyah, I, 220). However delaying ghusl until the end of fajr prayer's time is a sinful act. Because in this situation, the fajr prayer will be unperformed (Ibn Abidin, Radd al-Muhtar, III, 372). It is also known that Prophet Muhammad (saw) had a bath after imsak in fajr prayer's time in Ramadan (Bukhari, Sawm, 25).

484. What should a woman do if she makes intention for fasting but menstruates within the day?

Women do not perform prayer or observe fasting during menstruation (haidh) and post natal period (nifas). They perform qada for unobserved fasts later.

If a woman starts fasting, but then menstruates within the day, she breaks her fast, and performs qada for this day after the end of menstruation (Marghinani, al-Hidayah, II, 276). It is not appropriate for her to pretend as fasting until iftar time. Yet, it is more appropriate for her not to eat and drink near others out of respect to the spirit of Ramadan.

485. Do using mouth spray or chewing gum in order to prevent bad breath harm fasting?

Everything taken by mouth or nose and reach to stomach invalidates fasting. In this regard, spray or similar materials sprayed into the mouth to prevent malodor or to relieve tooth pain invalidate fasting if swallowed and reached to stomach; if not swallowed, they do not invalidate fasting.

Since the chewing gums produced today contain additives that dissolve in the mouth, it is not possible to avoid swallowing them, no matter how much care is taken. Therefore, chewing such gums invalidates fasting (Ibn Abidin, Radd al-Muhtar, III, 395, 396). On the other hand, as it is not possible to know which kind of gum does not invalidate the fast, one should avoid chewing gum while fasting.

486. Do waxing or epilation prevent fasting?

Epilating hair does not invalidate fasting no matter which method is used. Because fasting is invalidated by eating, drinking and having sexual intercourse. Epilating hair or having someone do it does not invalidate fasting because these do not fall within the scope of things that invalidate fasting.

Here, it should also be noted that the parts of a woman's body that need to be covered against men is her whole body except the hands, feet and face. The parts of a woman's body that need to be covered (awrah) against women is between the navel and knees. It is not permissible to show these parts to women and men unless there is an obligation or necessity. In this regard, it is not halal for those who want to have waxing or laser epilation, to show to a stranger, man or woman, the parts of their body that must be covered and it is not halal either for the one performing waxing or laser epilation to look at or touch these parts (Marghinani al-Hidayah, VII, 187,194-195).

487. Do applying make up and dying hair invalidate the fast?

Fasting is invalidated by eating, drinking and having sexual intercourse. Make up, dying hair and hair care do not invalidate fasting because these do not fall within the scope of the things that invalidate fasting.

488. Does nicotine band invalidate fasting?

Nicotine band does not invalidate fasting. What invalidates the fast are the materials entering into body through normal ways and sexual intercourse. Materials put on body such as ointment and cream are absorbed by skin pores and capillary veins under the skin and mix with blood. But this absorption is too slow and low in amount. In other words, this process is not considered as eating and drinking, or taking nutrition (See. Marghinani, al-Hidayah, II, 263-264; Kasani, Bada'i, II, 98; Ibn Abidin, Radd al-Muhtar, III, 366-367).

489. Does having kidney stone removed while fasting invalidate it?

If a person has kidney stone removed without being injected by any kind of nutritious matter, it does not invalidate fasting. If blood flows to kidneys during this operation, it still does not invalidate fasting.

490. Does the insulin shot taken by diabetic patients invalidate the fast?

Whether the shot invalidates fasting or not can be evaluated in the light of its purpose of usage. Some injections are made to relieve pain, treat an illness, boost immunity, and provide nutrition. Injections that are not nutritional or pleasure-inducing do not invalidate fasting because they are not considered as eating and drinking. However, injections that are nutritional and pleasure-inducing invalidate fasting (Decision by High Board of Religious Affairs dated 22. 09. 2005). Insulin shot used by diabetic patients does not invalidate fasting as it does not possess this feature.

On the other hand, a patient diagnosed by a professional doctor that fasting is not healthy for him/her is allowed not to fast in Ramadan. The patient leaves fasting to qada if there is possibility of being recovered; if not possible, the person gives fidyah for each day of Ramadan. Patients living as insulin dependant are allowed not to fast if it gives harm to their health. They pay fidyah for each day they could not fast.

491. Does a transfused radioactive substance invalidate fasting?

The non-nutritious transfused radioactive substance given to diagnose some illnesses does not invalidate the fast. Because such substances do not have the feature to boost immunity nor they are nutritious.

492. Does eyedrop invalidate fasting?

According to the information obtained from experts of the field, medication dropped in the eyes is in very low amount (50 microliters which is equal to 1/20 of 1ml); some of it flows out through blinking, and some of it is absorbed by pores on channels connecting eye and nose and mucosa, and enters into body. Moreover, this process does not mean eating and drinking. Therefore, eyedrop does not invalidate fasting (Decision by HBRA dated 22.09.2005; see. Kasani, Bada'i, II, 98).

493. Do having endoscopy or colonoscopy and having anal or vaginal ultrasonography invalidate the fast?

During endoscopy performed to monitor the stomach or resect a piece from the stomach with the aim of diagnosing the illness of the stomach, a medical device is inserted through mouth and removed after the process. During colonoscopy performed to monitor the large intestines (colon) or resect a piece with the aim of diagnosing the illness of the intestines, a medical device is inserted through anus and removed after the process. During colonoscopy, almost always, and endoscopy, usually, water is given through the device to cleanse the parts to be monitored.

Although endoscopy, colonoscopy, and anal and vaginal ultrasonography are not considered as eating and drinking, fasting is invalidated because mostly water is given through the device. However, if a nutritional substance such as water, fat, etc. does not enter into the digestive system by use of those devices in such processes, endoscopy, colonoscopy or anal and vaginal ultrasonography do not invalidate fasting (Decision by HBRA dated 22. 09.2005; see. Kasani, Bada'i, II, 98; Ibn Abidin, Radd al-Muhtar, III, 367, 369, 376)

494. Do viewing urinary canal and infusing medicine into the canal invalidate fasting?

The devices inserted into the urinary canal and the medicine infused into the canal do not invalidate fasting (Decision by HBRA dated 22.09.2005; see. Marghinani, al-Hidayah, II, 264, Kasani, Bada'i, II, 98).

495. Does anesthesia invalidate fasting?

Anesthesia means to prevent pain by cutting transfer on mototracts at different levels. There are three kinds of anesthesia: local, regional,

and general. Local anesthesia (restricted narcotization) is the one performed by injecting medication to the near circle of the place to be operated to prevent pain transmittance at minor operations. Regional anesthesia is the one performed by injecting medication to spinal cord or connection points created by a wide nerve group without reaching to spinal cord to prevent pain transmittance at the level of spinal cord for wider parts of the body. If the patient is put in a sleep-like state and the pain is prevented at the level of brain, this type is called as general anesthesia.

Anesthesia is performed by giving medication to the body through air passage or injection. Anesthesia through air passage or injection does not reach stomach nor is it considered as eating or drinking. However, in regional and general anesthesia, vascular access is established to inject medicament or liquid in case of emergency, and this access is kept open to transfuse as long as the operation is on. In this regard, local anesthesia does not hinder fasting. But fasting is invalidated in regional and general anesthesia because of transfusing. (Decision by HBRA dated 22.09.2005; see. Marghinani, al-Hidayah, II, 263-264, Kasani, Bada'i, II, 98).

496. **Do eardrops invalidate fasting?**

There is a channel between the ear and throat. However, medication does not reach throat because eardrum plucks this channel. Therefore eardrops do not invalidate fasting.

Even if there is a hole on the eardrum, medication does not reach stomach or only a little amount reaches because it is absorbed inside the ear. Moreover, this process does not mean eating and drinking. Therefore, eardrop does not invalidate fasting (Decision by HBRA dated 22.09.2005; see. Marghinani, al-Hidayah, II, 263; Kasani, Bada'i, II, 98; Ibn Abidin, Radd al-Muhtar, III, 367,376).

497. **Does having ears washed invalidate fasting?**

There is a channel between the ear and throat. However, water does not reach throat because eardrum plucks this channel. Therefore having ears washed does not invalidate fasting. But if there is a hole on the eardrum, it is possible for water to reach stomach while having ears washed. In this case, if water reaches stomach, it invalidates fasting. (Decision by HBRA dated 22.09.2005; see. Marghinani, al-Hidayah, II, 263; Kasani, Bada'i, II, 98; Ibn Abidin, Radd al-Muhtar, III, 367,376).

498. **Do using suppository or having enema invalidate fasting?**

Suppository is used as a painkiller, fever reducer or for other reasons through anus and in treatments for mycetes and some of gynaecological diseases through vagina. Enema is to exert the feces inside colons by injecting fluid through anus before a surgical operation or for constipation.

Digestive system begins with mouth and ends at the anus, and consists of digestive tract and digestive tissues. Digestive tract begins with mouth. Pharynx is located behind the mouth. And then, digestive system continues with alimentary canal, stomach, intestine, colon, rectum and anus in order. Digestion is completed in intestines. Only water, glucose and some salts are absorbed in colons. There is no connection between women's vulva and digestive system.

In this regard, suppositories taken through vulva does not invalidate fasting. Suppositories taken through anus get involved in digestive system. But it does not invalidate fasting because digestion is already completed in intestines; suppositories are not nutritional; and taking suppository through anus is not considered as eating and drinking.

There are two situations to be considered about enema; fasting is invalidated if nutritional water is given through intestines because water, glucose and some salts are absorbed there, or if water in an amount to invalidate fasting absorbed by colons stays in colons (Marghinani, al-Hidayah, II, 263). However, if the colons are cleaned immediately after water is given, fasting is not invalidated because water with feces in colons is extracted immediately and very little amount of water is absorbed during the process. (Decision by HBRA dated 22.09.2005)

499. **Is fasting invalidated by undergoing dialysis?**

There are two kinds of dialysis applied to renal failure patients which are peritoneum dialysis and hemodialysis.

Peritoneum dialysis is the process of clearing blood of harmful substances and providing liquid stability by using the patient's own periton via a special solution injected to ventral cavity. Hemodialysis is the process of clearing blood of harmful substances by using a machine apart from the body, and returning the blood to the body. Blood is extracted by injection through the patient's arm. Hemodialysis machine filters blood continuously on a filter called dialysor and filters harmful substances and excessive water. Clear blood that was filtered is returned

to vein of the patient with another injection. Sometimes it is required to give nutritional water during this process.

If during hemodialysis, no nutritional water is given to the patient, then fasting is not invalidated. Fasting is invalidated because nutritional liquid is given to the body during the other dialysis processes. (Decision by HBRA dated 22.09.2005; see Marghinani, al-Hidayah, II, 263-264; Kasani Bada'i, II, 98).

500. Does donating blood for platelet supply invalidate fasting?

According to the information obtained from the experts of the field, platelet on blood is extracted by normal blood transfuse or apheresis device. During platelet supply with normal blood donation way, only blood transfusing is used. Having evaluated the narratives about Prophet Muhammad's having blood transfused while fasting, Islamic scholars stated that giving blood does not invalidate fasting (Bukhari, Sawm, 32; Abu Dawud, Sawm, 29; Ibn Qudamah, al-Mughni, IV, 50-52).

In supplying platelet with apheresis device, blood is taken from the donor's one arm through the device and returned to the donor through the other arm after platelets are filtered inside the device. To prevent blood from congealing, the device is filled with two kinds of liquids. This process during which blood and liquid is injected to the body invalidates fasting. Those who want to donate blood with apheresis device need to donate blood with normal transfuse or perform this process between iftar and imsak (See. Fatwa no 522).

501. Does having an angiography invalidate the fast?

Colloquially known as angio, this operation is practiced to diagnose and provide treatment. Angiography means to monitor body veins. A medicament described as contrast substance is injected into the vein to make veins visible and films called as angiogram are obtained. Thanks to angiography, the veins that feed organs are monitored and diagnosis information about vascular diseases or organs fed by these veins is obtained. Classic method of angio to provide treatment is angioplasty. This is performed to reopen narrow or fully plugged veins by using special tools called balloon or stent.

In light of the information given above, both angiography and angioplasty operations do not invalidate fasting because these are not considered as eating and drinking (Decision by HBRA dated 22.09.2005; see. Kasani, Bada'i, II, 98).

502. Does having biopsy invalidate the fast?

Resection from any part of the body with the purpose of analysis (biopsy) does not invalidate the fast. (Decision by HBRA dated 22.09.2005; see. Marghinani, al-Hidayah, II, 263-264; Kasani, Bada'i, II, 98)

503. Does the sublingual pills used by cardiac patients invalidate the fast?

For some cardiac diseases, sublingual tablets are absorbed by mouth tissues directly, and mixes with the blood and prevent the cardiac arrest. Such tablets do not reach stomach when absorbed by mouth tissues. In this regard, sublingual tablets do not invalidate fasting. (Decision by HBRA dated 22.09.2005)

504. Does nasal drop invalidate the fast?

One drop of nasal drop used for treatment is approximately 0,06 cm³. Some of it is absorbed by nose walls and very little amount reaches stomach. This is not considered as an amount enough to invalidate fasting as the moistness on mouth after rinsing. Besides, it is not an act of eating and drinking, or taking nutrition. Therefore, nose drop does not invalidate fasting (Decision by HBRA dated 22.09.2005).

505. Does being vaccinated or having an injection invalidate fasting?

Fasting is invalidated by eating, drinking, having sexual intercourse and things within the scope of these. Accordingly, vaccines with no nutritive feature do not invalidate fasting.

Patients with continuing treatment may delay fasting until recovery and end of the treatment. However if they want to fast together with everyone in Ramadan and do not have any other serious obstacle to do so, it is appropriate for them to have injections after iftar. Those who do not have such an opportunity may have injection of treatment and vaccination. However, the fast of those who have nutrition and vitamin vaccines, vaccinated by mouth, and to whom serum and blood is given, is invalidated. They need to perform qada for the day later.

506. Does acupuncture treatment invalidate fasting?

Fasting is an act of worship performed by abstaining from eating, drinking and having sexual intercourse from imsak until iftar (Baqarah, 2/187). Acupuncture is a method of treatment for various illnesses by

pricking certain points on the body with special needles. It does not invalidate the fast because it does not fall within the scope of the things that invalidate fasting nor is it nutritional to body.

507. Do giving blood and taking blood into body when one is observing fasting invalidate it?

Giving blood while fasting does not invalidate the fast (Ibn Qudamah, al-Mughni, IV, 50-52). Taking blood to the body invalidates the fast because it is considered as taking nutrition. There are two narratives about giving blood that are contrary to each other. According to the first one, the Prophet (saw) said, “*A man who cups and a man who gets himself cupped breaks their fast (i.e. their fast is invalidated).*” (Abu Dawud, Sawm, 28) On the other hand, there is another narrative stating that the Prophet Muhammad (saw) had himself cupped while fasting (Bukhari, Sawm, 32; Abu Dawud, Sawm, 29).

The majority of scholars who evaluated these two hadiths together interpreted the first hadith as “The person who is performing cupping may unintentionally take the blood on mouth while sucking with special tool and the one to whom cupping is performed may fall weak and sick after giving blood, so their fastings may be at risk of invalidation.”, and taking the second hadith as basis, concluded that giving blood does not invalidate fasting.

508. Does using ointment and medicated band invalidate the fast?

Ointment, cream, etc. when put on the body are absorbed by the pores on the skin and capillary veins under the skin, and mix with the blood. But this absorption is too slow and low in amount. Besides, this process is not considered as a nutritive act such as eating and drinking. In this regard, ointment and medicated bands put on the skin do not invalidate the fast (Decision by HBRA dated 22. 09. 2005; see. Marghinani, al-Hidayah, II, 263-264; Kasani, Bada'i, II, 98; Ibn Abidin, Radd al-Muhtar, III, 366,367).

509. Do the spray and asthma medicine used by asthma patients invalidate fasting?

Asthma patients who have to use inhaler spray do not have to observe fasting. They may perform qada for these days after recovery. If it is not possible to be recovered, then they may give fidyah for the

days unobserved per each day. One day's fidyah is the amount of one fitr given for one person in Ramadan.

However, asthma patients who do not have other health problems to prevent fasting apart from asthma may observe fasting by spraying the special spray to their mouths. These medications sprayed to mouth do not invalidate the fast. Because a very low amount (around 1/20 ml) is sprayed to mouth per once. The significant amount of it is absorbed by mouth and bronchus. There is no certain information whether the rest mixes with the saliva and reaches stomach or not.

In comparison to the water taken into mouth during ablution, this is not a significant amount. There are hadiths saying that the water that remains in mouth after ablution does not invalidate fasting even it reaches stomach (Darimi, al-Sunan, Sawm, 16). There is consensus about this matter.

Also, some parts of siwak and chemical substances may reach stomach unavoidably. Yet, authentic hadith sources indicate that Prophet Muhammad (saw) used siwak while fasting (Bukhari Sawm, 27; Tirmidhi, Sawm, 29). On the other hand, as required by the rule of "What is known with certainty does not disappear by doubt", suspicion about whether something has reached stomach or not does not invalidate the fast. In this regard, medication with oxygen sprayed to mouth to help asthma patients with breathing smoothly does not invalidate the fast. (Decision by HBRA dated 22. 09. 2005)

510. Does having dental treatment invalidate fasting?

Fasting is not invalidated solely due to dental treatment. The injections made for painless treatment do not invalidate fasting because it is not considered as eating and drinking. However, if water, blood or substances used in treatment reach one's stomach during the treatment while gargling mouth with water etc., then fasting is invalidated and qada is required.

511. Do dental bleeding and swallowing the blood coming out of dental wound with saliva invalidate the fast?

Dental bleeding does not invalidate the fast. However, if the blood is equivalent to or more than the spit that is mixed with and swallowed, fasting is invalidated and qada is required. The blood in less amount is not taken into consideration. (Haddad, al-Jawhara, I, 173)

512. Is fasting invalidated by swimming?

Swimming does not invalidate fasting if no water is taken into the body and reaches stomach through mouth or nose. However, the swimming person may swallow water because of waves or other reasons. In this regard, it is more cautious not to swim while fasting.

513. Does having a bath invalidate the fast?

Having a bath does not invalidate the fast as long as water is not taken in through mouth or nose and reach the digestive organ. As a matter of fact, Aisha and Ummu Salama informed that the Prophet Muhammad (saw) had a bath after imsak in Ramadan (Bukhari, Sawm, 25). In this regard, a fasting person may have bath with the condition of not taking any water to stomach through mouth or nose (al-Fatawa al-Hindiyyah, I, 220).

514. Does brushing teeth invalidate the fast?

As gargling mouth with water without swallowing does not invalidate fasting, brushing teeth does not invalidate it either (al-Fatawa al-Hindiyyah, I, 220). However if toothpaste or water reaches one's stomach, fasting is invalidated. Considering the possibility of invalidating the fast, it is appropriate to brush the teeth before imsak and after iftar, and not to use paste if brushing while fasting.

515. Does vomiting invalidate the fast?

No matter how much the amount is, vomiting unintentionally does not invalidate the fast. Likewise, the things risen from stomach suddenly and then return to stomach again do not invalidate fasting. If a person intentionally vomits mouthfully, then the fast is invalidated.

The Prophet (saw) said, *“If one has a sudden attack of vomiting while one is fasting, no atonement is required of him, but if he vomits intentionally he must make qada.”* (Abu Dawud, Sawm, 32; Tirmidhi, Sawm, 25)

If a person thinks that the fast is invalidated and starts to eat and drink after vomiting, then fasting is invalidated. For such person, not kaffarah but qada is required per day (Ibn al-Humam, Fath, II, 332; al-Fatawa al-Hindiyyah, I, 226).

516. Is the fast of a person invalidated if s/he swallows waterdrop by mistake while performing ablution?

A misunderstanding about invalidating fast is, as in the example of water reaching stomach unintentionally during ablution, that the act invalidating fasting happens unintentionally. Unintentionally performing an act that normally invalidates the fast invalidates the fast, and only qada is required.

If water unintentionally reaches one's stomach while being forgetful about fasting, fasting is not invalidated because of forgetfulness (al-Fatawa al-Hindiyyah, I, 222). One companion asked Prophet Muhammad (saw), "O Messenger of Allah, I ate and drank in forgetfulness when I was fasting. Is my fast invalidated?" He (saw) replied as, "(No, it is not) Allah had fed you and given you drink." (Abu Dawud, Sawm 39).

According to the Shafi'i school, if little amount of water taken to mouth and nose during ablution reaches one's stomach unintentionally, the fast is not invalidated. However, if water reaches stomach because of an illicit reason such as to cool or play in water or take water to mouth and nose intentionally excessively during ablution and ghusl, fasting is invalidated. Because this means the fasting person did an act that is not commanded to do (Shirbini, Mughni al-Muhtaj, I, 629-630).

517. Does committing a forbidden (haram) action harm the fast?

A Muslim must avoid harams everytime and everywhere, and must be more careful not to commit haram in Ramadan which is the month of fasting and worship. A person who observes fasting needs to avoid sins and act in accordance with the aim of fasting. The Prophet Muhammad (saw) said, "*Whoever does not give up forged speech and evil actions, Allah is not in need of his leaving his food and drink (i.e. Allah will not accept his fasting.)*" (Bukhari, Sawm, 8)

A person who observes fasting should avoid from behaviors such as gossiping, badmouthing, violating the rights of people, looking at haram, gambling etc. as well as lying and acting with lies.

QADA, KAFFARAH, FIDYAH, ISQAT AL-SAWM

518. What are the excuses that allow one not to fast?

Islam holds a person responsible according to one's ability and strength and has facilitative provisions in cases where something excesses

one's ability and strength or creates trouble for them. According to this principle, permission is given about delaying the fardh Ramadan fasting in certain conditions. It is stated in the Qur'an as follows:

“O you who have believed, decreed upon you is fasting as it was decreed upon those before you that you may become righteous. [Fasting for] a limited number of days. So whoever among you is ill or on a journey [during them] - then an equal number of other days [are to be made up]. And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day]. And whoever volunteers good [i.e., excess] - it is better for him. But to fast is best for you, if you only knew.” (Baqarah, 2/183-184)

Islamic scholars listed the excuses which make it permissible (mubah) to not fast in Ramadan based on the verse above and relevant hadiths as follows:

a) Travel: A person who will travel to a place at least 90 km away in Ramadan may not make intention for fasting that day. But if one starts to travel during the day after making intention and starting fasting, s/he should not nullify the fast if there is no other valid excuse. A continuing worship must be completed if there is no valid excuse. However, because traveling is an excuse, if the person breaks the fast after starting to travel, qada is required for the day but kaffarah is not required (Ibn Abidin, Radd al-Muhtar, III, 402-405).

b) Sickness: Those whose sickness is expected to get more severe or the time for healing would get longer if they observe fasting, and those who are not able to fast due to a sickness are allowed to not fast in Ramadan with the condition of performing qada later after recovery. A person who is informed by a doctor that if s/he observes fasting, s/he would be sick is also considered as sick in this context.

c) Elderliness: Those who are too old to be able to fast are allowed not to fast, but they need to pay fidyah. In the 184th verse of Surah al-Baqarah, it is stated that such people are allowed not to fast, but they have to give fidyah. This ruling also applies to the patients with no hope of recovery.

d) Starvation and excessive thirst: Those whose physical and mental health may be harmed severely due to starvation and excessive thirst may break the fast. If health condition of such persons recovers, then qada is required after Ramadan.

If continuing to fast may result in death, then it is haram to not break the fast and continue to observe it.

e) To work in difficult and tough jobs: Indeed, it is not right for people to work and to be employed in jobs which are too difficult and tough that it prevents them from performing worships normally. However, private and social requirements may cause people to work in such jobs. A person who works in such a job may not observe fasting if there is possibility for fasting to harm one's health. Such people need to perform qada on their off days or any available time.

f) Pregnancy and breastfeeding: If there is a possibility to harm themselves and their babies when they observe fasting, pregnant and breastfeeding women are considered as people who are not healthy enough to fast. Women in this situation are allowed not to fast. Furthermore, if the possibility to get harmed is high, it is a must for such women not to fast. After returning to normal conditions, they should perform qada for unobserved fasts (Sahnun, al-Mudawwana, I, 278-279; Shirazi, al-Muhadhdhab, I, 328; Ibn Qudamah, al-Kafi, I, 433-434; Kasani, Bada'i, II, 97).

Muslim jurists preferred to limit the valid excuses for not fasting with the ones cited in the Qur'an and Sunnah. Even though common ground of such excuses is "difficulty", Muslim jurists were cautious in saying that one may not fast in every difficult situation (Ibn Qudamah, al-Kafi, I, 433-436).

One is required to perform qada after the excuse is eliminated. If there is a permanent excuse preventing to fast, such as being incurably ill or being too old, a fidyah is paid for each unobserved fast. The fidyah for one day is equal to the amount of one sadaqah al-fitr. One sadaqah al-fitr is the foodstuff amount enough to feed one poor moderately for one day or money of the equal value.

519. What are the situations that invalidate fasting but only qada is required?

Only qada is required for the fasts invalidated due to a valid reason such as travel and sickness. Also, unintentional eating and drinking such as water's reaching one's stomach during ablution, and eating the things inedible and against human nature to eat such as raw, uncooked rice and earth which does not appeal human nature as nutrition invalidate fasting and only qada is required (Marghinani al-Hidayah, II, 259, 267-270).

If one starts to observe kaffarah, nadhr and nafl fastings and breaks these, qada is required for them as well.

Unobserved fastings without a valid excuse in Ramadan requires one to perform qada. However, not to fast without any reasonable excuse in Ramadan is a great sin.

Masturbation, unintentionally swallowing raindrop, snow or hail, swallowing water unintentionally while performing ablution, having a bath or swimming, and vomiting mouthful intentionally invalidate fasting and qada is required to be performed (Marghinani, al-Hidayah, II, 256-259, 263).

If a person who is not sure whether it is imsak time yet or not continues to eat and drink and it is understood that the second fajr has risen, then fasting is invalidated and qada is required. Similarly, if one thinks the sun has set and breaks the fast by assuming it is iftar time, but it is understood that it is not iftar yet, then fasting is invalidated and qada is required. (Marghinani, al-Hidayah, II, 277-278)..

If one eats and drinks forgetfully and thinks his fasting is invalidated; or one makes intention in the morning instead of night and thinks the fasting is invalidated and intentionally continues to eat, drink and have sexual intercourse during the day, fasting is invalidated and qada is required.

520. What should be done if a person who fasts sets out on a journey in Ramadan and nullifies his fasting due to journey?

A person who is going to go to a place with a travel distance (at least 90 km) during Ramadan may not intend to fast at night. But if one start to travel during the day after making intention to fast, s/he should not nullify fasting if there is no other valid excuse. A continuing worship needs to be completed if there is no valid excuse. However, because traveling is an excuse, if the person breaks his/her fast after starting to travel, kaffarah is not required, but only qada needs to be performed for the day (Ibn Abidin, Radd al-Muhtar, III, 402-405). The fact that Prophet Muhammad (saw) nullified fasting while marching with army to conquer Mecca in a place called al-Kadid (Bukhari, Sawm, 34; Muslim, Siyam, 88) may be considered as a necessity caused by war conditions.

521. Is there an obligation to make up for the missed Ramadan fastings within a certain period?

Qada is required for fastings unobserved or nullified in Ramadan. It is stated in the Qur'an: "*(Fasting) for a fixed number of days; but if any of you is ill, or on a journey the prescribed number (Should be made up) from days later.*" (Baqarah, 2/184). There is no evidence on observing qada fastings consecutively. It is appropriate to observe qada fastings as soon as possible. Because it is a debt to Allah (swt) and no one knows when to die.

Qada for Ramadan fasting may be observed anytime except for the days when fasting is forbidden. Prophet Muhammad (saw) informed about two days when one is not allowed to fast: the first day of eid al-fitr, and all four days of eid al-adha. (Bukhari, Sawm, 66-67).

According to Hanafis, even though there is no time restriction to perform qada for Ramadan fasts, it is more appropriate to make up for them as soon as possible (Kasani, Bada'i, II, 104). According to Shafi'is, on the other hand, the qada for Ramadan needs to be performed until the next Ramadan. If one does not perform qada for Ramadan until the next Ramadan, one needs to perform qada and give fidyah (Nawawi, al-Majmu', VI, 364; Shirbini, Mughni al-Muhtaj, I, 645).

522. How should a person who has many dasts to make up observe them?

Those who did not or were not able to observe Ramadan fasting even though being accountable first need to calculate how many days they need to fast and then perform qada for those on the days except the forbidden eid days.

It is appropriate to make intention for each fasting as "to perform qada of the first fast I did not/could not observe." There are two situations about calculating the total number of missed days:

a. It could be a person who has never fasted since it became a fardh upon him/her. In this regard, lunar months are calculated as one for each year passed since reaching puberty. Lunar months consist of either 29 or 30 days. It would be better as a precaution to count as 30 days.

b. It could be a person who has not observed some of fastings since it became a fardh upon him/her. This person needs to calculate the amount of unobserved fastings as far as possible and perform qada for each day.

Those who have not observed fasting without a valid excuse need to repent and ask Allah for forgiveness in addition to making up for the missed days.

523. Is it necessary to observe qada for the wajib and nafl fastings that are invalidated?

If a fasting which becomes wajib due to nullifying a votive fasting, qada is required. (Marghinani, al-Hidayah, II, 284-285). Nafl is the kind of fasting one observes apart from Ramadan days if one wishes even if it is not fardh or wajib upon him/her. Even if it is nafl, a started worship needs to be completed. According to Hanafis, one needs to perform qada for nafl fasting as in the other nullified nafl worships (Marghinani al-Hidayah, II, 271).

524. What should a person who breaks the fast early due to the recitation of the call for maghrib prayer two minutes early by mistake do?

Because of geographic altitude differences, adhan time for maghrib prayer is written as one or two minutes early on calendars as a precaution. In this regard, if a person starts to perform iftar or maghrib prayer two-three minutes earlier than the sunset time written on calendars, such prayer and iftar is valid.

525. What is the ruling on nullifying the fast deliberately?

To break fasting intentionally and without a valid excuse is an act of disrespect to Ramadan and is a great sin. The Prophet Muhammad (saw) said that such people would be obliged to perform kaffarah (Bukhari, Sawm, 30; Hiba 20; Nafaqat, 13; Kaffarat al-Ayman, 2-4; Muslim, Siyam, 81). The kaffarah for fasting is to fast for two lunar months, 60 days, consecutively without interruption. Those who are not able to perform it need to feed one person for sixty days or sixty people for one day. In addition to the kaffarah, one also needs to repent and perform qada for unobserved days (Marghinani, al-Hidayah, II, 261-262).

526. When someone who observes kaffarah fasting sets out on a journey, may s/he give a break to the kaffarah?

A person who breaks Ramadan fasting intentionally without a valid excuse needs to fast for two lunar months consecutively if possible. According to Hanafis, apart from menstruation of women, one cannot

give breaks for any reason while performing kaffarah fasting. If such person gives break to kaffarah due to a reason such as travel etc., the days of kaffarah that have been observed so far become nafl fasting. In that case, the person starts kaffarah all over again from the first day. Because kaffarah fasting needs to be observed without breaks, consecutively (Ibn Nujaym, al-Bahr, II, 278). On the other hand, one may act according to the opinions of the other jurisprudential schools stating that one may give breaks to kaffarah due to travel or a sickness and continue from where s/he left after recovery or the end of travel. (see. Mawwak, al-Taj, V, 448).

527. What should a woman who observes kaffarah fasting do for the missed days during menstruation period?

Kaffarah fasting needs to be observed consecutively without giving breaks. However, menstruation days of women are excluded from this rule. They may continue to observe fasting consecutively from where they left after the end of their menstruation and complete the days to two months. But if they give breaks to fasting for other reasons apart from menstruation, they need to start all over again from the first day to observe kaffarah fasting (Ibn Nujaym, al-Bahr, IV, 115).

528. Is kaffarah required for each missed day separately in the month of Ramadan in the event that more than one fastings are nullified?

Even if in the Ramadan of different years, one kaffarah fasting (to fast for two lunar months, sixty days, consecutively) is sufficient for all fastings that are intentionally not observed without a valid excuse. Besides, one must perform qada for each unobserved day. But if one intentionally nullifies a Ramadan fast after observing kaffarah, one needs to perform kaffarah again (Ibn al-Humam, Fath, II, 261).

529. What should a person, who falls into a state that he cannot observe fasting before observing his/her qada fastings, do?

Based on the verse “*For those who can do it (With hardship), is a ransom, the feeding of one that is indigent,*” (Baqarah, 2/184) majority of fiqh scholars said that it is appropriate for a person who has unobserved fastings and falls into deathbed needs to make his will as to pay fidyah for unobserved fastings. If there is will in this direction, the heirs realize

this will at the rate of one-third of his/her wealth. (Marghinani, al-Hidayah, II, 270; see. Sarakhsi, al-Mabsud, III, 100; Ibn Qudamah, al-Mughni, IV, 399-400).

Fidyah is paid at the rate of one-third of the remaining wealth after deduction of funeral and other debt expenses from what one left behind. If fidyah exceeds one-third of the wealth, the extra part can only be paid if heirs give consent (Ibn Abidin, Radd al-Muhtar, III, 407).

According to the Shafi'i school, if a person dies before paying fidyah even though he would afford, fidyah is paid from the inheritance regardless of will. Because paying fidyah for such a person is similar to a traveler's or a sick person's performing qada for fast (Nawawi, al-Majmu, VI, 259).

530. What is required to do if a person starts fasting in Ramadan but gives up in the following days?

Each day's fasting in Ramadan is a separate worship itself. That is why one needs to make intention for each day separately. Accordingly, nullification of one day's fasting does not harm the validity of other days.

In this regard, one who starts to fast in Ramadan and stops to fast in the following days without a valid excuse needs to perform qada only for unobserved days; kaffarah is not required. Because kaffarah is not the punishment for not observing fast but for nullifying it intentionally.

However, not observing Ramadan fast without a valid excuse is a great sin and one needs to repent for it in addition to performing qada. Besides, the thawab (spiritual reward) for fasting after Ramadan is not equal to that of Ramadan fasting (Ibn Abidin, Radd al-Muhtar, III, 377). On one occasion, the Prophet Muhammad (saw) said that unobserving a day of fasting in Ramadan without any valid excuse cannot be recovered even one fasts for the whole year (Abu Dawud, Sawm, 38; see. Bukhari, Sawm, 29).

531. What is fidyah? In which situations does it become necessary?

Fidyah (lit. ransom) is a price paid to save a person from the difficult situation he fell into. As a religious term, it expresses the monetary compensation paid for not performing Ramadan fasts or making up for the faults done while performing Hajj.

It is stated in the Holy Qur'an: "*For those who can do it (With hardship), is a ransom, the feeding of one that is indigent.*" (Baqarah, 2/184). In this regard, those who are not able to fast because of elderliness or a sickness without the possibility to recover pay fidyah for each

unobserved fasting day if it is unlikely for them to perform qada later. (Sarakhsi, al-Mabsud, III, 100; Ibn Qudamah, al-Mughni, IV, 395-397).

On the other hand, according to Shafi'is, if a person does not perform qada fastings without a valid excuse until the next Ramadan, then one needs to both perform qada and pay fidyah (Nawawi, al-Majmu, VI, 364; Shirbini, Mughni al-Muhtaj, I, 645).

According to Shafi'i school, one of the reasons for paying fidyah is regarding pregnant and breastfeeding women. Pregnant and breastfeeding women who have worries about the health of their babies need to perform qada for unobserved days and pay fidyah. However if they have worries about their own health only, then only qada is required (Nawawi, al-Majmu, VI, 267).

The financial penalties applied for some faults done during hajj and umrah falls into scope of fidyah as well (Baqarah, 2/196).

Fidyah is to feed a person for a day, or give money of the same value. It is the same amount as the sadaqah al-Fitr. This is the minimum amount required to give. It is better to pay more for people who can afford it. (Baqarah2/184; Marghinani, al-Hidayah, II, 270).

532. How is the fidyah for fasting paid?

The amount of fasting fidyah is the same as sadaqah al-fitr. Fidyah may be paid at the beginning of Ramadan as well as on the following days or the last days of the month. The whole of fidyah may be given to one poor person or more than one separately. If such people cannot afford to pay fidyah, they need to repent to Allah (swt) to be forgiven.

According to Hanafis, if old and sick people without the possibility of recovering later get well enough to fast, they need to make up the unobserved fasting, even if they paid the fidyah for those days before. (Kasani, Bada'i, II, 105; Marghinani, al-Hidayah, II, 270). The fidyah paid earlier will no longer be valid and they will be considered voluntary donations/charity.

533. Who are eligible to receive fidyah?

As in sadaqah al-fitr, fidyah for fasting is given to poor Muslims who are not dependant to the giver. It is essential that the giver of sadaqah al-fitr and fidyah for fasting not benefit from such payments directly. The same rule applies to zakat as well. In this regard, one cannot give zakat, sadaqah al-fitr and fidyah to his/her own descendants and ascendants.

Ascendant means parents and grandparents; and descendant means one's children, grandchildren and grand grandchildren.

Besides, spouses cannot give zakat, sadaqah al-fitr and fidyah to each other.

One may give zakat, fitrah and fidyah to relatives apart from the above-mentioned ones such as sibling, aunt, uncle, and their children, daughter-in-law, son-in-law, father-in-law and mother-in-law if they are poor and needy (Zaylai, Tabyin, I, 301).

534. Does a person who is healthy enough to observe fasting be freed from the debt of fasting by giving fidyah for the days s/he did not fast?

Giving fidyah for fasting is only valid for old people who are not able to fast and the sick without possibility of recovery. The practice of the Prophet Muhammad (saw) and his companions shows that the expression of *“For those who can do it (With hardship), is a ransom, the feeding of one that is indigent”* (Baqarah, 2/184) in the Holy Qur'an about fidyah covers only the aforementioned persons. In this regard, there is no ruling for fidyah about those who do not observe fasting although they can, or those who are not able to fast due to a temporary cause (Muslim, Siyam, 149,150).

Those who do not observe fasting without a valid excuse must perform qada for them and repent to Allah. According to Hanafis, also if the old who are not able to observe fasting and the sick without the possibility of recovering must perform qada for unobserved fastings if they become healthy enough later even if they have already paid fidyah for unobserved days. In such cases, the fidyah paid before does not cover for the debt of fasting (Kasani, Bada'i, II, 105; Marghinani, al-Hidayah, II, 270).

535. What should the people who cannot pay fidyah do?

Those who are too old to fast in all seasons of a year must pay fidyah to a poor for each day of Ramadan if they can afford. The same rule applies to the sick without any possibility of recovery (Baqarah, 2/184).

Those who cannot afford to pay fidyah are not responsible for paying it (Ibn Qudamah, al-Mughni, IV, 396). But they carry the responsibility of intentionally unobserved fasts. In this situation, what they can do is to repent to Allah (swt) for being forgiven.

536. What does isqat al-sawm mean?

Isqat al-sawm means to clear fasting debts of a deceased person. Isqat means clearing the debts of religious obligations of a deceased person such as fasting, nadhr and kaffarah unperformed due to various reasons while the person was alive and therefore, to save that person from his/her debts of religious obligations.

Paying fidyah to clear the fasting debts of a deceased person is determined by the Qur'an where it is stated that, *"For those who can do it (with hardship), is a ransom, the feeding of one that is indigent."* (Baqarah, 2/184).

According to the ruling of this verse, those who are not able to fast in Ramadan or any other time later because of aforementioned reasons must pay fidyah for each unobserved day.

The verse mentions that those who are alive and not able to observe fast due to health issues must pay fidyah. However, the issue of whether fasting kaffarah can be paid or not for those who did not observe fast despite being healthy and having the opportunity and died later is a controversial subject among scholars.

Based on this verse, the majority of Muslim jurists stated that fidyah may be paid for fasting debts of a deceased person who did not observe fast with or without an excuse and did not perform qada; and that these persons need to make a will for these fastings (Marghinani, al-Hidayah, II, 270). Because the reason for fidyah is to be unable to fast. A deceased person is certainly unable to fast. In this regard, this situation is comparable to the situation of persons who need to pay fidyah for unobserved fastings determined in the Qur'an and sunnah (Sarakhsi, al-Mabsud, III, 100; Ibn Qudamah, al-Mughni, IV, 395-396). According to some other opinions, particularly Shafii school, if a person dies before paying fidyah despite being able to do so, fidyah is paid from the wealth left behind regardless of will. Because paying fidyah for such a person is similar to a traveler and sick person's performing qada for fasting (Nawawi, al-Majmu, VI, 259).

OTHER ISSUES RELATED TO RAMADAN AND FASTING

537. What should those who spend the month of Ramadan and eid in other countries do if the calculations/calendars of those countries are different than that of their own country? Which one should they follow for celebrating the eid?

According to the opinion accepted by the majority of Muslim jurists, lunar months begin with crescent being seen after sunset from anywhere around the world (Bukhari, Sawm, 5, 11).

Today, it is possible to determine by calculation impeccably where and when the crescent can be seen. Calendars in Türkiye and majority of Islamic countries are prepared according to these calculations; and Ramadan and eids are determined accordingly. A few Islamic countries take as basis synodic moment or crescent seen in their countries to determine beginnings of lunar months, not the time when the moon is seen in crescent form on skies. This is the reason why there are countries beginning to fast and celebrate the eid one day earlier or later than the others. These kind of practices caused by differences of ijihad do not harm no one's worship. Therefore, a Muslim in another country may celebrate the eid according to that country. By this way, one can enjoy and share the blessings of eid with Muslim brothers and sisters at his/her current place.

538. How does a person observe fasting in polar regions?

In polar regions where times for prayer and fasting are not formed completely or partly, acts of worship are performed by taking into account the times of the closest place where these times are formed normally or with discretion by considering the other religious examples (Ibn Abidin, Radd al-Muhtar, II, 18-23). After saying that when the Day of Judgment approaches, the days will get longer, a day will last for a year, a day for a month, and a day for a week, the Prophet (saw) stated that prayers will be determined in those days, that is, the times will be predicted/determined by making comparisons and measurements and performed accordingly. (Abu Dawud, Malahim, 14).

539. How should a person traveling by plane break his/her fast?

Those who travel need to determine imsak and iftar according to the place they are in at that moment. Those who travel by plane while

fasting should determine the time of imsak and iftar according to the place over which the plane is at the time. However, if one is traveling an inter-continental travel by a very fast plane, the time between imsak and iftar can be excessively short or long. In this situation, the person who will travel may leave the fast for qada. However if one has already started to fast, then s/he may make iftar by making comparison, e.g. according to the iftar time of where s/he started to fast.

540. How should a person who always travels due to his job perform his prayers and fasts?

Continuous traveling is one of the reasons for rukhsah (concession). There is no religious inconvenience for travelers to benefit from these permissions. As a general principle, as long as the excuse continues, the permission also continues. In this regard, those who always travel perform prayers without delay and by reducing four-rakat fardh cycles into two rakats. When they need or have to, they may perform prayers by combining (jam') dhuhr and 'asr prayers together, and maghrib and 'isha prayers together. They also try to observe Ramadan fasting as much as possible. But if it becomes hard for them to fast during travel, they may delay fasting with the condition to perform qada at an available time later. They should try to perform qada for the missed days as soon as possible. If they fall into a situation of not being able to perform qada, for example if diagnosed with a sickness without a possibility of recovery and making it impossible to fast, they must pay fidyah for each unobserved fast.

541. Is it permissible to run a restaurant in the month of Ramadan?

People who are permitted to not observe fasting in Ramadan due to a sickness or being a traveler may make up for the missed days later (Baqarah, 2/185; Ibn Majah, Siyam, 11-13). It is not religiously inappropriate for some restaurants and similar places to be open in Ramadan for people who are not able to observe fasting due to their excuses. Besides, the owners of such businesses do not need to know the reason why their customers do not observe fasting. It would be more appropriate, however, for people, whether or not they have valid excuses not to observe fasting, to avoid eating and drinking in public places for both showing their respect for people who observe fasting and also helping to prevent the perception for younger people from thinking that it is usual

not to observe fasting and eating and drinking in Ramadan. Restaurant owners also need to take necessary precautions so as not to cause such perceptions.

542. Is it permissible for spouses to have sexual intercourse on the nights of Ramadan?

Fasting means to abstain from eating, drinking and having sexual intercourse from imsak time (fajr al-sadiq) to sunset with the intention of worshipping. This is to say that fasting is observed during daytime. There is no prohibition for eating, drinking, and having sexual intercourse on the nights of Ramadan. In other words, it is permissible to eat, drink, and, for spouses, to have sexual intercourse between iftar time and imsak time. In this respect, it is stated in the Holy Qur'an, "*So now, have relations with them and seek that which Allah has decreed for you.*" (Baqarah, 2/187)

543. Does spending the daytime sleeping while observing fasting in Ramadan pose any problem regarding the validity of the fasting?

The condition for the validity of fasting is to have made intention to fast and abstain from things that invalidate fasting. Short or long sleeps during the daytime does not pose any problem for the validity of the fast. However, one should keep in mind that sleeping for a long time during the day unnecessarily for not feeling the hardship of fasting does not comply with its wisdom.

544. Is it permissible for working people not to observe fasting with the concern of a decrease in productivity?

Ramadan fasting is fardh upon every Muslim who has reached puberty and is mentally healthy. Not to observe fasting without a valid excuse is a great sin. The Prophet Muhammad (saw) stated, "*If anyone breaks his fast one day in Ramadan without a concession granted to him by Allah, a perpetual fast will not atone for it.*" (Abu Dawud, Sawm, 38; See Bukhari, Sawm, 29)

There are views stating that those who have to work in tedious jobs to cover their family's basic needs and to whom observing fasting is harmful are allowed not to fast those days and may perform qada later, and if they are not able to perform qada, they may pay fidyah for each unobserved day (Ibn Abidin, Radd al-Muhtar, III, 401). But working in daily jobs

which are not too tedious is not an excuse for not observing fast. It is expressed in the Qur'an as, "[Are] men whom neither commerce nor sale distracts from the remembrance of Allah and performance of prayer and giving of zakah. They fear a Day in which the hearts and eyes will [fearfully] turn about." (Nur, 24/37)

545. What should a person advised by a specialist doctor not to observe fasting do?

A patient diagnosed by a specialist doctor that fasting would be harmful to him/her is allowed not to fast in Ramadan (Ibn Abidin, Radd al-Muhtar, III, 404). If the sickness is temporary, s/he performs qada when s/he recovers. But if it is permanent, s/he should pay fidyah for unobserved fasts. It is stated in the relevant verse as follows: "[Fasting for] a limited number of days. So whoever among you is ill or on a journey [during them] - then an equal number of other days [are to be made up]. And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day]. And whoever volunteers good [i.e., excess] - it is better for him. But to fast is best for you, if you only knew." (Baqarah, 2/184). Those who cannot afford to pay fidyah are not responsible religiously until they can afford it (Ibn Qudamah, al-Mughni, IV, 396).

546. May women observe fasting on their special days (such as menstruation and postnatal period)?

It is haram for women to perform prayer and observe fasting on their special days (menstruation and postnatal bleeding). Prayers and fasts of such woman are not valid. Muslim jurists have a consensus on this matter (Shafi'i, al-Umm, II, 130-131; Sahnun, al-Mudawwanai, 151; Haddad, al-Jawhara, I, 34; Ibn Hazm, al-Muhalla, II, 162; Marghinani, al-Hidayah, I, 208-209; Ibn Qudamah, al-Mugni, I, 386-387; Ibn Abidin, Radd al-Muhtar, III, 331, 385; Shawkani, as-Sayl al-Jarrar, II, 148). All jurisprudential schools have a consensus that qada is not required for unperformed prayers during menstruation period while unobserved fasts should be made up after performing ghusl (Ibn al-Munzira, al-Ijma, p. 47-48; Nawawi, Sharhu Muslim, IV, 26; San'ani, Subulu al-Salam, I, 383; Jaziri, al-Madhahib al-Arba'a, I, 118).

The consensus in question is based on the hadiths of the Prophet (saw) and the practices of his Companions. In this respect, Aisha (ra) replied a question regarding this issue that they were commanded to perform qada for unobserved fasts during menstruation period and

were not held responsible for performing qada for unperformed prayers during menstruation (Bukhari, Haidh, 20; Muslim, Haidh, 69).

547. **Can women observe fasting during pregnancy?**

Pregnancy and breastfeeding are among the valid excuses for not fasting in Ramadan. Pregnant and lactating women are allowed not to observe fasting if they have any concerns that fasting might be harmful to themselves or their babies. On the one hand, they are considered as the sick people, and on the other, there are hadiths that allow them not to observe fasting (Nasa'i, Siyam, 51, 62; Ibn Majah, Siyam, 12).

If both the mother and the baby are in good condition and fasting is not harmful to them, pregnant and breastfeeding woman may observe fasting. It is appropriate to consult to a specialist doctor. Those who are not able to fast because of such valid excuses being pregnant or lactating must perform qada for the unobserved days when their condition gets better (Marghinani, al-Hidayah, II, 269).

548. **Can a woman who has had a miscarriage observe fasting?**

The ruling on whether or not a woman who has had a miscarriage may observe fasting depends on whether or not the miscarriage is considered a reason for the postpartum period to begin. According to Hanafi and Hanbali schools of jurisprudence, the blood seen by a woman who has miscarried a fetus whose limbs such as hands, feet, or fingers are formed is considered that of nifas (postpartum bleeding) and she is considered to be in the postpartum period. The blood seen after miscarriage of a fetus whose hands, feet, or fingers are not formed is istihadha blood (See. Marghinani, al-Hidayah, I, 226; Ibn Qudamah, al-Mughni, I, 431).

It should be considered that this ruling by Hanafis and Hanbalis was determined during those times when the thing that came out from uterus could only be recognized (whether it was fetus or another thing) by checking whether its hands, feet or fingers were formed or not (See. Kasani, Bada'i, I, 43).

Scholars have formed different opinions and ijthads based on the medical knowledge of their respective eras. Therefore, today's medical developments and knowledge should be taken as reference.

In this regard, when a miscarriage of fetus is diagnosed medically, then the blood seen thereafter should be regarded as of postpartum bleeding (nifas). As a matter of fact, all miscarriages act as a reason to

mark the beginning of the postpartum period according to Shafi'i and Maliki schools of jurisprudence (Ramli, *Nihayat al-Muhtaj*, I, 212; Dasuqi, *Hashiyah*, I, 174-175). In conclusion, if it is known that a woman has miscarried a fetus, whether or not its limbs have formed, then she is not permitted to observe fasting because she is considered to be in the postpartum period.

549. How should a woman who has irregular menstrual bleeding observe her fast?

Women in menstruation period are not permitted to perform prayer and observe fasting. They do not perform qada for unperformed prayers once the menstruation period is over; however, they must perform qada for fasting (Bukhari, *Haidh*, 20; Muslim, *Haidh*, 69; Abu Dawud, *Taharah*, 106; Tirmidhi, *Taharah*, 97).

The number of menstruation days are not same for every woman. According to Hanafi school of jurisprudence, this period can be between three to ten days. The number of menstruation days a woman is determined based on her past experiences. In the case of irregular bleeding, if it is between three to ten days, then it is considered as menstruation and women do not fast on these days. They need to perform qada for the missed days of fasting later. After the tenth day, they should perform ghusl and get back to the usual routine of performing prayers and observing fasting. The number of days between the two menstruation periods should be fifteen days at least.

550. What does itikaf mean and how is it performed?

Itikaf as a religious term means a Muslim who is sane and have reached puberty to retreat in a mosque where five daily prayers are performed normally with the intention of worshipping and getting closer to Allah (swt). People who perform itikaf eat, drink, sleep, and live in the mosque as much as practicably possible. They may get out of the mosque to satisfy their natural needs such as using the toilet, performing wudu, and ghusl when necessary. If Friday prayer is not performed at the mosque where itikaf is performed, people in itikaf may go to another mosque to perform it. But, this is not applicable for funeral prayer. They may leave the mosque or masjid, where they perform itikaf, and go to another mosque, in the event that they are afraid of potential damage being inflicted on themselves or their

property, or that they are forced to get out of the mosque. Getting out of the mosque except these excuses and unavoidable circumstances invalidates the itikaf (Marghinani, al-Hidayah, II, 291-293).

There are many hadiths stating that Prophet Muhammad (saw) performed itikaf in Ramadan and especially on the last ten days of the month (Bukhari, Itikaf, 1; Muslim, Itikâf, 1-5; Abu Dawud, Ramadan, 3; Sawm, 77).

The minimum duration for nafl itikaf is one day. While Imam Abu Yusuf determined that the minimum duration should be more than half a day, Imam Muhammad considered even one hour was enough for itikaf (Marghinani, al-Hidayah, II, 290). Itikaf at the mosque as explained above is applicable to men only. Women, on the other hand, can perform itikaf at a place in their homes where they use for performing prayers (Marghinani, al-Hidayah, II, 291).

According to Shafi'i school, itikaf outside a masjid is not permissible. Women should also perform itikaf at a masjid but they need to take permission from their husbands. This is because it is narrated that Prophet's (saw) wives used to do itikaf at the masjid as well (Muslim, Itikaf, 6). According to Shafi'i school, fasting is not a requirement during itikaf (Shirazi, al-Muhadhdhab, I, 350; Shirbini, Mughni al-Muhtaj, I, 658-662).

551. How should we interpret the narratives about the timing of the Lailat al-Qadr?

According to the Holy Qur'an, Lailat al-Qadr is more blessed than a thousand months. The Holy Qur'an was revealed on the Lailat al-Qadr (Qadr, 97/1) in Ramadan (Baqarah, 2/185). It is certain that the Lailat al-Qadr is in the month of Ramadan. There are, however, different narratives about the exact day of the Lailat al-Qadr.

As reported by Zirr ibn Hubaish, *"I heard from Ubayy b. Ka'b a statement made by 'Abdullah b. Mas'ud in which he said: 'He who gets up for prayer (every night) during the year will hit upon Lailat-ul-Qadr.' Ubayy said: 'By Allah I there is no god but He, that (Lailat-ul-Qadr) is in Ramadan (He swore without reservation:) By Allah, I know the night; it is the night on which the Messenger of Allah (saw) commanded us to pray. It is that which precedes the morning of twenty-seventy and its indication is that the sun rises bright on that day without rays.'"* (Muslim, Salat al-Musafirin, 179)

It was narrated by Abdullah bin Umar that the Prophet (saw) said, *"Look for the Lailat al-Qadr on the 27th night."* (Ibn Hanbal, al-Musnad, VIII,

426), thereby advising that the 27th night be spent in worship and remembrance of Allah.

While it is generally accepted that the Lailat al-Qadr is on the 27th night of Ramadan (Muslim, *Salat al-Musafirin*, 179-180), there are different narratives stating that it should be looked for on the nights of the odd numbered days of the last ten days of Ramadan (Muslim, *Siyam*, 207) or in the last seven days of Ramadan (Muslim, *Siyam*, 205-206). It is therefore recommended that the final nights of Ramadan be spent as if they are the Lailat al-Qadr.



HAJJ AND UMRAH





HAJJ AND UMRAH

CONDITION OF BEING FARDH, TYPES OF HAJJ AND THE UMRAH

552. What are the months of hajj?

The months of hajj are whole of the months of Shawwal and Dhu al-Qa'dah and first ten days of the month of Dhu al-Hijjah according to the Hijri Calendar. The reason why these months are called as the months of hajj is not because the duties of hajj may be completed in any one of these months, but because one may enter ihram, which is one of the obligations of hajj, as of the month of Shawwal. Hajj is valid for those who enter ihram during this time, and ritual standing in the plain of Arafat (waqfah), which is one of the two essential elements of hajj, and may only be performed as of the ninth day of Dhu al-Hijjah until fajr al-sadiq on the ninth day. The other essential element of hajj, Tawaf al-Ziyarah is performed on the days of eid al-adha and if it is not performed on those days, one may do it later with the condition to pay the required the penalty, and when the penalty is paid, this delay does not cause that year's hajj to be invalid (Kasani, Bada'i, II, 132-133).

553. For whom hajj is a fardh?

Hajj is one of the five pillars of Islam and a worship which has both physical and financial aspects. It is fardh upon Muslims who are free (Ibn Abi Shaybah, al-Musannaf V, 518), sane and reached to puberty, and possess the means to perform hajj (Kasani, Bada'i, II, 120) in terms of health, wealth and road security (Tirmidhi, Hajj, 4) (Marghinani, al-Hidayah, II, 296; Kasani, Bada'i, II, 120; Ibn Abidin, Radd al-Muhtar, III, 456). Those who have these features need to perform this obligation without delay when they have the opportunity. A Muslim

who has performed hajj once in his/her life does not need to perform hajj once again (Muslim, Hajj, 412); yet one may perform hajj again as nafl (Abu Dawud, Manasik, 1). Those who die before having the opportunity to go for Hajj due to the quota restrictions today even though they applied for hajj are not considered as deceased with the debt of hajj because they never had the opportunity.

In order for a person upon whom hajj is a fardh to be responsible for performing hajj himself, he must be healthy, not imprisoned or not charged with international travel ban, and should have road security (Mawsili, al-Ikhtiyar, I, 435-438). The sick who would not endure travel for hajj or perform it bodily, and the elderly are not obliged to perform hajj even though it is fardh upon them. Those who are in this condition perform hajj in person if possible. If such persons do not have the required conditions, they may send another person on behalf of themselves and have that person perform hajj (Marghinani, al-Hidayah, II, 482). It is an excuse for people who are registered for Hajj but whose names are not drawn in the lottery (in some countries, a way of choosing the people to go to Hajj that year) or who cannot go abroad due to other obstacles related to international travel.

554. Does hajj become obligatory on those who had the opportunity to see the Ka'bah or perform umrah?

One needs to have the possibility to be present at the places where hajj is performed during hajj season in order to be obliged to perform it. (Kasani, Bada'i, II, 120). If one of these two conditions is not met, then hajj is not fardh upon that person. Therefore, if a person who goes to Mecca other than the hajj season but has to leave before hajj season and does not find an opportunity to go again in hajj season, hajj does not become a fardh upon him just because he has been to Mecca (Ibn Abidin, Radd al-Muhtar, III, 626, 627). If a person who has seen Ka'bah finds an opportunity and possibility to stay there until the hajj season, he needs to stay and perform hajj.

555. Is it a requirement to have wealth equal to the amount of nisab in order to perform hajj?

In order to be obliged to perform hajj, it is not obligatory to have all the conditions required to give zakat. Hajj becomes fardh upon a person who has enough wealth to cover for debts, basic needs of family

members and expenses for hajj, and has the opportunity to go to hajj if he meets the other conditions as well (Kasani, Bada'i, II, 120, 122). When a Companion of the Prophet asked "What is it that makes hajj obligatory?" he (saw) answered him as "*The provisions and a means of conveyance.*" (Tirmidhi, Hajj, 4). Therefore, those who have enough money to cover the expenses of foodstuff, accommodation, travel fare and allowance during hajj season after deducting basic needs and debts, if there is, and money for the dependants' livelihood are obliged to perform hajj as it becomes fardh upon them. They do not need to have wealth in nisab amount.

556. Does a person who does not have a safe place to entrust his children if he leaves for hajj have to go to hajj?

If a person to whom hajj is fardh cannot find a safe place to leave his children, he is not considered as obliged to perform hajj until he finds such a place. Those who are obliged to perform hajj need to perform this fardh without delay when they have the opportunity.

557. May a person who has a single child in the marriageable age postpone going to hajj?

It is fardh for Muslims who are healthy and wealthy enough to be able to go hajj and are free, sane and reached to puberty to perform hajj once in a lifetime (Mawsili, al-Ikhtiyar, I, 434). Those who are obliged to perform hajj need to perform this fardh without delay when they have the opportunity. In this regard, even if a person has a child in marriageable age, it is a fardh upon the person if s/he possesses the features mentioned above. If such a person does not go to hajj and spends the money saved for hajj to have his/her child married, s/he still has the obligation to perform hajj.

558. Is it proper to go to hajj by borrowing money?

For being obliged to perform hajj, a Muslim needs to be healthy and wealthy enough to be able to go to hajj and be free, sane and have reached to puberty (Mawsili, al-Ikhtiyar, I, 435-438). In this regard, In this respect, people who do not have the financial means to perform pilgrimage do not have to go on pilgrimage by borrowing money. However, if they go on pilgrimage by borrowing money, the pilgrimage is valid and the responsibility of the pilgrimage falls from them.

On the other hand, it is appropriate for people who have the necessary conditions for hajj to be obligatory, but do not have enough money during the hajj season, and can afford to pay it if they borrow money to perform hajj, to go on pilgrimage by borrowing money in order to fulfill this duty as soon as possible.

559. May one go to hajj by using the money kept in deposit account in a bank?

Islam recommends that people engage in legitimate jobs and earn their livelihood through halal means. Worships also need to be performed by halal means. Because the principal held in deposit account is halal, one may go to hajj with this money. However, the interest earned from such accounts is not halal and it should be donated to the poor and charitable organizations without expecting any thawab in return; and one needs to repent for depositing his money to interest-based accounts.

560. What does hajj al-ifrad mean and how is it performed?

Hajj al-ifrad is the one performed without umrah in the same year's hajj season. A person who wants to perform hajj al-ifrad enters the state of ihram in his current location if he is in Mecca or in one of the places of miqad if he comes from somewhere outside limits of miqad by making intention for hajj only. When he arrives at Mecca, he performs tawaf al-qudum and remains in the state of ihram. He goes to the Plain of Arafat and Muzdalifah on the eve of Eid al-Adha, and then stones Jamrat al-Aqabah on the eid day and then ends ihram by having a haircut. Later he performs tawaf al-ziyarah and sa'y and stones the Jamarat. Offering a qurbani is not required for hajj al-ifrad (Marghinani, al-Hidayah, II, 322 ff.).

561. What does hajj al-tamattu mean and how is it performed?

Hajj al-tamattu is performed by first performing umrah and ending ihram, and then entering ihram for hajj again in the same year's hajj season. A person who wants to perform hajj al-tamattu enters ihram by making intention for umrah in the place of miqad or before arriving the place of miqad, and performs umrah after arriving at Mecca. Then he ends the state of ihram by having a haircut. Thus, umrah becomes completed. Then he enters the state of ihram for hajj one day before

the Day of Arafah (Eve of Eid al-Adha). He ends ihram after performing hajj. Offering qurbani is wajib for those who perform hajj al-tamattu (Marghinani, al-Hidayah, II, 380).

562. What does hajj al-qiran mean and how is it performed?

It is performed in state of one ihram by making niyyah for umrah and hajj both at the same time in the same hajj season of the same year. A person who wants to perform hajj al-qiran enters ihram by intending for umrah and hajj both at the same time when or before he arrives at the place of Miqad. After performing the umrah, he performs hajj with the same ihram without ending it and after the completion of the rites of hajj, he ends the ihram. For those who perform hajj al-qiran, qurbani (offering a sacrifice) for gratitude is wajib (Marghinani, al-Hidayah, II, 369 ff.; Mawsili al-Ikhtiyar, I, 498).

563. Is it permissible for a person who will perform hajj al-tamattu to perform another umrah until he enters ihram for hajj after performing the umrah of hajj al-tamattu and ending the state of ihram?

Even though there are Muslim jurists who stated that a person who performed hajj al-tamattu cannot perform umrah again after performing the first umrah before the hajj, in some Hanafi sources, it is stated that a person who performed tamattu hajj may perform multiple nafl (supererogatory) tawaf and also umrah by taking into account the ruling that says performing umrah on days apart from eid al-adha is permissible. (Ibn Abidin, Minha, II, 389; Ibn Abidin, Radd al-Muhtar, III, 564). However if there is a risk of stampede especially on the days close to the eid al-adha, and if it might cause hardship for pilgrims who have just arrived at al-Haram region to perform umrah, it is more appropriate for pilgrims who have already performed hajj al-tamattu not to perform a second umrah. Instead, they are advised to perform tawaf as many as they want.

564. May a person who has performed tawaf al-qudum change this hajj with tamattu or qiran?

According to the majority including Hanafi, Shafi'i and Malikis, a person who intended for hajj al-ifrad and has performed tawaf al-qudum cannot change this hajj with hajj al-tamattu or hajj al-qiran.

According to Hanbali school, such a person may change this hajj with tamattu or qiran (Ibn Rushd, Bidayah, I, 333, 335).

565. May a person who made intention for hajj al-qiran change his intention to hajj al-tamattu before performing tawaf and sa'y?

According to Hanafi, Shafi'i and Maliki schools, a person who intended for hajj al-qiran cannot change this hajj to hajj al-tamattu. According to the Hanbali school, it is permissible to do so (See. Ibn Rushd, Bidayah, I, 333, 335).

566. May a person who makes niyyah for the umrah of hajj al-tamattu change this hajj with qiran?

According to the Hanafi school, if a person who enters ihram for umrah makes intention for hajj too before performing at least four shawt of tawaf, this hajj changes to hajj al-qiran. However, after completion of four shawts of tawaf, if he intends for hajj too, the intention is invalid and the hajj continues as tamattu (Zaylai, Tabyin, VI, 8).

According to the Shafi'i school, a person who enters ihram with the intention of umrah may intend for hajj too before starting to tawaf and therefore, the hajj turns into hajj al-qiran. However, if he has started to tawaf even for one step, he cannot make intention for hajj additionally. If he does, the intention is invalid (Ramli, Nihayat al-Muhtaj, III, 323).

According to the Maliki school, a person who makes intention for hajj al-tamattu may change the intention into qiran before ending the state of ihram (Qarafi, al-Zahira, III, 289).

567. Can a person who makes niyyah for hajj al-tamattu or qiran fast instead of sacrificing an animal even though he can afford it?

A person who makes niyyah for hajj al-tamattu or qiran cannot fast in place of sacrificing an animal if he can afford it. Besides, a person who fasted because he could not afford qurbani needs to sacrifice an animal additionally if he finds the financial means to offer a sacrifice on the sacrificing days called ayyam al-nahr. If he finds the financial means enough to afford it after ayyam al-nahr or having a haircut, fasting is enough for him, so he does not need to sacrifice an animal (Kasani, Bada'i, II, 173).

568. What is the status of being traveler for those who come from distant countries before or after Arafat waqfah (ritual standing) within the period of their presence in Mecca?

A person who will be present in Mecca fifteen or more days before the waqfah at the plain of Arafat according to the Hanafi school; four days or more apart from arrival and departure days according to the other schools, is considered as resident (mukim) and performs ritual prayer normally in both Mecca and Arafat. Those who will stay less than the mentioned durations are considered as travelers (musafirs) and perform four rakat fardh prayers as two rakats (Kasani, Bada'i, I, 98). Those who are travelers in Mecca before Arafat waqfah are considered as travelers in Arafat, too. As a rule, a person who is resident in Mecca is also resident in Arafat; and a person who is a traveler in Mecca is also a traveler in Arafat. If such a person stays in Mecca for the duration of aforementioned time limits or more after the waqfah, he is considered as resident within this time. Otherwise, he continues to be a traveler.

In the prayers performed together in congregation, if the imam is a resident, the congregation performs the prayer as wholly together with the imam despite being travelers. The ruling is the same for Arafat, Muzdalifah and Mina.

569. Does the worship of hajj become valid in the event that the eid al-adha starts in Saudi Arabia before or after the pilgrim's home country?

It is stated in the Holy Qur'an that the sun and the moon move according to a certain order (Rahman, 55/5); they were created so as to be interpreted for calculation systems apart from the other functions (An'am, 6/96); ranges were assigned to the moon for us to comprehend the number and calculation of years (Yunus, 10/5); when skies and earth were created, an order was assigned so as to the twelve months be emerged (Tawbah, 9/36); it is a time measurement for people and hajj that the moon begins as a crescent from earth and later seen in different forms gradually (Baqarah, 2/189).

According to the majority of Muslim jurists, lunar months begin with crescent being seen or being in the state to be seen after sunset from anywhere of the world (Bukhari, Sawm, 5). Today, it is possible to determine by calculating impeccably where and when the crescent can be seen. Calendars in Türkiye and majority of other Islamic countries

are published according to these calculations; and Ramadan and eids are determined accordingly. Some Islamic countries take as basis the synodic moment or crescent be seen in their countries to determine the beginnings of lunar months instead of the time when the moon is seen in crescent form in the sky. Furthermore, some countries acknowledge whether the crescent is seen on their own countries, not in anywhere in the world. This is the reason why there are countries beginning to fast and have eids one day earlier or later than the others. These kind of different practices caused by difference in ijtiḥad do not harm anyone's worship. Therefore, those who are present in Saudi Arabia on those days should act according to the practices of Saudi Arabia. In this regard, the hajj performed according to that country's calculation is valid.

570. Is the obligation of hajj of a person who goes to hajj on duty deemed as fulfilled?

The hajj of a person, rich or poor, who goes to hajj on duty is valid for his/her own account. This does not change even if s/he is paid for this duty. If hajj had become a fardh upon him/her before, s/he is considered to have fulfilled it by this way. If hajj had not become a fardh upon him/her before, s/he is considered to have fulfilled hajj which became a fardh upon him/her because the condition for hajj to become obligatory, i.e. "having an opportunity" is met. Later, even if s/he affords the expenses of hajj financially, s/he does not need to go to hajj again (Kasani, Bada'i, II, 120).

571. What should the heirs of a person who was obliged to perform the worship of hajj but died before performing it do?

If a person who was rich and died before going to hajj makes a will that someone perform hajj in place of him/her with the inheritance s/he left, and if one- third of the inheritance is enough for hajj, heirs should fulfill this will (Ibn Abidin, Radd al-Muhtar, IV, 24, 25, 30, 31). Because the Prophet Muhammad (saw) allowed the daughter of a woman who made a vow to perform hajj but died before doing it to perform hajj instead of her mother (Bukhari, Jaza al-Sayd, 22). If there is no such will, one of the heirs may perform hajj in place of him/her with the heir's own money. It is hoped for the debt of hajj of the deceased person to be deemed as fulfilled (Samarqandi, Tuhfa, II, 427; Kasani, Bada'i, II, 213). In this respect, the Prophet (saw) said that the debt to Allah (swt) must be paid by heirs

stating as evidence that one needs to return the debt to humans, too (Nasa'i, *Manasik al-Hajj*, 8-9; Daraqutni, *al-Sunan*, III, 299).

572. What is the ruling on reciting specific duas while performing the duties of hajj and umrah?

Despite being appropriate and favorable, it is not obligatory to recite the duas cited in the Qur'an or narrated from the Prophet Muhammad (saw) and his Companions. One may recite those duas or some other duas that one already knows and recites. Those who do not know how to read in Arab language, or have difficulty in pronouncing the Arabic duas in books may read the duas from their translation as well. Indeed, the most beautiful way for people to open their hearts to the Almighty Allah (swt) is to pray as they wish.

573. What is the ruling on asking for forgiveness from the people around us before going to hajj?

Islam attaches great importance to other people's rights and commands the believers to be respectful to and careful about these rights. Also it is stated that if a person violates another person's rights, he is not forgiven by until being forgiven by the one whose right was violated. The Messenger of Allah (saw) said in his farewell Sermon, "*Your blood, your properties, and your honor are sacred to one another.*" (Bukhari, Hajj, 132)

The Prophet Muhammad (saw) stated that "*Whoever has wronged his brother, should ask for his pardon (before his death), as (in the Hereafter) there will be neither a dinar nor a dirham. (He should secure pardon in this life) before some of his good deeds are taken and paid to his brother, or, if he has done no good deeds, some of the bad deeds of his brother are taken to be loaded on him (in the Hereafter).*" (Bukhari, Riqaq, 48)

Because of this and similar textual evidences, it is considered as one of the manners of hajj upon a person who prepares to go to hajj to ask for forgiveness from relatives, close friends and other people around him/her. However, as it is not a requirement of hajj, the hajj performed without doing so is still valid.

574. Are the narratives expressing that “the sins of a person who performs hajj will be forgiven” authentic?

The Prophet Muhammad (saw) stated, “*He who came to this House (Ka’bah) (with the intention of performing pilgrimage), and neither spoke indecently nor did he act wickedly, would return (free from sins) as on the (very first day) his mother bore him.*” (Bukhari, Hajj, 4; Muslim, Hajj, 438; Nasa’i, Manasik al-Hajj, 4) This hadith is included in the authentic hadith sources. We can interpret this and similar hadiths in literal meaning, but it is also possible to interpret them as underlining the importance and merit of hajj and encouraging to perform this obligation. Another hadith says, “*The pilgrims performing Hajj and ‘Umrah are a delegation to Allah. If they call upon Him, He will answer them; and if they ask for His forgiveness, He will forgive them.*” (Ibn Majah, Manasik, 5) Similar expressions were used for other worships, too. For example “*Five prayers and from one Friday prayer to (the next) Friday prayer is an expiation (of the sins committed in between their intervals) if major sins are not committed.*” (Muslim, Taharat, 16; Ibn Hanbal, al-Musnad, XV, 106); “*Whoever observes fasts during the month of Ramadan out of sincere faith, and hoping to attain Allah’s rewards, then all his past sins will be forgiven.*” (Bukhari, Iman, 28; Sawm, 6; Lailat al-Qadr, 1; Muslim, Salat al-Musafirin, 175; Abu Dawud, Ramadan, 1; Tirmidhi, Sawm, 1)

What one needs to understand from these hadiths is that minor sins will be forgiven by good deeds stated in the hadiths as long as one abstains from major sins such as not fulfilling the fardh acts of worship like salah, fasting and zakat, and committing haram acts like drinking alcohol, gambling, adultery, theft, and killing.

It does not seem so right for a person to perform hajj and expect to be sinless without performing qada for prayers, fasting and zakat, and asking for pardon from those whom one has wronged. Besides, major sins can be forgiven only by repentance and asking forgiveness.

575. What do hajj al-akbar (great pilgrimage) and hajj al-asghar (minor pilgrimage) mean?

The expression “hajj al-akbar” is cited in the Qur’an as, “*on the day of hajj al-akbar, it is a notice to whole humanity from Allah (swt) and Prophet Muhammad (saw).*” (Tawbah, 9/3) There are different opinions about what the phrase “hajj al-akbar” mentioned in this verse means (Kur’an Yolu, II, 724). According to the generally-accepted opinion, visiting the Ka’bah except the hajj season (umrah) is called hajj al-asghar; and

visiting it the hajj season is called as hajj al-akbar. The first day of eid is called “hajj al-akbar” as well (Zaylai, Tabyin, II, 33). Ali (ra) stated, “I asked the Prophet (saw) which day hajj al-akbar was. And he replied as, “*the first day of the eid*” (Tirmidhi, Tafsir al-Qur’an, 10).

There is a view accepted by the public as well as in some sources that the day of Arafah or the first day of Eid al-Adha itself coincides with Friday, the hajj performed in that year is called “hajj al-akbar.” However there is no strong basis for this view.

576. What are hajj al-wada (farewell pilgrimage) and khutbah al-wada (farewell sermon)?

Farewell hajj is the first and last hajj performed by the Prophet Muhammad (saw) in the tenth year of Hijrah to Madinah (632). The Prophet Muhammad (saw) did farewell with the speech he made during this hajj to Companions of over a hundred thousand, and taught how to perform hajj, which is one of the basic acts of worship in Islam. The historic speech made by the Prophet Muhammad (saw) to the Companions during hajj is called the “farewell sermon.” As an important sermon in terms of basic rights and liberties, it is recorded in hadith books under special chapters (Bukhari, Hajj, 132; Muslim, Hajj, 147; Tirmidhi, Buyu, 39, Wasaya, 5; Ibn Majah, Wasaya, 6; Ibn Hanbal, al-Musnad, VIII, 285) Sources of Islamic history cite these narratives from hadith sources as a single text (Ibn Hisham, as-Sira, II, 601, 604).

The Prophet Muhammad (saw) demolished all malice customs and doings of the Jahiliyya (age of ignorance) with this sermon he preached as the summary of Islam. He stated the judgments regarding basic rights and liberties. Stating that all humans are the children of Adam, he referred to universal human rights. He recorded in history an epitomic sense of equality as a guide to all humanity by rejecting the superiority of race, color and social classes. He informed that adultery and anything to harm family life were all forbidden. He explained that woman and man had rights and duties to one another, and that one must treat women with kindness and affection. He announced that interest, which harmed economic and social life, was rendered as haram; and that blood feuds were abolished. In addition to the judgments regarding will, debt and damages, and calendar order, he expressed the malice in affiliating the lineage to someone other than biological father. He stated that the life, property and honor of everyone were protected against all

kinds of violence, any act of injustice was forbidden and punishment was individual. In short, advising on significant religious rules, basic rights and responsibilities to Companions who were present there in an emotional, effective and poetical form, the Prophet Muhammad (saw) heralded that as long as they hold tight to the Qur'an and Sunnah he entrusted to them, they will not go astray. Finally he wanted those who were listening to his message there deliver it to those who were not present (Ibn Hisham, as-Sira, II, 602- 604).

577. Can we perform umrah on the days of eid-al adha?

While hajj is performed only during hajj season, there is not any specified time to perform umrah. One may perform umrah anytime except the days of Arafah and eid (the 5 days when tashriq takbirs are recited after the fardh prayers). It is makruh tahrimi to perform umrah from the morning of the day of Arafah to the sunset on the 4th day of eid. Because these days are the time when hajj rites are performed (Kasani, Bada'i, II, 227).

According to Shafi'i, Maliki and Hanbali schools, those who did not make intention for performing hajj may perform umrah anytime in a year including tashriq days (Nawawi, al-Majmu', VII, 147-148; Qarafi, al-Zahira, III, 203).

According to the Maliki school, those who have already made intention to perform hajj cannot perform umrah until sunset on the 4th day of eid and according to Shafi'is, before completing all rites of hajj except the farewell tawaf (Zuhayli, al-Fiqh al-Islam, III, 67-68).

578. May a person who enters ihram to perform umrah and comes to Mecca postpone his umrah due to health problems?

A person who performs ihram for umrah but does not feel well enough to perform umrah waits in state of ihram until he recovers and when he recovers, he performs tawaf and sa'y, and ends ihram by having a haircut. No penalty is required for delaying tawaf and sa'y. However, he needs to obey the restrictions of ihram during this time.

579. Is it permissible to bring sand or stone from Mecca and Medina with the belief that they are sacred places?

Masjid al-Haram, Mash'ar al-Haram, Arafat and Mecca are considered sacred by Muslims because these are the places where hajj rites and requirements are fulfilled. The sacredness of these places is of the places

themselves, not the stones, earth, plants and animals of them. Therefore, there is no religious basis for bringing sand and stone from al-Hijaz as tabarruk (i.e. seeking blessings by virtue of touching or being close to something) (Sarakhsi, al-Mabsud, XXX, 161). The majority of scholars did not find such practices appropriate, some of them are even of the view that such acts are haram or makruh (Nawawi, al-Majmu', VII, 454-455).

580. What is the ruling on performing forty times of prayer in Masjid al-Nabawi?

One pays attention to perform five time daily prayers in Masjid al-Nabawi when s/he is in Medina for hajj and umrah. The Prophet Muhammad (saw) stated that one prayer performed in Masjid al-Nabawi was more virtuous than prayers performed in another masjid apart from Masjid al-Haram (Bukhari, Fadhl al-Salat, 1). It is a common belief among the people that it is required to stay in Medina for eight days and perform forty times of prayer. While the source and authenticity of this opinion is controversial, there is a hadith narrated from the Prophet (saw) as, *“Whoever prays forty prayers in my mosque, missing no prayer, it will be recorded that he is safe from the Fire, is saved from punishment, and is free of hypocrisy.”* (Ibn Hanbal, al-Musnad, XX, 40; Tabarani, al-Mujam al-awsat, II, 22)

Hadith scholars stated that the authenticity of this hadith was controversial due to both its chain of narrators and its text (See. Albani, al-Daifah, I, 540; Rufai, al-Ahadith, p. 435-436). Besides, in the sources of Islamic law there is no judgment emphasizing that pilgrims must not neglect to perform forty times prayer in Masjid al-Nabawi. In this context, it is known that the following hadith is more authentic in terms of its text: *“Whoever performs Salat for Allah for forty days in congregation, catching the first Takbir, two absolutions are written for him: absolution from the Fire, and absolution from hypocrisy.”* (Tirmidhi, Salat, 66)

Therefore, it is an appropriate behavior for those who will stay in Medina long enough to perform prayers in congregation in the Masjid of Prophet Muhammad (saw) near his Rawdah without counting the times. However if a time restriction exists because of the schedule of the organization, this should be tolerated and It should not be thought that not being able to pray forty times will be a deficiency. Because to perform forty times of prayer in Masjid al-Nabawi is not a fardh, nor a wajib or sunnah of hajj. Therefore, one should not think that completion of hajj depends on completing the number of these prayers.

IHRAM AND MIQAT

581. Is it necessary to go to the places of miqad for every umrah?

In order to perform a new umrah after completion of one umrah, one needs to exit the borders of al-Haram and enter the state of ihram again in the place of miqad. The most commonly-known place of miqad to enter the state of ihram is Tan'im where Masjid 'Aisha is located (Kasani, Badai', II, 167).

582. Is Jeddah within the limits of miqat? May afaqis enter ihram in Jeddah?

“Afaqi” refers to those who live in places or countries outside the Miqat boundaries. The places to enter ihram for afaqis who go to Hijaz for hajj or umrah were determined by the Prophet Muhammad (saw) himself according to the regions or countries they come from. There are five Miqats. It was narrated that Ibn Abbas said: *“Allah’s Messenger (saw) made Dhul-Huiiaifa as the Miqat for the people of Medina; Al-Juhfa for the people of Sham; Qarn-al-Manazil for the people of Najd; and Yalamlam for the people of Yemen; and these Mawaqit are for the people at those very places, and besides them for those who come thorough those places with the intention of performing hajj and umrah.”* (Bukhari, Hajj, 7-13, Jaza al-Sayd, 18; Muslim, Hajj, 11-18; Abu Dawud, Manasik, 9; Nasa'i, Manasik, 17-23). In another hadith, “Dhat 'Irq” is added for the people of Iraq (Abu Dawud, Manasik, 8). If the route of a pilgrim for hajj or umrah does not pass by one of these places, he may enter the state of ihram at a place in alignment with one of these.

According to the majority of scholars, Jeddah is considered within the boundaries of miqat places (Ibn Abidin, Radd al-Muhtar, III, 482, 625). Accordingly, afaqis cannot enter the state of ihram in Jeddah. Be it by ship or plane, those who come from the direction of north and west should enter the state of ihram before crossing the Juhfa border.

583. What is the ruling of salat al-ihram?

It is Sunnah for a person who enters the state of ihram to perform the two-rakat ihram prayer. If it is a forbidden time for prayer, one should not perform ihram prayer. If one forgets to perform it in the place of miqat, it may be performed after arriving Mecca. But no material penalty is required. Performing that time's daily prayer substitutes for it, too. It

is virtuous to recite Surah al-Kafirun after Fatiha in the first rakat, and Surah al-Ikhlâs in the second rakat of this prayer (al-Fatawa al-Hindiyyah, I, 246).

584. What is the ruling on entering Mecca without ihram?

According to the Hanafi school, whatever the reason is; and according to the Shafi'i school, if it is with the purpose of performing hajj or umrah, a person who wants to enter al-Haram needs to pass through the place of miqat by entering the state of ihram. If a person who passes through boundaries of the place of miqat without entering the state of ihram while going to hajj or umrah for any reason, no penalty is required if he goes back to a place of miqat for afaqs and enters the state of ihram before performing one of the rites of hajj. According to Hanafis, if he does not go back, he enters the state of ihram wherever he currently is and sacrifices a sheep or goat as penalty (Kasani, Bada'i, II, 164-165; Nawawi, al-Majmu', VII, 10-14). This kind of sacrifice may be done on the days of eid al-Adha or on other days provided that it is performed within the boundaries of al-Haram (Marghinani, al-Hidayah, II, 492-493; Nawawi, al-Majmu', VII, 499).

585. What should a person, who wears clothes for one day or night without an excuse before performing tawaf and sa'y although he entered into the state of ihram for umrah, do?

Such a person first needs to wear ihram clothing and perform tawaf and sa'y. For wearing clothes for a day or night while in state of ihram, he needs to offer a damm (sacrifice a sheep or a goat) as penalty (Ibn Abidin, Radd al-Muhtar, III, 488, 577).

According to the Shafi'i school, passage of a day or night is not a condition for the requirement of the penalty; and one may choose among the options for penalty which are to sacrifice a sheep or goat, fast for three days, or pay sadaqah in amount of six fitrah (Nawawi, al-Majmu', VII, 383; Ramli, Nihayat al-Muhtaj, III, 358; Dimiyati, Hashayat al inayat-talibin, II, 540-541; Ibn Qudamah, al-Mughni, V, 381-382).

586. What should a person in the state of ihram do if he wears sewed clothes or underwear?

If a person wears sewed clothes or underwear for a day or night while in the state of ihram, he needs to sacrifice a damm, i.e. a sheep or a goat. If the duration is less than a day or night, he pays sadaqah al-fitr

(Ibn Abidin, Radd al-Muhtar, III, 488, 577). According to the Shafi'i, Hanbali and Maliki schools, regardless of the duration, that person needs to sacrifice a damm, or fast for three days, or pay sadaqah to six poor. Passage of a day or night is not a condition for the requirement of the penalty. (Nawawi, al-Majmu', VII, 383; Ibn Qudamah, al-Mughni, V, 381-382).

587. What should a person do if he wears clothes for one day due to an illness before performing tawaf and sa'y?

A person who wears clothes due to an illness wears ihram clothing again as soon as he recovers, and performs tawaf and sa'y. Such a person may choose to either sacrifice a sheep or a goat, or fast for three days, or pay sadaqah to six poor (Mawsili, al-Ikhtiyar, I, 506; Shirbini, Mughni al-Muhtaj, I, 754; Ibn Qudamah, al-Mughni, V, 151-152, 385).

588. What should a person who wears clothes before shaving although he reached to the phase of exiting ihram do?

One needs to have a haircut to end the state of ihram. A person who wears clothes without having hair cut even though he has reached the stage of ending the state of ihram will be deemed to have violated an ihram ban. If the duration of wearing clothes lasts for a day or night, he needs to sacrifice a damm; if the duration is less, he needs to pay sadaqah in the amount of one fitrah (Ibn Abidin, Radd al-Muhtar, III, 488, 577).

According to the Shafi'i school, such a person may choose to either sacrifice a sheep or goat, or fast for three days, or pay sadaqah in amount of six fitrah (Nawawi, al-Majmu', VII, 367-368, 383; Ibn Qudamah, al-Mughni, V, 381-382).

589. What should a person who enters ihram for hajj but shaves before performing any of the hajj rites do?

A person who enters the state of ihram for hajj but have a haircut before performing any of the hajj rites is not deemed to end the ihram just by having a haircut; but he violates an ihram prohibition. If such person shaves the whole of his hair or cuts at least one fourth, he needs to sacrifice a damm; but if it is less than this amount, he needs to give charity in the amount of one fitrah (Ibn Abidin, Radd al-Muhtar, III, 579, 580).

According to Shafi'i school, such a person may choose any one of the options to sacrifice a sheep or a goat, or fast for three days, or pay sadaqah in the amount of six fitrah (Nawawi, al-Majmu', VII, 367-368, 371, 376; Ibn Qudamah, al-Mughni, V, 381-382).

590. What should a person who shaves or cleans the pubic or armpit hair while in ihram do?

According to the Hanafi school, if a person cuts at least one fourth of his beard or hair and at least the hair of one arm pit, or whole of the pubic hair, he needs to sacrifice a damm, i.e. a sheep or a goat as penalty (Mawsili, al-Ikhtiyar, I, 502).

According to the Shafi'i school, such a person may choose any one of the options to sacrifice a sheep or a goat, or fast for three days, or pay sadaqah in the amount of six fitrah (Nawawi, al-Majmu', VII, 247, 367-368, 371, 376; Ibn Qudamah, al-Mughni, V, 381-382).

591. What should a person who shaves beard while in the state of ihram do?

According to the Hanafi school, if a person cuts at least one fourth of his beard while in state of ihram, he needs to sacrifice a damm, i.e. a sheep or a goat as penalty (Ibn Abidin, Radd al-Muhtar, III, 579). According to Shafi'i, Hanbali and Maliki schools, such a person may choose any one of the options to sacrifice a sheep or a goat, or fast for three days, or pay sadaqah to six poor (Nawawi, al-Majmu', VII, 247, 367-368, 372; Ibn Qudamah, al-Mughni, V, 381-382).

592. What is the ruling on cutting the nails or pulling off a nail that is about the drop in the state of ihram?

A person who is in the state of ihram is prohibited to cut nails. If he does, penalty is required; and the penalty changes according to the amount he cut off. If he cuts all of his nails, or all nails of one hand or one foot (once and at the same place), he needs to sacrifice a damm. If a person cuts not all nails but some of one hand or foot, he pays sadaqah for each nail. If all nails of one hand or foot are cut at different places and times, a separate penalty is required for each. If the total sadaqah amount exceeds the value of a sheep or goat, one may sacrifice a sheep or goat for whole instead of giving sadaqah for each. No penalty is required for nails broken or dropped by themselves (Sarakhshi, al-Mabsut, IV, 77; Mawsili, al-Ikhtiyar, I, 502).

593. Is any penalty required for a person who shaves before sacrificing a qurbani in Hajj?

It is controversial among imams what the ruling of following the order of stoning Jamrat al-Aqabah, sacrificing an animal, and having a haircut in hajj is. According to Imam Abu Hanifa, following this order is wajib, therefore, disobeying this order requires sacrificing a damm. According to Imam Abu Yusuf, Imam Muhammad and the other madhhab imams, it is sunnah, and disobeying this order does not require any penalty (Mawsili, al-Ikhtiyar, I, 480, 505). Considering the difficulties of today, it may be appropriate to act according to this latter opinion.

594. What should a person who ends the state of ihram by shaving after performing tawaf al-umrah but before completing sa'y do?

According to the Hanafi school, if a person makes intention for performing umrah and enters the state of ihram, then has a haircut after performing umrah tawaf but before sa'y, it means that he ends the state of ihram. In this situation, he performs the sa'y of umrah, but because it is wajib to perform the sa'y of umrah while in ihram, he needs to sacrifice a sheep or a goat (Mawsili, al-Ikhtiyar, I, 504).

According to Shafi'i, Maliki and Hanbali schools, as sa'y is one of the pillars of umrah, having hair cut before sa'y does not make a person end the state of ihram, but it means an ihram prohibition is violated. Therefore, such a person wears ihram clothes back if he took them off and wore normal clothes, then perform the sa'y of umrah, and then ends the ihram by having hair cut again. Moreover, that person is required to be charged with two penalties as he both shaved and wore clothes before the time for ending ihram (sa'y). Such a person may choose any one of the options to sacrifice two sheep or goats, or fast for six days, or pay sadaqah in the amount of twelve fitrah (Ibn Rushd, Bidayah, I, 366).

595. What should a person who performs sa'y without performing tawaf and ends the ihram by shaving do?

The sa'y of a person who performs it and has hair cut before tawaf is not valid. Because one needs to perform sa'y after a valid tawaf for the sa'y to be valid (Kasani, Bada'i, II, 134). Therefore, the person in this situation will not be out of the state of ihram,, but s/he commits a prohibition of ihram. Such a person first performs tawaf, then repeats sa'y and later ends the state of ihram. Moreover, he needs to sacrifice a damm, i.e.

a sheep or a goat, because of the violation of an ihram prohibition by shaving before the time for ending ihram (Mawsili, al-Ikhtiyar, I, 502).

According to the Shafii school, such a person may choose any one of the options to sacrifice a sheep or a goat, or fast for three days, or pay sadaqah in the amount of six fitrah (Nawawi, al-Majmu', VII, 247, 367-368).

596. What should a person who leaves the state of ihram by shaving without performing tawaf and sa'y do?

One does not end the state of ihram by having hair cut before tawaf and sa'y; but it means an ihram prohibition is violated. Such a person is charged with a penalty according to the violation of the ihram prohibition he committed (to cut nails, wear clothes, shave, wear perfume, have sexual intercourse, etc.) (Mawsili, al-Ikhtiyar, I, 502). Moreover, if he wore normal clothes, he needs to wear ihram clothing back and perform tawaf and sa'y.

597. What should a person who forgets to shave although he has completed tawaf and sa'y of umrah do?

A person who forgets to have hair cut although he has completed tawaf and sa'y of umrah needs to have hair cut immediately as soon as he remembers. If he violates ihram prohibitions during this period, he is charged with the penalty of those violations.

598. Is any penalty required for a person who performs tawaf and sa'y but postpones shaving?

The state of ihram of a person who performs tawaf and sa'y but postpones having hair cut continues. Accordingly, ihram prohibitions are in force during the time until having hair cut. No penalty is required if the person does not violate any ihram prohibition in this period. However, if there is a violation, he is charged with the penalty of those violations according to the type and amount of the violation.

599. May a person in ihram shave another person who is in the phase of ending the ihram?

A person who is in the phase of ending ihram in hajj or umrah may cut the hair of another person in or out of the state of ihram before ending the ihram of himself, and no penalty is required. However, it is not permissible for a person who is in state of ihram and has not

completed the rites yet, and so is not in the phase of ending the state of ihram, to cut the hair of another person in or out of the state of ihram. If he does so, whether with the order of the shaved person or not, the shaving one needs to pay sadaqah in the amount of one fitrah, and the shaved one needs to sacrifice a sheep or a goat (Marghinani, al-Hidayah, II, 400).

According to the Shafi'i school, if a person who is not in the phase of ending the ihram yet cuts the hair of the people who are not in the state of ihram, no penalty is required. However, if he cuts the hair of a person in the state of ihram, he needs to pay fidyah. If the shaved one requested it from him, fidyah is paid by the shaved one. Fidyah is either sacrificing a sheep or a goat, or fasting for three days, or sadaqah in the amount of six fitrah (Nawawi, al-Majmu', VII, 344-345; Ibn Qudamah, al-Mughni, V, 386).

600. **May one end the state of ihram by shaving his beard?**

One needs to cut his hair to end ihram. Before doing this, shaving the beard does not make a person end the state of ihram; if a person shaves whole or at least one fourth of the beard, he needs to sacrifice a damm (Ibn Abidin, Radd al-Muhtar, III, 579, 580).

According to the Shafi'i school, such a person may choose any one of the options to sacrifice a sheep or a goat, or fast for three days, or pay sadaqah in the amount of six fitrah (Nawawi, al-Majmu', VII, 367-368, 372; Ibn Qudamah, al-Mughni, V, 381-382).

601. **What is the ruling on a person in ihram to use products such as hair cream, etc.?**

If a person in ihram wears cream, oil, gal, hair cream, brilliantine, etc. on whole of one of his body parts, hair or beard; or paints hair or beard by hair color or henna to beautify him/herself, then s/he needs to sacrifice a sheep or a goat; if one does so partly on a body part, then s/he needs to pay sadaqah in the amount of one fitrah (Mawsili, al-Ikhtiyar, I, 501).

According to the Shafi'i school, no penalty is required for henna, but for the others, penalty is required and such person may choose any one of the options to sacrifice a sheep or a goat, or fast for three days, or pay sadaqah in the amount of six fitrah (Nawawi, al-Majmu', VII, 383).

No penalty is required for medicament, cream, odorless cream and oils for treatment.

602. May a person in ihram use soap or detergent while taking a bath or doing laundry?

It is not permissible for a person in ihram to wear perfume during the period of ihram. If such person wears something with odor on a body part wholly or different parts as much as a body part, he needs to sacrifice a sheep or a goat; if he does so on a less part than a body part, he needs to pay sadaqah in amount of one fitrah. The products such as soap with odor and wet tissues which include essence in their extract are generally used for hygienic means, not for beautifying. Therefore, while it is advised odorless hygienic means should be used in ihram, using such materials does not require any penalty.

603. What kind of shoes should the person in the state of ihram wear? Can this person wear slippers with a belt on the heel?

Heels and anklebone must be uncovered and the foreside of feet must not be wholly covered while in the state of ihram. So, one needs to wear slippers or similar which does not cover the foreside of the feet wholly and whose back is not closed. Belted slippers may also be worn. If a person wears normal shoes even though he has the opportunity to wear mentioned type of slippers, he violates an ihram prohibition. The penalty varies according to the duration of wearing the shoes (Ibn Abidin, Radd al-Muhtar, III, 499-500).

604. Does the amount of penalty change for a person when he intends for hajj al-qiran but violates one of the prohibitions of the state of ihram?

According to the Hanafi school, if a person who is performing hajj al-qiran violates one of the ihram prohibitions, two penalties are charged to him, one being for the umrah and the other for hajj ihram (Marghinani, al-Hidayah, II, 455). According to Shafi'is, one punishment is sufficient.

TAWAF AND SA'Y

605. What is tawaf and how many types of tawaf are there?

As a hajj term, tawaf means to circle around the Ka'bah seven times starting from the Hajar al-Aswad and taking the Ka'bah on one's left side. Each one of these circles are called as "shawt". The fact that tawaf must be performed around the Ka'bah is understood from the following verse:

“Then let them end their untidiness and fulfill their vows and perform tawaf around the bayt al-atiq (ancient house).” (Hajj, 22/29)

There are four kinds of tawaf in terms of ruling that are fardh, wajib, sunnah and nafl; and seven types in terms of their performance which are qudum, ziyarah, farewell (wada), umrah, nadhr, nafl and tahiyah. Although their rulings and names are different, the performance, fardhs (conditions and essential pillars), wajibs and sunnahs of all these types of tawafs are the same.

Kinds of tawaf in terms of their performance are as follows:

a) Tawaf al-Qudum: “Qudum” means to arrive at or come to a place. As a hajj term, it is the first tawaf that those who perform “hajj al-ifrad” do when they arrive at Mecca. It is sunnah to perform this tawaf. Those who enter ihram with the intention of hajj al-ifrad, but go to Arafat directly without going to Mecca, and women who are still in menstruation before waqfah at Arafat do not need to perform tawaf al-qudum.

b) Tawaf al-Ziyarah: Tawaf al-ziyarah or tawaf al-ifadah is one of the pillars of hajj. There is consensus among the fuqaha that the tawaf referred to in the verse *“...and perform tawaf around the bayt al-atiq (ancient house).”* (Hajj, 22/29) is this tawaf. As the command in this verse is a general expression, every pilgrim needs to perform this tawaf whether they are from Mecca or not. For the validity of tawaf al-ziyarah;

- 1) The waqfah at Arafat needs to be completed,
- 2) It needs to be performed in its specified time.

Time for tawaf al-ziyarah starts on the first day of eid al adha with the rise of fajr al-sadiq according to Hanafi school; after midnight according to Shafi'i and Hanbali schools; and with the sunrise, according to Maliki school. However it is more virtuous to perform this tawaf after stoning Jamrat al-Aqabah, sacrificing an animal, and having hair cut on the first day of the eid. According to the majority, there is no restriction about the due time of tawaf al-ziyarah. One may perform it until the last day of one's lifetime. If a person who returned home without performing this tawaf goes back later and performs the tawaf, the fardh of tawaf al-ziyarah is fulfilled and no penalty is required for this delay (Mawardi, al-Hawi, IV, 192; Kasani, Bada'i, II, 132; Ibn Qudamah, al-Mughni, V, 345; Aliyy al-qari, Fath Bab al-'inayah, I, 665). However the prohibition of having sexual intercourse continues until the completion of tawaf al-ziyarah.

c) Tawaf al-Wada (Farewell Tawaf): It is the last tawaf that afaqi pilgrims (coming from outside of Miqat borders) must perform before leaving Mecca. It is also called as tawaf al-sadar (tawaf of departure). Farewell tawaf is one of the essential wajibs of hajj. The Prophet Muhammad (saw) stated, “*Not one of you leave before visiting Ka’bah for the last time.*” (Muslim, Hajj, 379) Women whose menstruation did not end and had to leave Mecca or who are puerperant do not perform farewell tawaf and no penalty is required (Sarakhsi, al-Mabsud., III, 195; Ibn Nujaym, al-Bahr, II, 377).

d) Tawaf al-Umrah: Tawaf al-umrah is one of the fardhs of umrah according to all schools of jurisprudence. The time for tawaf al-umrah starts after entering the state of ihram for umrah. There is no due date for performing it. It may be performed anytime while being in the state of ihram for umrah.

e) Tawaf al-Nadhr: It is wajib for a person who made a nadhr (vow) to perform tawaf in Ka’bah. If one vows to perform tawaf in a specific time, then one needs to obey this time period.

f) Tawaf al-Nafil: The tawafs performed apart from fardh and wajib tawafs when one is in Mecca are called the nafil (tatawwu) tawafs.

According to the opinion of Abdullah ibn Abbas from the Companions, and Ata ibn Abu Rabah, Said ibn Jubayr and Mujahid ibn Jabr from the Successors (tabi’un), it is more virtuous for afaqis to perform tawaf al-nafl than performing nafl prayers in Masjid al-Haram when they are in Mecca. It is appropriate for afaqis to prefer to perform tawaf al-nafl instead of nafl umrah within the time of being in Mecca (Ibn Abidin, Radd al-Muhtar, III, 516, 517).

g) Tawaf al-Tahiyyat al-Masjid: It is mustahab for those who do not have to perform qudum, ziyarah, umrah or nadhr tawafs to perform “tawaf al-tahiyyat al-masjid” for greeting the masjid every time they go to Masjid al-Haram. If one performs one of the above mentioned tawafs, the tawaf performed substitutes for “*tawaf al-tahiyyat al-masjid*” (Ibn al-Humam, Fath, II, 454).

606. **May one perform tawaf al-ziyarah the state of ihram?**

Tawaf al-ziyarah (the fardh tawaf) may be performed in or out of the state of ihram.

607. What should be done in the event that the shawts of tawaf are not performed completely?

According to Hanafis, the first four shawts of tawaf is fardh, and the last three are wajib. Therefore, the tawaf of a person who performs the first four shawts is valid. If the remaining shawts are duly performed later, no penalty is required. If these three shawts which are wajib are not performed, one needs to sacrifice a sheep or goat (damm) for abandoning a wajib (Marghinani, al-Hidayah, II, 414).

According to the other three schools, it is fardh to complete tawaf as seven shawts. Otherwise, the performed tawaf is invalid (Ibn Juzay, al-Qavanin, p. 243; Shirbini, Mughni al-muhtaj, I, 708).

608. What should a person whose ablution is nullified during tawaf do?

Being in the state of ablution while performing tawaf is wajib according to Hanafis, but according to the other schools, it is a rukn, i.e. fardh. If a person who performs tawaf without being in the state of ablution has not departed from Mecca yet, he needs to re-perform the tawaf; and if he has already returned home, he needs to sacrifice a sheep or a goat (Kasani, Bada'i, II, 130; Mawsili, al-Ikhtiyar, I, 503-505). A person whose ablution is nullified while performing tawaf may pause, perform ablution and continue from where he left, or if he wishes, he may start from the first shawt all again (Ibn Abidin, Radd al-Muhtar, III, 509, 510).

According to the other schools, the tawaf performed without being in the state of ablution is invalid and it must certainly be re-performed (Shirbini, Mughni al-muhtaj, I, 706).

609. Is the ablution of a person whose hand touches to that of an opposite sex while entering and exiting Haram al-Sharif or performing tawaf nullified?

According to the Hanafi school, the ablution is not nullified when men and women touch each other's hands (Mawsili, al-Ikhtiyar, I, 54). According to the Shafi'i school, ablution is nullified in this situation. However, Shafi'is may follow the view of Hanafi school in this situation.

610. What should a person whose ablution is nullified while performing tawaf al-umrah but completes both tawaf and sa'y without knowing in which shawt it was nullified do?

Tawaf needs to be performed in the state of ablution and sa'y needs to be performed after a valid tawaf. If a person does not know during which shawt his ablution was nullified, he considers it as the first shawt. In this regard, one performs ablution and repeats the tawaf and sa'y. If he does not do so, he needs to sacrifice a sheep or a goat according to Hanafis (Mawsili, al-Ikhtiyar, I, 503). According to Shafi'i school, as tawaf without being in the state of ablution is invalid, one needs to re-perform the tawaf and sa'y (Shirbini, Mughni al-muhtaj, I, 706). However if a person performs tawaf being in the state of ablution and his ablution is nullified after that and performs sa'y in this state, the sa'y is valid. Because being in the state of ablution during sa'y is sunnah.

611. What should a person who performs tawaf al-umrah without being in the state of ablution or whose ablution gets nullified but continues and completes tawaf without re-performing ablution?

It is wajib to perform tawaf in the state of ablution. Sacrifice of a sheep or goat is required for performing whole or a part, or even a shawt of tawaf al-umrah as junub, without being in the state of ablution, puerperant or during menstruation. However, if a person re-performs tawaf in the state of ablution before ending the ihram, no penalty is required (Mawsili, al-Ikhtiyar, I, 503).

According to the other schools, the tawaf performed without being in the state of ablution is invalid and this tawaf must certainly be re-performed (Shirbini, Mughni al-muhtaj, I, 706).

612. May a member of Hanafi school imitate the Shafi'i school when his hand, nose, or another body part bleeds during tawaf al-umrah or tawaf al-ziyarah?

If a Hanafi bleeds while performing tawaf, his ablution is nullified. In this situation, s/he needs to perform ablution and continue to perform tawaf where he left or all over again. If one continues to tawaf al-ziyarah or umrah without being in the state of ablution, he needs to sacrifice a sheep or goat. But, if he performs ablution again and performs the tawaf, no penalty is required.

In cases where it is difficult to perform ablution again due to an illness, old age or excessive crowd, a Hanafi can continue his tawaf by imitating the Shafi'i school.

613. May one establish tawaf prayer in prohibited times for prayer?

According to the Hanafi school, it is virtuous to perform tawaf prayer without giving break after tawaf, if it is not a prohibited time. If it is a prohibited time, it may be delayed (Haddad, al-Jawhara, I, 83). According to the Shafi'is, it is permissible to perform tawaf prayer in the prohibited times (Nawawi, al-Majmu', VIII, 57).

614. Does the tawaf become valid if it is performed by walking backwards?

Tawaf by walking backwards needs to be performed all again in a proper way. If it is not re-performed, one needs to sacrifice a sheep or goat (dammm) according to Hanafis (Kasani, Bada'i, II, 130).

According to Shafi'is, the tawaf performed backwards is not valid and it needs to be re-performed (Shafi'i, Umm, II, 452). If some of the shawts are performed backwards, then one needs to reperform those shawts only.

615. Where is tawaf prayer established?

Although it is more virtuous to perform tawaf prayer behind the Maqam Ibrahim, one may perform it anywhere available within Masjid al-Haram not to be a burden upon people by performing tawaf (Kasani, Bada'i, II, 148). If it is not possible to perform it within Masjid al-Haram, one may perform it outside Masjid al-Haram as well. In this regard, one needs to be cautious not to be a burden upon people by trying to perform tawaf prayer in the Maqam Ibrahim.

616. Can we perform tawaf in makruh times for prayer?

One may perform tawaf in makruh times for prayer, and there is no harm in this (Nawawi, al-Majmu', VIII, 57). However, according to Hanafis, it is makruh to perform the prayer of this tawaf in the prohibited times (Mawsili, al-Ikhtiyar, I, 135).

617. Is it permissible to perform tawaf for a few times without establishing tawaf prayer?

According to Hanafis, tawaf prayer is wajib. However, because it is not the wajib of tawaf, but rather one of the wajibs of hajj, not performing the tawaf prayer does not make the tawaf invalid. A person who performs tawaf one after another more than once needs to establish a two-rakat tawaf prayer after each tawaf. According to Hanafis, it is makruh to perform two tawafs one after another without performing the tawaf prayer (Ibn Nujaym, al-Bahr, II, 356). According to Shafi'is, there is no harm in this (Nawawi, al-Majmu', VIII, 54).

618. May one establish tawaf prayer after fajr prayer?

According to Hanafi school, it is makruh to establish tawaf prayer in the(makruh (disliked) times for prayer. Accordingly, it is makruh to establish tawaf prayer after fajr prayer. To establish tawaf prayer, one needs to wait for the end of the makruh time after sunrise (Sarakhsi, al-Mabsud, I, 150; Marghinani, al-Hidayah, I, 267). According to the other schools, one may establish tawaf prayer anytime. Hanafis may perform the tawaf prayer by following the views of the other schools.

619. Should those who are in Mecca for hajj or umrah prefer to perform another umrah or nafl tawaf in the remaining days after completing an umrah?

For people who perform hajj al-tamattu, it is permissible to perform umrah again before the waqfah at Arafat after performing the first umrah until entering ihram for hajj. However, what is more virtuous for them is to perform tawaf instead of umrah. For those who go to umrah in umrah season, while it is permissible to perform umrah more than once by going outside of Haram borders, it is more virtuous to perform tawaf.

620. What does a person who does not perform all the shawts of sa'y do?

One tour between Safa and Marwa is called a shawt. For one sa'y, one needs to go from Safa to Marwa four times, and from Marwa to Safa three times. According to Hanafi school, it is fardh to perform the first four shawts of sa'y, and it is wajib to complete it to seven. A person who leaves the last three shawts needs to complete them. For

each unperformed shawt, one needs to pay “*sadaqah in amount of one fitrah*” (Kasani, Bada’i, II, 134; Ibn Abidin, Radd al-Muhtar, III, 515, 590).

According to Shafi’i, Maliki and Hanbali schools, it is an essential pillar to complete it to seven shawts. If one shawt is missed, then the sa’y is not valid (Mawardi, al-Hawi, IV, 155; Ibn Rushd, Bidayah, I, 345; Ibn Qudamah, al-Mughni, V, 236-237).

621. What should a person who performs sa’y after an invalid tawaf do?

Sa’y is not a separate worship. It needs to be performed after a valid tawaf. In this regard, if the sa’y is not valid, one needs to re-perform it after a valid tawaf (al-Fatawa al-Hindiyyah, I, 250; Mawardi, al-Hawi, IV, 157).

622. What should a person whose ablution is nullified during sa’y do?

It is one of the sunnah acts of sa’y to perform it in the state of ablution. It is makruh to perform it without being in the state of ablution. In addition, if a person whose ablution is nullified during sa’y after performing tawaf completes the sa’y in this way, the sa’y is valid (al-Fatawa al-Hindiyyah, I, 272).

623. Is the sa’y of a person who completes it on a wheelchair without an excuse valid?

According to Hanafi and Maliki schools, it is wajib for those who are healthy enough to perform sa’y on foot. In this regard, if a person performs sa’y on a wheelchair even though s/he is healthy enough, s/he needs to sacrifice a sheep or goat (damm). Those who are sick, too old to walk, and people with disabilities may perform sa’y on a wheelchair (Ibn Abidin, Radd al-Muhtar, III, 471, 472).

According to Shafi’is and Hanbalis, it is sunnah to perform sa’y on foot. While it is makruh to perform sa’y on a wheelchair despite being healthy enough to perform it on foot, no penalty is required (Nawawi, al-Majmu’, VIII, 75).

624. Is there a prayer to be established after sa’y?

There is no prayer to be established after the sa’y of hajj and umrah.

625. What should the spouses who complete tawaf and sa'y of umrah but have sexual intercourse before ending the state of ihram by having their hair cut do?

The umrah of spouses who complete tawaf and sa'y of umrah but have sexual intercourse before ending the ihram by having hair cut is valid. However, they need to sacrifice a sheep or goat (damm) as penalty (al-Fatawa al-Hindiyyah, I, 269).

626. What is the wisdom behind greeting and kissing al-Hajar al-Aswad?

The legitimacy of kissing and greeting al-Hajar al-Aswad is proven by the practice of the Prophet Muhammad (saw) and his Companions (Bukhari, Hajj, 60; Muslim, Hajj, 249-250).

Based on these practices, the fuqaha agreed that it is sunnah to visit al-Hajar al-Aswad in compliance with the sunnah, touch it by hands, and kiss it during tawaf (Ibn Rushd, Bidayah, I, 340; Jaziri, al-Madhahib al-Arba'a, I, 592). While visiting al-Hajar al-Aswad, it is considered as mustahab to recite takbir due to the same reason (Bukhari, Hajj, 62).

It is not appropriate to consider this action as a respect to al-Hajar al-Aswad itself and see it as a holy stone based on the narratives on touching and kissing it during tawaf. It may be said that this means symbolically to remember the Prophet Ibrahim and the Prophet Muhammad (saw), take heed of hajj and obey Allah's commands in this regard, to show some deep spiritual feelings such as worshiping and obedience to Allah (swt) with symbolical behaviors and acts as the other duties and forms of hajj. Umar (ra) stated regarding al-Hajar al-Aswad which supports this approach as, *"By Allah! I know that you are a stone and can neither benefit nor harm. Had I not seen the Prophet (saw) touching (and kissing) you, I would never have touched (and kissed) you."* (Bukhari, Hajj, 57)

If the tawaf area is not too crowded and it is possible to get close to al-Hajar al-Aswad, one may kiss the stone; if it is not possible, one may fulfill this sunnah by reciting Bismillahi Allahu Akbar from a distance and greeting it with hands up (Ibn Abidin, Radd al-Muhtar, III, 504, 505). If it is too crowded, it is not permissible to burden upon others to kiss al-Hajar al-Aswad and stay too close to each other, mixed as men and women. Failing to touch al-Hajar al-Aswad does not harm the validity of tawaf in any way.

STONING THE DEVIL AND SACRIFICING ANIMAL IN HAJJ

627. May one stone the Jamrat al-Aqabah on the first day of eid before midnight?

According to Hanafi school, the time for stoning the Jamrat al-Aqabah starts with fajr al-sadiq on the first day of eid, and continues until fajr al-sadiq on the second day of eid. In this regard, the stoning performed before fajr al-sadiq is not valid and needs to be re-done within the valid time. If the stones are not thrown within this period, sacrificing a sheep or goat (damm) is required. According to Imam Abu Yusuf and Imam Muhammad, stones not thrown on the due time may be thrown as qada until the last day of eid and no penalty is required (Sarakhsi, al-Mabsud, IV, 64).

According to Shafi'i and Hanbali schools, the time for stoning the Jamrat al-Aqabah starts with the night connecting the day of Arafah to the first day of eid as of midnight and continues until the sunset of the same day. If the stones need to be thrown in this period are thrown until the sunset of the fourth day of eid, it is valid and no penalty is required (Ramli, Nihayat al-Muhtaj, III, 307-308). Pilgrims may follow this opinion considering today's conditions of organizational plans, highly crowded pilgrim population, and other difficulties.

628. How is stoning made up when it could not be fulfilled on time?

It is essential for the stoning of the devil to throw each day's stone on its specified time. It is wajib to perform qada (make up) for the stones unthrown on time for any reason. The time for stoning ends with the sunset on the fourth day of the eid.

According to Imam Abu Hanifa and Imam Malik, even if qada is performed within the days of stoning the Devil for the stones not thrown on time, penalty is still required. According to Imam Abu Yusuf and Imam Muhammad, if qada is performed within the days of stoning the Devil, no penalty is required (Sarakhsi, al-Mabsud, IV, 64-65).

According to Shafi'is and Hanbalis, if stones not thrown on time are thrown before the sunset on the fourth day of eid, it is considered as performing on time (ada), not qada. No penalty is required for this delay (Ramli, Nihayat al-Muhtaj, III, 307-308).

629. What should a person who has to leave Mecca for an excuse before completing the stoning the Devil do?

Sickness, elderliness, physical disabilities, being too weak or in a condition to get harmed by heavy crowd, and having to leave Mecca before stoning the devil because of an excuse, etc. are legitimage excuses. People with such excuses may appoint another person as their agent to stone the Devil in place of them. People who are appointed as proxies first throw their own stones, then of the people whose proxy they are (Nawawi, al-Majmu', VIII, 243-245).

630. When does one slaughter the animal (offer qurbani) in hajj?

According to the Hanafi school, animals are sacrificed on the first three days of the eid. One cannot sacrifice the animal before this time. According to Imam Abu Hanifa, if one delays it and performs the qurbani later, s/he needs to sacrifice a sheep and goat (damm) additionally. According to Imam Muhammad and Imam Abu Yusuf, no penalty is required for the delay (Ibn Abidin, Radd al-Muhtar, IV, 39, 40).

According to the Shafi'i school, sacrificing for tamattu may be performed after completion of the umrah before entering ihram for hajj. There is no due time for this sacrificing. However, it is more virtuous to sacrifice the animals on the days of eid al-adha (Nawawi, al-Majmu', VII, 183-184).

According to Hanafis, although it is more virtuous to perform nafl qurbani on the days of eid, it may be performed earlier, too (Marghinani, al-Hidayah, II, 492; Ibn Abidin, Radd al-Muhtar, IV, 39). Nadhr (votive) and penalty sacrifices may be performed on the days of eid or other days after they become wajib (Marghinani, al-Hidayah, II, 492; Ibn Abidin, Radd al-Muhtar, IV, 39).

According to Shafi'is, penalty sacrifice may be performed on the days of eid or other days after the reason for obligation is fulfilled, but nadhr and tatawwu (mandub) sacrifices may only be performed on the days of eid (Nawawi, al-Majmu', VII, 498-500).

According to Shafi'is, fawat sacrifice (the sacrifice to be performed after performing hajj by those who could not catch up the waqfah at the plain of Arafat despite entering the state of ihram) is performed in the same year in which the hajj is made up. According to Hanafis, fawat sacrifice is not required (Nawawi, al-Majmu', VII, 499; Marghinani, al-Hidayah, II, 478).

If a mukhsar (a person who could not go to hajj or umrah because of a reason out of his own control after entering ihram) person decides that he will not be able to perform hajj that year, he performs qurbani

as soon as possible and ends the ihram. However, according to Imam Abu Yusuf and Muhammad from the Hanafi school, ikhsar sacrifice may only be performed on the first three days of eid. While ikhsar sacrifice needs to be performed within Haram region according to Hanafis, it is not required according to Shafi'is (Marghinani, al-Hidayah, II, 471).

631. Can the hajj-related qurbani of a person who goes to hajj be slaughtered in one's own country?

Pilgrims who made intention for hajj al-tamattu or qiran need to sacrifice qurbani for gratitude within the borders of Haram to express gratitude to Allah (swt) for letting them perform hajj and umrah in the same season (Baqarah, 2/196; Ma'idah, 5/95). As this sacrifice is not related to udhiyyah performed in eid al-adha, it is not valid to perform this outside of al-Haram region (Marghinani, al-Hidayah, II, 493). Likewise, the penalty sacrifices of hajj and umrah need to be performed within al-Haram region.

632. Is a person who fulfills the worship of hajj responsible for sacrificing an animal in his hometown as well?

Scholars agree that if a person in the state of ihram is in Mecca as a musafir (traveler), udhiyyah sacrifice is not wajib upon him. If not a traveler, it is a controversial matter among Hanafi scholars regarding whether the udhiyya sacrifice is wajib or not.

According to the preferred opinion, a person who is performing hajj is not obliged to sacrifice an animal whether he is a traveler or not (See. Haddad, al-Jawhara, II, 282; Ibn Abidin, Radd al-Muhtar, IX, 457). However, there is no obstacle for a traveler to sacrifice an animal by himself or with residents.

According to the Shafi'i school, udhiyyah sacrifice is a sunnah mu'akkadah for everyone who can afford whether he is a traveler or not, or whether in hajj or not (Nawawi, al-Majmu', VIII, 383).

PERFORMING HAJJ ON SOMEONE ELSE'S BEHALF (HAJJ AL-BADAL)

**633. Can one fulfill hajj by proxy (or on someone else's behalf)?
What are its conditions?**

If a person is not healthy enough to go to hajj because of illness or old age even though it is fardh upon him, he may send another person to hajj on behalf of himself by proxy. While it is possible for such a person to send somebody as proxy when alive, he may also make a will to his inheritors to send someone as proxy to perform hajj on behalf of him after he dies (*Kasani Bada'i*, II, 212). This ruling is based on hadiths. When the Prophet was asked if one could perform hajj on behalf of deceased or old-aged relatives, he replied that they could do it (*Bukhari*, Hajj, 1; *Muslim*, Hajj, 407; *Tirmidhi*, Hajj, 86-87; *Ibn Majah*, *Manasik*, 9-10).

In order for a person to perform hajj by sending a proxy (badal) on his behalf, the following conditions must be met:

a) Hajj must have already been obligatory upon the person on whose behalf the hajj will be performed.

b) The person on whose behalf the hajj is to be performed must have passed away or must be permanently incapable of performing the pilgrimage in person, due to reasons such as old age, an illness without recovery, etc.

c) The person to be sent as an agent must be a Muslim, mentally healthy and a person who has reached the age of puberty.

d) The expenses for hajj of the agent must be covered by the person who sends him.

e) No extra payment must be charged apart from the expenses of hajj.

f) The person on whose behalf hajj will be performed needs to request it from the proxy/agent to go and perform hajj for himself. If a person performs hajj for a person without his consent or will, the obligation of hajj is not considered as fulfilled. However, the hajj performed by the heir on behalf of the legator does not fall within this scope. Even though there is no such will, the hajj performed by the heir on behalf of the legator is valid.

g) The appointed person must personally perform the hajj.

h) The appointed person must make niyyah only on behalf of the sender while entering the state of ihram.

i) The appointed person must obey the sender's wishes and perform the type of hajj he requested.

j) The appointed person must set out from the hometown of the sender.

k) The appointed person must not perform umrah for himself before completing the rites of hajj on behalf of the sender (Kasani, Bada'i, II, 212-215; Ibn Abidin, Radd al-Muhtar, IV, 14-18).

634. May a person who has not performed hajj before go to hajj on behalf of another person as a wakil (proxy/agent)?

A person who has never performed hajj before may go to hajj as proxy (badal). When the Prophet (saw) stated that one may perform hajj on behalf of deceased or old-aged relatives, he did not express any condition, nor did he mention that the badal must have gone to hajj before (Bukhari, Hajj, 1; Muslim, Hajj, 407; Tirmidhi, Hajj, 86-87).

On the other hand, it is more appropriate to send a badal who has performed hajj before as he has the experience.

According to Shafi'is, it is not permissible for a person who has never gone to hajj to be sent to hajj as proxy (Kasani, Bada'i, II, 213).

635. May a person perform hajj both for himself personally and for another person by proxy within the same year?

Only one hajj can be performed within the same year, and a single hajj is not valid for two persons. Therefore, it is not valid for a person to perform hajj both for himself personally and for another person by proxy within the same year. If a person appointed as an agent intends to hajj for himself too, the appointment becomes invalid as he disobeys the order of the sender, and he performs hajj only for himself. In this regard, he needs to return the money he got from the sender (Kasani, Bada'i, II, 213-214).

636. May a person who is not healthy enough to perform hajj be freed from this responsibility if he gives the money as sadaqah instead of sending someone to hajj as proxy?

What is essential in obligatory acts of worship is to perform them on time and as commanded by Allah (swt). Another principle is to perform them personally. However, some acts of worship may be performed through an agent under certain circumstances. Those who are not

healthy enough to perform hajj by themselves or not able to go to hajj due to old age may appoint someone as an agent to perform hajj on behalf of themselves by covering the expenses of hajj. However, a person is not deemed to have fulfilled the responsibility of hajj by giving the money equal to sending an agent to the poor as sadaqah or donating to charitable organizations. Such a person gets the thawab (spiritual rewards) of giving sadaqah only. (Marghinani, al-Hidayah, II, 483).

637. When sending someone as a wakil (proxy) to hajj, is it required that the representative set out from the hometown of the sender? May one appoint a person from Mecca and Medina as his/her wakil?

Just as the sender would have performed hajj, he would have departed from his hometown, the appointed person needs to depart from the hometown of the sender. Therefore, when the sender said “perform hajj on behalf of me” without stating a certain departure or if he was not able to go to hajj even though it was fardh upon him and made a will as “let a person perform hajj on my behalf”; it is understood as “Let the proxy set out from my hometown.” According to Imam Abu Yusuf and Imam Muhammad, if the proxy dies and makes a will during hajj journey, the badal needs to be sent from where he died. If one-third of the inheritance of legator who made a will to send an agent to hajj is not enough for the agent to depart from the hometown of the sender, he may depart from where one-third of the inheritance is enough to go to hajj (Mawсили, al-Ikhtiyar, I, 524-526). The subject of appointing an agent from Mecca and Medina may be considered within this scope as well.

638. For a hajj candidate who is in coma and is about to die before performing the ritual standing at Arafat, is it permissible to appoint another person from his/her current location to perform the hajj on his/her behalf?

A badal (proxy) may be assigned from where they are for the patients without hope of recovery or waking up from the coma.

639. Which type of hajj should a person who will perform hajj al-badal make intention for?

The appointed person must make intention for the type of hajj the sender has determined. If the sender says to just perform hajj without specifying the type, then the agent must make niyyah for hajj al-ifrad;

if he says “perform whichever you wish”, the agent may make intention as he wishes (Ibn Abidin, Radd al-Muhtar, IV, 14-18).

640. What should a person do if he performs the umrah on his own behalf while performing the hajj al-tamattu on somebody else's behalf?

The agent first needs to complete the duty given by the sender, and must not disobey his conditions. If he does so, he continues his hajj and returns the money when he is back, and the performed hajj becomes his own hajj (Kasani, Bada'i, II, 212-215). As hajj al-tamattu is a worship in which umrah and hajj are performed together, if the appointed person performs umrah on behalf of himself, he is considered as performed the hajj for himself; and he must return the money to the sender.

However, if the appointed person completes the hajj rites on behalf of the sender, then he may perform umrah for himself with the condition of covering the additional expenses himself.

641. Should a person who goes to hajj as proxy sacrifice an animal on his own behalf?

Those who come to hajj from outside of Mecca are not obliged to perform udhiyyah sacrifice, which is a sacrifice specific to eid al-adha, whether they are performing hajj for themselves or as proxies (Kasani, Bada'i, V, 63). However, pilgrims who desire to perform udhiyyah sacrifice as nafl may perform it in Mecca or in their hometowns.

642. May an official who goes to hajj for duty and whose expenses are covered by the related institution also perform hajj as proxy on behalf of another person?

Hajj is a worship performed by both physically and financially. For the validity of the hajj performed by a proxy, the hajj expenses of the appointed person must be covered by the sender. If a person appoints a proxy to perform hajj on behalf of himself and the expenses of hajj is covered by the appointed person himself, that hajj is valid for not on behalf of the sender but on behalf of the one who has covered the expenses, i.e. the appointed one. The obligation of hajj is not deemed to be fulfilled this way (Kasani, Badai II, 213). Also, it is clearly stated in the sources of Islamic law that it is not permissible for the representative to get extra money from the sender apart from the expenses of hajj, and he

needs to return the money, which remains after the expenses of hajj are covered, to the sender (Ibn Abidin, Radd al-Muhtar, IV, 17-20).

In this regard, it is not permissible for a person who goes to hajj on duty whose expenses are covered by the Presidency of Religious Affairs or another institution to perform hajj on behalf of others. However, such a person on duty may perform hajj on behalf of his relatives like his parents who died before performing hajj or constantly unable to go to hajj because of an excuse without getting money with the condition of being appointed by the sender (Kasani, Bada'i, II, 213).

SOME ISSUES RELATED TO WOMEN IN Hajj AND UMRAH

643. Can a married woman go to hajj or umrah without getting permission from his husband or having her husband or a mahram with her?

Obligatory acts of worship are individual worships to be performed by all men and women who meet the necessary conditions. It is not permissible for spouses to prevent each other from fulfilling them. According to Hanafi and Hanbali schools, for a woman to be obliged to hajj, she needs to have enough financial means from departure until arrival, and needs to be accompanied by her husband or a mahram (Ibn al-Humam, Fath, II, 425; Ibn Qudamah, al-Mughni, V, 30-31). According to Shafi'i's, three or more trustworthy women may go to hajj together without the accompany of their husbands or mahrams. According to the Maliki school, a woman may go to hajj alone with the condition of being in a trustworthy group. However, such women are advised to be in a group consisting of only women (Ibn Qudamah, al-Mughni, V, 30-31; Shirbini, Mughni al-muhtaj, I, 681-682; Dasuqi, Hashiyah, II, 9-10).

In this regard, according to the Hanafi school, it is not appropriate for a married woman to go to to hajj without her husband or a mahram. However, it is possible for her to go with a trustworthy organization with the consent of her husband by following the ruling of Shafi'i and Maliki schools. On the other hand, if she has an accompanying mahram and meets the other conditions, the husband cannot prevent her from going to hajj that is fardh upon her. He has no such right (Ibn Qudamah, al-Mughni, V, 31). But a woman cannot go to umrah without her husband's

consent even if she has an accompanying mahram as umrah is not a fardh act of worship.

644. Is the discharge coming from the women in the period of menopause prevent them from fulfilling the rites of hajj or umrah?

Irregularities in menstruation and changes in the number of the days of menstruation may be experienced during the transition period to menopause. In the sources of Islamic law, it is stated that the blood coming from a woman under the age of 55 is menstruation (Ibn Abidin, Radd al-Muhtar, III, 515). However, this ruling is based on the medical knowledge of that time, not on a verse or a hadith. As expressed by experts today, a woman who enters menopause may menstruate again within the first year. A woman in this situation cannot do anything that woman in menstruation period is not allowed to do. However, the blood seen after one year passes is accepted as excuse blood. For such women, it is appropriate to see a gynecologist to determine whether the blood is due to menstruation or excuse.

645. What should a woman do if she passes Miqat and enters Mecca without entering the state of ihram due to menstruation or being in the postnatal bleeding period?

According to the Hanafi school, whatever the reason is, and according to Shafi'i, when one comes for the purpose of performing hajj or umrah, those who want to enter the region of al-Haram need to pass through miqat by entering the state of ihram. If a person passes boundaries of miqat without entering the state of ihram while going to hajj or umrah for any reason, if s/he goes back to a Miqat place for afaqis before performing one of the rites of hajj and enters the state of ihram, then no penalty is required. If s/he does not go back, s/he enters ihram at the present place and sacrifices a sheep or goat (Kasani, Bada'i, II, 164-165; Nawawi, al-Majmu, VII, 10-15). Menstruation and puerperality are not obstacles for entering the state of ihram. Therefore, such a woman needs to enter the state of ihram by making intention and reciting talbiyah without establishing ihram prayer before crossing the miqat borders. A menstruating woman is subject to all rulings that the other pilgrims have to obey in all rites of hajj except for tawaf (Bukhari, Haidh, 1).

646. May a woman who makes intention for hajj al-tamattu or qiran but cannot perform umrah due to her special condition (menstruation, etc.) go to Arafat directly?

According to Hanafi school, women who cannot perform umrah tawaf due to menstruation after entering the ihram of umrah for hajj al-tamattu and cannot get clean until the time for the waqfah at the plain of Arafat cancel the ihram of umrah. They enter the state of ihram for hajj while going to Arafat. Such women do not need to offer the sacrifice of gratitude because they have performed hajj al-ifrad. After hajj, they make up the canceled umrah. For this reason, they sacrifice a sheep or goat as penalty (Mawsili, al-Ikhtiyar, I, 498-499).

During the farewell hajj or the Prophet (saw), Aisha menstruated after arriving Mecca before performing umrah. As it did not end until the time of hajj, Prophet Muhammad (saw) told her to cancel the ihram of umrah and enter ihram for hajj at the time of ritual standing at Arafat. He made 'Aisha to perform qada for the canceled umrah after hajj and to perform sacrifice (Bukhari, Haidh 1).

According to Shafi'i, Maliki and Hanbali schools, such women do not cancel the umrah, make intention for hajj al-qiran, and go to Arafat to perform waqfah. After returning from Arafat, they perform a tawaf and a sa'y with the intention of hajj and umrah. Also, they perform sacrifice for hajj al-qiran (Nawawi, al-Majmu', VII, 170-171).

647. May a woman who goes to Arafat while she menstruates end the state of ihram by stoning the devil after the waqfah of Arafat and Muzdalifah?

Ritual purity is not obligatory to perform waqfah in Arafat and Muzdalifah, to stone the devil, and to end the state of ihram. Therefore, a woman who goes to the plain of Arafat while menstruating can end the state of ihram by cutting her hair after the waqfah of Arafat and Muzdalifah and stoning of the devil.

648. May a woman who sees the signs of menstruation even though she uses menstrual retardant pills perform tawaf al-umrah or tawaf al-ziyarah?

Even if the discharge coming from women at menstruation age is not in the color of blood, but blur, according to the preferred opinion, it is considered as menstruation blood whether it is at the beginning or end

of the days of menstruation period. According to the Hanafi school, the duration of menstruation is between three to ten days. The number of days between two menstruation periods is at least fifteen days (Marghinani, al-Hidayah, I, 215; Mawsili, al-Ikhtiyar, I, 99).

According to doctors, menstrual retardant pills do not always work effectively. Therefore, it is possible to menstruate after using them. In this respect, if a woman has a flux in color of menstruation blood after fifteen days as of the completion of the former menstruation period even though she used the pills and it continues for three days, she is considered as menstruating. In this situation, she cannot perform tawaf al-umrah and tawaf al-ziyarah. However, if the flux continues for longer than ten days, she may perform tawaf after ten days because the flux after ten days is not menstruation but excuse blood.

According to the experts, as the side effect of these pills with progesterone hormones, one may observe flux which is not due to menstruation flux. In this situation, such flux is considered excuse (istihadha) according to Islamic law, and one acts accordingly. A woman in the state of excuse may establish prayers and observe fasting. Nevertheless, consulting an expert to decide the reason of blood would be the most appropriate step to be taken.

649. What should a woman who performs tawaf and sa'y of umrah while in menstruation or postnatal period and ends the state of ihram by cutting her hair do?

As ritual purity is wajib for tawaf (Kasani, Bada'i, II, 129), a woman who performs tawaf and sa'y of umrah while in one of these periods and ends ihram by cutting her hair needs to sacrifice a sheep or a goat.

According to the Shafi'i school, ritual purity is the condition for the validity of tawaf. Therefore, the tawaf and sa'y performed while menstruating are not valid. Such a woman needs to perform tawaf and sa'y again after performing ghusl. She may choose any one of the options to sacrifice a sheep or a goat because of cutting her hair before the time of ending the ihram, or to fast for three days, or pay sadaqah in the amount of six fitrah.

650. **What should a woman do if she fulfills hajj and umrah rites and ends ihram by cutting her hair before completion of her maximum menstruation period thinking that her normal menstruation is over but then she sees bleeding again?**

If such a woman observes bleeding; and if the bleeding ends at the end of maximum menstruation period (10 days/240 hours), these days are also considered within the menstruation period. In this respect, such a woman should sacrifice a damm as penalty because she violates the condition of cleanness that is one of the wajibs of tawaf. If the bleeding does not end after maximum menstruation period (10 days/240 hours), the discharge seen after normal menstruation period is considered as istihadha/excuse blood. The acts of worship performed in this situation are valid.

651. **May a woman who has to leave Mecca before her menstruation is over perform tawaf al-ziyarah in this condition?**

Women who enter ihram while they menstruate or start to menstruate after entering ihram may perform all duties of hajj except tawaf. But they cannot perform tawaf. Because the Messenger of Allah (saw) told Aisha: *“This is a thing which Allah has ordained for the daughters of Adam. So do what all the pilgrims do with the exception of the tawaf around the Ka`bah.”* (Bukhari, Haidh, 1)

A woman who menstruated before performing tawaf al-ziyarah needs to stay in Mecca until performing ghusl, and perform tawaf after ghusl. No penalty is required if she delays tawaf al-ziyarah after the days of eid.

If she does not have the opportunity to stay in Mecca, she performs tawaf al-ziyarah while menstruating, as ritual purification is not a fardh but a wajib of tawaf in the Hanafi school; however, she needs to sacrifice a camal or cattle (badanah) as penalty. If she finds the opportunity and re-performs this tawaf after the ghusl, then the penalty will be cancelled (Kasani, Bada'i, II, 129).

According to the Shafi'i school, the tawaf performed by a woman who menstruates is not valid under any circumstances. She needs to do it after performing ghusl (Nawawi, al-Majmu', VIII, 14, 17). As expressed in some sources of Hanbali and Maliki schools, if menstruation ceases and the woman interprets it as cleanliness, she performs ghusl and tawaf. If she sees bleeding again within the menstruation period, her menstruation continues after the period of cleanliness. No penalty is required because

of this. It will be appropriate for the women in this situation to inform the people in charge, and act in accordance with their answer (Sahnun, al-Mudawanah, I, 152; Hattab, Mawahib, I, 53; Ibn Qudamah, Sharh al-kabir, I, 346).

652. Is penalty required for a woman who cannot perform the farewell tawaf (tawaf al-wada) because her convoy leaves Mecca?

It is not wajib for menstruating or puerperant women to perform farewell tawaf. They may leave Mecca without performing farewell tawaf (Marghinani, al-Hidayah, II, 360). No penalty is required for such women.

653. May a woman change clothes when she is in state of ihram?

It is permissible for woman who enters the state of ihram for hajj or umrah to wear or change clothes.

654. How much of their hair should women cut in order to end the state of ihram?

It is enough for a woman to cut the length of a fingertip from the ends of her hair for ending the state of ihram (Kasani, Bada'i, II, 141).



QURBANI (SACRIFICE)





QURBANI (SACRIFICE)

THE NATURE AND THE RULING OF QURBANI

655. What is the nature and the ruling of the worship of qurbani?

Qurbani which lexically means to approach or the thing that leads to getting close to Allah (swt). As a religious term, Qurbani refers to sacrificing an animal that meets certain criteria for the purpose of worshipping in order to approach Allah (swt) and obtain His contentedness, and to the animal that has been sacrificed for this purpose (Ibn Abidin, *Radd al-Muhtar*, IX, 452). Qurbani sacrificed in Eid al-Adha is called udhiyya and the one sacrificed in hajj is called hady.

The believer, who is mentally healthy, free, resident and considered wealthy according to Islam, gets close to Allah (swt) by sacrificing qurbani in order to gain divine consent, and helps those who cannot sacrifice qurbani due to insufficient financial means (Sarakhsi, *al-Mabsut*, XII, 8; Ibn Nujaym, *al-Bahr*, VIII, 197). In the spirit of this worship, there is an understanding of closeness to Allah and self-sacrifice to the people. Qurbani is a sign of a Muslim's readiness to sacrifice all of his/her possessions in the way of Allah (swt) when necessary.

According to majority of madhhabs, it is sunnah to perform qurbani of udhiyya (Ibn Rushd, *Bidayah*, I, 429). According to Hanafi School, the preferred opinion is that qurbani is wajib (Marghinani, *al-Hidayah*, VII, 146). Regardless of its jurisprudential ruling, qurbani has been an important symbol of Muslim societies and has an important place in the religious life of Muslims for centuries.

656. What is the religious ground of qurbani?

Qurbani is a worship based on the Qur'an, Sunnah and ijma (consensus of Islamic scholars). There are evidences in the Qur'an that qurbani is a legitimate worship. It is clearly stated that a sacrificial animal was given to Prophet Abraham by Allah as a fidyah (sacrifice) in place of his son, Prophet Ismail (as) (Saffat, 37/107).

There are other verses indicating the legitimacy of qurbani: *“That they may witness benefits for themselves and mention the name of Allah on known days over what He has provided for them of [sacrificial] animals. So eat of them and feed the miserable and poor.”* (Hajj, 22/28), *“And for all religion We have appointed a rite [of sacrifice] that they may mention the name of Allah over what He has provided for them of [sacrificial] animals. For your god is one God, so to Him submit. And, [O Muhammad], give good tidings to the humble [before their Lord]”* (Hajj, 22/34), *“And the camels and cattle We have appointed for you as among the symbols of Allah; for you therein is good. So mention the name of Allah upon them when lined up [for sacrifice]; and when they are [lifeless] on their sides, then eat from them and feed the needy and the beggar. Thus have We subjected them to you that you may be grateful. Their meat will not reach Allah, nor will their blood, but what reaches Him is piety from you. Thus have We subjected them to you that you may glorify Allah for that [to] which He has guided you; and give good tidings to the doers of good.”* (Hajj, 22/36-37).

It is quite clear that sacrificing animals mentioned in these verses is not for the purpose of supplying meat, but rather they are practices for the purpose of worship. The fact that flesh and blood do not reach Allah (swt), and that what is essential is ikhlas (sincerity) and taqwa (piety) is mentioned in the verse, clearly reveals this purpose.

Prophet Muhammad (saw) accepted the qurbani as a form of worship as well and personally sacrificed qurbani. It is known that Prophet Muhammad (saw) sacrificed qurbani every year from the time the qurbani was commanded until his death (Tirmidhi, Adahi, 11; see. Bukhari, Hajj, 117, 119; Muslim, Adahi, 17).

In the narratives in the authentic hadith sources, Prophet Muhammad (saw) stated that the most pleasant worship in the eye of Allah (swt) in Eid al-Adha is to sacrifice a qurbani, that the qurbani will be accepted by Allah as soon as it is sacrificed and that every part, including the horn and nail, of the sacrificial animal, will be recorded into the thawabs

(good deeds) of the person, and he recommended that this act of worship should be performed for the sake of Allah (swt) (Tirmidhi, Adahi, 1; Ibn Majah, Adahi, 3).

Moreover, the fact that Muslims have been performing qurbani since the second year of the hijrah shows that there is a consensus on this issue (Ibn Qudamah, al-Mughni, XIII, 360).

657. Who is obligated to sacrifice qurbani?

Qurbani is a financial worship to be performed by every Muslim who is mentally healthy, has reached the age of puberty, has enough wealth to be considered wealthy according to Islam, and is a resident (Marghinani, al-Hidayah, VII, 148). Those who have 80.18 grams of gold or the same value of money or property other than basic needs and debts should perform qurbani (Mawsili, al-Ikhtiyar, IV, 252-256; Ibn Abidin, Radd al-Muhtar, IX, 452-453). In addition, it is not necessary for a year to pass over the nisab (the minimum limit to be accepted as wealthy in Islam) required for the duty of qurbani, unlike zakat.

658. May the amount of nisab required to be responsible for the worship of qurbani be determined over the value of silver?

It is a fact that silver, which has lost its value excessively, has lost its quality of being a measure of nisab in today's circumstances. If silver is taken as a measure for determining the nisab amount, those who can receive zakat will become obliged to give zakat. In this respect, it is more appropriate to take gold as a measure when determining the responsibility of worships such as zakat and qurbani.

In this respect, the religious measure of the wealth that makes qurbani wajib, whether increasing or not, is the fact that a person has 80.18 grams (20 mithqals) of gold or the same value of money or property, except for his debts and basic needs. A person who does not own this amount of goods of any kind does not have to perform qurbani (Mawsili, al-Ikhtiyar, IV, 252-256).

659. Should each spouse in a family sacrifice a separate animal if they are wealthy? When the head of the family offers a qurbani, will the other wealthy family members be exempted from the obligation of offering qurbani?

Responsibility in worship as well as the punishment and reward as a result of this responsibility are individual. Separation of goods between family members is essential in Islam. If the property of wife, husband and children in a family is determined separately, it belongs to themselves.

In this respect, any family member who has 80.18 grams (20 mithqals) of gold or the same value of money or more goods that reach nisab even if they do not increase, apart from their debts and basic needs, is considered wealthy. According to these conditions, every member of the family, who is considered wealthy according to Islam, is obliged to pay zakat al-fitr, as well as to perform qurbani on Eid al-Adha according to Hanafis (Ibn Abidin, Radd al-Muhtar, -IX, 452-454).

According to the Shafi'i School, it is sunnah al-kifayah to perform qurbani for the family. This means, sunnah is fulfilled for all of them when a family member performs qurbani (Nawawi, al-Majmu, VIII, 384; Shirbini, Mughni al-Muhtaj, IV, 377). This view is more suitable for families with minimum amount of nisab.

660. Does a traveler have to offer qurbani?

A traveler is not obliged to perform qurbani (al-Fatawa al-Hindiyyah, V, 576). However, if one does so, he/she acquires thawab (spiritual merit, award). A person may sacrifice animal where he/she resides or at the place he/she went for Eid or for another reason. Being a traveler does not prevent the qurbani from being valid.

If people who performed qurbani while on a journey return to their hometown on days of Eid, they do not have to perform qurbani again. It is not wajib for those who are resident at the beginning of Eid al-Adha and go on a journey on Eid days without performing qurbani. Those who do not perform qurbani while traveling but return to their homeland on days of Eid need to perform qurbani (Kasani, Bada'i, V, 63).

According to those who think that qurbani is sunnah, especially for the Shafi'i School, the same judgment is applicable to the case of traveling (Nawawi, al-Majmu, VIII, 383).

661. When does the time to offer qurbani starts and ends?

The time to perform qurbani starts after performing the Eid prayer in places where Eid prayers are performed, and after fajr (the time of Morning Prayer) in places where Eid prayers are not performed. According to Hanafis, it continues until the evening of the third day of Eid (Marghinani, al-Hidayah, VII, 154). During this period, qurbani may be performed day and night. However, it is more appropriate to perform qurbani during daytime. According to Shafi'i School, qurbani may be performed until the sunset of the fourth day of Eid (Shirbini, Mughni al-Muhtaj, IV, 383; Ibn Rushd, Bidayah, I, 436).

662. To what should the attention be paid when sacrificing qurbani?

The following points should be considered while sacrificing qurbani:

a) To perform qurbani properly, both the alimentary canal and trachea and also one of the arteries of the animal must be cut. While slaughtering the animal in this way, it is makruh (disapproved act) to cut the spinal cord of the animal without waiting for blood to flow completely. The same method should be followed while slaughtering animal for meat.

b) Attention should be paid not to decapitate the animal before it dies.

c) Qurbani animals should not be abused or maltreated. For this reason, animals should be slaughtered by competent persons and the slaughtering process should be performed quickly.

d) Necessary measures should be taken for environmental cleanness.

f) Maximum care should be taken not to keep the qurbani animals side by side so that they will not see each other slaughtered.

663. What is the ruling on reciting the name of Allah (swt) or saying Basmalah while performing qurbani? Which invocations may be recited while slaughtering the animal?

One must recite Basmalah while slaughtering animal whether it is for sacrificing or for another purpose. If Basmalah is not recited deliberately during the slaughter of the animal, meat of that animal cannot be eaten according to Hanafis. However, if reciting the Basmalah was forgotten unintentionally, this animal's meat can be eaten (Kasani, Bada'i, V, 46; Ibn Nujaym, al-Bahr, VIII, 190-191). According to Shafi'is, qurbani meat can be eaten even

if the Basmalah is not recited deliberately (Mawardi, al-Hawi, XV, 95; Shirazi, al-Muhadhdhab, II, 885).

While sacrificing animal, one recites “Bismillah Allahu Akbar” three times and following verses may be recited (Samarqandi, Tuhfa, III, 66):

قُلْ إِنَّ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ الْعَالَمِينَ لَا شَرِيكَ لَهُ وَبِذَلِكَ
أُمِرْتُ وَأَنَا أَوَّلُ الْمُسْلِمِينَ

Say, “Indeed, my prayer, my rites of sacrifice, my living and my dying are for Allah, Lord of the worlds. No partner has He. And this I have been commanded, and I am the first [among you] of the Muslims.” (An’am, 6/162-163)

إِنِّي وَجَّهْتُ وَجْهِيَ لِلَّذِي فَطَرَ السَّمَوَاتِ وَالْأَرْضَ حَنِيفًا وَمَا أَنَا مِنَ الْمُشْرِكِينَ

“Indeed, I have turned my face toward He who created the heavens and the earth, inclining toward truth, and I am not of those who associate others with Allah.” (An’am, 6/79)

664. Is it permissible to sacrifice the animal by stunning it with electricity or narcosis?

Islam ordered us to treat animals with care. As a matter of fact, Prophet Muhammad (saw) ordered not to torture animals while sacrificing them (Muslim, Said Wa’l-Dhaba’ih; Abu Dawud, al-Dahaya, 12).

It is essential to perform qurbani with the classical method. However, in order not to torture the animal (to reduce the pain of death), it is permissible to sacrifice the animal by applying electric shock, narcosis or a similar method. However, after the animal is stunned, its throat must be cut before it dies. If the animal dies due to shock before being sacrificed, it will not be regarded as qurbani and its meat cannot be eaten (HBRA decision dated 02.24.2010; see. Majma al-Fiqh, Kararat and Tavsiyat, decision dated 28 June-3 July 1997, p. 314-318). In order for a qurbani or meat animal to be permissible to eat, the animal must be alive at the time of slaughter (Marghinani, al-Hidayah, VII, 133).

665. Is it necessary to perform ritual prayer after performing qurbani?

Essentially, there is no such prayer as the qurbani prayer. The belief or opinion that this prayer is a religious obligation is wrong. However, a person can perform as many nafl prayers as he/she wishes for a reason or not, at a time when performing a nafl prayer is not makruh (disapproved). Since the person who performs qurbani has the opportunity to perform such a worship, he/she can perform a two-rakat nafl prayer, in order to express his/her thanks to the blessing given by Allah (swt).

666. How should one make use of the qurbani meat?

Prophet Muhammad (saw) recommended that the qurbani meat should be divided into three, one part of it to be distributed to the poor who cannot perform qurbani, one part of it to be shared with relatives, acquaintances and neighbors, and the last part should be eaten at home (Abu Dawud, Dahaya, 10). One may keep all of the qurbani meat in family (Tahawi, Sharh Ma'ani al-Athar, IV, 185). However, it would be more appropriate for the wealthy Muslims to distribute most or even all of their qurbani meat in a time when the needy is increasing in society.

According to the Shafi'i School, a small amount of the qurbani meat must be given to the poor at the least. (See. Nawawi, al-Majmu, VIII, 413).

667. How should one make use of the skin of the qurbani?

Skin of the qurbani needs to be given to a poor or donated to a charity organization. Prophet Muhammad (saw) ordered Ali (ra) in Farewell Hajj to be near the camels slaughtered as sacrifice and give the skins and the covering sheets on their backs as sadaqah (charity), not as payment for butchering (Muslim, Hajj, 348; Bukhari, Hajj, 120, 121; Abu Dawud, Manasik, 21). Accordingly, it is not permissible to sell the skins of the sacrificial animals for money and to pay for the slaughter and care of the sacrificial animal (Ibn Nujaym, al-Bahr, VIII, 203). If the skin is sold, the money needs to be given to the poor (Marghinani, al-Hidayah, VII, 165).

However, the skin can be donated to a poor person or a charity, and it is permissible to use it as a prayer rug, sieve and similar household items at home (Kasani, Bada'i, V, 81; Marghinani, al-Hidayah, VII, 164).

668. What are the inedible parts of an animal? What needs to be done with these parts?

It is makruh tahrim (disliked close to be prohibited) to eat the blood, galls, glands, urine bags, genitals and testicles of the animals whose meat is halal, whether they are sacrificed as a qurbani or for another purpose (Ibn Nujaym, al-Bahr, VIII, 553; al-Fatawa al-Hindiyyah, VI, 495).

It is stated in a hadith that Prophet Muhammad (saw) did not consider it appropriate to eat the genitals, testicles, anus, glands, gall sacs and bladders of animals that are halal to eat (Bayhaqi, al-Sunan al-Kubra, X, 12). On the other hand, according to Maliki and Shafi'i Schools, it is permissible to eat testicles of the animals that are halal to eat (Ulaysh, Sharh al-Minah, V, 8-9; Zakariyya al-Ansar Asn al-Matalib, IV, 256).

Burying the inedible parts of a qurbani or an animal slaughtered for any other purpose is a priority in terms of health and keeping the environment clean, but it can also be given to animals such as cats and dogs, provided that it does not pollute the environment.

669. Is it permissible to pay a fee to the butcher who slaughters the qurbani animal? May a portion of the meat or skin of the qurbani be given as a slaughter fee?

The act of slaughtering the qurbani animal is not a worship. Therefore, it is permissible to pay to the butcher who slaughters the qurbani animal. However, a part of the skin or meat of the qurbani cannot be given to the person who slaughters the animal. Because this means that some of the financial cost necessary to perform qurbani worship is covered by the worship itself. It is narrated that Ali (ra) stated: *“The Prophet (saw) sent me to supervise the (slaughtering of) Budn (Hadi camels) and ordered me to distribute their meat, and then he ordered me to distribute their covering sheets and skins. ‘All added, “The Prophet (saw) ordered me to supervise the slaughtering (of the Budn) and not to give anything (of their bodies) to the butcher as wages for slaughtering.”* (Bukhari, Hajj, 120-121; Muslim, Hajj, 348; Abu Dawud, Manasik, 21)

670. Is it permissible to sell the parts of the sacrificial animal such as the meat, skin and intestines?

Qurbani meat can be consumed — partially or wholly — by its owner and the household, or given as gifts and sadaqah (charity) to others, wealthy or poor (Abu Dawud, Dahaya, 10).

However, it is not permissible to sell the meat, intestines, skin, wool and milk of the sacrificial animals (Ibn Nujaym, al-Bahr, VIII, 203). Because Prophet Muhammad (saw) stated “*Those who sell the skin of the sacrifice are as if they did not perform sacrifice.*” (Bayhaqi, al-Sunan al-Kubra, IX, 496) For this reason, if the skin or meat of the qurbani is sold, the price received must be given as sadaqah (charity) (Marghinani, al-Hidayah, VII, 165).

However, the skin can be donated to a poor person or a charity organization, and it is permissible to use it as a prayer rug, sieve and similar household items at home. (Kasani, Bada'i, V, 81; Marghinani, al-Hidayah, VII, 164).

671. May a person benefit from the milk and strength of an animal that he/she has fed and decided to sacrifice?

If a person decides to perform qurbani by sacrificing an animal that he/she has bred and raised in his/her home, he/she can benefit from the animal's strength or milk. However, it is not appropriate to benefit from the milk and wool of an animal purchased to be slaughtered as qurbani. Because in this case, the animal is determined to be a qurbani from the date of purchase. If one benefits from such animal, he/she needs to give the benefiting cost as sadaqah (al-Fatawa al-Hindiyyah, V, 371; Ibn Abidin, Radd al-Muhtar, IX, 475-476).

672. Will the worship of qurbani be fulfilled by giving sadaqah (charity) instead of sacrificing an animal?

As worships have forms, conditions and rukuns (essential pillars), they have also wisdom, purpose and causes of legislation. It is not possible to consider these features in types of worship separately from each other. On the other hand, the acts of worship are performed only in the form that they are ordered (Kasani, Bada'i, V, 40). Every act of worship has its own form of performing. Qurbani worship is only performed by slaughtering the sacrificial animal in accordance with a certain method (al-Fatawa al-Hindiyyah, V, 360). It cannot be performed by donating the cost of it. Because slaughtering the animal is the essential pillar of this worship.

Because Prophet Muhammad (saw) performed this worship himself by sacrificing an animal every year after the qurbani was commanded (Bukhari, Hajj, 117, 119; Muslim, Adahi, 17).

Prophet Muhammad (saw) stated that the most lovable worship in the eyes of Allah (swt) in Eid al-Adha is performing qurbani. The

qurbani will be accepted by Allah (swt) as soon as it is performed, and every part of the sacrificial animal including its horn and nail will be recorded into thawabs (good deeds) of the one who performed qurbani (Tirmidhi, Adahi, 1; Ibn Majah, Adahi, 3).

One of the most important duties of a Muslim is to help the poor and needy and to treat them with goodness, with the intention of gaining Allah's (swt) approval. It is considered fardh (obligatory) in Islam to help someone who is in indispensable necessity. However, it is not right to consider these two different types of worship as alternative of each other. In this respect, to give the animal as sadaqah without sacrifice does not substitute to qurbani worship (Ibn Abidin, Radd al-Muhtar, IX, 454, 463). Likewise, worship of qurbani will not be performed by donating the price of the sacrificial animal to the poor or charity organizations. (Sarakhsi, al-Mabsut, XII, 13).

673. May people be partners in sacrificing the same cattle with different intentions such as offering it as aqiqah, adaq, udhiyya, and nafl?

It is not necessary for each partner to perform qurbani on the same cattle with the same purpose. Provided that each of the partners attends with the intention of worship, some may intend as sacrifice of udhiyya and others as adaq, aqiqah and nafl. (Kasani, Bada'i V, 71).

674. Is it more virtuous to sacrifice a female or male animal as qurbani?

If they meet certain conditions, bovine animals such as camels and cattle and ovine animals such as sheep and goats can be sacrificed as qurbani, regardless of their gender as determined by the hadiths and sunnah of Prophet Muhammad (saw). The gender of the sacrificial animal is not a measure of the virtue of the qurbani. However, there were some Muslim jurists stating that it was more virtuous to sacrifice a COW (Ibn Abidin, Radd al-Muhtar, IX, 466-467). It is more appropriate to evaluate this view according to the circumstances of the society and period in which those Muslim jurists lived. In a society based on agriculture, such an opinion may have been emerged considering the possibility of using the strength of a bull more. However, these views should not be regarded as an unchangeable principles of religion. These are the views introduced by taking the public interest into consideration.

Today, based on the same principle, in case the sacrifice of cows harms animal reproduction, it would be more appropriate to prefer the bull. In conclusion, the gender of the sacrificial animal is not one of the validity conditions of the qurbani worship.

675. Is there a religious basis for fasting before performing qurbani on the Eid al-Adha?

Since it is narrated that Prophet Muhammad (saw) spent the first nine days of Dhu al-Hijjah (twelfth and final month of Islamic calendar) fasting (Abu Dawud, Sawm, 62), it is mustahab (recommended, favoured) to fast on the first nine days of Dhu al-Hijjah, that is, the nine days before the Eid al-Adha. The 10th day of the month of Dhu al-Hijjah is the first day of Eid al-Adha. Fasting is prohibited in Eid al-Adha (Bukhari, Sawm, 66-67; Abu Dawud, Sawm, 48). However, it is mustahab to not eat anything from imsak time and to eat the first meal of that day from the qurbani meat. But this practice is for people who can perform qurbani on their own. In our time, Muslims who perform qurbani on ranches sometimes have their turn as late as in the evening, or even the next day. In this situation, it is not appropriate for such people to stay hungry as if fasting.

676. Does smearing the blood of qurbani animal on forehead have basis in Islam?

Smearing the blood of qurbani animal on forehead has no basis and reference in Islam. No such information is available from any reliable sources. It is understood that this practice, which is common among our people, came from other cultures. Therefore it should be abandoned.

TYPES OF QURBANI

677. What is qurbani of aqiqah?

Qurbani performed to celebrate a newborn baby for the sake of gratitude is called “*aqiqah*”. It is sunnah to perform qurbani of aqiqah. According to a narration by ibn Abbas (ra) that The Messenger of Allah (saw) performed qurbani of aqiqah for Hassan (ra) and Hussain (ra) (Abu Dawud, Dahaya, 21; Nasa’i, Aqiqah, 1), and stated in one of his hadiths: “*Every child is in pledge for his aqiqah, Sacrifice is made for him on the seventh day, his head is shaved and he is given name.*” (Abu Dawud, Dahaya, 21)

In this respect, while the qurbani of aqiqah for the child may be performed until he/she reaches to puberty, it is more virtuous to perform this on the seventh day of the birth. It is mustahab to give a name to the child on the same day and to give gold as much as the weight of the child's hair or money of the same value as sadaqah. (Ibn Rushd, Bidayah, I, 463-464).

678. What is the qurbani of shukr (gratitude)?

A qurbani performed to thank Allah (swt) for any occasion is called qurbani of shukr. A person can perform qurbani of shukr due to the achievement of a desired goal or a blessing. However, a person who achieves such a blessing does not have to perform a qurbani unless he/she has an adaq (vow) for this. In addition, according to the Hanafi School, the qurbani performed by the people who perform the "hajj al-tamattu" or the "hajj al-qiran" in the Haram region, since they performed the hajj and umrah together in the same season, is a kind of qurbani of shukr.

679. Is there a kind of qurbani called qurbani of the deceased?

In Islam, there is no type of worship called qurbani of the deceased or qurbani of the grave. However one may perform sacrifice to bestow the thawab (good deed) to the deceased.

In addition, if the inheritance left by the person who has qurbani obligation is sufficient and that person has a will regarding this matter, his/her will must be fulfilled by his/her heirs. According to the narrative from Haneesh from Tabi'un: *"I saw Ali sacrificing two rams; so I asked him: What is this? He replied. The Messenger of Allah (saw) enjoined upon me to sacrifice on his behalf, so that is what I am doing"* (Abu Dawud, Dahaya, 2; Ibn Hanbal, al-Musnad, II, 420, 423).

In this narrative, Ali (ra) showed Prophet Muhammad's (saw) bequest to him as the reason for performing qurbani. Therefore, this hadith does not indicate that a qurbani should be performed in the name of the deceased if he/she does not have a will.

According to this, if the deceased person does not have a will, his/her heirs do not have to perform qurbani for them. However, a person can donate to various charity organizations, poor and needy people, as well as perform qurbani to bestow its thawab to his deceased mother or father or other relatives.

If there is no will left by the deceased, the one who performs qurbani may give the qurbani meat to the poor and the wealthy, or he/she may consume himself/herself. However, if the deceased person left a will, the qurbani meat must be fed or distributed entirely to the poor. (Bilmen, Ilmihal, p. 395).

680. May people come together and sacrifice qurbani in the name of Prophet Muhammad (saw)?

There is no such practice in Islam. It is not permissible to see this practice as a worship that should be performed. For, it is bid'ah (innovation in religion) to regard a practice that is not conveyed by Allah (swt) and His Messenger (saw) as worship and to give it a religious characteristic. Every bid'ah is a heresy as described by Prophet Muhammad (saw) (Muslim, Jumu'ah, 43; Abu Dawud, Sunnah, 6; Tirmidhi, Ilm, 16).

The narration from Ali (ra), "*The Messenger of Allah (saw) enjoined upon me to sacrifice on his behalf, so that is what I am doing*" (Abu Dawud, Dahaya, 2; Ibn Hanbal, al-Musnad, II, 420, 423) cannot be evidence of this practice. Because Ali (ra) showed Prophet Muhammad's (saw) will to him as a reason for the performance of qurbani. Therefore, this hadith does not indicate that a qurbani should be performed in the name of the deceased if he/she does not have a will.

ISSUES RELATED TO THE PEOPLE WHO SACRIFICE THE QURBANI

681. Did Prophet Muhammad (saw) personally slaughtered a qurbani?

Qurbani worship was commanded in the second year of hijrah. It is known that Prophet Muhammad (saw) always sacrificed animal from this year until His death (Tirmidhi, Adahi, 11; see. Bukhari, Hajj, 117, 119; Muslim, Adahi, 3).

Prophet Muhammad (saw) sacrificed one hundred camels in Farewell Hajj. Ali (ra) stated, "*The Prophet (saw) offered one hundred Budn (camels) as Hadi and ordered me to distribute their meat (in charity) and I did so.*" (Bukhari, Hajj, 122) It is narrated by Anas (ra) that Prophet Muhammad (saw) sacrificed two black and white dotted rams by reciting basmalah and takbir by himself. (Bukhari, Adahi, 9).

682. May the qurbani be performed by appointing someone as wakil who lives? What is the ruling on performing qurbani on somebody else's behalf outside the city or country where the person is located?

A person can perform qurbani personally or by appointing an agent. Qurbani is a worship performed financially just like hajj and zakat; and appointing an agent is permissible in acts of worship performed financially (Kasani, Bada'i, V, 67; Mawsili, al-Ikhtiyar, IV, 263-265; Ramli, Nihayat al-Muhtaj, VIII, 132). It is narrated that Ali (ra) stated: *"The Prophet (saw) sent me to supervise the (slaughtering of) Budn (Hadi camels) and ordered me to distribute their meat, and then he ordered me to distribute their covering sheets and skins. 'All added, "The Prophet (saw) ordered me to supervise the slaughtering (of the Budn) and not to give anything (of their bodies) to the butcher as wages for slaughtering."* (Bukhari, Hajj, 120; Abu Dawud, Manasik, 19)

One may appoint someone as his agent orally and verbally, or via telephone, internet, fax and similar communication devices. The person or institution appointed as agent must fulfill his/her duty properly. The important thing in qurbani worship is that the person's intention must be for the sake of Allah (swt) and that the sacrifice offered by the appointed agent is performed in the name of the appointee.

Therefore, it is okay to perform qurbani domestically in another province or abroad. The fact that the prices of the sacrificial animals differ from the country where the qurbani is performed does not change this situation. However, if there are needy and poor people in the place where he/she live, it would be more appropriate for the person to perform and distribute his/her qurbani meat there. Because the neighbors and the poor where he/she lives have rights on him.

683. May qurbani be performed without being in the state of wudu (ablution)?

Performance of the qurbani worship takes place by slaughtering an animal that meets the necessary conditions with the intention of sacrifice. The act of slaughtering the sacrificial animal is not an act of worship. Therefore, the person who slaughter does not have to be in the state of ritual purity (the state of ablution). Similarly for this reason, it is permissible for the butcher who slaughters the sacrificial animal to receive a fee. If the the act of slaughtering the animal was a worship, the butcher should not have been paid. Because it is not permissible to

get payment for worship (Mawsili, al-Ikhtiyar, IV, 228-229). On the other hand, even if it is accepted as makruh, the sacrificial animal slaughtered by a butcher from Ahl al-Kitab (the People of the Book) is still valid (Marghinani, al-Hidayah, VII, 166).

Although it is not necessary for the butcher to be in the state of wudu, it is more virtuous for him/her to be in the state of wudu since qurbani is a means of getting closer to Allah (swt).

684. May the meat of the sacrificial animal slaughtered by a non-Muslim be eaten?

In order for the meat of the animals whose meat is eaten to be halal, the person who slaughters the animal must be someone sane with ability to discernment, be a Muslim or Ahl al-Kitab. The meat of an animal slaughtered by a person who is not from the Ahl al-Kitab such as a Majusi, an idolater or an atheist is not halal. An animal slaughtered by such people is not accepted as qurbani. (Mawsili, al-Ikhtiyar, IV, 229; al-Fatawa al-Hindiyyah, V, 370; Ibn Abidin, Radd al-Muhtar, IX, 474).

685. Is it permissible to buy sacrificial animal by credit card?

The person who is obliged to perform qurbani can buy the sacrificial animal in cash or with a credit card in a single charge or in installments. In this context, payment of the price by credit card does not constitute an obstacle regarding the validity of the qurbani. However, it is necessary to pay the credit card debt on time and not to be charged with interest due to delay in payment.

If an additional fee is paid in the event that the bank applies for deferral while buying a sacrifice with a credit card, the sacrifice is valid, but it should be avoided as there will be a separate sin due to the interest-bearing transaction.

686. May qurbani be offered by slaughtering a sacrificial animal bought with bank loan?

Qurbani is a financial act of worship to be performed by a Muslim who is mentally healthy, pubescent, resident, and has enough wealth to be considered wealthy according to religion. (Marghinani, al-Hidayah, VII, 146)

A person who performs qurbani either as wajib or as nafl can buy the sacrificial animal in cash or by taking loans. This does not hinder the validity of the qurbani. However, in the case of borrowing a loan with

interest, a person commits a sin because he/she violates the prohibition of interest-bearing trade. (See. Baqarah, 2/275-279; Muslim, Musaqat, 105, 106; Abu Dawud, Buyu', 4). It is not appropriate in Islam for those who cannot perform qurbani by their own means to resort to such methods.

687. May one buy sacrificial animal in installments?

Qurbani is an act of worship performed with the intention of getting closer to Allah (swt). This goal is achieved only by sacrificing an animal in one's possession. (Kasani, Bada'i, V, 76). Possession can take place through raising the animal personally, through a grant or inheritance, or through purchase.

Essentially, sale with deferral is permissible. (Mawsili, al-Ikhtiyar, II, 59). Installment is to delay the payment of the debt to certain moments of time in the future. (Majalla, art. 157). Accordingly, since a product purchased with installments becomes the property of the purchaser, there is no harm in sacrificing a qurbani animal bought this way.

688. May qurbani be paid out of the illegitimately earned money?

Islam guides people to engage in legitimate businesses and earn their livelihood through halal means. In spite of this, if a person has earned his/her property through haram means, he/she should seek the owner of this property while he/she is alive and return it to the owner when he/she finds him/her, and if he/she has died, his/her heirs should do the same. If they cannot find the owner of the property, they should donate it to the poor or charity organizations, without expecting thawab (Sarakhsi, al-Mabsut, XII, 172; Ibn Nujaym, al-Bahr, VIII, 229; al-Fatawa al-Hindiyyah, III, 210).

The money obtained illegitimately is not the property of that person. Therefore, it is not appropriate to perform qurbani with such money. Because financial acts of worship should be performed with halal money.

689. If a person purchases and sacrifices an animal with money donated by his son or someone else, is it considered a qurbani?

The person who is donated by his son or someone else owns this money. He/she can spend this donated money as he/she wishes. He/she can either spend it for other needs or purchase an animal and sacrifice it. This animal is accepted as qurbani (Ibn Abidin, Radd al-Muhtar, IX, 452-454).

690. What is the ruling for the poor and the wealthy who cannot perform qurbani on time because of an excuse?

A poor person who bought an animal with the intention of performing qurbani, but could not perform it on the days of Eid al-Adha, should give that live animal as charity. A wealthy person who cannot perform qurbani on the days of Eid al-Adha must give the value of a sacrificial animal as sadaqah to the poor, regardless of whether he/she purchased a sacrificial animal. (Marghinani, al-Hidayah, VII, 156).

691. What should be done if the sacrificial animal dies while it is still on safekeeping of the vendor after being sold or cannot be sacrificed for any other reason?

After the sale is completed, although given the opportunity to receive the goods, if the purchaser does not take the goods at that moment and wants them to stay with the vendor, it is deemed that the buyer has actually received the goods and then left it to the vendor. According to this rule, a sacrificial animal that is purchased and left with the vendor until the Eid al-Adha for safekeeping or feeding is considered to be entrusted with him/her. In the event that the entrusted animal is perished, the trustee will not be responsible unless there is intent, fault or negligence. Therefore, if the vendor protects the entrusted animal as it should be protected, but the animal is perished, he/she does not have to compensate the purchaser, as the animal is deemed to be perished while it was the property of the customer. (Marghinani, al-Hidayah, VI, 211). In this case, if the price for the sacrificial animal has not been paid beforehand, the purchaser must make the payment. If the purchaser of the dead animal is wealthy, he/she has to buy a new one and perform qurbani. If he/she is poor, he/she does not need to buy a new sacrificial animal and sacrifice again. (Marghinani, al-Hidayah, VII, 160; Mehmed Zihni, Nimet-i Islam, p.880)

However, if the person who was entrusted with the sacrificial animal does not protect it properly or acts negligently, and therefore if it perishes in consequence of this, he/she must compensate the animal's value. (Marghinani, al-Hidayah, VII, 160) In this case, if the owner of the sacrificial animal is wealthy, he/she will buy a new one and perform qurbani. If he/she is poor, he/she does not need to perform qurbani.

692. What should be done if the purchased sacrificial animal dies?

In the event that the purchased sacrificial animal dies before being sacrificed, a different provision will be applied depending on the financial situation of the purchaser. If the purchaser is wealthy, he/she will sacrifice another animal as qurbani. Because he/she could not perform the qurbani that is wajib upon him/her. But if he/she is poor, he/she does not need to buy a new sacrificial animal. Since qurbani worship is not wajib upon the poor, but the person has made it wajib for him/her to perform qurbani by purchasing the animal. When the animal dies, he/she is freed from wajib and it is not necessary to buy a new sacrificial animal (Marghinani, al-Hidayah, VII, 160; Kasani, Bada'i, V, 66).

693. What should a person who does not perform qurbani due to negligence do?

According to Hanafis, a person who does not perform qurbani due to reasons such as forgetting or negligence despite having the opportunity to perform qurbani must donate the value of a sacrificial animal to the poor in that year (Ibn Abidin, Radd al-Muhtar, IX, 463-465, 473; Marghinani, al-Hidayah, VII, 156), and also repent and ask Allah's forgiveness.

694. What should be done if it is learned that the person who was appointed to offer sacrifice on the person's behalf did not fulfill his/her duty?

If a wealthy person gives money to another person to perform qurbani on his/her behalf, but the receiver does not buy a sacrificial animal and spends the money elsewhere, and if the person who gave the money finds out about this situation on the days of Eid al-Adha, he/she must purchase a new animal and sacrifice it. The receiver must compensate the money he/she received. If the wealthy person finds out about this situation after the Eid al-Adha have passed, he/she does not freed from the obligation to perform qurbani. In this case, he/she must donate the value of the qurbani to the poor. (Ibn Abidin, Radd al-Muhtar, IX, 463-464).

695. May new partners be added to an animal bought as qurbani?

Those who want to perform qurbani by sacrificing cattle can be partners in it with up to seven people. Such an animal can be purchased jointly with up to seven people, or others can be added as partners

after it is purchased on condition that they do not exceed seven people. However, each share of the shared cattle should not be less than one seventh. (al-Fatawa al-Hindiyyah, V, 376).

696. If two cattle are sacrificed by more than seven people without determining their shares, and the meat is divided in a mixed manner and distributed to the shareholders after slaughtering, is this transaction permissible?

Each partner must have at least one-seventh of the sacrificial animal. In this respect, the shareholders of each cattle should determine their shares from the qurbani performed in their name.

Accordingly, it is not permissible if two cattle are sacrificed by more than seven people without determining their shares and their meat is distributed to the shareholders unorderedly, for example by dividing it into nine equal parts. However, this procedure is permissible if the number of partners who sacrifice two cattle is seven or less. Because in this practice each partner has at least one-seventh of the two animals.

697. Is it permissible for some of those who share in the cattle bought as sacrifice, to include someone else in their shares afterwards?

In the event that the number of partners of a cattle purchased as qurbani is less than seven, and some of the partners want to include another person who wants to become a partner in their shares later, if each share is less than one-seventh of the price given to the animal, this practice is not permissible. However, if each of these shares is at least one seventh or more of the price given to the sacrificial animal and the number of partners does not exceed seven, then it is permissible to accept a new partner.

For example, if five people buy a cattle as partners, and then another one wants to be partner for this animal, and four of them accept him as partner, but only one of them does not; it is permissible for that person to be partner to the shares of those four people. Because in this situation, share of each partner is more than one seventh at least (al-Fatawa al-Hindiyyah, V, 376).

698. May charity organizations that sacrifice animals on behalf of people as their agent and the people who are given surplus qurbani meat sell the meat? Can they give that meat to the butchers to take back same quantity of meat later?

In the event that it is not possible to deliver the qurbani meat to the needy, partially or completely, it is permissible to sell the qurbani meat at its current value just like their offal and give the money to the poor (Ibn Nujaym, al-Bahr, VIII, 203). According to this, the poor who are given qurbani meat can sell the surplus meat they have and spend the money on other needs. Similarly, individuals or charity organizations may give these meats to butchers in order to take back the same amount when needed, provided that it is not deficient or excessive and of the same type as the one they have given.

699. Does the fact that grocery stores sell the same amount of shares of a qurbani animal, at a cheaper price to those who have a discount card affect the validity of qurbani worship?

It is permissible for a person to sell equal shares of his/her property at different prices. This ruling is also valid for bovine qurbani animals. In this respect, the fact that some general stores sell shares of the same cattle at different prices to some customers at a discount does not affect the validity of qurbani worship.

700. Is it permissible for a person, supermarket, or company to sell an animal/a share that has not been owned by them yet as qurbani?

Selling a good, which does not exist at the time of purchase but whose qualifications are determined, for cash is called “bai‘ al-salam”. If the owner sells an animal with certain qualities that is not yet available by issuing guarantee, there is a dispute among the schools of Islamic law as this situation falls within the scope of bai‘ al-salam.

According to the Hanafi School, the bai‘ al-salam can be made on “mithli” (fungible) goods that are bought and sold by measure or weight. Animals, on the other hand, are not permissible to be sold on condition that they are delivered later (through salam) because they are considered to be “qiyami” (non-fungible) goods. Therefore, according to Hanafis, the animal whose shares are sold must exist at the time of purchase. Because it is not permissible to sell an animal that does not exist (Kasani,

Bada'i, V, 209). However, later Hanafis accepted that bai' al-salam would be valid for animals as well.

According to the Shafi'i School, when the breed, features and age of the animal are determined, the uncertainty will be eliminated to a great extent, so it is permissible to buy and sell animals through bai' al-salam (Ramli, Nihayat al-Muhtaj, IV, 203, 206).

According to this view, if the above-mentioned conditions are met, it is permissible for markets to sell the shares of animals that are not yet in their possession.

In addition, there is no harm for such organizations to sell the ovine animals or the shares of bovine animals owned by them as qurbani shares, provided that the owners of these shares are determined.

DEFECTS RELATED TO SACRIFICIAL ANIMALS

701. What qualities should sacrificial animals have?

It is important for the sacrificial animal to be healthy, to have organs completely and to be well-fed, both in terms of worship and health. Therefore, animals which are crippled ill, weak, blind in one or both eyes, one or both of their horns are broken at the root, half of their tongue, tail, ears and breasts are cut, and all or most of their teeth are lost cannot be offered as qurbani (Abu Dawud, Dahaya, 6). However, the fact that the animal is innately hornless, squint, lame, mildly ill, having a hole in an ear or a ruptured ear, and not having less than half of its breasts do not prevent it from being qurbani (Kasani, Bada'i, V, 75-76). In addition, qurbani worship cannot be performed with animals that are too crippled to go where they will be sacrificed. Accordingly, the defects that devalue the animal affect the validity of qurbani worship.

According to Shafi'i School, qurbani worship cannot be performed if one of the above-mentioned defects are present, and it is not permissible to sacrifice animals with scabies and animals whose teeth are lost to the extent that they cannot be fed. (Nawawi, al-Majmu, VIII, 399-404).

702. What is the minimum age for sacrificial animals?

The age limit of the sacrificial animals was determined by the sunnah of the Prophet Muhammad (saw) (Abu Dawud, Dahaya, 5; Nasa'i, Dahaya, 13, Ibn Majah, Adahi, 7). Within this context, in accordance with the lunar year

principle, camels must be at least 5 years old, the cattle and buffalo must be at least 2 years old, and sheep and goat must be at least 1 year old. Besides, qurbani worship can be performed by sacrificing a sheep that is 6 months old if it is so well-fed that it looks like one year old. This exception regarding sheep was made by Prophet Muhammad (saw) himself (Muslim, Adahi, 13).

However, it cannot be said that camels, cattle and goats can be sacrificed before they reach the age in question, even if they are well-fed by making a comparison to the ruling about the sheep. As a matter of fact, Prophet Muhammad (saw) said to a person who wants to perform qurbani worship by sacrificing his goat that has not reached the age of one but was well-fed like a one-year-old goat, *“Slaughter a young goat as a sacrifice, but it will not be sufficient for anybody else after you.”* (Bukhari, Adahi, 8).

703. Is it permissible to sacrifice cattle before they reach the age of two?

The age limit of the sacrificial animals was determined by the sunnah of the Prophet Muhammad (saw) (Abu Dawud, Dahaya, 5; Nasa’i, Dahaya, 13, Ibn Majah, Adahi, 7). In this context, in accordance with the lunar year principle, camels must be at least 5 years old, the cattle and buffalo must be at least 2 years old, and sheep and goat must be at least 1 year old. Besides, qurbani worship can be performed by sacrificing a sheep that is 6 months old if it is so well-fed that it looks like one year old. This exception in sheep was made by Prophet Muhammad (saw), by saying: *“Sacrifice only a grown-up animal, unless it is difficult for you, in which case sacrifice a ram (of even less than a year, but more than six months’ age).”* (Muslim, Adahi, 13)

The majority of Islamic scholars agree that this exception is only for sheep, as stated in the hadith. Some scholars such as Awza’i stated that this ruling is also valid for goats, cattle and camels (Nawai, Sharh al-Muslim, XIII, 117-118).

Today, although there are those who argue that this ruling can be valid for other animals, in accordance with the opinion of Awza’i, there is no strong evidence of this view. Because performing qurbani is a form of worship. In acts of worship, the rulings are based on textual sources (nass/revelation) not on reason (‘aql). Reasoning is out of question on matters for which there is clear textual evidence (Kasani, Bada’i, V, 69; Ibn Abidin,

Radd al-Muhtar). As a matter of fact, Prophet Muhammad (saw) said to a person who wants to perform qurbani worship by sacrificing his goat that has not reached the age of one but was well-fed like a one-year-old goat, “*Slaughter a young goat as a sacrifice, but it will not be sufficient for anybody else after you.*” (Bukhari, Adahi, 8).

In this respect, the approach that animals that are well-fed but not younger than the required age can be sacrificed by comparing them to the example of sheep is not considered accurate.

704. Is it permissible to sacrifice bovine animals that have not completed the age of two but have grown teeth?

In order for bovine animals to be sacrificed, they must complete at least two lunar years of age (Abu Dawud, Dahaya, 5; Ibn Majah, Adahi, 7; Mawsili, al-Ikhtiyar, IV, 258).

Accordingly, the fact that cattle, which are certainly known to be two years old, do not grow teeth, does not prevent these animals from becoming a qurbani. Also, cattle that have not yet reached two lunar years of age, even if their teeth are grown, cannot be sacrificed.

However, the emergence of two front teeth can be accepted as a measure for the sacrificial animal for cattle whose birth date is not known.

705. May qurbani worship be performed by sacrificing animals with a cut or pierced ear?

In order for an animal to be qurbani, that animal must not have any of the flaws that are considered as defects by humans. Prophet Muhammad (saw) stated that people must pay attention to sacrificial animals to have healthy ears and eyes (Abu Dawud, Dahaya, 6). In this regard, an animal whose ear is cut more than half is not suitable for being a qurbani. If an animal’s ear is pierced or torn, such an animal cannot be regarded as qurbani if the holes and tears constitute more than half the ear. Cuts, holes and tears that do not reach this size do not prevent the animal from becoming a qurbani (Marghinani, al-Hidayah, VII, 157; Ibn Abidin, Radd al-Muhtar, IX, 468-469).

706. May sheep without tail or with a cut tail become qurbani?

There is no harm in sacrificing sheep that are born without a tail or whose tails were docked by elastration at a young age in order to

make them well-fed. However, it is not permissible to sacrifice an animal whose tail has been cut off completely or more than half in a way to decrease its value (Ibn al-Humam, Fath, IX, 529).

707. May neutered animals be sacrificed?

Qurbani worship can be performed by sacrificing animals that have been neutered or castrated for various purposes (Kasani, Bada'i, V, 80). This situation does not constitute any deficiency for qurbani worship.

708. May an animal with defective udders become qurbani?

Defects that completely eliminate an expected benefit from the animal or disfigure the beauty of the animal prevent it from being a qurbani. Accordingly, an animal that does not have half of its udders whether innately or postnatally, cannot be qurbani. Likewise, an animal whose half of its udders go dry due to a disease cannot be qurbani. However, there is no harm in sacrificing an animal whose udders go dry regardless of a disease (al-Fatawa al-Hindiyyah, V, 368; Ibn Abidin, Radd al-Muhtar, IX, 469,470).

709. May animals be sacrificed if they are born without horns or have broken horns, or if their horns have been blunted with electricity after birth?

The defects that prevent the qurbani worship are the defects that reduce the value of the animal among its peers. Blunting the horns with special operations which conducted harmlessly in order to make them develop better is not one of the faults that reduce the value of animals.

In this respect, as it is permissible to sacrifice animals without horns from birth (Tirmidhi, Adahi, 9; Marghinani, al-Hidayah, VII, 159), it is also permissible to sacrifice animals that have been dehorned by operation when they were young, by burning their horns by electrical or chemical means, or by subjecting them to similar processes.

710. If an animal whose defect could not be detected before slaughter is found to be sick after being sacrificed and experts decide that its meat cannot be eaten, is the sacrifice religiously valid?

In order for an animal to be sacrificed, it must not contain any of the flaws that are considered as defects by custom. An animal that has a defect that prevents the qurbani worship at the time of purchase cannot

be sacrificed. If an animal without defects is bought and a defect that prevents it from being sacrificed while in the possession of the purchaser emerges, if the person is wealthy, he/she buys another animal without defects and sacrifice it. If he/she is poor, it is not needed to buy a new animal and sacrifice it (Marghinani, *al-Hidayah*, VII, 160; Kasani, *Bada'i*, V, 68; Mehmed Zihni, *Nimet-i Islam*, p. 880).

If the fact that the sacrificial animal is sick is revealed after the slaughter and its meat needs to be destroyed for health reasons, the qurbani worship is regarded as fulfilled. In addition, if the price of the sacrificial animal is recovered from the vendor after the sacrifice, the received money should be given to the poor as sadaqah. If the price of the sacrificial animal cannot be recovered from the vendor, the person does not have to perform qurbani again.

711. Is it permissible to prevent conception of sacrificial animals?

There is no harm in preventing conception of sacrificial animals if this practice is applied to animals fed for qurbani or meat. It is not considered a defect in terms of the animal being a qurbani and if it is aimed at realizing a benefit for the humans (Ibn Abidin, *Radd al-Muhtar*, IX, 557-558).

However, termination of the pregnancies of animals prepared for qurbani is an intervention to the fitrah (innate nature). By taking the principles of compassion towards animals into account, termination of the pregnancy cannot be considered appropriate by Islam.

712. Is it permissible to sacrifice a pregnant animal? What should be done if the sacrificial animal gives birth before being sacrificed?

It is not appropriate to slaughter pregnant animals either for qurbani or meat. However, if such animals are slaughtered, the qurbani worship will be fulfilled. If a pregnant animal determined to be qurbani gives birth before sacrifice, two methods may be followed: Either the offspring is sacrificed with its mother, but the owner does not eat its meat, rather gives it to the poor. If he/she eats the meat, he/she gives the monetary value of the meat to the poor as sadaqah. Or it is not slaughtered, and the offspring itself or its value is given to the poor as sadaqah (Ibn Abidin, *Radd al-Muhtar*, IX, 466,467).

If an animal is sacrificed while the offspring is in its womb, it is controversial among fiqh scholars whether the meat of this offspring

can be eaten or not. According to Imam Abu Hanifa, the meat of the offspring cannot be eaten. According to Imam Shafi'i, Imam Abu Yûsuf and Imam Muhammad, it can be eaten if the formation of its body is completed (Marghinani, al-Hidayah, VII, 153).

713. Is there any harm in sacrificing animals produced by artificial insemination as qurbani?

There is no religious objection to artificial insemination of an animal from another animal of its own kind in order to improve the animal generation and increase its productivity, and there is no harm in performing qurbani by sacrificing an animal bred in this way.



NADHR AND OATH





NADHR AND OATH

NADHR

714. What is nadhr, what is its place in Islam?

The Arabic term nadhr in Islamic legal terminology expresses “a person making an act of worship wajib upon himself even though he is not responsible with it”. In other words, it means that “*a person vows Allah (swt) to perform a fard or wajib type of worship with which he/she is not responsible for.*” (Mawsili, al-Ikhtiyar, III, 445).

It is commanded in various places in the Holy Qur’an that one needs to keep his promises, obey to his oaths and agreements (Ma’idah, 5/1; Isra, 17/34), keep his words to Allah (swt) (Nahl, 16/91) and it is advised to fulfill the vows. Also, it is considered as one of the virtues of a good believer to fulfill his vows (Insan, 76/7). In hadiths, Prophet Muhammad (saw) commanded to fulfill the vows made in obedience to Allah (swt) and not to make vows in disobedience to Him and not to fulfill them if such a vow is made. (Bukhari, Ayman, 28, 31; Muslim, Nadhr, 8; Abu Dawud, Ayman, 22). Therefore, the requirement to fulfill the vows is based on the Book, Sunnah, ijma and the intellect (Kasani, Bada’i, V, 90).

Scholars agrees that it is permissible to make vows for only gaining contentedness of Allah (swt) and thanking Him without expecting any worldly benefit. It is not considered appropriate for a person to make a vow for worldly purposes, depending on certain conditions, in the hope that it will be instrumental in the change of Allah’s will. In this respect, it is understood from Prophet Muhammad’s (saw) following and similar hadiths related to the subject that he was not take favorable to make vows with conditions as he stated: “Vow does not change the decree

destined by Allah (swt). It only decreases the wealth of a stingy.”; “*A vow does not further anything or takes back...*” (Bukhari, Ayman, 26; Muslim, Nadhr, 2)

Some Muslim jurists including imam Shafi’i and Ahmad b. Hanbal stated that fulfilling a vow whatever the type was, is considered as makruh based on aforementioned hadiths (Nawawi, al-Majmu’, VIII, 450; Ibn Qudamah, al-Mughni, XIII, 261).

However, as long as it is not for disobedience to Allah (swt), it is wajib religiously to fulfill that vows no matter what type they are (Kasani, Bada’i, V, 82).

715. What are the conditions of nadhr?

In order for a vow to be valid, there are some conditions related to both the one who makes the vow and the subject of the vow.

In order for a vow to be valid, the one who vows must be Muslim, sane and reached to puberty (Kasani, Bada’i, V, 81-82).

Conditions regarding the subject of the vow are as follows:

a) There must be a fard or wajib worship in the kind of the subject of the vow. For example, vowing to perform prayers, to fast, to give charity, or to offer a sacrifice are the examples for the subjects of a valid vow. Visiting patients and reciting mawlid cannot be the subjects of a valid vow. Customary vows such as lighting a candle, sacrificing a rooster, bonding a piece of cloth or giving away dessert and halwa have no place in Islam.

b) The subject of the vow must be of the type of worship that is aimed itself and should not be an act of worship that leads to another worship. For example, vowing to perform ablution, to recite adhan or iqamah, or to enter a mosque are examples for invalid subjects of a vow.

c) The subject of a vow cannot be a fardh or wajib act of worship that the one who vows is already responsible with. For instance, daily prayers that one is already responsible to establish and fasting in the month of Ramadan that one is responsible to observe cannot be subjects to a valid vow.

d) The subject of a vow must be actually and religiously possible and legitimate to be done; if it is a good, it needs to be in possession of the one who vows. It is invalid for a person to make a vow about a good which does not exist; and if he makes a vow about more than what he has in possession, he is only responsible as much as he possesses. However, it is valid for a person to make a vow about a good that it

is strongly possible for him to have in possession later. For example, making a vow about a good that he will have by inheritance later is an example of this kind of vow. Vow must not be about a good that belongs to another person.

e) The act vowed to be done cannot be a disobedience to Allah (swt), bi'dah, or a sin. Such vows are invalid (Kasani, Bada'i, V, 82-92; al-Fatawa al-Hindiyyah, I, 229).

Those who vow to Allah (swt) conditionally attached to the matters that they do not desire to happen need to keep their words to Allah (swt). For example, such as "I will not drink any alcohol anymore; if I drink, I will fast for a month" is valid. However, if this happens, he may fulfill the vow as how he conditioned it, or pays the atonement for breaking the oath. According to Hanafis, it is more appropriate to fulfill the atonement for breaking the oath in this situation. Because such a vow is considered an oath (Ibn Abidin, Radd al-Muhtar, V, 507, 521).

716. Is it valid to vow something as nadhr that is beyond our strength?

In order for a vow to be valid, the subject of the vow must be something actually and religiously possible and legitimate to do. (Kasani, Bada'i, V, 82-92; al-Fatawa al-Hindiyyah, I, 229). In this regard, it is not valid for a person to make a vow about a good that belongs to another person or something that he will never be able to afford. If he makes a vow about more than he has in possession, he is only responsible for as much as he has. The one who makes the vow needs to fulfill his vow with his own goods (Ibn Abidin, Radd al-Muhtar, V, 519, 525-526). If he does not have any wealth, he needs to repent and fulfill the vow when he becomes to be able to afford.

Regarding worships performed physically; those who vow to observe fasting and could not fulfill because of illness or old age must give fidyah for each day of fasting. In like manner, those who vow to observe fasting till the day he dies must fulfill the vow as long as his health condition lets, if it is not possible, he must give fidyah for each day until the last day of his life (Kasani, Bada'i, V, 91; Mawsili, al-Ikhtiyar, III, 446-447; al-Fatawa al-Hindiyyah, I, 231). If he vows to establish prayer, he must establish prayer even if it is performed by head movements just as heavily patients do. If one could not perform even this, he needs to repent. If such a person becomes able to perform his worships, he needs to fulfill his vow.

717. What is the ruling of slaughtering a votive sacrifice? Who cannot eat its meat?

For a person who vows to sacrifice, it becomes wajib to sacrifice. If the person attaches this vow to the fulfillment of a condition, he must fulfill it when this condition takes place. The one who makes the vow, spouse, usul and furu (Parents, grand parents, children and grand children of his) cannot eat from the meat of votive sacrifice and if relatives apart from these are wealthy, they cannot eat as well (Zaylai, Tabyin, VI, 8; Bilmen, ilmihal, p. 304-305). If the person who vows or one of the above mentioned ones eats the meat, he needs to give as charity the money at the same value to the poor (Ibn Nujaym, al-Bahr, VIII, 199-203).

718. May votive sacrifice be served in meetings such as wedding, etc.?

It is not permissible for the one who vows to sacrifice to eat meat of the votive sacrifice, and spouse, usul and furu (Parents, grand parents, children and grand children of his) and people who are considered as wealthy religiously cannot eat as well. (Zaylai, Tabyin, VI, 8). People apart from these and the ones who are poor in terms of Islamic law may eat meat of the sacrifice.

It is not permissible to give this meat in meetings such as wedding because there may be poor and wealthy together in such meetings. If in such occasion, one of such people eats the meat, then the one who makes the vow needs to give the money at the same value to the poor as sadaqah (Ibn Nujaym, al-Bahr, VIII, 199-203).

719. What are the qualities that are required for votive sacrifice?

The same qualifications in sacrifice animal are applied to votive sacrifice. Qualifications for sacrificial animal are as follows:

a) They need to complete certain ages. According to the basis of lunar year, it is required that camels must be at least 5 years old, the cattle and buffalo must be at least 2 years old, and sheep and goat must be at least 1 year old. In regards to the animals which has not reached to these age limits, the signs of their physical growth such as changing their teeth is not important in determining their suitability for being a sacrifice. On the other hand, a six-month or older sheep can be sacrificed if it is well-fed and looks like a one year old sheep. (Muslim, Adahi, 13).

b) It needs to be free from defects, healthy, with organs in full and well-fed. In this regard, animals which are very sick, weak, blind in one or two eyes, with one or two horns broken from the roots, whose tongue, tail, ears and half of the breasts are cut, all or most of whose teeth are fallen cannot be sacrificed. However the fact that the animal is hornless at birth, is cross-eyed, lame, mildly ill, has a pierced or torn ear, does not prevent it from being sacrificed. (Kasani, Bada'i, V, 74-76; Ibn Abidin, Radd al-Muhtar, IX, 467-470).

720. **When should the votive sacrifice be slaughtered?**

If a person vows to sacrifice subject to a condition, he must fulfill his vow at the first opportunity when the condition is realized. Vows without a condition may be performed anytime (Ibn Abidin, Radd al-Muhtar, IX, 481). However, it is appropriate to perform as soon as possible (Kasani, Bada'i, V, 94).

If one vows to offer a sacrifice on the days of Eid al-Adha, then he needs to sacrifice on the days of eid al-adha; if he vows to offer a sacrifice as hady (sacrifice in harem region), then he needs to sacrifice within harem region (Ibn Abidin, Radd al-Muhtar, V, 525). Apart from these, it is permissible to offer other votive sacrifices anytime and anywhere. Accordingly, it is not required to perform votive sacrifices only on the days of eid al-adha. Such opinions do not have any basis in the religion.

721. **May a person who vows to offer a sacrifice give this vow up?**

It is commanded in the various places in the Holy Qur'an that one needs to keep his promises, obey to his oaths and agreements (Ma'idah, 5/1; Isra, 17/34), keep his words to Allah (swt) (Nahl, 16/91) and it is advised to fulfill the vows. Also, it is considered as one of the virtues of a good believer to fulfill his vows (Insan, 76/7).

In hadiths, Prophet Muhammad (saw) commanded to fulfill the vows made in obedience to Allah (swt) and not to make vows in disobedience to Him and not to fulfill them if such a vow is made. (Bukhari, Ayman, 28, 31; Muslim, Nadhr, 8).

In this respect, if a person vows to offer a sacrifice for something he wants to happen, he has to fulfill his vow depending on the realization of that thing. Renunciation of a vow does not free the person from the responsibility. However, if the vow is of a kind that requires financial

means, the person fulfills it when his financial means are available. (See. Kasani, Bada'i, VI, 93).

722. Is it a requirement for a person who vows to sacrifice a ram to sacrifice a ram? May he be partner in sacrificing a cattle?

A person who made vows to sacrifice a ram may sacrifice a ram, or sheep or goat. Because these are considered as the same kind. Also he may become a partner to a cattle to be sacrificed with intention of worshipping and thus may fulfill his vow. Because the goal is to sacrifice. In this way, the purpose is fulfilled. However, if a person vows to sacrifice a cattle may not sacrifice a sheep to fulfill his vow (Ibn Abidin, Radd al-Muhtar, IX, 457, 463-464).

A person who vows without describing the kind as "I will sacrifice an animal," he may sacrifice any kind of sacrificial animal or may become a partner to sacrificial cattle (Kasani, Bada'i V, 93; Ala'uddin, Hadiyyat al-Alaiyya, p. 142).

723. Should a person who vows to sacrifice an animal in his dream fulfill this vow?

Dreams of people apart from the prophets neither mean an exact judgment nor are binding (Dimiyati, Hashiyat al-anat al-talibin, I, 104). In this regard, a person who vows to sacrifice an animal in his dream does not have to fulfill this vow.

724. How many animals should a person who vows to offer a sacrifice by saying, "I will sacrifice an animal if my child is born healthily" sacrifice if he has twin children?

A vow made by saying "I will sacrifice an animal if my child is born healthily" an absolute vow or a vow without a condition. Because in this expression, terms of "child" and "sacrifice" are used without any limitations. In this regard, this person may fulfill his vow by sacrificing any sacrificial animal regardless of the number of children born.

725. If two or more people vow to offer sacrifice regarding the same subject, should each of them sacrifice animal separately?

If two persons vow to offer sacrifice without being aware of each other on the same subject, each of them needs to fulfill their vows separately. Because each of them are independent individuals and the

fact that one of them fulfills his vow does not free the other from the responsibility.

If two or more people come together and vow to offer a sacrifice as “lets sacrifice a sheep together,” their vow is valid, but the condition to be partners is invalid (Ibn Abidin, Radd al-Muhtar, V, 516-517). In this case, by vowing to offer a sacrifice together, each one of them will separately be responsible to offer a sacrifice. Because, when the word sacrifice is used, at least a sheep or goat comes to mind. A sheep or goat can be sacrificed by only one person; Sacrificing it by two or more people is not valid.

726. Is the nadhr of a person who vows to donate to a certain charity or poor person, but donates to another charity or another poor person deemed as fulfilled?

The conditions attached to a vow regarding the person to whom the vow will be fulfilled, place and direction are not binding. In this regard, when a person vows to donate to a certain charity or poor person but donates to another charity or poor person, his vow will be fulfilled (Kasani, Bada'i, V, 86, 93; Ibn Abidin, Radd al-Muhtar, V, 524, 526; Ala'uddin, Hadiyyat al-Alaiyya, p. 143).

727. May one vow a nadhr for tombs?

Acts of worship are performed for Allah (swt). Vowing also has a meaning of worship, so it needs to be performed for Allah (swt). With this reason, it is not permissible to vow for tombs or deceased people. Therefore, such vows are invalid (Ibn Qudamah, al-Mughni, XIII, 643).

728. What is the judgment on vowing to fast for one year or more?

A person who vows to fast for one year or more needs to fulfill this vow. However, it is forbidden to fast in days when it is forbidden such as four days of eid al-adha and the first day of Ramadan eid, and for women, when they are menstruating; and for these unobserved fasting, qada is required (Ibn Nujaym, al-Bahr, II, 318).

If a person who vows to fast for one year consecutively, because Ramadan will be included, he does not need to perform qada as many as Ramadan fasting separately. Because, Ramadan is more prioritized duty than a vow. The expression of “I will fast” covers Ramadan. However, if the vow is not limited with the condition of being consecutively, he

needs to fast as the fardh days that he fasted in Ramadan separately (Zaylai, Tabyin, I, 346).

A person who becomes incapable of fasting after vowing to fast needs to pay a fidyah for each day. If he is unable to do so, he asks Allah (swt) for forgiveness. (Kasani, Bada'i, V, 91).

729. Is it a requirement for a person who vows to fast more than once to observe these fastings consecutively?

Vow (nadhr) means that a person vows Allah (swt) to perform a fard or wajib type of worship with which he/she is not responsible for and makes it an obligation upon himself. That is because it is wajib to fulfill a vow made properly.

In this regard, when a person vows to fast for thirty days, it becomes wajib upon him to fast for thirty days. If he vows to fast consecutively, he needs to fast consecutively. If there is no such condition, he may fast as he wishes (Sarakhsi, al-Mabsut, III, 94).

730. If certain conditions related to time, place and other qualifications are attached to a vow, do such conditions become binding?

Absolute vows or the vows which are not limited by any condition or time need to be fulfilled as soon as possible after the moment of making the vow. Vows with a condition needs to be fulfilled when the condition realizes. If a vow is limited by a condition such as "if such and such thing happens, I will fast for three days" is fulfilled before that condition happens, the vow will not be fulfilled and that worship will be accepted as nafl. The vow needs to be fulfilled again when the condition realizes (Ibn Abidin, Radd al-Muhtar, V, 524-525).

Vows that are not conditional but tied to a future time can also be fulfilled in earlier than that specific future time, regardless of the time limitation. Because even if the time does not come, since the vow has already become a responsibility of that person, fulfilling it beforehand replaces it when the time comes. (Kasani, Bada'i, V, 93).

According to imam Muhammad, Shafi'i and Hanbali school, this judgment is accurate in regards to for financial worships such as sadaqah, but vows to perform physical acts of worship such as ritual prayer or fasting that are tied to a future time do not fall from one's responsibility when they are performed before the time attached to it

comes. Because it is possible to assign these worships to a certain time. Therefore attaching a time as a condition is binding (Nawawi, al-Majmu', VIII, 479).

As for the vows without a determined time, a person may fulfill it anytime; if he dies before fulfilling it, he becomes responsible. Because nobody knows when to die, it is better to fulfill the vow as soon as possible (Kasani, Bada'i, V, 94). Because vow is a kind of worship and prudence in acts of worship is important, and it is more appropriate to obey the time in vows with a determined time.

Conditions related to the places attached to vows are not binding. A vow with a determined place may be fulfilled at another place. Because, purpose of adaq is desire to be close to Allah (swt). And place has no effect on whether something is a worship or not (Kasani, Bada'i, V, 93).

Some Muslim scholars had different opinions varying according to the kinds of worships. It would be more cautious to obey to the conditions related to the place attached to the vows about giving sadaqah, and if only Masjid al-Haram, Masjid al-Nabawi and Masjid al-Aqsa are attached to vows about ritual prayer as a condition. The conditions related to the places apart from these are not binding (Nawawi, al-Majmu, VIII, 474-475; Buhuti, Kashshaf, IX, 3181).

What is made as vow must be fulfilled in its own kind. For example, if a person vows to perform a number of nafl prayers, he may not observe fasting in the same number to fulfill his vow (Kasani, Bada'i, V, 92). If there is a replacement of the vowed worship and the one who vows becomes unable to fulfill that worship, he may perform the replacement worship instead. For example, if a person who vows to fast as fasting becomes unable to fast, he may pay fidyah instead.

If a person who vows to give sadaqah pays the value of what he vowed, he thus fulfills his vow. For example, a person who vows to give clothes or an animal as sadaqah may give these in kind or their value in cash (Ibn Nujaym, al-Bahr, VIII, 504).

In vows about giving sadaqah, the conditions related to the person or direction to which the charity will be given are not binding. If a person who vows by saying "I will give this money in my hand to this person" gives another money at the same amount to another poor, the vow will be fulfilled (al-Fatawa al-Hindiyyah, II, 74; Ibn Abidin, Radd al-Muhtar, V, 525).

OATH AND ITS KAFFARAH

731. What does oath mean, what is the religious judgment of it?

Yamin, which literally means “strength, right hand”, terminologically means means to strengthen one’s word by mentioning Allah’s name or one of His attributes. For example, statements such as “Wallahi (by Allah) I will not do that” or “Billahi (by Allah) I will not go there” are oaths.

Even though taking oath is a permissible act, it is not appropriate to take an oath unnecessarily and making it a habit.

A person who takes oath to do or not to do a thing which is possible or legitimate to do needs to fulfill this oath (Ibn Abidin, Radd al-Muhtar, V, 470-471).

Regarding keeping the promises, it is stated in the Qur’an as “*But keep to your oaths*” (Ma’idah, 5/89), “*Fulfill the Covenant of Allah when ye have entered into it. And break not your oaths after ye have confirmed them. For Allah knoweth all that ye do.*” (Nahl, 16/91) In this respect, a Muslim must not take an oath, and if he has taken an oath, this means keeping Allah as a witness, so he must abide by his oath.

732. How many types of oath are there?

There are three types of oath. These are Yamin al-Laghv, Yamin al-Ghamus and Yamin Mun’akidah:

a) Yamin al-Laghv; It is an oath taken as habit or made by assuming that something is true. What is accepted as Yamin al-Laghv is that a person says “Wallahi, I saw him” even though he did not see, but thought so or saying the statements of oath without the intention of oath. Kaffarah is not required for such oaths. It is stated in the Qur’an that a person may not be considered responsible for oaths said unintentionally (Baqarah, 2/225; Ma’idah, 5/89). However, those who take oaths often because of habit need to try to change this habit of theirs.

b) Yamin al-Ghamus; It is an oath taken as false. It is that a person intentionally takes an oath that something did not happen or did happen even though the truth is the contrary. This is one of the greatest sins (Bukhari, Ayman, 16; Muslim, iman, 220). According to Hanafis, such oath cannot be compensated by kaffarah. A person who takes an oath in this way, knowingly and mentioning the name of Allah, must ask Allah’s forgiveness, regretfully, so that he does not make such a mistake again. A person who causes harm to someone else due to a false oath that he

takes should compensate for this damage and seek forgiveness from the one whom he has harmed.

c) Yamin Mun'akidah; It is an oath taken to do or not to do something which is possible and will take place in the future. Someone's taking an oath saying that he will do or not to do something is an example for this type of oath. This oath needs to be taken with one of the names of Allah (swt) or His attributes or with words that customarily mean oath. (Ibn Abidin, Radd al-Muhtar, V, 478, 481-486). The person who takes this type of oath must fulfill the oath he has taken, unless he intends to do something that is forbidden by Islam or to abandon something that is ordered by Islam. If he breaks his oath, he pays kaffarah (atonement). (Marghinani, al-Hidayah, IV, 13).

733. What is the ruling of an oath taken unintentionally just as a habit?

Even though taking oath is a permissible act, it is not appropriate to take an oath unnecessarily and making it a habit. It is stated in the Holy Qur'an that taking oath often is one of the things that Allah (swt) does not see favorable as "*Heed not the type of despicable men ready with oaths.*" (Qalam, 68/10)

Phrases such as "Wallahi" and "Billahi" said as a habit, without the intention to do or not to do something, are considered Laghw (void), as well as the oaths taken without the intention of lying but rather because of a misunderstanding of a case is also considered as Laghw. It is stated in the Qur'an "*Allah will not call you to account for what is futile in your oaths,*" (Ma'idah, 5/89) and it is stated that kaffarah is not required for such oaths. However, those who take oaths often because of habit need to try to change this bad habit of theirs as soon as possible.

Even if there is no any intention, all oaths about something in future fall within the scope of Mun'akidah oaths and if it is not fulfilled, kaffarah is required. Therefore, even if these oaths are taken unintentionally, they are not considered as Laghw (Marghinani, al-Hidayah, IV, 5).

734. How can one fulfill the kaffarah of an oath?

No matter how it happens, those who break a mun'akidah oath need to pay kaffarah for the broken oath. The atonement (kaffarah) for oath is as follows in the following order: to give ten poor one fitrah (sadaqah al-fitr) for each, or to give one poor ten fitrah in lump sum, or to have

ten poor fed day and night or clothed. Those who cannot afford this need to fast for three days consecutively. This kaffarah and their order are mentioned in the Qur'an (Ma'idah, 5/89).

735. What should a person who cannot fulfill the kaffarah of an oath do?

A person who cannot fulfill the kaffarah of an oath delays the kaffarah and fulfills it at the first opportunity he gets (Kasani, Bada'i, V, 11). However, the person who dies without fulfilling his atonement, If he has willed, the atonement is paid out of his inheritance. If he has not willed, his heirs can pay for this atonement of their own accord. (Kasani, Bada'i, V, 96).

736. Should one pay separate atonements for each broken oath or would one single atonement be enough for all of them?

There are several types of taking oaths more than once and breaking them:

a) If a person takes oaths more than once whether it is one after another or at different times and mentions to do or not to do something for each oath different from each other, according to majority of Muslim jurists, kaffarah is required for each oath separately because of violation of each oath. For example, expressions such as "Wallahi, I will not enter this person's house," "Wallahi, I will not speak to him" are separate oaths. Breaking the oath of not entering that person's house requires kaffarah, and in like manner, speaking to that person requires another kaffarah separately.

Although the view attributed to Ahmed ibn Hanbal and Imam Muhammad that one atonement would be sufficient has been mentioned in some books of Islamic law (Ibn Abidin, Radd al-Muhtar, V, 486, 487), this is a view that is not included in other Hanafi sources, especially early ones, and there are some doubts about its authenticity. High Board of Religious Affairs decided that if such oaths are broken, then kaffarah is required for each broken oath separately (HBRA 28.05.1952 dated decision).

b) In a statement of oath, if one mentions the name of Allah (swt) once but says more than once what to do and not to do and even if these are broken altogether, one kaffarah would be enough for all of them. For example, if one says "Wallahi, I will not eat this and drink that," and breaks the oath by eating and drinking those, only one kaffarah is required.

c) If a person repeats the statement of oath such as “Wallahi, I will not do this,” and “Wallahi, I will not do this,” and breaks this oath later, according to the accepted opinion of Hanafi school, the more it is repeated, the more kaffarah is required. It does not change this judgment if this repeated oath is taken at one time and place or different times and places.

According to the accepted opinion of Maliki, Shafi’i and Hanbali schools and some of Hanafis, one kaffarah is enough.

d) In a statement of oath, if one mentions the subject of the oath once and repeats the name of Allah (swt) or uses different names of Him, according to some Hanafi jurists, every repeat with usage of a conjunction letter is considered different oaths and if the oath is broken, kaffarah is required for each. According to some of Hanafi jurists, especially Imam Muhammad, and majority of scholars from Maliki, Shafi’i and Hanbali schools, it is considered one oath whether there is a conjunction letter or not and if it is broken, one kaffarah is enough (Sahnun, al-Mudawwana, I, 589-590; Ibn Qudamah, al-Mughni, XIII, 474; Kasani Bada’i, III, 9-10).

737. If a person who pays atonement for an oath swears again on the same subject and breaks his oath again, should he pay a new atonement for it?

An atonement paid and dropped from the responsibility in the past will not cover the faults to be done in the future. For this reason, if one pays kaffarah of an oath, takes another oath on the same subject, and breaks his oath once again, he needs to pay kaffarah once again. Because breaking an oath is a reason for kaffarah (Ma’idah, 5/89; see. Kasani, Bada’i, III, 18-20). If a person who takes an oath and breaks it, and takes the same oath before paying the kaffarah for the first and breaks this one as well need to pay only one kaffarah for the both.

738. What should a person who took an oath for not fulfilling a religious command or for committing a haram action do?

It is not an appropriate act to a Muslim to take an oath so as not to perform a fardh or wajib, or to commit a haram. Allah (swt) states in the Qur’an as, “*And make not Allah’s (name) an excuse in your oaths against doing good, or acting rightly, or making peace between persons. for Allah is One Who heareth and knoweth all things.*” (Baqarah, 2/224)

However, if a person takes such oath, he needs to break the oath and pay kaffarah for this oath (Marghinani, al-Hidayah, IV, 13). In a related Hadith, Prophet Muhammad (saw) stated as *“If a person takes an oath and finds what is more virtuous than it, let him break his oath and pay kaffarat.”* (Muslim, Ayman, 11-17)

739. What is the status of a woman who takes oath not to enter in the house of her husband?

A person who takes an oath so as not to do something needs to fulfill the oath and should not do that unless it is a command of Islam. However, if he fulfills his oath and accordingly it leads to a sin or unperforming a duty or good deed, he should break the oath and pay kaffarat (Marghinani, al-Hidayah, IV, 13).

The verse *“Let not those among you who are endued with grace and amplitude of means resolve by oath against helping their kinsmen, those in want, and those who have left their homes in Allah’s cause. Let them forgive and overlook”* (Nur, 24/22) and the sayings of Prophet Muhammad (saw) as *“If a person takes an oath and finds what is more virtuous than it, let him break his oath and pay kaffarah.”* (Bukhari, Ayman, 1; Muslim, Ayman, 3, 11-17) and *“If I take an oath and find what is more virtuous than it, I perform the one that is more virtuous and break the oath.”* (Bukhari, Humus, 15)

In this regard, a woman who takes an oath not to go to her husband’s house breaks her oath by going her husband’s house because this oath contradicts with her responsibilities as a wife, then pays kaffarah for oath and ask the forgiveness of Allah (swt).

740. Are the phrases of oath that do not match with common phrases of taking an oath but have been produced by public and have become a custom valid as an oath?

Oath is taken by mentioning one of the names of Allah (swt). Expressions such as “Wallahi, Billahi, Tallahi, Allah witnesses, by Allah, I swear by the name of Allah” fall within the scope (Marghinani, al-Hidayah, IV, 6-7).

Custom of a community is taken as measurement whether statements which do not consist of one of the names of Allah (swt) such as “For Mushaf’s rights, for Qur’an’s rights” are considered as oath or not (Sarakhsi, al-Mabsut, VII, 24; al-Fatawa al-Hindiyyah, II, 60). Therefore, every word which is not

forbidden by Islam and has customarily been turned into an oath can be considered an oath (Ayni, al-Binaya, VI, 79).

741. What is judgment on a person's saying, "If I do this, I will deny Allah", "I will become apostate" or "I will become a disbeliever"?

A person who says "may I become someone who denies Allah if I do such and such," "may I be a disbeliever" with the intention of taking oath is considered taken oath. If he does the action about which he took the oath, he needs to pay kaffarah. However, if the person who says such statements believes that if he does that, he will become a disbeliever and does that despite knowing this, he will convert out of the religion. Because, it means he willingly did that by not keeping his promise (Marghinani, al-Hidayah, IV, 10). In such a case, he needs to repent, ask forgiveness from Allah and renew his iman and convert back to Islam again (Ibn Abidin, Radd al-Muhtar, V, 486, 490-493; VI, 390-391).

742. If a person takes an oath or vows to do something in his mind, do such cases necessitate the provisions of the oath and vows?

According to the principles of Islam, one cannot be responsible just by thinking and planning. Declaration of intention is required to be responsible.

In this respect, in order for the oath and the vow to be valid, they must be pronounced with the tongue. Provisions of oath and vows are not formed by simply passing through it in mind without pronouncing it. (Kasani, Bada'i, III, 5; V, 81-82; Nawawi, al-Majmu', VIII, 434; Dimiyati, I'anat al-Talibin, II, 412).



DUA, TAWBAH, DHIKR,
AND THE QUR'AN





DUA, TAWBAH, DHIKR, AND THE QUR'AN

DUA

743. **What is the importance of dhikr and how should one make dua?**

Lexical meaning of dua is “to call, address, demand, and ask for help”. In Islamic terminology, it is man’s turning to Allah with his whole being and presenting his material and spiritual wishes to Him (swt). As it is based on a human’s submitting his state to Allah and supplicating to Him, dua is a connection between Allah and a servant.

Dua always bears the meaning of honoring (glorifying Allah) and of demanding something along with this honoring. Dua is dhikr and worship at the same time. Therefore, two elements, one of which is dhikr and respect and the other is demand, are always included in dua. For this reason, Prophet Muhammad (saw) said, “*Dua is the essence of worship.*” (Tirmidhi, Da’awat, 2). For the same reason, ritual prayer, which is the most important act of worship, is expressed with the word dua (salat) (An’am, 6/52; Kahf, 18/28). In another verse it is stated, “*Say (to the rejecters): “My Lord is not uneasy because of you if ye call not on Him: But ye have indeed rejected (Him) and soon will come the inevitable (punishment).”*” (Furqan, 25/77) and expressed that humans can only gain value by means of turning to Allah. It is emphasized in the Holy Qur’an persistently to submit duas only to Allah and not to make dua and perform worship to anyone other than Allah, for idols or other creatures to which superior qualities are attached (Shu’ara, 26/213; Qasas, 28/88).

744. Are there prerequisites for acceptance of duas?

It is asked to abide by the following principles in order for a dua to be accepted:

a) One should repent and ask for forgiveness before dua. Dua of a servant who commits sin and does not stay away from haram does not deserve to be accepted. The following hadith of Prophet Muhammad (saw) draws attention to this matter, “*A person who goes on expeditions in the way of Allah and has dust on his clothes and body raises his hands and begs by saying, ‘O My Allah, O My Allah. in fact, what he eats and drinks is haram, what he wears is haram, and his food is haram. How can dua of such person be accepted?’*” (Muslim, Zakat, 65; Tirmidhi, Tafsir al-Qur’an, 3)

b) One should start making dua with praising Allah and sending peace and blessings to Prophet Muhammad (saw) and should conclude it again with sending peace and blessings to Prophet Muhammad (saw) and praising Allah. According to the narrative related by Fudala ibn Ubaid (ra), he said, “*While the Messenger of Allah (saw) was sitting in masjid, a man came, established prayer, and then made this dua: O My Allah, forgive me, have pity on me. Upon this, the Messenger of Allah (saw) said, ‘O ye who establishes prayer, you rushed, when you sit after finishing your prayer, praise to Allah duly, then give salat and salam to me, and then make your dua.’ Another person established prayer after this event. After prayer he praised to Allah and give salat and salam to Prophet Muhammad (saw). He did nothing more. Upon this, the Messenger of Allah (saw) told him, ‘O ye who establishes prayer! Make dua, so your dua is accepted.’*” (Tirmidhi, Da’awat, 66; Nasa’i, Sahw, 48)

c) Dua should be made sincerely, with modesty, and by begging. It is stated in a verse, “*Call on your Lord with humility and in private: For Allah loveth not those who trespass beyond bounds.*” (A’raf, 7/55)

d) One should make dua insistently. A believer should not be impetuous about his prayer’s being accepted. Prophet Muhammad (saw) says, “*Unless any of you becomes impetuous by saying ‘i prayed but it has not been accepted’, his dua is accepted.*” (Tirmidhi, Daawat, 12).

e) One should make dua in hope and fear. It is stated in the Holy Qur’an, “*These (three) were ever quick in emulation in good works; they used to call on us with love and reverence, and humble themselves before us.*” (Anbiya, 21/90)

f) One should also be careful about the time of dua. Although one may make dua all the time, there are certain times in which duas are

accepted quicker. The last part of night before dawn is one of such times. Allah the Almighty praises those who make dua, perform worship, and ask for forgiveness at nights and says in the Holy Qur'an, "*They were in the habit of sleeping but little by night. And in the early hours of dawn, they (were found) praying for forgiveness.*" (Dhariyat, 51/17-18). When he was asked, "*O the Messenger of Allah, which dua is more accepted?*", Prophet Muhammad (saw) said, "*It is the dua made at midnight and after fardh prayers.*" (Tirmidhi, Da'awat, 80).

745. What is the nature of verses of dua that take place in the Qur'an?

There are a lot of verses related to dua in the Holy Qur'an. Around two hundred verses are directly about dua. Moreover, there are a great number of verses which express a servant's turning to Allah and his demands from Him and are related to dua in broad sense. People are commanded to make dua to Allah in some of the verses related to this subject and the procedure, custom, and effects of dua are explained (Baqarah 2/186; Nisa 4/32; A'raf, 7/29, 55, 180; Yusuf, 12/86; Mu'min, 40/60). It is stated in some verses that duas made without complying with its conditions will not be accepted (Baqarah, 2/200; Yunus, 10/12, 22, 106; Isra, 17/11; Mu'minun, 23/ 99-100; Qasas, 28/88; Fussilat, 41/51). Majority of the verses in this group tell about beggings of those who avoid from recognizing Allah and His judgments when they are alive on earth but will be sorry when they face with their bitter fate in the Hereafter and wish to be sent to the world again. More than 100 verses include the duas of prophets and other faithful people or communities.

Some surahs and verses are in the nature of sample dua texts. Surah al-Fatiha is a good example of this. The dua in the 201th verse of Surah al-Baqarah, which means, "*O our Lord! Give us good in this world and good in the Hereafter and defend us from the torment of the fire!*" is the dua recited most after Fatiha.

Anas ibn Malik said that Prophet Muhammad (saw) recited this dua most while making dua (Bukhari, Da'awat, 55) and advised people to recite it (Muslim, Dhikr, 23). It is seen in verses 8-9, 16, 53, 191-194 of Surah Al-i 'Imran and in verse 74 of Surah al-Furqan that it is recited with intention of dua. Verses 35-41 that include the dua of Prophet Ibrahim in Surah Ibrahim, and especially verse 41, which means, "*O Lord! Cover (us) with thy forgiveness - me, my parents, and (all) believers on the day*

that the reckoning will be established!” are the verses of dua that are recited often. Dua of the Prophet Musa in Surah Ta-Ha (Ta-Ha, 20/25-35) is one of the examples of dua in the Holy Qur’an, especially with its short, vivid, harmonious, and effective sentences. In these verses, the dua is made with expressions of, “*O My Lord! Expand me my breast; ease my task for me; and remove the impediment from my speech so they may understand what i say.*” In the Holy Qur’an, the sentences of dua have a different tone. In these verses, it is seen that Prophet Ayyub did not ask anything in his duas from Allah but only presented his situation to Allah although he had a fatal disease and faced with calamities (Anbiya, 21/83-84; Sad, 38/41). Muslim scholars evaluate his attitude as the most beautiful example of the virtue of patience and manner of servitude (“Dua”, DĪA, II, 536).

746. How should hands be positioned while making dua? Is there a religious basis for rubbing hands on face after dua?

Holding hands with palms facing upward (toward the sky) and separately is a condition suitable to the meaning of demand and supplication. The reason for raising hands up to the sky is not because Allah is in the sky or in a specific place, but because skies represent supremacy and magnificence. Prophet Muhammad (saw) would raise his hands high enough to show the whiteness of his armpit while making dua (Bukhari, Da’awat, 23). He (saw) says, “*Pray to Allah with palms facing not downward but upward. When you finish dua, rub your hands on your face.*” (Ibn Majah, Dua, 13). However, it was narrated that Prophet Muhammad (saw) made dua with his palms facing downward during troubles and calamities (Ahmad ibn Hanbal, al-Musnad, XVII, 98; Azimabadi, Awn al-Ma’bud, IV, 251).

It was also reported that Prophet Muhammad (saw) made dua without raising his hands up (Ahmad ibn. Hanbal, al-Musnad, XXI, 231).

The distance between hands that are raised to the level of shoulders during dua (Bukhari, Da’awat, 23) should be normal. The narrative, “Prophet Muhammad (saw) brought his hands together during dua.” was interpreted as “*He aligned his hands; he did not hold one below and the other above.*” (Tahtawi, Hashiyah, p. 317-318). However, it is possible to keep the hands together. The important point is not to be bigoted about this issue.

Rubbing hands to face after prayers or in other times is sunnah when one raises hands in dua (Ibn Majah, Dua, 13). One does not need to rub his

hands to his face when he prays without raising hands (Tahtawi, Hashiyah, 318).

747. **Can we always make dua? Are there special times to make dua?**

According to the religion of Islam, there is no special time and place that are allocated to make dua. One may make dua everywhere and everytime. Because it is stated in the Holy Qur'an, "*So (give) glory to Allah, when ye reach eventide and when ye rise in the morning; Yea, to Him be praise, in the heavens and on earth; and in the late afternoon and when the day begins to decline.*" (Rum, 30/17-18) and the importance of distributing worship and dua within a day is emphasized. However, duas that are made at night and at dawn are more acceptable as it is understood from the Qur'an and hadiths (Tirmidhi, Da'awat, 80). The glad tidings for those who are going to enter Heaven is announced in Surah Al-i 'Imran as follows, "*(Namely), those who say; 'Our Lord! We have indeed believed: forgive us, then, our sins, and save us from the agony of the fire.' Those who show patience, firmness and self-control; who are true (in word and deed); who worship devoutly; who spend (in the way of Allah); and who pray for forgiveness in the early hours of morning.*" In another verse, it is stated as follows, "*They were in the habit of sleeping but little by night, And in the hours of early dawn, they (were found) praying for forgiveness.*" (Dhariyat, 51/17-18)

It is declared in hadiths that duas that are made at Ramadan nights, during Arafat waqfah, at nights, when adhan is recited and iqamat is recited, and at the end of fardh prayers will be accepted (Muslim, Salat al-Musafirin, 166; Tirmidhi, Da'awat, 80, 139; Ibn Majah, Siyam, 48).

748. **Is it permissible to make dua while lying down?**

It is permissible to remember Allah and make dua by standing, sitting, or lying down. It is expressed in the Holy Qur'an, "*Men who celebrate the praises of Allah, standing, sitting, and lying down on their sides.*" (Al-i 'Imran, 3/191). As narrated from Bara ibn Azib (ra), Prophet Muhammad (saw) used to lie down on his right side in bed and make the following dua,

اللَّهُمَّ أَسْلَمْتُ وَجْهِي إِلَيْكَ ، وَفَوَّضْتُ أَمْرِي إِلَيْكَ ، وَأَلْجَأْتُ ظَهْرِي إِلَيْكَ ، رَغْبَةً
 وَرَهْبَةً إِلَيْكَ ، لَا مَلْجَأَ وَلَا مَنجَا مِنْكَ إِلَّا إِلَيْكَ ، اللَّهُمَّ آمَنْتُ بِكِتَابِكَ الَّذِي
 أَنْزَلْتَ ، وَبِنَبِيِّكَ الَّذِي أَرْسَلْتَ

“O, Allah! I have submitted myself to You. I have turned my face to You. I have asked for my wish from You. I have leaned on You and have taken refuge in You by fearing from your wrath and asking for your consent. There is no shelter against you but You again. I have believed in the Book You sent down and the Prophet You sent.” (Bukhari, Wudu, 75; Muslim, Dhikr, 56-58).

The same companion said that the Messenger of Allah (saw) told him, “Before getting in bed, perform ablution like you do before prayers and then lie down on your right side and recite this dua and make this dua your last words before sleep.” (Bukhari, Wudu, 75; Muslim, Dhikr, 56).

749. What does the word “ameen” said at the end of duas mean? What is the religious basis for it?

Ameen means “may you accept it”. Saying “ameen” after duas is practised as it is sunnah. Prophet Muhammad (saw) told, “When imam says ‘ameen’ you say ‘ameen’ too. Because past sins of those who say ‘ameen’ at the same time with angels are forgiven.” (Bukhari, adhan, 111-112; Muslim, Salat, 62, 87).

It is also sunnah to say ‘ameen’ after reciting Surah al-Fatiha in prayer (Ibn Majah, Iqamat, 14).

750. Should we make dua and dhikr silently or loudly?

It is among the manners of dua to make it in a low voice by being sorrowful and in submission (by begging). Because it is said in the Holy Qur’an, “Call on your Lord with humility and in private...” (A’raf, 7/ 55). However, although one may make dua in a loud voice as long as it is sincere and in private, it is better to do it silently. Prophet Muhammad (saw) said to a group of companions who started to recite takbir and tahlil loudly during a travel, “O people! Have mercy on you; you make dua neither to a person who cannot hear nor to a person who is far away. Undoubtedly, you are praying to a person who is close to you, He is with you.” (Bukhari, Jihad 131; Muslim, Dhikr, 44; Abu Dawud, Witr, 26).

751. What does actional dua mean?

Allah gave specific reasons to all events that will occur in the universe. Everything both in this world and the universe we live in is shaped according to the cause-effect (law and rule) relations determined by Allah. A person who wishes to obtain the thing he desires needs to fulfill its causes too. For example, marriage of a person who wants to have a child or a student's studying to be successful in an exam are deemed as actual duas.

A person completes the causes and laws that are taught to him by Allah as much as he can and then waits its effect from Allah so that his wish can be realized. The meaning of the verse of, "*That man can have nothing but what he strives for.*" (Najm, 53/39) draws attention to the relation between people's working and the effects they will see and points out that this work means an actual dua. The expression of, "Add some tar medicine into your dua..." which is told to a person whose animal is sick and but who only makes dua for its recovery, is a good example of actual dua.

Just like it is wrong to only make dua for realization of something and do nothing actually for it, it is also wrong to take all the necessary precautions and do studies, that is to say, to make actual dua but not to make verbal dua afterwards by saying, "I completed this job."

752. What is the religious judgment of dua of adhan and how is it made?

It is sunnah to send peace and blessings to Prophet Muhammad (saw) and it is mandub (commendable) to make dua of occasion after adhan (Ibn Abidin, Radd al-Muhtar, II, 67, 68; Jaziri, al-Madhab al-Arba'a, I, 283).

In a hadith, Prophet Muhammad (saw) said, "*When you hear adhan, recite what it says. Then recite salat to me. Because whoever recites salat to me once actually will be remembered by Allah with mercy. Then ask for wasilah (closeness to Allah) from Allah for me. Because wasilah is an office in Heaven; however, it is granted only to one person out of Allah's servants, i hope that i will be that servant. Now, whoever asks for an wasilah from Allah for me, my intercession is halal to him.*" (Muslim, Salat, 7; Tirmidhi, Manaqib, 1)

A narrative included in Bukhari's book related to this subject is as follows, "*Whoever hears adhan and recites;*

اللَّهُمَّ رَبِّ هَذِهِ الدَّعْوَةِ التَّامَّةِ وَالصَّلَاةِ الْقَائِمَةِ آتِ مُحَمَّدًا نِالْوَسِيلَةَ وَالْفُضَيْلَةَ
وَابْعَثْهُ مَقَامًا مَحْمُودًا نِالَّذِي وَعَدْتَهُ

‘O Allah! Lord of this perfect call and prayer to be established! Grant Muhammad al-wasilah (a high and special place in Heaven) and al-fadhealah (a rank above the rest of creation). And raise him to a praised platform which you have promised him’ after it, my intercession will be wajib to him on the Day of Judgment.” (Bukhari, Adhan, 18)

In some books, the expression of “You do not break your promise.” is added at the end of the dua (Bayhaqi, al-Sunan al-Kubra, I, 603, 604). People who hear adhan make dua as explained in this hadith after the adhan is completed.

Moreover, as there is a hadith of, “Dua made between adhan and iqamat is not rejected.” (Tirmidhi, Salat, 46), one may make other duas after dua of wasilah (Nawawi, al-Majmu, III, 118).

753. Is it permissible to make dua of adhan loudly in mosques?

What is important in acts of worship and dhikrs is that they are tawqifi. That is to say, they are practised as they are defined in the Qur’an and Sunnah. It is a sunnah of the dua of adhan to make it without raising the voice. However, sometimes it is recited loudly in mosques so that people learn it. It is permissible to make duas, which were narrated from the Prophet Muhammad (saw), loudly like this, for teaching it to other people. However, it is not permissible to recite it loudly after people learn it (al-Fatawa al-Hindiyyah, V, 393).

754. Is there a narrative that the dua made between the adhan and the iqama will be accepted?

Although it is hoped that duas will be accepted everytime, there are hadiths regarding duas made in some special times will be accepted and will not be rejected. Duas made when adhan is recited, between adhan and iqamat, and when iqamat is recited are included in this scope. Prophet Muhammad (saw) says the following about this issue, “Doors of Heaven is opened when adhan is recited and duas that are made are accepted. Dua is not rejected when iqamat is given.” (Ibn Abi Shaybah, al-Musannaf, X, 32). Prophet Muhammad (saw) also said, “Duas made between adhan and iqamat are not rejected.” Upon this, companions asked,

“O Messenger of Allah! Which dua should we make?” The Prophet Muhammad (saw) said, “*Ask health and well-being from Allah, in the world and the Hereafter.*” (Tirmidhi, Da’awat, 145).

755. Is there a dua called “Ism al-Azam”?

“Ism al-Azam” means the most high names of Allah. More than one names are mentioned in hadiths as Ism al-Azam of Allah. The main names and dhikrs are lafz al-jalal (Allah); then “*Rahman, Rahim, Mannan, Ahad, Samad, Hayy, Qayyum, Badi’u’s-samawati wa’l-ard, Dhu’l-jalali wa’l-ikram, la ilaha illallah, la ilaha illa anta*” (Tirmidhi, Da’awat, 87; Ibn Majah, Dua, 9; Darimi, al-Sunan, Fadhail al-Qur’an, 14; Muslim, Salat al-Musafirin, 258). As it can be seen in these narratives, Ism al-Azam is one of the names of Allah; it is not the name of a special dua. Therefore, there is no such dua. However, the Messenger of Allah (saw) said that the duas made by uttering Ism al-Azam would be accepted in the presence of Allah. Two narratives about this are as follows,

“One day, Prophet Muhammad (saw) entered the masjid. A companion was establishing prayer. This companion started to make this dua after prayer,

اللَّهُمَّ لَا إِلَهَ إِلَّا أَنْتَ الْمَنَّانُ بَدِيعُ السَّمَوَاتِ وَالْأَرْضِ ذَا الْجَلَالِ وَالْإِكْرَامِ يَا حَيُّ
يَا قَيُّوْمُ إِنِّي أَسْأَلُكَ

“O, Allah! All kind of praises pertain to You. There is no deity but You. (You), are Mannan (the One Who bestows abundantly), you are the One Who created skies and earth out of nothing, you have glory and gifts. I am making dua to You and demand from You with the sentences of: O Who is alive, live, eternal, immortal, everlasting, Who is supporter of everything with His self, on Whom everything depends, Who does not sleep or nap, Who manages, protects, and meets the needs of beings!” Hearing this dua, the Prophet (saw) said, ‘This person made dua to Allah with His Ism al-Azam, when a dua is made with Ism al-Azam Allah accepts that dua and grants what he asks to that person.’” (Tirmidhi, Da’awat, 112; Ibn Majah, Dua, 9; Nasa’i, Sahw, 58).

756. **What is salat al-salam? How and with which words should one send salat al-salam upon Prophet Muhammad (saw)?**

The phrase of “salat al-salam” which is formed with words of salat and salam refers to the duas made for Prophet Muhammad (saw) and the wish of Allah’s having blessings and peace on him. Salawat is plural form of the word salat. It is stated in the Holy Qur’an, “*Allah and His angels send blessings on the Prophet: O ye that believe! Send ye blessings on him, and salute him with all respect.*” (Ahzab, 33/56).

Salat of Allah the Almighty upon Prophet Muhammad (saw) means His blessings on him, salat of angels upon him means their wish to glorify him, and salat of believers upon him means making dua.

Based on this verse which commands to send salat upon Prophet Muhammad (saw) in the Holy Qur’an, there are several examples of forms of salawat composed in the past. One may send salat al-salam upon Prophet Muhammad (saw) by saying, “Allahumma salli ala Muhammad” or “Sallallahu alayhi wa sallam” or “Allahumma salli ala Sayyidina Muhammadin wa ala alihi wa sahbihi wa barik wa sallim” in the shortest way.

There are many hadiths that are narrated on this subject. In this respect, Ibn Abi Layla said, “One day I came across Ka’b ibn Ujra and he said to me, ‘May I give you a present that I heard from Prophet Muhammad?’ Prophet Muhammad came near us. We said to him, ‘O Messenger of Allah! We have learned how to send salam upon you. But how should we send salat upon you?’ The Messenger of Allah (saw) answered as,

اللَّهُمَّ بَارِكْ عَلَى مُحَمَّدٍ، وَعَلَى آلِ مُحَمَّدٍ، كَمَا بَارَكْتَ 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

“O, Allah! Send salat upon Muhammad and his family as you sent salat upon Ibrahim and his family! Verily, You are the Most Praiseworthy, Most Glorious.” “O, Allah! Send Your blessings upon Muhammad and his family as you sent Your blessings upon Ibrahim and his family! Verily,

You are the Most Praiseworthy, Most Glorious.” (Bukhari, Anbiya,10; Da’awat, 31, 32; Muslim, Salat, 65, 66, 69)

There is no specific time and number to send salat al-salam . One may send as much salat al-salam as he wants at any time. Reciting basmalah is not obligatory to send salat al-salam.

757. Is there any religious ground for the duas of salat al-munjiyah and salat al-tafrijiyah?

Duas of “salat al-munjiyah”, “salat al-tafrijiyah” are not among the duas that are narrated from Prophet Muhammad (saw). These are duas in the form of salat al-salam and were composed long after the ‘Asr al-Sa’adah with reference to the verse in the Holy Qur’an which commands to send salat al-salam upon Prophet Muhammad (saw).

One should send hamd al-sana upon Allah and salat al-salam upon His Prophet before submitting his dua to Allah. The Messenger of Allah (saw) saw that a person who was making dua did not send salat and salam upon him during dua and said, “This person hurried.” Then he called the man and said, “*May one of you start dua by sending hamd al-sana upon Allah, then send salat upon His Prophet, after that ask for his wish.*” (Abu Davud, Sawm, 23).

The phrase of “salawat” refers to the duas made for Prophet Muhammad (saw) and the wish of Allah’s having mercy, peace and blessings on him. Salawat duas start with the words of “Allahumma salli...” generally. It is known that the mentioned duas start with these words and some worldly and ethereal needs are submitted in these duas by sending salat al-salam to Prophet Muhammad (saw).

According to this, these salawats/duas may be recited all the time without believing that they should be recited in certain numbers and not making a habit of reciting them after prayers.

758. How can one protect oneself from the evil eye? Is there any dua against the evil eye?

Although the nature and reason of evil eye are not known certainly, it is also accepted in religious terms that some people may cause negative effects with their looks. Because it is stated in the Holy Qur’an, “*And the unbelievers would almost trip thee up with their eyes when they hear the message.*” (Qalam, 68/51-52). Prophet Muhammad (saw) said, “*Evil eye is a truth.*” (Bukhari, Tibb, 36) and said for a person on whose face he saw

jaundice; “*Make dua for him because there is evil eye on him.*” (Bukhari, Tibb, 35).

It is narrated that the Messenger of Allah (saw) recited Mu‘awwidhatayn (Falaq and Nas) surahs against the evil eye and advised his companions to recite them too (Tirmidhi, Tibb, 16; Ibn Majah, Tibb, 32).

Besides these, one may recite several duas against magic and evil eye. Prophet Muhammad (saw) used to recite this following dua in order to protect his grandchildren Hasan and Husayn from evil eye and similar negative conditions,

أَعُوذُ بِكَلِمَاتِ اللَّهِ التَّامَّةِ مِنْ كُلِّ شَيْطَانٍ وَهَامَّةٍ وَمِنْ كُلِّ عَيْنٍ لَامَّةٍ

“*I take refuge in Allah’s complete words from all kinds of devils, poisonous insects and evil eyes that affect people.*” (Bukhari, Ahadith al-Anbiya, 10; see: Ibn Majah, Tibb, 36).

Also, the Messenger of Allah said, “*Whoever sees a pleasant thing and says, ‘Masha’Allah la quwwata illa billah’ (What Allah wills happens. There is no power but with Allah.), nothing can harm it.*” (Bayhaqi, Shu‘ab al-iman, VI, 213).

759. What is the dua for rain? How is it made?

The dua made to ask for rain in drought periods is called the dua for rain (istisqa). When the dua for rain will be made, it is mustahab (desirable) to go outside the dwelling unit with community three days in a row and make the dua. It is appropriate for community to give sadaqah to the poor people, for each member of the community to repent and ask forgiveness for their sins, and for those who are on the outs with each other to make peace before the dua. It is mustahab for the community to be humble and destitute and to bring old people, children, and animals with their babies while going to make dua for rain (Zaylai, Tabyin, I, 231).

Everyone turns to qibla while making dua for rain, imam raises his hands up and makes dua by standing and community members also raise their hands and say “ameen” by sitting (al-Fatawa al-Hindiyyah, I, 169).

According to Imam Abu Hanifa, there is no sunnah prayer to be established in dua for rain. However, it is permissible for community members to establish prayer separately.

According to Imam Abu Yusuf and Imam Muhammad, it is mandub (commendable) to establish a two-rakat prayer with community like eid prayer. Adhan is not recited, iqamat is not given, and additional takbirs are not recited in dua for rain. A sermon is delivered after prayer. When the sermon is finished, the imam turns his back to people and they turn to qiblah altogether and ask for rain by also asking for forgiveness (Kasani, Bada'i, I, 282-284).

On the other hand, in Shafi'i, Maliki, and Hanbali schools, there is a two-rakat prayer, which is established by reciting additional takbirs, and sermon like in the eid prayer, in the dua for rain (Nawawi, al-Majmu, V, 74; Ibn Qudamah, al-Mughni, III, 338-339; Jaziri, al-Madhahib al-Arba'a, I, 325).

760. What should a person whose child is born do and how should he make dua?

Prophet Muhammad (saw) advised people to recite adhan to the right ear and iqamat to the left ear of a newborn and he himself recited adhan to the right ear and iqamat to the left ear of his grandchild Hasan (Bayhaqi, Shu'ab al-Iman, XI, 105-106). Therefore, it is sunnah to give the child a name by reciting adhan to his right ear and iqamat to his left ear when a baby is born. His father or any of family elders may do it.

761. Is there a narrated dua named Kanz al-arsh?

The dua mentioned in some books with name of "Kanz al-arsh" has been converted into a literary text by being collected from several verses and hadiths and has been adorned with such expressions as "for the sake of Your name which is written on Jibreel's wing" do not match with and take place in the authentic books. It is believed that the face of a person who recites this dua will be lightened beautifully, that he will recover if he is sick, that he will be protected from the evil of demon and djinns, that he will assure himself for not having pain or diseases, and that he will be found if he is lost. However, it is not appropriate to describe this dua text as a special dua which realizes the needs of a person. Because there is no such information in authentic books. On the other hand, although dua is a means of reaching what we desire, it is not an acceptable approach in religious terms to specify this dua text by saying, "Whoever reads this dua once in his lifetime, he will get the thing he wants." Yet, it is permissible to recite it.

762. Is there a dua named the dua of ant?

The dua named as “the dua of ant” by public as it is believed that an ant made it for rain during a drought in the period of Prophet Sulaiman (as) does not exist in reliable hadith books. This common dua consists of some of the beautiful names of Allah (Asma al-Husna), some addresses to Allah, and ask for blessings. Although it is permissible to recite the mentioned dua whose content is not contrary to religious principles, understanding this dua as a hadith narrated from Prophet Muhammad (saw) and its recitation or use to make income are not permissible in religious terms.

763. Is there a dua to make a loved person come back?

In religious books, the importance of dua in a human’s life is emphasized with different occasions (Tirmidhi, Da’awat, 1), and dua examples are presented to believers to show how to make dua (A’raf, 7/55). There is not such dua as come back dua neither in dua examples in the Holy Qur’an nor in hadiths on this subject and narrated from Prophet Muhammad (saw).

764. Do djinns harm people? Which duas should one make in order to be protected against their harm?

Existence of djinns is accepted in religious terms. However, not much is known about their nature. As djinns are creatures that cannot be perceived with sense organs, the only source of information about them is revelation. The Holy Qur’an and authentic hadiths mention about djinns.

No being could not harm anyone except by Allah’s permission (Baqarah, 2/102). Any who believes in his Lord has no fear, either of a short (account) or of any injustice (Jinn, 72/13). But the verse which means “True, there were persons among mankind who took shelter with persons among jinns, but they increased them in folly.” points out that djinns may affect those who seek refuge in and surrender to them rather than taking refuge in Allah, by giving extreme anxiety or misgivings (Jinn, 72/6).

Djinns are creatures with duty of servitude to Allah like humans but they have a different nature from humans by their creation. Djinns cannot harm anyone unless Allah permits it. They do not know about the unknown. Their difference from humans is to move quicker than humans and to be able to see humans although we cannot see them.

Allah the Almighty commanded in surahs Falaq and Nas to take refuge in Allah “from the evil of the darkening (night)”, “from the evil of those who practise witchcraft when they blow in the knots” and “from the evil of the whisperer (devil who whispers evil in the hearts of men) who withdraws (from his whispering in one’s heart after one remembers Allah).” Prophet Muhammad (saw) took refuge in Allah from the evil of everything and recited surahs Falaq and Nas and Ayat al-Kursi all the time throughout his life (Bukhari, Waqala, Fadhail al-Qur’an, 10; Tirmidhi, Tibb, 16).

765. **Is there a special dua for strengthening memory?**

A Muslim makes dua to Allah and presents his wishes to Him as well as performing necessary preparations and holding to the causes tightly. He also makes dua to Allah in order to strengthen his memory and get rid of forgetfulness as well as making mental exercises and similar activities provided for scientifically. There is a narrative transmitted from Ibn Abbas on this issue, although there are some doubts about its authenticity, “Ali came to the Messenger of Allah (saw) and said, ‘I would sacrifice my parents for you! This Qur’an does not stay in my chest but goes away (I forget it). I do not think that I have the power to learn it by heart.’ The Messenger of Allah (saw) answered him, ‘O Abu al-Hasan! (In this issue) May I teach you the words that Allah will make favorable for you, from which the person who learns them will benefit if you teach them, and that will make the thing you learn stay in your chest?’ Ali (ra) said, ‘Yes, o Messenger of Allah, teach me!’ Upon this, Prophet Muhammad (saw) stated, ‘Wake up in the last one third of Friday night if you can. Because that is a witnessed time (when angels are also present). Duas that are made at that time are acceptable. My brother Yaqub also called on his children, ‘Soon will I ask my Lord for forgiveness for you.’ (Yusuf, 12/98) If you cannot wake up at that time, wake up in the middle of the night. If you cannot do it either, wake up before night. Establish a four-rakat prayer. Recite the chapters of Fatiha and Ya-Sin in the first rakat, Fatiha and Ha-Mim (Surah al-Dukhan) in the second rakat, Fatiha and Alif-Lam-Lim Tanzil al-Kitab (Surah al-Sajdah) in the third rakat, and Fatiha and Tabaraka al-Mufassal (Surah al-Mulk) in the fourth rakat. Send praise and thanks to Allah after tashahhud. Recite salat upon me and other prophets. Ask forgiveness of believer men and women and your believer brothers and sisters who lived and died before your time. Then recite this dua:

اللَّهُمَّ ارْحَمْنِي بِتَرْكِ الْمَعَاصِي أَبَدًا مَا أَبْقَيْتَنِي وَارْحَمْنِي أَنْ أَتَكَلَّفَ مَا لَا يَغْنِيْنِي
 وَارْزُقْنِي حُسْنَ النَّظَرِ فِيمَا يُرْضِيكَ عَنِّي اللَّهُمَّ بَدِّعِ السَّمَوَاتِ وَالْأَرْضِ ذَا الْجَلَالِ
 وَالْإِكْرَامِ وَالْعِزَّةِ الَّتِي لَا تُرَامُ أَسْأَلُكَ يَا اللَّهُ يَا رَحْمَنُ بِجَلَالِكَ وَنُورِ وَجْهِكَ أَنْ تُلْزِمَ
 قَلْبِي حِفْظَ كِتَابِكَ كَمَا عَلَّمْتَنِي وَارْزُقْنِي أَنْ أَتْلُوهُ عَلَى النَّحْوِ الَّذِي يُرْضِيكَ عَنِّي
 اللَّهُمَّ بَدِّعِ السَّمَوَاتِ وَالْأَرْضِ ذَا الْجَلَالِ وَالْإِكْرَامِ وَالْعِزَّةِ الَّتِي لَا تُرَامُ أَسْأَلُكَ يَا
 اللَّهُ يَا رَحْمَنُ بِجَلَالِكَ وَنُورِ وَجْهِكَ أَنْ تُنَوِّرَ بِكِتَابِكَ بَصْرِي وَأَنْ تُطْلِقَ بِهِ لِسَانِي
 وَأَنْ تُفَرِّجَ بِهِ عَن قَلْبِي وَأَنْ تَشْرَحَ بِهِ صَدْرِي وَأَنْ تُغْسِلَ بِهِ بَدَنِي لِأَنَّهُ لَا يُعِينُنِي
 عَلَى الْحَقِّ غَيْرُكَ وَلَا يُؤْتِيهِ إِلَّا أَنْتَ وَلَا حَوْلَ وَلَا قُوَّةَ إِلَّا بِاللَّهِ الْعَلِيِّ الْعَظِيمِ

“O, Allah! May You have mercy on me by making me stay away from sins for all my life. May You have pity on me due to my attempt to do useless things. May You let me be busy with the things from which You will be pleased. O Allah, Who is the Creator of skies and earth! O Allah! O Rahman! For the sake of your glory and the light of your face, may you force my heart to learn it like you did teach your book to me. May you let me recite it in a way for which You will give consent. O the Creator of skies and earth! For the sake of your glory and the light of your face, I ask you to make my eyes lighten with your book, open my tongue and heart with it, and refresh my chest and wash my body with it. Because You are the only one to help me find the right path, You are the only one to bestow it to me. Power and strength come from Allah, Who is great and supreme, to reach everything.” *O Abu al-Hasan (Ali)! Repeat all these in three or seven Friday nights. Your dua will be accepted with the permission of Allah. I swear by the name of Dhul-Jalal Who sent me for religious purposes that no believer who made this dua deprived of its acception.*”

Ibn Abbas (ra) says, “I swear by the name of Allah, Ali (ra) came back to the Messenger of Allah (saw) after five or seven Friday nights and said, ‘O Messenger of Allah! Before I was only able to learn only four or five verses. And I would forget them too when I recited them by myself. Today I can learn up to 40 verses and it is like the Book of Allah stands before my eyes when I recite them by myself. In the past, I would listen to your words and it would fly away my mind when I wanted to repeat

it after you. Today I can tell a hadith to another person after you without missing even a letter.' Upon this, the Messenger of Allah (saw) said to Ali (ra), 'O Abu al-Hasan! I swear by the name of the Lord of the Ka'bah that you are a believer!'" (Tirmidhi, Da'awat, 131).

766. Is the rumour that Safar is an inauspicious and troublesome month correct? Is there an act of worship or dua special to this month?

The month of Safar is the second month following the month of Muharram in lunar/hijri calendar. The understanding that the month of Safar is an inauspicious one and many calamities and troubles happen in this month belongs to the Age of Ignorance (Abu Dawud, Tibb, 24) and it has no place in Islam. Therefore it is a superstitious understanding. This month has no difference from other months. Prophet Muhammad (saw) rejected such an understanding and said, "*There is nothing inauspicious with the month of Safar.*" (Bukhari, Tibb, 19).

Also there is no dua or worship special to the month of Safar. Daily worships that are performed and the duas that are made by Prophet Muhammad (saw) are also done in this month.

767. Can a person be a sinner because of bad words that come to the mind due to waswasa? Is there a dua to get rid of these?

Waswasa, which means whisper, word, whispering, delusion, and suspicion, is commonly used to refer to devil's inciting and dissuading humans and making them have bad thoughts for committing a bad deed, giving up on or postponing a job or doing it incompletely.

It is commanded in the Holy Qur'an to seek refuge with Allah from the mischief of the whisperer (of evil) (Nas, 114/1-6); the believers are advised in hadith books not to act with waswasa and that waswasa will not arise a religious responsibility and that talaq (divorce) of a person who is apprehensive about, for example, "Whether I divorced my wife or not... Did I divorce my wife?" will not be valid (see Bukhari, Talaq, 11; Muslim, Iman, 201-205, 211; Abu Dawud, Salat, 158; Tirmidhi, Taharah, 43; Ahmad ibn Hanbal, al-Musnad, II, 255; VI, 106).

One of the ways in which devil drags humans into blasphemy is the questions that may drag them into doubt and hesitation. These questions which are thought are caused by devil's waswasa undoubtedly. The most severe trick out of these questions is explained to us by the Messenger of Allah (saw) as follows, "*Devil comes to one of you and says,*

'Who created this and that thing?' When that person says 'Allah created', it says 'Who created Allah?' When he thinks about this, may he seek shelter with Allah and stay away from that thought immediately!" (Bukhari, Bad' al-Khalq 11; Muslim, Iman, 214) In some narratives, the sentence of "May he say, *I believe in Allah!*" (Muslim, Iman, 212) is also added.

In this regard, the expressions of blasphemy whispered to apprehensive people are evaluated under waswasa and do not harm their faith. Because Allah the Almighty holds His servants responsible in proportion to their power. Obligation is in proportion to power. A few companions came and said to the Messenger of Allah (saw), "Some of us think about certain waswasas, we agree that uttering them will normally be a sin." Prophet Muhammad (saw) asked, "Do you really have such fear?" and the people who were present there said, "Yes!" Then he continued, "*That (fear) is caused by your iman (the waswasa you think about does not give a harm).*" (Muslim, Iman, 209). Another hadith on this issue is as follows, "*Allah the Almighty will not question my ummah for the bad things they think about unless they commit a deed with them or utter them.*" (Bukhari, Talaq, 11; al-Ayman wa Nuzu, 15)

In short, one should not give credit to such waswasas in order to get rid of this situation. Because waswasa gets more intensive as long as you keep thinking about it.

768. What is the relation between dua and qadar, what does it mean that dua changes the time of death and keeps troubles away?

Seeing dua as a cause that results in an effect brings to mind its relation with destiny. Natural events occur according to divine laws called as the sunnah of Allah. In other words, all events that occur in nature have a cause definitely. Actions of humans take place in a cause-effect relation in the same way. Allah is the Creator of the cause and the effect that arises from this cause (An'am, 6/17; Yunus, 10/107).

Dua is a part of predestination. Although it is pointed out in hadiths that dua will ward off calamities (Tirmidhi, Qadar, 6; Tabarani, ad-Du'a, p. 31-32; Bayhaqi, Shu'ab al-Iman, V, 184), the things that are predestined in pre-eternity by depending on dua will occur due to dua again. As Allah knows the dua to be made by His servant with His eternal wisdom, He shapes his destiny accordingly. Therefore, dua is a cause like other causes. In other words, if Allah wishes to create a change as a consequence of dua, this change takes place as good or evil thing within the natural cause-effect

relation. Dua is the requirement of being a servant. Otherwise, dua is not a deed that is committed to avoid a thing which is predestined by Allah to occur or to make sure that a thing which is not predestined by Allah to occur. Moreover, the purpose of dua cannot be reminding Allah of something He does not know. Dua is a way of servant's showing his servitude and submitting his weakness and need to Allah.

769. What does tawassul mean in dua? Is there a religious ground of wasilah in dua?

Tawassul means mediating one of the beautiful names or supreme attributes of Allah, a good deed done by that person, or dua of a living pious person with the aim of getting closer to Allah or making a wish accepted, or warding off a calamity. The word wasilah (means) exists in two places of the Holy Qur'an (Ma'idah, 5/35; Isra, 17/57). In a verse of Surah al-Ma'idah, believers are asked to search for a "wasilah (means)" to get closer to Allah. The purpose of the wasilah in the verse is to submit to Allah and approach Him by doing good deeds that will earn His pleasure.

Making good deeds a "*wasilah (means)*" (Bukhari, Ijarah, 12; Muslim, Dhikr, 100) and tawassul with dua of a living pious person are accepted as permissible (Bukhari, Jumu'ah, 34; Istisqa, 3; Ibn Majah, Iqamat al-Salat, 189). Other than this, it is not permissible to act in a way that does not comply with our religion by not asking something from Allah but asking it from another one. Because dua is made only to Allah, wishes are submitted to Him.

770. Is it permissible to make dua for, wish mercy on, and pray for forgiveness of non-Muslims?

Praying for mercy and asking forgiveness for non-Muslims means asking forgiveness for them from Almighty Allah, whom they denied while they were alive. According to the Islamic belief, since everyone is responsible for believing in Allah and His religion, one's own deeds are considered essential. Duas that are made by others for a person if he does not believe in Allah when he was alive and dies in blasphemy will be invalid and they will not be of any help to him.

Because it is stated in many verses that hypocrites who die as disbelievers will not be forgiven although others ask forgiveness for them (Nisa, 4/18, 48; Tawbah, 9/80) and it is prohibited to ask Allah for their forgiveness. On the other hand, the Messenger of Allah (saw) gave talqin

of “La ilaha illallah” to his uncle Abu Talib when he was about to die and he did not believe but Prophet Muhammad (saw) said, “*I swear to Allah that I will definitely ask forgiveness for you as long as it is not prohibited for me.*” (Bukhari, Jana’iz, 80). Upon this event, the verse of “*It is not fitting, for the Prophet and those who believe, that they should pray for forgiveness for Pagans, even though they be of kin, after it is clear to them that they are companions of the Fire.*” (Tawbah, 9/113) was sent down.

In another narrative, it is stated that Prophet Muhammad (saw) performed funeral prayer of Abdullah ibn Ubay ibn Salul and after expressing that he would wish mercy on him, the verse, “*Nor do thou ever pray for any of them that dies, nor stand at his grave; For they rejected Allah and His Messenger, and died in a state of perverse rebellion.*” (Tawbah, 9/84) was revealed (Bukhari Jana’iz, 83).

With reference to the related verses, it is understood that it will be appropriate for a Muslim not to ask for forgiveness of a person who died as a non-Muslim, not to wish mercy on him, just to give condolences kindly when he encounters with such funeral, and advise people to be patient and give solace to the alive people.

TAWBAH (REPENTANCE)

771. What is the place of repentance in Islam and how is it performed?

Tawbah, which lexically means repentance and coming back, terminologically refers to a servant’s turning to Allah by repenting of his evil and sins and giving up on them, and asking for forgiveness by means of abiding by His commands and avoiding from His prohibitions by seeking refuge in Allah. Allah the Almighty states as follows while listing the characteristics of the believers who are going to be forgiven, “*And those who having done something to be ashamed of, or wronged their own souls, earnestly bring Allah to mind, and ask for forgiveness for their sins. And who can forgive sins except Allah? And are never obstinate in persisting knowingly in (the wrong) they have done.*” (Al-i ‘Imran, 3/135)

It is fardh to repent for the sins. Tawbah is an indication of servitude that started with Prophet Adam. A sinful person should repent immediately. In this matter, it is stated in the Holy Qur’an, “*Allah accepts the repentance of those who do evil in ignorance and repent soon afterwards; to them will Allah turn in mercy: For Allah is full*

of knowledge and wisdom. Of no effect is the repentance of those who continue to do evil, until death faces one of them, and he says, 'Now have I repented indeed;' nor of those who die rejecting Faith: for them have We prepared a punishment most grievous." (Nisa, 4/17-18) Prophet Muhammad (saw) said, "Whoever repents of his sins sincerely is like a person who has never committed sin." (Ibn Majah, Zuhd, 30) .

With reference to this verse and similar verses, Islamic scholars determined the validity conditions of a tawbah. Accordingly, for acceptance of a tawbah, one should give up on the related sin, be sorry to have committed that sin, try not to commit it ever again and promise for it, if the sin is about someone's rightful due, in this situation, have consent of the holder of the right and ask forgiveness from Allah.

Getting rid of rightful due is possible with returning the violated right to its holder or his heirs or by asking for its forgiveness.

772. Which duas should one recite while repenting to Allah?

As a principle, the person who is going to repent should establish a two-rakat prayer, send praise upon Allah and beace and blessings upon His Messenger (saw), repent and ask for forgiveness, and then complete it with salawat and praise .

Two of several duas that are made by the Prophet for forgiveness are as follows:

اللَّهُمَّ إِنِّي ظَلَمْتُ نَفْسِي ظُلْمًا كَثِيرًا وَلَا يَغْفِرُ الذُّنُوبَ إِلَّا أَنْتَ ، فَاعْفُرْ لِي مَغْفِرَةً
مِنْ عِنْدِكَ ، وَارْحَمْنِي إِنَّكَ أَنْتَ الْغَفُورُ الرَّحِيمُ

"O Allah! I have done great injustice to myself and none except You forgives sins, so bestow on me a forgiveness from You, and Have Mercy on me, You are the Forgiver, the Merciful." (Bukhari, Adhan 149; Muslim, Dhikr, 48)

اللَّهُمَّ رَبِّ اغْفِرْ لِي خَطِيئَتِي وَجَهْلِي وَإِسْرَافِي فِي أَمْرِي كُلِّهِ ، وَمَا أَنْتَ أَعْلَمُ
بِهِ مِنِّي ، اللَّهُمَّ اغْفِرْ لِي خَطَايَايَ وَعَمْدِي وَجَهْلِي وَهَزْلِي ، وَكُلُّ ذَلِكَ عِنْدِي
، اللَّهُمَّ اغْفِرْ لِي مَا قَدَّمْتُ وَمَا أَخَّرْتُ وَمَا أَسْرَرْتُ وَمَا أَعْلَنْتُ ، أَنْتَ الْمُقَدِّمُ ،
وَأَنْتَ الْمُؤَخِّرُ ، وَأَنْتَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ

“O, Allah! Forgive my sins, the mistakes I made by negligence and stepping out of line, and all my crimes which you know better than me! O, Allah! Forgive the mistakes I made seriously or jokingly and the sins I committed by mistake or deliberately! I confess that I have all these mistakes. O, Allah! Forgive all the sins that I have committed until now, that I will commit from now on, that I hid and revealed, that I committed intemperately, and that you know better than me! You are the One Who makes a person successful and Who makes him lag behind. You are capable of doing anything.” (Bukhari, Da’awat, 60)

773. What is the dua for istighfar?

Istighfar (forgiveness) means begging for forgiveness and mercy from Allah for the sins and mistakes. Those who repent and ask for forgiveness as they regret their bad deeds are praised in the Holy Qur’an (Al-i ‘Imran, 3/135). In religious books, there are a lot of duas which bear the meaning of “istighfar (forgiveness)”. The dua described by Prophet Muhammad (saw) as “Sayyid al-istighfar” (the most beautiful istighfar) is as follows:

اللَّهُمَّ أَنْتَ رَبِّي ، لَا إِلَهَ إِلَّا أَنْتَ ، خَلَقْتَنِي وَأَنَا عَبْدُكَ ، وَأَنَا عَلَى عَهْدِكَ وَوَعْدِكَ
مَا اسْتَطَعْتُ ، أَعُوذُ بِكَ مِنْ شَرِّ مَا صَنَعْتُ ، أَبُوءُ لَكَ بِنِعْمَتِكَ عَلَيَّ وَأَبُوءُ بِذَنْبِي ،
اغْفِرْ لِي ، فَإِنَّهُ لَا يَغْفِرُ الذُّنُوبَ إِلَّا أَنْتَ

“O, Allah! You are my Lord. There is no deity but You. You created me and I am Your servant, and I am faithful to my covenant and my promise as much as I can. I seek refuge with You from all the evil I have done. I acknowledge before You all the blessings You have bestowed upon me, and I confess You all my sins. So, I entreat You to forgive my sins, for nobody can forgive sins except You.” (Bukhari, Da’awat, 2)

In fact, all kind of duas for forgiveness by which a person turns to Allah and utter them freely are already duas of istighfar.

DHIKR AND THE QUR'AN

774. Is there a religious basis for reciting kalimat al-tawhid for seventy thousand (70.000) times?

Lexical meaning of kalimat al-tawhid is “the sentence of expressing the oneness of Allah.” It consists of the sentence of “La ilaha illallah”, which means “There is no deity but Allah.” The meaning of this sentence constitutes the foundation of Islam. Prophet Muhammad (saw) said, *“The one who will be the happiest person thanks to my intercession on the Day of Judgment is the one who recites La ilaha illallah sincerely.”* (Bukhari, ‘Ilm, 33; Riqaq 51).

Dhikr means remembering and reminding. Reciting kalimat al-tawhid as dhikr is a rewarded deed as it will make those who recite and listen be reminded of Allah, it is the most beautiful dhikr. The Messenger of Allah (saw) said, *“The most virtuous zikr is to recite ‘La ilaha illallah’ and the most virtuous dua is to recite ‘Alhamdulillah.’”* (Ibn Majah, Adab, 44).

Besides, there are hadiths claiming that those who recite “La ilaha illallah” a hundred times a day are going to be rewarded in different ways (Ibn Majah, Adab, 54). It is not correct to believe and claim that the duas and the dhikrs should be made and recited in certain numbers, except those given in authentic hadiths.

775. Is there a religious basis for chanting dhikr in certain numbers such as 4444?

Sincerity is important for acceptance of duas and it is not a requirement to make them in a certain number (Mu’min, 40/65; Tirmidhi, Da’awat, 66). As it is not obligatory to recite salat al-tafriyyah or any dua 4444 times or for certain times, there is no verse or hadith which expresses that they will be accepted definitely when they are recited in this way. A person who will ask something from Allah is advised to establish a two-rakat prayer (Ibn Majah, Iqamat al-Salat, 189), to praise Allah and send peace and blessings upon Prophet Muhammad (saw) (Tirmidhi, Da’awat, 66; Abu Dawud, Witr, 23), and make tawbah-istighfar before dua (Muslim, Zakat, 65).

776. Is it makruh to engage in acts of worship such as reciting the Qur’an, making dhikr and duas until the time of ishraq after the time of fajr prayer ends?

Reciting Qur’an is a worship. As the rulings about worships are tawqifi, that is to say, it is not possible to know the reasons why they

became fardh and their practices with logic in every aspect, they are subject to the rulings stated in Qur'an and sunnah. As there is no prohibited time to recite the Qur'an mentioned in any verse or hadith, it is not possible to say that it is prohibited to recite the Qur'an in an absolute time. However, some special conditions in which reciting the Qur'an is makruh are mentioned in the religious books, which are as follows:

- a) In other positions of ritual prayer except qiyam (standing),
- b) In the event of following an imam in ritual prayers established in congregation,
- c) While listening to the khutbah that is being delivered from the pulpit,
- d) Being sleepy and finding it hard to recite Qur'an (See. Muslim, Salat, 207; Salat al-Musafirin, 223; Marghinani, al-Hidayah, I, 359-360).

It is narrated that Prophet Muhammad (saw) would not stand up after finishing fajr prayer until sunrise (Muslim, Masjid, 287); it is narrated in some narratives that he would recite dhikr during this sitting (Tabarani, al-Mujam al-Saghir, II, 293). Based on this narrative, it is not makruh, but rather mustahab (desirable) to engage in dhikr including reciting the Qur'an after fajr prayer.

777. Is it permissible to touch the Holy Qur'an without being in the state of ablution?

It is not controversial that the Holy Qur'an may be recited by heart without being in the state of ablution. However, some scholars advise to be ritually clean when it is recited by heart too as it is the word of Allah (Nawawi, al-Majmu', II, 69). But the schools agree on the opinion that Qur'an may not be touched or carried without performing ablution first (See. Marghinani, al-Hidayah, I, 33; Nawawi, al-Majmu', II, 65; Ibn Qudamah, al-Mughni, I, 108). Ibn Qudamah expresses that there is no person other than Dawud az-Zahiri who objects to this opinion, to the best of their knowledge (Ibn Qudamah, al-Mughni, I, 108). The basis for this opinion is the verse, "*Which none shall touch but those who are clean.*" (Waqi'ah, 65/79), along with Prophet Muhammad's (saw) hadith, "Let only the clean ones touch to Qur'an", which is included in the letter sent by Prophet Muhammad (saw) to Amr ibn Hazm (Muwatta', Qur'an, 1).

Within the framework of the evidence given above, there is a common opinion among the ummah that the Qur'an cannot be touched

without being in the state of ablution and a sort of practical sunnah has been formed based on this. With reference to the fact that the Qur'an is the word of Allah, not touching it is a requirement of the respect for it. For this reason, handling and carrying Qur'an without being in the state of ablution should only be restricted to the events of excuse, like teaching and learning.

778. What are the rules and standard for reciting the Holy Qur'an quickly or slowly?

Reciting the Holy Qur'an is the highest dhikr. According to a narrative from Aisha (ra), the Messenger of Allah (saw) said, "*A person who recites the Qur'an and is skillful at this matter is with honorable and obedient angels (called) 'safarah'. And a person who recites the Qur'an although he has difficulty in doing it will have two rewards (one of which is due to reciting it and the other is due to having hardship).*" (Abu Dawud, Witr, 14, 1454).

Allah the Exalted wanted Qur'an to be recited with tarteel (hymnody) (Furqan, 25/32; Muzzammil, 73/4). The word tarteel means reciting Qur'an slowly, by thinking about its meaning, by paying attention to makhraj (point of articulation of the letters) and tajweed of letters, by raising or lowering voice according to meaning, and in a careful manner.

Qiraat (recitation) scholars express that the Holy Qur'an may be recited in three ways. These three ways that are related to the speed of recitation are as follows:

a) Tahqiq: It means reciting every letter duly in the recitation of the Qur'an, practising madd enough (suitable to their levels), sort out the harakat (vowel signs) from each other, performing shaddahs (signs of emphasis) completely, and performing ghunnahs well. In this way of recitation in which qiraat is performed in the slowest way; madd al-tabi'i is recited by elongating 1 alif, madd al-leen is recited by elongating for the duration of 3 alifs, and other madd are recited by elongating 4 alifs for each.

b) Hadr: The quickest way of reciting the Qur'an with the condition of abiding by tajwid rules. Recitation with hadr means only increasing speed by not neglecting tajwid rules. In this recitation; madd al-tabi'i, madd al-munfasil, madd al-aridh and madd al-leen are recited by elongating for the duration of 1 alif (except some parts of madd al-leen in which sukoon (no vowels) is required); madd al-muttasil is recited

by elongating for the duration of 2 alifs, and madd al-lazim is recited by elongating for a duration of 3 alifs. Hadr method is mostly preferred in full recitation of qur'an, muqabalahs, or tarawih.

c) Tadwir: This method is a moderate way of recitation between tahqiq and hadr. In tadweer recitation; madd al-tabi'i is recited by elongating for the duration of 1 alif, madd al-leen is recited by elongating for 2 alifs, madd al-muttasil, madd al-munfasil, and madd al-aridh are recited by elongating for 3 alifs each, on the other hand, madd al-lazim is recited by elongating 4 alifs (See Karaçam, Kur'an-i Kerim'in Faziletleri (Virtues of the Holy Qur'an), p. 176-178; Gulle, Tecvid, p. 451-454).

In all recitation methods; ikhfa, iqlab and idghams with ghunnah are recited more than recitation of one letter and less than that of two words, which means closer to time of reciting one alif (See. Gulle, Tecvid, p. 318, 327, 336, 343-344).

Other than these three ways of recitation, there is another way which is not permissible and called as "hazrama" or "takhleat". In this recitation, letters are mixed with each other and recitation gets out of order. It is not considered permissible to recite the Holy Qur'an in this way (Pakdil, Ta'lim, p. 35-36).

In conclusion, the reciter may recite the Qur'an according to any of these three methods considering the circumstances and time at that moment. He may even switch to another style of recitation while reciting according to one way, if needed. In this matter, reciter may make this choice. The most preferred method out of these is tadwir.

779. What is the ruling on reciting the Qur'an by intonating?

Qur'an recitation is one of the worships to which verses and hadiths refer sensitively. The Qur'an commands to recite the Qur'an (Kahf, 18/27), to contemplate on its verses (Sad, 38/29), and to follow its advices strictly (Al-i 'Imran, 3/103). It is stated in the verses that Qur'an should be recited in "*tartil (hymnody)*" (Muzzammil, 73/4). For this reason, Islamic scholars expressed that the Qur'an should be read clearly by complying with the rules of tajwid. Moreover, this recitation is the most suitable way of recitation in order to understand the Qur'an (Suyuti, al-Itqan, II, 331-332, 638, 674). As much as it is understood from the hadiths of Prophet Muhammad (saw), it is encouraged to recite the Qur'an with a beautiful voice and musical notes by avoiding taghanni (melody), that is to say, by toning the voice only a bit (Bukhari, Fadha'il al-Qur'an, 19; Tawhid, 32). In this

respect, he said, “*Adorn the Qur’an with your voices.*” (Abu Dawud, Witir, 20; Ibn Majah, Iqamat al-Salat, 176).

780. What is the ruling on listening to the Holy Qur’an while it is being recited?

Just as listening to the Holy Qur’an is an act of worship described as fardh al-kifayah (communal obligation) its recitation is also an act of worship (Ibn Abidin, Radd al-Muhtar, II, 268).

Because it is stated in a verse, “*When the Qur’an is read, listen to it with attention, and hold your peace: that ye may receive mercy.*” (A’raf, 7/204) and commanded to listen to the Holy Qur’an that is being recited. However, it is not permissible to recite it loudly when there is no suitable environment to listen to it.

781. Is a person who listens to the muqabalah on TV, radio, or via another device deemed to have made a khatm (i.e. recited the Qur’an from beginning to the end)?

Khatm means completing recitation of the Qur’an from its beginning to its end in Arabic language. Following or listening to a muqabalah (recitation of the whole Qur’an) broadcast via TV channels or played by means of CD is also accepted a spiritually rewarding deed. However, in this case, if the person is content with just listening to the muqabalah, s/he will receive the thawab of listening only. In order to make a khatm, the Qur’an must be recited in person.

782. Is it permissible to recite Qur’an with the intention of healing?

It is a basic principle for a person to consult to medical treatment methods in order to recover from material, spiritual, and mental disorders. In addition to these, it is suitable for him to make dua to Allah. Undoubtedly, the Holy Qur’an is a healing and mercy for believers. “*We send down (stage by stage) in the Qur’an that which is a healing and a mercy to those who believe.*” (Isra, 17/82). Therefore, duas and surahs that take part both in the Qur’an and hadiths may be recited as much as we want without any limitation. This recitation is called as ruqyah. It is known that companions recited Surah al-Fatiha as ruqyah and that the Prophet Muhammad approved it (Bukhari, Fadhail al-Qur’an 9).

The most important thing is to recite dua in person. However, one may ask for good and pious people to make dua for him/her. It

is narrated from Aisha (ra) as follows: “The Messenger of Allah would recite on his sick relatives, pat them on their backs with his right hand, and say,

أَذْهِبِ الْبَاسَ رَبَّ النَّاسِ وَاشْفِ أَنْتَ الشَّافِي لَا شِفَاءَ إِلَّا شِفَاؤُكَ شِفَاءً لَا يُعَادِرُ
سَقَمًا

“O Allah, O Lord of the humans! May you recover this disease, heal him, for You are the One Who heals. There is no other healing other than yours that leaves no trace of sickness.” (Ibn Majah, Tibb, 35, 36)

A sick person should seek for methods of treatment with the consciousness that every disease has its healing other than old age and death. In addition to this, should seek refuge in Allah and make dua to heal. For this purpose, some scholars advised to read verses on healing in the Holy Qur’an. Here are some verses that are recited for healing: Tawbah, 9/14; Yunus, 10/57; Nahl, 16/69; Shu’ara, 26/80; Fussilat, 41/44.

783. Is the ruqyah that is recited in order to recover and to be protected from the evil with the permit of Allah permissible?

Ruqyah is a term which means reciting the Qur’an or making dua and breathing on someone in order to recover from diseases and get rid of the evil (Ibn al-Asir, an-Nihaya, “rky”; Ibn Manzur, Lisan al-Arab, “rky”).

Some Islamic scholars think that ruqyah is not permissible while the majority including the imams of jurisprudential schools shows some related hadiths as evidence and expresses that recitation of ruqyah is permissible if it is done by believing that goodness or harm will come from Allah, and provided that it should not lead to assigning partners to Allah or exploitation of people (Ibn Hajar, Fath, X, 206; Ibn al-Qayyim, al-Tibb al-Nabawi, p. 137-144; al-Fatawa al-Hindiyyah, V, 354-356).

It is a fact that Prophet Muhammad (saw) both recited and breathed on some sick people whom he visited and sometimes Aisha recited and breathed on him and patted him on his back (Bukhari, Tibb, 32, 33, 39; Muslim, Salam, 46-51,52; Ibn Majah, Tibb, 35-36).

Moreover, Prophet Muhammad (saw) made dua for his grandchildren Hasan and Husayn to be protected from devil, poisonous insects, and the evil eye (Bukhari, Anbiya, 10; Ibn Majah, Tibb, 36; Tirmidhi, Tibb, 18), and permitted

to recite ruqyah against the evil eye, snakebite, and scorpion sting (Bukhari, Tibb, 17, 33, 37; Muslim, Salam, 55-60; Abu Dawud, Tibb, 17-18).

It is also known that Prophet Muhammad (saw) made the following dua for the sick people,

اللَّهُمَّ رَبَّ النَّاسِ مُذْهِبَ الْبَاسِ اشْفِ أَنْتَ الشَّافِي لَا شَافِيَ إِلَّا أَنْتَ ، شِفَاءً لَا يُغَادِرُ سَقَمًا

“O Allah! The Lord of the people, the Remover of trouble! (Please) cure (Heal) (this patient), for You are the Healer. None brings about healing but You; a healing that will leave behind no ailment.” (Bukhari, Tibb, 38; Ibn Majah, Tibb, 36; Abu Dawud, Tibb, 17).

When the related narratives are evaluated, it is understood that the ruqyahs recited for recovering from diseases or being protected from the evil with permission of Allah are permissible and the other ones performed for purposes except these are haram (Elmalılı, Hak Dini, IX, 6388).

784. Is it permissible to receive payment for reciting Qur'an?

Reciting the Holy Qur'an is a worship. Worship are not performed to obtain worldly gains but only to get the consent of Allah. For this reason, recitation of the Holy Qur'an in exchange for money or making payment for the recited Qur'an are not permissible in religious terms. There is no reward for such recitation (Mawsili, al-Ikhtiyar, II, 142, Ibn Abidin, Radd al-Muhtar, IX, 76-77).

So, it is more appropriate for a person to recite the surahs he knows in person rather than hiring people to recite Qur'an partially or entirely in order to grant its rewards to the souls of his dead relatives.

However, it is permissible to present an appropriate gift to a person who recites Qur'an partially or entirely for the consent of Allah without demanding money and bargaining. However, if it has become a custom to pay for the recitation of the Qur'an in a region and both sides know that, then the money given is a charge rather than a gift. For this reason, taking this money will not be halal.

785. Is there any spiritual reward in reciting Mawlid al-Sharif?

Mawlid is a collection of religious-lyrical poems which starts with giving some information about the Oneness of Allah and then tells about some parts of the life of Prophet Muhammad (saw) and his supreme

morals and some miracles. Recitation of this collection which was written by Suleyman Çelebi with the title of “Wasilat al-Najat” in the beginning of 15th century in meetings held for different purposes such as death, birth, circumcision, marriage, etc., at houses, or in mosques has turned into a custom in time.

Recitation of or having someone recite mawlid is not fardh, wajib, sunnah, or mustahab (desirable). For this reason, recitation of or having someone recite mawlid is not a religious duty to be performed.

In this respect, it is permissible to recite or have someone recite mawlid at houses or in mosques without seeing it as a religious obligation.

786. Is it permissible to enter places such as toilets, etc. with amulets, religious books, and ornaments on which the name of Allah is written?

It is makruh for a person to have a piece of paper or a book on which the name of Allah is written or the Qur’an on him while entering toilet (Shurunbulali, Maraqi al-falah, 23). Because the Prophet Muhammad (saw) used to remove his ring before entering toilet as the expression of “Muhammadun Rasulallah” was written on his ring (Abu Dawud, Taharah 10).

However, if these writings are not in the open, for example, if they are in a pocket or are wrapped around something, it is not makruh to go to the toilet with them, but it would be more appropriate to avoid such acts if possible. (Tahtawi, Hashiyah, 54)



FAMILY LIFE





FAMILY LIFE

BEFORE MARRIAGE

787. May a man propose to a woman to whom someone else had previously proposed and who is in the phase of making a decision, or to a woman who is bound to a promise to wed?

If the engaged couple is yet to marry, it is makruh for another Muslim man to propose to a woman in question unless the couple's engagement comes to an end or, it is understood even implicitly that the groom-to-be and his family have lost their interest in the said engaged woman anymore and that they will not object anyone else to marry her. Because in a hadith related to this subject, it is stated, "*None should ask for the hand of a lady who is already engaged to his Muslim brother*" (Bukhari, Nikah 46; Muslim, Nikah, 6). As acting otherwise may be considered as insulting the man and his family, this may result in hostility (Shafi'i, al-Umm, V1, 106-109; Ibn Qudamah, al-Mughni, IX, 567; Ibn Abidin, Radd al-Muhtar, V, 221).

Although it is an impermissible and sinful behavior in terms of religion, the marriage (nikah) made with the third parties who interfere without paying attention to this sensitivity is valid as a contract.

788. Is it permissible for the fiancées to hold their wedding ceremony so that they can meet comfortably?

One of the most important differences of marriage from other types of contract is that there is, generally, a period of engagement before it. In this period, the parties get to know each other better and exchange presents.

It is permissible for the engaged couple to see and talk to each other in order to know each other well on condition that the parties observe intimacy concerns.

However, engaged persons should abstain from illicit cohabitation or being alone in a way that such act may cause gossips about themselves, and committing such acts that are not approved by Islam (Tirmidhi, Fitan 7; Ahmad Ibn Hanbal, al-Musnad, I, 310, 311, no: 176).

Today's youth organize a ceremony which is publicly known as "religious nikah" both without knowledge of their parents and within the knowledge of their parents in their engagement periods in order to be mindful of the religious considerations, but unfortunately sad events occur as a consequence of these. The contracts of nikah should be registered and assured legally in order not to experience such sad events. Because the young people and their families, who assume themselves pious, mostly do not perform the requirements of contracts concluded between families in the events that there is no official registration, and one of the parties, generally the woman and her family, is victimized. Thereby, let alone executing the divine purpose of marriage set forth by our religion, humans oppress each other in the name of religion.

In terms of religion, matrimonial cohabitation commences with the solemnization of marriage, and some rights and responsibilities such as dowry (mahr), alimony (nafaqah), and inheritance accrue between spouses. As these rights cannot be guaranteed without official registration of marriage today, it is not appropriate for the person who will get married to hold traditional ceremonies publicly known as "religious nikah" or "imam nikah" without concluding a "civil nikah".

789. Does the wedding, which was held during the engagement, become void with the breaking of the engagement?

Marriage is a serious institution. It will be permissible for the people who want to marry to proceed with legal procedure first and then hold the ceremony that is publicly known as "religious nikah".

However, a marriage contract concluded duly by those who are engaged in order to get married in the future will be valid in religious terms. As a woman in such condition is the wife of the person to whom she is married in religious terms, she may not marry to another man unless her husband divorces her.

If the woman changes her mind to come together later but the man does not divorce her, their nikah continues in religious terms. In such a case, the course of action is to convince the husband to divorce his wife. If the efforts to convince the man for a divorce fail, then their marriage should be terminated by means of arbitrators. Under such circumstances, it is not advisable in religious terms for a man to be reluctant about getting divorced just for hurting his wife (Baqarah, 2/231).

Therefore, in such event, first of all, a person who is authoritative and virtuous and has religious knowledge should try to correct the relationship between spouses. If his efforts fail, then he should try to convince the husband, who is reluctant to get divorced, to divorce the woman by explaining him that his attitude provides no benefit, that he should end such nikah, that a nikah cannot be used to injure a person, and that this does not match with the spirit of Islam.

If a man insists on not divorcing her despite this, families of man and woman choose an arbitrator in order to come to a conclusion on this matter. If one of the families resists and does not choose an arbitrator, the opposite party may choose a just and impartial arbitrator on behalf of it.

First of all, the chosen arbitrators arbitrate. If it is needed or obligatory, they may decide on their breaking up even if the husband does not give consent. Thereby, the bond of nikah is ended between the parties.

MARRIAGE (NIKAH)

790. **What is the religious judgment on marriage?**

It is stated in a verse of the Holy Qur'an, "*And marry the unmarried among you and the righteous among your male slaves and female slaves.*" (Nur, 24/32); also in another verse, "*And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought*" (Rum, 30/21).

Again Prophet Muhammad (saw) encouraged Muslims to marry in many hadiths by saying; "*Marriage is part of my sunnah, and whoever does not follow my sunnah has nothing to do with me. Get married, for I will boast of your great numbers before the nations*" (Abdurrazzaq, al-Musannaf, VI, 173; Bayhaqi, al-Sunan al-Kubra, VII, 131); "*O young people! Whoever among you*

can marry, should marry” (Bukhari, Nikah, 3; Muslim, Nikah, 1); *“Nikah is my sunnah. Whoever does not follow my sunnah has nothing to do with me. Get married. For i will boast of your great numbers before other ummahs”* (Ibn Majah, Nikah, 1).

Nikah is considered as a civil contract in one aspect and as a worship in another aspect. It is wajib for a person to get married if he has high potential to commit a sin due to his sexual desires. It is sunnah for those, who do not have a potential of committing a sin, to marry when their financial status is suitable. Although it is permissible for those, who will not be able to abide by the rights of his spouse due to old age or his sexual defect, to marry, some Muslim jurists express that it will be better for them not to marry (Ibn Qudamah, al-Mughni, IX, 343). It is makruh to marry if a person fears that he will oppress the woman to whom he will be married (Mawsili, al-Ikhtiyar, III, 38).

791. **Who are the women who are forbidden to marry?**

Women who are forbidden to marry in Islam are mentioned in verses and hadiths and it is clearly stated that it is halal to marry other women.

While referring to the women to whom matrimony is haram, the Holy Qur’an firstly prohibits marrying to step mother, which was a type of nikah in the age of ignorance, with the following verse, *“And do not marry those [women] whom your fathers married, except what has already occurred. Indeed, it was an immorality and hateful [to Allah] and was evil as a way”* (Nisa, 4/22). The following verse expresses the women to whom it is haram to marry due to bloodline, milk kinship, and relatives by marriage, *“Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father’s sisters, your mother’s sisters, your brother’s daughters, your sister’s daughters, your [milk] mothers who nursed you, your sisters through nursing, your wives’ mothers, and your step-daughters under your guardianship [born] of your wives unto whom you have gone in. But if you have not gone in unto them, there is no sin upon you. And [also prohibited are] the wives of your sons who are from your [own] loins, and that you take [in marriage] two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever Forgiving and Merciful”* (Nisa, 4/23). After that, it is expressed that marrying to married woman is haram, *“And [also prohibited to you are all] married women except those your right hands possess. [This is] the decree of Allah upon you”* (Nisa, 4/24). Moreover, it is also cited in the

Holy Qur'an that a woman who waits for iddah period may not marry to another person (Baqarah, 2/235), that although it is good to be married to one woman principally, a man may marry to up to four women if he complies with its conditions and one may not be married to more than four women at the same time (Nisa, 4/3). Besides this, marrying to polytheists is prohibited for both man and woman (Mumtahanah, 60/10); however, Muslim men are permitted to marry to chaste women among the People of the Book (Ma'idah, 5/5).

The expression of, "*Prohibited to you (for marriage) are: sisters*", which is stated in 23rd verse of surah Nisa, was explained with the hadith of, "*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,*" (Bukhari, Nikah 27; Muslim, Nikah 37-38) and the expression of, "*Prohibited to you (for marriage) are: foster-mothers (who gave you suck) and foster-sisters*", which is stated in the same verse, was explained with the hadith of, "*Foster suckling relations make all those things unlawful which are unlawful through corresponding birth (blood) relations*" (Bukhari, Nikah 20; Muslim, Ra'd 1; Ibn Majah, Nikah 34) and thereby the scope of the judgments mentioned in the verses was expanded.

792. Which relatives can a person not marry?

Women who are forbidden to marry in Islam are mentioned in verses and hadiths and it is clearly stated that it is halal to marry other women. The women with whom matrimony is haram are: your mothers, daughters, sisters, father's sisters, mother's sisters, brother's daughters, sister's daughters, [milk] mothers who nursed you, sisters through nursing, wives' mothers, and step-daughters under your guardianship [born] of the wives unto whom one has gone in, wife of son, daughter and mother's sister and father's sister of the wife as long as the marriage with the wife lasts (one may not marry to these women before divorcing his wife), idolators, ignicolists, and astrolatrists, milk-mother, milk-sister, milk-father's sister, milk-mother's sister, and women who are married to other people (Nisa, 4/23-24; Mawsili, al-Ikhtiyar, III, 43). Marrying to other women is permissible if there is no other impediment to marriage. After specifying the women with whom matrimony is prohibited, it is stated, "*And lawful to you are [all others] beyond these*" (Nisa, 4/24). There is no evidence which prohibits marriage with relatives other than those specified above. The hadith of, "**Do not get marry to your close**

relatives, for your child will be born weak,” which is included in some books, (Ibn Hajar, Talkhis al-Habir, III, 309) does not exist in reliable hadith books. The expression of “You are giving birth to weak children. For this reason, marry to foreign women,” which is mentioned related to this subject, belongs to Umar not to Prophet Muhammad (saw) (Ibn Hajar, Talkhis al-Habir, III, 309). Prophet Muhammad (saw) married to daughter of his father’s sister Zaynab Ibn Jahsh (Ahzab, 33/36-38) and married his daughter Fatima to the son of his uncle Ali.

793. **Is it permissible to marry someone from the People of the Book?**

Limits and conditions of marriage contract which gives legitimacy to the family institution that has social functions such as protection of religious life, continuation of it by being developed, and handing it down to the next generations are stated and the persons to whom matrimony is haram and halal are explained in the Holy Qur’an and sunnah in detail.

In the Holy Qur’an, there are some limits in terms of marriage of Muslims with non-Muslims and it is emphasized that a Muslim man and woman may not marry to polytheists. The 221st verse of Surah al-Baqarah, which means, **“And do not marry polytheistic women until they believe. And a believing slave woman is better than a polytheist, even though she might please you. And do not marry polytheistic men [to your women] until they believe. And a believing slave is better than a polytheist, even though he might please you,”** sheds light on this subject.

On the subject of marrying to the people of book (Christians and Jews) who are not included in these people, men and women are evaluated separately. That is to say, with the following verse, a Muslim man is allowed to marry to a woman who is among the people of the book: *“And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you, when you have given them their due compensation, desiring chastity, not unlawful sexual intercourse or taking [secret] lovers”* (Ma’idah, 5/5).

Although this is the case for men, choosing Muslim women to marry is more suitable in terms of peace in family and social harmony.

794. Can a Muslim woman marry to a non-Muslim man?

It is emphasized in the Holy Qur'an clearly that a Muslim woman may not marry to a polytheist or impious men as follows: *"...And do not marry polytheistic men [to your women] until they believe. And a believing slave is better than a polytheist, even though he might please you"* (Baqarah, 2/221).

When it comes to Muslim women's marriage with the men who are members of the people of the book, with reference to the verse 10 of the surah Mumtahanah which was revealed about the women who migrated to Medina from Mecca, Islamic scholars express that a Muslim woman may not marry to non-Muslim men (See Jassas, Ahkam al-Qur'an, V, 328-331; Qurtubi, al-Cami', XX, 419).

There has been no dissensus among Islamic scholars until today on the fact that it is prohibited for Muslim women to marry to non-Muslim men, on the contrary, there has been ijma (consensus) on this subject.

795. Is registration of marriage a requirement?

A marriage contract which is concluded according to religious rules is valid. However, in terms of ensuring order in marriage and in order to establish whether the people who are going to marry possess the necessary qualifications, certain procedures such as delivery of a khutbah and saying prayers in the presence of family elders, as well as serving wedding meal on the nikah day have been considered as mustahab (desirable) since the era of Prophet Muhammad (saw).

Despite the fact that no formal requirement, such as registration, is mentioned neither in verses nor in hadiths, the verse (Baqarah, 2/282) which necessitates written registration of time loans and rights in the presence of witnesses implies that nikah should also be registered as it is also a contract. This registration should not be neglected as it is important for the protection of woman's rights.

796. Should a person who had a civil marriage ceremony also need to have a religious marriage ceremony?

In Islamic terms, nikah involves religiously eligible man's and woman's (or their representatives') expression (offer and acceptance) of their consent to marry each other by uttering words that are intelligible enough to not to cause any speculation or objection in the presence of witnesses, such as "I marry you," "I married you," "I accept you as

my spouse” (Ibn Nujaym, al-Bahr, III, 82-83). This marriage contract should not be concluded secretly but needs to be concluded to the knowledge of the own families and acquaintances of the people who are going to get married. Such civil marriage that is solemnized as a consequence of meeting all the requirements is also religiously binding. Answering the question of “Do you accept to marry?” asked by marriage officer at marriage offices in a civil marriage as “Yes” or “Yes, I do” does not necessarily render this contract invalid. Because the fact that the nikah contract is a certain one is fixed by both official registration and presumption of presence before the witnesses and registral general of marriage.

The people who are going to marry may have a person of their choice perform nikah by reciting a part from the Holy Qur’an and making dua after the civil marriage, either in their house or in another suitable place. For sure, it is good to make dua for the newly established family’s bringing happiness and conducing to faithful and healthy generations. This also complies with Islamic custom. However, performing religious nikah without solemnizing civil nikah is not permissible in terms of protection of the rights of women and their children today. In this respect, Ottoman Family Law mandated to have a nikah registered by the Muslim judge of the city and the registration of nikah was insistently emphasised.

797. **What is the judgment on having witnesses in marriage?**

One of the validity conditions of a nikah contract is its performance before witnesses. Unless concluded before two witnesses, a nikah contract becomes invalid. Because Prophet Muhammad (saw) said, “*The nikah contract that is concluded without witnesses is not valid*” (Tirmidhi, Nikah, 15), and expressed that witnessing is one of the most important conditons of nikah. It is not necessary to make a distinction between witnesses such as woman’s witness and man’s witness.

Mujtahids, except the ones from Hanafi school of thought (madhhab), stipulate that both witnesses should be male while Hanafis are of the opinion that witnessing of one male and two females is enough. The reason why witnessing is a requirement in nikah is to ensure publicity and to protect the marriage from any doubts.

Moreover, witnesses should be Muslim and fully competent (having mental capacity, being pubescent). As a matter of fact, if the woman who

is going to be married is a member of the people of the book, witnesses may also be members of the people of the book (Marghinani, al-Hidayah, III, 8).

798. **Is a nikah solemnized without guardians valid?**

According to the prevailing opinion in Hanafi madhhab, as it is also the case for men, a pubescent woman may get married without needing her wali (guardian). However, her wali (guardian) may terminate this marriage in case of misalliance. According to imam Muhammad, consent of guardian is a must for validity of the marriage (Marghinani, Hidayah, III, 31-33; Aliyy al-Qari, Fath Bab al-'Inayah, II, 30).

According to other madhhabs except Hanafi school of thought, a woman can only be married by her wali (guardian). Moreover, the guardian does not need to receive the consent of his daughter, who had never married before, in order to marry her to someone. In the event that the woman under his guardianship is a widow, the guardian may only get her married to someone by asking her permission. These madhhabs evaluate the hadith of *“The marriage of a woman who marries without the consent of her guardians is void”* (Abu Dawud, Nikah, 19; Tirmidhi, Nikah 14), and similar hadiths as absolute and say that girls may only marry by means of their guardians -even if their consents are taken- (Shafi'i, al-Umm, VI, 35; Sahnun, al-Mudawwana, II, 118; Ibn Hazm, al-Muhalla, IX, 451; Ibn Qudamah, al-Mughni, IX, 345). Hanafis interpret as “girls and women who do not have the full capacity of marriage will be able to marry only by means of their guardians.”

Guardianship institution's coming to the forefront in marriage is for reaching the targets such as establishing marriage contract, which will start a lifelong coupledness, on a sound basis as much as possible by making necessary research, predicting and avoiding irrevocable and nonrecoverable mistakes in advance, and ensuring harmony between families of the persons who are going to marry.

Consequently, marriage is a serious institution. Therefore, consents of guardians should be taken while solemnizing nikah. Although a nikah solemnized without having consent of a guardian is valid according to some Islamic scholars, the marrying parties should ask for consents of their parents while parties, with reference to the abovementioned hadith of Prophet Muhammad (saw). If there is no moral, religious, and socio-economic impediment to marriage, guardians should not lay an obstacle by abusing their authorities.

799. What is the judgment on having a secret nikah?

A marriage contract concluded by the parties without knowledge of their families and acquaintances, although they declared their intention before witnesses, is called a secret nikah. Such contract does not comply with general principles of religious nikah and family life since the principle of publicity, which is essential for a nikah is not observed. As it cannot be said that a nikah contract that is known by only two witnesses is public, a contract which is concluded without the presence of families, relatives, and neighbors is still considered a secret nikah. In this respect, Prophet Muhammad (saw) said, “*Publicise this marriage...*” (Tirmidhi, Nikah, 6; Ibn Majah, Nikah, 20); “*The distinction between the lawful and the unlawful is the Duff and the voice*” (Tirmidhi, Nikah, 6), and pointed out to the essentiality of publicity and even registration of marriage. Abubakr (ra) also defined a secretly concluded nikah contract null and invalid (Sahnun, al-Mudawwana, II, 128,129).

800. Is the nikah contract that is concluded under duress valid?

According to Islamic judgments, nikah is a contract that is concluded between a man and a woman, who express their (or their representatives’) mutual consent to get married to each other before witnesses and who have no impediment to get married in religious terms. As marriage is based on the principle of a man and a woman’s living together for a lifetime, and meeting the good sides as well as confronting the difficulties that life bring about in tandem, a nikah that is concluded under duress without consent of the parties to marry one another is not valid according to Shafi’is, Malikis, and Hanbalis. If one of the spouses is forced to marry under the fear of death, heavy violence, or long-time imprisonment, such nikah becomes peccable.

Their basis on this subject is the following hadith of Prophet Muhammad (saw), “*Allah has forgiven for me my nation their mistakes and forgetfulness, and what they are forced to do*” (Ibn Majah, Talaq, 16).

Ottoman Decree of Family Law accepted the opinions of Shafi’i, Maliki, and Hanbali madhhabs both on the subject of forced nikah and on the subject of divorces under the same conditions (Art. 57, 105). Accordingly, a nikah that is solemnized under threat is not valid.

801. Is the nikah solemnized under threat of parents or other guardians valid?

It is a correct and necessary behavior for parents to strive to ensure their children's establishment of a happy family in their future lives. However, parents also should respect the reasonable wishes and free will of the young people who are going to marry. Because nikah is a contract that will be concluded by the people who are going to marry with their own free will.

Although it is permissible in some madhhabs for guardians to marry the girls, who never married before, by force, as marriage is based on the principle of spouses' living together for a lifetime and bearing the good and bad sides of life together, a nikah that is concluded without mutual consent of the people who are going to get married is not valid (Marghinani, Hidayah, III, 31-33; Mawsili, Ikhtiyar, III, 67; Aliyy al-Qari, Fath Bab al-'Inayah, II, 32).

802. What does mahr mean?

The money or another property given or promised to be given by a man to his wife while marrying is called mahr. In the Holy Qur'an, there are some verses stating that a married man has to give his wife mahr and it is forbidden to take it back by force (Baqarah, 2/237; Nisa, 4/4, 20, 24, 25; Ma'idah, 5/5). According to Hanafis, mahr is one of the consequences of nikah. Therefore, even it is not determined between the parties or even it is agreed during nikah that no mahr will be given, a woman is entitled to mahr.

Mahr is divided into two categories based on whether it is determined at the moment of nikah. If the amount of the mahr is determined at the moment of nikah, this is called as mahr al-musamma. In cases where the amount of mahr was not determined during nikah or where the determined mahr loses its validity for any reason, the woman is, then, entitled for mahr al-mithl. In that case, the amount of mahr is determined according to that of the women, who are her relatives and equal to her in every aspect.

Mahr is divided into two categories based on the time of payment: mahr al-mu'ajjal (prompt mahr) and mahr al-muwajjal (deferred mahr). Mahr al-mu'ajjal is the mahr that is paid in advance. A woman may choose not to move into the man's house until she receives her mahr al-mu'ajjal (prompt mahr). Mahr al-muwajjal is the mahr that is paid later. If a time is determined to pay this mahr, man has to pay the specified

mahr to woman when it is due. If there is no time determined for the payment then mahr becomes due upon the termination of nikah and it has to be paid. In other words, man should pay that predetermined amount in the event of divorce, and in case of his death then this amount should be paid out of his inheritance.

All kinds of interests that have material or financial value may be determined as mahr. The minimum amount of mahr is 10 dirhams (approximately the price for two sheep, at that time) according to Hanafis while it is 3 dirhams silver according to Malikis.

According to Shafi'is and Hanbali jurists, there is no minimum and maximum limit of mahr. Hanafis and Malikis also agree with the other two madhhabs on the subject that there is no maximum limit for mahr. Umar (ra) wanted to set a maximum limit for mahrs in his caliphate in order to facilitate marriages but gave up this idea upon a woman's objection with reference to the verse: *"But if you want to replace one wife with another and you have given one of them a great amount [in gifts], do not take [back] from it anything"* (Nisa, 4/20).

Mahr is provided for both making women to have interest in marriage and giving her a specific financial power.

803. In which situations a woman cannot get mahr?

After conclusion of nikah contract, if spouses have sexual intercourse or have the chance of valid seclusion (being alone together in an environment with no impediment to have sexual intercourse), the man has to give the entire amount of mahr to the woman (Ibn al-Humam, Fath, III, 311).

If nikah contract is authentic but they break up because of woman before sexual intercourse or authentic seclusion or the woman wants to break up with the man in exchange for her mahr (muhala'a), she loses her right to receive her mahr (Ibn Qudamah, al-Mughni, X, 62-63; Shirbini, Mughni al-Muhtaj, III, 309; al-Fatawa al-Hindiyya, I, 334).

804. Can a woman who donates her mahr to her husband return this donation later?

A woman who donated the mahr she received to her husband may revoke her decision before delivering the mahr in question to her husband, as the said grant contract was not concluded. In other words, she may change her mind about the matter as the said donation did not

take place. However, she may not reclaim her mahr once she delivered the said mahr to her husband (Mawsili, al-Ikhtiyar, III, 48, 52). If a woman who has not received her mahr yet renounces her rights on the said mahr, she may not change her decision once her husband accepted that offer. Because collecting (acceptance) is completed with grant contract as the debt is entrusted to the husband.

One must also know that the purpose of waiving mahr is to reinforce the commitment and unity between spouses. Renouncing of this decision regarding the donation of mahr, on the other hand, means to sever the said commitment and unity, which leads to lovelessness and inhospitality between spouses.

805. What is the judgment on the mahr of a woman who dies before her mahr is paid?

The term mahr connotes any asset of financial value that is owed to woman upon marriage (Nisa, 4/24). Supposing that the man did not settle this debt he owed to her wife during her lifetime, then he must pay this mahr to her inheritors (Mawsili, al-Ikhtiyar, III, 91). Therefore, following the bathing, enshrouding, and burial of the deceased woman and after the settlement of her debts and proper execution of her will, the wealth of the deceased woman, including the unpaid mahr, is transferred to her inheritors. The husband also takes his share from his wife's inheritance.

806. May a woman demand something that is not a property as mahr?

Everything that is allowed to be sold or to be used may be given as mahr in Islam. These include movable and immovable goods, jewelry, fungible (mithl) goods, and even the right of beneficiary use of movable or immovable properties (Kasani, Bada'i, II, 279).

Whether something that is not of any economical value and is considered taat (a deed that conduces to acquisition of rewards) in religious terms may be given as mahr, or whether teaching the Qur'an or religious judgments may be deemed as mahr had been discussed among the faqihs. While Hanafis do not find it permissible on the basis of the principle that mahr has material value (Ibn al-Humam, Fath, III, 308), some other madhhabs accept such things as teaching the Qur'an and fiqh as mahr (Shawkani, as-Sayl al-Jarrar, II, 277; Zuhayli, al-Fiqh al-Islami, VII, 260-264).

The same controversies apply to woman's asking his husband to take her to hajj as mahr. However, this should be deemed permissible since the man's paying for his wife's hajj costs requires an expenditure, and as the purpose here is not the man's serving his wife but to cover his spouse's hajj costs.

On the other hand, a woman's demands from her future husband to establish prayer, observe fasting and quit bad habits such as smoking and alcohol within the context of mahr are not considered as mahr since they are such things that one must perform.

807. Is it permissible to marry between two eids?

In some regions, with reference to Eid al-Fitr and Eid al-Adha, there is a general opinion according to which "One must neither hold a wedding event nor solemnize nikah between the two eids." This expression has no religious ground. Prophet Muhammad (saw) married to Aisha (ra) on the month of Shawwal, which is between the two eids (Muslim, Nikah, 73). People may get married at any time of the day and on any day of the year, whenever circumstances allow. This means that there is no specific time period during which getting married is allowed or prohibited. In other words, there is no impediment to get married between the two eids, in religious terms.

808. May the spouse of a person, who has been missing for a while and there is no information as to whether the missing is alive, marry to someone else?

A person who has gone missing and nothing has been heard from him is called "mafqud (missing person)." Faqihs have different opinions about the right to divorce of the spouse of a missing person. Hanafis adopted the opinion that the "death decision by court" would require "the death of the missing person's peers or the maximum time they could live on average"; moreover they did not consider this situation as a justification enabling the termination of the marriage" by the court, upon the application of the missing person's spouse (Sarakhsi, al-Mabsut, XI, 35-36).

In the Hanbali madhhab, at the end of the assumed average lifetime of the mafqud (missing) person, it is concluded that the person in question might have passed away (Kharashi, Sharh al-Mukhtasar, IV, 149-151). That

is also the case according to the Shafi'i madhhab (Shafi'i, al-Umm, VI, 608-609; Shirbini, Mughni al-Muhtaj, III, 520-521).

According to Maliki madhhab, judges make the necessary research upon the application of his spouse. In the event that there is no hope left to hear about him, it is necessary to wait for a period that lasts four years. Following the expiration of this waiting period, the judge gives a ruling for the divorce and the woman may marry to someone else after observing the iddah period necessary for the assumed death of the husband (Sahnun, al-Mudawwana, III, 742-743; Zuhayli, al-Fiqh al-Islami, V, 784-785). This subject is ruled in accordance to the latter opinion in Ottoman Decree of Family Law dated 1917. This ruling is more suitable to yield good results. Accordingly, a woman who has not heard from her husband for four years or more may apply to court to divorce according to this last opinion. In the event that court divorces her, she may marry to another man after waiting for death iddah (Ottoman Family Law, art. 126, 127).

809. Is the father obligated to marry off his child?

Islamic scholars agree that subsistence of boys are on their fathers until they are able to work and earn their own sustenance; however, they adopt different opinions on whether a father has to marry his child or not. While Hanafi and Shafi'i scholars say that it is not wajib for a father to marry his child, Hanbali scholars say that 'his father has to marry a child if the child's subsistence is on his father (Mawardi, al-Hawi, IX, 183-184; Ibn Qudamah, al-Mughni, XI, 380).

Although this is the case when we look at this issue in terms of its being wajib or not in religious terms, undoubtedly, it will be a good act for a wealthy father to marry his child who has no opportunity to marry through his own means. In this respect, it is said in a hadith narrated from Prophet Muhammad (saw), "*A child has three rights on his father: Having a beautiful name, being taught how to read and write, and getting married when its time comes*" (Suyuti, al-Camiu's-sagir, II, 538). Moreover, the Almighty Allah states in the Holy Qur'an, "*O you who have believed, protect yourselves and your families from a fire whose fuel is people and stones*" (Tahrim, 66/6). As it is stated in the aforementioned verse, it is fathers' responsibility to protect their sons who needs to get married from committing a sin by helping them getting married.

810. Is the marriage of a person who does not know the requirements of Islam invalid?

According to Islam, nikah is a contract that is concluded between a man and a woman, who express their (or their representatives') mutual consent to get married to each other before witnesses. A nikah that is solemnized by considering the rukuns and conditions set forth by Islam is valid (Mawsili, al-Ikhtiyar, III, 39).

The expression of fundamental fardhs of Islam refers to the principles of Islam and fardhs of ghusl, ablution, prayer, and tayammum. It is designed to facilitate teaching the details of basic commands in our religion. Every Muslim needs to learn the necessary religious information in order to live the religion in a decent manner. However, as knowing the fundamental fardhs of Islam is not one of the conditions of nikah to be valid, the nikahs of those who do not know these requirements are valid.

811. Is it permissible for a woman to get married while menstruating?

Ritual impurities such as menstruation, being junub, and not having an ablution at the time of nikah do not affect the validity of a nikah. For this reason, the nikah solemnized while a woman menstruates is valid.

812. How can the marriage be performed in case of marrying a woman from the People of the Book? Is it permissible for witnesses to be from the People of the Book?

The nikah contract that is concluded with a woman who is a member of the people of the book is just like the nikah contract that is concluded with a Muslim woman in terms of its form, judgments, and execution. In this contract, unlike the nikah in which both parties are Muslim, it is permissible to have witnesses from the people of book according to Hanafi madhhab. While solemnizing a nikah with a woman from the people of the book, there is no other difference in terms of marriage judgments (Sarakhsi, al-Mabsut, V, 33).

813. What is the ruling on renewing the marriage ceremony held in some mosques on Friday nights?

According to religious judgments, there are certain conditions for a woman to be deemed divorced. For example; a woman needs to be

divorced by her husband or a judge who is vested with the authority to exercise divorce, or each one of the parties needs to give consent for a divorce, or one of the parties must utter a word that results in converting out of the religion (Mawsili, al-Ikhtiyar, III, 137-250). Unless there is such situation, there is no need to refresh the nikah as a duly solemnized nikah is valid for lifetime and such practices performed at mosques have no religious ground.

814. Does the nikah of a person who misses Friday prayer three times in a row without an excuse become void?

Friday prayer is fardh for men who are sane, have reached puberty, are healthy, free, and resident (not being a traveler). Women, those whose independence is limited, travelers, and those who are excused enough not to attend prayer in congregation are not responsible for establishing the Friday prayer .

The hadiths which include threatful expressions towards those who do not attend Friday prayer aim to emphasize the importance of this prayer and to notify the fact that non-participants without an excuse will deserve punishment. In some of these hadiths, the Messenger of Allah (saw) stated, *“People must cease to neglect the Friday prayer or Allah will seal their hearts and then they will be among the negligent”* (Muslim, Jumu’ah, 40); *“He who leaves the Friday prayer (continuously) for three Fridays on account of slackness, Allah will print a stamp on his heart”* (Abu Dawud, Salat, 212).

Accordingly, a Muslim who misses the Friday prayer without an excuse commits a major sin. But, his nikah will not become void just because he misses the Friday prayer three times unless he rejects the fact that Friday Prayer is a fardh and considers it unimportant.

815. How can the Prophet’s (saw) polygamy be explained?

Undoubtedly, Prophet Muhammad’s (saw) polygamy is a special condition. Due to the fact that Prophet Muhammad (saw) had nine wives, some people considered him as a man who was fond of earthly pleasures. However, when we examine his marriages it is seen that this is not the case. In this respect, Prophet Muhammad (saw) married at the age of 25 to his first wife Khadijah (ra), who was a widow woman and was considerably older than him, and this marriage lasted 25 years.

Despite all the offers made to him, he did not marry to another woman in this young age.

Here are the primary reasons of Prophet Muhammad's (saw) marrying to many women:

a) Undoubtedly, the religion he brought interests women, too, as much as it does men. Wives of Prophet Muhammad (saw) performed the duties of teaching and educating women. It is publicly known that Khadija (ra) made great sacrifices to help and support Prophet Muhammad (saw) in the first period of his prophecy. In a hadith narrated by Aisha (ra), who lived long after Prophet Muhammad (saw), it is said that Prophet Muhammad (saw) acted like a teacher of Muslims in terms of morals and his private life and the judgments on specific situations about women. Each of his other wives contributed to teaching the sunnah of Prophet Muhammad (saw) in their environments and different ways.

b) Prophet Muhammad (saw) has special reasons to marry to almost each of his wives. Taking the believer women, who become widow and have no support after death of their husbands and persist on being loyal to Islam, under his protection and rewarding them as in the case of his marriages with Sawda, Zaynab, and Hind; pioneering actually in changing the wrong understanding of seeing foster-child as one's own child as in the case of his marriage with Zaynab who was divorced from his former foster-child Zayd; and ensuring integration of Islamic society by establishing kinship with leading ones of the companions, strong Arabic tribes and neighbor communities as in the case of his marriage with Hafsa, Umm Habiba and Safiyya may be included in these reasons and objectives.

816. What does “nikah al-mut'ah” mean, what is the ruling of it?

Mut'a marriage means the agreement between a man and a woman, who have no impediment to marry in religious terms, as to live as spouses for a certain period in exchange for a compensation.

Mut'a existed in the period before Islam as a practice that was made from time to time. Prophet Muhammad (saw) also could not prevent people from this practice in the first periods of Islam as a requirement of the principle of gradualism (making legal arrangements by spreading them into a certain period). However, this practice method, which

could damage the fabric of family and society, was prohibited afterwards (Tirmidhi, Nikah, 28).

Abdullah Ibn Abbas expressed that mut'a was prohibited with revelation of the verses of, *“And they who guard their private parts, except from their wives or those their right hands possess, for indeed, they will not be blamed - But whoever seeks beyond that, then those are the transgressors”* (Mu'mininun 23/5-7; Tirmidhi, Nikah, 28).

Ali (ra) also notified that Prophet Muhammad (saw) prohibited mut'a during the Battle of Khaybar (Bukhari, Maghazi, 39; Muslim, Nikah 29; Tirmidhi, Nikah, 28; Nasa'i, Nikah, 71).

Based on the mentioned verses and related narratives, the ahl al-sunnah scholars have agreed throughout history that practice of mut'a is haram and there has been a consensus (ijma) on this matter.

When the purpose and objective of nikah and family for individuals and society in religion of Islam are taken into consideration essentially, it is seen that this opinion that is adopted by the ahl al-sunnah is also consistent with and appropriate to the values of this age.

817. What is the ruling of having fun in a wedding?

Religion of Islam complies with the creation of human as an individual and society in terms of both its principles of belief and worship and rules of social life and morals. It is clear that Islam, which is the religion of human nature, give importance to meeting the needs and desires of humans that arise from their nature. In this respect, as it allows material/physical needs and desires of humans to be met, it also allows their spiritual-immaterial and aesthetic needs and desires to be met likewise.

Here, the matter of whether having musical entertainment in weddings is permissible or not comes to mind. It is seen that there is not enough clear evidence neither in the Holy Qur'an nor in sunnah to prove that listening to music is haram and the people who listens to music are sinners. In this respect, the Messenger of Allah (saw) advised to play tambourine in order to announce nikah (Tirmidhi, Nikah, 6). Again in a eid day, he warned the people who found two little girls playing tambourine and singing a song near Aisha (ra) odd by saying, *“Let them continue, today is eid”* (Muslim, Eidayn, 4).

Aisha (ra) says, *“While two little girls were singing heroic songs about the battle of Buas near me, Prophet Muhammad (saw) appeared. He went*

and laid on his side on bed and turned his face to opposite direction, then my father Abu Bakr (ra) came and walked in. He scolded me and said, ‘Demon’s instrument in the house of the Messenger of Allah!’ Hearing this, the Messenger of Allah (saw) stated by turning to him, ‘Let them (sing!)’ When they were deep in conversation and did not pay attention to us, I made eyes at the girls and they left.” (Bukhari, Eidayn, 2). In another narrative, Aisha (ra) says, “It was a day of eid. Abyssinian people were playing sword-shiald game in masjid. I do not remember if I requested him or He told, the Messenger of Allah (saw) said,

- Do you want to watch it?

- Of course!

- He stood up, took me on his back and we stayed like that cheek to cheek.

- O tribe of Arfidah, carry on (play), he said. This continued until I was tired of it. When he realized that I was tired of it, he asked:

- Is it enough?

- Yes, I answered. Upon this answer he said:

- Then you leave (Bukhari, Eidayn 2; Muslim, Eidayn, 4)

Amr Ibn Sa’d (ra) narrates, “During a wedding, I entered the room where Qaraza Ibn Ka’b and Abu Mas’ud al-Ansari were present, some girls were singing there. I could not stand and said, ‘You are among the companions who accompanied the Messenger of Allah (saw) in the battle of Badr, this is unbelievable!’ Upon my words they said, ‘Sit here and listen, if you want; and if you do not want, you may leave. We are allowed to have fun in wedding” (Nasa’i, Nikah, 80).

Considering all these, scholars said that people may play tambourine, sing songs, and have fun in weddings and in the days of eid as long as they do not talk haram words and commit haram deeds (See Qattani, at-Taratib al-Idariyya, II, 79-80). However, behaviors such as thinking about haram things, glorifying harams, seducing sexual feelings, and not observing the rules of creating marriage impediments are not permissible.

BREASTFEEDING (RADA’AH)

818. What is the textual basis of marriage prohibition due to milk kinship? What are the conditions of establishment of milk kinship?

Marrying milk-mother and milk-siblings are prohibited in the Holy Qur’an (Nisa, 4/23). Prophet Muhammad (saw) said, “Those with whom

matrimony is haram due to bloodline are also haram due to milk kinship”
(Bukhari, Shahadah, 7; Muslim, Rada, 1, 9; Abu Dawud, Nikah, 6).

According to the majority of fiqh scholars, the milk sucked by a child in the first two years, less or more, is enough to establish a milk kinship. Accordingly, it is not permissible for a girl and boy who sucked milk from the same woman even once up to the age of two to marry each other (Sarakhsi, al-Mabsut, V, 137; Kasani, Bada’i, IV, 8).

On the other hand, Shafi’is and Hanbalis are of the opinion that in order for the milk kinship to be established, a child who is younger than two years old must be breastfed until the baby is full at five separate times (Ibn Qudamah, al-Mughni, XI, 309; Shirbini, Mughni al-Muhtaj, III, 546).

819. May a milk kinship be established if a child sucks a breast with no milk?

For milk kinship to be established, the nursing mother’s milk should reach to the baby’s stomach. Fiqh scholars put forward different opinions about the milk amount that should be sucked by baby so that milk kinship is established. While Hanafis and Malikis are of the opinion that even a drop of milk that reaches the stomach of the baby who is in breastfeeding age is sufficient for the establishment of milk kinship, Shafi’is and Hanbalis assert that the baby must be breastfed until s/he gets full (Marghinani, al-Hidayah, III, 138; Ibn Qudamah, al-Mughni, XI, 309).

Accordingly, milk kinship is not established by sucking a breast that has no milk.

820. Do two children breastfed by one woman in separate births become milk siblings?

It is stated in the Holy Qur’an that any woman, except the biological mother, who breastfed a child is called “milk-mother” and the children who was nursed by that woman are named as “milk siblings”, and a milk kinship will arise between them (Nisa, 4/23). According to this, whether it is in the same birth or in other births, the children who were nursed in the breastfeeding period by the same woman are considered milk siblings.

821. Does the milk taken from “milk bank” establish milk kinship? Is the fact that the milk in the milk bank is mixed change the ruling?

Just as milk kinship is established upon nursing a baby through breastfeeding, feeding the baby with milk obtained from a woman also leads to milk kinship. Therefore, feeding a baby at the age of breastfeeding with milk obtained from a milk bank also constitutes milk kinship. For this reason, in order to eliminate any confusion and avoid any marriage that is haram in religious terms, it is necessary to ensure that the donors and receivers are registered and one should act responsibly in this matter. The fact that the milk given to milk bank by different women is mixed does not change this judgment. In this situation, milk kinship is established between all the women who gave milk to the bank and all the children who drank the mixed milk (al-Fatawa al-Hindiyyah, I, 377).

822. If a woman’s milk is mixed with cow’s, sheep’s or goat’s milk and a child is given this mixed milk to drink, will it create milk kinship?

In order for the establishment of milk kinship, it is necessary for the such mixture to contain more human milk than other liquids. In accordance with this, human’s milk that is mixed with cattle’s milk is examined, marriage of those with milk kinship becomes forbidden by drinking that milk if human’s milk is more, on the contrary, it does not establish an impediment to marriage (Marghinani, al-Hidayah, III, 145).

823. Does dropping milk in the eyes or ears of the baby establish milk kinship?

Milk should reach to the stomach of the baby for the establishment of milk kinship. This is because the sucked milk contributes to the nutrition and growth of a child. The milk dropped in eye or ear has no effect on nutrition and growth. Therefore, milk kinship is not established due to the milk dropped in these organs (Marghinani, al-Hidayah, I, 245; Ibn Qudamah, al-Mughni, XI, 313; al-Fatawa al-Hindiyyah, I, 377).

824. What is the extent of the prohibitions that occur due to milk kinship?

Those who have milk kinship are mahram to each other, that is to say, their marriage to each other is haram (forbidden) forever. There is

no difference between kinship by bloodline and by milk in terms of creating marriage impediments. Therefore, all the rules that are valid for bloodline kinship in terms of looking, touching, being together, travelling together, etc. also apply for milk kinships (Mawsili, al-Ikhtiyar, IV, 113).

825. May someone marry his milk father's child born by another wife of the said milk father?

Marrying milk mother and milk-siblings are prohibited in the Holy Qur'an (Nisa, 4/23). Prophet Muhammad (saw) said, "*Those with whom matrimony is haram due to bloodline are also haram due to milk kinship*" (Bukhari, Shahadah, 7; Muslim, Rada, 1, 9; Abu Dawud, Nikah, 6). Therefore, just like a person may not marry his sibling that is born from his own father, he also may not marry his milk father's daughters who were given birth by milk father's another wife as they will also be milk sisters due to having milk kinship with their father (Sarakhshi, al-Mabsut, V, 242).

826. May someone marry his brother's milk sibling?

Since milk kinship is established only through lactation of a baby by a wet nurse and it is limited to the milk-mother, some of her relatives, the person who was lactated by the said milk-mother, and the biological children of the person who was lactated by the said milk-mother, there is no impediment to marriage between the relatives except these (Mawsili, al-Ikhtiyar, III, 130). Therefore a person may get married to his brother's milk-sister.

827. What is the situation of couples if it is understood after marriage that they are milk siblings?

In order to consider lactation as an impediment to marriage, the act of lactation must be proven with clear evidences. According to the majority of fiqh scholars, the milk sucked by a child in the first two years, less or more, is enough to establish a milk kinship. Accordingly, it is not permissible for a girl and boy who sucked milk from the same woman even once up to the age of two to marry each other (Sarakhshi, al-Mabsut, V, 137; Kasani, Bada'i, IV, 8). Shafi'is and Hanbalis say that in order for the milk kinship to be established a child who is younger than two years old must be breastfed at least five times, on different occasions, until the

baby gets full and leaves the breast instinctively (Ibn Qudamah, al-Mughni, XI, 309; Shirbini, Mughni al-Muhtaj, III, 546).

If the husband admits that he is his wife's milk brother and insists on it, or this is witnessed by two righteous men or one man and two women, then the married couple is divorced.

In that case, if the couple had any sexual intercourse, the woman deserved the least amount of the predetermined mahr or the mahr al-mithl; if they didn't, then the woman is not entitled to receive mahr. (al-Fatawa al-Hindiyyah, I, 380-381).

According to the Shafi'i milk kinship may be proven through four attesting adult women. Again, in accordance with the strong opinion of the said madhhab, witnessing lactation is not considered sufficient to establish the fact that the parties are prohibited to marry to each other. The witnesses are required to declare the counts of lactation and state that the milk had reached the nursed baby's stomach (Shafi'i, al-Umm, VI, 94; Nawawi, al-Majmu', XX, 260).

Hence, unless the conditions stipulated by Shafi'i madhhab are not met, the couple whom are suspected to be milk siblings may continue their marriage in line with the opinion of this madhhab.

828. Is it permissible to hire a milk mother? What are the liabilities of the family towards milk mother?

Breastfeeding plays an important role in childcare and growth. In this respect, Islam holds it as a duty attributed to parents of a child. A mother may breastfeed her child as well as having him/her breastfed by a milk mother. However, unless necessary, mothers should not abstain from breastfeeding for the sake of establishing a bond and in terms of the child's mental health. In the event that the milk mother demands money in exchange for breastfeeding the father of the child has to pay such amount (Baqarah, 2/233, Talaq, 65/6).

Spiritual aspect of this matter also has a particular importance, along with its legal rights and obligations. Mother and father should show due interest to the milk mother who plays a vital role in growth of their child and should raise their child as a person who is sensitive about this matter.

829. What are the duties of a person towards his milk mother?

Fidelity is among the basic principles of Islamic ethics. A Muslim's milk mother is the first person after his/her parents to whom he/she must be loyal as she gave him the fountains of Allah's grace.

The attitude of Prophet Muhammad (saw), who himself was breastfed by milk mothers, towards these persons is an example for Muslims. Prophet Muhammad (saw) had always been faithful to His first milk mother Suwayba, a slave of Abu Lahab, and he took every opportunity to say that she had nursed him (Bukhari, Nikah, 20). The Messenger of Allah (saw) had always commemorated his milk mother Halima, with whom He spent almost three years of his childhood, and he had always been faithful to both her and her family (Abu Dawud, Adab, 128).

830. May a non-Muslim woman breastfeed a Muslim's child?

Despite the fact that the Holy Qur'an listed milk mothers among the persons with whom matrimony is haram, there is no provision regarding the milk mother's religion. However, due to the concern that a non-Muslim milk mother might give their milk children haram foods, some scholars do not allow to have a non-Muslim milk mother (Sahnun, al-Mudawwana, II, 303).

DIVORCE (TALAQ)

831. Is it possible to transfer the authority to divorce to one's spouse or another person?

Principally, Islam vests husbands with the authority to divorce. A husband may opt for transferring such power to either his wife or a third party during nikah ceremony or in the course of marriage. This is called as "tafwid al-talaq (delegation of the right to divorce)". One may perform tafwid at any time. Tafwid may be performed during nikah contract and in a time when marriage continues. If the right to divorce will be transferred (tafwid) during the solemnization of nikah contract, it is necessary for the woman to lay the condition that she would also have the same right. Woman acquires this right when she states that, for example, "I possess the right to divorce, and I am getting married on condition that I may divorce myself whenever I would like to," and it is accepted by the husband. That is to say, the offer of transfer of talaq should be made by woman and then be accepted by man. A woman

who has the authority to divorce in this way may get divorced whenever she wants (Fatawa al-Hindiyyah, I, 423 et al; Ibn Abidin, Radd al-Muhtar, IV, 551, 552, 573).

Tawfid al-talaq is also possible during the marriage. Man may transfer the right to divorce to his wife by uttering, for example, “You have the right of option. You may either prefer me or getting divorced. You are allowed to divorce yourself if you would like to. It is up to you to decide either the continuation or the termination of this marriage.” Unless the woman uses this right to divorce at the time she was given the right, she would lose her such right. However, if the authority to divorce is given with a common expression, such as “You may divorce yourself whenever you want”, woman may exercise this right at any time without being limited to the time it is uttered (Ibn al-Humam, Fath, IV, 68-71). Woman does not have to exercise the authority to divorce given to her either in nikah or during marriage. Not only a woman may reject this right given by her husband at the beginning, she may also return it later by her own will. A woman who returns this right to her husband loses the right given to her by tafwid (Bilman, Qamus, II, 259).

Imam Shafi‘i considers tawfid as an appointment of an agent. As long as a woman does not divorce herself, her husband may withdraw this agency whenever he would like to (Ramli, Nihayat al-Muhtaj, VI, 440).

832. Is it required to have witnesses during divorce?

It is stated in the Holy Qur’an that *“And when they have [nearly] fulfilled their term, either retain them according to acceptable terms or part with them according to acceptable terms. And bring to witness two just men from among you and establish the testimony for [the acceptance of] Allah. That is instructed to whoever should believe in Allah and the Last day. And whoever fears Allah - He will make for him a way out”* (Talaq, 65/2).

There are different views about the matter whether the command of witnessing in this verse is for divorce or for going back to family life after divorce with rij’i talaq (revocable divorce). According to Hanafis, having witnesses in both is mandub (commendable). According to Imam Shafi‘i, having witness in divorce is mandub and having them in going back to family life is wajib (Jassas, Ahkam al-Qur’an, V, 35-351; Razi, Mafatih al-Ghaib, XXX, 34).

Therefore, having witness during divorce is not a condition of validity for divorce. However, Muslim jurists agree that this command aims to ensure avoiding any loss of rights and disputes.

833. How many talaqs are necessary for a divorce?

According to Islam, there are three bonds between married couples. Accordingly, if husband divorces his wife twice at most, he may continue his marriage. The bonds of matrimony between spouses become void upon the third talaq.

According to the majority of faqihs including Hanafis and Shafi'is, "three divorces" performed at the same time are valid as "three talaqs." In such a case, the husband is considered to have divorced his wife completely (Shafi'i, al-Umm, VI, 473; Sahnun, al-Mudawwana, II, 3; Quduri, al-Muhtasar, III, 37-38; Ibn Rushd, Bidayah, II, 61).

There are companions and followers who consider such talaq as three talaqs, while some of them consider such talaq as one talaq. Those who support the opinion that such divorce would be a single talaq base their opinions on the narrative by Ibn Abbas: "*Three talaqs were considered as one talaq during the era of Prophet Muhammad (saw), Abubakr (ra), and in the first two years of Umar's (ra) caliphate*" (Muslim, Talaq, 15; Ahmad Ibn Hanbal, al-Musnad, V, 61). According to a hadith also narrated by Ibn Abbas, Rukana had divorced his wife with three talaqs at once and he was too upset about it. "How did you divorce her," the Prophet (saw) asked. Rukana answered, "I divorced her with three talaqs." The Messenger of Allah (saw) asked again: "At once?" Rukana replied: "Yes." Thereupon, the Messenger of Allah (saw) said: "It is one talaq. You may go back to her if you would like to" (See Abu Dawud, Talaq, 10; Tirmidhi, Talaq, 2; Ahmad Ibn Hanbal, al-Musnad, IV, 215).

According to the second opinion mentioned above, "three talaqs" uttered consecutively at the same place are considered as "one talaq." The High Board of Religious Affairs of Türkiye also adopts this opinion.

In the event of a rij'i talaq (revocable divorce) parties may resume their marriage without the needing a new nikah within iddah period. If it is a bain talaq or if the iddah period ends, then they may continue their marriage by solemnizing a new nikah with their own consent.

834. Does divorce happen through allusive expressions that may be interpreted as divorce?

According to Islam, there are two kinds of expressions that are used for divorce. One of them involves such expressions as “I divorced you,” “You have been divorced,” or “Be divorced” that are impossible to mean anything else than a divorce. These are categorized as “sarih (explicit)” expressions. The other kind involves such expressions that may or may not be interpreted as divorce. These are called as kinayah (allusive) expressions.

Such expressions as “Go back to your father’s home,” “Go away,” “You are not my wife anymore,” “I am not your husband anymore” are among the allusive expressions that are used for a divorce. For these expressions to take effect, the husband must have uttered these expressions with the purpose of getting divorced. If the purpose lying behind these expressions is to get divorced, a bain talaq (a kind of divorce that does not vest the husband with the right to continue such marriage unilaterally and requires a new marriage contract) occurs (Marghinani, al-Hidayah, III, 166). On the other hand, according to Shafi’is, divorces realized with such allusive words are considered rij’i (that gives husband the right to continue marriage unilaterally) (Shirbini, Mughni al-Muhtaj, III, 439).

835. Does divorce occur if woman says “I want to break up” and her husband accepts?

Such expressions as “Let us get divorced”, “Let us break up”, “I want to break up” are nothing more than a wish. Even if the husband replies his wife’s wish positively, such expressions do not result in a divorce. In so far, it is not good to consider getting divorced without concrete reasons.

836. Does divorce occur by only passing the words used in divorce through the mind without being spoken?

Divorce occurs when a person with authority to divorce utters one of the expressions used for divorce. In order for divorce to take effect, the intention of getting divorced needs to be expressed verbally. It is stated in a hadith narrated from Prophet Muhammad (saw) as follows: “*Allah has accepted my invocation to forgive what whispers in the hearts of my followers, unless they put it to action or utter it*” (Bukhari, ‘Itq, 6; Ayman, 15).

Accordingly, divorce does not occur only by thinking about talaq or intending talaq without uttering it.

837. What is the judgment if a person lays down someone's action as a condition for a divorce?

Laying down an incident as a condition for a divorce by uttering such conditional prepositions as "if, in case, when" etc. is possible. This is called *taliq al-talaq*. Such talaq may occur depending on either the husband's or another person's action, or the occurrence of an event. Such expressions as "I will divorce you if you visit that person" or "I will divorce you if you ever talk to that person" may be given as examples to such conditional talaq. Many Muslim jurists agree that any conditional divorce takes effect upon the occurrence of such condition (Marghinani, *Hidayah*, III, 228; Shirbini, *Mughni al-Muhtaj*, III, 411; Ibn Qudamah, *al-Mughni*, X, 452, 462). On the other hand, some scholars are of the opinion that divorce does not occur if such condition is set to prevent the woman from doing something. However, the man has to pay an atonement for breaking his oath (Ibn Taymiyyah, *Majmu' al-Fatawa*, XXXIII, 127, 128).

838. In conditional divorce, may the person who set a condition for getting divorced revoke his condition before it occurs?

In addition to the fact that the husband's statement revealing his will of divorce may be unconditional, it may be linked to a condition (*taliq condition*) or a period as well. One may not break the oath for divorce until such condition for divorce occurs (Kasani, *Bada'i*, III, 139; Zaylai, *Tabyin*, II, 226). In the event that a condition is laid for divorce, provisions of divorce arise whenever this condition is fulfilled. Until this condition is fulfilled, marriage continues with all its consequences. However, if divorce occurs in another way before the condition laid for divorce is fulfilled and that condition is fulfilled after end of *iddah* period, that condition does not have any effect anymore.

It is also known that conditional talaq is used instead of oath to strengthen the meaning of the word. In this case, according to the majority of the *faqihs*, this is also a valid conditional talaq; when the condition is fulfilled, divorce becomes realized. However, according to some scholars such as *Ikrimah*, *Surayh*, *Ibn Taymiyyah*, and *Ibn al-Qayyim* along with companions such as *Aisha (ra)* and *Ali (ra)*, if such oath of the husband is not intended for divorce but to prevent himself

or his wife from doing something or to encourage himself or his wife for doing something, then it is not considered as a conditional talaq. Therefore, divorce does not take effect even though the condition is fulfilled. What one must do in such a case is to pay an atonement for breaking his oath (Ibn Qayyim, I'lam, V, 518-525; al-Sayis and M. Shaltout, Muqaranah al-Madhahib fi'l Fiqh, p. 108). The High Board of Religious Affairs of Türkiye also adopts this opinion.

839. What is the judgment about someone who deliberately makes a false statement as to he had divorced his wife although he is still married?

According to Hanafi and Shafi'i madhhabs, someone who is asked whether he had divorced his wife and who replies "yes" even though he is still married is not considered divorced (Ibn Nujaym, al Bahr, III, 264; Shirbini, Mughni al-Muhtaj, III, 379).

However, one should be very careful while uttering a word in subjects such as nikah and divorce and always remember the following hadith that is narrated from Prophet Muhammad (saw), *"There are three things which, whether undertaken seriously or in jest, are treated as serious: Marriage, divorce and taking back a wife"* (Abu Dawud, Talaq, 10).

840. Does divorce take place in case of using the words of divorce as a threat to the spouse, although the intention is not to divorce?

It is not recommended to mention getting divorced without thinking thoroughly. Since it has serious consequences, Prophet Muhammad (saw) advised his ummah to act carefully on this matter (Abu Dawud, Talaq, 10). Divorce does not occur upon threatening one's wife with getting divorced. Such expressions are promises. However, notwithstanding the real intention, certain expressions such as "I divorced you" or "You are divorced" used for threatening purposes result in talaq, because these expressions clearly mean a talaq. The intention is not taken into consideration when it comes to a divorce performed with clear expressions (Kasani, Bada'i, III, 101).

841. Does divorce occur when someone says his wife "to me, you are like my mother or my sister?"

If someone who said to his wife "to me, you are like my mother or my sister" meant divorce with these expressions, then his wife becomes

divorced from him with a *bain talaq* (irrevocable divorce). However, if they had not had two divorces earlier, they may become a couple again, if they wish so. In that case, if there isn't any separation occurred earlier, their marriage continues with two bonds of matrimony.

If the said person meant to perform a *zihar*, then he must pay a *zihar kaffarah*.

Zihar occurs when a man likens her wife to a woman to whom he is forbidden to marry such as his mother, sister, aunt, etc., or when he considers his wife's limbs (back, abdomen, calf, etc.) as if they belong to someone, whose limbs it is haram to look at.

On the other hand, no *kaffarah* is necessary if someone says "You are like my mother/sister" to his wife out of love and respect although it is *makruh* (Mawsili, *al-Ikhtiyar*, III, 229; Jazari, *al-Madhahib al-Arba'ah*, IV, 438).

One also is not required to do anything if he utters such an expression for no reason but a habit (Mawsili, *al-Ikhtiyar*, III, 230).

842. What is the judgment on divorce before consummating the marriage?

In cases where a couple decides to get divorced before *zifaf* (the first sexual intercourse), such divorce is considered valid. In this case, a *bain talaq* occurs (Marghinani, *al-Hidayah*, III, 195). The man who divorces his wife may only go back to her with a new *nikah* if he wishes to do so. If the couple who get divorced in such a manner had the opportunity to stay alone in a place where no one is allowed without permission (*khalwat al-sahiha*) while married, the woman deserves the entire amount of *mahr* (*Nisa*, 4/20-21). And the woman must wait until the end of her *iddah* before getting married again (Sarakhsi, *al-Mabsut*, V, 149). However, if the couple gets divorced before *khalwat al-sahiha* the husband, even though he is not obliged to, needs to give his wife a gift called *mut'a*, which is determined by taking the husband's financial status and social manners in consideration. In the event that the couple agreed on a *mahr*, then the man must pay half the amount of such predetermined *mahr* (Baqarah, 2/236-237; *Ahzab*, 33/49; Sarakhsi, *al-Mabsut*, VI, 63).

843. How many divorces (*talaq*) occur if a spouse is divorced three times in a row before consummating the marriage?

It is stated in the Holy Qur'an about a person's divorcing his spouse with whom he has not had sexual intercourse yet as follows: "O You

who have believed, when you marry believing women and then divorce them before you have touched them, then there is not for you any waiting period to count concerning them. So provide for them and give them a gracious release” (Ahzab, 33/49). A person who divorces his wife before zifaf by repeating the sentence of “You are divorced” three times divorces her with a bain talaq (irrevocable divorce).

There are controversies about whether three talaqs are realized when one says “You are divorced with three talaqs.” The majority are of the opinion that three talaqs occur in such a case. Some scholars, on the other hand, accept three talaqs given at the same time as one divorce, whether before or after zifaf (sexual intercourse). The High Board of Religious Affairs of Türkiye also adopts this opinion.

As iddah is not required in the mentioned divorce, revoking such divorce is also not in question and this divorce is deemed one bain talaq (irrevocable talaq). If spouses want they may solemnize nikah again with the remaining two divorce rights and continue their marriage (Ibn Rushd, Bidayah, II, 86, 87; Ibn Abidin, Radd al-Muhtar, IV, 509).

844. **Is the divorce made in anger valid?**

As practices of the persons who have the capacity to act and are adolescent and rational are valid, divorces that are realized in anger to the extent that one does not lose his ability to think rationally are effectual. However, divorce of a person who loses his consciousness and has a hysteria attack or goes mad to the extent that one becomes unaware of his words and actions, that is to say, loses his control is not valid (Ibn Abidin, Radd al-Muhtar, IV, 452-453). Not being aware of his words or actions means the person in question does not remember his words or actions in the state of anger when he calms down.

In this respect, Prophet Muhammad (saw) expressed that divorces that are realized under excess anger and pressure will not be valid (Abu Dawud, Talaq, 8; Ibn Majah, Talaq, 16).

845. **Is the divorce made when one is drunk valid?**

Marriage is a serious institution which requires responsibility. One should not underestimate the issues about marriage and especially the matter of divorce. Prophet Muhammad (saw) said in a hadith, “*There are three things which, whether undertaken seriously or in jest, are treated as*

serious: Marriage, divorce and taking back a wife (after a divorce which is not final)” (Abu Dawud, Talaq, 9; Tirmidhi, Talaq, 9; Ibn Majah, Talaq, 13).

According to Hanafis and Shafi’is, divorce of a person who is drunk as he uses a halal substance is not valid while that of a person who is drunk as he uses haram substances is binding (Shafi’i, al-Umm, VI, 641-642; Marghinani, al-Hidayah, III, 163; Ibn Qudamah, al-Mughni, X, 346-347). On the contrary, according to another group of mujtahids including Tahawi and Karhi from Hanafis and Muzani from Shafi’is, the words and actions of a person who is drunk in a way that he is not aware of what he is talking about, what he is doing and that he cannot distinguish the good from bad is invalid in legal terms. Therefore, the divorce made by such a person is void (Ibn Rushd, Bidayah, II, 82; Ibn al-Humam, Fath, III, 470; Shawkani, Nayl al-Awtar, VIII, 189 ff.; Ibn Qudamah, al-Mughni, X, 347-348).

The Ottoman Family Law dated 1917 also enacted a provision about the opinion that talaq of a drunk person will not be valid (Ottoman Family Law, art. 104). The High Board of Religious Affairs of Türkiye also adopts this opinion.

846. **Is the divorce made under duress and threat (iqrah) valid?**

Divorcing someone under constraint and threat (iqrah) is deemed acceptable according to Hanafi madhhab (Sarakhsi, al-Mabsut, XXIV, 40) while other madhhabs consider such divorce as void (Ibn Qudamah, al-Mughni, X, 350, Mawardi, al-Hawi, X, 231). The Ottoman Family Law also adopted the opinion that divorce of a person who is under pressure and threat is not valid (Ottoman Family Law, art. 57, 105). Today, the fatwa on this matter is also given by taking the Ottoman Family Law as reference.

847. **Is a divorce made during the menstruation period of the wife valid?**

Although it is against sunnah, the four madhhabs are of the opinion that a divorce made during the menstruation period of the woman is valid (Sarakhsi, al-Mabsut, VI, 16; Ibn Qudamah, X, 327; Ibn Rushd, Bidayat al-Mujtahid, II, 64). On the other hand, some religious scholars claim that a divorce made during the menstruation period is invalid since the divorce procedure should be performed in compliance with the conditions stipulated by religion, and the fact that the divorce should be done in the cleanliness period is one of such conditions (Ibn Taymiyyah, Majmu’ al-Fatawa, XXXIII, 81

ff.). The fatwa in this matter is given according to the opinion of the majority.

848. Is it acceptable to divorce a woman in absentia?

Divorce is the termination of marriage which happens when the husband utters such direct or implied words that mean a divorce. Man and woman are not required to be present at the same place (unity of place) for a divorce to be valid. A Man may also divorce his wife in absentia. Because the Messenger of Allah (saw) accepted the divorce of a person who divorced his spouse in absentia (Muslim, Talaq, 36; Abu Dawud, Talaq, 40).

Accordingly, the divorce enters into effect when the husbands notifies his wife that he had divorced her in absentia or when a reliable person informs the woman of such divorce in absentia (Ibn Nujaym, al-Bahr, IV, 62).

849. Does the divorce by a man someone who was diagnosed with schizophrenia become valid? May a woman get divorced from such a spouse?

A divorce becomes effective upon a person's final decision and after this decision is expressed in a manner that is closed to interpretation. Divorces that do not meet this condition are not valid. Divorce of a man, who was diagnosed with schizophrenia and who cannot comprehend the things properly, is delusional, and is not aware of the potential results of his acts is not valid. The wife of such a person may file a lawsuit for a divorce. Someone who gets divorced in legal terms is also considered as divorced in religious terms (Sarakhsi, al-Mabsut, V, 97; Ibn al-Humam, Fath, IV, 273-274; Ibn Qudamah, al-Mughni, X, 55-56, 62).

850. How can a married woman without a civil marriage divorce?

Registration of nikah is important in order to protect the parties' rights. However, sometimes, people may get married through a ceremony that is publicly known as religious nikah. In the event that a matrimony concluded in this form becomes impossible to maintain for any reason, getting divorced becomes an option. Under these circumstances, the most appropriate course of action is the mutual consent of the parties as to get divorced. In this context, man should not insist on abstaining from a divorce just to hurt his wife (Baqarah, 2/231). If the spouses fail to make a mutual decision about getting divorced

and the husband insists on continuing the marriage, parents of the both parties should assign an arbitrator to reach a conclusion as the couple will not be able to file a lawsuit for a divorce since they don't have a civil marriage (Nisa, 4/35).

In the event that one of the families is not willing to assign an arbitrator, a responsible relative of the concerned party may choose a just and impartial arbitrator. Religious scholars have different opinions with regards to the arbitrator's authority. Imam Hanafi and Imam Shafi'i assert that the duty of an arbitrator is arbitration, and they may not bring the matter to a conclusion unless both of the parties agree (Shafi'i, al-Umm, V, 494-495; Jassas, Ahkam al-Qur'an, III, 154; see Shirbini, Mughni al-Muhtaj, III, 344-345).

Imam Malik, on the other hand, is of the opinion that arbitrators may give a judgment with regards to the termination or continuation of the marriage depending on the conditions (Jassas, Ahkam al-Qur'an, III, 152; Ibn Rushd, Bidayah, II, 99). The Ottoman Family Law also legalized this judicial opinion (Ottoman Family Law, art. 130).

Based on this, if the man does not want to get divorced, a woman may break up with her husband through arbitrators.

851. May a woman request to get divorced if her husband fails to meet the requirements of a marriage?

Islam religion attaches great importance to conjugal union and its protection. However, although divorce is a solution if the marital conflict between spouses escalates further and the marriage becomes unbearable, one must consider it as the last resort. The Holy Qur'an advises spouses to make self-sacrifice for the continuation of the marriage before getting divorced, and to settle their disputes through dialogue. It is also stated in the Holy Qur'an that in the event that the dispute between spouses escalates, such dispute should be settled by means of arbitrators assigned by the families of the both parties (Nisa, 4/34-35). However, if there is nothing left to do to reach a settlement and the matrimonial cohabitation becomes impossible to be maintained, divorce is considered as the most reasonable course of action.

A married woman may file a lawsuit for a divorce if her husband fails to fulfil his responsibilities and duties arising from their marriage or in case of mistreatment. If the judge annuls the marriage after hearing the parties, this decision of the court results in a bain talaq according to the decretal.

852. **Is marital conflict a justification for a woman to divorce?**

The holy Qur'an explains the initial course of action in the events of maltreatment; such as spouses' antipathy towards each other, unfair behaviors, acting against the requirements of marriage, husband's battering wife or forcing her to commit haram, and marital conflict (nushuz and shiqaq) as follows: "... *if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them...*" (Nisa 4/35).

This verse orders to find a common ground by means of arbitrators in the events of marital conflict between spouses and exert effort to continue marriage. If the parties fail to settle the dispute arising from maltreatment and marital conflict between the spouses despite all efforts, Malikis suggest that the woman in question may file a lawsuit for a divorce, and the arbitrators commissioned for the rehabilitation of the relationship of the parties have the right to exercise tafriq in exchange for money or for free, without the need for a power of attorney given by the parties (Ibn Rushd, Bidayah, II, 99). Hanafis and Shafi'is express that the judges' authority to divorce is subject to authorization by the husband (Shafi'i, al-Umm, V, 494-495; Jassas, Ahkam al-Qur'an, III, 154; see. Shirbini, Mughni al-Muhtaj, III, 344-345).

The Ottoman Family Law, dated 1917, adopted the Maliki madhhab's judicial opinion and made the following regulation: When a dispute arises between spouses and they file a lawsuit for a divorce, court assigns an arbitrator from each party. If arbitrators fail to settle dispute between spouses and husband is found guilty, judge divorces the couple. If the woman is found guilty, then the judge gives a verdict of paid divorce based on the mahr amount. In the event that judges fail to reach a consensus a new delegation of arbitrators is assigned. The judgment of the arbitrators is definitive judgment, and the divorce verdict they render is considered a bain talaq (Ottoman Family Law, art. 130).

853. **May someone divorce his/her spouse who is aware of the fact that he/she is infertile and is hiding it from the other party?**

A person who was diagnosed with infertility should inform his/her future spouse about this diagnosis. As one of the essential objectives of marriage is to have a generation, it is permissible for spouses to may file a lawsuit for a divorce.

854. Is being unable to have children a justification for getting divorced?

Our religion attaches importance to family, which conduces to human's and society's living a peaceful life, and its continuation. One of the objectives of marriage is to continue one's bloodline. If they cannot have a child although they have tried all the possible ways, they should be submissive to Allah. In the Holy Qur'an, it is pointed out that everything is bound to Allah's rule and that having or not having a child should not be a matter of praise or ridicule (Shuraa, 42/49-50). Since, in the end, humans are unable to know what is good and what is bad for them, they should not consider what they desire as an indispensable part of their lives and happiness, and should accept the providence (Baqarah, 2/216). In order to be happy both in this world and in the Hereafter, it will be a more reasonable and more favorable for people to experience this happiness in different ways by sharing the blessings and opportunities they have with others, instead of making life miserable for themselves just because their wish, which is beyond their power and will, does not come true. Considering the fact that one of the objectives of nikah is to continue one's bloodline, albeit Islamic scholars are of the opinion that spouses are allowed to get divorced in such a condition that constitutes an impediment in reaching this objective, (Sarakhsi, al-Mabsut, V, 94-95), it is a conscientious requirement for the spouses not to use this as a justification for divorce, by facing it with consent.

855. Is a couple who got divorced by a court verdict also considered to be divorced in religious terms?

Spouses who got divorced through a court verdict also become divorced with one bain talaq in religious terms. Because divorce of judge is accepted as bain talaq (irrevocable divorce) (Saidi, Hashiyat al-adawi, II, 41). Accordingly, a woman who got legally divorced should wait for the expiration of the iddah period before marrying to someone else (Shaykh'zadah, Majma' al-Anhur, II, 142).

Following the expiration of the said iddah period, the woman in question may marry to another person or her former husband, provided that the former husband also wishes to do so. In this case, if she did not have another divorce before, her marriage continues with two marriage bonds.

856. Is a divorce verdict rendered by the court considered a new talaq after the divorce made in religious terms?

The divorce verdict rendered by the court to which a lawsuit for a divorce was filed in order to register the religious divorce is a kind of confirmation and registration of the former (religious) divorce. Therefore, it is not considered as a new divorce. But if there is an annulment of marriage by court as a result of an application made with another reason, it means a new and separate divorce. A divorce verdict to be rendered by the court after the iddah period arising from a religiously valid talaq, on the other hand, is only the registration of the former divorce as there is no bond between spouses at that time, with regards to marriage.

857. Is it considered a separate divorce if someone tells people in different times and places that he has divorced his spouse?

A person telling others that he divorced his spouse does not constitute a separate divorce (talaq). This means letting others know about the former divorce.

858. What is the effect of uttering the words that require converting out of religion (alfaz al-kufr) on nikah?

The conjugal union between spouses ends because such expressions uttered deliberately results in abandoning the religion.

Denying or underestimating or making fun of one of the definite principles of religion cause one to abandon religion. For example, a person who swears to Allah, the Prophet and the sacred values in religious terms, and who denies prayer and fasting becomes an apostate.

According to Hanafi madhhab, marriage terminates automatically with one of the spouses abandoning the religion. Even though he repents, he may not continue his marriage without a new nikah contract. According to the majority 's opinion in Shafi'i madhhab, if a person who abandons religion repents and returns to Islam within iddah period he may continue his marriage life without needing a new nikah contract (Shafi'i, al-Umm, I, 297; Shaikhzada, Majma' al-Anhur, I, 546).

859. Does swearing to sacred values such as Allah, the Holy Qur'an, and religion due to the habit of using certain expressions harm nikah?

Uttering such expressions that causes one to become an apostate due to the habit of using such words even though there is no intention of insulting religious values or due to disbelief. However, such expressions uttered unconsciously do not render a nikah void as a person will not become an apostate as a result of uttering such expressions in an unconscious manner. Because the aim here is not to insult or underestimate religious values. On the other hand, a person who utters such words and commits such deeds should repent and ask for forgiveness and should try not to do such mistake again (See Ibn Abidin, Radd al-Muhtar, VI, 368).

860. Does the nikah of the spouses who do not see each other a long time get harmed?

Nikah ends either with divorce or with the termination of the nikah contract or death. Unless one of these happens, staying away from each other for a long time does not harm nikah. However, spouses should abide by the requirements of family law and exert their best efforts to continue their marriage.

861. Is the salary received by spouses who were divorced legally in order to receive the salary of a deceased relative but continue their marriage in religious terms halal to them?

Nikah is a contract that is concluded between the persons, who will establish unity of family, with the command of Allah. Termination of such important contract with some material concerns is, first of all, morally impermissible. And our beloved Prophet Muhammad (saw) said about a divorce that is realized under normal conditions, "*Allah did not make anything lawful more abominable to Him than divorce*" (Abu Dawud, Talaq, 3).

As divorcing officially but continuing to live together in order to receive the money that is paid to widow women by law due to a relative is in the nature of cheating, it is haram. Incomes that are gained through such fraudulent ways mean defalcation of public property. For this reason, a salary that is received by means of fraudulent divorce is not halal.

862. Is it permissible to get divorced in order to achieve material gains?

Marriage and family are serious institutions. It is not a right behavior for a person to abuse nikah in order to have some worldly gains. For example, marriage of convenience of a person, who wants to receive residence permit in order to work abroad, with a local person of the place where he wants to work or divorce of a person from his wife by court decision in order to benefit from retirement pension of his deceased father are examples of abusing nikah.

An income earned with wrong and false statements is an undeserved gain. And an income that is earned by means of undeserved ways is haram.

Spouses who get divorced through court are divorced with one bain talaq in religious terms (Saidi, Hashiyat al-Adawi, II, 41). In the event that they want to continue their marriage, they may continue their family life with two nikah bonds by solemnizing a new nikah if they did not have another divorce before.

863. Is it permissible to continue marriage if spouses give up on the divorce suit before final court decision?

Man needs to utter a word that expresses divorce in a way to comply with its conditions in order that divorce is realized. If a person files a lawsuit for a divorce without uttering a word about divorcing his wife and gives up on divorce during hearings again without uttering a word that expresses divorce and notifies court of this situation, divorce is not realized in religious terms. Accordingly, it is permissible for such people to sustain their family life (Kasani, Bada'i, III, 98).

864. What does iddah mean?

Iddah, which means "to count, amount, item", as a fiqh term, refers to the period which should be completed by a woman, whose marriage ends due to any reason, before marrying again. The reason behind iddah is to avoid any confusion regarding bloodline by revealing if she is pregnant or not, give the parties the chance to reconsider and come together again, helping women mentally prepare themselves to a new life and not breaking the marriage bond suddenly.

If marriage ends by means of divorce or termination and woman is not pregnant, a woman who menstruates waits for an iddah period of

three menstruation periods. *“Divorced women remain in waiting for three periods...”* (Baqarah, 2/228).

Those who do not menstruate for any reason wait for an iddah period of three months. *“And those who no longer expect menstruation among your women - if you doubt, then their period is three months, and [also for] those who have not menstruated”* (Talaq, 65/4).

In the event that a marriage ends with husband’s decease and his wife is not pregnant, she must wait for an iddah period of four months and ten days. This matter is stated in the Holy Qur’an as follows: *“And those who are taken in death among you and leave wives behind - they, [the wives, shall] wait four months and ten [days]”* (Baqarah, 2/234).

No matter how marriage ends, the iddah period of a pregnant woman continues until she gives birth: *“And for those who are pregnant, their term is until they give birth”* (Talaq, 65/4).

Iddah period starts when divorce or death occurs, not upon the separation of the parties.

The reason why it is haram for a woman to solemnize nikah with someone else before the end of her iddah period is the fact that she may still have the effects of her former marriage. Therefore this period ensures that the former husband’s rights are protected and it does not give rise to any confusion regarding one’s bloodline.

865. Is it valid to divorce a woman, who has already been divorced with a bain talaq and is waiting for iddah, once again?

According to Hanafis, if other divorce words are used to a woman who is already divorced with a bain talaq within her iddah, the second and third divorces occur too (Zaylai, Tabyin, II, 219). Because the fact that it is haram for a woman who waits for iddah to marry another man makes her continue to be available for divorce as the persons’ bonds such as nafaqah and house continue (Bilmen, Qamus, II, 201).

According to majority, the ‘divorce’ words that are used to a spouse who is in this situation are not valid. They are not subject to divorce as their bond of matrimony is ended with ‘bain talaq (irrevocable divorce)’ (Ibn Qudamah, al-Mughni, X, 278; Zuhayli, al-Fiqh al-Islami VII, 370-371). The High Board of Religious Affairs of Türkiye also adopts this opinion.

866. May a woman who is divorced with one or two talaqs marry another man after the iddah period is over?

A woman who is divorced with one or two talaqs waits for an iddah period of three menstruation periods according to Hanafi madhhab, and of three cleanliness periods according to Shafi'i madhhab. As a matter of fact, it is stated in the Holy Qur'an as follows: "*Divorced women remain in waiting for three periods...*" (Baqarah, 2/228).

If it is a rij'i divorce (that is realized with an explicit expression for a divorce and gives husband the right to continue marriage unilaterally), her husband may go back to her verbally or actually within the iddah period. If husband does not go back to his wife in this period, talaq becomes a bain (irrevocable) one. As it is the case in bain talaq, spouses may either continue their marriage with a new nikah or the woman may marry to another man, following the expiration of her iddah period. In order for a woman to marry another man, it is not a condition to exercise all three talaqs.

867. May divorced spouses marry again?

Divorce is restricted to three times in religious terms. There is a possibility of reunion for spouses after the first and second divorces (Baqarah, 2/229). A person may go back to his wife, whom he divorced with a rij'i (revocable) talaq, within the iddah period without a new nikah. However, one needs a new nikah contract if he decides to reunite with his former spouse after the end of her iddah period. In bain talaq, on the other hand, he needs to solemnize a new nikah even if the iddah period is yet to end. An absolute divorce occurs after the third talaq. In this case, the woman in question may not reunite with her former husband unless she genuinely marries to someone else and her new marriage ends with divorce or the decease of her spouse (Baqarah, 2/230).

868. May a woman who was divorced with a bain talaq marry another man?

A woman who was divorced with bain talaq, a kind of divorce that does not give the husband the right to decide to continue marriage unilaterally, may marry her former husband with a new nikah either during or after her iddah period, if this is not the third and last divorce, (Ibn Rushd, Bidayat al-Mujtahid, II, 86-87). She may also marry to another man after her iddah period ends (Marghinani, al-Hidayah, III, 266; Ayni, al-Binayah, V, 251-252).

869. Who should get the presents given in the weddings in the case of divorce?

The presents given by man and woman to each other and by mahram relatives such as their mothers, fathers, grandmothers, siblings, uncle, aunt, etc. are considered as grant and it is not permissible for them to revoke these unilaterally. However, those other than these relatives may ask their presents back although it is makruh tahrim.

Presents belong to the spouse to whom it is given. In the event that it is not known for whom a present is given, if possible, guests are asked for it and action is taken according to their answer. If this is not possible, action is taken according to the custom of that place (al-Fatawa al-Hindiyyah, IV, 427, 428). The jewelry given to bride by groom's parents are considered mahr if they are customarily considered so. Therefore they cannot be taken back under any circumstances.

ISSUES SUCH AS NAFAQAH, COMPENSATION, ETC.

870. What are the financial rights of a divorced woman?

Divorced woman gets the entire mahr amount that she deserves if khalvat al-sahiha or zifaf occurs. Moreover, if a man divorces his spouse without her demand, it is wajib for him to present a gift called mut'a to his wife to please her according to Shafi'i madhhab while it is mustahab according to Hanafi madhhab (Ibn Abidin, Radd al-Muhtar, IV, 245; Zakariyya Al-Ansari, Asna Al-Matalib, III, 319).

In the event that the parties did not sepecify any mahr amount before or afther nikah, the woman deserves a mahr, the amount of which equals to the mahr of a woman who is equal to her in terms of education, beauty and social status among the women who are her father's relatives, primarily her sisters. This is called as mahr al-mithl. Moreover, man needs to provide woman a nafaqah and house during iddah period of the woman who is divorced by him (Talaq 65/1, 6).

If a woman is divorced from her husband before having sexual intercourse or the occurrence of halvat al-sahiha, she deserves the half of the designated mahr (Baqarah, 2/237), and if a mahr is not designated she deserves the present called as mut'a in fiqh terminology (Baqarah, 2/236). The amount of mut'a is not determined in the Qur'an and sunnah, rather it is based on the man's financial status and traditions (Baqarah,

2/236; Muvatta', Talaq, 46). However, faqihs express that mut'a should not exceed the half of mahr al-mithl, with reference to religious texts and practices (Ibn Maza, al-Muhit, III, 112). For this reason, in the event that court designates an amount that exceeds the half of the mahr al-mithl and that may be accepted as exaggerated, woman should return the excessive amount to her spouse as it will be an undeserved gain for her to take the amount more than aforesaid one. However, some also find it acceptable if spouses agree on a certain amount of mahr al-mithl that exceeds the half of it (Ramli, Nihayat al-Muhtaj, VI, 365; Ibn Abidin, Radd al-Muhtar, IV, 246).

871. **Is it permissible to receive the compensation ruled by court?**

It is permissible to receive the compensation ruled by the court based on real evidence and truthful statements presented to it in a lawsuit filed due to the unfair practice of one of the parties in the employment contract, which does not contradict with the strict rules of Islam and is in accordance with the legislation in force.

872. **Is it permissible to receive severance payment?**

According to Islamic law, there is a principle of freedom of contract between workers and employers. Therefore, parties may freely conclude a labor contract, on condition that they do not violate religious values and legal statute, in particular equity and justice. The state may add additional clauses or framework provisions to the contract concluded between workers and employers by their own free will, taking some benefits into account. In the events that there is no explicit provision in the contract, the relevant legal statute and general custom is taken as the basis.

Accordingly, it is clearly stated in employment contracts and it is publicly known that an employee becomes entitled to a severance payment in case of wrongful dismissal or retirement. In this case, it is permissible for a wrongfully dismissed employee to receive a severance payment on an equitable basis as it is approved by the contract, the law, and the prevailing customs. In addition to the reasons stated above, the compensation to be received by the retired worker under the name of severance payment may be considered as aging compensation.

873. May woman take his husband's money without his consent in order to meet her own personal needs?

The religion of Islam confers men certain responsibilities besides the rights and powers it vests men with. One of them is husband's duty of meeting and satisfying the essential needs of his wife in reasonable and normal terms (Nisa, 4/34; Talaq, 65/6; Baqarah, 2/233). This is a responsibility which arises from marriage contract and whether woman is rich or poor and Muslim or non-Muslim does not affect this responsibility.

When Abu Sufyan's wife Hind came to the presence of Prophet Muhammad (saw) and asked, "O the Messenger of Allah! Abu Sufyan is a stingy man, he does not spend enough money neither for me nor for his children. May I take out of his property without him seeing it?" Allah's apostle replied "*ake what is sufficient for you and your child on a reasonable basis*" (Nasa'i, Qada, 34). Accordingly, if husband neglects to meet normal personal needs of his wife, woman may take enough amount to satisfy her need.

874. Is the nafaqah that a woman receives until the finalization of divorce halal?

Islam holds men responsible for providing nafaqah for their wives as long as their marriage continues, and during their iddahs in the event that a divorce occurs (Baqarah, 2/233; Nisa, 4/34; Talaq, 65/7; Bukhari, "Nafaqat", 1-4; Kasani, Bada'i, IV, 15-16). If parties bring a divorce case before the court without a religious divorce and the woman has not left the house, the obligation to ensure the nafaqah (maintenance) of the woman during the trial belongs to her husband, since the spouses are married until the finalization of such lawsuit. This obligation continues until the end of the iddah period that begins after the judge decides on the divorce of the parties. Nevertheless, in the event that a divorce has taken place, the husband has to make alimony (nafaqah) payment to his wife until the end of his wife's iddah period as per the Islamic law.

875. To whom should the custody of children be given in case of divorce?

Since the mother of a child is the person who can fulfill the feeding, care and cleaning of the child from birth to a certain age in the best way, the right of custody should be primarily given to the mother. Affection, mercy and natural skills of mother also require this (Ibn Hazm, al-Muhalla, X,

323; Marghinani, al-Hidayah, III, 366; Ibn Qudamah, al-Mughni, XI, 412-413; Shirbini, Mughni al-Muhtaj, III, 592).

A woman came to Prophet Muhammad (saw) and complained, “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 wants to take him away from me.” Then the Messenger of Allah said, “*You have more right to him as long as you do not marry*” (Ahmad Ibn Hanbal, al-Musnad, II, 182; Abu Dawud, Talaq, 35).

Abu Bakr also told to a father, “*Mother’s caressing, hugging and scent are better for child than staying with you. The child will make his/her choice later, when he/she grows up*” (Abdurrazzaq, al-Musannaf, VII, 154).

The person who is given the responsibility for the care and discipline of the child must be sane, mature, able to provide due care for the child, and be reliable in protecting the child both life-wise and health-wise as well as morals-wise.

Besides these conditions that are sought both in men and women, there are some other conditions that are sought only in men or only in women. Some of such gender-specific conditions are as follows: Man must be a Muslim, the child must be mahram for him if such child is a girl, woman must not be married to someone who is not a foreigner (mahram) for the child (Sahnun, al-Mudawwana, II, 258 ff.; Shirbini, Mughni al-Muhtaj, III, 593-594; Shawkani, Nayl al-awtar, VII, 397 ff.; Bilmen, Qamus, II, 432).

The duration of the care and upbringing (hadanah) of the child depends on the child’s need for it. Legal experts are of the opinion that this period ends when a child reaches such an age when s/he becomes able to eat or get dressed on his/her own. Accordingly, hadanah period ends at the ages between seven and nine for boys and at the ages between nine and eleven for girls.

According to Malikis, this period is extended to adolescence for boys and to marriage for girls (Sahnun, al-Mudawwana, II, 258-259).

The majority of legal experts are of the opinion that the responsibility of the child is transferred to the father at the end of hadanah, while Shafi’is and Hanbalis assert that such decision belongs to the child and he/she may choose any of the parents to live with (Ibn Qudamah, al-Mughni, XI, 414-415; Shirbini, Mughni al-Muhtaj, III, 598). The fact that Prophet Muhammad (saw) gave a boy, whose parents got divorced, the right of option as to which of his parents he will prefer to live with (Abu Dawud, Talaq 35; Tirmidhi,

Ahkam, 21; Nasa'i, Talaq, 52) and the aforementioned reference to Abu Bakr corroborates this opinion.

876. Who will be responsible for the nafaqah of children after divorce?

The duty of providing nafaqahs/basic needs of children and their mothers is under father's responsibility (Baqarah, 2/233; Talaq, 65/6). The amount of nafaqah is determined by taking the incumbent's financial status into consideration (Talaq, 65/7). A father who cannot afford the nafaqah of his child should pay such amount by borrowing from any of his siblings or his mother, on condition that he will settle his debt when he is able to pay. Girls are considered as little children either they are grown or little and their nafaqahs are under responsibility of father until marriage and of husband after marriage. On the other hand, father provides nafaqah for boys until they are employed and earn their nafaqahs, and the responsibility of nafaqah ends when they start working and earning their nafaqahs. However, in the event that child has an excuse that constitutes an impediment to earning nafaqah although he is grown, his nafaqah is also under responsibility of his father (Sarakhsi, al-Mabsut, V, 222-223).

877. Is a man responsible for supporting his sister who is single?

The Almighty Allah commands benevolence to relatives. It is stated in the Holy Qur'an as follows: "...give the relative his right, and [also] the poor and the traveler..." (Isra, 17/26); "...to parents do good, and to relatives..." (Nisa, 4/36). Messenger of Allah (saw) expressed the responsibility of a Muslim towards his close and distant relatives when a companion asked him: "Messenger of Allah! To whom should I show kindness?" And he answered: "*Your mother, your sister, your brother and the slave whom you set free and who is your relative, a due binding (on you), and a tie of relationship which should be joined*" (Abu Dawud, Adab, 28). There fore, one should provide the nafaqahs for their consanguineous relatives with whom matrimony is not permissible when they are in need, by taking the line of descent into consideration (Sarakhsi, al-Mabsut, V, 223). Accordingly, men should provide financial support for their sisters who are in need.

ADOPTION

878. What is the judgment on being foster-parents?

The institution of foster child, which had been preserved as a continuance of the old custom practised during the early period of Islam, was abolished with the verse revealed in the period of Madinah: “...*And he has not made your adopted sons your [true] sons...*” (Ahzab, 33/4). And the subsequent verse commands that the responsibility of foster children belongs to biological father, not to foster fathers. Accordingly; despite the fact that our religion advises us to provide care and protection for destitute children, ‘an adoption that may give rise to legal consequences’ is not accepted.

As a natural consequence of this, bloodline of the foster child is not linked to the foster father and no mahramness is established between them and no heirship relation occurs between them.

However, adoption sustains sometimes as ‘custodial family’.

The fact that Islam abolished the institution of adoption does not mean that one is not allowed to provide care for orphans and abandoned children. Because according to Islam taking care of, feeding and bringing up the children who need protection has a great reward and it is a humanitarian duty.

Prophet Muhammad (saw) said by pointing out his index and middle fingers, “*I and the one who takes the responsibility of an orphan will be in Paradise thus*” (Bukhari, Adab, 24; Muslim, Zuhd, 42; Abu Dawud, Adab, 130; Tirmidhi, Birr, 14).

With this respect, abandoned children who are in need of love, affection and protection should be protected near families or at nurseries by giving them a helping hand; they should be educated to have a craft and profession and should be included in society. However, it is not right for anyone to cut off the child’s relation with his own bloodline and make him forget his biological parents and to include them among one’s legal heirs and consider them as one’s own biological child, in terms of domestic Islamic dress and mahramness.

Instead, Islam suggests people to protect, take care and bring up him and meet his need and act towards him not as a biological child but as a coreligionist in terms of rights and halal-haram rules.

879. Is it permissible to receive the money paid for the adopted child by the state within the scope of being foster parents?

Foster parents may receive the allowance paid by the state for the benefit of the child under protection within the scope of foster family program on condition that such amount is spent or saved for the child. However, it is permissible for the family to benefit from that money, which is given for the child, in a reasonable amount in the event that the family who protect the child is poor. Because it is stated in the Holy Qur'an, *"And test the orphans [in their abilities] until they reach marriageable age. Then if you perceive in them sound judgement, release their property to them. And do not consume it excessively and quickly, [anticipating] that they will grow up. And whoever, [when acting as guardian], is self-sufficient should refrain [from taking a fee]; and whoever is poor - let him take according to what is acceptable. Then when you release their property to them, bring witnesses upon them. And sufficient is Allah as Accountant"* (Nisa, 4/6).

Our religion does not approve cutting the child's relation of bloodline with his/her parents because it may be seen as demolishing his emotional world and killing him spiritually (Ahzab, 33/4-5; Ibn Majah, Hudud, 36). For this reason, child should be seen as trust of Allah and one should exert effort to abide by this trust duly and people should not give away their children due to financial impossibilities and deprive children of real parents' affection.



INHERITANCE AND WILL
(WASIYYAH)





INHERITANCE AND WILL (WASIYYAH)

WILL (WASIYYAH)

880. What is wasiyyah and what is the ruling of it?

Wasiyyah (will) is transferring, handing down a property to a person through a will to be performed after death. A person may allocate at most one third of his property and rights for disposition after death, the remaining two thirds is the share protected in the name of heirs. Because Prophet Muhammad (saw) told to a companion who wanted to leave a will about half of his property to give one third of it as wasiyyah and declared that even this amount will be much (Bukhari, Wasaya 3). It is mustahab to bequeath less than one third of property. If heirs are poor, it is better not to Wasiyyah at all. The Wasiyyah that is more than one third of estate or will be made in favor of any of heirs is valid depending on the consent of other heirs (Mawsili, al-Ikhtiyar, IV, 376-377). Because Wasiyyah to an heir is not permissible. Prophet Muhammad (saw) said in a hadith, “Allah Ta’ala gives their right to each right holder. For this reason, there is no Wasiyyah to an heir (in favor of one of the heirs)” (Tirmidhi, Wasaya, 5; Abu Dawud, Wasaya, 6).

Depending on these general provisions:

It is wajib (obligatory) to bequeath the payment of debts that are rightful due and financial obligations such as fasting fidyah, zakat and kaffarat that are evaluated under Allah’s right. It is mustahab (desirable) to bequeath for poor relatives who cannot get share from inheritance. It is mubah (permissible) to bequeath to those among rich foreigners and relatives.

Wasiyyah to a person who deals with masiyyat (disobedience) and sins is makruh (disliked act) (Ibn Abidin, Radd al-Muhtar, X, 336).

881. Is it permissible for a person to donate all or part of his property to one or some of his children while he is alive, by discriminating among his children?

Essentially, a person has right to dispose his property however he wants when he is alive. Legally he may give a part or whole of his property to a foreign person or one or some of his children. This disposition will be valid in legal terms. However, Islamic scholars have different opinions about its religious judgment. Disputes on this matter result from the related hadiths being understood differently and interpreted differently.

Prophet Muhammad (saw) asked to the companion named Numan Ibn Bashir, who did not want to give a part of his property to his son and wanted to make him witness for it, if he gave property to his other children or not, when he learned that he did not give, he did not want to be witness and asked him to make another person witness, (according to different narratives of the hadith) he refused Numan with such expressions as, *“Take it back”*, *“Be just towards your children”*, *“Do not make me witness to your oppression”* (Bukhari, Hiba, 10-12; Muslim, Hibat, 9-19).

According to the strong opinion in Hanafi, Shafi'i and Maliki madhhabs, in the event that father gives property to his children when he is alive it is mustahab for him to act equally between his children and it is makruh for him to discriminate between them (Kasani, Bada'i, VI, 127; Ibn Nujaym, al-Bahr, VII, 288; Harasi, Sharh Mukhtasar, VII, 82; Zakariyya Al-Ansari, Asna Al-Matalib, II, 483). According to a narrative from Ahmad Ibn Hanbal, some Malikis and imam Abu Yusuf from Hanafis, it is wajib (fardh) for father to treat equally to each child while giving them property and it is haram for him to discriminate between them (Ibn Qudamah, al-Mughni, VI, 256-257; Ibn Juzay, al-Kavanin, 546).

In the event that father gives property to all his children; there is a controversy about if he will give it to them equally without discriminating between boy and girl or in a way to give two share to boy and one share to girl. in this subject, the majority think that he should give it to them equally (Kasani, Bada'i, VI, 127; Ibn Qudamah, al-Mughni, VI, 259).

It will comply with the spirit of the religion better if father acts equally between his children while giving them property whether it is

fardh or mustahab. Moreover, making discrimination between children cause them to have hostility against their parents and each other and to stay away from each other and even be enemies. For this reason, fathers should treat equally towards their children and should not discriminate between them while giving them property unless there is a legitimate reason.

However, in the event that some of them need it more for such reason as one of or some of the children's catching an incurable disease, being disabled, having a large amount of debt, having a large family and having financial difficulties to make two ends meet, being engaged in scientific activities and being in need, they may be given more in proportion to their needs (Shaykh'zadah, Majma al-Anhur, II, 610). Here is another point, if it is possible, it will be more appropriate to have consents of other children on this subject.

882. If the father deprived the others and make a donation only to one of his children, would that child be responsible for it, what should he/she do?

As a person may dispose his property however he wishes, he does not have to take consents of other children while granting out of it to one of his children. However, one of the major duties of parents towards their children is to treat them equally without making any discrimination between them. Such behavior is both their duty and right of the children. The fact that children are girl-boy, little-big does not change this.

A father's making discrimination between children by giving whole or a part of his property to some of his children, either girl or boy, without consent of the others is not appropriate in religious terms. But if father transfer his property to a son and deprives the others by making discrimination between his children while he is alive howsoever, the son to whom property is transferred will not be responsible for anything in this situation. Although he does not have to do so, it will be appropriate if this son gives out of the property to his deprived siblings in proportion to their shares over inheritance.

883. Can a person with children bequeath his property to his grandchildren?

If a person has children, his grandchildren may not be his heirs (Mawsili, al-Ikhtiyar, IV, 450-451). A person may grant the amount up to one third of his property to anyone who is not his heir (Bukhari, Wasaya 3). in this context, there is no impediment to a person's wasiyyah to his grandchildren who have no possibility to be his heirs. What is more, if mother or father of these grandchildren who are relatives of the grandfather died before, some scholars find it wajib and some find it mustahab for grandfather to leave a will about them (See Ibn Hazm, Muhalla, IX, 314-315; Ibn Qudamah, Mughni, VIII, 391-392). Today, the opinion that wasiyyah in such situation is wajib is adopted more (Abu Zahra, Serhu Kanun al-Wasiyya, p. 198-200).

884. May a Wasiyyah that will end kinship relations be applicable?

Our religion commands to call and receive news from relatives, visit those who are away as much as possible and help people in need (Bukhari, Adab, 10-11). In this respect, it is not permissible to fulfill such a wasiyyah, for example, "You will not visit your uncle after my death" which will end kinship relations as it is invalid.

885. Is it necessary to fulfill the will of a person who made a will to be buried in his wife's grave?

Under normal conditions, only one body is buried in one grave. Unless the corpse that is buried before is decayed and becomes earth, it is not permissible to uncover his grave and bury a second corpse in it. After corpse decays and becomes sand, others may be buried in the same grave. It is not a must for these corpses to be wife-husband or relatives. If it is seen that there are some bones left in the grave when it is opened thinking that corpse is decayed, these bones are collected to a side, earth is thrown to form a layer between them and the second corpse is buried in this way (Mawsili, al-Ikhtiyar, I, 320).

Moreover, people do not have to abide by the wasiyyah of a person who bequeathed to be buried in any place. But it is also permissible to abide by it (Ibn Abidin, Radd al-Muhtar, III, 122; X, 348).

886. Is it a requirement to execute the wasiyyah of a person who wanted the entire Qur'an to be recited for his soul?

Reciting Qur'an is a worship. Reward of a worship that is made to be closer to Allah belongs to the person who performs it. It is not permissible to receive payment from another person for this. Because Prophet Muhammad (saw) says in a hadith, "*Recite Qur'an but do not turn it to a means of having interest*" (Ahmad Ibn Hanbal, al-Musnad, XXIV, 288, 295).

Just like it is not permissible to realize the wasiyyah of a person by having one recite whole Qur'an to grant it to the soul of the deceased person; such wasiyyah is not binding as there is no obligation to perform it even without payment (Ibn Abidin, Radd al-Muhtar, IX, 75, 76).

887. If a person, who could not go to Hajj himself, leaves a will to his child to go to Hajj on behalf of him and dies, may the siblings share the money he left for Hajj as inheritance or should they wait and perform the duty of Hajj first?

Wasiyyah of a person for performance of hajj on behalf of him is realized after his death. Heirs may not divide the money left for this purpose by being included to estate.

If that person assigns one of his children to perform hajj on behalf of him and likewise the assigned child does not perform it when father is alive, he performs it with the money allocated for it after father's death.

888. Is it permissible to use the money bequeathed for a certain purpose for another purpose?

Heirs should fulfill wasiyyahs about debts to Allah such as hajj, fasting fidyah, zakat, sadaqah al-fitr and kaffarat. Property that is left for these purposes may not be used for another purpose.

If wasiyyah is left about an unlawful thing in religious terms, this wasiyyah will not be valid. Goods that a person leaves a wasiyyah to be used in unlawful businesses are distributed among heirs along with the rest of the inheritance or if the heirs wish, they may use these goods for charity (Ibn Abidin, Radd al-Muhtar, X, 336-337).

As the conditions laid by the person who leaves a will are accepted as conditions that are laid by those who legislate Islamic law, the property left by a will to a certain charity should be spent for the place of wasiyyah. However, if it is not possible to spend the good for the

designated place it is spent for the most appropriate place after the designated one (Ibn Abidin, Radd al-Muhtar, X, 376, ff.).

889. Is it permissible for a person to give bequeath that his property will be given to his spouse when she is alive and donated to a pious foundation after her death?

Wasiyyah (will) is transferring, handing down a property to a person through a will to be performed after death. As it is understood from the description, wasiyyah is a disposition which depends on death. A person may allocate one third of his property and rights for disposition after death, the remaining two thirds is the share protected in the name of heirs (Bukhari, Wasaya 3). If a person has bequeathed more than one third of his property, the validity of this will depends on the acceptance of the heirs. If they accept, the will is fulfilled, if they don't, one-third of the estate is fulfilled, and the remaining will becomes void.

Likewise, the deceased person's will to any of the heirs is not valid unless the other heirs' permission is granted. Because Prophet Muhammad (saw) said, *"Indeed Allah, Most Blessed and Most High, has given the right due to everyone deserving a right. So there is no will for an heir (in favor of one of the heirs)"* (Tirmidhi, Wasaya 5; Abu Dawud, Wasaya, 6).

According to this, the bequest made by the person to his wife -as she is the heir- is not valid. All of the property that is not donated and delivered before death goes to the heirs of the person who are alive after his death. A wasiyyah to a foundation is fulfilled after deducting preparation and burial expenses and debts are paid out of the goods and rights left by deceased person in a way not to exceed 1/3 of estate. Remaining good is transferred to his heirs.

890. May a person leave all of his property to the (foster) child he took care?

In Islam, adoption does not exist in legal term (Ahzab, 33/4-5). However, a person may take the children who need protection under his protection and take care of them, this is something encouraged by our religion. If the ancestry of these children is known, the children are attributed to their fathers. A person who takes a child under his protection may grant his property to whomever he wishes including the children taken under protection by him (Mawsili, al-Ikhtiyar, II, 533). But it is

advised in such situations to avoid from causing hostility between them and heirs by depriving heirs of inheritance.

891. Is it permissible for a person to endow all his property to pious foundations?

A person has the right to dispose his property however he wishes when he is alive. He may grant his property to the poor or charities. Endower should be a sane and adolescent person and endowment should be eternal in order that an endowment becomes authentic.

Prophet Muhammad (saw) endowed his shares on the lands of Fadak and Haybar for the benefit of Muslims (Bukhari, Wasaya, 1; Faraidh, 3).

As it is narrated from Ibn Umar; Umar (ra) had share in a land of Haybar and he said to Prophet Muhammad (saw), “O the Messenger of Allah, I have such a piece of land that I have never had more valuable good than this ever. What would you suggest me?” Prophet Muhammad (saw) answered, “If you want you leave its original to yourself and give its interest to charities.” Upon this, Umar donated it to the poor, relatives, guests, slaves and wayfarers in a way that it is not to be sold, granted, transferred to heirs. He expressed that it is free for the one who manage it to eat and have others eat in normal standards without taking anything to his possession (Bukhari, Wasaya, 29-30, 32). Uthman bought the well of Ruma in Medina and allocated it to benefit of all Muslims (Tirmidhi, Manaqib, 19; Nasa'i, Jihad, 44). But it is appropriate for a person to pay attention not to suffer his heirs while he endows his property.

892. Do the parents of a person have the right to interfere in their children's use of their property?

A person who has the legal capacity of disposition may dispose his property however he wants while he is alive unless this does not reach to the level of debauchery; he may sell, grant and bequeath them in a way not to exceed its one third. His wife and children do not have right to interfere in this (Mawsili, al-Ikhtiyar, II, 533). However, Prophet Muhammad (saw) advises to be cautious about one's dispositions in order not to make the children miserable, “*It is better for you to leave your heirs rich than leaving them as poor people who beg to public.*” (Bukhari, Wasaya, 2, 3, Faraidh, 6; Muslim, Wasaya, 5)

893. If a person endows his property to a charity when he is alive, may his children have this donation canceled after his death?

Transfer of a good to another person without expecting any return while a person is alive is called as hibah (grant). Grant is a two sided contract, it is established with declaration of intention of the parties and completed with delivery - reception of the granted good. Validity conditions of a grant are: existence of contracted good at the moment of donation, its being known and in a certain number, its belonging to the donator and having parties' consent (Ibn Rushd, Bidayah, II, 327; Marghinani, al-Hidayah, VI, 241).

It is not permissible to revoke a grant contract that is concluded and whose delivery is completed according to its procedure. Prophet Muhammad (saw) condemned this behavior (Bukhari, Hiba, 12). However, Hanafis accept that one may revoke grant with the consent of the person who accepts grant or by court decision (Marghinani, al-Hidayah, VI, 260).

According to this, a person has right to revoke his grant made by him when he is alive. But his children do not have the right to cancel this grant after his death.

INHERITANCE

894. Is there a responsibility of not complying with the commands of Islam on inheritance?

A Muslim must abide by the decrees of Almighty Allah; otherwise he will be spiritually responsible. Inheritance provisions are among such decrees. Therefore, heirs should consent to their rights and not infringe on the rights of the others. As a matter of fact, after the provisions regarding inheritance are stated in the Qur'an, the following is expressed: *"Those are limits set by Allah. Those who obey Allah and His Messenger will be admitted to Gardens with rivers flowing beneath, to abide therein (for ever) and that will be the supreme achievement"* (Nisa, 4/13). However, the heirs have the right to share the inheritance among themselves as they wish, on the condition that they do not deny the verses about inheritance and do not find them unjust. In this case, they would not be acting against the provisions of Allah regarding inheritance.

895. Is it inconvenient to delay sharing the inheritance?

Since the property and rights left behind by the deceased will be transferred to the heirs immediately (Nisa, 4/11-12; Bukhari, Wasaya, 3), after the necessary procedures, the inheritance must be divided between the heirs immediately or the incomes must be divided among the right holders according to their shares until they are divided. Otherwise, the rights of other right holders will be violated. Because the heirs have right to dispose their share out of inheritance however they want and receive its returns.

896. What is the share of the parents of the deceased in the inheritance?

Mother inherits her deceased child under all circumstances (Nisa, 4/11; Mawsili, al-Ikhtiyar, IV, 450). However, how much inheritance she will receive is calculated together with the shares of other heirs. In this respect, it is stated in a verse, *“For parents, a sixth share of the inheritance to each, if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased Left brothers (or sisters) the mother has a sixth. (The distribution in all cases (’s) after the payment of legacies and debts”* (Nisa, 4/11).

According to Islamic inheritance law, mother has three situations in terms of inheritance:

1- Mother receives one sixth if deceased person has son, daughter, their sons and daughters; more than one siblings of the deceased regardless of their being maternal or paternal relatives.

2- If they do not exist, mother gets one third.

3- If mother becomes an heir along with father at one side and with husband or wife at other side, she receives one third of the remaining inheritance after husband or wife gets their shares.

Father also has three situations:

1- Father gets one sixth when he becomes an heir together with son or grandchildren of the deceased person.

2- If he becomes an heir along with daughter or daughter of son of the deceased person or his son’s... daughter of his son, he gets one sixth and the remaining shares additionally as residual from those whose shares are cited in the Holy Qur’an (ashab al-faraidh).

3- When the heirs included in these two groups do not exist, male relatives (asaba) become heirs. If there is not any other heir, he gets all

of the estate, if there are other heirs, he gets the remaining after they get their shares.

897. What is the status of woman in inheritance?

Islam pays regard to the balance of rights and responsibilities in the financial judgments set forth generally. Inheritance law is included this. It is commanded that man gives mahr woman whom he will marry during marriage and that women's nafaqah is under responsibility of her father and brothers before marriage and of her husband during marriage. When this and similar principles are examined, it is understood that rights of women are not abused in terms of Islamic inheritance law.

The share to be received by a woman out of inheritance changes according to her degree of relationship:

a) Woman as daughter of deceased person: When she becomes an heir along with her brothers, she gets half of the share received by her brother and half of it if she does not have brothers and she is the only sibling. If there are more than one daughters, they get two thirds of inheritance (Nisa, 4/11). They share two thirds of inheritance between themselves equally.

b) Woman as daughter of son of the deceased person: if the deceased person does not have children, if she is the only one, daughter of son of the deceased person gets half of it. If they are more than one, they get two third of inheritance. If she becomes an heir with her brothers, they share inheritance in two to one proportion. When she becomes an heir along with biological daughter of the deceased person, granddaughter gets one sixth of inheritance but she may not get share out of inheritance if she becomes an heir with son of the deceased person.

c) Woman as sister of the deceased person from same parents: Her first three situations are like daughter of the deceased person. If she becomes an heir with daughter of the deceased person, sister get the remaining part after daughter gets her share. When sisters exist along with father, son or two daughters of the deceased person, they may not get share out of inheritance (Nisa, 4/176).

d) Woman as sister of the deceased person from same father: Sisters from same father get what sisters from same parents get if they do not exist.

e) Woman as sister of the deceased person from same mother: In this situation, if there is one sister from same mother, she becomes a partner to one sixth while she becomes a partner to one third if there are more than one son or daughter (Nisa, 4/12); they may not get share out of inheritance if they become heirs with children, father and grandfather of the deceased person.

f) Woman as mother of the deceased person: if the deceased person has children or more than one siblings she gets one sixth, if he does not have children or more than one siblings she gets one third; if she becomes an heir along with one of spouses and father of the deceased person she gets one third after spouse gets her share (Nisa, 4/11). If she becomes and heir along with spouse and grandfather of the deceased person, she gets one third of the entire inheritance.

g) Woman as grandmother of deceased person: When mother of deceased person does not exist she gets one third (Daraqutni, Sunan, V, 160; Abdurrazzaq, al-Musannaf, X, 273). if father of the deceased person is among the heirs in the event that his mother exists, grandmother may not get share out of inheritance.

h) Woman as wife: if the deceased person has children she gets one eighth, if not, she gets one fourth (Nisa, 4/12; Jurjani; Serhu's-sirajiyya, p. 34).

898. If the deceased has children and a wife, will his siblings have a share in his inheritance?

When first degree relatives of the deceased person are among the heirs, the second degree relatives may not be heirs of him (Mawsili, al-Ikhtiyar, IV, 453). That is to say, the verse which means, *“But kindred by blood have prior rights against each other in the Book of Allah”* (Anfal, 8/75) shows that the relatives who are on the same line in terms of lineal consanguinity will deprive distant relatives of inheritance. However, son, grandson or brother, if father does not exist, of the deceased person has right to get share from inheritance as asaba (agnates) (Mawsili, al-Ikhtiyar, IV, 446).

899. Would a child (grandfather's orphan) whose father dies before his grandfather be the heir of his grandfather when his grandfather dies?

According to Islamic Inheritance Law, the expression used publicly as “orphan of the grandfather” refers to sons of the deceased person along with son or daughter of his other children who died before him , that

is to say, the deceased person's grandchildren whose father is already dead. In Islamic Inheritance Law, if children of the deceased person exist, his grandchildren may not be heirs, based on the principle of "*close relatives' blocking distant relatives*" (Mawсили, al-Ikhtiyar, IV, 450-451; Jurjani; Sharhu's-sirajiyya, p. 85-86).

However, some Islamic legal experts consider leaving a bequest by the grandfather to grandchildren in such situation necessary by emphasizing the point of not making children whose fathers die while grandfathers are alive suffer. Accordingly, grandfather should bequeath the amount of his son's share in his inheritance or an amount that does not exceed one third of his inheritance to his grandchildren in such situation. According to narratives from Dawud al-Zahiri, Masruq, Qatada, Tawus and Tabari, bequeath to close relatives who cannot be heirs is wajib (Ibn Hazm, Muhalla, IX, 314; Ibn Qudamah, Mughni, VIII, 391-392).

Some scholars in recent period accept this type of bequest as wajib with reference to the verse which was revealed before the verses of inheritance and accepted as abrogated by the majority of Muslim jurists, "*it is prescribed, when death approaches any of you, if he leave any goods that he make a bequest to parents and next of kin, according to reasonable usage; this is due from the Allah fearing*" (Baqarah, 2/180). These jurists say that in the event that grandfather dies before leaving such a will, he will be deemed to have left a will about it (Abu Zahra, Sharhu Kanun al-Wasiyya, 198-200). This judgment is included in Tunisian inheritance law. The Holy Qur'an advises the heirs to give something from the inheritance, even to those who are not heirs while the inheritance is being distributed (Nisa, 4/8). For this reason, favoring the orphans of the grandfather while distributing inheritance complies with this advice of the Holy Qur'an.

900. Should daughters and sons share real estates that are left as inheritance equally?

In Islamic inheritance law, daughters and boys share properties, which belong to the person who leaves them as inheritance (the deceased person), in a way that boys take two shares and girls take one share each (Nisa, 4/11). On this subject, there is no difference between movable and immovable properties that are left as inheritance. In the lands that are owned by state instead of the deceased person, state has right to dispose them in a way suitable to public benefit. Equal distribution of the right of disposition on lands that are owned by state

(demesne) between daughters and boys of the deceased person was codified in “Land and Transfer Law” enacted in Ottoman Empire based on this rule (Bilmen, Qamus, V, 399). As lands owned by citizens were turned into private properties after proclamation of Republic, they became their own property. Therefore, Islamic inheritance law apply to these too.

901. After which procedure are the property and rights (estate) left by the deceased transferred to his heirs?

The property and rights (estate) left by the deceased person are transferred to his heirs immediately after deducting preparation and burial expenses and paying his debts in a certain order, on condition that his bequest does not exceed one third of the estate (Muslim, Faraidh, 14; Nasai, Jana’iz, 67; Mawsili, al-Ikhtiyar, IV, 429).

902. Can one of the heirs renounce the inheritance in favor of the other?

If a person wishes, he can waive his share of inheritance in favor of all or any of the other heirs. However, if he will waive from his share in favor of a certain part of the heirs, share of the waiver should be separated first and then it should be given to those for whom he waived from his right. In the event that he will waive from his right in favor of all the heirs, such procedure is not necessary. He may announce this verbally but it will be better for him to give a written declaration.

903. Can a person give his share of inheritance to someone else?

A person may grant the right transferred to him to any of other heirs or to a foreigner partially or fully. Because this property is his right. Moreover, heirs may divide inheritance however they want with mutual consent. They may waive from their rights partially or fully in favor of other heirs without any material or spiritual pressure (Mawsili, al-Ikhtiyar, IV, 523).

904. May heirs be deprived of inheritance?

A person does not have the right and authority to deprive his heirs of his inheritance. However, heir is deprived of inheritance in the events that there are such situations which constitute impediment to heirship like heir’s killing the person who leaves inheritance and their not being members of the same religion (Mawsili, al-Ikhtiyar, IV, 502-504).

Children become responsible in religious terms if they behave in negative ways to rebel against their parents and maltreat and insult them, which would hurt hearts of parents and cut off their love bonds, or they did not perform their duties. But their mistakes or failure to perform their duties do not constitute base for their being deprived of inheritance in religious terms. Because each individual has his own responsibility in Islam. Everyone will account for their negative and positive deeds to Allah (Najm, 53/38-41).

In a family, parents and children have to be aware of their duties and arrange their family life in a way suitable to Muslims.

With this respect, parents do not have the right to disown their children in order to deprive them of their inheritance under no circumstances and it is also not permissible for them to bequeath to deprive them of the inheritance.

905. Does a person who was given out for adoption have a right on his biological father's inheritance?

Adoption in which a person is registered to another person's bloodline and loses his original bloodline and from which some legal consequences arise is not accepted in our religion (Ahzab, 33/4-5; Ibn Majah, Hudud, 36). However, it is possible for benefactors to take care and raise up abandoned children without any legal responsibilities under the title of foster child. Foster parents and foster child do not have neither bilateral nor unilateral heirship relation between them. As there is no heirship between them, foster parents may grant as much as property to the child they raised up when they are alive and may leave one third of their property to him through them through bequest (Mawsili, al-Ikhtiyar, II, 533).

As a person who is adopted by another person is still in the bloodline of his biological father, he will still have his right in the inheritance of his biological father.

906. Are the properties bought with haram gains deemed halal to heirs after the owner dies?

If the entire inheritance left by a person consists of properties that are gained by illegal ways such as usurpation and theft, they should be returned to their rightful owners if they are known, and to their heirs if owners are not alive; if their owners are not known, they should be given to the poor or charities. Because, Islam commands to return the

property that is gained through haram ways to its owner and, if this is not possible, to give them to the poor.

When it comes to money and properties that are gained by haram ways, although it is permissible for heirs to benefit from this inheritance in the event that heirs are poor, it is not permissible for the heirs who are not poor to benefit from it. Such money and properties need to be given to the poor or charities.

If inheritance that is left by a person was not gained through haram ways totally but has some halal parts in it and it is not possible to separate the halal and haram parts from each other, it is permissible for heirs to share such properties.

Another point is, it will be an act suitable to taqwa most if those who are in good financial status do not get any of such money and property but gives them to the poor or charities (Alauddin, al-Hadiyya al-'Alaiyya, 197).

907. **Is the pension considered inherited property?**

Estate refers to the properties that are left by a deceased person and on which no one else has right (Ibn Abidin, Radd al-Muhtar, X, 493). Therefore, rights and interests that are not within the scope of property are considered as non-estate. A person's salary that is his personal right related to his duty is not evaluated under inheritance. The right to receive retirement pension belongs to the person to whom it is granted. One should act according to current provisions in legislation on this subject.

908. **If a father distributes his property between his children when he is alive, would heirs be obliged to abide by this division?**

A person has the right to dispose his property however he wants when he is alive; he may sell a part of his property, may grant it to his children or other, may endow or give charity.

In this respect, if a person grants his entire property or a part of it to a person before dying and the person to whom it is granted accepts and receives it, this property belongs to the person to whom it is granted. Rulings of inheritance may not be practised about this property anymore. If father divides it but leaves a will before delivering property to the related persons that it should be distributed according to the division made by him, there is not obligation to abide by the will he left (Tirmidhi, Wasaya, 5; Abu Dawud, Wasaya, 6). If they want, heirs may either share property

according to the will or according to rulings of inheritance law. In such cases, objection of even a single heir should be taken into account.

909. After the death of the person who adopted his nephew and left him as the sole heir, can the brothers and sisters of the deceased religiously claim rights from this property?

In Islam, there is no institution of adoption that has legal consequences. Foster children are not like biological children according to the Holy Qur'an (Ahzab, 33/4) and a right of being heir to each other is not in question between a child who is raised up as a foster child and his foster parents (Qurtubi, al-Jami', XVII, 57). Therefore, when a person in this situation dies his real heirs are his siblings in religious terms. However, parties may grant property to each other and leave property through a bequest provided that it does not exceed one third of it (Bukhari, Wasaya 3).

910. May spouse of a person be heir of a deceased person if they are married but consummation of marriage is not realized?

Nikah is one of the causes to deserve the right to have a share out of inheritance (Nisa, 4/12; see Mawsili, al-Ikhtiyar, IV, 430). With this respect, one of the spouses becomes heir of the other when one of them dies. Zifaf or khalwat does not have an effect on this ruling.

911. Can the person who caused the death of his testator in a traffic accident inherit his wealth?

Murderer is deprived of inheritance in order to eliminate the possibility of type of killing legator in order to get inheritance earlier. Prophet Muhammad (saw) stated, "*Murderer may not be heir*" (Abu Dawud, Diyat, 20; Tirmidhi, Faraidh, 17; Ibn Majah, Faraidh, 8; Ahmad Ibn Hanbal, al-Musnad, I, 49).

However, there are varying views about which killings will deprive murderer of inheritance. According to Hanafis, killings that require retaliation or atonement, killings that are committed on purpose or in a way that are similar to those on purpose, killings that are committed by mistake or are similar to be committed by mistake, constitute impediment to be heir; causing death is not evaluated under this scope (Mawsili, al-Ikhtiyar, IV, 504).

According to Shafi'i and Hanbali madhhabs, killing directly or causing death constitutes impediment to get inheritance. According to Maliki madhhab, if killing is committed on purpose, then it constitutes

impediment to get inheritance. However, unintentional killing (by mistake) does not constitute impediment to be heir (Ibn Qudamah, al-Mughni, IX, 150 ff.; Shirbini, Mughni al-Muhtaj, III, 36; Zuhayli, al-Fiqh al-Islami, VIII, 260-262).

Therefore, according to Maliki madhhab, a person who causes death of another person without any intention by means of car accident or similar ways are not deprived of inheritance. This opinion may be preferred in today's conditions.

912. May a Muslim be heir of a non-Muslim? Is difference of religion an obstacle to inheritance?

Majority of Muslim jurists who base their views upon Prophet Muhammad's (saw) following hadiths, "*A disbeliever may not be heir of a Muslim and a Muslim may not be heir of a disbeliever.*" (Bukhari, Faraidh, 26) and "*Members of different religions may not be heirs of each other*" (Abu Dawud, Faraidh, 10; Tirmidhi, Faraidh, 16), say that difference of religion will constitute impediment to getting inheritance. Evaluating these hadiths along with other information, companions such as Muadh Ibn Jabal, Muawiyah Ibn Abi Sufyan and later Muslim jurists accepted that a Muslim may be heir of a non-Muslim but non-Muslim may not be heir of his Muslim relative. According to this opinion that is preferred today, a Muslim may get inheritance of his non-Muslim parents (See Ibn Hajar, Fath al-Bari, XII, 50; Azimabadi, Awn al-Ma'bud, VIII, 87; Mardini, ar-Rahabiyya, p. 38).

913. May a married woman use the inheritance left by parents to her as she desires, without consulting to her husband?

Woman has the right to dispose her wealth as she desires. In this respect, a woman may spend her money/property as she desires even if she is married, may use it for acts of charity or grant it to her husband. Woman does not have to help her husband with covering family's expenses even if her financial situation is good. Another point is that spouses should consult each other on every subject in order to avoid domestic unrest.

914. When is the share of inheritance given to a child whose father died at a young age?

The heirs of the deceased, regardless of their age, are given their share in the amount stipulated in Islamic inheritance law. Properties of those

who are young are protected by their guardians (legal representatives) until they attain maturity.

It is stated in the Holy Qur'an on this subject, *“To orphans restore their property (when they reach their age), nor substitute (your) worthless things for (their) good ones; and devour not their substance (by mixing it up) with your own. For this is indeed a great sin”* (Nisa, 4/2), and *“Make trial of orphans until they reach the age of marriage; if then ye find sound judgment in them, ralease their property to them; but consume it not wastefully, nor in haste against their growing up...”* (Nisa, 4/6).

915. Is the increase in the property of a person that occurs after his death included in the inheritance?

The increase in the property of a person that occurs after his death is included in his inheritance. If one or a couple of the heirs contributed to this increase by working, they are paid ajr al-mithl/equal fee in exchange for their work separately.

916. May a person who marries again after his previous spouse's death deprive his next spouse of his property acquired by him when he was married with his previous spouse?

Spouses have the right to be heir of all properties that belong to each other and gained before or after marriage. According to Islamic law, no one has the authority to deprive his heirs of his inheritance. But a person has the right to dispose his property however he wants when he is alive; he may sell, grant it to his children or others, may endow or give charity. However, it is not appropriate for him to dispose it in a way to leave his children be in need.

In this respect, spouses do not have the right to deprive each other of the properties left to them by their spouses in their previous marriage after they die. Before they die, on the other hand, they are authorized to dispose them however they want.

917. If the father dies after marrying a few of his children, would his single children have the right to cover their marriage expenses out of the estate in addition to their shares in inheritance?

Islamic scholars have introduced different opinions on whether a father has to help his children to get married or not. While Hanafi and Shafi'i scholars say that it is not wajib for a father to help his children

to get married, Hanbali scholars say that ‘the father has to help his children to get married the responsibility of the child’s subsistence is on his father’ (Mawardi, al-Hawi, IX, 183-184; Ibn Qudamah, Mughni, XI, 380).

However, undoubtedly, it will be a good deed for a wealthy father to marry his child who has no opportunity to marry through his own means. In this respect, it is said in hadith narrated from Prophet Muhammad (saw), “*A child has three rights on his father: Having a beautiful name, being taught how to read and write, and getting married when its time comes*” (Suyuti, al-Camiu’s-sagir, II, 538).

Siblings are partners to the inheritance left by father. Although it is not obligatory in religious terms for single siblings to cover their marriage expenses out of inheritance, sparing marriage expenses of them before sharing inheritance and afterwards sharing the remaining amount according to inheritance law will morally be more appropriate.

918. May the children who are registered iunder their step mother’s name be her heirs?

Although step children are seen as their step mother’s children as they are registered in her records, they are not her real children. In this situation, they may not be her heirs according to Islamic inheritance law. However, if original heirs want, they may give something out of their rights to their step siblings like they may do it for other people. In this respect, it is stated in the surah Nisa, “*But if at the time of division other relatives, ororphans or poor, are present, feed them out of the (property), and speak to them words of kindness andjustice*” (Nisa, 4/8).

919. May a woman leave a Wasiyyah of, “May my husband be deprived of my inheritance if he marries after my death”?

Spouses are heirs of each other (Nisa, 4/12). No one may deprive his heirs of inheritance unless there is a situation that constitutes an impediment to heirship such as difference of religion and killing. Therefore, a woman’s bequest of her husband’s being deprived of heirship of her inheritance if he marries after her death is not valid. People may not fulfill such bequests.

920. While the property left by father is divided, may the child who contributed to earning or protection of this property be favoured in division?

Contributions and works of individuals should be identified explicitly and tangibly while earning properties in family in order to avoid possible future disputes. In the event that these precautions are not taken or contributions are in nature of not being separated from each other, properties that are earned mutually within family are divided according to, if possible, individuals' working hours spent for it, the risks they took and the authority to represent exercised by them. On this subject, knowledge and witnessing of the acquaintances of family are consulted along with official documents and records.

In the event of failure in separating contributions of the parties tangibly or separating them afterwards, the income earned in large families consisting of children and parents, the properties owned belong to father who is head of the family. The fact that some of the children contributed and some did not contribute this income does not change this judgment. Therefore, properties of father which was left as inheritance by him when he dies are divided according to inheritance rights between them without paying any attention whether or not any heir contributed to it.

Although this is the legal provision, it will be more appropriate if other heirs consider the efforts of siblings who contributed to earning or protecting these properties and act accordingly.

921. If the deceased person works and earns his property with his spouse, what is the right of his wife in the inheritance after his death?

Contributions and works of individuals should be identified explicitly and tangibly while earning properties in family in order to avoid possible future disputes. In the event that these precautions are not taken or contributions are in nature of not being separated from each other, properties that are earned mutually after nikah are divided according to, if possible, individuals' working hours spent for it, the risks they took and the authority to represent exercised by them. On this subject, knowledge and witnessing of the acquaintances of family are consulted along with official documents and records. If this is not possible and the labor and risk in the income is seen in equal rates, properties may be divided equally. In the event that husband is the real responsible for the work done, the income gained and properties owned in a family are under the ownership of head of the family, the husband.

Woman's labor and contribution are evaluated under support and grant as a requirement of family unity.

As in other areas that are within the scope of rightful due, religious values such as conscious of taqwa, concern of Hereafter, sticking to justice and equity, altruism and righteousness should be remembered all the time and one should exert effort to act accordingly.

922. How should the debt of a person who dies in debt be paid?

Debts are divided into two: debts to Allah and debts to servants. If a person has fasting debts and was unable to compensate these fastings although he is about to die, this is a debt to Allah. He needs to bequeath to his guardian to pay his fasting debt by means of giving fidyah (Marghinani, al-Hidayah, II, 270). If he bequeathes for his debts such as zakat and kaffarat, his heirs have to perform it out of one third of estate. If he does not bequeath it, heirs may pay his debts if they want (Zaylai, Tabyin, VI, 230).

When it comes to debts to servants, Prophet Muhammad (saw) expressed the importance of paying debts (Nasai, Buyu', 98). Prophet Muhammad (saw) described it as a sin to be in presence of Allah although one dies before leaving property back to pay it and in a debtful state (Abu Dawud, Buyu', 9) and announced that soul of the deceased person will be tied due to his debt until his debt is paid (Ibn Majah, Sadaqat, 12) and did not perform funeral prayer of deceased persons before their debts are paid in order to ensure that debts of them are paid (Muslim, Faraidh, 14; Nasa'i, Janaiz, 67). Because Islam commands to respect rightful due of people and expresses that a deceased person will not be forgiven until those whose rights are violated forgive him. The Messenger of Allah (saw) said in the Last Sermon, *"O people! Your souls, your possessions, and your honor are forbidden to each other until you have reached your Lord."* (Bukhari, Hajj, 132) For this reason, if any, debts of a deceased person are paid out of entire of his property that remains after preparation and burial expenses are deducted. Priority of debts over shares of heirs is stated in the Holy Qur'an with the verse of, *"(The distribution in all cases (s) after the payment of legacies and debts"* (Nisa, 4/11; Mawsili, al-Ikhtiyar, IV, 427-428). If estate is not enough to pay all debts, all of this estate is divided between creditors in proportion to their receivables.

FOUNDATION

923. What should be done religiously about real estate belonging to a foundation but not officially registered?

It is not necessary to have an endowment deed or official registration that proves that a property is a foundation. With the statements of the witnesses consisting of reliable people, it is religiously proven that a place is a foundation. However, registration of the endowed property by related authorities should not be neglected in order to avoid its being lost in someone else's hands. Use of a place that is certainly an endowment for purposes other than its purpose of donation, its being granted or being sold to other people except transformation (istibdal, bargain of the immovable donation with an immovable that is in equal value or more valuable) are not permissible. There is no difference in religious terms between a person and public institution in terms of sin of embezzlement. Accordingly, persons or officials of institutions and organizations who turn an endowed property into a non-endowed property and those who neglect and disregard it or ignore what happen to it are responsible in religious terms. What is more, it is not possible for an endowed property of any foundation to lose its qualification to be an endowment as a consequence of dispositions that do not comply with conditions of transformation (istibdal).

In this context, the status as endowments of the immovables that were endowed to mosques or for the public service but were transferred to public/municipal property by laws enacted later due to the fact that their official registration was not made in time do not expire. For this reason, the mentioned immovables should be allocated to the service for which they were donated. Taking necessary actions for this is duty of both public and those who know that the related immovable is an endowment.

If the qualification of being foundation cannot be obtained again despite all efforts and that real estate is owned by legal or natural persons in different ways, those who cause that immovable to be a donation will be responsible in religious terms in this situation. In such cases, those who own a property of a foundation by means of acquisition or inheritance should try to turn it back to its real identity as much as they can.



COMMERCIAL LIFE





COMMERCIAL LIFE

COMMERCE

924. Is there a profit margin in trading?

Islam did not set a definite profit margin in commercial agreements, leaving this to market conditions. Regarding the issue, the Messenger of Allah (saw) said the following when he was asked to intervene in the situation when the prices started to increase: *“Allah is the one Who fixes prices, Who withholds, gives lavishly and provides, and I hope that when I meet Allah, none of you will have any claim on me for an injustice regarding blood or property”* (Abu Dawud, Ijarah, 15; Tirmidhi, Buyu’, 73) .

In addition, Prophet Muhammad (saw) did not condemn Hakim ibn Hizam, to whom he gave money to buy a sheep to sacrifice, for his sale of a sheep for two dinars which he bought for one dinar, then his purchase of another sheep for one dinar (in another narration, his sale of one of the two sheep for one dinar which he had purchased two sheep for one dinar) on the contrary he blessed him (Abu Dawud, Buyu’, 28; Tirmidhi, Buyu’, 34).

Based on this, the Muslim jurists stated that the rate of profit may be different for each property, and therefore no definite judgment can be made (Kasani, Bada’i, V, 129). However, in cases where there are misconducts in the market, where black marketeers become involved and behave unjustly towards the public, especially in cases where excessive price increases are occurred in the goods that can be considered as essential needs of the people, the public authority is entitled to intervene in prices (to set a fixed price) (Marghinani, al-Hidayah, VII, 226). Assessments of the experts about the current market conditions is taken as basis for the determination of the excessive price.

925. Is it permissible to sell the things that are haram in Islam to non-Muslims?

It is haram to sell alcoholic beverages, pork, blood, carrion and idols (Ma'idah, 5/3, 90; An'am, 6/145) that are deemed haram to eat, drink and use by Islam (Ahmad ibn Hanbal, Musnad, XXII, 378). Prophet Muhammad (saw) stated the following as a general principle regarding this issue: *"If Allah (swt) made it haram for people to eat something, He made the earnings to be obtained from it haram as well"* (Abu Dawud, Buyu', 66).

From this point of view, Muslim jurists stated that it is not permissible for a Muslim to sell things that are haram to a Muslim or non-Muslim. Because commerce is a bilateral legal process. Accordingly, the ruling does not change if the property that is not permissible for one of the parties is permissible for the other party. For a Muslim, the permissibility of commerce depends on the fact that it is halal to make use of what is the subject of commerce (Ibn Mazah, al-Muhit, VI, 349).

On the other hand, Prophet Muhammad (saw) did not lead his Companions to sell the things that are haram to non-Muslims in order to benefit from them, but demanded them to be destroyed. In this context, Prophet Muhammad (saw) states the following: *"Allah and His Apostle made illegal the trade of alcohol, dead animals, pigs and idols." The people asked, "O Allah's Messenger! What about the fat of dead animals, for it was used for greasing the boats and the hides; and people use it for lights?" He said, "No, it is haram."* (Bukhari, Buyu', 112). In another narration, the following incident took place: *A person presented to Allah's Messenger (saw) a small water-skin of wine. Allah's Messenger (saw) said to him: "Do you know that Allah has forbidden it?" He said: No. He then whispered to another man. Allah's Messenger (saw) asked him what he had whispered. He said: I advised him to sell that, whereupon He said: Verily He Who has forbidden its drinking has forbidden its sale also. He (the narrator) said: He opened the water-skin until what was contained in it was spilt.* (Muslim, Musaqah, 12).

As a result, it is not permissible to sell things that are made haram by certain rulings, even to non-Muslims. If such a thing was permissible, the Messenger of Allah (saw) would allow the things that are haram to Muslims to be sold to non-Muslims for whom they have economic value and thus be utilized.

926. Is it obligatory to record the contracts made?

Islam attaches importance to the conclusion of the agreements made in a way that does not allow any discussion and without any obscurity, and also puts emphasis on availability of clear evidence for the solution of possible disputes. The fact that the parties do not comply with the conditions required by religion for the process during the agreement and do not document the conditions they put forward are one of the most important reasons for the negativities encountered in today's commercial life. Islam recommends keeping the account of trading and borrowing transactions. The presence of the following verse in Qur'an regarding this issue indicates the importance of keeping a record of commercial transactions: *"O you who have believed, when you agreement a debt for a specified term, write it down... That is more just in the sight of Allah and stronger as evidence and more likely to prevent doubt..."* (Baqarah, 2/282). In the next verse, *"And if one of you entrusts another, then let him who is entrusted discharge his trust [faithfully] and let him fear Allah, his Lord"* (Baqarah, 2/283), the message is given that the sense of trust is a vital element in the commercial field as in other fields and that it should not be abused.

The command to issue a bill in case of debt in the 282th verse of the Surah of al-Baqarah is considered by the great majority of scholars as a recommendation rather than an obligation (Qurtubi, al-Jami', IV, 431). However, in today's world, where the sense of trust, accuracy and honesty are substantially damaged, it is important to record commercial transactions and agreements, and to use means that can be legally documented in case of disputes. In this respect, although it is not a religious obligation to place the agreements made on record, it would be more appropriate for the parties to record their commercial business and transactions by following the recommendation of the Qur'an.

927. Is it permissible to sell a product in installments for more than one price?

It is permissible for a product to be offered for sale at different prices according to the number of installments. For example, if a product is offered for sale with different price options, with a cash price of one thousand liras, a six-month forward price of one thousand five hundred liras, and a one-year forward price of two thousand liras, this trade is permissible if the purchaser chooses and accepts one of these options.

Because in this practice, the vendor determines the price of the product with different payment options in cash or according to different terms during the negotiation, and the purchaser chooses and accepts one of them. Thus, the price of the product is determined precisely by the parties during the agreement. However, before the purchaser chooses and accepts one of the options, if he/she says “Okay, I will buy it” and if disagreement arises, this trade will be invalid because the price is not determined in the agreement (Sarakhsi, al-Mabsut, XIII, 7, 8; Ibn Abidin, Radd al-Muhtar, VII, 45).

928. May a commercial agreement be terminated with the mutual consent of the parties without any reason?

According to Islam, it is one of the most important duties of a Muslim to keep his/her promise and honor his/her agreement. The purchase and sale transaction becomes final with the agreement and cannot be unilaterally terminated, except for the following situations:

a) The parties may terminate the agreement they have established with mutual consent, with or without reason (Marghinani, al-Hidayah, V, 150-151). Prophet Muhammad (saw) stated that a person who accepts the request of a Muslim who wants to terminate the trade will be forgiven by Allah Almighty (swt) and his/her trouble on the Day of Judgment will be eliminated. In order to terminate the agreement with mutual consent in this way, the goods must remain as it was during the agreement.

b) If the purchaser or vendor has the right of option (*khiyar*) (right to continue or terminate the agreement within the specified period), the party holding this right may terminate the agreement within the specified period (Marghinani, al-Hidayah, V, 32).

c) If there is a defect in the product that reduces the market value, the purchaser may terminate the agreement due to this defect (Marghinani, al-Hidayah, V, 64).

d) When a person who has bought a product without inspecting it, he/she can terminate the agreement by using his/her “*khiyar al-ruy’ah*” (right of option to return the goods after inspection) upon the inspection of the product (Marghinani, al-Hidayah, V, 52).

e) The purchaser may terminate the agreement if the goods are sold at an exorbitant price with the intent of deceit (Majalla [Ottoman Code of Civil Law], art. 357).

The concept of the excessive price has been discussed among Islamic scholars. Some scholars consider selling or purchasing at a price that exceeds the upper limit of the estimated amounts determined by the experts as “*al-ghabn al-fahish*” (excessive over-pricing) (Kasani, Bada’i VI, 30; Ibn Nujaym, al-Bahr, I, 171), while some others consider the difference of 5% or over for the goods which are sold or purchased in large amounts (urz), 10% or over for the animals and 20% or over for immovable property as *al-ghabn al-fahish*. Majalla was prepared according to this view (Majalla, art. 165). Today, the determinations of experts in the current market conditions should be taken as basis.

929. Does the purchaser have the right to terminate the purchase contract upon seeing the product that he/she purchased without seeing it?

The purchaser has the right to terminate the commercial agreement upon seeing a product that he/she has purchased without seeing it. This right is called “*khiyar al-ru’yah*” (right of option to return the goods after inspection). Prophet Muhammad (saw) stated that: “*Anyone who buys something he doesn’t see is mukhayyar (has right of option) when he sees it*” (Bayhaqi, Sunan al-Kubra, V, 439; Daraqutni, al-Sunan, III, 382).

However, in order for the *khiyar al-ru’yah* to be valid, the property subject to the agreement must be in a suitable condition for termination. In the event that the goods are “*mithli*” (fungible/indistinguishable with regards to quality) as in the case of grain products such as wheat and barley and new automobile, it is sufficient to see a single sample of the product. On the other hand, for “*qiyami*” goods (non-fungible, different in terms of quality and value) such as animals or second-hand automobiles, there is *khiyar al-ru’yah* for each goods or product. *Khiyar al-ru’yah* is effective only for the purchaser. If the vendor sells goods he/she has not seen, there is no *khiyar al-ru’yah* for him/her (Marghinani, al-Hidayah, V, 53). Because vendor had the chance to see the goods before selling them. Therefore, the vendor is deemed to have lost this right.

930. Can the parties stipulate to terminate the purchase contract within a certain period of time?

One or both of the parties may stipulate that they have the authority to terminate the agreement within a certain period of time. This is called “*al-khiyar al-shart*” (right of option of stipulation). This may only be

the case in binding agreements such as a commercial agreement, which can be terminated by mutual consent.

Imam Abu Hanifa accepts the period that can be stipulated to desist from purchase and sale as three days at most, since the period for being mukhayyar (having right of option) is mentioned as three days in a hadith of Prophet Muhammad (saw) (Ibn Majah, Tijarah, 42). Imam Abu Yusuf and Imam Muhammad stated that the parties can freely determine this period and that this period is not limited provided that it is specified (Marghinani, al-Hidayah, V, 35). The second opinion was found more appropriate for the transactions between people in Majalla and the relevant article was arranged as follows: *“The vendor, or the purchaser, or both, may insert a condition in the agreement of sale giving them an option, within a fixed period, to cancel the sale or to ratify it by carrying out the term thereof”* (Majalla, art. 300) .

931. If a vendor misleads or misrepresents the purchaser about the qualities of the product, what can the purchaser do if he/she becomes aware of this situation after the transaction is concluded?

All the qualities and the sale price of the goods, subject to the commercial agreement must be known and explained by the vendor to the purchaser. In the commercial agreement made upon the misrepresentation of the vendor, if there is a deficiency or flaw in the goods that violates the purpose of purchase or lowers its value, or if the goods are more expensive than normal, the purchaser can accept the agreed price of the purchased goods or terminate the agreement by returning the goods if they wish. The purchaser does not have the right to request a discount from the price in return for the deficiency in the goods and not return it. However, in such a case, it is also possible to terminate the agreement, return the goods, make a new agreement and purchase the goods at a lower price (Marghinani, al-Hidayah, V, 64).

932. If a defect occurs in purchased goods while in the possession of the purchaser and it is also found that there is a pre-existing defect, can the purchaser return the goods?

In addition to a pre-existing defect in purchased goods, if a secondary defect occurs in the goods while in the possession of the purchaser, the purchaser cannot terminate the sales agreement and return the defective product to the vendor. However, the purchaser must be compensated

by the vendor for the damage caused by the previous fault. However, if the vendor accepts the goods with the subsequent defects, the purchaser returns the goods and gets the money back (Marghinani, al-Hidayah, V, 64).

933. Does the purchaser have the right to choose one of the several goods he/she takes with the intention of purchasing one of them?

The purchaser has the right to choose one of several types of goods whose sale price and quality are specified in the commercial agreement. This right is called “*khiyar al-ta’yeen*” (right of option to specify) in fiqh literature. Accordingly, when the purchaser selects one of these goods, which he/she has taken for examination, the transaction is carried out on that goods (Marghinani, al-Hidayah, V, 47).

934. Is it permissible to exchange two goods of the same kind provided that difference is paid by one of the contractors?

When exchanging goods of the same kind that are bought and sold by weight or measure (ribawi goods), they must be bought and sold in equal amounts and in cash. Otherwise, it will be interest-bearing transaction. Interest is haram in Islam (Baqarah, 2/275).

Equality is not required for the exchange of other goods that are not bought or sold by weight or measure and whose pieces differ from each other. Therefore, when exchanging goods and products with different models or values, the additional money paid due to the difference in value is not considered as interest. In other words, it is permissible to exchange qiyami (non-fungible) goods of the same type on condition that it is in cash by paying the price difference (Marghinani, al-Hidayah, V, 182).

935. Is it permissible to exchange an animal with another one?

When exchanging goods of the same kind that are bought and sold by weight or measure (ribawi goods), they must be bought and sold in equal amounts and in cash. Otherwise, it will be interest-bearing transaction. Interest is haram in Islam (Baqarah, 2/275).

Equality is not required for the exchange of qiyami goods. For this reason, it is permissible to exchange an animal with an animal of its own kind, on the condition that both are paid in cash, and with an animal of a different breed without requiring cash payment. It is not necessary for the values of the animals be equal, and if they values

are different, paying the difference does not harm the validity of the agreement (Marghinani, al-Hidayah, V, 177).

936. Can a person sell his/her house on the condition that he/she lives in it for free for a certain period of time?

If a condition stipulated in an agreement, which is not a requirement of the contract, does not comply with the agreement of sale, has not become a custom, and has benefits only for one of the parties, a commercial agreement made in this way becomes null and void, since it is fasid (invalid) according to Hanafis (Marghinani, al-Hidayah, V, 123). Because Prophet Muhammad (saw) prohibited the conditional sale (Bayhaqi, Sunan al-Kubra, V, 570; and see Bukhari, Buyu', 73).

According to Malikis and Hanbalis, it is permissible to stipulate a condition that is not a requirement of the agreement which does not contradict with the requirements of it (Ibn Rushd, Bidayat al-Mujtahid, III, 179-179; Ibn Qudamah, al-Mughni, VI, 166). Because the Messenger of Allah (saw) wanted to buy Jabir's (ra) camel during a campaign, and when he said that he could sell it on condition that he would ride it to Madinah, Prophet Muhammad (saw) accepted this condition and bought the camel (Muslim, Musaqah, 113).

According to Malikis and Hanbalis, it is valid for a person to sell his/her house on condition that he/she resides in it for a while free of charge. It can be said that this ruling is not contrary to the approach of Hanafis, considering that it has become a custom since it is quite common today.

937. Is it permissible to make a contract of sale (called salam) with money in advance and goods on credit?

In commercial agreements, it is fundamental to supply the goods at the time of the agreement. However, due to custom and necessity, Prophet Muhammad (saw) allowed in some cases to the procurement of goods at a future date by taking the money in advance. The commercial agreement made in this way is called "*Bai' al-Salam.*" Prophet Muhammad (saw) said in one of His hadiths: "*Whoever pays money in advance for dates (to be delivered later) should pay it for known specified weight and measure*" (Muslim, Musaqah, 25; Bukhari, al-Salam, 2).

The Bai' al-Salam can only be made on mithli (fungible) goods. In order for this agreement to be permissible, the type, quantity and

qualities of the goods must be defined, price agreed and fully paid, and the date and place of delivery is specified. It is not permissible to sell qiyami (non-fungible) goods such as animals and non-standard products through Bai' al-Salam (Marghinani, al-Hidayah, V, 222).

938. Is it permissible to sell unripe vegetables and fruits?

Islamic scholars do not regard it permissible to sell underripe vegetables and fruits, which were not in a condition to be used as human food or fodder, on the grounds that Prophet Muhammad (saw) prohibited the sale of dates until the fruit ripened and also the sale of crops until their grains turned white and was safe from blight (Muslim, Buyu', 49).

It is permissible to sell vegetables and fruits that can be used as food for humans and as fodder for animals before they ripened. Because these vegetables and fruits are considered as a useful and valuable commodity (Mawsili, al-Ikhtiyar, II, 13).

939. Is it permissible to sell some of the crops, vegetables and fruits on the field, garden and tree by exempting a part of them?

According to the Hanafi School, it is permissible to sell the fruits on the tree, the vegetables in the garden or the crops in the field by specifying the amount and exempting some of them, but according to another view, it is not permissible. In this case, custom is taken into consideration. However, if the exemption is certain trees or the product of a certain part of the field, then it is permissible in case of a consensus. An example of this is the vendor selling the fruit on a particular tree, vegetable in a certain part of the garden, or the crop in a certain part of the field with exemption (Marghinani, al-Hidayah, V, 27-28).

940. Is it permissible to sell fresh tea in exchange for processed dried tea, tomato in exchange for tomato paste and olive in exchange for olive oil?

According to Islamic law, if the goods subject to sale are of the same type, their quantity must be equal and the transaction must be in cash. In case the goods are of different types, the parties can trade as they wish with mutual consent (Abu Dawud, Buyu', 12).

Accordingly, when fresh tea and dry tea, tomato and tomato paste, and olive and olive oil is examined, it is clear that there are differences between them in terms of their use.

On the other hand, fresh tea, tomato and olive are transformed into dry tea, tomato paste and olive oil as a result of a certain transformation and change in their qualities.

In addition, the sale of fresh tea in exchange for dry tea, tomato in exchange for tomato paste and olive in exchange for olive oil has become widespread among people and has become “*umum al-balwa*” (a situation that is difficult to avoid). In such cases, it is one of the general rules of Islamic law to facilitate commercial transactions between people (Majalla, 17-18). Moreover, general practice (custom) of people cannot be ignored, on the condition that it is not contrary to the clear decrees (nass) in matters about which do not have a decree (Majalla, art. 36-37).

In this respect, there is no religious objection in exchanging / selling fresh tea in exchange for dry tea, tomato in exchange for tomato paste and olive in exchange for olive oil if the prices are determined by mutual consent and the goods are bought and delivered in advance. However, it is more appropriate in terms of “*ihhtiyat*” (recommended precaution) to buy and sell the goods in question directly for money rather than exchanging them with each other.

941. Is it permissible to sell vegetables such as tomatoes and eggplants, which can be harvested even though the roots remain fixed, while in the form of seedling?

It was not considered permissible by Hanafis to sell vegetables and fruits that do not yield their whole product at once, while in their seedling form. In this case, while some of the product is available, the other part is not yet available and there is uncertainty in the amount of the product offered for sale. In addition, during the collection of the current product, it is not clear which one belongs to the purchaser and which belongs to the vendor. However, some Hanafi scholars considered this transaction permissible by making the unavailable fruit and eggplant products subject to the available ones in order to eliminate the difficulties and troubles. In addition, Imam Muhammad considered the sale of roses permissible because it is a successive product (Mawsili, al-Ikhtiyar, II, 14). The best way to follow in the sale of such products is to sell not only the available product but also the seedlings with the product

(Marghinani, al-Hidayah, V, 28). As a matter of fact, the sale of these products is regarded as permissible in Majalla (Majalla, art. 207).

942. What is the ruling on cultivating and trading plants such as “aniseed, opium poppy, cannabis” which are suitable for use for bad purposes?

It is permissible to sell something that is permissible to eat, drink or use. For this reason, from a religious point of view, there is no harm in producing and trading products that are not originally haram for halal purposes. Even if these substances are sold to persons or organizations normally doing business in halal areas, and if they are used secretly and indirectly by purchasers for haram activities, the producer does not have a responsibility for this (Zayla'i, Tabayin, VI, 28). However, since knowingly selling these products to relevant persons for direct use in the production of illegitimate substances means supporting and spreading haram, such ways of earning must be avoided (Shirbini, Mughni al-Muhtaj, II, 51; Ibn Rushd, al-Bayan wa al-Tahsil, IX, 394-395; Ibn Qudamah, al-Sharh al-Kabir, IV, 306). In the Holy Qur'an, Allah (swt) commands *“And cooperate in righteousness and piety, but do not cooperate in sin and aggression”* (Ma'idah, 5/2) .

On the other hand, if any product is used for the production of an almost completely haram substance in daily use, it would be impermissible to produce and trade this product, since it will most likely support haram. It is haram to produce and sell opium poppy and similar products for drug manufacturing (See Ibn Abidin, Radd al-Muhtar, X, 35; Zuhayli, al-Fiqh al-Islami, VI, 166). However, there is no harm in growing and selling these products for use in pharmaceutical manufacturing. If there is decisions taken and quotas set by the state in the cultivation of these substances, it is necessary to comply with them.

943. Is it permissible to purchase goods offered for sale through judicial sale?

In order to protect the rights of the creditor, it may be necessary to sell the debtor's property. Prophet Muhammad (saw) sold the property of Muadh ibn Jabal, who could not pay his debt, in return for his debt (Bayhaqi, al-Sunan al-Kubra, VI, 80). Caliph Umar (ra) also ruled that the remaining property of a person who went bankrupt while trading on the way to Hajj to be divided among his creditors (al-Muwatta, Wasiyah, 8).

There is no harm in purchasing seized goods that are sold at market value or at a price close to it. However, Hanafi scholar Ibn Abidin stated that if the seized goods are sold well below their market value, the agreement would be fasid (invalid) (Ibn Abidin, Radd al-Muhtar, VII, 247), while Nawawi, one of the Shafi'i scholars, said that although the agreement would be valid, it would be makruh to purchase these goods (Nawawi, Rawdhat al-Talibeen, III, 420). Because, selling the seized goods well below their market value means taking advantage of the debtor's aggrievement. For this reason, it would be equitable for a person who wants to purchase the seized goods to make the pricing as much as possible in a way that reduces the aggrievement of the debtor.

944. Is it permissible to breed and sell pigs for commercial purposes?

Islam has established rules to protect mankind from material and spiritual damages. For this purpose, it has prohibited the impure, bad and harmful things, and made the clean, beautiful and beneficial ones halal (Baqarah, 2/168, 173; A'raf, 7/157). In the Holy Qur'an it is stated "*He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah...*" (Baqarah, 2/173; Ma'idah, 5/3; An'am, 6/145; Nahl, 16/115) and it is clearly explained that pig is an impure animal and pork is haram. Although it is mentioned in these verses that the pork is haram, Islamic scholars evaluated the word "rics" in verse 145 of Surah al-An'am and the expression "*(Allah) prohibits for them from what is bad (and impure)...*" in the verse 157 of Surah al-A'raf together and stated that not only the pork but all parts of a pig are impure (Kasani, Bada'i, V, 142, 305).

Prophet Muhammad (saw) stated that sale of alcohol, carrion, idols and pigs was strictly prohibited by Allah (swt) and His Messenger (Bukhari, Buyu', 112). Based on these verses and hadiths on the subject, Islamic scholars have stated that pigs are not "*mutaqawwim*" (things that are halal to use or consume and regarded as goods) for Muslims, something that is not considered as goods cannot be the property of a Muslim, nor can it be subject to an agreement, therefore its sale is fasid (invalid) and its trade is haram (Kasani, Bada'i, V, 145, 305; Mawsili, al-Ikhtiyar, II, 52; Ibn 'Abd al-Barr, al-Kafi, II, 675; Ibn Rushd, Bidayat, III, 146). Accordingly, it is haram to breed or sell pigs. Therefore, earnings from pig breeding or pig trade is also haram.

945. Is it permissible to buy and sell pork intestines to be used in the manufacture of sausages?

It is haram to eat, drink, wear and use any product obtained from pigs unless there is no other alternative, and it is not permissible to sell these products to Muslims or non-Muslims (Kasani, Bada'i, V, 305; Mawsili, al-Ikhtiyar, II, 52; Ibn 'Abd al-Barr, al-Kafi, II, 675; Ibn Rushd, Bidayat, III, 146). Earnings from their sale is also haram. Therefore, it is not permissible to trade pig intestines for use in sausage production, even if it is intended for non-Muslims.

RENT

946. May the rental agreement be terminated unilaterally?

Since the rental agreement is binding for both parties, once it is made, one of the parties cannot terminate the contract unilaterally without a valid excuse or the consent of the other. In order to terminate the agreement, the tenant must have a valid excuse, such as bankruptcy, relocation to another city, quitting the job, job change, and failure of the rented property to fulfill its purpose (See Marghinani, al-Hidayah, VI, 331, 333, 334) or the consent and approval of both parties. However, if the excuse is not clear or has a nature that can lead to dispute, then the agreement can only be terminated by court decision. In this case, the party that terminated the agreement after the court decision would not be financially liable (Mawsili, al-Ikhtiyar, II, 148).

947. May a person rent or let a third party use a movable or immovable property he/she rented, without the permission of the owner?

The parties must comply with the conditions in the rental agreement. Accordingly, if the landlord has determined for what purpose it will be used while renting the property and stipulated not to rent it to third parties, the tenant must comply with this condition. However, if the rental agreement does not clearly specify the purpose for which the movable or immovable property such as house, shop, warehouse, and transportation vehicle will be used, the rental contract will be valid and the customs of the town where the rental agreement is made are taken as basis. If custom allows the tenant to rent it to someone else and use it as he/she wishes, the tenant may rent the rented property to someone

else or allow him/her to use it as he/she wishes without paying any additional fee (Mawsili, al-Ikhtiyar, II, 124). Today, there is a custom that the property is used only by the tenant. Permission must be obtained from the landlord for the transfer of the rented property to someone else.

948. How do the parties act if no time or fee has been set in the rental (ijarah) agreement?

Rental agreements can be made annually, as well as monthly, weekly or even daily. If the time for the beginning and end is not specified in the agreement, custom is taken as basis if there is one. For example, when a field is rented for wheat cultivation, the sowing and harvesting season of that year is considered as the term for the agreement. Otherwise, since the time is not determined, the agreement becomes faulty.

If the fee is not predetermined, the rental (ijarah) agreement becomes faulty. When the rental agreement is faulty, if the tenant has benefited from the rented property, he/she must pay “*ajr al-mithl*” (rent or wage to be decided by a judge or arbitrator, or the prevalent wage; the standard rate for a particular service) to the landlord (Mawsili, al-Ikhtiyar, II, 137-138). If the property has not been used, the agreement is terminated.

949. Is it permissible to pay a deposit in return for a rented property?

According to Hanafis, the tenant has no obligation to compensate the damage to the rented property, as long as he/she has no fault and does not violate the conditions set forth by the landlord. For this reason, it is not permissible for the landlord to hold in something from the tenant as a pledge under the name of deposit (Mawsili, al-Ikhtiyar, II, 128; Majalla, art. 710). According to Malikis, it is permissible to hold in pledge in rental agreements (Ibn Rushd, Bidayat al-Mujtahid, II, 273).

Today, it is permissible for the landlord to receive a deposit in accordance with the opinion of the Maliki School, due to reasons such as the rental of movable or immovable property has become a major economic activity, the issue is open to abuse and the sense of trust is damaged.

950. May a person, who rents a house with cash for a certain period of time and leaves the house before the expiration of rent period, get the rent back for the days he/she is not staying in that house?

Rental agreement is binding for both parties. It is not permissible for one of the parties to terminate the agreement unilaterally before the expiration of rent period. Therefore, a tenant who rents a house with cash for a certain period of time but leaves before the expiration of rent period, has to pay the entire rent if he/she does not stay in the house after receiving the key and leaves it empty (Marghinani, *al-Hidayah*, VI, 273). If the tenant leaves early, he/she cannot get the paid rent of the remaining days back. If the rent has not been paid in advance, the tenant must also pay the rent for the days he/she has not resided within the agreed period. However, if the landlord rents this place out to someone else after a while, he/she can only get the fee for the time the house is empty from the previous tenant. If the rent of the remaining period has been paid in advance by the previous tenant, this amount is refunded.

951. In cases where crops cannot be produced from a rented field due to reasons such as drought, hail or flood, should the rent still have to be paid to the land owner?

If crops cannot be obtained from a rented land due to a disaster such as drought, hail, flood or grasshopper invasion, the rent cannot be canceled and no discount can be made according to Shafi'i and Hanbali Schools (Shirbini, *Mughni al-Muhtaj*, II, 456; Shams al-Din ibn Qudamah, *al-Sharh al-Kabir*, VIII, 63-64). According to the Hanafi School, the tenant does not pay any rent in the event of a natural disaster that prevents the acquirement of products from rain-irrigated rented land due to reasons such as drought or a cut in the millstream. Because it was not possible to benefit from the land (Marghinani, *al-Hidayah*, VI, 327). If grasshoppers eat the crop after the land is sown or another disaster occurs, the rent until the time of disaster is paid. After the disaster, if it is possible to replant the land and obtain crops, the rent of the remaining period is paid. If it is not possible to replant the land and obtain crops, the rent of the remaining period is not paid (Ibn Abidin, *al-Uqud ad-Durriyyah*, II, 113-114).

LOAN/DEBT (QARDH)

952. Is it permissible give gold as loan/qardh?

Gold is one of the mithli (fungible) goods. Therefore, it is permissible to lend gold on condition that the purity and weight of gold are taken into consideration. However, when repaying, exactly the same amount of gold must be paid back. In addition, if the parties agree, the borrowed gold can be paid in money.

953. Is it permissible to receive financial compensation imposed to the person who does not pay his/her debt on time?

The debtor who fails to pay his/her debt on time although he/she has the opportunity to pay, becomes spiritually responsible and deserves afterlife torment. Prophet Muhammad (saw) stated the following regarding this issue: *“Procrastination (delay) in paying debts by a wealthy man is injustice”* (Bukhari, al-Hawaala, 1). In terms of Islamic Law, if a person has a debt and refuses to pay it, this person may be forced to pay by the authorities. Muslim jurists based the application of such punishment on the hadiths of Prophet Muhammad (saw) on the subject (See Bukhari, Istiqradh, 13). If the creditor suffers a loss due to the debtor’s delay - such as the depreciation of money - the creditor is only compensated for the inflation rate. However, if the debtor proves that he/she is in financial difficulties, the competent authorities allow him/her a certain period of time to pay his/her debt. This situation does not prevent the creditor from claiming his/her legal right (Mawsili, al-Ikhtiyar, II, 221).

954. Is it permissible to pay surplus while the money borrowed from charity fund is repaid?

In order to meet their needs, it is permissible for people to set up a “charity fund”, to take interest-free short-term loan (qardh) and to pay it at regular terms. There is no harm for those who are members of this fund to borrow up to several times their premiums when needed and repay it within the specified term. However, while making the payment, any benefit that provides any surplus or income required in advance against the loan (qardh) is not permissible since it will be interest (Kasani, Bada’i; VII, 395). However, it will be equitable to add a surplus equal to the inflation difference while making the payment.

955. Is it permissible to pay with another currency instead of the borrowed currency in the forward sales or debt (istiqradh) agreements?

The majority of Muslim jurists found it permissible to pay with a different currency on the basis of the exchange rate at the date of payment, instead of the determined currency, – i.e. paying with silver coin instead of gold coin borrowed as a loan - in forward sales and debt agreements (Sarakhsi, al-Mabsut, XIV, 2-3; Ibn Qudamah, al-Mughni, VI, 107; Ibn Rushd, Bidayat al-Mujtahid, II, 200).

For example, TL 1000, which is a subject of a forward sale or debt (qardh) agreement, can be paid in another currency at the exchange rate on the date of payment, provided that the parties consent to it.

INTEREST, CREDIT, CREDIT CARD, STOCK MARKET, AND INSURANCE

956. For purchases made with credit cards, would it be regarded as interest for the bank to receive a commission from the business owners in return for its service?

The payment taken in return for a job, a service or goods is halal. Banks offer a service with the credit cards they provide. Therefore, in purchases made by credit card, the fee received from the business owners in return for the service provided by the bank under the name of commission according to the agreement cannot be considered interest.

957. Is it permissible to use prepaid bank cards?

Prepaid cards are a service offered by institutions operating in the banking/finance sector. In accordance with this service, the customer can spend a certain amount of money pre-loaded on the prepaid card at any time on his/her expenses, and if he/she does not preload the card, the card cannot be used.

There is no harm in using prepaid cards that do not include or mediate any interest-bearing transactions.

It is understood that prepaid cards are issued and put into process within the framework of a certain legislation and that each institution provides this service pursuant to the conditions set by them. For example, while institution (x) does not charge any fee for depositing

money, institution (y) may charge a fee, or institution (x) can sell the card for TL 5, while institution (y) can sell this card for TL 10.

The fees charged by the issuer when the card is first sold to the customer, usage fees, and money loading fees are considered within the scope of remuneration.

958. **Is it permissible to sell gold by credit card?**

The exchange of things such as gold, silver, foreign currency with each other is called “*al-sarf*”. In the “agreement of *sarf*” the fees must be paid in advance. Otherwise, if one of the fees is on credit, the transaction will become interest-bearing (*riba al-nasiah*). Accordingly, it is not permissible to sell gold on credit, even if late interest is not applied, since it will be an interest-bearing transaction. Prophet Muhammad (saw) stated the following regarding this issue: “*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.*” (Bukhari, Buyu’, 74-82; Muslim, Musaqah, 81; Tirmidhi, Buyu’, 23)

Different views may be put forward regarding the sale of gold by credit card. It can be said that if the institution, which owns the property of the credit card (bank), deposits the price of the sale made by credit card into the vendor’s account instantly, the transaction will be valid, therefore there will be no interest-bearing transaction (*riba al-nasiah*). If the price of gold is not immediately transferred to the vendor’s account and is paid later, this transaction is not permissible because the above-mentioned condition of “agreement of *sarf*” is not complied with and the sale of gold with money on credit is present. In any case, it is certain that it is more appropriate to trade gold with cash payment, and is more accurate and prudent to avoid doubtful things as a Muslim and purchase gold or foreign currency for cash.

959. **Is it permissible to pay some extra fee (carrying charge) compared to the cash price in installment shopping made by credit card?**

It is permissible to sell goods in cash, and it is also permissible to sell them on credit or in installments. There is no religious objection to the sale of a product offered for sale in cash or in installments pursuant

to various maturities, by choosing one of them and establishing the contract on it, in terms of fixed terms or in installments, after reviewing different alternatives.

What is important in trade is to determine the sales price at the end of the bargain and to finalize the agreement over this price (Sarakhsi, al-Mabsut, XIII, 8). Provided that these conditions are complied with, it is okay for the trading price of on credit sale to be higher than cash price. However, after the end of the agreement, it is not permissible to dated restructuring of advance debt in debit by third parties such as banks or financial institutions as this is regarded as an interest-bearing transaction.

960. **Is the Private Pension System permissible?**

The most important and sensitive point of the private pension system in terms of religion is where and under what conditions the savings will be utilized. Whether the earning is halal or not depends on whether its source and method are legitimate according to Islam. For this reason, in the matter of the utilization of savings, the employer should refrain from the fields and transactions that Islam regards as haram.

It is the incontestable right of employees to expect their savings to be managed according to their own beliefs and values. In this context, employees with religious sensitivity should demand that their savings be utilized in the legitimate fields.

Therefore, the private pension savings and investment system is permissible if the savings are utilized in areas that are halal, on the contrary case it is not.

CONTEMPORARY COMMERCIAL ISSUES

961. **Is it permissible to collect valuable documents such as checks, bills etc. before their payment day by making a discount?**

In the event that the creditor tells the debtor that if he/she pays a certain part of the amount he/she will receive before his due date, he/she will give up the remaining part, and if the debtor complies with this condition and pays the sum, this reduction in the debt is permissible. However, if the parties determine the payment and discount amount by bargaining, it is not permissible as this will mean the purchase of the

maturity in return for money (Marghinani, al-Hidayah, V 180-181; Mawsili, al-Ikhtiyar, II, 73).

It is not permissible for the creditor to sell and dispose of the check or bill in his possession to third parties for a lower price (make a discount) before the due date in order to collect the amount early. Because, in this transaction, the exchange of the same type of deposit money with cash is in question. This transaction is called “*riba al-fadl / excess interest*” (Marghinani, al-Hidayah, V, 180-181; Mawsili, al-Ikhtiyar, II, 73).

962. Is deposit permissible? Should the deposit be returned if trade is cancelled?

Deposit is a prepayment made on the condition that if the customer honors the sale or rental agreement, the deposit fee is deducted from the total price, and if the customer withdraws from the agreement, the fee remains in possession of the owner.

There is no dispute regarding the permissibility of the agreement made on the condition that the deposit is returned to the customer in the event that he/she withdraws from the agreement (Ibn Juzayy, al-Qawanin, p. 408). However most of the Muslim jurists did not consider permissible the agreement made on the condition that the deposit given by the purchaser becomes the property of the vendor if the purchaser withdraws from the agreement. Hanafis regarded such an agreement faulty, and Shafi'is and Malikis regarded it as invalid. Because, according to them, such a contract includes a faulty condition and uncertainty, and also causes unearned income. For this reason, if the agreement is terminated, the vendor must return the deposit to the customer (Sanhuri, Masadir al-Haqq, II, 93-94). On the other hand, Islamic scholars who defended this view shown a narrative that Prophet Muhammad (saw) prohibited the sale with deposit as evidence (al-Muwatta, Buyu', 1; Abu Dawud, Buyu', 69, Sughdi, al-Nutaf, I, 472-473, al-Dardir, ash-Sharh al-Kabir, III, 63; Zakariyya al-Ansari, Asna al-Matalib, II, 31; al-Zuhayli, al-Fiqh al-Islami, IV, 449).

On the other hand, the Companions and Tabi'un scholars such as Abdullah ibn Umar, Zayd ibn Aslam, Hasan al-Basri and most of the Hanbalis regarded it permissible to trade with deposit. Holders of this view regarded the narration prohibiting shopping with deposit as weak and defended the opinion that permissibility is essential in the agreements and it is necessary to comply with the conditions as far as possible. They brought the narrative of Nafi' ibn Abd al-Harith, the

governor of Mecca at the time of Umar (ra), that Safwan ibn Umayya had made a deposit on behalf of the Caliph as evidence (Bukhari, Khusumat, 8).

Some Hanbalis stipulated that a certain period of time during which the deposit contracts will be finalized, and they have the opinion that in case the customer withdraws from the agreement during this period, the deposit becomes the property of the vendor (Mustafa al-Suyuti, Matalib, III, 78).

The Fiqh Academy (Majma Fiqh al-Islami) within the Organization of Islamic Cooperation has adopted the view that it is permissible regarding the transactions with deposit, except for the transactions such as “salam” and “sarf”, where one or both of the prices need to be paid in advance (Majalla al-Majma al-Fiqh al-Islami, VIII/1 [1994], p. 793; Zuhayli, al-Fiqh al-Islami, IV, 449).

Customs and practices of Muslims that do not contradict with the clear decrees (nass) are generally regarded as permissible. Nowadays, especially in some sectors, trade with deposit have become a necessity of commercial life and custom of tradespeople. Prophet Muhammad (saw) advised Muslims to hold to their conditions, except the conditions that make the halal haram, or the haram halal (Tirmidhi, Ahkam, 17). Hanafi School deemed the sales agreements made in accordance with the conditions that are valid in the customs and practices of the society valid, on the condition that it does not contradict with clear decrees (nass) (Majalla, art.188). It seems, the view that the deposit can remain in possession of the vendor if the agreement is not finalized within the specified period is not contrary to these principles, on the contrary, stipulating the return of the deposit to the customer makes the deposit practice meaningless. For this reason, trading with deposit is permissible provided that the period in which the agreement will be finalized is determined, both parties consent to the deposit practice and the transaction is not an agreement which must be in advance such as “salam” and “sarf”.

963. **Is it permissible to sell customer discount cards?**

The person who performs this activity receives the guarantee of making discounts to the customers to whom the card will be sent by making special agreements with certain workplaces and institutions one by one, and in order to realize this activity and make it continuous and efficient, he/she makes workplace, personnel and equipment

expenses, in short, he/she provides a service to his/her customers. While the customer pays a fee and gets this card, he/she actually purchases the right to benefit from this service and opportunity prepared by the person concerned, and the card is given only as a symbol and indicator.

The person or company performing this activity works, in a way, for the customer who will buy the card, in other words, the customers purchase service from them. The card provided to the customer for this fee represents this potential service.

There is no religious objection in preparing and selling discount cards, the code of practice of which is specified above, provided that the service provided by the workplace does not violate religious principles.

964. Is it halal to download and use programs, software, books, music, etc. from the Internet?

Every practice, attitude and behavior that will mean to usurp someone else's labor lays the burden of rightful due on the person. This burden, is not lifted unless the right in question is returned to its owner or blessings of the owner is received.

Islam places great value on labor and opposes unearned income. In Holy Qur'an, it is commanded "*And that there is not for man except that [good] for which he strives*" (Najm, 53/39). Prophet Muhammad (saw) expressed the importance of remunerating the labor in different hadiths. In one of His hadiths Prophet Muhammad (saw) said "*Nobody has ever eaten a better meal than that which one has earned by working with one's own hands. The Prophet of Allah, David used to eat from the earnings of his manual labor*" (Bukhari, Buyu', 15).

In today's world where technology has developed and human labor manifests itself in many different forms and environments, violations of rights and labor come into question in equal measures. These violations are also experienced in the electronic and computer world. This kind of unfair behavior not only usurps the rights of individuals, but also discourages people who work in these fields to produce new products, which in a broad sense turns into a violation of public rights.

For this reason, it is not permissible to obtain and use all kinds of programs, software, books, music, etc. that have been transferred to the Internet as a product of labor without the permission of their owners.

965. Is it permissible to use a “trademark” belonging to someone else without permission, to do business by using it and to make money?

Every practice, attitude and behavior that will mean to usurp someone else’s labor lays the burden of rightful due on the person. This burden, is not lifted unless the right in question is returned to its owner or blessings of the owner is received.

Islam places great value on labor and opposes unearned income. In Holy Qur’an, it is commanded “*And that there is not for man except that [good] for which he strives*” (Najm, 53/39). Prophet Muhammad (saw) expressed the importance of remunerating the labor in different hadiths. In one of His hadiths Prophet Muhammad (saw) said “*Nobody has ever eaten a better meal than that which one has earned by working with one’s own hands. The Prophet of Allah, David used to eat from the earnings of his manual labor*” (Bukhari, Buyu’, 15).

In this respect, the unauthorized use of the trademark of a company, which is respected by the society by its labor and effort, conflicts with Islamic ethics since it will lead to violation of rightful due and the deceit of its customers. In addition, it is not permissible to gain unearned income in this way.

966. Is it permissible to trade with the leasing system?

Leasing system is a medium-term financing method based on renting machinery, equipment, vehicles and similar goods to entrepreneurs who need these goods within the framework of a lease agreement, and selling them at the end of the lease term for a predetermined price. In other words, leasing is a promise to initially rent the goods for a certain period of time to a person who wants to buy goods, and then to sell them at a low price at the end of the said period. In this system, it is essential to sell the goods on installments and to retain the ownership until the terminal payment, and then to realize the sale transaction. Although this transaction, which stipulates the condition of selling the leased property to the lessor at the end of the contract, was negatively viewed by the Islamic jurists due to the Prophet Muhammad’s (saw) prohibition of conditional trade (Tabarani, al-Mu’jam al-Awsat; IV, 335, see also Bukhari, Buyu’, 73), since a custom in this regard emerged due to social need, and according to some scholars, transactions made through leasing are permissible

because this practice is considered a new agreement arising from the merger of sale and lease rather than conditional trade.

OTHER CONTRACTS

967. Is bank promotion permissible?

State institutions and organizations can receive wages and salaries of their employees from any contracted bank. Although the promotions given by banks to institutions and organizations or their employees in return for their preference by said institutions and organizations in carrying out these services do not exactly resemble interest in terms of functioning, they are not entirely beyond doubt.

In this respect, it would be appropriate for those who are able to meet their basic needs not to use this money for themselves and their dependent relatives, on the contrary, but to give it to the needy poor.

968. Who is responsible for the back charges of the borrowed goods?

The responsibility to cover the back charges of the borrowed goods belong to the borrower. The customary provisions apply regarding how the borrowed goods will be returned. If these rules are not followed, the damage to the goods must be compensated (Marghinani, al-Hidayah, VI, 237; Mawсили, al-Ikhtiyar, II, 558). Because, the provision determined by the custom is valid as if it was stipulated from the beginning (Majalla, art. 43-45).

969. May a person who has entrusted goods benefit from them?

The usufruct of any benefit arising from the entrusted goods while they are with the trustee belongs to the owner of the goods. For example, things such as milk, wool etc. obtained from an entrusted animal belong to the owner. The trustee cannot benefit from these goods (Majalla, art. 798). Therefore, if the trustee damages the entrusted goods with his/her own fault, he/she is obliged to compensate it, as well as to compensate the damage when he/she damages the benefit obtained from these goods (Alauddin, Takmilat al-Radd al-Muhtar, II, 473).

970. Can a trustee demand a fee in return for safekeeping?

Trustees cannot receive a fee for the safekeeping of entrusted goods. If he/she does safekeeping job for a fee, this agreement ceases to be a

consignment agreement, and becomes a rental agreement. In this case, the back charges of the entrusted goods to the owner must be paid by the trustee. Trustee is responsible for any damage to the goods (Marghinani, al-Hidayah, VI, 219).

971. Can an entrusted thing be entrusted to someone else without permission of its owner?

Entrusted goods must be protected by the trustee or one of his/her family members. Therefore, it is not permissible to entrust them to others for safekeeping without the consent of their owner. If the trustee leaves the entrusted goods to someone else and damage occurs in this period, the damage must be compensated (Marghinani, al-Hidayah, VI, 212).

In this case, the depositor may make the first person to whom he/she has entrusted or the second person who accepted the entrusted goods compensate the damage. If the owner makes the first person compensate the damage, this person cannot claim compensation from the second. If the owner makes the second person compensate the damage, the second person can claim compensation from the first (Mawsili, al-Ikhtiyar, II, 476). However, if damage occurred due to intention and fault of the second person and the owner make the first person compensate the damage, first person may claim compensation from the second person (Majalla, art. 790).

972. May a person who is appointed as a proxy to sell goods or products at a certain price sell these goods at a higher price?

This transaction is permissible if the person appointed as proxy to sell goods or products at a certain price sells the goods at a higher price for the benefit of his/her grantor and delivers the total price to him/her (Kasani, Bada'i, VI, 27). However, he/she cannot receive the surplus from the price specified by the grantor. However, if the grantor declares "sell for this price, if you sell for more, the surplus is yours", it would be permissible to receive the surplus.

973. May a proxy who is appointed to sell goods or products buy the goods himself/herself or sell them to his/her first degree relatives?

A person who has been appointed as a proxy to sell goods or products at a certain price cannot buy this property himself/herself without the permission of the grantor or sell it to the first degree

relatives to whom he/she is obliged to give alimony. Because one cannot be both a vendor and a purchaser of the same goods. On the other hand, such transactions can lead to dispute and doubt (Kasani, Bada'i, VI, 312).

974. Is it permissible for a person to receive a fee in return for being a guarantor for a debt?

Guarantee has the characteristics of donation. Therefore, it is not permissible for the guarantor to stipulate a fee against the guarantee agreement. Because, receiving money is against the concept of donation. In addition, the guarantor is also the creditor, as he/she will pay the debt of the principal debtor when necessary. Receiving a fee in return for the guarantee is an interest-bearing transaction (Ibn al-Humam, Fath, VII, 186; al-Dasuqi, Hashiyya, III, 77).

However, today, some scholars are of the opinion that if no free guarantor is found, it is permissible for the debtor to make a guarantee agreement for a fee due to necessity or need, as in the letter of guarantee (See "Guarantee", DIA, XXV, 177).

975. Is it permissible to pay a fee for paying a debt via EFT and wire transfer?

If a debt is paid by money transfer means such as EFT or wire transfer and costs incur due to this transaction, it is permissible to receive a reasonable fee in return for the service provided. Because the service provided during the wire transfer process can be evaluated within the scope of a proxy agreement or as a service procurement agreement. It is permissible to receive fees in both agreements (Ibn Juzayy, al-Qawanin, 494; Bilmen, Kamus, VI, 328).

976. Is it permissible for a person to transfer his/her debt to a second person?

It is permissible for a person to transfer a debt he/she is obliged to pay to a second person. On this matter, Prophet Muhammad (saw) said, *"So, if your debt is transferred from your debtor to a rich debtor, you should agree"* (Bukhari, al-Hawaala, 1). Prophet Muhammad (saw) encouraged to relieve people from their troubles in some other hadiths (Bukhari, Mazalim, 4; Muslim, Birr, 58). In the event that the debt is transferred to a second person, the debtor is relieved from liability to the creditor. The creditor collects the receivable from the transferee (Mawsili, al-Ikhtiyar,

II, 419). However, if the transferee goes bankrupt and this situation is determined by a court decision, or the transferee denies that the debt was transferred to him/her, and the creditor cannot prove this, or if the transferee in question dies after bankruptcy, he/she is relieved of the obligation to pay the debt, and the debt is requested from the principal debtor (Kasani, Bada'i, VI, 18).

However, it is not permissible to receive a fee for transferring a debt to someone else. Because it is not considered permissible to receive a fee in return for the agreements aiming at helping each other (Tabari, Ikhtilaf al-Fuqaha, 193-194; Ibn al-Humam, Fath, VII, 186; al-Desouki, Hashiyya, II, 77).

977. Is it permissible for one of the company partners to donate (as grant or sadaqah), give loans or zakat from the company's property?

The company partners are representative of each other in commercial activities. Since this representation does not cover areas other than commercial activities, none of them have the authority to make donations on behalf of the other. Therefore, it is not permissible to make donations from company's property, to give charity, loan (qardh) and zakat of other partners without the permission of them. Because the purpose of company partnership is to generate income for the company by engaging in commercial activities. The practices in question do not fulfill this purpose sought in the commercial partnership (Marghinani, Tijarah, IV, 422-423; Kasani, Bada'i, VI, 71-72).

978. Is it permissible for the person who acts as an intermediary to receive a bank loan to get a commission?

It is not halal to receive a fee under the name of commission in exchange for mediating the interest-bearing loan received by a person or company from the bank. Because Prophet Muhammad (saw) held responsible all those who helped in the interest-bearing transactions by writing down, witnessing and representing, as well as those who received and gave interest (Muslim, Musaqah, 106; Abu Dawud, Buyu', 4; Ibn Majah, al-Ticarah, 58).

If the loan is interest-free and the intermediary is hired for a fee to follow and finalize these transactions, he/she may receive a counsel/guidance fee in return for his/her labor and service.

979. Is it permissible to rent a workplace to persons or companies that are known to commit haram acts?

Islam recommends people to engage in legitimate affairs and earn their livelihood through halal means. In Islam, it is haram and sin to do things that are rendered haram, and it is also a sin to assist and mediate these actions or to consent to them. Accordingly, it is not permissible to rent a workplace to persons or companies that are known to perform haram acts, as long as there are alternative opportunities for earning through halal means and unless it is necessary. Also the rental income obtained from these persons or companies is not halal.



HALALS AND HARAMS
(THE LAWFUL AND THE
PROHIBITED)





HALALS AND HARAMS (THE LAWFUL AND THE PROHIBITED)

FOOD

980. What is the textual proof for the identification of the animals whose meat can or cannot be eaten?

Islam has established rules to protect human beings from all kinds of material and spiritual damages and forbids everything that is nasty and disgusting (habais) that could harm human beings, and has rendered the clean, nice and useful (tayyibat) halal (Baqarah, 2/168, 173; A'raf 7/157).

In the Qur'an and Sunnah, it was not intended to give a list of animals whose meat is not edible; however, in addition to the mentioned names such as pigs, certain principles and measures have been determined for some animals. Besides, the abstaining from the consumption of substances harmful to health is accepted as one of the general principles of Islam. The Sunnah of the Prophet (saw) contains detailed explanations on the characteristics of "nasty and disgusting" foods, as well as statements confirming the prohibitions in the Qur'an. For example, the Prophet (saw) stated, specifically, that the meat of predators (animals with long and sharp shredder teeth) and birds of prey (birds that shred their prey with paws) is not edible. On the other hand, other hadiths from the Messenger of Allah (saw) that contain provisions regarding eating the meat of some animals have also been narrated (Muslim, Sayd, 15,16; Abu Dawud, At'imah, 32).

Islamic scholars have tried to determine which animals' meat is halal or haram one by one or by grouping them giving opinions in the light

of the stated aims and principles. While some of the scholars agreed whether it is halal or haram to eat some of animals, some of them are under dispute. In these determinations, it is a fact that human nature, custom, local habits and differences in the evaluation of applying these principles to concrete events are effective as well as the different evaluations and interpretations on the health of some hadiths.

981. Which of the land animals are edible or inedible?

The animals on which the religious scholars agree that it is halal to eat their meat, are divided into four groups pursuant to the verses of the Surah al-Baqarah, 2/172 and Ma'idah, 5/1,4:

a) Domestic animals such as cattle, buffalos, sheep, goats, camels, rabbits, chickens, geese, ducks and turkeys.

b) Wild animals such as deer, gazelles, ibexes, wild cattle and zebras.

c) Birds such as pigeons, sparrows, quails, starlings, herons. The fiqh scholars agree that the meat of these animals is halal. Some of these are clearly stated to be halal in the Qur'an, and the others are considered among permissible good and clean things which are said "to be eaten" in Qur'an (Ma'idah, 5/1; Hajj, 22/28, 30).

d) Locusts have been included in the group of halal animals because of the special provision that it is edible in Sunnah (Bukhari, Dhabayih, 13).

The animals, the meat of which has been reached a consensus on being haram to eat, are divided into three groups:

a) It is certain in the Qur'an's explicit provision that the pig is haram (Ma'idah, 5/3). Pig is the only animal, which the Holy Qur'an forbids by specifically mentioning its name.

Although it is mentioned in the Qur'an that only the meat of the pig is forbidden, Islamic scholars have evaluated the word "rijs" in the ayah 145 of the surah An'am and the sentence "...*makes lawful for them the good things and prohibits for them the evil...*" in the ayah 157 of the surah Al-Araf and stated that everything from a pig is haram (Ibn Abidin, Radd al-Muhtar, IX, 447).

b) It is also based on the Qur'an that the meat of animals slaughtered dedicated to other than Allah is haram: "*And do not eat of that upon which the name of Allah has not been mentioned (during slaughter)*" (An'am, 6/121).

This principle is an indication of the importance Islam attaches to the tawhid belief and its firm attitude against shirk.

c) It is also based on the explicit provision of the Qur'an that the meat of an animal, which has not been slaughtered in accordance with religious procedures or died spontaneously, is haram: *“He has only forbidden to you dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah”* (Baqarah, 2/173); *“Prohibited to you are dead animals, blood, the flesh of swine, and that which has been dedicated to other than Allah, and [those animals] killed by strangling or by a violent blow or by a head-long fall or by the goring of horns, and those from which a wild animal has eaten, except what you [are able to] slaughter [before its death], and those which are sacrificed on stone altars...”* (Ma'idah, 5/3)

All the Islamic scholars agree that meat of the animals listed in these verses is haram (Nawawi, al-Majmu', IX, 81).

Islamic scholars have expressed different views on the religious provision of eating meat of animals other than those listed above.

982. Is horse meat halal?

There is no clear evidence about the provision of eating horse meat in the Qur'an and Sunnah. In the Hanafi madhhab, according to the preferred opinion narrated by Imam Abu Hanifa and an opinion from the Malikis, eating horse meat is makruh tanzih (close to halal). According to Imam Abu Yusuf and Imam Muhammad, and to another narrative coming from Shafi'i and Hanbali madhhabs and Malikis, eating horse meat is permissible (Sarakhsi, al-Mabsut, XI, 233; Nawawi, al-Majmu', IX, 4; Ibn Rushd, Bidayah I, 470).

However, some scholars assert that eating horse meat is makruh and even haram (Qarafi, al-Dhakhira, IV, 101). Undoubtedly, the fact that horses had been widely used for military and civil purposes at that time had an effect on the opinion as to whether it was makruh or haram. Today, although the the area of use of horses has shrunk much compared to the previous periods, the hesitant attitude towards eating horse meat continues in some areas.

983. Is seafood such as crabs, lobsters, shrimps, calamari, mussels, frogs, etc. edible?

In the Holy Qur'an, it is said that the food obtained from the sea is halal (Ma'idah, 5/96; Fatir, 35/12). And the Prophet (saw) said, *“Its water is pure and what dies in it is lawful food.”* (Abu Dawud, Taharah, 41)

Hanafi madhhab has adopted the view that non-fish marine species such as mussels, squids, crabs, lobsters and shrimps are not halal as the madhhab has considered that “sea animals” which are stated to be halal in the said ayahs and hadiths have been meant to be fish (Kasani, Bada’i, V, 35).

In the Shafi’i madhhab, a distinction was made on the subject as follows: If sea creatures can only live in water and die as soon as like slaughtered animals when they come out of the water, they are halal regardless of their shape and death. However, when it comes to the amphibians, the meat of those resembling the land animals the meat of which is edible is halal, provided that they are slaughtered; and that of those resembling the land animals the meat of which is inedible is haram. Accordingly, the meat of frogs, crabs, turtles and water snakes is not halal (Ramli, Nihayah al-Muhtaj, VIII, 113,150-152).

984. Is it permissible to put slaughtered chickens in hot water without emboweling?

There is, religiously, no harm in keeping the chickens, for a while, in hot water under the boiling temperature and then removing their feathers after the blood of the said duly slaughtered chickens has been drained and any other contaminants that may be on them are thoroughly cleaned (Ibn al-Humam, Fath, I, 210).

However, if the filths in chickens and similar animals thrown into boiling water without removing the intestines contaminate the meat, they will not be clean.

As applied in today’s slaughter factories, since, in case of water defeathering by spraying clean hot water on the slaughtered animals passing through the band, the harm is removed, there is no problem in eating them.

985. How should an animal be slaughtered in order to make its meat halal?

In order for the meat of edible land animals to be halal, it must be slaughtered duly. According to Hanafis, duly slaughter is performed reciting basmala, cutting the animal’s trachea and esophagus and one or each of the carotid arteries. Hanafis are of the opinion that abandoning basmala deliberately renders the meat of the slaughtered animal haram. But if it is forgotten, it is halal. The Shafi’is adopt the idea that meat

can be eaten even if reciting basmala is deliberately abandoned (Nawawi, al-Majmu',-VIII, 412, et al).

Such animal species as cattle, buffalos, sheep and goats are laid down and slaughtered right under their chin (Dhabh), and camels are slaughtered right above his chest (nahr) and the blood is waited to drain completely for a while. It is Sunnah that knives and similar cutting tools are sharpened away from the animal's eyes before slaughtering. One animal should not be slaughtered in front of the other (Kasani, Bada'i, V, 41).

It is Sunnah that the animal to be slaughtered is turned to Qibla. Any activity that will increase the pain of the animal should be avoided, such as breaking the neck, skinning, tearing a limb off or plucking the feathers or hair before the animal dies (Ibn Nujaym, al-Bahr, VIII, 194).

Although some scholars allow the application of low-voltage electric shocks to reduce the pain experienced by the animal, provided that the animal is alive during the slaughter, and if the person operating the automatic slaughter machine used in the slaughter of chicken and turkey slaughtering says the basmala while pressing the button, all the animals to be slaughtered in that batch are considered to be slaughtered with the basmala, however, manual slaughter is recommended because of the risk of death of the animals before slaughter in these applications.

986. **What are the required qualifications of the people who will slaughter an animal?**

Anyone who slaughters an animal must be a Muslim or the one from the People of the Book, who have the power of reason and appeal. The meat of animals slaughtered by idolators, ignicolists, atheists and apostates is inedible.

People who are known to be a member of the People of the Book should not mention the name of anyone other than Allah when slaughtering. Because the ayah stipulates that the animal should not be dedicated to any other than Allah (Baqarah, 2/173).

It is not necessary for anyone who slaughters to be in puberty. The meat of an animal slaughtered by a seven-year-old or older child is halal.

As it does not matter whether the slaughterer is a man or a woman, and it does not matter if they are clean, junub or having period; the meat of an animal slaughtered by any of them is edible (Zaylai, Tabyin, V, 287).

987. Is it permissible to eat the food cooked, and the meat of animals slaughtered by the people of the book?

The meat of an animal slaughtered and the food cooked by the People of Book (Jews and Christians) can be eaten. In this regard, the Holy Qur'an says: *"This day [all] good foods have been made lawful, and the food of those who were given the Scripture is lawful for you and your food is lawful for them"* (Ma'idah, 5/5).

Duly slaughter is performed cutting the animal's trachea and esophagus and two carotid arteries or one of these carotid arteries. If it is known for sure that a person from the People of the Book slaughters an animal in the name of Prophet Isa or Uzair, then the meat of the animal slaughtered by that person is not halal. The meat of animals which has been dedicated to other than Allah is not edible (Ma'idah, 5/3).



MEDICINE AND HEALTH





MEDICINE AND HEALTH

988. Is euthanasia permissible?

According to Islam, one's taking his own life (suicide) is haram (forbidden). Euthanasia, which means that a person who has no hope of living in medical terms or feels severe pain gets his life ended with the help of another person, is suicide in terms of the person who makes the request and murder in terms of the person who practices it.

It is stated in the Holy Qur'an as follows: "*O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful. And whoever does that in aggression and injustice - then We will drive him into a Fire. And that, for Allah, is [always] easy*" (Nisa, 4/29,30), "...*And do not kill the soul which Allah has forbidden [to be killed] except by [legal] right. This has He instructed you that you may use reason*" (An'am, 6/151). The Prophet (saw) advised us not to desire death owing to pains and distresses (Bukhari, Marda, 19). Committing an activity, even the desire of which is forbidden, would be a big offense. These evidences show that it is never permissible to end the life that Allah has entrusted, without a reasonable ground. Because it means breaking the limits set by Allah and revolting against His will (Tahtawi, Hashiyah, 602).

The sufferings and grievances are atonement for the sins of the believer. Moreover, today, it is not unlikely for a treatment opportunity to be found in fast developing medicine for the hopeless patient.

989. Is organ donation permissible?

In the Holy Qur'an and hadiths, there is no any explicit provision regarding organ and tissue transplantation. The first interpreters of Islamic law and Muslim jurists did not touch upon such a provision

regarding transplantation since there was no such an issue in their era. However, in Islam, there are general provisions and rules that have been derived from the implications of the Book and Sunnah. The provisions about the new issues, as to which there is no explicit judgment and which occur in each era, are derived by faqihs through comparing the matter at hand to the similar matters, the provisions of which are known. It would be appropriate to apply the same procedure for the determination of a provision regarding organ and tissue transplantation.

As it is known, human beings are honorable creatures. Allah renders them privileged among the creatures. In this respect, under normal circumstances, it is not permissible to make use of parts and organs taken from the dead and alive persons, since it is against human dignity and miracle (Bukhari, Libas, 83-87; Muslim, Libas, 33; Kasani, Bada'i, V,125; Ibn Qudamah, al-Mughni, I, 107; Ibn Nujaym, al-Bahr, VI, 133). However, in case of a necessity, this provision changes depending on the nature and to the extent of such exigence (Majalla, Article 22).

Islamic scholars have issued a fatwa regarding cutting the abdomen of a dead mother to save the living child in the womb, transplantation of other bones in substitution for the broken bones of those who cannot be treated otherwise, and performing an autopsy on the dead with the consent of their relatives in order to provide diagnosis and treatment of unknown diseases; and they have considered that it is permissible to intervene in the body integrity of the dead to save a living person (Nawawi, al-Majmu', III, 145; Fatawa al-Hindiyyah, V, 440).

In the same way, as is the case with hunger and thirst, they have considered disease a necessity that makes haram permissible and deemed it permissible to treat patients, who cannot be otherwise treated, with haram drugs and substances. Today, blood, tissue and organ transplantations have become one of the treatment methods.

Therefore, if there is no other way to save a life or a vital organ, provided that certain conditions are followed, treatment must also be permissible by blood, tissue and organ transplantation by observing certain considerations. And the ayah, "*And whoever saves one - it is as if he had saved mankind entirely*" (Ma'idah, 5/32) sheds light on this.

In this context, organ transplantation is permissible provided that the following points are observed. As a matter of fact, Islamic Fiqh Academy, an international fatwa organization affiliated to the Organization of

Islamic Cooperation, has also reached a decision accordingly. In this regard, organ transplantation is allowed if:

- a) There is a presence of necessity, in other words, it is determined by the expert doctors whose professional competence and honesty are trusted that patient has no other choice to save his/her life or a vital organ,
- b) It is strongly thought that the disease can be treated this way,
- c) The person whose organ or tissue is taken is already dead during the procedure; the donor of the organ is alive, the surgical removal of this organ must not deactivate a vital function in the said person,
- d) The person whose organ or tissue will be taken donated his/her organs during his/her lifetime or his/her relatives consent to such operation, unless otherwise expressed by the donor during his/her lifetime, in order not to disturb the peace and order of the society,
- e) No money is asked for the donated organ or tissue,
- f) The patient to be treated (receiver) also consents to such procedure,
- g) The said procedure is performed under official supervision.

990. Is cardiac valve replacement using that of a pig permissible?

In cases where it is not possible to perform a vital treatment in halal ways (when it is a medical necessity), objects that are haram can also be used for the sake of treatment.

Thus, it is also permissible to use the cardiac valve obtained from the pig in the treatment of a patient whose cardiac valve is required to be replaced if there is no halal alternative or other solutions are not efficient and healthy.

991. Is it permissible to get treatment by means of substances that are haram to eat or use or of medicines that are produced from such substances?

If, for the treatment of a disease, a medicine derived from halal substances has not been produced yet or is not available during treatment, there is no harm in the use of a substance that is haram or a drug produced therefrom, provided that it is prescribed by an expert doctor whose professional competence and honesty are trusted. Because *“Necessities render prohibitions permissible”* (Majalla, Article 21). If the necessity disappears and drugs made from other halal substances are

found, then it is necessary to use the halal ones. Because “*Necessities are determined to the extent of their presence*” (Majalla, Article 22).

992. **Is in vitro fertilization method permissible?**

According to the High Board of Religious Affairs dated 20.05.1992, in cases where it is not possible for the couple to get pregnant due to a defect in either one of the spouses, there is no harm in having children via in vitro fertilization method provided that;

- a) Both the eggs and the sperm to be fertilized belong to the married spouses, that is, none of them belongs to another person;
- b) The fertilized egg does not develop in the womb of another woman but in the womb of the spouse who owns the egg;
- c) It is medically certain that this procedure will have no negative effect on the material, psychological and mental health of both the parents and the child to be born.

It is not permissible to enable the pregnancy of a woman utilizing the egg taken from another woman or the sperm taken from a man other than her husband.

993. **What is the religious judgment on birth control?**

Provided that it is not harmful to health, preventing pregnancy by using such methods as hormone regulators (implants), condoms, and removal (withdrawal) is allowable. However, unless the mother's life is at risk, it is not permissible to have an abortion and similar methods after pregnancy, regardless of the stage. Because the right to life of the child starts with the beginning of pregnancy. It is a violation of the right to life to end the fetus's life in a way, either for financial or for social concerns. Allah (swt) says, “*...do not kill your children out of poverty; We will provide for you and them...*” (An'am, 6/151).

994. **Is it permissible to use such methods as having tubal ligation in order to prevent pregnancy?**

It is permissible to implement legitimate remedies in respect of childbearing, limiting the number of children, adjusting the time between two pregnancies, and treating infertility, according to the consensus of the husband and wife. The use of drugs and instruments that cause permanent infertility, in other words, neutering the woman

or man irreversibly is not permissible as it is considered as interference in the human nature, unless it is an absolute necessity for health.

995. Is it permissible to have an abortion?

The protection of human life is one of the five fundamental principles and aims of the Islam. Because human beings, who are the most honorable creatures, are respectable and untouchable. The right to life of a human being is a fundamental right granted by Allah from the moment that male sperm and female egg meet and fertilization begins, and no one, including parents, is allowed to interfere in this right from that stage on. Accordingly, it is not permissible to terminate pregnancy without any justified and definite necessity such as the protection of the mother's life.

996. Is it permissible to end live(s) of one or a few of the fetuses in multiple pregnancies?

The protection of life is one of the five fundamental values that Islam commands to protect. The right to life begins with the fertilization of the egg and sperm cells. From that stage on, it is not permissible to terminate pregnancy for any purposes other than protecting the mother's life. However, in multiple pregnancies, in the events that unless the fetus which is not likely to survive is intervened in, other fetuses will certainly die, the life of healthy ones can be protected by intervening in the sick fetus. In the events that all of the fetuses are healthy and there is no possibility of preferring one to another, it is, religiously, unacceptable to kill another for the survival of one life.

997. Is having tattoo permissible?

Tattoo, which is performed by inserting needles into the body and applying dyed substances into the holes opened by the needles, is a custom of the period of ignorance since ancient times and is prohibited in terms of health as well as religion. As a matter of fact, in order to attract attention and to look better, modifying the features and shapes given at the process of creation is prohibited in Islam as it is considered distorting the human nature (Nisa, 4/119).

The Prophet (saw) evaluated such operations as having tattoo or thinning the teeth as modifying the creation and distorting the human nature, and announced that those performing them or getting them

performed would be distant to the grace of Allah (Bukhari, Libas, 83-87; Muslim, Libas, 120). Therefore, having a tattoo is not permissible (Ibn Qudamah, al-Mughni, I, 129).

998. Is having a botox application permissible?

In Islam, operations and interventions aimed at changing the features of creation (human nature) are prohibited (Nisa, 4/119; Rum, 30/30). The Prophet (saw) evaluated such operations as having tattoo or thinning the teeth to become beautiful as modifying the creation and disrupting the nature, and announced that those performing them or getting them performed would be distant to the grace of Allah (Bukhari, Libas, 83-87; Muslim, Libas, 33). However, if there is any abnormality or excess in any organ of the body, which is deemed odd by other people, which may cause a person to be psychologically affected, its correction by surgery is considered a treatment procedure, not a distortion of the nature (Abu Dawud, Khatam, 7; Tirmidhi, Libas, 31).

In order to remove the wrinkles on the face, having “botox”, which refers to the injection of a small amount of the liquid obtained from a toxic substance called botulinum with the needle to the place where the wrinkles are located, is also an aesthetic intervention due to its general purpose. Therefore, it is not permissible to have a botox application unless necessary for physical or mental health.

999. Is it permissible to have a hair implant or wearing a wig?

The narratives that the Prophet (saw) forbade putting on someone else’s hair and having a hair implant are included in our authentic sources. (Bukhari, Libas, 83; Muslim, Libas, 33). Evaluating the hadiths on the issue, Islamic scholars have not found it permissible for a person to put on someone else’s hair or to wear a wig made from someone else’s hair. Because in such processes a part of the respectable person is used, which is not permissible unless it is obligatory. Nevertheless, most of the fiqh scholars find it permissible to wear a wig made of silk, yarn, wool and similar materials other than human hair (Kasani, Bada’i, V, 125 ff.; Ibn Qudamah, al-Mughni, I, 107; Ibn Nujaym, al-Bahr, VI, 133).

Today, hair implant, which is performed as a surgical operation, is not within the scope of the prohibition since the person’s own hair is taken and transferred to the area that has lost hair.

1000. Is it permissible to use gold in dental treatment?

Oral health is a part of body health. It is necessary to pay attention to the health of the teeth, as well as to the health of the body. The Prophet (saw) also attached great importance to the hygiene and health of teeth; *“If I knew that it would not be difficult for my ummah, I would order them to use miswak before every prayer”* (Bukhari, Jumu’ah, 8), *“Miswaak cleans the mouth, causes to be blessed by the Lord”* (Bukhari, Siwak, 25), *“Jibreel put emphasize on miswak so much that I was afraid that it would be fardh”* (Ibn Majah, Siwak, 7).

Dental veneer covering, filling and prosthesis are the medical methods used for treatment purposes. When performing these procedures, there is no harm in applying whatever the treatment requires. However, it is not permissible to use a substance that is prohibited if it is possible to treat it with a substance that is not prohibited by religion. Our religion forbids the use of gold by men unless it is necessary. As a result, Imam Abu Hanifa found that silver was sufficient in the wire to be used to reattach the teeth and he did not find permissible to use gold. Other Hanafi imams, Imam Muhammad and Imam Abu Yusuf, stated that gold may also be used in dental treatment due to necessity (Ibn Abidin, Radd al-Muhtar, IX, 521). These interpreters of Islamic law brought forward as an evidence that Arfaja (ra) who lost his nose in a battle wore silver nose, and as this nose stank, he applied to the Prophet (saw) for this and wished to wear golden teeth, and he was given permission for this (Abu Dawud, Khatam, 7; Tirmidhi, Libas, 31). It seems that if there is a medical necessity, there is no harm in the use of gold in dental covering. If it is not necessary, the use of other substances is more appropriate according to religious rules.

1001. Is it permissible for a patient who undergoes treatment to uncover his/her private parts?

In essential situations such as the need for treatment, - if necessary - it is permissible for those performing the treatment to look at and touch the intimate parts of the body of the patient. Patients who have to open up their intimate places should firstly prefer the healthcare personnel of the same-gender as possible (Kasani, Bada’i, V, 124). If this is not possible, the gender difference is not taken into consideration. Because *“Necessities render prohibitions permissible”* (Zaylai, Tabyin, VI, 17; Majalla, Article 21). However, the treating doctor must not forget that the permission to look

at the haram is based on necessity. Therefore, he must not cross the limit of consent to look at it for diagnosis and treatment. Because “*Necessities are determined to the extent of their presence*” (Majalla, Art. 22).

1002. May a woman who has a breastfed baby continue breastfeeding if she gets pregnant again?

In such a case, there is no ayah or hadith that orders to continue or stop breastfeeding. The hadith of the Prophet (saw) “I thought about ordering pregnant women to stop breastfeeding. But when I learned that the Greeks and the Pharisees continued to breastfeed and that this did not harm their pregnancy, I gave up” (Abu Dawud, Tibb, 16) also gives this result. The mother’s health and the baby’s need for breast milk are decisive in this regard. Accordingly, it is not forbidden for a pregnant woman to continue breastfeeding her child, in religious terms.



SOCIAL LIFE





SOCIAL LIFE

1003. How to give salam to each other, what is the ruling of it?

Salam, which means peace, ease and well-being, as a term, consists of special words that express the wish of well-being that Muslims use when they meet.

In Islamic practice, greeting occurs when one of the parties says, “As-salamu alaykum (salam, well-being and safety be upon you)” to the other, and when the other answers, “Wa alaikum assalaam (salam, well-being and safety be upon you, too)”.

Our religion declares that Muslims are sisters and brothers, and it places some duties on them so that the consciousness of sisterhood and brotherhood can settle and continue. One of such duties is giving salam.

It is stated in the Holy Qur’an as follows: “*And when you are greeted with a greeting, greet [in return] with one better than it or [at least] return it [in a like manner]*” (Nisa, 4/86).

Answering a salam with an equal salam in return occurs if someone says, “As-salamu alaykum” and the other one answers, “Wa alaikum assalaam”, or if someone says, “As-salamu alaikum wa rahmatullah” and the other one answers, “Wa alaikum assalaam wa rahmatullah.”

And answering a salam with a better salam occurs if someone says, “As-salamu alaykum” and the other one answers, “Wa alaikum assalaam wa rahmatullah”, and if someone says, “As-salamu alaikum wa rahmatullah” and the other one answers, “As-salamu alaikum wa rahmatullahi wa barakatuh”.

A man asked the Prophet (saw), “Which act in Islam is the best?” and He replied, “*To give food, and to greet everyone, whether you know or not*” (Bukhari, Iman, 18).

And another hadith promoting greeting is “*You shall not enter Paradise so long as you do not affirm belief (in all those things which are*

the articles of faith) and you will not believe as long as you do not love one another. Should I not direct you to a thing which, if you do, will foster love amongst you: (i.e.) give currency to (the practice of paying salutation to one another by saying) *as-salamu alaikum*” (Muslim, Iman, 22, no: 93).

When two Muslims meet, they should give salam to each other before starting the speech. The Messenger of Allah (saw) said, “*The Salam is before talking*” (Tirmidhi, Isti’dhan, 11).

According to Islamic manners, a rider should give salam to a pedestrian; a pedestrian should give salam to one who is sitting, a small group should give salam to a large group (of people) and the young should give salam to the elderly (Tirmidhi, Isti’dhan, 14).

And the one leaving a group of people must give salam to those whom s/he left. The Messenger of Allah (saw) said, “*When one of you arrives at the gathering, then give the Salam, and if he is given a place to sit, then let him sit. Then when he stands, let him give the Salam, the first is more worthy than the last*” (Abu Dawud, Adab, 49; Tirmidhi, Isti’dhan, 15).

In addition to this information, fikh scholars also stated regarding judgment of salam as:

To say salam is sunnah, and to receive it is fardh. Greetings between communities may be performed by one person in each community (Abu Dawud, Adab, 141). If no one receives the salam from the community, they all become sinners.

1004. **What is the ruling of violating other people’s rights? How can one compensate other people’s violated rights?**

The Prophet (saw) says that whoever violates a rightful due of another person, the violator should ask for aggrieved person’s blessings immediately. Unless this is done, the good deeds of the violator will be taken and transferred to the aggrieved person. If the violator does not have any good deeds then the sins of aggrieved person would be taken and transferred to the violator (Bukhari, Madhalim, 10). Again, our Prophet (saw) explains that those who do not pay a due debt even if they can pay violate the rightful due, as follows: “*Procrastination (delay) in paying debts by a wealthy man is injustice*” (Bukhari, Hawaala, 1).

As can be seen, the rightful due plays a significantly decisive role in one’s journey to Jannah or Jahannam. It is a heavy sin to appear before Allah with a rightful due. Because the forgiveness of such a sin by Allah is depends on the forgiveness of the holder of that right. Allah does not

forgive the sin of those exploiting a rightful due, unless the holder of that right has taken or renounces his/her right. Because divine justice requires this. The Messenger of Allah (saw) said in His Farewell Sermon, *“No doubt, your blood and your properties are sacred to one another like the sanctity of this day of yours, in this month of yours, in this town of yours, till the day you meet your Lord”* (Bukhari, Hajj, 132).

Accordingly, the forbidden money or property obtained by means of extortion, theft or intrusion should be given to their owners or their heirs if they are known, or to the poor or charities if they are not known as sadaqah on their behalf. In addition, forgiveness and remittance should be begged from Allah for these faults.

While in case of violation of rights such as gossip or slander which are not related to goods or assault, the best thing is to inform the holder of the right about the situation and ask for his/her blessings; as this is not always possible or people refrain from this, repenting in the name of the violator and asking for forgiveness in the name of the holder of the right, praying or making good things and giving the good deeds of such things to the holder of the right will be a redemption against such violations (Ibn Taymiyyah, al-Fatawa al-Kubra, I, 113).

1005. Is it permissible to receive the blood money determined by court?

The person who causes the death of any person as a result of a mistake such as inattention and carelessness is obliged to pay a pound of flesh (blood money/compensation) upon request by the relatives of the deceased person. (Abu Dawud, Diyat, 18, 19, 20; Nasa'i, Qasamah, 39; Ibn Majah, Diyat 5; Ibn al-Humam, Fath, X, 298-299). Therefore, it is permissible for the relatives of the deceased to receive an amount not exceeding the full amount of the pound of flesh (approximately 4250 grams of gold) of the compensation that the court appreciates for such an event, and the money received is halal.

1006. Is it permissible to eat by using left hand?

The Prophet (saw), determining the general principles of eating-drinking, did not approve eating or drinking with left hand. As a matter of fact, he emphasized this issue and warned his ummah by telling them that devils eat and drink by using left hand and taught children to eat by using right hand (Bukhari, At'imah, 2; Muslim, Ashribah, 13).

It is the duty of every Muslim to follow the advice and guidance of the Prophet on eating and drinking by using right hand. For this reason, parents should teach their children to eat and drink by using their right hand along with other food manners. There is no harm in left-handed eating of people who cannot eat by using their right hand due to a physical disorder (Shawkani, Nayl al-Awtar, III, 329, 330).

1007. What is the place of music in Islam?

Islam religion has been content with determining general principles and aims instead of making detailed and special provisions on music. Accordingly, it is a sin to make and listen to music which contradicts the principles and basics of Islam and which leads to sin and encourages haram. In religious terms, there is no harm in listening to music which does not contradict the basic faith, deeds and moral principles of our religion.

There is no evidence showing that it is absolute sin to engage in music and listen to music in the Qur'an and Sunnah. On the contrary, it is known that the Messenger of Allah (saw) has expressions that can be considered as a sign that music is permissible in principle. As a matter of fact, he advised tambourine to announce his wedding (Tirmidhi, Nikah, 6). Again, on an eid day, Aisha (ra) warned those who wanted to reprehend two odalisques who played tambourine and sang songs, saying that "*Let them, today is an eid day*" (Muslim, Eidayn, 17).

The issue of making and listening to music is widely discussed by Islamic scholars, and many things have been said in favor and against. When the views of the parties are evaluated together with their reasons, it is concluded that music is not strictly prohibited, but rather permitted in principle (See Zaylai, Tabyin, IV, 222).

1008. What is the religious judgment on growing and shaving beard?

The Prophet (saw) considered growing beard among acts complying with human nature (values of creation) (Bukhari, Libas, 62; Muslim, Taharah, 56; Abu Dawud, Taharah, 29; Nasa'i, Libas, 1). As a matter of fact, he grew beard and took care of it well and cut more than a pinch.

While the Islamic scholars, considering the hadiths and the practices of the Companions of the Prophet (saw) on the subject, agreed on growing beard was a natural (inherent) act to be performed and a Sunnah recommended to be performed, they put forward different views

on the judgment of shaving the beard. Some scholars said that this was haram, while others saw it as makruh. The decision of procedure that “in order for something to be haram, the forbidding evidence related to it must be certain in terms of being proved and implication, in other words, there must not be any probability about it” adopted in general, show that the latter view is righter.

Accordingly, it is possible to say that a person who grows beard for the purpose of obeying the Prophet and taking care of it in accordance with the Sunnah will be rewarded because of this deed, but that those who shave his beard for any reason will not fall into sin for this although he contradicts Sunnah.

1009. Is it permissible for men and women to dye their hair?

One of the things that our religion recommends is that people should be clean, well-groomed and smooth-looking. Hair, beard and mustache care should be evaluated in this context. Cleaning, washing, scenting, combing and dyeing hair are among the issues encouraged by the Prophet (Bukhari, Anbiya, 50; Muslim, Libas, 80). Accordingly, hair, beard and mustache can be dyed without any intention to mislead others (Mubarakfuri, Tuhfat al-Ahwadhi, V, 433-441).

While it is permissible for the man to dye his hair in colors other than black, such as henna color, dyeing the hair in black was considered to be makruh. On the day of the conquest of Mecca, the Prophet who saw the hair of Abu Bakr’s old father, Abu Kuhafe, turning grey said: “*Change the color of this grey hair and avoid black*” (Abu Dawud, Tarajjul, 18).

However, if someone whose hair turns grey is young, his dyeing his hair in black is not objected. Because, in this case, the hair dyed black will become natural. As a matter of fact, such companions of the Prophet (saw) such as Sa’d bin Abi Waqqas, Uqba bin Amir, Hassan, Hussein, and Jarir were said to apply this (Shawkani, Nayl al-Awtar, I, 367, 373).

However, there is no limitation for women. It is important to note that the woman does not show her hair and other intimate parts of her body to stranger men.

Dye is not an element that prevents ghusl and prayer ablution unless it forms a chemical layer on the hair and prevents water contact (Ibn Abidin, Radd al-Muhtar, I, 288).

1010. Is it permissible to cut off plants such as trees and herbs grown in the cemetery?

Tearing and cutting fresh grass and trees in the cemetery is makruh unless the purpose is maintenance. This is because the fresh plants there chant Allah in their own way. It is hoped that because of this chant, the believers lying there will have mercy from Allah Ta'ala and that He will ease their punishment. Indeed, the Prophet (saw), realized that two people lying in two graves are grieving, he requested a fresh branch of palm from the people accompanying him, and he divided it into two pieces and planted each of them on the head of each grave. When he was asked "O Messenger of Allah, why did you do that?" He answered: *"I hope that their torture might be lessened, till these get dried"* (Bukhari, Wudu, 55).

There is no harm in cutting and selling dry grass and trees that are concerned to be wasted in the cemetery. The money obtained from this sale must be used for the public interest. The fruits of the trees in the cemetery can also be eaten (Fatawa al-Hindiyyah, I,183; Ibn Abidin, Radd al-Muhtar, III, 155).

1011. Is it permissible to search for treasure and own it when it is found?

Treasure hunting is subject to the legislation of your country of residence. Today, in Türkiye, treasure search is carried out in accordance with the "Code of Protection of Cultural and Natural Properties" and other relevant legislation. It is not permissible to seek treasure in violation of this legislation, as it means infringement of public and individual rights.

1012. What are the rulings about found things?

It is not permissible to take others' properties without their consent, and also it is not permissible to take the properties or goods they have lost.

If someone finds some money or goods somewhere, they can take it for the purposes of giving it to the owner. However, appropriating such money or goods means usurping someone else's property.

Taking something that has the risk of getting wasted unless it is taken with the purpose of returning it to its owner is obligatory, and taking something not bearing the risk of being wasted is permissible. When a

person takes something s/he has found, s/he renders the people around witness that s/he will give it to the owner. If the owner of the item found comes out and proves that it belongs to him/her, the person who found the item delivers it to him/her (Kasani, Bada'i, VI, 200-201).

The property found is entrusted to the finder who has taken it to give to the owner. If this property is lost or wasted without his/her fault, the owner is not obliged to pay the price to the owner when s/he comes out (Ibn al-Nujaym, al-Bahr, V, 162, 163).

The person keeping the property found announces this for a period deemed appropriate in accordance with the value of the property and waits. If the owner does not come out, s/he gives it to the poor on behalf of the owner, and if s/he is in need himself/herself, s/he can benefit from it. However, if the owner comes out later, s/he pays the price of the property. The low-value things the owners of which will not look for can be given to those in need without waiting, and if the finder needs it himself/herself, s/he can use it (Sarakhshi, al-Mabsut, XI, 2, 3).

1013. **Is it permissible for high-authority persons to receive gifts?**

Giving gifts mutually contributes to the creation of love and respect among people. Indeed, the Prophet (saw) said, “*Give gifts so that the love between you increases*” (Muwatta, Husn al-Huluq, 4). However, it is not permissible for the persons in the administrative authorities to accept gifts and donations under any name from persons with whom they do not have a custom of giving gifts to each other before taking the position. Because this can be considered as bribery (Marghinani, al-Hidayah, V, 365; Mawsili, al-Ikhtiyar, II, 210-211).

The Prophet (saw) said regarding the gifts given to those in the administrative authorities, “*The gifts received by the authorities are like stealing from the booty (appropriating of public goods)*” (Bayhaqi, al-Sunan al-Kubra, X, 233). Again, when the Messenger of Allah (saw) heard that the officer He assigned to collect zakat received a gift, said that “*How on earth the officer I sent says: ‘This is zakat property; and this is given me as a gift!’ If this person stayed in his father’s (or mother’s) house, would he be given a gift? I swear to Allah that if one of you takes something from that zakat property, s/he will come to the Day of Judgment by carrying it on his neck*” (Muslim, Imarat, 26), thus stating that it was not permissible for the person to receive a gift due to his presence in the high-authority.

1014. Is it permissible to make a bet over sports competitions?

It is gambling to bet on the foreseen outcome of an activity the result of which is unclear previously, and to win or to lose the bet depending on the result. This activity is considered gambling regardless of the method and name. Gambling is one of the unfair methods of undeserved gains and strictly prohibited in Islam.

In this respect, betting on one of the parties through sports competitions is within the scope of gambling prohibited by the Holy Qur'an and it is not permissible.

1015. Is it permissible to receive rewards obtained from competitions?

Any game based on the chance that one party will win and the other party will lose through direct or indirect agreement between two or more persons is within the scope of gambling and it is haram.

It is permissible to take part and receive any prizes in competitions with legitimate content based on the fact that the winner of the competition will receive the prize promised by the third party and that the loser will not incur a loss (Kasani, Bada'i, VI, 206; Fatawa al-Hindiyyah, V, 400).

However, since paying extra fee, such as sending up credits other than the normal transportation fee, or making a commitment to pay, in order to participate in a competition with these qualifications has the characteristics of buying a lottery ticket, this competition becomes a kind of gambling.

1016. Is it permissible for women to receive the money they collect in turns in the periodical meetings they organize among themselves?

Islam encourages lending. Lending those in need is such a behavior that is rewarded with sadaqah merits (Ibn Abidin, Radd al-Muhtar, VII, 388, 396).

What is important in lending is that no interest of any kind must be stipulated on lending, and that the lender or recipient is not harmed (Kasani, Bada'i, VII, 394-396).

In the meetings organized among women, there is no harm in the practice that each participant gives the collected amount to one of them each month by turns. Because this is ultimately an act of lending.

1017. Are the gifts awarded by coupons given in exchange for shopping in markets and stores halal?

All games of chance where one party wins and the other loses is gambling. Practices where only the winner is profitable and the loser does not incur losses are not gambling.

Accordingly, if there is a gift in the raffle coupon given to the shoppers by shop owners in the markets or stores, there is no harm for the customers in receiving the resulting gifts (Kasani, Bada'i, VI, 206). Because in the event that one customer wins, the others do not lose anything.

However, if there is an additional fee to pay to participate in the lottery, the draw will become gambling as there will be a possibility of earning money by chance on the money deposited.

1018. Is it permissible to sell the old carpets or other unused things in a mosque and spend the money for the needs of the mosque?

A commodity that cannot serve its purpose is permissible to be changed or sold to serve the same purpose (Ibn Abidin, Radd al-Muhtar, VI, 573). It is not appropriate to leave the goods such as carpets and rugs belonging to mosques, which are disused, to decay. Therefore, there is no harm, religiously, in giving the goods not having antique values to another mosque or masjid that duly needs them; or if there is no other mosque or masjid in need, there is no harm, religiously, in selling such goods within the framework of the relevant legislation and spending the money earned for the other requirements, to be inventory stocks, of the mosque.

1019. What is the judgment on a woman's looking at the private parts of a man as she takes care of him?

A person cannot look at the private parts of those who are namahram to him unless s/he is obliged to do so (Nur, 24/30-31). Accordingly, the care of a man in need of care should be carried out primarily by his mahram relatives, or by male caregivers. If no such caregivers are found, it becomes a necessity for him to be cared for by a woman. In such a case, there is no harm, religiously, for a woman in looking at the private parts of a man in need of cleaning and care and to the extent of necessity (Marghinani, al-Hidayah, VII, 190).

1020. Is it permissible to work in a workplace where alcohol and other haram products are sold?

It is a sin/haram to do the things that are forbidden in our religion, and also it is a sin/haram to consent to and assist in doing such things. The Prophet stated that those who manufacture, carry, mediate and present a forbidden substance commit the same sin as those who use it (See Abu Dawud, Ashribah, 2; Ibn Majah, Ashribah, 6). In this respect, it is not permissible for a person to work in workplaces where religiously prohibited things are done as long as s/he has alternative opportunities to earn from halal ways.

However, when s/he cannot find any other job to make a living in spite of all his/her efforts, s/he can work in such workplaces due to necessity. Once the necessity no longer exists, that is, if the person finds a decent and halal job, the person in question must leave the previous work place.

1021. Is it permissible to neuter animals?

Like humans, all animals have the right to breeding and reproduction. As it is not appropriate to prevent animals from meeting their needs of eating and drinking, it is also inappropriate to eliminate the reproductive abilities of animals. It is not permissible to neuter animals unless there is a necessary and legitimate reason.

However, for necessary and legitimate reasons, for public interest, there is no harm in using drugs and similar things that prevent the conception of pets, and controlling the numbers of stray animals such as cats and dogs, provided that the ecological balance is not disturbed (Fatawa al-Hindiyyah, V, 437).

It is also permissible to neuter some animals, such as calves and goats, to ensure that labor, breeding and meat productivity of them can highly be benefited from (Marghinani, al-Hidayah, VII, 234; Ibn Majah, al-Muhit, V, 375, 376).

1022. Is it permissible to kill the excessive queen bees or their larvae in a hive for any reason?

Allah Almighty has offered honey for the benefit of people as a source of healing. This is pointed out in the Holy Qur'an as follows: *"Your Lord inspired to the bee, 'Take for yourself among the mountains, houses, and among the trees and [in] that which they construct. Then eat from all*

the fruits and follow the ways of your Lord laid down [for you].’ There emerges from their bellies a drink, varying in colors, in which there is healing for people. Indeed in that is a sign for a people who give thought” (Nahl, 16/68-69).

As it is found in the ayah, the task assigned to bees is to produce honey. For this reason, there is no harm in the killing the queen bees or larvae for the bees not to give an undesired amount of swarm of bees, for the given swarm of bees not to be weak, to receive more honey from them and for the queen bees not to harm each other, provided that the ecological balance is not disturbed.

1023. Is it permissible to get animals such as cats or dogs that are sick or have incurable diseases killed by a veterinary?

Allah Almighty has provided animals, like other earthly blessings, to the service of humans and made it halal to benefit from them in various ways (Nahl, 16/ 5, 6, 80). However, our religion has ordered us to be compassionate and merciful towards animals as well as all other living things (Bukhari, Musaqah, 10; Muslim, Salam, 40). Humans must treat living creatures with compassion, and they must also pay the utmost attention to their health and cleanliness. Therefore, the infected animals must be treated to the extent possible. Because this is a necessary result of both compassion and health-related measures. However, there is no harm in killing, under the veterinary supervision, an animal which has caught a deadly disease which cannot be cured and suffers from severe pain.

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