



— ◆ — **RULINGS OF** — ◆ —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION
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ISLAMIC LAW
A SIMPLIFIED PRESENTATION

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funding, translation and editing for this project supervised by osoul global center

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Testimonials

1

Praise be to Allah the Almighty and peace and blessings be upon His last and final messenger Muhammad, his family and his followers all until the Day of Judgment.

I find myself happy and satisfied that this great book on *Fiqh* has been produced. It was the work of so many people, starting with the originator of the idea, Shaikh Basil al-Fawzan, who had the dream of providing easy to read and authentic reference works on Islam. His idea centres around the fact that different audiences have different needs and require different methods of presentation; namely regular Muslims, new Muslims and non-Muslims. Shaikh al-Fawzan therefore founded a research and publishing house, the Osoul Global Center.

This book, *Rulings of Islamic Law: A Simplified Presentation* is the first of a series which aims to provide Islamic knowledge covering all the areas of life in which a person needs authentic Islamic knowledge from validated sources. These works were originally written in Arabic and are all based on information taken directly from the Glorious Qur'an and the Sunnah of Prophet Muhammad (peace be upon him). Thereafter, the plan of the book was reviewed by a scholarly committee before it was transformed into an English version. However, this book was not just translated into English, but edited and rewritten to tailor its material for the needs of English speaking



communities around the world, without compromising the authenticity of its original content. After this work was done, it was reviewed again to make sure that the translation and editing were up to the high standards set by the Osoul Global Center.

I believe that our obligation as members of the Osoul Global Center, as readers and seekers of knowledge, is to praise Allah, may Glory be to Him for His guidance and support. We thank Him greatly for helping us to be servants of His true religion; Islam. May He reward abundantly all who have helped in any way or fashion in producing this great work.

Dr Ahmad ibn Saifuddin
Chairman of the Scholarly Committee
Osoul Global Center



2

All praise is due to Allah, the Lord of the Universe; and may Allah's peace and blessings be upon our beloved Prophet Muhammad (peace be upon him).

It brings me the utmost joy and honour to be able to write my recommendation and praise for the noble book, *Rulings of Islamic Law: A Simplified Presentation*. As a person who deals frequently with new Muslims, I am often asked for recommendations for material that will most benefit them, while not being overwhelming either in length or in complexity. This is one book which I will be recommending for exactly those reasons.

While it is written in a beautiful and eloquent manner, its language is nonetheless accessible and easy to understand for the average reader. Yet, it is the information between the two covers that is truly worthy of admiration.

The rulings of our noble religion are presented in a manner which is both organized and succinct. Though I have read through the same rulings many times in other texts, I found myself enjoying this presentation more as a result of this organization and simplicity. The scope of the book is remarkable as regards what it covers from the legal rulings of Islam, yet it never gets bogged down in unnecessary detail for the Muslim who desires to understand the basics. At the same



time, I find the book very adequate for beginning students of knowledge seeking a concise overview of Islamic *Fiqh*.

The book is balanced in its presentation of various viewpoints, often defining the opinion held by the majority of scholars and any secondary significant opinions depending on the strength of their evidence. This offers the student of knowledge the option to research further where they are interested, while at the same time providing solid ground for the new Muslim who desires to understand the legalities of Islam. Every point made is referenced back to the most authoritative and trusted sources, almost six hundred in all throughout the book!

I credit the Osoul Global Center for this noble effort in creating this valuable book that I am sure will quickly become widely used both in circles of knowledge as well as in private collections. I personally look forward to sharing this book with both my students and my family. I ask Allah to accept this distinguished endeavour from the Osoul Global Center and to make it a source of guidance and blessing to all who read it seeking Allah's pleasure and the best way in which to come closer to Him - ameen.

Waleed Basyouni PhD
VP Almaghrib Institute
Member of the permanent Fatwa Committee of AMJA
Imam of Clear Lake Islamic Center



3

Allah Almighty says in the Holy Qur'an, 'Unquestionably, His is the creation and the command; blessed is Allah, Lord of the worlds.' (7: 54) In this verse, Allah Almighty informs us that He is the sole Creator and the sole Legislator and, by His Perfection and Greatness, it is understood that He is the best Legislator for all of His creation.

This book in the hands of the reader is dedicated towards making manifest some of the laws and guidance that have come from Allah. It is my prayer that Allah Almighty rewards everyone involved in the production of this book. I also ask Allah Almighty to make this book a means of education and inspiration for its reader.

Professor (Emeritus) Jaafar Shaidkh Idris



4

All praise is due to Allah and may the praise and peace of Allah be upon His Messenger Mohammed, *salla Allahu alaihi wa sallam*.

Those who are interested in studying Islamic Fiqh are always instructed to first read a concise yet easy introduction to the whole of Fiqh. This is so that they would have a preview of what they are about to study and learn in the future. Students often get confused if they begin straight away with the big volumes of the science of Fiqh.

This book, *Rulings of Islamic Law: A Simplified Presentation*, gives the reader a quick scroll! A beginner would thus be able to have ‘an eagle eye’ view of Islamic Fiqh. Its language is easy to understand, yet rich in information.

This book should be followed by another more detailed book for the next level that would be a handbook of beginners and students of knowledge.

May Allah reward the brothers working in *Osoul Global Center* and make them strive more and more in the cause of Allah to spread the authentic knowledge from the Quran and Sunnah.

Assim Lugman Alhakeem
Imam – Jeddah, Kingdom of Saudi Arabia
Author and speaker



Foreword

All praise be to Allah, and may He give His blessings to His Messenger, Muhammad (peace be upon him).

To learn about Islam and its teachings and code of conduct, and to undertake the tasks of studying and then teaching it, are all noble pursuits that bring a person closer to Allah. This is only so when coupled with sincerity and the clear aim of following the guidance provided by the Prophet (peace be upon him). The Qur'an urges people to learn and it praises the people who attain a good standard of scholarship. Indeed, the first word of divine revelations to Prophet Muhammad (peace be upon him) was 'Read'. Allah also promises to grant a higher grade in the life to come to scholars, as He says: 'Allah will raise those who have believed among you and those who were given knowledge, by degrees. And Allah is Acquainted with what you do.' (58: 11). Indeed, knowledge is the only thing that Allah has instructed the Prophet (peace be upon him) to ask for more of, as He says: 'And, [O Muhammad], do not hasten with [recitation of] the Qur'an before its revelation is completed to you, and say, "My Lord, increase me in knowledge."' (20: 114). The Prophet (peace be upon him) also urged Muslims to seek knowledge and to gain a better understanding of their faith. He says: 'When Allah wants a person to have more of goodness, He grants him a better understanding of the faith.' He has ordered his followers to convey to others what they learn from him: 'Convey to others what I tell you, even if it be one verse.'



There are many other statements in the Qur'an and the Sunnah in the same vein.

Islam includes a complete code of law that makes things easy for people, serving their interests. It is indeed based on giving people what is best for them in this life and in the life to come. It is a law that combines full justice with abundant grace and perfect wisdom. It ensures the protection of people's faith, life, mind, offspring and property. As such, it is suited for all generations and communities. All praise is due to Allah for giving us such a fine code of law.

This book seeks to present Islamic law in an easy and simple way, so as to make it accessible to everyone. It includes all the practical rules that every Muslim, man or woman, should know, citing their bases in the Qur'an and the Sunnah. In doing so, we refer to the views of the great scholars, such as Abu Hanifah, Malik, al-Shafi'i and Ahmad ibn Hanbal, as well as the eminent scholars in later generations. It has been our aim to give all this in simple language so that all Muslims may benefit by it. Therefore, although we do not go into the details of the views of different scholars, we exert our best efforts to include the weightier view in almost all questions where views differ.

We commend our readers for their efforts to learn about their faith, and we urge them to approach this task with patience and steady effort. Good learning requires sustained effort and perseverance. There must be a tolerant attitude with people holding different views. It is wrong to treat anyone's views as



the ultimate truth. We should all follow Imam Malik who said: ‘Everyone is liable to make mistakes except the Prophet (peace be upon him).’ We urge every Muslim to hold on to the concept of Allah’s oneness and to adhere to the Sunnah and urge others to follow it. No one may invent anything and attach it to the religion of Islam; indeed nothing belongs to Islam unless based on clear evidence from the Qur’an and the Sunnah. May Allah give help us all to have right intentions and sincere effort.

Basil ibn Abdullah al-Fawzan
Riyadh
May 2015.



Introduction

To worship Allah is the goal mankind should set for themselves. It is the goal He wants man to work towards, as it is the purpose of creation. He says: ‘And I did not create the jinn and mankind except to worship Me.’ (51: 56). It is to this end that He sent His messengers to mankind: ‘Indeed, We have raised a messenger in every community, [who said to them]: “Worship Allah and shun the all that is falsely worshipped” (16: 36). It is the quality of His angels and Prophets (peace be upon them all), as He says: ‘To Him belongs whoever is in the heavens and the earth. And those near Him are not prevented by arrogance from His worship, nor do they tire.’ (21: 19). The Qur’an repeatedly stresses man’s need to worship his Creator, making clear that man needs Allah in all situations. Allah says: ‘Who is it that responds to the one in distress when he calls out to Him, and who removes the ill, and makes you inherit the earth? Could there be any deity alongside Allah? Little do they reflect!’ (27: 62). ‘Say, "Who rescues you from the darkneses of the land and sea [when] you call upon Him imploring [aloud] and privately, 'If He should save us from this [crisis], we will surely be among the thankful.' "

Say, "It is Allah who saves you from it and from every distress; then you [still] associate others with Him.”” (6: 63–[64](#)).

That worship gives a true feeling of happiness is a confirmed fact which the Qur’an states, as Allah says: ‘Those who believe and whose hearts find comfort in the remembrance of



Allah. It is indeed in the remembrance of Allah that people's hearts find their comfort' (13: 28). By contrast, anyone who disobeys the Creator, thinking that he is in no need of Him, experiences affliction: 'He who turns away from My message shall have a straitened life and We shall raise him up blind on the Day of Resurrection' (20: 124).

Ibn Taymiyyah considers that the whole religion is included in the concept of worship. In support of his argument, he cites the *hadith* which reports the Prophet's (peace be upon him) answers to the angel Gabriel's questions. Gabriel asked him: 'What is faith?' The Prophet (peace be upon him) responded: 'It is to believe in Allah, His angels, His books, His messengers and the Last Day, and to believe in divine destiny, both the good and the evil.' Gabriel then asked: 'What is Islam?' The Prophet (peace be upon him) answered: 'Islam is to testify that there is no deity other than Allah, and Muhammad is Allah's messenger, attend regularly to prayers, pay the obligatory zakat, fast the month of Ramadan and to perform the pilgrimage if you are able to do so.' Gabriel then asked: 'What is *ihsan*?' The Prophet (peace be upon him) answered: 'It is to worship Allah as though you see Him, and while you do not see Him yet truly He sees you...' The Prophet (peace be upon him) said after Gabriel departed: 'This was Gabriel. He came to you to teach you your religion.'¹ Thus the Prophet (peace be upon

¹ Related by al-Bukhari, *hadith* No. 50; Muslim, *hadith* No. 9.



him) made clear that all this is included in being a true believer.²

The worship that ensures man's happiness, both in this present life and in the life to come, can only yield full fruit when it is dedicated purely to Allah and consistent with His commandments. Allah says: 'Say, "I am only a man like you, to whom has been revealed that your god is one God. So whoever would hope for the meeting with his Lord - let him do righteous work and not associate in the worship of his Lord anyone."' (18: 110).

Allah has commanded us to attend to the various aspects of worship, such as prayer, zakat and fasting in order that we may purge ourselves of abominations and to purify ourselves. These help us to attain a high level of submission to Allah and obeying Him. Therefore, it is wrong to separate worship from its results. Indeed, Allah states that the two go together. Self-cleansing can only be achieved through worship. On the other hand, unless worship has a marked effect on a Muslim's behaviour and conduct in his life, preventing him from committing what is forbidden, it may be of no full benefit to him in the life to come, even though he is deemed to have fulfilled his duty in this present life.

² Ibn Taymiyyah, *Al-Ubudiyyah*, p. 41.



Worship permeates life

The Arabic word *[ibadah]*, which means ‘worship’, is derived from a root that means showing humility and subordination. Linguistically speaking, *[ibadah]* means humility demonstrated by obedience of all commands given by the one to whom it is offered. Hence, a slave is called in Arabic *[abd]* because he is required to obey whatever his master orders him to do or refrain from doing. Early Muslim scholars give different definitions of *[ibadah]*, but the difference is in scope, not in the essence of the meaning. Thus, Ibn Kathir defines *[ibadah]* as ‘the perfect love of Allah, the perfect submission to Him and the perfect fear of Him.’³ Al-Qurtubi defines it as ‘believing in Allah’s oneness and abiding by His legislation, as the word originally signifies submission and humility.’⁴ Alternatively, *[ibadah]* may refer to the speech and actions that Islam requires of all Muslims. In other words, it refers to whatever a person says or does that Allah loves and accepts. This is how Ibn Taymiyyah defines it: ‘*[Ibadah]* is a comprehensive name that includes all that Allah loves and accepts of speech and actions, public or private. Thus, prayers, zakat, fasting, the pilgrimage, telling the truth, safeguarding other people’s property that one may hold in trust, dutifulness to parents, kindness to relatives, being true to one’s promises, enjoining what is right, forbidding what is wrong, fighting the enemies of Islam and the hypocrites, kindness to one’s neighbours, orphans, needy people, travellers in need and one’s

³ Ibn Kathir, *Tafsir al-Qur’an al-‘Azim*, vol. 1, p. 25.

⁴ Al-Qurtubi, *Al-Jami li Ahkam al-Qur’an*, vol. 1, p. 225.



animals, as well as supplication, glorification, recitation of the Qur'an, etc. are all included in *[ibadah]*, or Allah's worship.'⁵

Thus, Islamic worship permeates all aspects of life. Everything a human being says or does should be for Allah's sake and should conform to what Allah desires. Every action should be motivated by the love of Allah and to earn His pleasure. One may say or do something, or may refrain from saying or doing it, but whichever he chooses should be for Allah's sake. This makes all one's life dedicated to Allah, and indeed one's death, as Allah instructed His messenger to make clear to mankind: 'Say: "My prayers, my worship, my living and my dying are for Allah alone, the Lord of all worlds, He has no partner. Thus have I been commanded, and I shall be the first of those who surrender themselves to Him"' (6: 162–163).

Worship is properly fulfilled only when a person fully internalizes the concept of humility and submission to Allah, combined with loving and fearing Him. Explaining this, Ibn al-Qayyim said: 'Worship combines two fundamentals: perfect love and complete humility and submission. If you love Allah but do not submit to Him, you do not worship Him. And if you submit yourself to Allah but do not love Him, you do not worship Him. You must love and submit to Him at the same time.'⁶ Ibn Taymiyyah said: 'Allah is the One whom we worship and who deserves our absolute love and submission.

⁵ Ibn Taymiyyah, *Al- [Ubudiyyah]*, p. 38.

⁶ Ibn al-Qayyim, *Tahdhib Madarij al-Salikin*, p. 50.



He is the One whom we glorify, fear and look up to in hope. Our hearts should entertain no love other than His love.’⁷

Types of worship

Worship is of two types: abstract, or worship from the heart, and physical. The abstract, or ‘heart’ worship as it is called in Islamic terminology, includes sincerity, reliance on Allah, patience, perseverance, intention, etc. What is forbidden in this type of worship includes arrogance, hypocrisy, disbelief, etc. The heart is affected by obedience or disobedience of Allah. Sinful actions harden one’s heart, with each placing a black spot on it, and they influence man’s behaviour, diverting him from the path of the truth. By contrast, actions of obedience of Allah bring heartfelt happiness and keep a person on the right track. Hudhayfah ibn al-Yaman reports that the Prophet (peace be upon him) said: ‘Sins are placed before hearts like a straw mat, one straw or sin after another. A heart that indulges in one sin will have a black spot, and the one who rejects it will have a white spot. Hearts will ultimately be of two types: clear white, which will not be affected by any temptation for as long as the heavens and the earth endure, and pitch black like a cup placed upside down.’⁸

Physical worship comprises speech and action. Speech includes the declaration that one believes in Allah’s oneness and in

⁷ Ibn Taymiyyah, *Majmu' al-Fatawa*, vol. 28, p.35.

⁸ Related by Muslim, *hadith* No. 144.



Prophet Muhammad's (peace be upon him) message, recitation of the Qur'an, glorifying Allah, replying to people's greetings, enjoining people to do what is right, and so on. By contrast, saying anything that Allah forbids, such as giving any false statement, perjury, etc. constitutes disobedience of Allah.

Speech is a very serious matter, and it often places a person in danger of incurring Allah's displeasure. Hence, Islam encourages remaining silent. The Prophet (peace be upon him) is quoted to have said: 'A person who remains silent saves himself.'⁹

Al-Ghazali said: 'It may be asked: why is such great value accorded to silence? The fact is that one may say many forbidden things: falsehood, lies, backbiting, hypocrisy, vulgarities, baseless argument and self praise. All these are forbidden, yet they may easily be committed. One does not find these difficult. Indeed, they may be highly gratifying. They may be motivated either by one's own inclinations or by Satan. A person who indulges in these prohibitions finds it difficult to hold his tongue or control his speech, saying only what is good. Hence, speech involves risk, while silence ensures safety. Therefore, the value of silence is great indeed. Moreover, it helps one to undertake action, gives an air of respect, allows one to think and worship. Besides, silence spares one the consequences of what he might say and accountability for it on the Day of Judgement. Allah says: "Man does not utter any

⁹ Related by Ahmad, *hadith* No. 6,481; al-Tirmidhi, *hadith* No. 2,501; al-Darimi, *hadith* No. 2,713.

word except that with him is an observer prepared [to record].” (50: 18).’

Islam urges every Muslim to watch what he says, refraining from saying anything that incurs Allah’s displeasure and saying only what is good. One must never belittle the importance of what one says, a word may land a man in great trouble on the Day of Judgement. The Prophet (peace be upon him) says: ‘A servant of Allah may unwittingly say a word that pleases Allah and Allah elevates his status by several degrees. By contrast, he may unwittingly say a word that displeases Allah and it makes him fall deep into hell.’¹⁰

Another version of this *hadith* says: ‘A servant of Allah may say a word, without considering its import, and yet this word causes him to fall into hell deeper than the distance between the east and the west.’¹¹

Worship involving action applies to every aspect of worship Allah has ordered, including prayer, fasting, the pilgrimage, visiting people who are ill, helping those in need of help, etc. Needless to say, many acts of worship combine speech and action.

Every Muslim should realize that he is accountable for every action he makes. The Prophet (peace be upon him) has made clear that every organ of the human body will be questioned by

¹⁰ Related by al-Bukhari, *hadith* No. 6,478.

¹¹ Related by Muslim, *hadith* No. 2,988.



Allah, who knows every minute thing that takes place anywhere in the universe. Every organ has its share of sin. The Prophet (peace be upon him) says: ‘Allah has assigned to every human being his share of adultery, and everyone will inevitably commit that. The eyes commit adultery by looking, the ears by listening, the tongue by speech, the hand by action, the leg by walking. The heart wishes and hopes, and the private part either puts this into effect or rejects it.’¹²

Hence we conclude that the prime motivation for all human organs to function in obedience of Allah is the faith that fills one’s heart. Once faith is established, behaviour confirms that. Sayyid Qutb said:

When faith is genuinely established in a person’s heart, it is reflected in that person’s behaviour. Islam is a proactive faith that cannot remain idle. When it is genuinely accepted as a personal belief, it moves on to show its influence in practice. It must be translated into action. The Islamic method of educating its followers always seeks to transform the mental acceptance of faith into a practical approach that soon becomes a habit or a rule. At the same time, it seeks to provide the mental motivation to make belief and action mutually complementary.¹³

¹² Related by al-Bukhari, *hadith* No. 6,612; Muslim, *hadith* No. 2,657.

¹³ Sayyid Qutb, *In the Shade of the Qur’an*, vol. 12, p. 344. [Arabic edition, *Fi Zilal al-Qur’an*, vol. 4, p. 2,525.]



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION

◆ CHAPTER 1: ◆

THE PILLARS OF ISLAM



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Chapter 1

The Pillars of Islam

It is important to define the term '*rukn*' at the outset. Linguistically speaking, *rukn* denotes the mainstay of something which provides it with strong support. This is why it is often referred to as '*pillar*'. In an Islamic context, *rukn* is a part of something that is essential for its completion. Thus both the *rukn* and the condition are essential for something to take place, but a condition is not part of that something, while a *rukn* is.

'Bowing', or *ruku* [, is a *rukn* of prayer, because it is a part of it and its omission renders the prayer invalid, while ablution, or *wudu*', is a condition, because it is essential for the validity of prayer but is not a part of it.¹⁴

To re-emphasize, both *rukn* and condition are essential for the validity of prayer, but they differ in the following ways:

1. Conditions take place before the prayer, while *rukns* are within it;
2. Conditions start before a prayer and continue until it has finished, while *rukns* are temporary, with one yielding to the next. Each of the following consecutive acts is a *rukn*

¹⁴ Abd al-Karim ibn Ali Namlah, *Al-Muhaddhab fi [Ilm Uṣul al-Fiqh al-Muqaran]*, vol. 5, p. 1,963; M.A.A. Bādishāh, *Taysir al-Tahrir*, vol. 2, p. 236.

of prayer: standing up, bowing, standing up again, prostration, rising, etc.

3. The combination of all *rukns* constitute the prayer, but this is not so with the conditions. To cover up certain parts of the worshipper's body is a condition but it forms no part of the prayer.¹⁵

The first *ruk'n*: the declaration

‘I bear witness that there is no deity worthy of being worshipped other than Allah, and I bear witness that Muhammad is Allah’s messenger.’ This declaration testifying to two important facts is the gateway to Islam. It is indeed the most essential aspect of Islam. No one is considered a Muslim unless he or she makes this declaration. Once it is said by a disbeliever, he becomes a Muslim.¹⁶

What the declaration means

The first part, ‘There is no deity worthy of being worshiped other than Allah’, means that no one may be rightly worshipped except Allah, the Glorious, the Most High. This part includes two essential elements: a negation and a confirmation. It negates the “worthiness of being worshipped” of anyone other than Allah, and it confirms that divinity belongs to Him alone, without partners. It implies disbelief in all that was ever worshipped other than Allah, whether they were human,

¹⁵ Ibn Uthaymeen, *Al-Sharh al-Mumtī* [*ala Zad al-Mustaqni*], vol. 3, p. 315.

¹⁶ Abd al-Rahman ibn Muhsin, *Fath al-Majīd*, vol. 1, p. 97.



animate or inanimate objects. It further implies the disavowal of any such worshipped person or object and hating these. Allah says: ‘And your god is one God. There is no deity [worthy of worship] except Him, the Entirely Merciful, the Especially Merciful.’ (2: 163). ‘There shall be no compulsion in religion. The right way is henceforth distinct from error. He who rejects false deities and believes in Allah has indeed taken hold of a most firm support that never breaks. Allah hears all and knows all’ (2: 256).

The Arabic word *ilah*, i.e. deity, means ‘the God who is rightfully worshipped’. A person who believes that Allah is the Creator and Provider, or that He is the One able to accomplish everything, thinking that this is sufficient without believing that to Him alone all worship should be addressed and offered, benefits nothing by stating the first part of the declaration. In this case, stating that ‘there is no deity other than Allah’ does not bring him into the fold of Islam in this life and will not save him from Allah’s punishment in the life to come.¹⁷ ‘Say: “Who is it that provides for you from heaven and earth? Or, who is it that has power over hearing and sight? Who brings forth the living out of that which is dead, and brings forth the dead out of that which is alive? Who regulates all affairs?” They will say: “Allah.” Say, then: “Will you not, then, fear Him?”’ (10: 31). ‘Yet if you ask them who created them they are sure to answer, “Allah.” How is it, then, that they are so misled?’ (43: 87).

¹⁷ Abdullah al-Tayyar, *Arkan al-Islam*, p. 5.



‘There is no deity other than Allah,’ is a great statement, because it makes clear that Allah is one, and this is the essence of Allah’s oneness which was the issue of contention between all Prophets (peace be upon them all) and their communities. Indeed, all messengers were sent to establish Allah’s oneness in human life. Allah says: ‘Indeed, We have raised a messenger in every community, [who said to them]: “Worship Allah and shun all that is falsely worshipped.”’ (16: 36). ‘Before your time We never sent a messenger without having revealed to him that there is no deity other than Me. Therefore, you shall worship Me alone’ (21: 25). When we speak of Allah’s oneness, or *tawhīd*, we are indeed implying all this.¹⁸

The second part, ‘Muhammad is Allah’s messenger’, means that we are required ‘to obey all his orders, believe whatever he stated, refrain from everything he prohibited and to worship Allah according to the way he taught.’¹⁹ This part of the declaration is implemented by fully believing that Muhammad (peace be upon him) was Allah’s servant and messenger, whom Allah sent to all mankind and jinn as His last Prophet and messenger. He was a human servant of Allah to whom Allah assigned a high position. It further means that all his commands must be respected and observed in word, action and belief. Allah says: ‘Say: “Mankind, I am indeed Allah’s messenger to you all”’ (7: 158). ‘And We have not sent you except comprehensively to mankind as a bringer of good tidings and a warner. But most of the people do not know.’ (34: 28).

¹⁸ A.F.R. Hanbali, *Kalimat al-Ikhlās wa Tahqīq Ma [naha]*, vol. 1, p. 52; H.A. Ḥakamī, *Ma [arij al-Qabul]*, vol. 1, p. 98; ibn Muhsin, *Fath al-Majīd*, vol. 1, p. 83.

¹⁹ Al-Barrak, *Sharḥ al- [Aqīdah al-Tahawīyyah]*, vol. 1, p. 85.



‘Muhammad is not the father of any one of your men, but is Allah’s messenger and the seal of all Prophets’ (33: 40). ‘Say, "Exalted is my Lord! Was I ever but a human messenger?"’ (17: 93).

This second part of the declaration has several implications:

1. An acknowledgment of Prophet Muhammad’s (peace be upon him) message and believing in it;
2. Declaring this belief verbally;
3. The practical implementation of the truth he delivered and refraining from all that he prohibited;
4. Believing in all that he stated;
5. Loving him more than one loves oneself, one’s property, offspring, parents and anyone else, because he is Allah’s messenger. As such, to love him is part of loving Allah. To love him truly is to follow him, implementing his orders and refraining from what he prohibited, and to support him and his cause;
6. Following his Sunnah, giving priority to whatever he said, accepting it and happily implementing his code. Allah says: ‘But no, by your Lord, they will not [truly] believe until they make you, [O Muhammad], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission.’ (4: 65).²⁰

²⁰ Al-Tayyar, *Arkan al-Islam*, p. 10.



The importance of the declaration

The declaration confirming belief in Allah's oneness and Prophet Muhammad (peace be upon him) as Allah's messenger is of great importance. This is made clear in numerous Qur'anic and *Hadith* statements. What proves its importance includes:

- That it is the first *ruk'n* of Islam, providing the essence of faith and religion. It is what brings a person into the faith of Islam, and it is the basis upon which the heavens and earth are set aright.
- It is the best action any person ever does, and it is the one thing that ensures the forgiveness of sins. It is a cause for admission into heaven and being safe from hell. To understand its true value one should realize that it is weightier in Allah's scales than the heavens and the earth put together. Imam Muslim relates on [Ubadah's authority: 'Whoever bears witness that there is no deity other than Allah and that Muhammad is Allah's servant and messenger, Allah will prevent the Fire of hell from touching him.'
- It combines Allah's glorification with supplication and praise. It includes a supplication of worship and a supplication of request. It is the one glorification of Allah that is easiest to say. It is the good word, the firmest of ties and the statement that indicates purity of faith. It is the tenet by which the heavens and earth are set aright, and for which creation has taken place, messengers were sent by Allah and divine revelations were vouchsafed to them. To



put effect to it acts of worship, both obligatory and recommended, have been outlined and jihad has been permitted. Whoever makes this declaration and acts upon it with true intention, sincerity and love will be admitted by Allah into heaven.²¹

The second *rukn*: prayer

Prayer is the second most important act of worship. It makes one's status as a Muslim clearly evident. Therefore, Islam attaches great value to it, highlighting its status as a bond between man and Allah and demonstrating man's obedience of his Lord.²²

Status of one who does not pray

Whoever does not offer prayers, denying it as an obligation, is, in effect, a disbeliever and such deliberate negligence places the one who is guilty of it outside the Islamic faith. Such a person is an apostate, rejecting Islam altogether, because he or she disobeys Allah, neglecting what Allah has made obligatory. Such a person is instructed to repent and mend his ways. If he does not, he becomes an apostate. As such, his body is not washed when he dies, the funeral prayer for the deceased is not

²¹ Hakamī, *Ma'arīj al-Qabul*, vol. 1, p. 23; Ibid., vol. 1, p. 92.

²² W. al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuh*, vol. 1, p. 655.

offered for him and he must not be buried in Muslims' graveyards because he does not belong to them.²³

The third *rukn*: zakat

Definition: Linguistically speaking, zakat means growth and increase. It also refers to praise, cleansing and good behaviour. Hence, the money paid out of one's assets is called zakat because Allah blesses one's property as a result, leading to its growth, and the person paying zakat is cleansed as Allah forgives him his sins.²⁴ In an Islamic context, zakat means a duty paid out of certain types of property, by certain people, to one of the eight specified categories mentioned in 9:60 at a specific time.²⁵

Importance: Zakat is one of the five pillars upon which the structure of Islam is built. It is often mentioned in the Qur'an alongside prayer, as in: 'Establish prayer, pay your obligatory charity [i.e. zakat]...' (73: 20). 'And they were not commanded except to worship Allah, [being] sincere to Him in religion, inclining to truth, and to establish prayer and to give zakah' (98: 5). The Prophet (peace be upon him) said: 'Islam has been built on five pillars: testifying that there is no deity but Allah and that Muhammad is Allah's messenger, performing the prayers, paying the zakat, making the pilgrimage to the House, and fasting in Ramadan.' (Related by al-Bukhari and Muslim).

²³ Ibid., vol. 1, p. 660.

²⁴ Abi Bakr al-Rāzī, *Mukhtar al-Sihah*, vol. 1, p. 136.

²⁵ S. Sabiq, *Fiqh al-Sunnah*, vol. 1, p. 327.



Allah has made zakat obligatory so that it cleanses people's hearts of greed and miserliness, provides help for the poor and the needy, ensures the growth of people's property and gives it Allah's blessing. Needless to say, all this helps to combat corruption, serve public interests and bring happiness to the community. Allah states the purpose of zakat in the Qur'an as He instructs His messenger in the following terms: 'Take, [O, Muhammad], from their wealth a charity by which you purify them and cause them increase' (9: 103).

Status: Zakat is obligatory to every Muslim who owns more than its threshold. There are certain conditions that apply to various types of property. It is obligatory even to a child and an insane person who meet its conditions. In this case their guardians are responsible to pay their zakat on their behalf. A person who knowingly denies its obligation is deemed an unbeliever, but the one who does not pay it out of negligence or stinginess commits a major sin. Zakat is collected from him by the force of law and he is liable to punishment for incurring a sin. Should he die in such a condition his fate is left to Allah, who may or may not forgive him. Allah says: 'Allah will never forgive that partners are associated with Him. He forgives any lesser sin to whomever He wills' (4: 48).

A stern warning is given in the Qur'an to those who do not pay their zakat, as Allah says: 'To those who hoard up gold and silver and do not spend them in Allah's cause, give the news of a painful suffering, on the day when it will all be heated in the

fire of hell, and their foreheads, sides and backs will be branded with them. [They will be told]: “This is what you have hoarded up for yourselves. Taste, then, what you have been hoarding” (9: 34–5). Abu Hurayrah quotes the Prophet (peace be upon him) as saying: ‘Anyone with hoarded property for which he does not pay zakat shall have his property heated in the fire of hell and made into [burning metal] sheets so as to brand his forehead and sides. Allah will then judge His creatures on a day the length of which is equal to 50,000 years. He will subsequently find his way to either heaven or hell...’ (Related by Muslim, *hadith* No. 987).

The fourth *rukn*: fasting in Ramadan

Definition: Linguistically speaking, fasting means abstention. In an Islamic context it is to abstain from whatever breaks the fast from dawn until sunset with the intention of worshipping Allah.²⁶

Status: Fasting the days of the month of Ramadan is one of the main pillars of Islam, as Allah says: ‘Believers, fasting is decreed for you as it was decreed for those before you, so that you may develop piety’ (2: 183). Also note the *hadith* that quotes the Prophet (peace be upon him) as saying: ‘Islam has been built on five pillars: testifying that there is no deity but Allah and that Muhammad is Allah’s messenger, performing the prayers, paying the zakat, making the pilgrimage to the

²⁶ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 149.



House, and fasting in Ramadan' (Related by al-Bukhari and Muslim).

Fasting in Ramadan was made obligatory to all Muslims during the second year of the Prophet's (peace be upon him) migration to Madinah. The Muslim community is in unanimous agreement that fasting in Ramadan is obligatory and that it is one of the pillars of Islam that are essentially known to all. Anyone who denies its obligation is an apostate unbeliever. We note that this obligation is confirmed in the Qur'an, the Sunnah and by unanimous agreement. Indeed all Muslims agree that whoever denies this obligation is an unbeliever.²⁷

The fifth *rukun*: the pilgrimage

Definition: Linguistically speaking, *hajj*, or pilgrimage, means 'setting off for a definite destination'.²⁸ In an Islamic context, it means travelling to Makkah to perform this duty according to a particular manner, at a specific time and under specific conditions.²⁹

Status: The Muslim community is unanimous that the pilgrimage is obligatory to every Muslim who can afford the journey once in a lifetime, and that it is one of the five pillars upon which the structure of Islam is built.³⁰ Allah says:

²⁷ Ibid., p. 150.

²⁸ Ibn Manzur, *Lisan al-Arab*, vol. 2, p. 226.

²⁹ Husain al-Awayshah, *Al-Mawsu'ah al-Fiqhiyyah al-Muyassarah*, vol. 4, p. 270.

³⁰ Ibid., vol. 4, p. 239; al-Zuhayli, *Al-Fiqh al-Islami*, vol. 3, p. 2,065; Sabiq, *Fiqh al-Sunnah*, vol. 1, p. 626.



‘Pilgrimage to this House is a duty owed to Allah by all people who are able to undertake it. As for those who disbelieve, Allah does not stand in need of anything in all the worlds’ (3: 97). The Prophet (peace be upon him) said: ‘Islam has been built on five pillars: testifying that there is no deity but Allah and that Muhammad is Allah’s messenger, performing the prayers, paying the zakat, making the pilgrimage to the House, and fasting in Ramadan’ (Related by al-Bukhari and Muslim). He also said in his speech during his farewell pilgrimage: ‘Mankind, Allah has made it obligatory for you that you should perform the pilgrimage to the House. Therefore, perform it’ (Related by Muslim).



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION

◆ CHAPTER 2: ◆

ISLAMIC LAW

(FIQH)





Chapter 2

Islamic Law (*Fiqh*)

Definition of *Fiqh*: Linguistically speaking, the Arabic term '*Fiqh*' has several meanings, including 'understanding' and 'profound and accurate understanding'. In an Islamic context, it means 'knowledge of Islamic rulings on practical matters based on detailed evidence.'³¹

The subject matter of *Fiqh* is the description of different forms of worship and transactions and their Islamic rulings: obligation, prohibition, recommendation, reprehension and permissibility. These apply to all that a person does including prayer, fasting, zakat, commercial transactions such as selling, hiring, letting, gifting or mortgaging, killing, theft, jihad, etc.

Compared with man-made codes of law, Islamic *Fiqh* has a number of special features and qualities that make it unique and superior to all codes. We can identify these qualities by looking at the sources of Islamic law.

³¹ [Abd al-Rahim ibn al-Hasan, *Nihayat al-Sul*, vol. 1, p. 24.



Sources of Islamic legislation

One: Textual sources

1. The Qur'an. It embodies the Islamic faith and the revelation that explains the faith Allah wants all people, in all ages, to adopt. It is indeed the first resort to which a scholar must refer when considering a ruling on any question. It is equally applicable to all people in all generations. Allah commands people to follow and implement His rulings of permission and prohibition outlined in the Qur'an. He says: 'Follow, [O mankind], what has been revealed to you from your Lord and do not follow other than Him any allies.' (7: 3).
2. The Sunnah. This is the second source of Islamic legislation, ranking next to the Qur'an. It is defined as 'everything authentically reported to have been said, done or approved by the Prophet (peace be upon him)'. Scholars are unanimous that the Sunnah is binding and serves as a source of legislation. It is unanimously agreed that the Sunnah must be implemented provided that its authenticity is established and it is not exclusive to the Prophet (peace be upon him) himself. Its verdicts of permissibility and prohibition are equally valid as the Qur'an.



Two: Sources requiring scholarly endeavour (i.e. *ijtihad*)

1. Unanimity (i.e. *Ijma* []): This means the consensus by all scholars who are qualified to exercise *ijtihad*, i.e. scholarly endeavour, in any particular period after the era of Prophethood, to arrive at a practical ruling.³²
2. Analogy (i.e. *Qiyas*): This means applying the ruling specified by a religious text on a certain matter to another matter for which no text refers, provided that the same reasoning applies to both of them.³³
3. Subtle analogy (i.e. *Istihsan*): Discarding the verdict of a clear analogy in preference of a subtle one, or discarding a universal verdict in preference of a peculiar one, provided that such a process is based on firm evidence.³⁴
4. Interests without rulings (i.e. *Masalih Mursalah*): This refers to matters that bring benefit to people but there is no religious evidence that approves or disapproves of them. Nor are there cases to which they may be compared in order to arrive at rulings concerning them through analogy. However, a ruling on such a matter is important

³² Al-Shawkani, *Irshad al-Fuhul*, p. 71; Ibn Qudamah, *Rawdat al-Nazir*, p. 67.

³³ Al-Shawkani, *ibid.*, p. 198.

³⁴ Al-Shafi'i, *Al-Risalah*, p. 505; Abu Ya'la, *Al-Uddah fi Usul al-Fiqh*, vol. 4, p. 1,394; al-Razi, *Al-Mahsul*, vol. 6, p. 1,215.

because it brings some benefit or prevents some harm, which is the ultimate aim of Islamic law.³⁵

5. Customs of Muslims (i.e. *al- [Urf]*): This refers to what people traditionally do or say and is not contrary to any religious text. Tradition and habit, which means something repeatedly done, signify the same thing, and they apply to speech and deeds.³⁶
6. Statements by the Prophet's (peace be upon him) Companions': A statement by a Companion of the Prophet (peace be upon him) relating to something that cannot be determined by reasoning or research, such as essential religious matters and worship practices, is accepted as valid. It is considered to have been learnt directly from the Prophet (peace be upon him). Hence, scholars consider such a statement as a *hadith* with a chain of transmission going up to the Prophet's (peace be upon him) Companion, without being expressly attributed to the Prophet (peace be upon him). As such, it is part of the Sunnah, although it appears to be a Companion's view.³⁷
7. The laws of earlier divine religions: This refers to legislation given by Allah to past communities through their own Prophets (peace be upon them all). Muslim

³⁵ Al-Amidi, *Al-Ihkam*, vol. 4, p. 216; al-Shawkani, *Irshad al-Fuhul*, p. 218.

³⁶ A.F. Abi Sinnah, *Al- [Urf wal- [Adah fi Ra'y al-Fuqaha'*, p. 8.

³⁷ Al-Amidi, *Al-Ihkam*, vol. 3, p. 195.

scholars have studied such laws and whether they apply to us or not.³⁸

8. Prevention of what leads to the prohibited (i.e. *sadd al-dhara'i*[]): This aims to prohibit any means that leads to something forbidden that involves harm. According to scholars of *Fiqh* methodology *dhara'i*[] means whatever is done in order to facilitate doing something forbidden that involves causing harm. What facilitates something forbidden is forbidden, just like what facilitates something obligatory is obligatory.³⁹

9. *Al-Istishab*: This means giving something its original ruling, as it was recognized, unless there is evidence confirming that this original ruling has been subject to change. Alternatively, it may be defined as considering the original ruling continuing for the present and the future until something appears to change it based on evidence. In essence, what was established in the past should normally remain valid for the future.⁴⁰

³⁸ Al-Juwayni, *Al-Talkhis*, vol. 2, p. 266; al-Sarakhsi, *Al-Usul*, vol. 2, p. 99; Abu al-Khattab, *Al-Tamhid*, vol. 2, p. 417.

³⁹ Ibn Hazm, *Al-Ihkam*, vol. 2, p. 180; al-Zarkashi, *Al-Bahr al-Muhit*, vol. 8, p. 89; Ibn [Abd al-Salam, *Qawa'id al-Ahkam*, p. 182; Ibn al-Qayyim, *I'lam al-Muwaqqi'in*, vol. 3, p. 121; Ibn al-Subki, *Al-Ashbah wal-Naz'ir*, vol. 1, p. 119.

⁴⁰ Al-Shawkani, *Irshad al-Fuhul*, p. 237.



The Leading *Fiqh* Scholars (Founders of the four schools of *Fiqh*)

1. Imam Abu Hanifah

Imam al-Nu[man ibn Thabit, more widely known by his nickname Abu Hanifah, was born in Kufah, Iraq, in 80 AH/700 CE. He was of Persian origin, but Arab by birth and upbringing, and belonged to a rich and very religious family.⁴¹

He memorized the Qur'an at a young age, learning its recitation under [Asim ibn Abi al-Nujud of Kufah, who was one of the best known reciters of the Qur'an. He frequented the circles of a large number of Kufah scholars, from whom he learned about *Fiqh* and *Hadith*.

In the beginning he was interested in scholastic theology, but he did not pursue that branch for long, turning his attention to *Hadith* and *Fiqh*. He learnt the *Hadith* under [Ata' ibn Abi Rabah and Nafi[, the disciple of [Abdullah ibn [Umar. His main teacher was Hammad ibn Abi Sulayman, and he continued to attend him until he passed away. Following the death of Hammad, after having spent 18 years with him, Abu Hanifah replaced his teacher. He was 40 at the time.

⁴¹ Al-Makki, *Manaqib Abu Hanifah*, pp. 9-10; al-Sayrami, *Akhbar Abu Hanifah*, p. 3.

Abu Hanīfah then started to explain his methodology of arriving at rulings for different questions, and his approach to *Fiqh*. His views gained acceptance and he secured wide popularity.

It should be made clear that Abu Hanīfah learnt from a large number of leading scholars. He is best known as the leading scholar of the school that gives prominence to personal reasoning, and he was the main *Fiqh* scholar in Iraq. Imam al-Shafiʿi said of him: ‘In *Fiqh*, all of us are indebted to Abu Hanīfah.’⁴² Abu Hanīfah died in 150 AH (768 CE).

Methodology of the Hanafi school

Explaining his methodology of arriving at rulings, Abu Hanīfah said: ‘I refer first of all to Allah’s book, the Qur’an. If I do not find in it what is applicable, I refer to the Prophet’s (peace be upon him) Sunnah and the authentic reports of his guidance that are well known. If I find nothing in either Allah’s book or the Prophet’s Sunnah, I refer to his companions, taking the view of whomever I prefer and leaving aside others, but I would never discard all their views in preference to anyone else’s view. If I find nothing and the matter is left to people like Ibrahim and al-Shaʿbi, (naming a few others), I look into the question myself, just like they did.’⁴³

⁴² Al-Khatib al-Baghdadi, *Tarikh Baghdad*, vol. 13, p. 346; al-Mazzi, *Tahdhib al-Kamal*, vol. 29, p. 433; al-Dhahabi, *Siyar Aʿlam al-Nubalaʾ*, vol. 6, p. 403.

⁴³ M. Abu Zahrah, *Abu Hanīfah*, p. 239; al-Khatib al-Baghdadi, *Tarikh Baghdad*, vol. 13, p. 365; al-Mazzi, *Tahdhib al-Kamal*, vol. 29, p. 433.

2. Imam Malik ibn Anas

Malik ibn Anas ibn Malik (93–179 AH/712–794 CE) was born in Madinah in the same year the Prophet's (peace be upon him) Companion Anas ibn Malik died. He spent all his life there, and was very devout, intelligent and courageous. He would not hesitate to express his views, fearing nothing, which led to him being severely punished and flogged in later life, due to his verdict that divorce under duress is invalid. The torture he was subjected to resulted in dislocation of his arm and caused him to suffer from incontinence until he died.

Malik was brought up in Madinah, where the Sunnah flourished, as the city was the place where a large number of the children and grandchildren of the Prophet's (peace be upon him) Companions still lived. Indeed, some of his 900 teachers were drawn from among them, but the main figures who influenced him greatly were [Abdullah ibn Hurmuz, his first teacher from whom Malik learnt to say, 'I don't know' whenever he was unclear about a question, Nafi[, the disciple of [Abdullah ibn [Umar, Muhammad ibn Shihab al-Zuhri and Rabi[ah ibn [Abd al-Rahman, known by his nickname Rabi[ah al-Ra'y. When Malik relates a *hadith* quoting Nafi[, this is considered the best chain of transmission, as it means Malik, Nafi[, and [Abdullah ibn [Umar were quoting the Prophet (peace be upon him). It is called 'the golden chain of transmission'. Al-Zuhri was the first scholar to collate the



hadiths, as he was instructed to do by the Caliph, [Umar ibn [Abd al-[Aziz. When Rabi[ah died, Malik said: ‘The sweetness of *Fiqh* has gone.’⁴⁴

Imam Malik attained a very distinguished position as a scholar of *Fiqh* and *Hadith*, and was recognized as a leading authority in both. He was one of the first scholars to produce an anthology of *Hadith*, which he included in his authoritative work, *Al-Muwatta’*. In *Fiqh* he always cared for people’s interests. Speaking of him, Imam al-Shafi[i said: ‘When scholars are mentioned, Malik comes at the top. I am indebted to no one more than I am indebted to Malik.’ Imam Ahmad said: ‘Malik is among the leading scholars. He is an imam in both *Hadith* and *Fiqh*. Who is to compare with Malik in his following of our predecessors and combining his learning with sound reason and fine manners?’⁴⁵

Methodology of the Maliki school

Imam Malik did not write down the methodology he followed in arriving at rulings. However, the methodology is mentioned in the relevant books authored by scholars of his school, as they studied the detailed questions he looked into. The sources the Maliki school relies upon are the Qur’an, the Sunnah, the unanimity of the people of Madinah, analogy, statements by the Prophet’s (peace be upon him) Companions, interests without

⁴⁴ M. Abu Zahrah, *Malik*, p. 63.

⁴⁵ Ibid, p. 88.



rulings, customs of Muslims, prevention of what leads to prohibitions, *istishab*, and subtle analogy.⁴⁶

3. Imam al-Shafi'i

Abu [Abdullah Muhammad ibn Idris al-Shafi'i (150–204 AH/768–820 CE) was born in Gaza and was only two years old when his mother took him to Makkah, where his father's family came from. He was brought up by his mother, who was a very devout woman, and by the age of seven, al-Shafi'i had completed memorizing the Qur'an, and by 10 he had memorized *Al-Muwatta'*, the *Hadith* and *Fiqh* anthology of Imam Malik. At a young age he joined the desert tribe of Hudhayl, one of the most eloquent Arabian tribes, where he learnt much of their poetry and stayed with them for some years. When he returned to Makkah, he had attained a superior standard of eloquence and knowledge of Arabic.

He studied under the scholars of Makkah, learning *Fiqh* under Muslim ibn Khalid al-Zanji, the top scholar at the Haram in Makkah. Al-Shafi'i excelled in *Fiqh*, *Hadith* and Arabic, and was authorized to give rulings when he was only 15, and he became a teacher at the Haram. He then travelled to join Imam Malik in Madinah, where he read *Al-Muwatta'* under him. He stayed in Madinah until Malik's death in 179 AH (794 CE), and at the age of 29 al-Shafi'i travelled to Iraq, where he became familiar with the *Fiqh* heritage of Abu Hanifah. He

⁴⁶ A. al-Baji, *Ihkam al-Fusul fi Ahkam al-Usul*, pp. 480–1.

studied Abu Hanīfah's books, the main source of Hanafi *Fiqh*, under Imam Muhammad ibn al-Hasan, and thus combined his learning of the Hijaz *Fiqh* with that of Iraq. During his studies, al-Shafi'i had several debates with Muhammad ibn al-Hasan. He returned to Makkah where he wrote his book, *Al-Risalah*, the first work ever on *Fiqh* methodology. He then travelled to Baghdad again where he was met by Imam Ahmad ibn Hanbal who studied under him. Leading scholars of Baghdad attended al-Shafi'i's circle and were influenced by his methods. 'Ahmad ibn Hanbal said of him: "Al-Shafi'i was like the sun in this world, and like good health for people." Can there ever be such great scholars?'⁴⁷ His contemporaries called him the Imam of the Sunnah and the champion of *Hadīth*.

Methodology of the al-Shafi'i school

Imam al-Shafi'i arranged the basis for rulings into five classes:⁴⁸

1. The Qur'an and the Sunnah: Imam al-Shafi'i places the Sunnah at the same level with the Qur'an, as it explains the Qur'an and provides details of what is mentioned in general terms in the Qur'an.
2. The unanimity of scholars on matters to which no text in the Qur'an or the Sunnah applies: He defined unanimity as the agreement on a specific ruling of all Muslim

⁴⁷ Ibn al-Jawzi, *Sifat al-Safwah*, vol. 2, p. 142.

⁴⁸ M. Abu Zahrah, *Al-Shafi'i*, p. 184 ff.



scholars, who are qualified to exercise *ijtihad*, at any particular time after the Prophet (peace be upon him) had passed away.

3. Al-Shafi'i upholds the statement of any Companion of the Prophet (peace be upon him), provided there is no disagreement among the Prophet's (peace be upon him) Companions on the same matter. He would not take anyone's view in preference to that of the Prophet's (peace be upon him) Companions.
4. When the Prophet's (peace be upon him) Companions disagreed on a ruling, he adopted the view that is closest to the Qur'an, the Sunnah and analogy.
5. Analogy with a clear verdict in the Qur'an or the Sunnah: Analogy means applying a stated verdict to a question that carries no verdict, provided that the reasoning for this verdict applies equally to both questions.

4. Imam Ahmad ibn Hanbal

Ahmad ibn Hanbal (164–241 AH/782–856 CE) was born in Baghdad, which was at the time the capital of learning, with numerous scholars of Islamic studies and all other branches of study, and the capital of the Islamic state. He was recognized as highly intelligent and very devout, and began his learning at a young age and memorized the Qur'an. He lost his father when he was young and thereafter relied on his own efforts. As he grew up he earned a reputation for hard work, perseverance and patience in adversity. Older scholars recognized that he

had great potential. Al-Haytham ibn Jamil is quoted as saying in reference to him: ‘Should this lad live to old age, he will be the scholar of his time.’⁴⁹

Methodology of the Hanbali school

Ibn al-Qayyim explains the methodology adopted by Imam Ahmad in his rulings. It has five constituent elements:

1. Texts: When a text applies to a question that text constitutes the basis of his verdict. This is universally agreed by scholars.
2. The rulings of the Prophet’s (peace be upon him) Companions, whenever they agreed on a question.
3. When the Prophet’s (peace be upon him) Companions disagreed, he would choose the view he considered closest to the Qur’an and the Sunnah, but he would not depart from what they ruled. If his view was different from all their rulings, he would report their views, without giving preference to any.
4. Ahmad relied on *hadiths* that were lacking in authenticity when there was nothing under the same heading in conflict with these. Such *hadiths* must not be odd or contrary to the established truth, and must not include in their chains of transmission anyone who is considered unreliable. According to Ahmad, the Sunnah includes all authentic

⁴⁹ Al-Dhahabi, *Tarikh al-Islam*, vol. 5, p. 1,013.



hadiths, the Prophet's (peace be upon him) Companions' rulings, and *hadiths* that are lacking in authenticity.

5. Analogy: Ahmad only resorted to analogy when necessary, i.e. when he was dealing with a question to which none of the above sources of evidence applied.⁵⁰

The main reference works of the four schools

One: the Hanafi school

Among the best known works that explain the Hanafi school of *Fiqh* is Ibn [Abidin's *Radd al-Muhtar [ala al-Durr al-Mukhtar*; Mas[ud al-Kasani's *Bada'i[al-Sana'i[fi Tartib al-Shara'i[*; and Ibn al-Hammam's *Fath al-Qadir*.

Two: the Maliki school

One of the most important reference works of the Maliki school is Sahnun's *Al-Mudawwanah*, in which the author reports Imam Malik's rulings and statements as transmitted by [Abd al-Rahman ibn al-Qasim. The most important work that expresses the views of this school is *Mukhtasar Khalil*, which has been annotated and explained by various scholars. These include al-Dardir's *Al-Sharh al-Kabir*, with further annotations by Ibn [Arafah al-Dusuqi; Muhammad Al-

⁵⁰ Ibn al-Qayyim, *I[lam al-Muwaqqi[in*, vol. 1, pp. 29–32.



[Abdari al-Mawwaq's *Al-Taj wal-Iklil*; and al-Hattab's *Hashiyat Mawahib al-Jalil fi Sharh Mukhtasar Khalil*.

Three: Al-Shafi'i school

Imam al-Shafi'i wrote a voluminous work called *Al-Umm*, and the works of reference that expound the Shafi'i school include the annotations later scholars add to Imam al-Nawawi's *Minhaj al-Talibin*. The most important of these are: 1) Muhammad al-Ramli's *Nihayat al-Muhtaj ila Sharh al-Minhaj*; 2) Ahmad al-Haytami's *Tuhfat al-Muhtaj fi Sharh al-Minhaj*; and 3) al-Khatib al-Shirbini's *Mughni al-Muhtaj ila Sharh al-Minhaj*.

Four: the Hanbali school

Among the most important works of this school is al-Mardawi's *Al-Insaf*, in which the author takes particular care of including the various reports by Imam Ahmad and gives comparative assessment of these reports. Other famous works include Ibn Muflih's *Al-Furuq*, and those by later scholars include Mansur al-Bahuti's *Kashf al-Qina* [an *Matn al-Iqna*].



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 3: ◆

PURIFICATION



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Chapter 3

Purification

Linguistically speaking, purification means cleanliness and being free of dirt. Technically, purity is divided into two types; removing the filth and uplifting the ritual status of impurity. Filth or better known as Najasah in Arabic is physical substance that must be washed or removed from the body, clothes and the spot a worshipper is using for prayer. Urine, stool, menstrual blood, a dog's saliva among other things are considered najis or impure. The second part of purity is uplifting both minor and major impurity. Minor impurity is caused by answering the call of nature, passing wind, sleeping or eating camel's meat. Such minor ritual impurity is uplifted by performing ablution (wudhu). Major ritual impurity is caused by ejaculation, sexual intercourse or discharge of blood in menses or after giving birth. This major ritual impurity is uplifted by taking ritual bath or Ghusul.

The water used for purification

The water that ensures purification is called *tahur*, and it is defined as pure and purifying. It is every type of water that retains its original state as it is created, whether it falls from the

sky, such as rain water, snow and hail, or comes up from the earth, such as the water of rivers, springs, wells and seas.⁵¹

The evidence supporting this is clear in the Qur'an and the Sunnah. Allah says: 'He sent down water from the sky to purify you' (8: 11) and 'We cause pure water to descend from the skies' (25: 48). The Prophet (peace be upon him) prayed: 'My Lord, wash off my sins with snow, water and hail.'⁵² In reference to the sea, the Prophet (peace be upon him) said: 'Its water is pure, and its dead animals are lawful to eat.'⁵³

Containers, plates and utensils

Under this heading all types of utensils are included, including metal containers. To start with, these are permissible to use,⁵⁴ as Allah says: 'It is He who created for you all that is on earth' (2: 29).

Use of gold and silver articles in purification

All plates, utensils and articles are permissible to use for food, drink and other purposes, provided that they are not impure, including precious ones. The only exception is the use of gold and silver articles for food and drink. This particular use is forbidden, as the Prophet (peace be upon him) said: 'Do not

⁵¹ Al-Bahuti, *Kashshaf al-Qina* [, vol. 1, p. 25; Ibn Qudamah, *Al-Mughni*, vol. 1, p. 13.

⁵² Related by al-Bukhari, *hadith* No. 744; Muslim, *hadith* No. 598.

⁵³ Related by Ahmad, *hadith* 8,735; Abu Dawud, *hadith* No. 83; al-Tirmidhi, *hadith* No. 69; al-Nassa'i, *hadith* No. 59; Ibn Majah, *hadith* No. 3,246.

⁵⁴ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 6.

drink from cups made of gold and silver, nor eat from plates made of them. They belong to unbelievers in this life and to us in the life to come.’⁵⁵ He also said: ‘A person who drinks from silver cups is like one putting the fire of hell in his stomach.’⁵⁶ These statements of prohibition specifically mention eating and drinking, but do not refer to other uses, which indicates that these utensils may be used for other purposes. The prohibition is general; therefore, it applies to utensils made of pure gold or silver, or plated with them, or those that contain some gold or silver.⁵⁷

Utensils welded with gold or silver

If gold is used for welding a broken utensil, it becomes unlawful to use, because the aforementioned *hadith* applies to it. If a small amount of silver is used for welding, it is permissible to use,⁵⁸ as clearly understood from the *hadith* reported by Anas ibn Malik: ‘The Prophet’s (peace be upon him) mug was broken and he used a small chain of silver to mend the break.’⁵⁹

Unbelievers’ utensils

The primary ruling is that these are permissible to use. However, if it is known that they are contaminated with

⁵⁵ Related by al-Bukhari, *hadith* No. 5,426; Muslim, *hadith* No. 2,067.

⁵⁶ Related by al-Bukhari, *hadith* No. 5,634; Muslim, *hadith* No. 2,065

⁵⁷ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 6.

⁵⁸ Ibid.

⁵⁹ Related by al-Bukhari, *hadith* No. 3,109.

impurity, then they may not be used until they have been washed. Abu Tha[labah al-Khushni reported: ‘I said: “O Messenger of Allah, we live among people who belong to earlier religions: is it permissible for us to eat in their plates?” He said: “Do not eat in their plates. If you find nothing else, wash them and use them.”’⁶⁰

If such plates and utensils are not known to be contaminated with impurity, as in the case when their owners are known to handle no impurity, they are permissible to use.⁶¹ It is confirmed that the Prophet (peace be upon him) and his Companions took water for their ablution from a large waterskin belonging to an idolater woman.⁶² Allah has made it permissible for Muslims to eat the food of the people of earlier revelations, and they are likely to serve it in their own plates and utensils. Anas reports: ‘A Jew invited the Prophet (peace be upon him) to a meal made of barley bread and fat that has changed colour, and he accepted the invitation.’⁶³

Utensils made of the hide of carrion

The hide of dead animals (carrion) that are permissible to eat is purified by tanning, and they then become permissible to use. The Prophet (peace be upon him) says: ‘Any hide becomes purified when tanned.’⁶⁴ When the Prophet (peace be upon

⁶⁰ Related by al-Bukhari, *hadith* No. 5,478; Muslim, *hadith* No. 1,930.

⁶¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 6.

⁶² Related by al-Bukhari, *hadith* No. 5,426; Muslim, *hadith* No. 682.

⁶³ Related by Ahmad, *hadith* No. 13,201.

⁶⁴ Related by Ahmad, *hadith* No. 1,895; al-Tirmidhi, *hadith* No. 1,728; al-Nassa'i *hadith* No. 4,241; Ibn Majah, *hadith* No. 3,609. Al-Tirmidhi graded it as ‘good and authentic’.

him) passed by a dead sheep, he said to his Companions: ‘Would you take its hide and use it?’ They said that it was carrion. He said: ‘It is only forbidden to eat.’⁶⁵ This ruling applies to animals that are lawful to eat when slaughtered in the proper way.

The hair of carrion that is normally permissible to slaughter for food is not impure, while its meat is impure. Needless to say, the meat of carrion is unlawful to eat. Allah says in the Qur’an: ‘Say: “In all that has been revealed to me, I do not find anything forbidden to eat, if one wishes to eat thereof, unless it be carrion, or blood poured forth, or the flesh of swine – for all that is impure”’ (6: 145). The hide is considered to have been tanned when it is cleaned of all impurity and dirt using water mixed with salt or a tanning agent extracted from plants such as the *Acacia nilotica*.

The hide of dead animals that are not permissible to eat is not purified by tanning. Thus, the hide of a dead cat is not purified by tanning even though it is not impure when the cat is alive. This applies to the hide of all animals that are not permissible to eat.

In summary, animals that die naturally are impure, but their hide is purified when tanned if they are normally permissible to eat. The hide of animals that are forbidden to eat is not purified by tanning.⁶⁶

⁶⁵ Related by Muslim, *hadith* No. 363.

⁶⁶ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 7.



Using the toilet and its manners

The use of water or solids, and whether either is sufficient.

Istinja' is the Arabic word used for the removal of traces of what is discharged through the private parts, while *istijmar* signifies the use of a cleansing solid object, such as toilet paper or something similar. Either one is sufficient, as it is authentically reported. Anas said: 'The Prophet (peace be upon him) used to go to the toilet. I and another lad of about my age would carry for him a small waterskin and a staff. He would use water to cleanse himself.'⁶⁷ [A'ishah quotes the Prophet (peace be upon him) as saying: 'When any of you goes to the toilet he should cleanse himself with three stones, as that is sufficient.'⁶⁸ However, to use both the solid and water is preferable.

Istijmar involves wiping with a solid object that is pure and cleansing, such as toilet paper, stones, wood, etc. The Prophet (peace be upon him) used stones for the purpose, and whatever achieves the same results is also acceptable.⁶⁹ A minimum of three wipes is required, as clearly understood from the *hadith* reported by Salman: 'The Prophet (peace be upon him) prohibited that one should face or turn one's back to the *qiblah* (i.e. the same direction faced in prayer) when one goes to the

⁶⁷ Related by al-Bukhari, *hadith* No. 152, Muslim, *hadith* No. 271.

⁶⁸ Related by Ahmad, *hadith* No. 24,771; Abu Dawud, *hadith* No. 40; al-Nassa'i, *hadith* No. 44; al-Daraqutni, *hadith* No. 147.

⁶⁹ Al-Bahuti, *Kashshaf al-Qina* [, vol. 1, p. 62.

toilet for urination or defecation, or to use one's right hand for cleansing oneself after that, or cleansing with less than three stones, or with animal bones or animal faeces.'⁷⁰

Facing the *qiblah* when relieving oneself

If a person is relieving oneself in an open area, as in the desert, one may not face the *qiblah* or turn one's back to it. Abu Ayyub al-Ansari quotes the Prophet (peace be upon him) as saying: 'When you go to the toilet, do not face the *qiblah* and do not turn your back to it, but face the east or the west.' Abu Ayyub adds: 'When we travelled to Syria, we found toilets that were built towards the direction of the Ka [bah. Therefore, we used them sideways and prayed for forgiveness.'

If the toilet is within a building, or when there is a screen between the person using it and the *qiblah*, one may use it. [Abdullah ibn [Umar reports: 'I went over Hafsah's roof for something I needed. I overlooked the Prophet (peace be upon him) sitting for his toilet with his back towards the *qiblah* and facing Syria.'⁷¹ Marwan reports: 'I saw [Abdullah ibn [Umar when he sat his camel facing the *qiblah*, and then he sat to urinate. I said to him: "Abu [Abd al-Rahman, is not this way prohibited?" He said: "Yes, when in an open area; but when there is something to screen you from the *qiblah*, then there is no harm."⁷² However, it is more preferable not to face the *qiblah* when in the toilet, even in buildings.

⁷⁰ Related by Muslim, *hadith* No. 262.

⁷¹ Related by al-Bukhari, *hadith* No. 148, Muslim, *hadith* No. 266.

⁷² Related by Abu Dawud, *hadith* No. 11; al-Daraqutni, *hadith* No. 161; al-Hakim, vol. 1, p. 256.

When going to the toilet⁷³

When one goes to the toilet, one is recommended to say before entering: ‘In the name of Allah. My Lord, I seek shelter with You from all that is dirty and foul. In other reports: In the name of Allah. My Lord, I seek shelter with You from male and females devils’ On finishing and leaving, one is recommended to say: ‘I seek Your forgiveness.’ It is recommended to put one’s left foot first on entering and one’s right foot first on leaving, and not to uncover one’s private parts until one is close to the lavatory. If one is doing it in an open area, one is recommended to go far and seek a position where one cannot be seen. Most of these points are mentioned in the following *hadiths*:

- Jabir reports: ‘We were with Allah’s messenger on travel. When he needed to go to the toilet, he would go far away from us so as no one could see him.’⁷⁴
- [Ali quoted the Prophet (peace be upon him) as saying: ‘To say, “in the name of Allah”, when one goes to the toilet is to ensure that the jinn cannot see the private parts of humans.’⁷⁵
- Anas reports: ‘When the Prophet (peace be upon him) went to the toilet, he would say, “My Lord, I seek Your shelter from all that is dirty and foul.”’⁷⁶

⁷³ Al-Dardir, *Hashiyat al-Sawi [ala al-Sharh al-Saghir]*, vol. 1, p. 87; al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 1, p. 39.

⁷⁴ Related by Abu Dawud, *hadith* No. 2; Ibn Majah, *hadith* No. 335. See: *Sahih Ibn Majah*, vol. 1, p. 60.

⁷⁵ Related by al-Tirmidhi, *hadith* No. 606; Ibn Majah, *hadith* No. 297.

⁷⁶ Related by al-Bukhari, *hadith* No. 142; Muslim, *hadith* No. 375.

- [A'ishah reports: 'When the Prophet (peace be upon him) came out after being to the toilet, he would say, "I seek Your forgiveness."']⁷⁷
- [Abdullah ibn [Umar said: 'When the Prophet (peace be upon him) went to the toilet, he would not lift his robes until he was close to the ground.'⁷⁸

What is forbidden when relieving oneself:

It is forbidden to urinate in stagnant water, as stated in the *hadith* reported by Jabir: 'Allah's messenger prohibited urination in stagnant water.'⁷⁹ It is also forbidden to hold the Qur'an or to read it when one is in the toilet, as the Qur'an should always be treated with respect. One should not hold one's penis with one's right hand when urinating, and one should not use it to clean oneself after urination or defecation. The Prophet (peace be upon him) said: 'When any of you urinates, he should not hold his organ in his right hand, nor use his right hand to clean himself.'⁸⁰

It is also forbidden to urinate or defecate by the roadside, or in the shade, or in parks, or under a fruit tree, or close to water sources. Mu'adh quotes the Prophet (peace be upon him) as saying: 'Guard against the three practices which invite people's curses: answering the call of nature near water sources, by the roadside and in the shade.'⁸¹ Abu Hurayrah quotes the Prophet

⁷⁷ Related by Abu Dawud, *hadith* No. 30; al-Tirmidhi, *hadith* No. 7.

⁷⁸ Related by Abu Dawud, *hadith* No. 14; al-Tirmidhi, *hadith* No. 14.

⁷⁹ Related by Muslim, *hadith* No. 281.

⁸⁰ Related by al-Bukhari, *hadith* No. 154; Muslim, *hadith* No. 267.

⁸¹ Related by Abu Dawud, *hadith* No. 26; Ibn Majah, *hadith* No. 328; al-Hakim, vol. 1, p. 273.

(peace be upon him) as saying: “Guard against the two practices which invite people’s curses.” People asked what these practices were. He said: “Answering the call of nature by the roadside and in the shade.”⁸² ‘In the shade’ refers to places where people normally take their rest. This may be under a tree or next to a wall.

Furthermore, it is forbidden to wipe one’s private parts after defecation with animal droppings, bones or food. Jabir reports: ‘Allah’s messenger prohibited that one should wipe oneself with a bone or animal droppings.’⁸³ Moreover, it is forbidden to answer the call of nature in a graveyard. The Prophet (peace be upon him) said: ‘It is the same whether to relieve oneself in between graves or in the middle of the marketplace.’⁸⁴

What is reprehensible when relieving oneself:

When relieving oneself in an open area and it is windy, it is reprehensible to do it facing the direction of the wind, so as to guard against the possibility of the urine being blown back at oneself. It is also reprehensible to converse with anyone. A man passed by the Prophet (peace be upon him) as he was urinating and offered a greeting, but the Prophet (peace be upon him) did not reply.⁸⁵

⁸² Related by Muslim, *hadith* No. 269.

⁸³ Related by Muslim, *hadith* No. 263.

⁸⁴ Related by Ibn Majah, *hadith* No. 1,567.

⁸⁵ Related by Muslim, *hadith* No. 370.

It is also reprehensible to urinate over a crevice in the ground. Qatadah reports: ‘Allah’s messenger reported that the Prophet (peace be upon him) made clear that no one should urinate over a crevice or a hole in the ground. People asked Qatadah what was wrong with urinating over a hole. He answered that holes were said to be the homes of the jinn.’⁸⁶ Moreover, it may be the home of an animal and it would be harmed by the urine. It is also reprehensible to take anything in which Allah’s name is written, except when necessary. ‘When the Prophet (peace be upon him) went into the toilet, he would take off his ring.’⁸⁷ However, this is overlooked when it is necessary to take it in, as in the case with banknotes bearing Allah’s name. If one should leave these outside, they may be stolen or he may forget to pick them up when leaving.

Recommended practices of sound nature (i.e. *fi ttrah*):

These practices are also called ‘nature’s fine characteristics’ because whoever does them maintains the natural course Allah wants for people so that they will be in the best and most complete form. Abu Hurayrah quotes the Prophet (peace be upon him) as saying: ‘Five practices are part of sound nature: circumcision, shaving pubic hair, plucking armpit hair, clipping nails and trimming the moustache.’⁸⁸

⁸⁶ Related by Abu Dawud, *hadith* No. 29; al-Nassa’i, *hadith* No. 34. Ibn Hajar mentions in *Al-Talkhis* vol. 1, p. 106 that Ibn Khuzaymah and Ibn al-Sakan grade this *hadith* as authentic.

⁸⁷ Related by Abu Dawud, *hadith* No. 19; al-Tirmidhi, *hadith* No. 1,746; al-Nassa’i, *hadith* No. 5,213; Ibn Majah, *hadith* No. 303.

⁸⁸ Related by al-Bukhari, *hadith* No. 5,889; Muslim, *hadith* No. 257.



1. Shaving pubic hair: This is recommended for cleanliness. It may also be removed with hair removing products.
2. Circumcision: This means the removal of the foreskin that covers the head of a boy's penis. It is very useful as it keeps the penis uncontaminated by the impurity of urine. It is recommended to have it done on the seventh day after birth, because it is quicker to heal. Female circumcision is practised in some countries, but unknown in the majority of Muslim countries. No *hadith* of good or authentic grade recommends it.
3. Trimming the moustache: The moustache should be heavily reduced, because this makes one better looking and cleaner. There are several *hadiths* urging the trimming of one's moustache while growing one's beard and taking care of it. A beard adds an element of dignity to man's appearance and manliness. Many people today take the reverse attitude, growing their moustaches and shaving their beards. This is contrary to the Sunnah and to the clear recommendation to grow one's beard. Abu Hurayrah quotes the Prophet (peace be upon him) as saying: 'Cut your moustaches and grow your beards. Thus you contradict the Majians.'⁸⁹ Ibn [Umar reports that the Prophet (peace be upon him) said: 'Do the opposite of the idolaters: grow your beards and trim your moustaches.'⁹⁰ Every Muslim should observe the Prophet's (peace be upon him) guidance and choose a way that is contrary to

⁸⁹ Related by Muslim, *hadith* No. 260.

⁹⁰ Related by al-Bukhari, *hadith* No. 5,892; Muslim, *hadith* No. 259.

the practices of the disbelievers. Moreover, Muslim men should make sure not to imitate women.

4. Nail clipping: Nails must not be left long. To clip them gives a better appearance and prevents the collection of any dirt that might accumulate under them. Some people, including Muslims, take no heed of this important Sunnah, letting their nails, or a particular nail grow long.
5. Plucking armpit hair: The removal of armpit hair is recommended either by plucking or shaving. It is cleaner and reduces foul smell.

It is clear that Islam urges us to attend to these practices as they combine cleanliness with purification and good appearance. A Muslim who attends to them has the best appearance, and moves away from the practices of unbelievers and ignorant people. Furthermore, he earns reward as he implements the requirements of his faith and follows the Prophet's (peace be upon him) guidance.

Added to these five practices are brushing one's teeth, rinsing one's nose and mouth, washing the back of finger joints and washing private parts. [A'ishah states: 'Allah's messenger said: "Ten practices are part of sound human nature: trimming the moustache, growing one's beard, brushing one's teeth, rinsing one's nose, clipping one's nails, washing the back of finger joints, plucking armpit hair, shaving pubic hair and washing private parts.'"]⁹¹

⁹¹ Related by Muslim, hadith No. 261.



Brushing one's teeth: This is done by using a *miswak*, which is a tooth stick, or a toothbrush to clean one's teeth and gums and remove any food trapped in between teeth. It also prevents bad mouth smell and is recommended at all times. The Prophet (peace be upon him) encouraged the brushing of teeth generally, without specifying a time for it. He also said: 'Had it not been for fear that I make things too hard for my community, I would have ordered them to brush their teeth before every prayer.'⁹²

Brushing one's teeth is strongly recommended when one performs ablution, on waking up, when the smell of one's mouth changes, before reciting the Qur'an or prayer and when entering the mosque or one's home. [A'ishah was asked, 'what was the first thing the Prophet (peace be upon him) did when he came home?'. She answered: 'He brushed his teeth.' It is also strongly recommended if one has been silent for long, and when one's teeth start to become yellowish.⁹³

When the Prophet (peace be upon him) woke up for night worship, he started with brushing his teeth.⁹⁴ Every Muslim is urged to be in his best shape and cleanliness when about to engage in worship.

Brushing one's teeth ensures several benefits. Most importantly, it keeps the mouth clean in this life and it earns Allah's pleasure in the life to come. The Prophet (peace be

⁹² Related by al-Bukhari, *hadith* No. 887; Muslim, *hadith* No. 252.

⁹³ Al-Dardir, *Al-Sharh al-Saghir*, vol. 1, p. 125.

⁹⁴ Related by al-Bukhari, *hadith* No. 245; Muslim, *hadith* No. 255.

upon him) said: ‘Brushing the teeth cleans the mouth and pleases the Lord.’⁹⁵ Therefore, a Muslim should be keen to observe this practice and never to abandon it, as it is highly beneficial. Regrettably, some people may not brush their teeth for a month or two, either out of negligence, or because they are unaware of its benefits. Thus they miss out on Allah’s reward and the benefits it brings. They should remember that the Prophet (peace be upon him) always maintained this practice and ordered his community to follow his example. He would have made it obligatory, but he feared that some people might find it hard to maintain. Other benefits of teeth brushing have been mentioned, such as strengthening one’s teeth and preventing gum disease, as well as improving one’s voice and giving one a sense of refreshment.⁹⁶

Ablution, i.e. *Wudu’*

Definition and status

Linguistically speaking, *wudu’* is derived from a root that connotes ‘good looking, cleanliness and brightness’, while in Islamic contexts it means ‘the use of water in respect of four organs, the face, arms, head and feet, in a particular way defined by Islam with the intention of worship.’⁹⁷ Performing

⁹⁵ Related by Ahmad, *hadith* No. 24,203; al-Nassa’i, *hadith* No. 5.

⁹⁶ Al-Dardir, *Al-Sharh al-Saghir*, vol. 1, p. 125.

⁹⁷ Al-Bahuti, *Kashshaf al-Qina’*, vol. 1, p. 91.



ablution is obligatory when one wishes to pray or do a similar act of worship, such as *tawaf* around the Ka'bah.

Basis of obligation

The basis of making the ablution obligatory when wanting to pray is the Qur'an, as Allah says: 'Believers, when you are about to pray, wash your faces, and your hands and arms up to the elbows, and pass your wet hands lightly over your heads, and wash your feet up to the ankles. If you are in a state of ceremonial impurity, purify yourselves. But if you are ill, or on a journey, or if one of you has come from the toilet, or if you have been in intimate contact with women and can find no water, then have recourse to pure dust, passing therewith lightly over your faces and your hands. Allah does not want to impose any hardship on you, but He wants to purify you, and to bestow on you the full measure of His blessings, so that you may be grateful' (5: 6). The Prophet (peace be upon him) said: 'Allah does not accept a prayer without ablution or voluntary charity (i.e. *sadaqah*) from stolen booty.'⁹⁸ He also said: 'Allah does not accept the prayer of one who had a discharge from the private parts until he has performed the ablution.'⁹⁹ No Muslim has ever expressed a contrary view. Thus, the ablution is required on the basis of the Qur'an, the Sunnah and the unanimity of scholars.

⁹⁸ Related by Muslim, *hadith* No. 224.

⁹⁹ Related by al-Bukhari, *hadith* No. 6,954; Muslim, *hadith* No. 223.



Requirements

For ablution to be valid, it must comply with the following requirements:

1. Belief in Islam, sanity and sense of discrimination: It cannot be done by an unbeliever, a mad person or a child that does not discriminate between actions.
2. Intention: As the Prophet (peace be upon him) says, ‘Actions are but by intentions.’¹⁰⁰ There is no need for a verbal declaration of intention as this was not done by the Prophet (peace be upon him).
3. Clean water: Ablution cannot be done using water that has been contaminated by impurity.
4. Removal of anything that prevents skin contact with water, such as the presence of wax or dough on some spots, or nail varnish.
5. Immediate progress from one action to the next.
6. Following the proper order.
7. Washing all the organs that are required to be washed.

The obligatory part

1. Washing one’s whole face, as Allah says: ‘Believers, when you are about to pray, wash your faces...’ (5: 6).

¹⁰⁰ Related by al-Bukhari, *hadith* No. 1; Muslim, *hadith* No. 1,907.



2. Washing one's arms up to the elbows, as the relevant verse makes clear: '...wash your faces and your forearms to the elbows...' (5: 6).
3. Wiping one's head with one's wet hand. There are different views on this, though the one we uphold is to wipe one's whole head. However, some scholars consider wiping a part of one's head sufficient. Allah says: '...and wipe over your heads...' (5: 6). To wipe a part of one's hair that is not close to one's head is invalid.
4. Washing one's feet up to the ankles, as Allah says: '...and wash your feet up to the ankles...' (5: 6).
5. Following the proper order: This is required because Allah mentions it in order and the Prophet (peace be upon him) performed his ablutions in the same order mentioned by Allah: the face, then the arms, then the head then the feet. This is clearly indicated by the *hadith* reported by [Abdullah ibn Zayd and in other *hadiths* describing the Prophet's (peace be upon him) ablution.
6. Continuous progress: This means washing one organ immediately after the one before it, without delay. The Prophet (peace be upon him) used to perform his ablution without leaving gaps between washing the different parts. This is further confirmed by the *hadith* reported by Khalid ibn Ma'dan: 'The Prophet (peace be upon him) saw a man praying and noticed that there was on the top of his foot a spot the size of a coin which was dry, because water did not touch it when the man performed his ablution. The Prophet (peace be upon him) ordered him to

repeat his ablution.’¹⁰¹ Had it not been necessary for ablution to be consecutive without any gap, the Prophet (peace be upon him) would have told the man only to wash the unwashed part, not to repeat his ablution.

The recommended part

Certain actions are recommended when performing the ablution. These are Sunnah, which means that a person who does them earns a reward, while the one who omits them misses out on a reward but his ablution is valid. These are:

1. Saying, ‘In the name of Allah’ at the beginning, as the Prophet (peace be upon him) said: ‘A person who does not say the name of Allah when doing the ablution does not have his ablution complete.’¹⁰²
2. Brushing one’s teeth. The Prophet (peace be upon him) said: ‘Had it not been for fear that I make things too hard for my community, I would have ordered them to brush their teeth every time they performed the ablution.’¹⁰³
3. Washing one’s hands three times at the start, because the Prophet (peace be upon him) did that as reported by his companions who explained how he performed his ablution.

¹⁰¹ Related by Ahmad, *hadith* No. 15,495; Abu Dawud, *hadith* No. 175; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 396.

¹⁰² Related by Ahmad, *hadith* No. 9,418; Abu Dawud, *hadith* No. 101; al-Hakim, vol. 1, p. 245; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 186.

¹⁰³ Related by Ahmad, *hadith* No. 9,928; al-Nassa’i in *Al-Sunan al-Kubra*, *hadith* No. 99; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 148.

4. Rubbing one's face to ensure that one's wet fingers go through one's thick beard. The Prophet (peace be upon him) did that: 'When the Prophet (peace be upon him) performed his ablution, he rubbed his arms.'¹⁰⁴ 'The Prophet (peace be upon him) took water below his jaws to go through his beard.'¹⁰⁵
5. Starting with the right hand or foot, as the Prophet (peace be upon him) did that: 'The Prophet (peace be upon him) liked to start with the right when putting on his shoes, dismounting, performing ablution and all matters.'¹⁰⁶
6. Washing one's face, hands and feet three times. What is obligatory is once only, but it is recommended to do it three times, because the Prophet (peace be upon him) did that. It is authentically reported that 'at different times he washed each part once, or twice or three times.'¹⁰⁷
7. Rinsing one's mouth. The Prophet (peace be upon him) said: 'When you perform the ablution, rinse your mouth.'¹⁰⁸
8. Cleaning one's nose. The Prophet (peace be upon him) said: 'When you perform the ablution, take some water in your nose and blow your nose.'¹⁰⁹
9. Wiping one's ears using one's forefinger to wipe the inside of one's ears and one's thumb to wipe the outside.

¹⁰⁴ Related by Ahmad, *hadith* No. 16,441; Ibn Hibban, *hadith* No. 1,082; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 1/196; al-Hakim, vol. 1, p. 243.

¹⁰⁵ Related by Abu Dawud, *hadith* No. 145; al-Hakim, vol. 1, p. 250; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 1/90.

¹⁰⁶ Related by al-Bukhari, *hadith* No. 168; Muslim, *hadith* No. 268.

¹⁰⁷ Related by al-Bukhari, *hadith* Nos. 157, 158 and 159.

¹⁰⁸ Related by Abu Dawud and al-Bayhaqi.

¹⁰⁹ Related by al-Bukhari, Muslim and Abu Dawud.



10. Glorification after the ablution. The Prophet (peace be upon him) said: ‘For any of you who performs the ablution and does it well, then says, “I bear witness that there is no deity other than Allah; He has no partners; and I bear witness that Muhammad is His servant and messenger,” will have all eight gates of heaven opened and he may enter through any one he wishes.’¹¹⁰
11. Economy in using water. Anas reports that the Prophet (peace be upon him) used to wash his body for purification, using the equivalent of two litres.¹¹¹ He might use only one quarter of this amount for ablution.

What invalidates the ablution:

Ablution may be invalidated by any of four things, as follows:

1. A discharge through one’s private parts. This applies for any discharge of urine, stools, semen, blood or wind, of any amount. In the Qur’anic verse that mentions the situations when ablution becomes required for prayer, Allah says: ‘if one of you has come from the toilet’ (5: 6). With regard to a situation when one doubts if one has broken wind, the Prophet (peace be upon him) says that ablution is not required ‘unless one hears a sound or smells something.’¹¹²

¹¹⁰ Related by Muslim, *hadith* No. 234; al-Tirmidhi, *hadith* No. 55, though al-Tirmidhi adds the supplication, ‘My Lord, make me one of those who repent of their sins and one of those who always purify themselves.’

¹¹¹ Related by al-Bukhari and Muslim.

¹¹² Related by al-Bukhari, *hadith* No. 137; Muslim, *hadith* No. 361.

2. A discharge of impurity from any part of the body. If the discharge is urine or stools, it certainly invalidates the ablution.
3. Loss of the mental faculty, as in the case of sleep. The Prophet (peace be upon him) said: ‘The eye is the string that ties the anal sphincter; when the eyes sleep, the string is loosened.’¹¹³ On the other hand, madness, drunkenness and loss of consciousness invalidate the ablution according to all scholars. Sleep that invalidates the ablution is deep sleep when the sleeper loses all awareness, no matter in what position one is asleep. Dosing off slightly does not invalidate the ablution. The Prophet’s (peace be upon him) companions used to be very drowsy as they awaited [Isha’ prayer, and then they would stand up and pray without performing a fresh ablution.¹¹⁴ Many scholars consider that if one sleeps seated in a way that does not allow breaking wind, one’s ablution remains valid.
4. Touching one’s private parts directly, without cover. Busrah bint Safwan reported that the Prophet (peace be upon him) said: ‘Whoever touches his private part should not offer prayers until he has performed the ablution.’¹¹⁵
5. Eating camel’s meat. Jabir ibn Abdullah said: the Prophet (peace be upon him) was asked, “Should I do wudoo’ after eating camel meat?” He said, “Yes.” The person said:

¹¹³ Related by Ahmad, *hadith* No. 887; Abu Dawud, *hadith* No. 203; Ibn Majah, *hadith* No. 477.

¹¹⁴ Related by Muslim, *hadith* No. 376.

¹¹⁵ Related by Ahmad, *hadith* No. 887; Abu Dawud, *hadith* No. 181; al-Tirmidhi, *hadith* No. 82; al-Nassa’i, *hadith* No. 82.

“Should I do wudoo’ after eating mutton?” He said, “If you wish.” (Narrated by Muslim, 360).

What does not invalidate ablution:

Certain situations are wrongly thought to invalidate the ablution. These are:

1. Touching a person of the other sex skin to skin.
2. Bleeding from any part of the body other than that which comes from the private parts, whether through injury, medical treatment or nasal bleeding, regardless of the amount.
3. Vomit, regardless of its amount.
4. Doubting whether one’s ablution has been invalidated. The invalidation must be ascertained.
5. Loud laughter during the prayer (this invalidates the prayer but not the wudhu).
6. Washing a dead person to prepare him for burial.

When ablution is required

Performing the ablution is required for the following:

1. Prayer. Ibn [Umar quotes the Prophet (peace be upon him) as saying: ‘Allah does not accept a prayer without

ablution or voluntary charity (i.e. *sadaqah*) from stolen booty.’

2. Performing the *tawaf* (i.e. going around the Ka[bah]), whether it be an obligatory duty or a voluntary act of worship. The Prophet (peace be upon him) is authentically reported to have performed ablution before doing the *tawaf*.¹¹⁶ He also said: ‘*Tawaf* around the Ka[bah] is a [form of] prayer, but Allah has permitted speech during it.’¹¹⁷ Moreover, he made clear that women may not perform the *tawaf* when they are in the period.¹¹⁸
3. Holding the Qur’an without a cover. Allah says about the Qur’an: ‘only the purified can touch it’ (56: 79). The Prophet (peace be upon him) said: ‘None other than a person who has performed purification can touch the Qur’an.’¹¹⁹ This is the view of many scholars, but the Qur’anic verse is preceded by a verse that mentions that the Qur’an is ‘in a well-guarded record’ which can be touched only by the angels, who are described as ‘the purified’. A large number of early eminent scholars are of the view that the Qur’an is permissible to be held by a person who has not performed the ordinary ablution, i.e. *wudu’*, provided that he has not incurred the need for major ritual bath, i.e. *ghusl*.

¹¹⁶ Related by al-Bukhari, *hadith* No. 1,641; Muslim, *hadith* No. 1,235.

¹¹⁷ Related by Ahmad, *hadith* No. 15,423; al-Tirmidhi, *hadith* No. 960; al-Nassa’i, *hadith* No. 2,922; Ibn Hibban, *hadith* No. 3,836; al-Hakim, *hadith* 1,686.

¹¹⁸ Related by al-Bukhari, *hadith* No. 305; Muslim, *hadith* No. 1,211.

¹¹⁹ Related by Malik, vol. 1, p. 199; al-Darimi, *hadith* No. 2,312; al-Daraqutni, *hadith* No. 435; al-Bayhaqi, *hadith* No. 1/87; al-Hakim, *hadith* No. 1,447.

When ablution is recommended

1. Before glorifying Allah or reciting the Qur'an, because a person is in his best situation when he has performed the ablution.
2. Before every prayer. The Prophet (peace be upon him) always did that, as reported by Anas: 'The Prophet (peace be upon him) used to perform the ablution before every prayer.'¹²⁰ This means that even when he had already performed an ablution that was still valid.
3. A person who is in the state of ceremonial impurity (i.e. *janabah*) is recommended to perform the ablution if he wants to have a second intercourse, or sleep, or eat or drink. Abu Sa'id al-Khudri reported that the Prophet (peace be upon him) said: 'If any of you has had sexual intercourse with his wife and wants a second, he is recommended to perform the ablution first.'¹²¹ [A'ishah reported: 'When Allah's messenger wanted to go to sleep and he was in the state of ceremonial impurity, he would perform the ablution before he went to sleep just as he would do for prayer.'¹²² In another version she said: 'When Allah's messenger wanted to eat or go to sleep...'¹²³
4. Before taking a bath. [A'ishah reported: 'When Allah's messenger wanted to take a bath to remove the state of

¹²⁰ Related by al-Bukhari, *hadith* No. 214.

¹²¹ Related by Muslim, *hadith* No. 308.

¹²² Related by Muslim, *hadith* No. 305.

¹²³ Related by Muslim, *hadith* No. 305.

ceremonial impurity, he would start by washing his hands, and then he would pour water by his right hand over his left to wash his private part, then he would perform the ablution, as he would do for prayer...¹²⁴

5. Before going to bed. Al-Bara' ibn [Azib reports that the Prophet (peace be upon him) said: 'When you want to go to bed, perform the ablution as you would for prayer, then lie on your right side...'¹²⁵

Wiping over the *khuff*

The Arabic word *khuff* refers to what is worn over one's feet, whether it be in leather, wool or other material, including socks.¹²⁶

Ruling and its basis

To wipe over the *khuff* instead of washing one's feet for ablution is valid according to the general view of Sunni scholars. It is a concession given by Allah to make things easier for His servants. This concession is based on the Sunnah and unanimity of scholars. As for the Sunnah, there are numerous *hadiths* confirming its validity as the Prophet (peace be upon him) did it and instructed others to do it. Sunni scholars are unanimous that it is valid in travel and at home, whether there is a necessity or not.

¹²⁴ Related by Muslim, *hadith* No. 316.

¹²⁵ Related by al-Bukhari, *hadith* No. 247; Muslim, *hadith* No. 2,710.

¹²⁶ Ibn [Abidin, *Al-Durr al-Mukhtar*, vol. 1, p. 240; Ibn Rushd, *Bidayat al-Mujtahid*, vol. 1, p. 17.

Likewise, it is permissible to wipe over socks, because they are equally needed by people, and they are widely used. Hence, the permissibility to wipe over socks provided they cover the feet up to the ankles.¹²⁷

Conditions for wiping over the *khuffs*

1. One must have a valid ablution at the time when one wears the *khuff*, or socks. Al-Mughirah reports: ‘I was accompanying the Prophet (peace be upon him) on travel, and I went down to help him take off his *khuffs*, but he said to me: “Leave them on, as I wore them (while in the state of purification and wudhu).” He wiped over them.’¹²⁸
2. Covering all the feet. The *khuffs* must cover all the part of one’s legs that must be washed for ablution, i.e. all the feet up to the ankles. If any part is uncovered, wiping over them is invalid. Ibn Taymiyyah differs with such a ruling and makes it clear in his *Fatawa* that this condition has no firm basis.
3. They should be permissible to wear. It is not permissible to wipe over the *khuffs* or socks if they are taken from their owner by force, or stolen, or made of silk because wearing silk is forbidden for men.

¹²⁷ Al-San‘ani, *Subul al-Salam*, vol. 1, p. 57.

¹²⁸ Related by al-Bukhari, *hadith* No. 206; Muslim, *hadith* No. 274.



4. They should be pure, as it is not allowed to wipe over *khuffs* made of something impure, such as the hide of a donkey.
5. Using the concession within the time allowed. Wiping over the *khuffs* is valid for one day and night for one who is in his own home town, and for three consecutive days and nights for one on travel.

How to wipe

The place where the wiping should be done is the top of the *khuffs* and what is required is what is understood by saying ‘to wipe’. In the *hadith* in which al-Mughirah ibn Shu[bah describes how the Prophet (peace be upon him) wiped over his *khuffs* during his ablution he said: ‘I saw the Prophet (peace be upon him) wiping over his *khuffs*, on their top.’¹²⁹

If one wipes over the bottom or the back of the *khuffs* and not the top, one does wrong and the wiping is invalid. [Ali said: ‘Had things in religion always been based on logic, the bottom of the *khuffs* would have been more appropriate to wipe upon than the top. I saw Allah’s messenger wiping over the top of his *khuffs*.’¹³⁰

¹²⁹ Related by Ahmad, *hadith* No. 18,156; al-Tirmidhi, *hadith* No. 98.

¹³⁰ Related by Abu Dawud, *hadith* No. 162; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 1,386.

Duration

There is a specific duration for wiping over the *khuffs*, which is one day and one night for a person staying in his home town or travelling a short distance that does not permit him to shorten his prayers. As for a traveller beyond the distance allowing shortening prayers, the duration is three days and nights. [Ali reports: ‘Allah’s messenger permitted three days and nights for a traveller and one day and night for a resident.’¹³¹

Conditions making wiping over the *khuffs* invalid

The concession to wipe over the *khuffs* for ablution is rendered invalid in the following cases:

1. When taking a bath becomes obligatory. Safwan ibn [Assal reported: ‘Allah’s messenger ordered us not to remove our *khuffs* for three days and nights, except when one finds himself in the state of ceremonial impurity.’¹³²
2. If any part of the feet is exposed.
3. Taking the *khuffs* off; and taking one of them off is like taking them both off, according to most scholars.
4. The lapse of the time limit. This is a time-related concession, therefore, it cannot be extended over its allotted time.

¹³¹ Related by Muslim, *hadith* No. 276.

¹³² Related by Ahmad, *hadith* No. 18,091; al-Nassa’i, *hadith* No. 127; al-Tirmidhi, *hadith* No. 96.

5. Taking the khuffs of doesn't invalidate the wudhu but one can't wipe over the khuffs again if he puts them on unless he performs a new wudhu with washing the feet.

Starting time

The period allowed for wiping over the *khuffs* starts at the time when one's ablution has been invalidated after one had worn them. For example, if one performs the ablution for Fajr (i.e. dawn) prayer and wears the *khuffs*, then his ablution is invalidated after sunrise, and he does not perform another ablution until he performs the ablution for Thuhur (i.e. noon) prayer, his period of the concession starts at Thuhur time. Some scholars are of the view that it starts at the time he performs the ablution for Thuhur prayer, i.e. from the time of his first wiping.¹³³

Ghusl, or taking a bath

Definition: The Arabic word *ghusl* means to take a bath to wash the whole of one's body. In the Islamic context, it means pouring pure water over the entire body in a particular way, with the intention of worshipping Allah by uplifting the state of major ritual impurity.¹³⁴

¹³³ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 26.

¹³⁴ Al-Bahuti, *Kashshaf al-Qina* [, vol. 1, p. 158.



Ruling: The *ghusl* is obligatory when there is a cause requiring it. Allah says: ‘If you are in a state of ceremonial impurity, purify yourselves’ (5: 6). A number of *hadiths* reported by the Prophet’s (peace be upon him) Companions explaining how the *ghusl* should be performed clearly indicate that it is obligatory.

Taking a bath, i.e. performing the *ghusl*, is obligatory in the following cases:

1. The ejaculation of semen as per the ayah mentioned above. [Ali said: ‘If you ejaculate, then perform the *ghusl*.’¹³⁵ However, if the discharge is in a wet dream, it still requires a bath, even if the sleeper does not feel the orgasm. The Prophet (peace be upon him) was asked whether a woman must take a bath if she had a wet dream. The Prophet (peace be upon him) said: ‘Yes, if she confirms a discharge.’¹³⁶ This is agreed by all scholars. It is important to note that the discharge of semen without an orgasm, as in the case of illness, does not require a *ghusl*, and the same is the case for one who sees a sexual dream but there is no trace of a discharge of semen. On the other hand, if on rising from sleep, one feels wetness but cannot remember a wet dream, one must perform the *ghusl* if one ascertains that the wetness is semen. Moreover, if one finds on one’s clothes traces of a discharge of semen but cannot ascertain its time, and he has already prayed once or more, he should perform the *ghusl* and repeat any prayer he offered since his last sleep.

¹³⁵ Related by Ahmad, *hadith* No. 868; Abu Dawud, *hadith* No. 206; al-Nassa’i, *hadith* No. 193.

¹³⁶ Related by Muslim, *hadith* No. 313.

2. The insertion of the top of the penis into a woman's vagina, even if no discharge takes place. The Prophet (peace be upon him) said: 'If a man lies between her four limbs and the two private parts are in touch, the *ghusl* becomes obligatory.'¹³⁷ In this case, taking a bath is obligatory for both man and woman.
3. Embracing Islam by an unbeliever. The Prophet (peace be upon him) ordered Qays ibn [Asim to take a bath when he accepted Islam.¹³⁸ This applies also to an apostate when he reverts to Islam.
4. When a woman finishes her menstrual period or postnatal bleeding. [A'ishah reports that the Prophet (peace be upon him) said to Fatimah bint Abi Hubaysh: 'When you start your period, do not pray, and when you finish it, perform the *ghusl* and pray.'¹³⁹ It is universally agreed that postnatal bleeding is treated in the same way as menstruation.
5. Death. When Zaynab, the Prophet's (peace be upon him) eldest daughter, died, the Prophet (peace be upon him) said to the women attending: 'Wash her.'¹⁴⁰ He also said in reference to a man who died when he was in the state of consecration, i.e. *ihram*, 'Wash him with water and lotus leaves.'¹⁴¹

¹³⁷ Related by Muslim, *hadith* No. 349.

¹³⁸ Related by Abu Dawud, *hadith* No. 355; al-Tirmidhi, *hadith* No. 605; al-Nassa'i, *hadith* No. 188.

¹³⁹ Related by al al-Bukhari, *hadith* No. 320; Muslim, *hadith* No. 333.

¹⁴⁰ Related by al al-Bukhari, *hadith* No. 1,253; Muslim, *hadith* No. 939.

¹⁴¹ Related by al al-Bukhari, *hadith* No. 1,265; Muslim, *hadith* No. 1,206.

Recommended *ghusl*

Taking a bath is recommended in the following situations:

1. After every sexual intercourse. Abu Rafi [, the Prophet's (peace be upon him) servant, reported that one night the Prophet (peace be upon him) took a bath after being with one wife and another after being with another. 'I said: "O Messenger of Allah, could you not have taken one bath?"' He said: "This way is better, fresher and purer."'¹⁴²
2. Before Friday prayer, which is the most important of recommended cases of *ghusl*. The Prophet (peace be upon him) said: 'When you go for Friday prayer, take a bath.'¹⁴³
3. On the two Eid days.
4. Before entering into the state of consecration, i.e. *ihram*, for performing the pilgrimage or the [umrah. It is confirmed that the Prophet (peace be upon him) took a bath when he was about to enter into consecration.
5. After washing a deceased person. The Prophet (peace be upon him) said: 'Whoever washes a deceased person should take a bath.'¹⁴⁴

Performing *ghusl* – How it is done

¹⁴² Related by Ahmad, *hadith* No. 23,862; Abu Dawud, *hadith* No. 219; al-Nassa'i in *Al-Sunan al-Kubra*, *hadith* No. 8,986; Ibn Majah, *hadith* No. 590.

¹⁴³ Related by al-Bukhari, *hadith* No. 877.

¹⁴⁴ Related by Ahmad, *hadith* No. 7,771; Ibn Majah, *hadith* No. 1,463.

There are two forms of ghusl:

- A) Acceptable form: in the sense that if a person only does ghusl in this manner, his ghusl is valid and he becomes purified from major impurity. But if a person fails to perform this kind of ghusl properly, his ghusl is not valid.
- B) Complete and preferred form: this is the type which it is recommended to do but is not obligatory.

As for the obligatory and acceptable form it is as follows:

1. Form the intention to purify oneself from impurity: *janaabah* (impurity following ejaculation), menses or *nifaas* (postpartum bleeding).
2. Wash the entire body with water once, making sure that the water reaches the roots of the hair and the places that it cannot reach easily, such as the armpits and backs of the knees, as well as rinsing the mouth and nose, according to the correct scholarly opinion.

As for the complete form, it is as follows

1. Form the intention in the heart to purify oneself from major impurity: *janaabah* (impurity following ejaculation), menses or *nifaas* (postpartum bleeding).
2. Then say Bismillah and wash the hands three times, then wash any dirt from the private part.
3. Then do a complete wudoo' as for prayer.
4. Then pour water over the head three times, and rub the hair so that the water reaches the roots of the hair.
5. Then wash the body, making sure that the water reaches all parts, rubbing it with the hands so that the water reaches the entire body.

The evidence for this preferred form of ghusl is:

It was narrated that ‘Aa’ishah (may Allah be pleased with her) said: When the Messenger of Allah (peace be upon him) did ghusl for janaabah, he would wash his hands and do wudoo’ as for prayer, then he would wash himself, then he would run his fingers through his hair, then when he thought that it [the water] had reached his skin, he would pour water over it [the head] three times, then he would wash the rest of his body.¹⁴⁵

Dry ablution

The Arabic word *tayammum*, which is translated as ‘dry ablution’, means wiping one’s face and arms with dust in a particular way as an act of worship when using water is not possible.

Ruling: Dry ablution is a legitimate concession granted by Allah to His servants. It is one of the distinctive aspects of Islamic law and it is peculiar to the Muslim community. Allah says in the Qur’an: ‘Believers, when you are about to pray, wash your faces, and your hands and arms up to the elbows, and pass your wet hands lightly over your heads, and wash your feet up to the ankles. If you are in a state of ceremonial impurity, purify yourselves. But if you are ill, or on a journey, or if one of you has come from the toilet, or if you have been

¹⁴⁵ Related by al-Bukhari, *hadith* No. 248 and Muslim, *hadith* No. 316.

in intimate contact with women and can find no water, then have recourse to pure dust, passing therewith lightly over your faces and your hands. Allah does not want to impose any hardship on you, but He wants to purify you, and to bestow on you the full measure of His blessings, so that you may be grateful' (5: 6). The Prophet (peace be upon him) said to one of his Companions: 'Pure dust is adequate, even if you continue to be without water for 10 years. When you have water, then use it to wash yourself.'¹⁴⁶ He also said: 'The entire earth is made a place of worship and purification for me.'¹⁴⁷

Scholars are unanimous that dry ablution is perfectly legitimate when the conditions for it apply. They also agree that it replaces purification with water, making it permissible to pray, perform the *tawaf*, recite the Qur'an, etc.

Conditions allowing dry ablution

Dry ablution is valid if it fulfils the following conditions:

1. Intention to uplift minor or major impurity: Intention is required in all types of worship, and dry ablution is an act of worship.
2. Possession of mental faculties: Dry ablution is invalid if done by an insane person or performed for an unconscious person.

¹⁴⁶ Related by Ahmad, *hadith* No. 21,568; Abu Dawud, *hadith* No. 333; al-Tirmidhi, *hadith* No. 124; al-Nassa'i, *hadith* No. 322; al-Hakim, vol. 1, p. 284; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 880.

¹⁴⁷ Related by al-Bukhari, *hadith* No. 335; Muslim, *hadith* No. 521.



3. Awareness: It is not valid if done by one who does not distinguish actions, such as a child below seven years of age.
4. Inability to use water for ablution: This may be due to the unavailability of water. Allah says: ‘If you [...] can find no water, then have recourse to pure dust, passing therewith lightly over your faces and your hands’ (5: 6). The Prophet (peace be upon him) said: ‘Pure dust is a source of purification for a Muslim when he does not find water, even if this continues for 10 years. If water is available, he should use it for ablution, as this is better.’ Alternatively, the inability to use water may be due to fear that it causes harm. This may apply to a person who is ill and fears that water might aggravate his complaint or delay his recovery. In the Qur’anic verse mentioning ablution, Allah mentions illness as a valid reason for dry ablution. Moreover, Jabir reports: ‘We were on travel and one of us was hit by a stone which caused a cut in his head. Then he slept and had a wet dream. He asked his companions: “Do you think I can resort to dry ablution in my condition?” They said that the concession did not apply to him as water was available. He, therefore, took a bath, and he died soon after. When we returned, we mentioned this to the Prophet (peace be upon him) he said: “They killed him; may Allah kill them. Could they not have asked when they did not know? Asking gives information to one who does not know. It would have been sufficient for him to resort to dry ablution and put a bandage over his wound, wipe over

it and wash the rest of his body.””¹⁴⁸ Again, dry ablution may be resorted to in very cold weather when the use of water may be harmful. [Amr ibn al- [As reports that once on an expedition ‘I had a wet dream on a very cold night. I feared that I might die if I had a bath, and resorted to dry ablution. I then led my companions in the Fajr prayer.’¹⁴⁹

5. Dry ablution must be with pure dust that has not been contaminated by any impurity. For example, it is invalid if the dust had been urinated upon and it was not subsequently purified. It should also be dry with fine dust attaching to one’s hand when it is struck. Ibn [Abbas explained the Qur’anic statement, ‘If you [...] can find no water, then have recourse to pure dust, passing therewith lightly over your faces and your hands’ (5: 6), stating that it means ‘soil that had not been contaminated with impurity’. If such soil is unavailable, one may do the dry ablution on whatever surface can be found, such as sand, stone, etc. Allah says: ‘So fear Allah as much as you are able’ (64: 16). Imam al-Awza [i confirms that sand is adequate.

Conditions rendering dry ablution invalid

1. Dry ablution is invalidated by anything that invalidates normal ablution.

¹⁴⁸ Related by Ahmad, *hadith* No. 3,056; Abu Dawud, *hadith* No. 336; Ibn Majah, *hadith* No. 572; al-Hakim, vol. 1, pp. 284–5.

¹⁴⁹ Related by Ahmad, *hadith* No. 17,812; Abu Dawud, *hadith* No. 334; al-Hakim, vol. 1, p. 285; al-Daraqutni, *hadith* No. 681.

2. The availability of water, if the dry ablution has been resorted to for the unavailability of water. The Prophet (peace be upon him) told his Companion whom he had advised to resort to dry ablution: ‘If you find water, then perform the ablution.’
3. Dry ablution also becomes invalid if the reason for it, such as illness, no longer exists.

How it is done

To perform dry ablution, one needs to have the right intention, then say ‘in the name of Allah’, then strike the ground with both hands once, blow the dust off them or shake them, then wipe over one’s face and hands up to the wrists. [Ammar reports a *hadith* in which the Prophet (peace be upon him) is quoted to have said: ‘*Tayammum* is done with one strike for both one’s face and hands.’¹⁵⁰ The Prophet (peace be upon him) also said to [Ammar: “It was sufficient for you to do like this:” He struck on the ground with his hands, then shook them, then wiped with them the back of his hand with his left hand, then wiped his face with both hands.’¹⁵¹

Impurities and how to remove them

¹⁵⁰ Related by Ahmad, *hadith* No. 183,191; Abu Dawud, *hadith* No. 327; al-Tirmidhi, *hadith* No. 144; al-Nassa’i, in *Al-Sunan al-Kubra*, *hadith* No. 302.

¹⁵¹ Related by al-Bukhari, *hadith* No. 347; Muslim, *hadith* No. 368.

The Arabic term, *najasah*, i.e. impurity, applies to every foul material thing Islam requires to be avoided.¹⁵²

Removing impurities

1. Impurities that are on the ground or the floor are removed by washing them off once, ensuring that the impure matter is gone. When a Bedouin urinated in the mosque, the Prophet (peace be upon him) ordered that a pail of water be poured over the urine.¹⁵³
2. Impurities that are not on the ground, such as being on clothes or utensils or some other container. Such impurities must be washed until they are removed.

If the impurity is that of a dog which licked a utensil or ate from it, it is removed by washing it seven times, one of which should be with using soil. The Prophet (peace be upon him) said: ‘If a dog licks your plate, you should wash it seven times, and mix the first with soil.’¹⁵⁴ This ruling applies to utensils. Other materials such as clothes or furniture items would only be washed once.

As for the impurity of the pig, it is the correct view that it is like other impurities and its removal requires washing it off once

¹⁵² Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 35.

¹⁵³ Related by al-Bukhari, *hadith* No. 220; Muslim, *hadith* No. 284.

¹⁵⁴ Related by Muslim, *hadith* No. 279; al-Nassa'i, *hadith* No. 338.

only, provided that the wash leaves no trace of the impurity. It is not required to be washed seven times.¹⁵⁵

If the impurity is urine, faeces, blood, or the like, it is washed, rubbed and squeezed until no trace of it is left. One wash is enough if it leaves no trace. The impurity of the urine of a male infant who has not eaten normal food may be removed by sprinkling water over it, as the Prophet (peace be upon him) said: ‘The urine of a female child should be washed while that of a male child should be sprinkled with water.’¹⁵⁶

The hide of carrion becomes free of impurity when tanned, as the Prophet (peace be upon him) said: ‘Any hide that is tanned is free of impurity.’ If menses stains a woman’s garment, it is washed with water; a woman came to the Prophet (peace be upon him) and said: Menstrual blood may get onto the clothes of any one of us; what should she do with it? He said: “She should scratch it, then rub it with water, then wash it, then pray in it.” This has been related by al-Bukhari (227) and Muslim (291).

It is important to take the necessary care to remove any impurity, whether it falls on one’s body, clothes or the place where one prays, because to be free of impurity is essential for the validity and acceptance of prayer.

Menses: definition and rulings

¹⁵⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 37; *Mawsu’at Masa’il al-Jumhur fi al-Fiqh al-Islami*, vol. 1, p. 122.

¹⁵⁶ Related by Ahmad, *hadith* No. 757; Ibn Majah, *hadith* No. 525; al-Hakim, vol. 1, p. 270.

The Arabic term *al-Hayd*, which means ‘menstruation’, refers in Islamic context to the natural discharge of blood by a healthy woman on certain times from the lining of the uterus through the vagina, without the woman having had a childbirth.¹⁵⁷

Beginning and end

It has been confirmed that no period of menstruation occurs in girls younger than nine years of age. [A’ishah is quoted as saying: ‘When a girl completes nine years, then she is a woman.’¹⁵⁸ Likewise, by the age of 50 most women will have stopped menstruating. [A’ishah is reported to have said: ‘When a woman is 50 years of age, she stops menstruation.’¹⁵⁹

Duration

In most cases, menstruation lasts for six or seven days. The Prophet (peace be upon him) said to Hamnah bint Jahsh, who had blood discharge that continued for a very long time: ‘Your period of menstruation is six or seven days, as Allah knows best, then take a bath and pray for 24 or 23 days, as other women menstruate and have their time of purification in their regular periods.’¹⁶⁰ Some scholars are of the view that there is no minimum or maximum length of a woman’s period, and that

¹⁵⁷ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 38.

¹⁵⁸ Mentioned by al-Tirmidhi, *hadith* No. 1,109; al-Bayhaqi in *Al-Sunan al-Kubra*, but without a chain of transmission.

¹⁵⁹ Ibn Qudamah, *Al-Mughni*, vol. 1, p. 406.

¹⁶⁰ Related by Ahmad, *hadith* No. 27,144; Abu Dawud, *hadith* No. 287; al-Tirmidhi, *hadith* No. 128; Ibn Majah, *hadith* No. 726.

it is determined by the custom of women in the family or community.

What it entails

1. It requires a bath at the end: The Prophet (peace be upon him) said to a woman: ‘Do not pray for the same number of days as your normal period, then take a bath and offer your prayers.’¹⁶¹
2. Puberty: The Prophet (peace be upon him) said: ‘Allah does not accept the prayer of a girl who experiences the period without covering her head.’¹⁶² This signifies that once a girl begins to have the period, she must cover her head, which means that Islamic duties apply to her and this takes place only when a person attains puberty.
3. It is a significant mark: A divorced woman’s waiting period is considered to have been completed when she has had three menstruations. Allah says: ‘Divorced women shall wait, by themselves, for three monthly periods’ (2: 228).
4. A woman’s period is a sure mark that she is not pregnant.

Important note: When a woman finishes her period before sunset, she must offer her Thuhur and [Asr prayers for that

¹⁶¹ Related by al-Bukhari, *hadith* No. 325.

¹⁶² Related by Ahmad, *hadith* No. 25,167; Abu Dawud, *hadith* No. 641; al-Tirmidhi, *hadith* No. 377; Ibn Majah, *hadith* No. 655.



day; and if she finishes her period before dawn, she must offer her Maghrib and [Isha' prayers for that night. The time of each two prayers is considered one when there is a valid reason to delay the first prayer. This is the view of the majority of scholars, and it is upheld by Malik, al-Shafī [i and Ahmad.

Things forbidden during menstruation

Certain things become forbidden when a woman is in menstruation:

1. Penetrative sexual intercourse: Allah says: 'They ask you about menstruation. Say: "It is an unclean condition; so keep aloof from women during menstruation, and do not draw near to them until they are cleansed"' (2: 222). When this verse was revealed, the Prophet (peace be upon him) advised that foreplay is permissible. He said: 'You may do everything except intercourse.'¹⁶³
2. Divorce: A man may not divorce his wife when she is in her period. Allah says: 'O Prophet (peace be upon him), when you [Muslims] divorce women, divorce them for [the commencement of] their waiting period and keep count of the waiting period' (65: 1). When [Umar reported to the Prophet (peace be upon him) that his son [Abdullah divorced his wife and she was in the period, the Prophet (peace be upon him) told him that [Abdullah must re-instate the marriage.¹⁶⁴

¹⁶³ Related by Muslim, *hadith* No. 302.

¹⁶⁴ Related by al-Bukhari, *hadith* No. 521; Muslim, *hadith* No. 1,471.

3. Prayer: A woman does not offer prayers during her period. The Prophet (peace be upon him) said to Fatimah bint Abi Hubaysh: ‘When you start your period, do not pray.’¹⁶⁵
4. Fasting: A woman does not fast during her period. In a conversation with women the Prophet (peace be upon him) asked: ‘Is it not the case that when a woman is in her period she neither prays nor fasts?’ They answered: ‘Yes.’¹⁶⁶
5. Performing the *tawaf* at the Ka[bah: When [A’ishah started her period shortly before reaching Makkah for her pilgrimage, the Prophet (peace be upon him) said to her: ‘You may do all the rituals required of pilgrims, except for *tawaf*, which you may not do until you have cleansed yourself.’¹⁶⁷
6. Reciting the Qur’an: This is the view of most scholars among the Prophet’s (peace be upon him) Companions and the following generations. However, if a woman needs to recite the Qur’an, as in the case of fearing to forget what she had memorized, or if she is a teacher and needs to teach the Qur’an to her class, or to read her regular portion, she may do so. But if she has no such need, then it is better not to recite the Qur’an, as some scholars maintain.
7. Holding the Qur’an: As Allah says in reference to the Qur’an: ‘only the purified can touch’ (56: 79).

¹⁶⁵ Related by al-Bukhari, *hadith* No. 331; Muslim, *hadith* No. 333.

¹⁶⁶ Related by al-Bukhari, *hadith* No. 304.

¹⁶⁷ Related by al-Bukhari, *hadith* No. 305; Muslim, *hadith* Nos. 1,211 and 119.

8. Staying in a mosque: The Prophet (peace be upon him) said: ‘I do not permit staying in the mosque for a man in the state of ceremonial impurity, (i.e. *janabah*), or a woman in her period.’¹⁶⁸ When the Prophet (peace be upon him) stayed in the mosque during Ramadan, he used to let his wife [A’ishah comb his head, but she remained in her home as she was in the period].¹⁶⁹

It is also not permissible for a woman in the period to pass through the mosque if she fears to stain it.

Postnatal bleeding: This refers to the blood discharged by women after childbirth.

Duration

There is no minimum period for postnatal discharge, and therefore it depends on whether the bleeding stops or continues. Its maximum duration is usually 40 days, however with some women it takes longer to finish. Al-Tirmidhi said that all scholars among the Prophet’s (peace be upon him) Companions and their successors agreed that a woman does not pray for 40 days after childbirth, unless she becomes clean before that, and in this case she takes a bath and offer her prayers normally. Umm Salamah reports: ‘During the Prophet’s (peace be upon

¹⁶⁸ Related by Abu Dawud, *hadith* No. 232; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 4,323.

¹⁶⁹ Related by al-Bukhari, *hadith* No. 296.



him) lifetime, a woman who has given birth used to stay 40 days.¹⁷⁰

Rulings: The same rules regarding menstruation apply to postnatal discharge.

¹⁷⁰ Related by Ahmad, *hadith* No. 26,584; Abu Dawud, *hadith* No. 312; al-Tirmidhi, *hadith* No. 139; Ibn Majah, *hadith* No. 648.

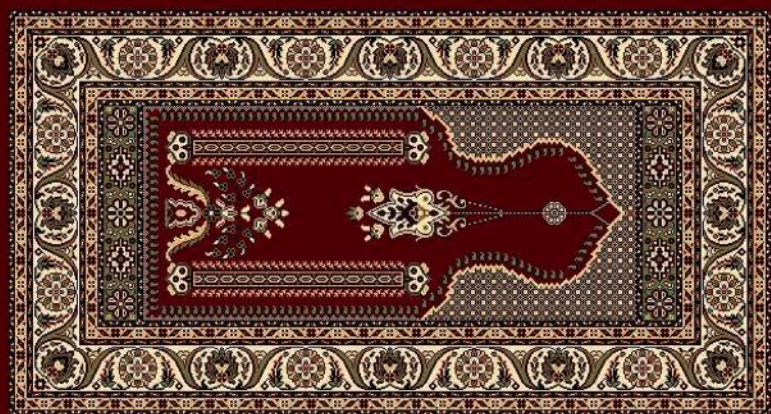


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A SIMPLIFIED PRESENTATION



◆ CHAPTER 4: ◆

PRAYER



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Chapter 4

Prayer

The Arabic term *salah*, which is normally translated as ‘prayer’, originally means ‘supplication’. In Islamic context it is defined as ‘an act of worship that includes saying specific words as well as doing specific actions, starting with the glorification, *Allah-u akbar*, and concluded with *salam*.’¹⁷¹

It is prayer that builds a Muslim’s character: it keeps his heart pure and consolidates his faith. It helps a person to organize his affairs, giving him stronger motivation to maintain good conduct, be charitable and participate in good causes. As such, prayer has a clear positive role in organizing society.

Prayer points out the way of divine guidance and adds real meaning to life. It ensures that man does not feel loss, as it guides him along the way followed by all Prophets (peace be upon them all).

Prayer is a demonstration of man’s gratitude for the numerous great blessings Allah has bestowed on him. It is also an unmistakeable manifestation of man’s servitude to Allah. In prayer, a person speaks directly to Allah, shows humility before Him, and addresses Him with reciting the Qur’an, glorification and supplication.

¹⁷¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 43.

Moreover, in prayer man feels his bond with Allah, which elevates him over the material world in order to give him clearer vision and reassurance. When the concerns and temptations of life become too strong, prayer helps man to regain his proper perspective, enabling him to see the truth and giving him a sense of what is greater and beyond. He will realize that life could not have been so perfect, and that things could not have been made subservient to man, in order to leave him living on the margin, caring nothing except for immediate enjoyments.¹⁷²

Prayer provides light in this life and in the life to come. It is a cause for bestowing Allah's mercy on man and increasing his provisions. It also ensures forgiveness of sins, increase of good deeds and elevating man's position with Allah.

Prayer provides spiritual nourishment. When we wish to rise to a higher level, we should fulfil all our duties, particularly prayer. When a person performs the ablution and stands up in full humility to pray, addressing Allah, supplicating in hope and looking forward for Allah's grace, he will enjoy inner comfort and reassurance because he has assigned all his cares and concerns to the One who is ever merciful, the One to whom all dominion belongs and who is able to accomplish everything.¹⁷³

¹⁷² Salih al-Sadlan, *Risalah fi al-Fiqh al-Muyassar*, p. 33.

¹⁷³ Mustafa al-Khalaf, *Al-Asrar a-Tibiyyah li Salat al-Layl*, pp. 29–52; Ali M. Dukhail, *al-Ayat al-Ilmiyyah fi al-Qur'an*, p. 186.

The call to prayer

The Arabic term, *adhan*, originally means ‘making an announcement’, and it is used in this sense in verse 9: 3 of the Qur’an. In an Islamic context it means ‘an announcement in specific wording at designated times informing people that prayer is due,’ while *iqamah* informs people in specific wording given by the Legislator that they should rise to pray.¹⁷⁴

Status: Both the *adhan* and the *iqamah* are collective duties, which means that when they are performed by some people, the rest are not accountable. Both are clearly apparent Islamic rituals and, therefore, it is not permissible to neglect them.¹⁷⁵

Conditions

1. They must be done by a sane Muslim man. If they are done by an unbeliever, a mad or drunken person, or one who is too young then they are invalid. These are common requirements for all types of Islamic worship.
2. The *adhan* must be done at the time when the prayer falls due. If it is done earlier, it is invalid. The *iqamah* should be done just before starting the prayer.
3. Both should be done in the right order, without gaps.

¹⁷⁴ Al-Shawkani, *Nayl al-Awtar*, vol. 2, p. 31; A. al-Ghunaymi, *Al-Lubab fi Sharh al-Kitab*, vol. 1, p. 62; al-Bahuti, *Kashshaf al-Qinaʿ*, vol. 1, p. 266.

¹⁷⁵ Al-Bahuti, *Ibid.*, vol. 1, p. 278; Ibn Qudamah, *Al-Mughni*, vol. 1, p. 417; al-Nadawi, *Al-Fiqh al-Muyassar*, p. 45.

4. Both should be done in Arabic and in the specific wording explained in the Sunnah.

Women are not required to do either of these duties, but a number of eminent scholars, such as al-Shafi [i and Ahmad ibn Hanbal say that it is perfectly acceptable if they do or not. [A'ishah reports that she used to 'call the *adhan* and the *iqamah* and then lead the women in prayer, standing in the middle of the first row.'¹⁷⁶

Qualities the caller to prayer should possess

1. He should be an honest, trustworthy person, because he is referred to in the matter of prayer and fasting.
2. He should be a sane adult. However, if a boy who is aware of his actions calls the *adhan*, his action is valid.
3. He should know the times for prayer, so as to make sure to call the *adhan* on time. If he is not fully aware of the relevant times, he may be in error.
4. He should have a loud voice.
5. He should purify himself after any discharge that invalidates ablution.
6. He should say the *adhan* facing the *qiblah*.
7. He should place his forefingers in his two ears and turn his face to the right when saying *hayy [ala al-salah* and to the left when saying *hayy [ala al-falah*. However, if he is giving the Athan via loudspeakers as in the case of

¹⁷⁶ Related by al-Bayhaqi. Sabiq, *Fiqh al-Sunnah*, vol. 1, p. 120.

modern mosques, turning left and right would weaken the sound and hence one shouldn't do it.

8. He should elongate the *adhan* and be quick with the *iqamah*.

What is to be said:

It was narrated that ‘Abdallah ibn Zayd said: When the Messenger of Allah (peace be upon him) ordered that a bell should be made so that it could be struck to call the people to prayer, a man walked around me whilst I was sleeping [i.e., in a dream], carrying a bell in his hand. I said, “O slave of Allah, will you sell this bell?” He asked, “What will you do with it?” I said, “We will call the people to prayer.” He said, “Shall I not tell you of something better than that?” I said, “Yes.” He said, “Say: *Allah-u akbar* (four times); *Ashhadu an la ilaha illa Allah* (two times); *Ashhadu anna Muhammadan Rasul Allah* (two times); *hayy [ala al-salah* (two times); *hayy [ala al-falah* (two times); *Allah-u akbar Allah-u akbar*; *La ilaha illa Allah.*’ Then he went a short distance away from me and said: “And when the prayer is about to begin (*iqamah*), say: *Allah-u akbar Allah-u akbar*; *Ashhadu an la ilaha illa Allah*; *Ashhadu anna Muhammadan Rasul Allah*; *hayy [ala al-salah*; *hayy [ala al-falah*; *Qad qamat al-salah qad qamat al-salah*; *Allah-u akbar*; *La ilaha illa Allah.* The following morning, I went to the Messenger of Allah (peace be upon him) and told him what I had seen. He said, “This is a true dream, in sha Allah. Get up with Bilal and teach him what you saw, for he has



a more melodious voice than you.” So I got up with Bilal and taught him, and he gave the call to prayer. ‘Umar ibn al-Khattaab heard that in his house and he came out, dragging his lower garment and saying, “By the One Who sent you with the truth, O Messenger of Allah, I saw the same as he saw!” The Messenger of Allah (peace be upon him) said, “To Allah be praise.”¹⁷⁷ The wording means: ‘Allah is supreme; I bear witness that there is no deity other than Allah; I bear witness that Muhammad is Allah’s messenger; come to prayer; come to success; Allah is supreme; there is no deity other than Allah.’

Anas reports that ‘Bilal was instructed to repeat the wording twice in *adhan* and once in *iqamah*, with the exception of the phrase denoting readiness to start the prayer.’¹⁷⁸

These are the preferred forms of *adhan* and *iqamah*, but if in *adhan* one repeats the phrases testifying Allah’s oneness and the Prophet’s (peace be upon him) message, or repeats the phrases of *iqamah* twice, there is no harm because this is an acceptable difference between scholars. In the *adhan* for Fajr (i.e. dawn) prayer, it is mandatory to add the phrase *assalatu khayrun min al-nawm*, which means ‘prayer is preferable to sleep’, as Abu Mahdhurah mentions that the Prophet (peace be upon him) instructed him to do so.¹⁷⁹

¹⁷⁷ Related by al-Albaani in Saheeh Abi Dawood, *hadith* No. 469.

¹⁷⁸ Related by al-Bukhari, *hadith* No. 605; Muslim, *hadith* No. 378.

¹⁷⁹ Related by al-Nassa’i, *hadith* No. 628.

What to say when hearing the *adhan* and after it

It is recommended when hearing the *adhan* to repeat what it says, as Abu Sa[īd al-Khudri reports that the Prophet (peace be upon him) said: ‘When you hear the call to prayer, repeat what the caller says.’¹⁸⁰ One exception, however, is that when the caller says ‘*hayy [ala al-salah; hayy [ala al-falah;*’ we should say: *la hawla wala quwwata illa billah*, which means ‘no power works except by Allah’s permission’.¹⁸¹ In Fajr prayer, when the caller says ‘prayer is better than sleep’, anyone who hears him is recommended to say the same. This is not recommended for *iqamah*. After the *adhan*, it is recommended to say: ‘Peace be to the Prophet (peace be upon him) and his household. My Lord, the Lord of this perfect call and the due prayer, grant Muhammad the means and give him the honourable station You promised him.’¹⁸²

Conditions for the validity of prayer

Linguistically speaking, the word *shart*, which is translated as ‘condition’, means ‘mark’, but in Islamic contexts it means ‘what is necessary for something to exist but does not form part of it.’¹⁸³ The following nine conditions must be met for the prayer to be valid:

1. Islam: Prayer is not valid if performed by an unbeliever.

¹⁸⁰ Related by al-Bukhari, *hadith* No. 621; Muslim, *hadith* No. 1,093.

¹⁸¹ Related by Muslim, *hadith* No. 385.

¹⁸² Related by al-Bukhari, *hadith* No. 614. The *hadith* includes that ‘whoever says this will benefit from the Prophet’s (peace be upon him) intercession on their behalf on the Day of Judgement.’

¹⁸³ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 1, p. 722.



2. Sanity: Prayer is not valid if performed by an insane person, because it is not required of the insane.
3. Puberty: Praying is not required of a child until he or she attains puberty. However, a child should be instructed to perform the prayer when it is seven years of age. The order may be coupled with gentle beating if the child does not pray after reaching 10 years of age. The Prophet (peace be upon him) said: ‘Order your children to pray when they are seven, and beat them gently for not praying after they are ten.’
4. Purification: This includes both types of purity; purity from najasah (impurities) on one’s body, clothes and the prayer area and it also includes uplifting the ritual state of impurity through wudhu or dry ablution.
5. Appropriate time: Each prayer has its appointed time range and for a prayer to be valid, it has to be offered within that time range. Allah says: ‘Indeed, prayer has been decreed upon the believers a decree of specified times.’ (4: 103). A *hadith* mentions that the angel Gabriel led the Prophet (peace be upon him) in offering all five prayers on two consecutive days, choosing the beginning of the time of every prayer on the first day, and the end of its time range on the second day. He then told the Prophet (peace be upon him): ‘Prayer is valid between these two times.’¹⁸⁴ This means that prayer is invalid before its time is due, or after it had lapsed, except for a valid reason.

¹⁸⁴ Related by Ahmad, *hadith* No. 3,081; Abu Dawud, *hadith* No. 393; al-Tirmidhi, *hadith* No. 149; al-Nassa’i, *hadith* No. 526.

6. Covering the *[awrah]*. The Awrah of a man in prayer is the area from his navel to his knees. The woman's awrah in prayer is her full body except her face and hands. The cover must not be transparent. Allah says: 'Children of Adam, dress well when you attend any place of worship' (7: 31). The Prophet (peace be upon him) said: 'Allah does not accept the prayer of any woman who has attained puberty unless she has a head cover.'
7. Facing the *qiblah* (i.e. the direction towards the Ka [bah) when one is able to do so. Allah says: 'Turn your face, then, towards the Sacred Mosque' (2: 144). The Prophet (peace be upon him) said: 'When you want to pray, do the ablution well, then face the *qiblah*.'¹⁸⁵
8. Intention: This is a condition that cannot be omitted in any situation. A *hadith* reported by [Umar quotes the Prophet (peace be upon him) as saying: 'Actions are but by intention.' The intention is a mental process and need not be vocalized.

The essentials in prayer

Prayer has 14 essentials,¹⁸⁶ i.e. *ruk'n*, and these cannot be omitted intentionally, unintentionally or out of ignorance. They are:

1. Standing up: This applies in obligatory prayers for everyone who is able to stand up. Allah says: 'Stand up

¹⁸⁵ Related by al-Bukhari, *hadith* No. 6,251; Muslim, *hadith* No. 397.

¹⁸⁶ Muhammad ibn [Abd al-Wahhab, *Thalathat al-Usul wa Shurut al-Salah wal-Qawa [id al-Arba [*, p. 31.

before Allah in devout obedience' (2: 238). The Prophet (peace be upon him) said to [Imran ibn Husayn: 'Pray standing up; but if you are unable to do so, then sitting down; and if you are unable to do that, then pray reclining.'¹⁸⁷

2. Allah's glorification at the beginning of prayer: This is to say *Allah-u akbar*, which means 'Allah is supreme'. Nothing other than this glorification is acceptable. When the Prophet (peace be upon him) saw a man praying wrongly, he told him: 'When you stand up to pray, say *Allah-u akbar*.'¹⁸⁸ He also said: 'The consecration of prayer is to say *Allah-u akbar* and it ends with *salam*.'¹⁸⁹ This means that prayer is not entered into without this particular glorification (takbeer).
3. Reading the first surah, *Al-Fatihah*, in every *rak'ah*, as the Prophet (peace be upon him) says: 'A person who does not read *al-Fatihah* has not prayed.'¹⁹⁰
4. Bowing, i.e. *ruku'*, in every *rak'ah*: Allah says: 'Believers! Bow down and prostrate yourselves' (22: 77). The Prophet (peace be upon him) said to the person who did not pray well: 'Then bow down until you have bowed well.'¹⁹¹

¹⁸⁷ Related by al-Bukhari, *hadith* No. 1,117.

¹⁸⁸ Related by al-Bukhari, *hadith* No. 793; Muslim, *hadith* No. 397.

¹⁸⁹ Related by Ahmad, *hadith* No. 1,006; Abu Dawud, *hadith* No. 61; al-Tirmidhi, *hadith* No. 3; Ibn Majah, *hadith* No. 275.

¹⁹⁰ Related by al-Bukhari, *hadith* No. 756; Muslim, *hadith* No. 394.

¹⁹¹ Related by al-Bukhari, *hadith* No. 757; Muslim, *hadith* No. 397.

5. & 6. Standing up after bowing and making sure to stand erect: The Prophet (peace be upon him) told the person who did not pray well: ‘Then rise until you stand erect.’¹⁹²
7. Prostration: Allah says: ‘Believers! Bow down and prostrate yourselves’ (22: 77). The Prophet (peace be upon him) said to the person who did not pray well: ‘Then prostrate yourself until you have prostrated well.’ Two prostrations are essential in every *rak[ah]*, and the prostration must be by placing seven parts of the body on the ground, as the Prophet (peace be upon him) said: ‘I have been commanded to prostrate myself on seven bones: my forehead (including the nose as he pointed to his nose as well), two hands, two knees and my feet.
8. & 9. Lifting one’s head after prostration, sitting between the two prostrations and standing up after the second. The Prophet (peace be upon him) taught the one who prayed wrong: ‘You then sit comfortably.’
10. Taking a comfortable position in all *rukns*, which signifies being still. This is equivalent to the time it takes to say what is required in every *rukhn*. We note that the Prophet (peace be upon him) ordered the one who did not pray well to ensure this in every *rukhn* and to repeat his prayer because it was lacking in his first prayer.
11. The last sitting for *tashahhud*. Ibn Mas[ud said: ‘Before the *tashahhud* was made obligatory to us we used to say “*Salam* to Allah from His servants, (i.e *Assalamu [ala Allah min [ibadih]*)”, but the Prophet (peace be upon

¹⁹² Related by al-Bukhari, *hadith* No. 793; Muslim, *hadith* No. 397.

him) said: “Do not say ‘*Salam* to Allah’, but say ‘Greetings to Allah (i.e. *at-tahiyyatu lillah*)’.”¹⁹³ The fact that Ibn Mas‘ud said ‘Before it was made obligatory’ makes clear that it is obligatory.

12. Sitting down for the last *tashahhud*, because this was consistently done by the Prophet (peace be upon him), and he said: ‘Pray as you have seen me pray.’¹⁹⁴
13. *Salam* at the end, as the Prophet (peace be upon him) says that the prayer ‘ends with *salam*.’ This means that when a worshipper finishes his prayer, he turns his face to the right and says *Assalamu ‘alaikum wa rahmatullah*, and turns to the left and says the same.
14. Doing all the *rukns* in the right order, because the Prophet (peace be upon him) did them in this order and said: ‘Pray as you have seen me pray.’ Furthermore, when he taught the person who did not pray well, he explained every *rukhn* and said ‘then’ before mentioning the next one. This indicates that the *rukns* should be done in order.

Duties in prayer

Nine duties (obligatory acts) must be observed in prayer, and if they are deliberately omitted, the prayer is invalid. If any is forgotten, it is compensated for by two prostrations at the end of prayer. If they are omitted out of ignorance, the prayer is valid. These eight duties are as follows:

¹⁹³ Related by Ahmad, *hadith* No. 3,920; Abu Dawud, *hadith* No. 968; al-Nassa’i in *Al-Sunan al-Kubra*, *hadith* No. 899; al-Daraqutni, *hadith* No. 1,327.

¹⁹⁴ Related by al-Bukhari, *hadith* No. 631.

1. All the glorifications (takbeer), i.e. *Allah-u akbar*, other than the initial one that is for consecration. These are called the glorification of moving on. Ibn Mas'ud said: 'I saw the Prophet (peace be upon him) saying *Allah-u akbar* every time he moved up or down, every rising and every sitting.'¹⁹⁵ The Prophet (peace be upon him) continued to do so throughout his life and he ordered us to pray in the same way he prayed.
2. The imam leading the prayer and a person praying alone says *sami [a Allah liman hamidah* (i.e. 'may Allah answer the prayer of the one who praises Him') when standing up after bowing. Abu Hurayrah said: 'The Prophet (peace be upon him) used to say *Allah-u akbar* when he started the prayer and when he bowed, then he said *sami [a Allah liman hamidah* when he rose after bowing. Then when he was in the upright position he said: *Rabbana wa lak alhamd* i.e. "You are our Lord and all praise is due to You"¹⁹⁶.
3. Every worshipper in the congregation says only *Rabbana wa lak alhamd*, while the imam leading the prayer and a person praying alone says it after saying *sami [a Allah liman hamidah*. This is clear in the above-quoted *hadith* reported by Abu Hurayrah, and in the other *hadith* reported by Abu Musa in which he quotes the Prophet (peace be upon him) saying that when the imam says

¹⁹⁵ Related by Ahmad, *hadith* No. 3,736; al-Tirmidhi, *hadith* No. 253; al-Nassa'i, *hadith* No. 1,149.

¹⁹⁶ Related by Muslim, *hadith* No. 392.

sami [a *Allah liman hamidah*, the ones in the congregation should say *Rabbana wa lak alhamd*.¹⁹⁷

4. When bowing, one should say *subhana Rabbiy al-A'theem*, which means "I praise my Lord the great and exonerate Him from any fault or defect." The duty is to say it at least once.
5. In prostration one should say *subhana Rabbiy al-a[la*, which means "I praise my Lord the most high and exonerate Him from any fault or defect." Hudhayfah reported that the Prophet (peace be upon him) 'used to say *subhana Rabbiy al-A'theem* when he bowed and *subhana Rabbiy al-a[la* in his prostration.'¹⁹⁸ It is recommended to say these glorifications at least three times in each bowing and prostration.
6. When sitting between the two prostrations one should say *Rabb ighfir li*, i.e. 'My Lord, forgive me.' Hudhayfah reported that 'the Prophet (peace be upon him) used to say *Rabb ighfir li, Rabb ighfir li*, in between the two prostrations.'¹⁹⁹
7. The first *tashahhud*, except for people in the congregation when the imam forgets this *tashahhud* and rises for the next *rak[ah*. Those in the congregation are exempt from it because they have an overriding obligation to follow the imam. When the Prophet (peace be upon him) forgot this *tashahhud* he did not go back to perform it. He only

¹⁹⁷ Related by al-Bukhari, *hadith* No. 689; Muslim, *hadith* No. 411.

¹⁹⁸ Related by Ahmad, *hadith* No. 23,240; Abu Dawud, *hadith* No. 871; al-Tirmidhi, *hadith* No. 262; al-Nassa'i, *hadith* No. 1,046; Ibn Majah, *hadith* No. 888.

¹⁹⁹ Related by Ahmad, *hadith* No. 2,375; Abu Dawud, *hadith* No. 874; al-Nassa'i, *hadith* No. 1,145; Ibn Majah, *hadith* No. 897.

prostrated himself at the end in compensation for forgetting it.²⁰⁰ This *tashahhud* requires saying: *At-tahiyyatu lillah, was-salawatu wat-tiyyibat. Assalamu [alayka ayyuha-nnabiyyu wa rahmatullahi wa barakatuh. Assalamu [alayna wa [ala [ibadi-llahis-salihin. Ashhadu an la ilah illa Allah, wa ashhadu anna Muhammad-an [abduhu wa rasuluh.* This means: ‘Greetings are offered to Allah, and blessings and all good things belong to Him. Peace be to you, Prophet (peace be upon him), with Allah’s grace and blessings. Peace be to us and to all good servants of Allah. I bear witness that there is no deity other than Allah, and I bear witness that Muhammad is His servant and messenger.’

8. To sit down for this first *tashahhud*, as stated in the *hadith* reported by Ibn Mas[ud, quoting the Prophet (peace be upon him): ‘When you are seated after each two *rak[ahs* say the *tashahhud*.’²⁰¹ Another *hadith* reported by Rifa[ah ibn Rafi[quotes the Prophet (peace be upon him) as saying: ‘When you sit down in the middle of the prayer, sit comfortably, putting your left thigh underneath you and then say the *tashahhud*.’²⁰²
9. The salutation upon the Prophet (peace be upon him) (*salla Allahu alaihi wa sallam*) in the last *rak’ah* known as *Assalatul Ibrahimiyah*

²⁰⁰ Related by al-Bukhari, *hadith* No. 1,230; Muslim, *hadith* No. 570.

²⁰¹ Related by Ahmad, *hadith* No. 4,160; al-Nassa’i, *hadith* No. 1,163.

²⁰² Related by Abu Dawud, *hadith* No. 860; al-Tabarani in *Al-Mu[jam al-Kabir*, *hadith* No. 4,528.

What is recommended (*Sunnah*) in prayer:

These are of two types: actions and words.²⁰³

The *Sunnah* words of the prayer are as follows:

- 1- Saying after the opening takbeer, “*Subhaanaka Allaahumma wa bi hamdika, wa tabaaraka ismuka, wa ta’aala jadduka wa laa ilaaha ghayruka* (Glory and praise be to You, O Allah; blessed be Your name, exalted be Your Majesty, and there is no god but You).” This is called *du’aa’ al-istiftaah* (opening *du’aa’*)
- 2- Seeking refuge with Allah
- 3- Saying Bismillaah
- 4- Saying Ameen
- 5- Reciting a surah after al-Faatihah
- 6- Reciting out loud, in the case of the imam or individual in the first two rak’ah of Fajr, Maghreb and Isha
- 7- Saying after the tahmeed (Rabbana wa laka’l-hamd): “*Mil’ al-samawaati wa mil’ al-ard wa mil’ ma shi’ta min shay’in ba’d* (Filling the heavens, filling the earth, and filling whatever else You wish).”
- 8- Saying the tasbeeh (when bowing or in prostration) more than once, such as a second or third time or more
- 9- Saying “*Rabb ighfir li* (Lord forgive me)” more than once between the two prostrations

²⁰³ Al-Bahuti, *Kashshaf al-Qina* [, vol. 1, p. 455; Ibn Qudamah, *Al-Mughni*, vol. 1, p. 462.



- 10- Saying the recommended du'aa' after offering the salutation upon the Prophet (peace be upon him) and his family known as Assalatul Ibrahimiyah.

Sunnah actions which are postures:

- 1- Raising the hands when saying the opening takbeer
- 2- Raising the hands when bowing
- 3- Raising the hands when rising from bowing
- 4- Raising the hands after the first tashahud while standing up for the 3rd rak'ah.
- 5- Placing the right hand over the left on the chest while in the standing position
- 6- Looking towards the place of prostration
- 7- Standing with the feet apart
- 8- Holding the knees with fingers spread apart when bowing, holding the back straight and making the head parallel with it.
- 9- Placing the parts of the body on which one prostrates firmly on the ground. Keeping the elbows away from the sides, and the belly from the thighs, and the thighs from the calves; keeping the knees apart; holding the feet upright; placing the hands level with the shoulders with the fingers spread.
- 10- Sitting between the two prostrations and in the first tashahud in a way that is known as Iftirash. This is sitting on the left foot while raising the right foot. In the last rak'ah of a 3 or 4 rak'ah prayers, the Sunnah is to sit in what is known as Tawarruk. This is to sit on the left hip while placing the left foot underneath the right leg.



- 11- Placing the hands on the thighs with the fingers together between the two prostrations, and in the tashahhud, except that in the latter the pinkie and ring fingers should be held in, a circle made with the middle finger and thumb, and one should point with the forefinger while shaking it in its place when in the tashahhud position.
- 12- Turning to the right and left when saying the salaam to conclude the prayers.

What invalidates the prayer:

A prayer becomes invalid in several cases that are summed up as follows:²⁰⁴

1. Whatever invalidates purification also invalidates prayer, because purification is a condition for the validity of prayer. The absence of this condition renders the prayer invalid.
2. Loud laughter: This is universally agreed,²⁰⁵ because it is like speaking, if not worse. Such laughter indicates total disrespect and is totally inconsistent with prayer and the need to show humiliation before Allah, who commands us: ‘Stand up before Allah in devout obedience’ (2: 238). A mere smile, however, does not invalidate prayer, as reported by Ibn al-Mundhir and others.

²⁰⁴ Al-Bahuti, *Kashshaf al-Qina* [, vol. 1, p. 465.

²⁰⁵ Ibn al-Mundhir, *Al-Ijma* [, p. 40.



3. Deliberate normal speech for any purpose other than that of the prayer itself.²⁰⁶ Zayd ibn Arqam reports: ‘We used to speak during prayer, with a man talking to the one next to him in the row. Then the order was revealed: “Stand up before Allah in devout obedience” (2: 238). We were commanded to be silent and forbidden to speak.’²⁰⁷ If one is unaware of the prohibition, or is in a state of oblivion and speaks, his prayer is not invalidated.
4. Deliberate exposure of one’s *Awrah*.
5. Turning one’s back towards the *qiblah*, because facing the *qiblah* is a condition for the validity of prayer.
6. Contact with impurity: When the worshipper is aware of any contact with impurity, or when he starts the prayer forgetting having had such contact then remembers it during the prayer, and does not immediately remove it, this invalidates prayer.
7. Deliberately omitting an essential duty, whether it is a pillar, an obligatory act or a condition of the prayer without a valid reason.
8. Doing any of several things that are not related to the prayer, such as eating and drinking.
9. Leaning against something without any legitimate reason, because standing up is a condition for the validity of prayer.
10. Deliberately adding a *rukʿn* that involves an action, such as doing more than one bowing or more than two prostrations in one *rakʿah*. Needless to

²⁰⁶ Ibn al-Mundhir reports that this is universally agreed by scholars in *Al-Awsat*, vol. 3, p. 234.

²⁰⁷ Related by al-Bukhari, *hadith* No. 4,534; Muslim, *hadith* No. 539.

say, this alters the form of prayer and as such, the prayer becomes invalid according to the universal view of scholars.

11. Deliberately changing the order of *rukns*, because following the proper order is itself a *rukhn* as we have already noted.
12. Deliberately saying *Assalamu [alaikum* before prayer is finished.
13. Deliberately changing the meaning when reciting *al-Fatihah*, as its recitation is a *rukhn*.

What is reprehensible in prayer:

The following are discouraged in prayer:²⁰⁸

1. Reciting only the first surah, *al-Fatihah*, in the first two *rak [ahs* because this is against the Prophet's (peace be upon him) practice and guidance.
2. Repeating the surah, *al-Fatihah*, in the same *rak [ah*, because this is also against the Prophet's (peace be upon him) practice. However, if one repeats it for a reason, as in the case of someone who has read it mechanically the first time and wanted to reflect on its meaning by reciting it again, then there is no harm, provided this does not lead to obsession.

²⁰⁸ Ibn Qudamah, *Al-Mughni*, vol. 1, p. 495.

3. Turning one's face slightly during prayer, without a reason, is also discouraged. When asked about this, the Prophet (peace be upon him) said: 'This is a time stolen by Satan from a person's prayer.'²⁰⁹ If turning is for a reason, as in the case of someone who starts to have disturbing doubts about his prayer and needs to make the spitting gesture three times to the left during prayer, this is acceptable. In fact the Prophet (peace be upon him) recommended it in such a case. The same applies to a woman who is worried about a young child or a toddler who might be wandering around and she fears that the child might be lost. All this applies to slight turning, but if a person turns with his whole body, or turns his back towards the *qiblah*, then the prayer becomes invalid, unless there is a legitimate reason such as strong fear, etc.
4. Closing one's eyes in prayer, because this would be imitating the worship of the Majians, and it is also said that this is similar to what the Jews do. We, Muslims, are commanded not to be like the unbelievers.
5. Placing one's arms, up to the elbows, on the floor during prostration. The Prophet (peace be upon him) said: 'Let your body be in the right position when you prostrate yourself, and let not any of you place his arms on the floor like a dog does.' It is, therefore, important to lift one's arms above the floor, so as not to take a posture like an animal.
6. Making many movements, because this is contrary to the humble appearance required in prayer.

²⁰⁹ Related by al-Bukhari, *hadith* No. 751.

7. Placing one's hands over one's waist on both sides. Abu Hurayrah said: 'The Prophet (peace be upon him) prohibited that a man puts his hands over his waist on both sides.'²¹⁰
8. Praying without having anything covering a man's shoulders. Also it is disliked to pray while covering one's mouth without a legitimate reason.²¹¹
9. Starting movements before the imam in congregational prayers. The Prophet (peace be upon him) said: 'If anyone lifts his head before the imam, does he not fear that Allah may make his head like the head of an ass or may make him look like an ass?'²¹²
10. Clasp one's fingers together. The Prophet (peace be upon him) told someone who performed the ablution and came to the mosque for prayer that he should not do so,²¹³ and it stands to reason that it is even worse in prayer.
11. Fold one's hair or clothes. Ibn [Abbas reports: 'The Prophet (peace be upon him) was commanded to place seven bones on the floor in prostration and not to fold his clothes or hair.' This means one shouldn't fold his sleeves or clothes for prayer but rather leave it loose to bow and prostrate with him and also not to gather the hair if it is long in a bun for example for prayer.

²¹⁰ Related by al-Bukhari, *hadith* No. 1,220; Muslim, *hadith* No. 545.

²¹¹ Related by Abu Dawud, *hadith* No. 643; al-Tirmidhi, *hadith* No. 378; Ibn Majah, *hadith* No. 966.

²¹² Related by al-Bukhari, *hadith* No. 691; Muslim, *hadith* No. 427.

²¹³ Related by Abu Dawud, *hadith* No. 562; al-Tirmidhi, *hadith* No. 386.

12. Praying when food is present or when one has the urge to go to the toilet. The Prophet (peace be upon him) says: ‘Prayer is not preferred when food is around or when one feels the urge to go to the toilet.’²¹⁴ Praying is discouraged when food is around only if one is hungry and wants to eat and can have it.
13. Raising one’s eyes to the sky. The Prophet (peace be upon him) says: ‘Those people who lift their eyes to the sky in prayer should stop, or their sights might not be safe.’²¹⁵

Congregational prayer: its importance and status

Muslims are agreed that offering the five obligatory prayers in mosques is one of the best acts undertaken in obedience to Allah. Allah has given the Muslim community the opportunity to meet at certain times, such as the five daily prayers, the Friday prayer, the prayer on the two Eid days, and the prayer when there is an eclipse. These are great meetings and they serve the interests of the Muslim community, as people meet and discuss their affairs, as well as the affairs of other Muslim communities. Allah says: ‘O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted.’ (49: 13).

²¹⁴ Related by Muslim, *hadith* No. 560.

²¹⁵ Related by Muslim, *hadith* No. 429.



The Prophet (peace be upon him) instructed the Muslims to attend congregational prayers at all time, explaining that it earns much greater reward. He says: ‘Prayer in a congregation is 27 grades better than praying alone.’²¹⁶ He also said: ‘When a person prays in congregation his prayer gives him a reward which is 25 times the reward of his prayer at home or at his place in the market. This is so because when he performs the ablution at home, then goes out to the mosque for no reason other than attending the prayer, he is given a grade and forgiven a sin for every step he makes. When he is actually engaged in prayer, the angels bless him as long as he is at his place of worship.’²¹⁷

Status: Congregational prayer is a duty for Muslim men, and this is clear in both the Qur’an and the Sunnah. Allah says in the Qur’an: ‘When you are with the believers and about to lead them in prayer, let one group of them stand up with you’ (4: 102). The formula, ‘let a group of them stand [in prayer] with you’ is expressed in the Arabic text in the imperative form, and this form clearly indicates obligation. It is true that this verse refers to a situation when the Muslim community is in a state of fear, as in a situation where an enemy force may attack them. Needless to say, the order applies even more clearly in a state of peace.

The evidence from the Sunnah is found in the *hadith* reported by Abu Hurayrah: ‘Allah’s messenger said: “The prayers found

²¹⁶ Related by al-Bukhari, *hadith* Nos. 645 and 646; Muslim, *hadith* No. 650.

²¹⁷ Related by al-Bukhari, *hadith* No. 647.



too hard by the hypocrites are [Isha' and Fajr. Had they known how much goodness they bring, they would have come crawling to join them, even though they would have to crawl. I have even thought of ordering the prayer to be held and ordering one of you to lead the prayer, then I would go with some men carrying bundles of firewood. We would go to some people who abstain from coming to prayer and I would burn their homes.”²¹⁸ The *hadith* clearly indicates that the congregational prayer is a duty, because: 1) the Prophet (peace be upon him) described those who do not attend it as ‘hypocrites’, but a person who does not perform a Sunnah, or a recommended practice, is never considered hypocrite. This means that they have abstained from a duty. 2) The Prophet (peace be upon him) said that he had thought of punishing them severely for staying away from the congregational prayer. Punishment is only inflicted for failing to do a duty. What stopped him from acting on this idea was that punishment by fire is only inflicted by Allah. Some scholars also say what stopped him from punishing them in this way was the fact that there were women and children in those homes, and these are not required to attend congregational prayers.

Another report mentions that a blind man asked the Prophet’s (peace be upon him) permission to offer his prayers at home. The Prophet (peace be upon him) asked him whether he could hear the *adhan* when he was at home. He affirmed that he could. The Prophet (peace be upon him) said: ‘You have to

²¹⁸ Related by al-Bukhari, *hadith* No. 644; Muslim, *hadith* No. 651.



respond. I cannot find any excuse for you.’²¹⁹ The Prophet (peace be upon him) also said: ‘Whoever hears the call must respond; his prayer away (from the mosque) is invalid unless he has a good reason.’²²⁰ Ibn Mas[ud said: ‘There we were, and only a person who was well known as a hypocrite would stay away (from the congregational prayers).’²²¹

Congregational prayer is a duty that is applicable to men, but not to women or children who have not yet attained puberty. In reference to women, the Prophet (peace be upon him) said: ‘Their homes are better for them.’²²² However, there is no reason to prevent women from attending congregational prayers at the mosque, provided they go out properly dressed, fearing nothing. It is correct to say that attending congregational prayers at the mosque is binding on those to whom it applies. For a person who does not attend the congregational prayer, choosing instead to offer his prayers alone, his prayer is valid but he incurs the sin of failing to do a duty if he were in the vicinity of a masjid.

The person to lead the congregational prayer in the mosque is the regular imam, or the one who knows the Qur’an best. It is acceptable that a young person or a blind man should lead the prayer. It is permissible for a person offering an obligatory prayer to lead another offering a voluntary prayer, or the reverse. Likewise, a traveller may lead the prayer, with

²¹⁹ Related by Muslim, *hadith* No. 653.

²²⁰ Related by Abu Dawud, *hadith* 551; Ibn Majah, *hadith* No. 793; al-Hakim, vol. 1, p. 245.

²²¹ Related by Muslim, *hadith* No. 654.

²²² Related by Abu Dawud, *hadith* No. 567; Ahmad, *hadith* No. 2/76; al-Hakim, vol. 1, p. 209.



residents behind him, or a resident leads with travellers behind him. A person who performed the normal ablution may lead the one who had only dry ablution, or the reverse. An imam may lead the prayer even when there are in the congregation one or more people who are better qualified to lead it.

It is preferable when there is a group of women offering a prayer that one of them should lead the prayer. [A'ishah used to lead a group of women in prayer, standing among them in the first row. Umm Salamah also used to do the same. The Prophet (peace be upon him) appointed Waraqah to do the *adhan* for her, and ordered her to lead the members of her household in obligatory prayers. However, if a man leads the prayer when there are only women in the congregation, this is acceptable.

Friday prayer

Friday prayer is obligatory to every male, as Allah says: 'Believers! When the call to prayer is made on Friday, go straightaway to the prayer and leave off your trading. This is best for you, if you but knew it' (62: 9). The Prophet (peace be upon him) says: 'Attending Friday prayers is obligatory to everyone who has attained puberty.' He also said: 'Some people shall cease to absent themselves from Friday prayer, or else Allah will seal their hearts and they would then be counted among those who are oblivious.'²²³ Al-Nawawi said: 'This

²²³ Related by Muslim, *hadith* No. 865.



hadith makes clear that Friday prayer is obligatory to every individual (male) Muslim.²²⁴ As the Prophet (peace be upon him) says: ‘Friday prayer is a duty binding on every Muslim...’²²⁵

On whom it is binding

Friday prayer is a duty binding on every Muslim male who is free, sane, having attained puberty and is present in the area where he resides. This means that a person to whom any of these does not apply is exempt from Friday prayer. The Prophet (peace be upon him) says: ‘Friday prayer with a congregation is a duty binding on every Muslim, except four: a slave, a woman, a child or an ill person.’ It is not binding on a person who is travelling because the Prophet (peace be upon him) did not offer Friday prayer on any of his travels. When he offered the pilgrimage, it happened that the day of attendance at Arafat was a Friday, but the Prophet (peace be upon him) did not offer Friday prayer then. He offered *Thuhur* and combined it with [Asr. A traveller who finds himself in a town where Friday prayer is offered should offer it with the Muslim community. Moreover, if a slave, a woman, a child, an ill person or a traveller attends it, it is acceptable and replaces *Thuhur* prayer.

²²⁴ Al-Nawawi, *Sharh Sahih Muslim*, vol. 6, p. 152.

²²⁵ Related by Abu Dawud, *hadith* No. 1,067; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 5,578.

Timing

Friday prayer is offered at the same time as Thuhur prayer, i.e. just after the sun has started to move down at midday, up until the shade of any object is equal to its height. Anas reports; ‘The Prophet (peace be upon him) used to offer Friday prayer when the sun had started to go down.’²²⁶ This is what is reported to have been done by the Prophet’s (peace be upon him) Companions.²²⁷ It was also reported that the Prophet (peace be upon him) used to pray it before that. Some scholars say that it is permissible to pray it about half an hour before thuhur time when needed.

The sermon

Giving a sermon is a *rukʿn* of Friday prayer, and it is invalid without it, because the Prophet (peace be upon him) did it all the time, never omitting it. It is of two parts that must be completed before the prayer.²²⁸ The Imam must praise Allah, say the testimony of Tawheed and salutation and to recite at least one ayah.

What is recommended in respect of the sermon:

It is recommended to include in the sermon, or *khutbah*, a supplication for the Muslim community praying to Allah to grant them what gives them a happy life in this world and in the

²²⁶ Related by al-Bukhari, *hadith* No. 904.

²²⁷ Ibn Hajar, *Fath al-Bari*, vol. 2, p. 450.

²²⁸ Ibn Qudamah, *Al-Mughni*, vol. 2, p. 294.



life to come, and to pray to rulers to be God-fearing and guided towards what benefits their communities. This is following the Prophet's (peace be upon him) practice, because 'the Prophet (peace be upon him) used to supplicate when he gave the *khutbah* on Friday, and as he supplicated, he would point out with his finger.'²²⁹ It is also recommended that one person gives both parts of the *khutbah* and leads the prayer, raising his voice, and standing up when giving the *khutbah*. Allah mentions that the Prophet (peace be upon him) gave the *khutbah* standing up: 'When people see some trade or entertainment, they head off towards it, leaving you standing there' (62: 11).

Jabir ibn Samurah reported: 'Allah's messenger used to give the *khutbah* standing up, then he sat down, then stood up and continued the *khutbah*. If anyone tells you that he gave the *khutbah* seated, he does not tell you the truth.'²³⁰ It is recommended that the imam should stand on a pulpit or at a high spot so that people could hear and see him better. He is recommended to sit down briefly between the two parts of the *khutbah*, as [Abdullah ibn [Umar said: 'The Prophet (peace be upon him) used to give two *khutbahs* standing up, separating them by sitting down.'²³¹

It is also recommended that both *khutbahs* should be short, and the second should be shorter than the first. [Ammar quotes the

²²⁹ Related by Muslim, *hadith* No. 874.

²³⁰ Related by Muslim, *hadith* No. 862.

²³¹ Related by al-Bukhari, *hadith* No. 928; Muslim, *hadith* No. 861; al-Daraqutni, *hadith* No. 160.



Prophet (peace be upon him) as saying: ‘When a man makes his prayer long and his *khutbah* short, he demonstrates his good understanding. Therefore, make your prayer long and your *khutbah* short.’²³²

It is also recommended that the imam should offer the greeting of *salam* to the congregation when he stands on the pulpit facing them. Jabir reports: ‘When the Prophet (peace be upon him) stood up on the pulpit, he would offer the *salam* greeting.’²³³ He is also recommended to sit on the pulpit until the *adhan* is completed. Ibn [Umar reported: ‘The Prophet (peace be upon him) used to give two *khutbahs*, he would sit on the pulpit until the call for prayer is finished, then he would stand up and give the *khutbah*.’²³⁴

What is forbidden in Friday prayer

When the imam is giving the *khutbah* it is forbidden for people in the congregation to talk. The Prophet (peace be upon him) says: ‘Whoever talks on Friday when the imam is giving the *khutbah* is like an ass carrying books...’²³⁵ He also says: ‘If on Friday when the imam is delivering the *khutbah* you say to your friend, “listen”, then you have said what is unacceptable.’²³⁶

²³² Related by Muslim, *hadith* No. 869.

²³³ Related by Ibn Majah, *hadith* No. 1,109.

²³⁴ Related by Abu Dawud, *hadith* No. 1,092.

²³⁵ Related by Ahmad, *hadith* No. 2,033; al-Tabarani in *Al-Mu [jam al-Kabir*, *hadith* No. 12,563.

²³⁶ Related by al-Bukhari, *hadith* No. 394; Muslim, *hadith* No. 851.

It is also forbidden to walk forward, stepping over people's shoulders as they sit to listen to the *khutbah*, in order to reach a place in front. The Prophet (peace be upon him) said to someone who did just that: 'Sit down. You have hurt people and caused them inconvenience.'²³⁷ Needless to say, to do so hurts people and diverts their attention from listening to the *khutbah*. Only the imam may do so if he cannot otherwise reach his place. It is also reprehensible to separate two people and sit between them. The Prophet (peace be upon him) says: 'Whoever takes a bath on Friday [...] then he goes to the mosque, without separating between two people and he offers his obligatory prayer [...], he is forgiven whatever he might have done in between the (last) two Fridays.'²³⁸

Minimum requirements

If one arrives at the mosque with the Friday prayer already in progress, he is deemed to have joined the prayer correctly if he joins completing at least the second *rak'ah*. He will need then to add another *rak'ah* after the imam has finished. Abu Hurayrah quotes the Prophet (peace be upon him) as saying: 'Whoever completes one *rak'ah* of Friday prayer (with the imam) is considered as having offered this prayer.'²³⁹ If he prays with the imam less than one *rak'ah*, he completes his prayer as *Thuhur* prayer, i.e. 4- *rak'ahs*.

²³⁷ Related by Ahmad, *hadith* No. 17,674; Abu Dawud, *hadith* No. 1,118; al-Nassa'i, *hadith* No. 1,399; Ibn Majah, *hadith* No. 1,115; al-Hakim, *hadith* No. 424.

²³⁸ Related by al-Bukhari, *hadith* No. 910.

²³⁹ Related by al-Nassa'i, *hadith* No. 1,425; Ibn Khuzaymah, *hadith* No. 1,850; al-Tabarani in *Musnad al-Shamiyyin*, *hadith* No. 2,885; al-Daraqutni, *hadith* No. 1,596.



Form

Friday prayer consists of two *rak [ahs* with the imam reciting the Qur'an aloud in both. The Prophet (peace be upon him) did that, and what he did is part of his Sunnah. This is universally agreed by scholars.²⁴⁰ It is recommended that the imam recites Surah 62, *al-Jumu[ah*, after *al-Fatihah* in the first *rak [ah*, and Surah 63, The Hypocrites, in the second,²⁴¹ or Surahs 87 and 88, because the Prophet (peace be upon him) did that.²⁴²

Recommended in Friday prayer

1. It is recommended, i.e. a Sunnah, to go to the mosque early to earn great reward. Abu Hurayrah reports that the Prophet (peace be upon him) said: 'Whoever takes a bath on Friday, just like the one to remove ceremonial impurity, and goes to the mosque very early is like one who offers a camel (for charity); and whoever goes in the second hour is like one who offers a cow; and the one who goes in the third hour is like one who offers a horned ram; and whoever goes in the fourth hour is like one offering a chicken; while the one going in the fifth hour is like one offering an egg. Then when the imam starts, the angels attend to listen to Allah's praises.'²⁴³ The Prophet (peace be upon him) also says: 'Whoever cleans himself and

²⁴⁰ Al-Bahuti, *Kashshaf al-Qina[*, vol. 2, p. 41.

²⁴¹ Related by Muslim, *hadith* No. 879.

²⁴² Related by Muslim, *hadith* No. 878.

²⁴³ Related by al-Bukhari, *hadith* No. 881; Muslim, *hadith* No. 850.

takes a bath on Friday, goes to the mosque really early, walking rather than riding, gets close to the imam, listens and says nothing frivolous, will have for every step he makes, the reward of a whole year, fasting the day and worshipping at night.’²⁴⁴

2. It is also a Sunnah that one should take a bath on Friday, as noted in the *hadith* quoted earlier and reported by Abu Hurayrah. In fact, everyone should be keen to take a bath on Friday, particularly if one is known to have an unpleasant smell. Some scholars consider it a duty, because of a *hadith* reported by Abu Sa[‘id al-Khudri, quoting the Prophet (peace be upon him): ‘A bath on Friday is a duty for every Muslim who has attained puberty.’²⁴⁵ However, the most authentic opinion is that it is highly recommended.
3. Furthermore, it is strongly recommended to wear perfume and take care of one’s cleanliness, removing whatever needs to be removed of one’s body, such as clipping one’s nails. This is more than taking a bath, as it involves removing bad smells and their causes, such as removing any hair that is recommended to be shaved, such as pubic hair, armpit hair, trimming one’s moustache. Though there is no authentic hadeeth recommending this, there are a lot of evidences stating that the companions and the scholars of different schools of thought recommended it.

²⁴⁴ Related by Ahmad, *hadith* No. 16,172; Abu Dawud, *hadith* No. 345; al-Tirmidhi, *hadith* No. 496; al-Nassa’i, *hadith* No. 1,384; Ibn Majah, *hadith* No. 1,087.

²⁴⁵ Related by al-Bukhari, *hadith* No. 879; Muslim, *hadith* No. 846.

4. It is recommended also to wear some of one's best clothes. Ibn [Umar reports: '[Umar ibn al-Khattab saw a fine suit near the door of the mosque, and said: "Allah's messenger, you may wish to buy this suit and wear it on Fridays and to receive delegations when they come."]' Al-Bukhari considers this report to indicate the preferability of wearing one's best clothes for Friday prayer. Hence, he enters it in his anthology under the heading: 'Wearing one's best clothes.' Ibn Hajar said: 'This *hadith* is treated as evidence supporting the idea of wearing good clothes for Friday prayer because the Prophet (peace be upon him) approved [Umar's idea of maintaining good appearance on Fridays. Moreover, the Prophet (peace be upon him) says, "Anyone of you will do well to buy two garments to use on Fridays instead of the two he wears for attending to his work."'²⁴⁶
5. It is also a Sunnah to pray to Allah to grant our Prophet (peace be upon him) praise and peace on the preceding night of a Friday and during the daytime, as he told us to do so.²⁴⁷
6. Another Sunnah is to recite in the Fajr prayer Surahs 32 and 76, as the Prophet (peace be upon him) frequently did so, and to recite Surah 18, during the day. The Prophet (peace be upon him) says: 'Whoever recites Surah 18, The Cave, on Friday will have a column of light rising from underneath his feet to the sky, giving him light on the Day

²⁴⁶ Related by Abu Dawud, *hadith* No. 1,078; Ibn Majah, *hadith* No. 1,095; al-Tabarani in *Al-Mu'jam al-Kabir*, *hadith* No. 373.

²⁴⁷ Related by Ibn Majah, *hadith* No. 1,637; al-Hakim, vol. 2, p. 457.

of Judgement, and will be forgiven what he does in between the last two Friday prayers.²⁴⁸

7. When one enters the mosque on Friday or any other time, he is instructed not to sit down until he has offered a prayer of two *rak'ahs* in greeting to the mosque, because the Prophet (peace be upon him) ordered this.²⁴⁹ If the imam is giving his speech, the entrant is advised to make his two *rak'ahs* short.
8. Another Sunnah is frequent supplication on Friday, hoping to make his supplication at the time when prayers are answered. The Prophet (peace be upon him) says: 'In every Friday, there is an hour in which any Muslim who happens to be standing up in prayer at that time, and prays to Allah for anything, Allah will certainly grant it to him (or her).'²⁵⁰

The Eid prayer

Muslims have two Eids a year. The Eid is an occasion of pleasure and happiness, and each of the two Eids has a religious significance. The first, Eid al-Fitr, occurs when Muslims have finished fasting the month of Ramadan, while the second, Eid al-Adha, signals the end of the first 10 days of the lunar month, Dhul-Hijjah.

²⁴⁸ Related by al-Nassa'i in *Al-Sunan al-Kubra*, *hadith* No. 10,722; al-Hakim, vol. 2, p. 399.

²⁴⁹ Related by al-Bukhari, *hadith* No. 930; Muslim, *hadith* No. 875.

²⁵⁰ Related by al-Bukhari, *hadith* No. 935; Muslim, *hadith* No. 852.

Ruling: The Eid prayer is a collective duty, which means that when some Muslims offer it, the rest are not accountable for their omission. If no one offers it, then all share in the sin. This is because it is one of the clearest manifestations of the Islamic identity of the community. Moreover, the Prophet (peace be upon him) always did it, as did his Companions after he had passed away. The Prophet (peace be upon him) even ordered that women who were in their periods, and were as a result exempt from prayer, to attend it, but were not to take part in the prayer itself. They attend to share in its blessings and in the joy of the community, which clearly indicates its importance. If the Prophet (peace be upon him) ordered women who were exempt from prayer to attend, then its attendance is more strongly incumbent on men. In fact some scholars consider it mandatory on all men.

Many scholars, however, are of the view that it is a confirmed Sunnah, i.e. highly recommended, as the Prophet (peace be upon him) offered it regularly and ordered men and women to attend it.

Conditions: The most important conditions are that it should be offered in time, the presence of the required number of people and residence. This means that it is invalid if offered before it falls due, or if attended by less than three people. Moreover, it is not required of a person who is travelling.²⁵¹

²⁵¹ Al-Bahuti, *Kashshaf al-Qina* [, vol. 2, p. 56.

Place: It is recommended to offer the Eid prayer in an open space away from residential buildings. Abu Sa[ʿid al-Khudri reports: ‘The Prophet (peace be upon him) used to go out to pray the Eid prayer of al-Fitr and al-Adha in the open space.’²⁵² Apparently this he did in order to publicize this Islamic tradition. It is permissible to offer it in a large mosque when there is need for that, such as rain, strong winds or other severe weather conditions.²⁵³

Time: The Eid prayer becomes due at the time when the Sunnah prayer known as Duha is due, which means it starts when the sun has risen in the sky about one spear’s length. This is when the Prophet (peace be upon him) and his successors used to offer it, and prior to the sun being at that height, prayer is discouraged.²⁵⁴ It is recommended to start the Eid al-Adha prayer at the beginning of its time range and to delay the Eid al-Fitr prayer because the Prophet (peace be upon him) did that. People need to attend to their sacrifice after the prayer at Eid al-Adha, while the delay in Eid al-Fitr prayer helps a person who has not yet paid Zakat al-Fitr to pay it, as it must be paid up to immediately before the prayer.²⁵⁵

Description and recitation

The Eid prayer consists of two *rak[ahs]*, similar to the Friday prayer.

²⁵² Related by al-Bukhari, *hadith* No. 956; Muslim, *hadith* No. 889.

²⁵³ Al-Bahuti, *Kashshaf al-Qina[ʿ]*, vol. 2, p. 59.

²⁵⁴ Ibn Qudamah, *Al-Mughni*, vol. 2, pp. 232–3.

²⁵⁵ Al-Zuhaili, *al-Fiqh al-Islami*, vol. 2, p. 1,391.



In the first *rak'ah* and after the takbeer (glorification), *Allah-u akbar*, and the opening supplication, the same glorification of takbeer is repeated seven more times, after that, *al-Fatiha* and another surah are recited. In the second *rak'ah*, the same takbeer is repeated five times, other than the takbeer for standing up from sujood before reciting *al-Fatihah*. This is based on the *hadith* reported by [A']ishah: 'Allah's messenger used to say *Allah-u akbar* in the Eid prayers of al-Fitr and al-Adha seven times in the first *rak'ah* and five in the second.'²⁵⁶ With each takbeer, it is recommended that one raise his hands, because the Prophet (peace be upon him) did that.²⁵⁷ Then the imam says silently *a'udhu billahi min al-Shaytan al-Rajim* (i.e. 'I seek shelter with Allah against Satan, the accursed.') He then recites the Qur'an aloud, reciting after *al-Fatihah* Surah *Al A'ala* (87) in the first *rak'ah* and Surah *Al Ghashia* (88) in the second, as it is reported by Jabir ibn Samurah that the Prophet (peace be upon him) did that. It is also authentically reported that he read Surah *Qaf* (50) in the first *rak'ah* and Surah *Al Qamar* (54) in the second.²⁵⁸ Therefore, it is good to do this in turn, looking always to make things easier for the congregation.

²⁵⁶ Related by Abu Dawud, *hadith* No. 1,149.

²⁵⁷ Related by Ahmad, *hadith* No. 18,848.

²⁵⁸ Related by Muslim, *hadith* No. 891.

The *Khutbah*

Unlike the Friday prayer, the *khutbah* in the Eid prayer is given after the prayer. Ibn [Umar said: ‘The Prophet (peace be upon him), Abu Bakr and [Umar used to offer the Eid prayer before giving the *khutbah*.’²⁵⁹

If missed

It is not recommended for anyone who misses out on the Eid prayer to offer it after it has finished, because this was not reported as suggested by the Prophet (peace be upon him). Moreover, it is a prayer for which a certain congregation gathers. It must, therefore, be offered in this fashion.

What is recommended:

1. It is a Sunnah, i.e. recommended, that the Eid prayer is organized at an open, well known space, preferably outside the village or town, so that the community can gather and perform this distinctive act of worship. However, if it is offered in mosques for one reason or another, the prayer is still valid.
2. As noted when we referred to its time, it is recommended to start the Eid al-Adha prayer early and to delay the Eid al-Fitr prayer.

²⁵⁹ Related by al-Bukhari, *hadith* No. 963; Muslim, *hadith* No. 888.



3. It is also a Sunnah to eat a few dates before going out to offer the Eid al-Fitr prayer, and not to eat anything on Eid al-Adha until the Eid prayer has finished and one eats from his sacrifice, as the Prophet (peace be upon him) did that on these occasions,²⁶⁰ eating an odd number of dates on Eid al-Fitr.²⁶¹
4. It is a Sunnah also to walk to the place of the prayer, and to start early, soon after finishing the Fajr prayer, so that one can sit at a convenient place near the imam, and to earn the reward for awaiting the prayer.
5. Men are recommended to take a bath before the prayer, wear perfume and put on a fine appearance, wearing some of one's best clothes. Women are the same, but must not wear perfumes or expose their adornment.
6. The imam is recommended to give a comprehensive speech, outlining the main principles of the Islamic faith.
7. It is further recommended to say: *Allahu Akbar, Allahu Akbar, La Ilaha illa Allah, wallahu Akbar Allahu Akbar walillahi Alhamd*. Allah says in the verse outlining the duty of fasting in Ramadan: 'You are, however, required to complete the necessary number of days and to extol and glorify Allah for having guided you aright and to tender your thanks' (2: 185). This takbeer is said from the sunset of the last day of Ramadan until the Imam comes out for Eid prayer, and also from the Fajr prayer on the 9th day of Thul Hijjah till the sunset of the 13th of the same month. It is announced after the Fard prayers. Men say their *Takbeer*

²⁶⁰ Related by al-Tirmidhi, *hadith* No. 542; Ibn Majah, *hadith* No. 1,756.

²⁶¹ Related by al-Bukhari, *hadith* No. 953.

(glorifications) aloud, while women recite them in a low voice, if they are in public.

8. Changing route. It is recommended to change one's route, going to the prayer one way and following a different route on the way back. Jabir reports that the Prophet (peace be upon him) did that on Eid days. It is said that this is done so that both routes will, on the Day of Judgement, testify for us, or that this special act of worship is shown in different areas.

People need to congratulate one another on this occasion, saying to one another: 'May Allah accept your and my good actions.' The Prophet's (peace be upon him) Companions used to do so, showing pleasure to meet other people.

The Prayer for Rain

Offering prayers for rain (salaat al-istisqa') is a Sunnah, as confirmed by saheeh hadeeths and the practice of the early generations of Islam. Ibn Qudaamah said: Prayer for rain is a confirmed Sunnah, proven by the practice of the Messenger of Allah (peace be upon him) and of his successors.²⁶²

Abu Dawood (1165), at-Tirmidhi (558), an-Nasaa'i (1506) and Ibn Maajah (1266) narrated that Is-haaq ibn Abdillah ibn Kinaanah said: al-Waleed ibn 'Uqbah, who was the governor

²⁶² al-Mughni, 2/148

of Madinah, sent me to ask Ibn ‘Abbaas about the prayer of the Messenger of Allah (peace be upon him) for rain (istisqa’). He said: The Messenger of Allah (peace be upon him) went out wearing modest clothes, walking humbly and beseeching Allah, until he reached the prayer place, where he ascended the minbar, but he did not give a khutbah like this khutbah of yours; rather he continued to offer supplication (du‘aa’), beseech Allah and recite takbeer, then he prayed two rak‘ahs as he used to pray at Eid.

Description and recitation

The prayer for rain consists of two *rak[ahs]*, similar to Eid prayer.

In the first *rak[ah]*, and after the takbeer (glorification), *Allah-u akbar*, and the opening supplication, takbeer is repeated seven more times, after that, *al-Fatihah* and another surah are recited. In the second *rak[ah]* the same takbeer is repeated five times other than the takbeer for standing up from sujood before reciting *al-Fatihah*. This is based on the *hadith* reported by [A’ishah: ‘Allah’s messenger used to say *Allah-u akbar* in the Eid prayers of al-Fitr and al-Adha seven times in the first *rak[ah]* and five in the second.’²⁶³ With each takbeer, it is recommended that one raises his hands. Then the imam says silently *a[udhu billahi min al-Shaytan al-Rajim]* (i.e. ‘I seek shelter with Allah against Satan, the accursed.’) He then recites

²⁶³ Related by Abu Dawud, *hadith* No. 1,149.

the Qur'an aloud, reciting after *al-Fatihah* Surah *Al A'ala* (87) in the first *rak'ah* and Surah *Al Ghashia* (88) in the second, as it is reported by Jabir ibn Samurah that the Prophet (peace be upon him) did that. It is also authentically reported that he read Surah *Qaf* (50) in the first *rak'ah* and Surah *Al Qamar* (54) in the second.²⁶⁴ Though this was for Eid prayers but prayer for rain is identical to it. Therefore, it is good to do this in turn, looking always to make things easier for the congregation.

The Prayer of Eclipse

When the sun was eclipsed at the time of the Messenger of Allah (peace be upon him), he commanded someone to call out “*al-salaatu jaami'ah* (congregational prayer is about to begin)”, and he led the people in prayer. Then he addressed them and explained to them the reason for the eclipse, and declared their pre-Islamic beliefs to be null and void. He explained to them what they should do, such as praying and making du'aa' and giving in charity. He said: “The sun and the moon are two of the signs of Allah; they do not become eclipsed for the death or life of anyone. If you see that then call upon Allah and magnify Him, and pray, and give in charity.”²⁶⁵

How it is prayed:

²⁶⁴ Related by Muslim, *hadith* No. 891.

²⁶⁵ Related by an-Nasa'i, Book 16, *hadith* No. 16

Praying it is a communal obligation and it must be prayed in congregation and in the masjid. When the eclipse is visible and can be seen by people, the call is made to gather the Muslims in the mosque. The Imam leads the prayer by offering takbeer, recites the Dua'a in the beginning of the prayer, seeks refuge in Allah from Satan, recites *al-Fatiha* and then recites a long surah after it. He then bows and prolongs his ruku and then stands straight saying: *Sami'a Allahu liman Hamidah, rabana wa lakal Hamd*. He then begins to recite *al-Fatiha* again and another long surah but shorter than the first one. After that, He bows and prolongs his ruku but less than the first one and then stands straight saying: *Sami'a Allahu liman Hamidah rabana wa lakal Hamd* and prolongs his standing position. He then offers two long prostrations and also prolongs his sitting in between the prostrations. After that, he stands up and repeats the same format as the first rak'ah but shorter. He then sits for tashahud and offers Salam.

Time:

The eclipse prayer begins when the eclipse takes place, and should end once it is cleared out. One must not take the predictions of astronomers and pray without seeing it, but rather should only begin prayer once the eclise is visible. While in prayer, the Imam finishes the prayer either by estimating the time or when someone notifies him.

***Janazah* prayer: for a deceased person**

It is very important that everyone should always remember death and the end of one's life in this world, preparing for this eventuality by doing good works, repenting of sin and rectifying injustice, so as to have the right preparation for one's future, eternal life.

It is part of the Sunnah (recommended actions) to visit people who are ill and remind them of the need to repent of sin and to write their wills. When a person is known to be close to death, it is a Sunnah to remind him to say: *La ilaha illa Allah*, (i.e. there is no deity other than Allah), so that it is the last thing he says. He should not be reminded to say it again unless he speaks something else. If it was the last thing he said before dying, he will go to Paradise as our Prophet (peace be upon him) had told us.²⁶⁶ When a person dies, it is recommended to close his eyes and to take steps to prepare him for burial and bury him without delay.

Status: The prayer for a deceased person is a collective duty (*fard kifaayah*), which means that it must be done by some people, and when it is done, those who did not attend it are absolved of the responsibility. The basis of this verdict is the fact that when the body of a deceased person was brought in the mosque, and he had some debt outstanding, the Prophet (peace be upon him) said to his Companions: 'Pray for your brother.'²⁶⁷ Moreover, when the Prophet (peace be upon him)

²⁶⁶ Related by Abu Dawud, Book 21, *hadith* No. 28

²⁶⁷ Related by al-Bukhari, *hadith* No. 2,289; Muslim, *hadith* No. 1,619.

was given the news of the death of the *Negus*, he said to his Companions: ‘A brother of yours has passed away. Stand up and pray for him.’²⁶⁸

Conditions: The conditions for the validity of the *janazah* prayer are the same as the conditions of prayer mentioned earlier, with the exception that it is not time-bound and that the body of the deceased must be present in front of the people offering the prayer. Moreover, both the deceased and the one offering the prayer should be Muslims, and they should both be in a state of purification, even if it be dry ablution when there is need for it.

Essentials: The people offering the prayer for the deceased should stand up, as this is a prayer and standing up is required in all prayers. It consists of four takbeer (glorifications), i.e. *Allah-u akbar*, ‘because the Prophet (peace be upon him) offered it for the *Negus* with four takbeer.’²⁶⁹ Other essentials are reciting *al-Fatihah*, because the *hadith* that mentions that no prayer is valid without reciting *al-Fatihah* applies to all prayers; blessing the Prophet (peace be upon him); supplication for the deceased as the Prophet (peace be upon him) said, ‘When you pray for a deceased person, make your supplication sincere’;²⁷⁰ finishing with *salam*, because the *hadith* that makes *salam* the end of prayer also applies; and doing these essentials in the right order.

²⁶⁸ Related by Muslim, *hadith* No. 952.

²⁶⁹ Related by al-Bukhari, *hadith* No. 1,245; Muslim, *hadith* No. 951.

²⁷⁰ Related by Abu Dawud, *hadith* No. 3,199; Ibn Majah, *hadith* No. 1,497.

Recommended practices

It is recommended to raise the hands with every one of the four takbeer (glorifications); to say *a [udhu billahi min al-Shaytan al-Rajim* before reciting *al-Fatihah*; to include oneself and all Muslims in one's supplication; and to say all this quietly, not audibly.²⁷¹

Time: The time to offer the *janazah* prayer starts after having washed the body of the deceased, wrapped and prepared him or her for burial. If one misses the congregational prayer, he can offer it at the cemetery.

Importance: The Prophet (peace be upon him) said: 'Whoever takes part in a funeral until the *janazah* prayer has been offered shall have a share of the reward, and whoever takes part until the deceased has been buried shall have two shares.' People asked: 'What are these shares?' The Prophet (peace be upon him) said: 'They are like two huge mountains.'²⁷²

How it is done

²⁷¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 114.

²⁷² Related by al-Bukhari, *hadith* No. 1,325; Muslim, *hadith* No. 945.



1. The imam, or the person who is offering the prayer alone, stands close to the head of the deceased male, or near the middle of the body of the deceased female, as Anas reported the Prophet (peace be upon him) did that.
2. He then says *Allah-u akbar* to start the prayer, and follows this with *a [udhu billahi min al-Shaytan al-Rajim*, then recites *al-Fatihah*— silently, even when the prayer is offered at night.
3. Then the imam says the second *Allah-u akbar*, and follows it with sending the Ibrahimic salutation to the Prophet (peace be upon him) as said at the end of every normal prayer.
4. Then he says the third takbeer and follows it with supplications for the deceased. There are supplications said by the Prophet (peace be upon him) on such occasions, such as:
 - a. ‘Our Lord, forgive us all: the living and the dead; the present and the absent; the young and the old; the males and the females. Our Lord, whoever of us You keep alive enable them to live as Muslims, and those of us whose souls You gather let them end their lives as believers.’
 - b. Other supplications for the deceased include: ‘My Lord, forgive him (or her); bestow mercy on him and wipe his sins; bless his place and widen his entrance; wash him with water, snow and hail; clear him of sins as stains are removed from a white robe; place him in a home better than his home, and give him a family better than his family, and a spouse better than his

spouse. Admit him into heaven and shelter him from torment in the grave and punishment in hell.²⁷³

c. If the deceased is a child, the supplication includes: ‘My Lord, make him precede his parents (to Paradise) and a cause to give them great reward.’²⁷⁴

5. Then he says the last *Allahu Akbar* and pauses a little. It is good to add a supplication here, such as: ‘Our Lord, do not deprive us of the reward of this funeral and do not give us a hard trial after him.’²⁷⁵

6. He then finishes with *salam* once only to the right, but if he makes them two *salams*, to the right and left, this is also valid.

If one joins the prayer after it has started, he completes the prayer after the imam has finished. If one misses the prayer before the deceased is buried, one may go to the grave and pray the *janazah* prayer there, as the Prophet (peace be upon him) did when he was informed that the cleaner who used to look after the mosque had died. He went to her grave and prayed there.²⁷⁶

If the deceased is in a different town, one may offer the *janazah* prayer on being informed of his death, even if this happens a month or more later.²⁷⁷ If a woman has a miscarriage, the

²⁷³ Related by Muslim, *hadith* No. 963.

²⁷⁴ Related by [Abd al-Razzaq in *Al-Musannaf*, vol. 3, p. 529, *hadith* No. 6,589.

²⁷⁵ Related by Malik in *Al-Muwatta'*, *hadith* No. 612; [Abd al-Razzaq in *Al-Musannaf*, vol. 3, p. 488, *hadith* No. 6,425.

²⁷⁶ Related by al-Bukhari, *hadith* No. 458; Muslim, *hadith* No. 956.

²⁷⁷ ibn Qudama, *al-Mughni*, 2:323



janazah prayer is offered for the aborted embryo if the pregnancy was more than four months, though some scholars validate the *janazah* prayer for a fetus as young as forty days, based on more than one statement of the Prophet (peace be upon him).²⁷⁸

²⁷⁸ Related by Muslim, Book 46, *hadith* No. 4



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 5: ◆

FASTING



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Chapter 5

Fasting

Linguistically speaking, fasting means abstention from something. In an Islamic context, it means intentional abstention from eating and drinking, as well as all that invalidates fasting, from the break of dawn until sunset with the intention of worshipping Allah.²⁷⁹

The spiritual concept of fasting

1. Fasting is a means of expressing one's gratitude for Allah's blessings. It stops a person from eating, drinking and sex, which are some of Allah's great blessings. To refrain from them for a considerable time is to show one's appreciation of these blessings. An aspect of Allah's grace may be taken for granted, or people may be oblivious to it, until it is denied, and people will then know its importance. They will then recognize Allah's grace and feel grateful for it. To express gratitude for Allah's blessings is a duty that is required logically and from the Islamic viewpoint. Allah refers to it in the verse that imposes the duty of fasting the month of Ramadan, telling us that the fulfilment of this duty is the way 'to tender your thanks' (2: 185).

²⁷⁹ Ibn Qudamah, *Al-Mughni*, vol. 3, p. 84; al-Bahuti, *Kashshaf al-Qina* [, vol. 2, p. 348.

2. Fasting is a means to maintain a God-fearing attitude. When a person abstains from what is lawful in order to please Allah and in fear of His punishment, that person willingly refrains from what is forbidden. This means that fasting leads one to steer away from what Allah has prohibited. Fasting is indeed made a duty for us in order to nurture this feeling of fearing Allah, as He says: ‘Believers, fasting is decreed for you as it was decreed for those before you, so that you may be God-fearing’ (2: 183).
3. Fasting overcomes desire. When man eats a full meal, he thinks of satisfying other desires. When he is hungry, other desires take a secondary place in his interests. The Prophet (peace be upon him) advises young people saying: ‘Young men, whoever of you can afford marriage should get married, because marriage will help him lower his gaze and maintain his chastity. The one who is unable to get married may fast, as fasting provides protection [against sin].’²⁸⁰ This shows that fasting is a means that helps man to refrain from sin.²⁸¹
4. Fasting encourages people to be compassionate and kind to those who are in need. When a person fasts and experiences hunger for a long time he will remember his feelings and he will be more willing to be charitable to people who are poor and in need of help. His kindness to such people will earn him rich reward from Allah.

²⁸⁰ Related by al-Bukhari, *hadith* No. 5,065; Muslim, *hadith* No. 1,400.

²⁸¹ A. al-Kasani, *Bada'i al-Sana'i*, vol. 2, pp. 75–6.

5. Fasting puts the rich and the poor on the same level, as they will all bear the same pain of hunger. This increases one's reward.²⁸²
6. Fasting helps to overcome the temptation presented by Satan, who exploits human desires to lead people away from Allah's path, and such desires are always stronger when one eats and drinks. Safiyyah reports that the Prophet (peace be upon him) said: 'Satan has his way with a human being like his own blood.'²⁸³
7. Fasting serves as spiritual purification, purging one's soul of any negative thoughts or values. Fasting helps man to disregard the fleeting pleasures of this life and to look for the lasting happiness in the life to come.

Conditions: The following conditions must apply for the duty of fasting to be valid:

1. Being a Muslim: Fasting is not valid if it is done by an unbeliever. It is an act of worship, and worship cannot be offered by an unbeliever. When an unbeliever embraces Islam, he or she is not required to fast for previous years.
2. Puberty: Fasting is not required of anyone who has not attained the age when Islamic worship applies, which is the attainment of puberty. The Prophet (peace be upon him) says: 'Three are exempt from duties...'²⁸⁴ One of these is a child until attaining puberty. However, if a child

²⁸² Al-Shawkani, *Fath al-Qadir*, vol. 2, p. 233.

²⁸³ Related by al-Bukhari, *hadith* No. 7,171; Muslim, *hadith* No. 2,174.

²⁸⁴ Related by at-Tirmidhi, Book 17, *hadith* No. 1



below this age understands actions and requirements and fasts, that fast is accepted. Fathers and guardians will do well to encourage such children to fast so as to be familiar with fasting.

3. Sanity: Fasting is not required of an insane or mentally disabled person.
4. Sound health: A person who is ill and cannot fast is not required to fast. However, if he or she fasts, their fast is valid. Allah says: 'He who is ill or on a journey shall fast instead the same number of days later on' (2: 185). When a person who is ill in Ramadan recovers and is back in good health, he should compensate for not fasting during his illness by fasting the same number of days that were missed.
5. Being in one's place of residence: A person who is on a journey is not required to fast. However, if he or she fasts, their fast is valid. Allah says: 'He who is ill or on a journey shall fast instead the same number of days later on' (2: 185). When a person who undertakes a journey in Ramadan, and avails himself of the concession not to fast, is back in his hometown, he should compensate for not fasting during his travel by fasting the same number of days.
6. Women who are in their period or having postnatal bleeding may not fast. In fact, fasting is prohibited for women during the menstrual and postnatal periods. The Prophet (peace be upon him) stated this clearly.²⁸⁵ However, they must fast the same number of days later.

²⁸⁵ Related by al-Bukhari, *hadith* No. 304.



[A'ishah said: 'We used to have these periods and we were ordered to fast in compensation, but no compensation for prayer was required.'²⁸⁶

Essentials: The definition of fasting in Islamic usage makes clear that it has two basic *rukns*. The first is the abstention from anything that invalidates fasting from the break of dawn until sunset. This is based on the Qur'anic verse that includes: 'Eat and drink until you can see the white streak of dawn against the blackness of the night. Then resume the fast till nightfall' (2: 187). The second *rukhn* is that a person intends this abstention as an act of worship. It is intention that distinguishes whether a particular deed is one of worship or an ordinary action. Intention also distinguishes between acts of worship. A fast may be an obligatory worship, as in the case of fasting in Ramadan, or it may be a different fast. This *rukhn* is based on the *hadith* in which the Prophet (peace be upon him) says: 'Actions are but by intention and every person shall have but that which he intended.'²⁸⁷

Status: Allah has given us the binding duty of fasting the month of Ramadan, making it one of the five pillars of the Islamic faith. He says: 'Believers, fasting is decreed for you as it was decreed for those before you, so that you may be God-fearing' (2: 183). He also says: 'The month of Ramadhan [is that] in which was revealed the Qur'an, a guidance for the

²⁸⁶ Related by al-Bukhari, *hadith* No. 321; Muslim, *hadith* No. 335.

²⁸⁷ Related by al-Bukhari, *hadith* No. 1; Muslim, *hadith* No. 1,907.



people and clear proofs of guidance and criterion. So whoever sights [the new moon of] the month, let him fast it.’ (2: 185).

[Abdullah ibn [Umar reports that he heard the Prophet (peace be upon him) say: ‘Islam has been built on five pillars: testifying that there is no deity other than Allah and that Muhammad is the Messenger of Allah (peace be upon him), attending regularly to the prayers, paying the zakat, fasting in Ramadan and making the pilgrimage to the Sacred House if one is able to undertake the journey.’²⁸⁸ Furthermore, Talhah ibn [Ubaydillah reported that a Bedouin with dishevelled hair said to the Prophet (peace be upon him): ‘O Messenger of Allah, tell me what fasting Allah has made obligatory to me.’ The Prophet (peace be upon him) said: ‘The month of Ramadan.’ The man asked: ‘Anything else?’ The Prophet (peace be upon him) said: ‘No, unless you wish to volunteer something...’²⁸⁹

The Muslim community is unanimous that fasting the month of Ramadan is obligatory, and that it is one of the pillars of Islam, essentially known to all Muslims, and that anyone who denies this obligation is an unbeliever or an apostate. This means that the obligation of fasting is confirmed by the Qur’an, the Sunnah and the unanimity of Muslims. Muslims also unanimously agree that anyone who denies it is an unbeliever.²⁹⁰

²⁸⁸ Related by al-Bukhari, *hadith* No. 8; Muslim, *hadith* No. 16.

²⁸⁹ Related by al-Bukhari, *hadith* No. 46; Muslim, *hadith* No. 11.

²⁹⁰ Ibn Qudamah, *Al-Mughni*, vol. 3, p. 84.



Confirmation of the start of Ramadan

As Ramadan is a lunar month, its beginning is determined by the sighting of the new moon. Thus, if someone sights the new moon himself, or confirms its sighting by a Muslim person of integrity, or gets to know of it, the month is deemed to have started. This is implied by the divine order: ‘So whoever sights [the new moon of] the month, let him fast it.’ (2: 185). The Prophet (peace be upon him) says: ‘When you have sighted the new moon, fast.’²⁹¹ Ibn [Umar reports: ‘I told the Prophet (peace be upon him) that I sighted the new moon of Ramadan and he fasted and ordered people to fast.’²⁹²

If the new moon is not sighted, and no Muslim testifies to sighting it, it becomes obligatory to complete the preceding month, Sha[ban 30 days. The beginning of Ramadan can only be confirmed by one of these two ways: the sighting of the new moon or completing the month of Sha[ban 30 days. The Prophet (peace be upon him) says: ‘Begin fasting when you have sighted the new moon and finish your fasting when you have sighted the new moon. If it is too cloudy, you are otherwise unable to sight it, then complete the month of Sha[ban 30 days.’²⁹³ The end of the month of Ramadan is also determined by the sighting of the new moon of Shawwal, with two acceptable Muslims testifying to the fact. If two witnesses do not testify, then Ramadan must be completed 30 days.

²⁹¹ Related by al-Bukhari, *hadith* No. 1,900; Muslim, *hadith* No. 1,080.

²⁹² Related by Abu Dawud, *hadith* No. 2,342; al-Darimi, *hadith* No. 1,733; Ibn Hibban, *hadith* No. 3,447; al-Hakim, vol. 1, p. 585.

²⁹³ Related by al-Bukhari, *hadith* No. 1,909; Muslim, *hadith* No. 1,081



When the intention should be formed

A person who fasts must intend to fast, for the intention is a *rukhn* of fasting, as the Prophet (peace be upon him) says: ‘Actions are but by intention. Every person shall have but that which he has intended.’ In obligatory fasting, such as the fasting in Ramadan, atonement for some misdeed, compensatory fasting or pledged fasting, the intention should be formed during the night, before the break of dawn even by seconds. The Prophet (peace be upon him) says: ‘A person who has not intended to fast before dawn renders his fast invalid.’²⁹⁴ If during the day, having not eaten or drunk anything since dawn, a person forms the intention to fast that day, it will be acceptable only if that fasting is voluntary. [A’ishah reports: ‘The Prophet (peace be upon him) came in one day and asked: “Have you got anything (to eat)?” We said: “No.” He said: “Then, I am fasting.”’²⁹⁵ On the other hand, obligatory fasting cannot be started with an intention formed during the day. The intention in obligatory fasting must be formed during the night, before dawn. It is sufficient to form the intention on the start of Ramadan for the whole month providing he doesn’t miss a day in between.

²⁹⁴ Related by Abu Dawud, *hadith* No. 2,454; al-Tirmidhi, *hadith* No. 733; al-Nassa’i, *hadith* No. 2,331; Ibn Majah, *hadith* No. 1,700; al-Darimi, *hadith* 1,740; al-Daraqutni, *hadith* No. 2,214.

²⁹⁵ Related by Muslim, *hadith* No. 1,154.

Exemptions from fasting

1. Illness and old age: A person who is ill and hopes to recover good health may not fast during the days when he is ill. When he is back in health he must fast the same number of days he did not fast in Ramadan, during the following eleven months. Allah says: '[Fast] on a certain number of days. But whoever of you is ill, or on a journey, shall fast instead the same number of days later on' (2: 184). He also says: 'So whoever sights [the new moon of] the month, let him fast it; and whoever is ill or on a journey - then an equal number of other days. Allah intends for you ease and does not intend for you hardship' (2: 185). The type of illness that gives the exemption from fasting is one which makes fasting hard.

A person suffering a chronic illness with little or no hope of recovery, and one who is permanently unable to fast such as a frail, elderly person, need not fast and are not required to fast later. What they are required to do is to give compensation in the form of feeding a poor person for every day when they did not fast. In the early days of Islam, when fasting was made a duty, Muslims were given the choice of either to fast or to feed one poor person for the day. Thus, Allah made the feeding of a poor person equal to fasting. This remains the case when exemption is permanent. Imam al-Bukhari mentions in his anthology of authentic *hadiths*: 'Al-Hasan and Ibrahim mentioned

[...] that an elderly person who finds fasting too hard may feed a poor person. Anas did that for a year or two when he was too old: he fed a poor person in compensation for every day he could not fast.²⁹⁶ Regarding an elderly man or woman who finds fasting too hard, Ibn [Abbas said: 'Each should feed one poor person in compensation for every day of fasting.'²⁹⁷

Thus, a person who is permanently unable to fast, either because of a chronic illness or being elderly, should compensate for non-fasting by feeding a poor person. Scholars used to estimate that by a measure equal to 1.125 kilogram of wheat, rice, dates or the staple diet of one's town. However, it is better to say that feeding a poor person should be of what one usually feeds his family, as Allah says in regard to the compensation of a broken oath: 'The breaking of an oath must be atoned for by the feeding of 10 needy persons with more or less the same food as you normally give to your own families, or by clothing them, or by the freeing of one slave. He who cannot afford any of these shall fast three days instead' (5: 89). If an ill person fasts, his fasting is valid.

2. Travel: A person on a journey is given the concession that he does not need to fast in Ramadan, but he must compensate for it by fasting the same number of days he did not fast during his travel. Allah says: '[Fasting for] a

²⁹⁶ Al-Bukhari, *Sahih*, vol. 6, p. 25.

²⁹⁷ Related by al-Bukhari, *hadith* No. 4,505.

limited number of days. So whoever among you is ill or on a journey [during them] - then an equal number of days [are to be made up].’ (2: 184). He also says: ‘So whoever sights [the new moon of] the month, let him fast it; and whoever is ill or on a journey - then an equal number of other days.’ (2: 185). Someone asked the Prophet (peace be upon him) about fasting during travel. He answered: ‘If you wish you may fast, and you may not fast if you wish.’²⁹⁸ The Prophet (peace be upon him) started his travel to Makkah fasting, but when he reached al-Kadid he broke his fast, and so did his Companions.²⁹⁹

Exemption from fasting is applicable to travel that covers a distance similar to that which allows shortening prayers.³⁰⁰ This is estimated at about 80 kilometres. Another way of gauging it is according to what Muslims there consider as travelling. Moreover, travel must be for a legitimate purpose. If it is undertaken in order to commit a sinful action, or to dodge fasting, the exemption does not apply.

If a traveller chooses to fast, his fasting is valid. Anas reports: ‘We used to travel with Allah’s messenger, and a fasting person did not press an advantage against one who did not fast, nor did the one who was not fasting claim that he was doing better.’³⁰¹ It is a condition for fasting during travel that fasting should not cause hardship. If the person

²⁹⁸ Related by al-Bukhari, *hadith* No. 1,943; Muslim, *hadith* No. 1,121.

²⁹⁹ Related by al-Bukhari, *hadith* No. 1,944; Muslim, *hadith* No. 1,113.

³⁰⁰ Ibn Qudamah, *Al-Mughni*, vol. 3, p. 34.

³⁰¹ Related by al-Bukhari, *hadith* No. 1,947; Muslim, *hadith* No. 116.

concerned finds fasting too hard or harmful, then it becomes prohibited and sinful to fast during travel. During his travel, the Prophet (peace be upon him) saw a man who was being given covering shade because it was too hot, and people gathered around him. When he was informed that the person was fasting, the Prophet (peace be upon him) said: ‘It is not an act of righteousness to fast when travelling.’³⁰²

3. Menstruation: When a woman is in her menstrual period, or having postnatal bleeding, she must not fast. In fact, if she fasts, her fast is invalid. Abu Sa[īd al-Khudri mentions that the Prophet (peace be upon him) clearly stated that a woman in menstruation may neither pray nor fast. She is required to compensate by fasting later on. [A’ishah said: ‘It happened to us and we were ordered to fast later in compensation, but not to compensate for missed prayers.’]
4. Pregnancy and breastfeeding. A woman who is pregnant or breastfeeding and fears for herself or her child as a result of fasting, may not fast. Anas reported that the Prophet (peace be upon him) said: ‘Allah has reduced a traveller’s prayer by half and exempted him from fasting, and He has exempted pregnant and breastfeeding women from fasting.’³⁰³ Both pregnant and breastfeeding women must compensate for not fasting by fasting a similar

³⁰² Related by al-Bukhari, *hadith* No. 1,946.

³⁰³ Related by Ahmad, *hadith* No. 20,326; al-Tirmidhi, *hadith* No. 715; al-Nassa’i, *hadith* No. 2,274; Ibn Majah, *hadith* No. 1,667.

number of days later on, or they can feed a poor person for each day they do not fast. Ibn [Abbas said: ‘If a breastfeeding or a pregnant woman fears for her child, she does not fast, but she feeds a poor person.’³⁰⁴

Fasting and its effect in life

1. It is a commitment to obeying Allah and, as such, it helps to refrain from sin.
2. It provides good training to tolerate hardship with a cheerful manner.
3. It reminds us of Allah’s favours, as He has given us good food and drink and allowed us sex with our spouses. When we refrain from these during the day, we better appreciate Allah’s blessings.
4. It serves as a reminder of the need of our poor brethren.
5. Man fulfils the meaning of servitude to Allah through fasting.
6. Fasting helps anyone who is addicted to something forbidden to overcome his addiction.

What invalidates fasting:

A fasting person invalidates his fast by any of the following actions:

³⁰⁴ Related by Abu Dawud, *hadith* No. 2,318.



1. Eating or drinking deliberately: Allah says: ‘And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night]. Then resume the fast till nightfall’ (2: 187). Furthermore, anything that takes the place of eating and/or drinking shares the same ruling and invalidates fasting. For example, receiving intravenous fluids takes the place of food and drink, because it nourishes the body the same as food and drink.
2. Sexual intercourse: Whoever has sexual intercourse with his wife when fasting, their fast is invalidated. The person who thus invalidates his fast during Ramadan is required to repent for having committed this sinful action, seek Allah’s forgiveness, fast a day in compensation for this invalidated day and further expiate his wrong by freeing a slave from bondage. If this is unavailable or unaffordable, then the expiation takes the form of fasting two consecutive months. If the offender is unable to fast two months, then he feeds 60 poor people. Abu Hurayrah reports: ‘We were sitting with Allah’s messenger when a man came in and said: “O Messenger of Allah, I am ruined.” The Prophet (peace be upon him) asked him: “What have you done to be ruined?” He said: “I had intercourse with my wife when I was fasting (in Ramadan).” The Prophet (peace be upon him) asked him: “Can you afford to free a slave?” The man said he could not. The Prophet (peace be upon him) asked: “Can you, then, fast two consecutive months?” The man said: “No.” The Prophet (peace be upon him) asked: “Can you feed 60 poor people?” The man again said: “No.” The Prophet

(peace be upon him) waited. Then as we were still with the Prophet (peace be upon him), he was brought a sack of dates. He asked: “Where is the man who asked me earlier?” The man identified himself. The Prophet (peace be upon him) said: “Take this and give it away to charity.” The man said: “Shall I give it to anyone poorer than me, Messenger of Allah? By Allah, there is not in between the two sides of Madinah a household that is poorer than my own family.” The Prophet (peace be upon him) smiled widely, then said: “Feed your family with it.”³⁰⁵

Related to this, fasting is invalidated by deliberate ejaculation, as in the case of masturbation or foreplay leading to ejaculation. All this counts as deliberate arousal and this is contrary to fasting. In such a case, the person who does any of these must compensate by repenting and fasting a day after Ramadan. There is no other expiation required, because such expiation is binding only in the case of the man having sexual intercourse with his wife.

3. Deliberate vomiting: This means deliberately throwing up whatever is in one’s stomach of food or drink. If it happens unintentionally, the fast remains valid. The Prophet (peace be upon him) said: ‘Whoever throws up unintentionally need not compensate for his fast, but the one who throws up deliberately must repeat his fast.’³⁰⁶
4. Cupping: This involves bringing blood out through the skin, rather than the veins. If a fasting person undergoes

³⁰⁵ Related by al-Bukhari, *hadith* No. 1,936; Muslim, *hadith* No. 1,111.

³⁰⁶ Related by [Abdullah ibn Ahmad in *Zawa'id al-Musnad*, *hadith* No. 10,463; Abu Dawud, *hadith* No. 2,380; al-Tirmidhi, *hadith* No. 720; Ibn Majah, *hadith* No. 1,676; al-Nassa'i in *Al-Sunan al-Kubra*, *hadith* No. 3,117.

cupping, he invalidates his fasting, as the Prophet (peace be upon him) says: ‘Both the cupping and the cupped persons break their fast.’³⁰⁷ The person administering the cupping also invalidates his fast if he sucks the blood with his mouth, but if the sucking is done by some tools, then his fast remains valid.

5. Menstruation and postnatal bleeding: When a woman begins her menses, or her postnatal period, her fast is invalidated. She must compensate by fasting later. The Prophet (peace be upon him) said: ‘Is it not true that when she has the period, she neither prays nor fasts?’³⁰⁸
6. Intending to break the fast: Any fasting person who forms the intention of breaking or ending his fast before the time is due invalidates his fast, even though he might not eat or drink. Intention is one of two essentials for the validity of fasting. If it is broken, with the intention to end the fast, the fast is broken.

The Night of Decree and *i [tikaf* in Ramadan

I [tikaf means committing oneself to something; but in Islamic contexts, it refers to the staying in seclusion in a mosque, by a Muslim who knows what he is doing, for the worship of Allah.³⁰⁹

³⁰⁷ Related by Abu Dawud, *hadith* No. 2,367; Ibn Majah, *hadith* No. 1,680; Ibn Khuzaymah, *hadith* No. 1,983.

³⁰⁸ Related by al-Bukhari, Book 30, *hadith* No. 58

³⁰⁹ Al-Bahuti, *Kashshaf al-Qina* [, vol. 2, p. 404; Ibn Qudamah, *Al-Mughni*, vol. 3, p. 183.



Status: This is a recommended action, i.e. Sunnah, and it draws a person closer to Allah, who says in the Qur'an: 'And 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]."' (2: 125). This verse makes clear that it was an approved practice in earlier faiths. Allah also says in the verse explaining rulings applicable to fasting: 'And do not have relations with them (your wives) as long as you are staying for worship in the mosques.' (2: 187). [A'ishah reports that 'the Prophet (peace be upon him) used to spend the last ten days of Ramadan in seclusion in the mosque, until he passed away.'³¹⁰

All Muslims agree that it is an aspect of Islam and that it is a Sunnah which becomes binding only if a man commits himself to it by making a pledge to do it. Thus the fact that *i [tikaf]* is a Sunnah is confirmed by the Qur'an, the *hadith* and the unanimity of scholars.

Islam recommends Muslims to practise this Sunnah and stay in the mosque in the last 10 nights of Ramadan when they should devote more of their time to worship. The Prophet's (peace be upon him) practice in these 10 nights was to devote all his time to worship, staying up every night, eager to be attending to his worship on the Night of Decree which falls in one of these 10 nights. The Night of Decree is a night of great significance, including:

³¹⁰ Related by al-Bukhari, *hadith* No. 2,020; Muslim, *hadith* No. 1,172.



- It is the night when the Qur'an was bestowed. 'Indeed, We sent the Qur'an down during the Night of Decree' (97: 1).
- On this night Allah determines everything that takes place in the year ahead: 'On that night is made distinct every precise matter. [Every] matter [proceeding] from Us. Indeed, We were to send [a messenger]' (44: 4–5). This is a sub-decree, because Allah had determined everything more than 50,000 years before creation. However, on this night Allah determines what happens to His creation during the following year: who will survive and who will die; the saved and the ruined; the happy and the miserable; the powerful and the humiliated. Whatever Allah wishes to happen during the following year is written down on this Night of Power.
- It is a blessed night, as Allah says: 'Indeed, We sent it down during a blessed night.' (44: 3).
- Worship on this night is better rewarded than worship over one thousand months, as Allah says: 'The Night of Decree is better than a thousand months' (97: 3). This means that worship on the Night of Decree is better rewarded than worship for a thousand months without the Night of Decree, which is equal to 83 years and three months.
- The angel Gabriel and other angels descend with blessings, goodness and forgiveness on that night, as Allah has stated: 'On that night, the angels and the Spirit, by their Lord's leave, descend with all His decrees' (97: 4).
- The Night of Decree is a night of peace, as Allah says: 'That night is peace, till the break of dawn' (97: 5). It is a night that is free of evil and harm, when a great deal of

worship and good actions are dedicated to Allah's pleasure. Hence, it is all peace.

- Abu Hurayrah reports that the Prophet (peace be upon him) said: 'Whoever stands in prayer the Night of Decree sincerely dedicating such worship for Allah's pleasure shall be forgiven their past sins.'³¹¹

Values to be observed by fasting people

1. Every Muslim must avoid telling lies, backbiting and cursing at all times, but this is even more strongly required in Ramadan. Abu Hurayrah quotes the Prophet (peace be upon him) as saying: 'If a person does not desist from saying falsehood, or acting on the basis of falsehood, or quarrels, Allah does not need him to abstain from food and drink.'³¹²
2. Desisting from lewdness and foul language, as well as from answering those who use such language. Abu Hurayrah reports that the Prophet (peace be upon him) said: 'Allah says: Fasting is Mine and it is I who give reward for it. Fasting is protection. On a fasting day, do not engage in wickedness or quarrelsome behaviour. If someone abuses or fights him (i.e. a fasting person), let him say: "I am fasting." By Him who holds Muhammad's soul in His hand, the smell of the mouth of a fasting person is better in Allah's sight than the smell of musk. A fasting

³¹¹ Related by al-Bukhari, *hadith* No. 2,014; Muslim, *hadith* No. 760.

³¹² Related by al-Bukhari, *hadith* No. 6,057.



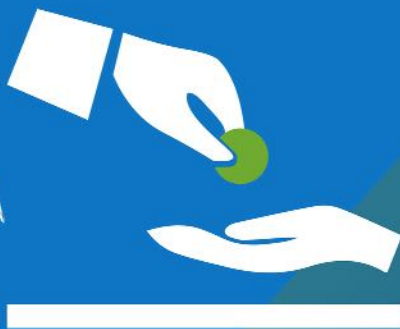
person has two occasions to rejoice: when he breaks his fast he rejoices and when he meets his Lord, he will rejoice for having fasted.’³¹³

3. A Muslim must protect himself and his body against committing any sin at all times, but this is more emphasized in Ramadan. Allah says: ‘Do not pursue that of which you have no knowledge. Man’s ears, eyes and heart shall all be called to account’ (17: 36).

³¹³ Related by al-Bukhari, *hadith* No. 1,904; Muslim, *hadith* No. 1,151.



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 6: ◆

ZAKAT

Chapter 6

Zakat

Definition: Linguistically speaking, the Arabic word *zakat* signifies growth and increase. In Islamic contexts it refers to a duty imposed on money that exceeds a certain threshold, bound by time and is payable to specific groups.³¹⁴

Status: Zakat is an Islamic obligation and one of the five pillars upon which the structure of Islam is built. It is indeed the most important *rukn* of Islam after prayer. Allah says: ‘Attend regularly to your prayers and pay your zakat’ (73: 20). ‘Take a portion of their money as charity, so that you may cleanse and purify them thereby’ (9: 103). The Prophet (peace be upon him) says: ‘Islam has been built on five pillars: testifying that there is no deity other than Allah worthy of being worshipped and that Muhammad is the Messenger of Allah (peace be upon him), attending to the prayers, paying the zakat, making the pilgrimage to the Sacred House, and fasting in Ramadan.’³¹⁵

When the Prophet (peace be upon him) sent his Companion, Mu’adh ibn Jabal as governor of Yemen, he gave him instructions as follows: ‘Call on them to believe and declare that there is no deity other than Allah worthy of being worshipped and that I am Allah’s messenger. If they accept this

³¹⁴ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 121.

³¹⁵ Related by al-Bukhari, *hadith* No. 8; Muslim, *hadith* No. 16.

from you, then inform them that Allah has made it obligatory for them to offer five prayers on every day and night. If they accept this from you, then inform them that Allah has imposed on them a charity duty that will be taken from the rich among them and paid to the poor.’³¹⁶

All Muslims throughout the world agree that it is a binding duty, and the Prophet’s (peace be upon him) Companions agreed to fight those who rebelled against it.³¹⁷

Denying zakat

Anyone who denies the duty of zakat, such a person is considered an apostate, and the rulings of apostasy apply to him.³¹⁸

Withholding zakat

A person who does not pay zakat out of greed, while recognizing that it is obligatory, commits a grave sin but is not considered an unbeliever. Zakat is an aspect of faith, but its non-fulfilment does not take a person out of the faith. In reference to the one who withholds zakat, the Prophet (peace be upon him) said: ‘He will then take his way, either to heaven or to hell.’³¹⁹ The possibility that he may go to heaven means

³¹⁶ Related by al-Bukhari, *hadith* No. 1,395; Muslim, *hadith* No. 19.

³¹⁷ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 122.

³¹⁸ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 122.

³¹⁹ Related by Muslim, *hadith* No. 987.

that he is not an unbeliever. Such a person is liable to punishment and zakat is taken from him by force. If he fights to withhold it, he is fought until he submits to Allah's command and pays his zakat. Allah says: 'Yet if they should repent, establish prayer and pay the zakat, let them go their way. For Allah is Forgiving and Merciful' (9: 5). Abu Bakr said: 'By Allah, if they deny to pay out a young goat, less than a year old, which they used to pay to Allah's messenger, I would fight them for it.'³²⁰

Properties liable to zakat

Zakat is payable on five types of property:

1. Cattle, including camels, cows and sheep: Abu Hurayrah reports that the Prophet (peace be upon him) said: 'Any owner of camels, cows or sheep who does not pay out their dues shall be made to sit at the bottom of Qarqar Valley on the Day of Judgement when the hoofed animals will step over him and the horned ones will hit him with their horns.'³²¹
2. Gold and silver, and what takes their role (such as currency): Allah says in the Qur'an: 'To those who hoard up gold and silver and do not spend them in Allah's cause, give the news of a painful suffering' (9: 34). The Prophet (peace be upon him) says: 'Anyone who owns gold or silver but does not pay out their dues shall come on the

³²⁰ Related by al-Bukhari, *hadith* No. 1,400; Muslim, *hadith* No. 20.

³²¹ Related by Muslim, *hadith* No. 988.



Day of Judgement when plates of fire shall be made ready for him, and they will be heated in hell then his forehead, side and back shall be branded with them. When they cool down, they will be reheated. That day is as long as 50 thousand years.’³²²

3. Commercial goods: These include everything offered for sale for profit. Allah says: ‘Believers, spend on others out of the good things you have earned’ (2: 267). Scholars generally agree that this Qur’anic statement refers to commercial goods.
4. Grains and fruits: Grains include every type of grain that is edible and can be stored, such as wheat, barley, corn, etc. Fruits refer to dates and raisins. Allah says: ‘Believers, spend on others out of the good things you have earned, and out of that which We bring forth for you from the earth’ (2: 267). The Prophet (peace be upon him) says: ‘For whatever is irrigated by rain and springs, or needs no irrigation, a zakat duty of one tenth (i.e. 10%) is payable, and for whatever is irrigated by camels, the zakat duty is half of one tenth (i.e. 5%).’³²³ Under that which is ‘irrigated by camels’ we may include whatever is irrigated by labour and machines. The point of difference is the cost involved in irrigating the second type.
5. Mineral resources and *rikaz*, or what was buried in the ground by people of past generations: The basis of making zakat payable for these resources is the same verse as for fruits and grains: ‘Believers, spend on others out of the

³²² Related by Muslim, *hadith* No. 987.

³²³ Related by al-Bukhari, *hadith* No. 1,483.

good things you have earned, and out of that which We bring forth for you from the earth' (2: 267). The Prophet (peace be upon him) says: 'A duty of one fifth (i.e. 20%) is payable for *rikaz*.'³²⁴ Scholars are generally agreed that zakat is payable for mineral resources.³²⁵

Social effects of zakat

Zakat has very important objectives and yields numerous benefits, such as:

1. Blessing one's money, purging it of stigma and protecting it against negative influences.
2. Removing traces of greed and miserliness from the heart of the zakat payer. It erases his sins and trains him to give generously for Allah's cause.
3. Looking after the poor and the needy and helping the deprived.
4. Spreading an atmosphere of mutual love and care within the Muslim community.
5. Giving thanks to Allah for giving us more than we need for our living.
6. It is a demonstration of true belief in Allah.
7. It earns Allah's pleasure and leads to bestowing more of Allah's grace and blessings.

³²⁴ Related by al-Bukhari, *hadith* No. 1,499; Muslim, *hadith* No. 1,710.

³²⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 24.

Economic benefits of zakat

1. It plays a very important role in the redistribution of wealth and income.
2. It goes a long way in solving the problems of the poor and the needy.
3. It is instrumental in the redistribution of resources among the different areas of investment and consumption.
4. It encourages better productivity and greater consumption.

Conditions: Zakat is a duty incumbent on those who meet the following conditions:

1. Islam: Zakat is not accepted from unbelievers in Islam, because it is a financial worship which brings a Muslim closer to Allah. No worship is acceptable from an unbeliever until he or she embraces Islam. Allah says: ‘What prevents their charity from being accepted from them is that they have disbelieved in Allah and His Messenger’ (9: 54).
2. Freedom: No zakat is taken from slaves.
3. True and settled ownership of the threshold of zakat—in excess of a person’s necessities, such as food, clothes and residence.
4. The turn of a full lunar year after the ownership of the threshold of zakat. The Prophet (peace be upon him) says: ‘No zakat is due on any property until the turn of a

year.’³²⁶ This condition does not apply to agricultural produce, mineral resources or *rikaz*. With regard to agricultural produce, Allah says: ‘Eat of their fruit when they come to fruition, and give (to the poor) what is due to them on harvest day’ (6: 141). Mineral resources and *rikaz* are gained from the ground, and as such the condition of the turn of the year does not apply to it.

Zakat due on loans

If the borrower is facing hardship and cannot repay the debt, the lender pays zakat for the loan once it is repaid. If it had been with the borrower for several years, the lender pays its zakat for one year only. On the other hand, if the loan is given to someone who has money and is able to repay it, its zakat is due on the lender every year, because financial instruments being with someone able to repay them is like its being with the lender.³²⁷

Zakat on gold and silver

Zakat is payable on gold and silver, which were the standard currencies for long periods of history, as Allah says: ‘To those who hoard up gold and silver and do not spend them in Allah’s cause, give the news of a painful suffering’ (9: 34). Needless to

³²⁶ Related by al-Tirmidhi, *hadith* No. 632; Ibn Majah, *hadith* No. 1,792; al-Bayhaqi in *Al-Sunan al-Kubra*, vol. 4, p. 173.

³²⁷ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 126.

say, such warnings are given only in the case of neglecting a duty. As we noted, the Prophet (peace be upon him) says: ‘Anyone who owns gold or silver but does not pay out their dues shall come on the Day of Judgement when plates of fire shall be made ready for him, and they will be heated in hell then his forehead, side and back shall be branded with them. When they cool down, they will be reheated. That day is as long as 50 thousand years, until Allah has judged between His servants.’ Furthermore, scholars are unanimous that if one owns 200 dirhams (i.e. the silver currency), he pays five dirhams annually in zakat, and if one owns 20 weights or dinars (i.e. gold currency) then zakat is payable on that gold.

What is due on gold and silver

The zakat payable on gold and silver is 2.5%, which means that for 20 dinars (a dinar was the gold currency) half a dinar is payable. For any little or great amount above that the same rate of 2.5% applies. Likewise, for 200 dirhams of silver five dirhams are payable, and for any greater amount the same rate applies. The Prophet (peace be upon him) says: ‘On silver the payable zakat is a quarter of one tenth.’³²⁸

Conditions for the zakat obligation to apply

For zakat to be payable on gold and silver, the following conditions must apply:

³²⁸ Related by al-Bukhari, *hadith* No. 1,454.

1. Ownership of the threshold of zakat, which is 20 weights or dinars of gold. The *hadith* reported by [Ali quotes the Prophet (peace be upon him) as saying: ‘...In the case of gold, you have nothing to pay until you own 20 dinars. If you have 20 dinars and you have had it for a year, the duty is to pay half a dinar...’³²⁹ and this threshold is estimated to be equivalent to 85 grams. The threshold for silver is 200 dirhams, as the Prophet (peace be upon him) said: ‘No zakat is due on any amount less than five ounces,’³³⁰ and the ounce is equal to 40 dirhams. Thus the threshold is equivalent to 200 dirhams, which is equivalent now to 595 grams of silver. The Prophet (peace be upon him) says: ‘On silver the payable zakat is a quarter of one tenth. If one has only 199 dirhams, then no duty is payable.’
2. The passing of one lunar year with the gold or silver in possession of a Muslim. If a person has the threshold of gold or silver for less than one year, there is no zakat on it.

Combining gold and silver

The weightier view is that gold and silver are not counted together in calculating the threshold of zakat because they are two different kinds of precious metals. Therefore, they are

³²⁹ Related by Abu Dawud, *hadith* No. 1,573.

³³⁰ Related by Abu Dawud, Book 9, *hadith* No. 3

treated like different kinds of other possessions, such as in the case of camels and cows, or barley and wheat.³³¹

Zakat on jewellery

There is no zakat on jewellery other than gold and silver. This means that there is no zakat on precious stones such as rubies or diamonds, regardless of their market value. Zakat is due only on gold and silver. ‘A woman came to see Allah’s messenger with her daughter, and the girl had two thick gold bracelets. The Prophet (peace be upon him) asked her: “Do you pay zakat for these?” She said: “No.” He said: “Will you be pleased if Allah gives you for them two bracelets made of fire on the Day of Judgement?” She took them off and gave them to the Prophet (peace be upon him).’³³² This *hadith* is definitive on this question and is supported by another *hadith* in authentic anthologies.

Some scholars have discussed at length the difference of opinion among scholars on this issue, arriving at the following conclusions:

1. Zakat is payable on jewellery kept as savings or for investment. The same applies to jewellery kept for personal use if the use is forbidden, such as gold and silver

³³¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 128.

³³² Related by Ahmad, vol. 11, p. 248; Abu Dawud, *hadith* No. 1,563; al-Tirmidhi, *hadith* No. 637; al-Nassa’i, vol. 5, p. 38; al-Bayhaqi, vol. 4, p. 140.

plates and cutlery, or gold jewellery for men, or women's jewellery that is clearly excessive.

2. Zakat is not payable on jewellery kept for permissible use, such as women's jewellery – within reasonable limits – and a man's silver ring, as it cannot grow. Moreover, it is an article of personal need, like one's clothes and furniture.
3. The same applies to permissible jewellery owned by a woman who wears or lends it freely, or is owned by a man for his family's use or who lends it.
4. Jewellery and other gold and silver articles that are liable to zakat pay 2.5% annually in zakat, together with the person's other property, if any.
5. It is a condition for zakat payable on such jewellery that the jewellery is, in itself or together with the person's other zakatable property, above the threshold of zakat, i.e. 85 grams of gold. In arriving at this figure, the value is considered, not the weight, because there is an added value for the manufacture of the jewellery.³³³

Commercial commodities

This refers to everything, of whatever type, a Muslim prepares for trading. It is the largest and most comprehensive type of property liable to zakat. These are kept for business that aims to make profit. Zakat is payable on all such commodities, as the generally phrased Qur'anic statement indicates: 'They would

³³³ Y. al-Qaradawi, *Fiqh al-Zakat*, vol. 1, pp. 323–4.

give a rightful share of their possessions to the one who asks [for help] and the one who is deprived' (51: 19). 'Believers, spend on others out of the good things you have earned' (2: 267). The Prophet (peace be upon him) said to Mu'adh ibn Jabal when he was about to leave to take up his post as governor of Yemen: 'Inform them that Allah has imposed on them a zakat duty that is taken from their wealthy and given to their poor.'³³⁴ Undoubtedly, commercial commodities represent money and are possessions.

Conditions applicable to commercial commodities

1. Their ownership.
2. They should be owned with the intention of trading. If a person inherits and sells what he inherited, there is no zakat on it as he sold it to get rid of it and not to invest it again. If he sold it to reinvest it again, this means he has to begin calculating zakat from the moment his intention changed to trading.
3. Their value should be equivalent to, or more than, the threshold of zakat.
4. The turn of a lunar year over the commercial commodities and their price. Usually, this is marked by the beginning date of such trading. On that particular day, the trader calculates the value of the merchandise in addition to the cash he has and gives 2.5% as zakat.

³³⁴ Related by al-Bukhari, *hadith* No. 1395

Moreover, the five conditions we have mentioned at the beginning of this chapter also apply to commercial commodities. When a year has turned, their value is estimated. If their total value is more than the threshold of zakat, a duty of 2.5% is payable in zakat. In calculating the value of commercial commodities, the purchase price is not taken into account. They should be valued at the time when zakat is payable, i.e. at the turn of a year, because the value of any commercial goods may vary from time to time.

What the earth produces

Zakat is payable on what is produced from the earth, as is clearly stated in the Qur'anic verse: 'Believers, spend on others out of the good things you have earned, and out of that which We bring forth for you from the earth' (2: 267). Zakat becomes due when grains are fully grown, and in other types when they appear to be good and may be eaten. On such produce the condition of the turn of the year does not apply, because Allah says: 'Give (to the poor) what is due to them on harvest day' (6: 141). Zakat is payable on all kinds of produce that are measured by volume and can be stored, such as wheat, barley, corn, rice, dates, raisins etc. It is not due on fruits and vegetables, because the Prophet (peace be upon him) mentioned packing as a criterion and storage, which fits with the general perspective of zakat.³³⁵

³³⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 131.

Fruits, vegetables and other agricultural produce that are prepared for immediate sale are liable to zakat not as products of earth but as commercial goods.

Conditions: Two conditions should be met to make zakat payable for agricultural produce:

1. The produce should be equivalent to, or more than, the threshold, which is five measures defined by the Prophet (peace be upon him). This is equivalent in our present day measures to 612 kilograms of grain. The Prophet (peace be upon him) says: ‘No zakat is due for what is less than five *wisqs*.’³³⁶
2. The owner should own the threshold of zakat at the time when zakat is due.

The amount payable

For agricultural produce that is irrigated without cost, such as that irrigated by rain or natural springs, the zakat duty is 10%, while if irrigation depends on labour and machines, the duty is 5%. This is based on the *hadith* that says: ‘For what is irrigated by rain, rivers and springs, or does not need irrigation, the zakat is one tenth, and for what is irrigated by camels, the zakat is half of one tenth.’³³⁷

Honey

³³⁶ Related by al-Bukhari, *hadith* No. 1,405; Muslim, *hadith* No. 979. A *wisq* is a volume measure estimated to be equal to 122 kilograms.

³³⁷ Related by al-Bukhari, *hadith* No. 1,483; Abu Dawud, *hadith* No. 1,696.



The majority of scholars are of the view that no zakat is payable for honey. This appears to be the case because there is no clear statement in the Qur'an or the Sunnah mentioning it. The rule is that unless there is evidence to state an obligation, then no obligation exists. Imam al-Shafi'i said: 'The *hadith* that mentions that one tenth is levied on honey is poor in authenticity, as is the other report, except for what is mentioned by [Umar ibn [Abd al-[Aziz. My view is that no zakat is payable for honey. There are confirmed reports and *hadiths* stating the types that are liable to zakat, but we have no confirmed report concerning honey. This suggests that it is not required.' Ibn al-Mundhir said: 'There is no report that stands to proper examination concerning the payment of zakat on honey.'³³⁸

Zakat on *rikaz*

Rikaz refers to whatever is found of gold, silver, or anything else that bears the sign of pre-Islamic era which was buried by unbelievers and does not require much labour or great expense to recover. If it requires expense and labour to recover, then it is not *rikaz*.³³⁹ One fifth of it, whatever the quantity, is paid as zakat. The conditions of meeting the threshold of zakat and the turn of the year do not apply to *rikaz*. The Prophet's (peace be

³³⁸ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 132; Sabiq, *Fiqh al-Sunnah*, vol. 1, p. 362.

³³⁹ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 3, p. 1,859.

upon him) *hadith* is very general, as he says: ‘One fifth is due on *rikaz*.’³⁴⁰

Rikaz is used to pay for the national interests of the Muslim community. It may be of any type, not necessarily gold or silver.

Minerals

Minerals refers to everything that comes out of the ground, which is neither of its structure nor a plant, whether liquid like oil, or solid like iron, copper, gold and silver. As we have already noted, minerals are subject to zakat according to the majority of scholars. Their view is based on the fact that statements referring to what the earth yields are general and cover all mineral resources, as mentioned in the Qur’anic verse that says: ‘Believers, spend on others out of the good things you have earned, and out of that which We bring forth for you from the earth’ (2: 267).

Cattle

Cattle includes camels, cows and sheep which also includes goats. Zakat is liable on all these.

Conditions: The following conditions must be met in order for cattle to be liable to zakat:

³⁴⁰ Related by al-Bukhari, *hadith* No. 1,499; Muslim, *hadith* No. 1,710.

1. The threshold of zakat must be met, and the threshold is five camels, 30 cows or 40 sheep. The Prophet (peace be upon him) says: ‘No zakat is payable for less than five camels.’³⁴¹ Mu’adh reports: ‘Allah’s messenger sent me to Yemen to collect their zakat dues. He instructed me to take a one-year-old cow for every 30 cows, and a two-year-old one for every 40.’³⁴² The Prophet (peace be upon him) also said: ‘If a man’s cattle is less than 40 sheep, no zakat is payable for them, unless the owner wishes otherwise.’³⁴³
2. The cattle should meet the threshold and remain for a full year with their owner, as the Prophet (peace be upon him) says: ‘No property is liable to zakat until it has turned a year.’
3. The cattle should graze for most of the year in open fields that grow naturally. The Prophet (peace be upon him) says: ‘On sheep grazing in open fields: one sheep is due for any amount between 40 and 120 sheep.’³⁴⁴ He also says: ‘On naturally grazing camels, a two-year-old she-camel is payable.’³⁴⁵ If the cattle graze for a short period during the year and are fed for most of it, then no zakat is payable for them.
4. The cattle should not be used for purposes like tilling the earth or carrying goods, because such animals are considered to be among man’s essential needs like clothes.

³⁴¹ Related by al-Bukhari, *hadith* No. 1,447; Muslim, *hadith* No. 979.

³⁴² Related by Ahmad, vol. 36, p. 403; Abu Dawud, *hadith* No. 1,576; al-Tirmidhi, *hadith* No. 623.

³⁴³ Related by Al-Bukhari, *hadith* No. 1,454.

³⁴⁴ Ibid.

³⁴⁵ Related by Abu Dawud, *hadith* No. 1,575.



If the animals are hired to other people, the income is liable to zakat at the turn of the year.

The payable duty

For camels: For five camels, a one-year-old sheep or a two-year-old goat is due. For 10 camels two sheep; for 15 camels three sheep and four sheep are due for 20 camels. For any number between 25 and 35 camels a one-year-old she-camel is due. If the owner cannot find such a she-camel, then a two-year-old male camel suffices. If there are between 36 and 45 camels, a two-year-old she-camel is due. For 46-60 camels, a three-year-old she-camel is due. For 61-75 camels, a four-year-old she-camel is due. For 76-90 camels, two 2-year-old she-camels are due, and for 91-120 camels, two 3-year-old she-camels are due. When the number of camels is above 120 the zakat payable is one two-year-old she-camel for every 40 camels or one three-year-old she-camel for every 50.

For cows: A one-year-old cow is due for 30-39 cows, and a two-year-old one is due for 40 cows. When the number of cows is greater, the zakat due is calculated by multiples of these figures: a one-year-old cow for every 30, and a two-year-old cow for every 40.

For sheep: For 40-120 sheep, one sheep is due in zakat; and for 121-200, two sheep become due. For 201-300, three sheep are due. Then one sheep is due in zakat for every one hundred

sheep above 300. The *hadith* detailing these is reported by Anas who quotes the Prophet (peace be upon him): ‘For free grazing sheep, one sheep is due for 40, up to 120 sheep, when they are above 120 then two sheep are due until they reach 200. If they are more than 200, and up to 300, three sheep are due. Above 300, a sheep is due for every one hundred.’

Which animal to give in zakat

Islam requires that what is given in zakat should be of the average quality of the flock or herd owned by a person, and not be of the highest or lowest quality. In animals, the age is very important. An animal that is younger than what is specified is insufficient and deprives the poor of some of what is due to them, and one that is older may be an unfair loss to the owner.

The zakat officer must not take an animal which is ill, defective or old because it does not benefit the poor. On the other hand, he should not take a fat animal that is intended for food, or a pregnant one, or the one that is looking after its calf, or the ram prepared for breeding, or the best looking animal. To take any of these is to be unjust to the owner. The Prophet (peace be upon him) told one of his Companions he sent to collect zakat: ‘Do not touch their best property.’³⁴⁶

Mixing cattle

³⁴⁶ Related by al-Bukhari, *hadith* No. 1,395; Muslim, *hadith* No. 19.



This is done in two ways: mixing individual animals, when the flock is owned by two people, without separating them so as to know which belongs to whom. This happens either through inheritance or through purchase. The other way is mixing by appearance, which means that what belongs to each owner is known, but they are neighbours.

Both ways make the two properties as one. If the total is equal to or above the threshold of zakat, then both owners are liable to zakat. However, if one of them is a non-Muslim, the mixing does not apply. The two properties should share the same pen or sheepfold, grazing area, milking place and have the same stallions. When these conditions are met, the two properties are treated as one. The Prophet (peace be upon him) said: ‘What is separate should not be joined together, and what is joined should not be separated to evade zakat. The two owners of a mixed flock divide what is due equally between them.’³⁴⁷ Mixing may make zakat payable or may waive it altogether. This is applicable to zakat on cattle only.

It is sinful to mix animals in order to dodge zakat. An example of joining the separate properties is the case of three people who each have 40 sheep, making 120 in total. If each of them is to pay his own zakat, each will give one sheep, while if they join their properties together, the zakat due on them all is one sheep. Thus, joining the separated flocks makes the zakat due one sheep instead of three and this is prohibited if it were to avoid zakat.

³⁴⁷ Related by al-Bukhari, *hadith* No. 1,450.

An opposite case is that of two men having 40 sheep. When they are aware of the approach of the zakat officer, they separate their sheep, keeping 20 in one place and 20 in another. Neither flock becomes liable to zakat. This is also prohibited as they are trying to trick Allah to skip paying zakat

Zakat al-Fitr

This zakat is given its name because it becomes due when the month of Ramadan is over. It is not levied on property, but on heads and people.³⁴⁸

Ruling: Zakat al-Fitr is a duty incumbent on every Muslim. Ibn [Umar reports: ‘Allah’s messenger made the Zakat al-Fitr, a *sa'*³⁴⁹ of dates or barley, binding on every Muslim: slave or free, male or female, young or old.’³⁵⁰

Conditions: Zakat al-Fitr is a duty that applies to all Muslims, whether they are young or old, male or female, as clearly stated in the *hadith* quoted above. It is also recommended to be paid for the unborn embryo if the pregnancy is past four months. People in the early period of Islam used to do so, as

³⁴⁸ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 141.

³⁴⁹ This is a measure equal to four times the capacity of an average man’s two cupped hands.

³⁵⁰ Related by al-Bukhari, *hadith* No. 1,503; Muslim, *hadith* No. 984.

authentically reported to have been done by [Uthman and others.

Every Muslim must pay it on his own behalf and on behalf of those whom he is duty bound to support, such as his wife and offspring. In the days of slavery, a master had to pay it for his slave. The Prophet (peace be upon him) said: ‘No zakat is payable on slaves except the Zakat al-Fitr.’³⁵¹ As a duty, Zakat al-Fitr applies to everyone who has more than what he needs for his food and the food of his dependants for the day and the night of the Eid. If one has in excess of that, which is enough to pay this zakat, then one must pay it.³⁵² This means that there are two conditions for this zakat to be payable: 1) Islam. It is not paid by non-Muslims; and 2) having more than one needs for his essential needs for the day and night of the Eid.

Purpose: Zakat al-Fitr is made a duty as a condition to ensure a number of great benefits,³⁵³ such as:

1. It is a spiritual purification for the person who has completed the fasting in Ramadan. He might have slipped on occasions, committing some unintended errors.
2. It enables the poor and the needy to enjoy the Eid without having to ask anyone for food. They share the delight that the Eid brings to all people in the community. Ibn [Abbas said: ‘Allah’s messenger stipulated Zakat al-Fitr as

³⁵¹ Related by Muslim, *hadith* No. 982.

³⁵² Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 141.

³⁵³ Ibn Qudamah, *Al-Mughni*, vol. 3, p. 55; al-Bahuti, *Kashshaf al-Qina* [, vol. 2, p. 287.

purification for the fasting person from any frivolous talk or obscenity and as food for the needy.’³⁵⁴

3. It is a demonstration of gratitude to Allah for enabling us to fast during the month of Ramadan and to offer night worship and do other good works in a totally blessed month.

What and how much

The amount due is four times the fill of a man’s cupped hands of wheat, barley, dates, raisins, dried yogurt, rice, corn, etc. which should be a staple food of one’s community. This is well established in a number of authentic *hadiths*, such as the one quoted above by Ibn [Umar. A group of people may give their Zakat al-Fitr to one person, and one person may give his to a group.

Payment of the price of the food is not an appropriate alternative to giving the food itself, because paying the price is contrary to what the Prophet (peace be upon him) ordered and to the practice of the Prophet’s (peace be upon him) Companions. They used to pay it in kind. Moreover, Zakat al-Fitr is an act of worship required to be fulfilled with food, and it is wrong to give it in any different form.³⁵⁵

³⁵⁴ Related by Abu Dawud, *hadith* No. 1,609; Ibn Majah, *hadith* No. 1,827; al-Hakim, vol. 1, p. 409.

³⁵⁵ Ibn Qudamah, *Al-Mughni*, vol. 3, p. 60.



This is the view of Malik, al-Shafi'i, Ahmad ibn Hanbal, Ibn Hazm and others. The Hanafi school of *Fiqh* and al-Thawri say that it is appropriate to pay the price of the same quantity of food. This is also reported to be the view of Umar ibn al-Aziz and al-Hasan al-Basri.

The scholars have discussed this point at length. Though 'the permissibility of paying Zakat al-Fitr in value, rather than in kind, is indicated in the *hadith* that quotes the Prophet (peace be upon him): "Make them [i.e. the poor] self-sufficient on this day", and this is fulfilled by paying the value as well as by giving food; it is best if possible to follow the Sunnah exactly by giving it as food. While this is easier and more feasible in our present time, particularly in industrial areas where people conduct all their transactions in money, the issue is not one of convenience. In many modern societies, the giving of wheat or dates may not be welcomed as this is not the staple used in their home. It appears that the Prophet (peace be upon him) stated that Zakat al-Fitr is paid in food for two reasons: 1) money was scarce among the Arabs at the time, which made it easier to give their zakat in kind; and 2) the purchase power of money differs from time to time, while a quantity of food meets a certain human need. During the Prophet's (peace be upon him) time, food was easier to give and better for the person in need. If we can do the same without worrying that the food will be unwelcome or otherwise not useful for the person in question, that is certainly best. If we have doubts though, and find that the money will be more useful and welcome to the poor person,



there should be no harm in giving it in value rather than in kind.³⁵⁶

Some scholars of the Hanafi school of *Fiqh* say that it is better to give Zakat al-Fitr in kind at all times, because this complies with the Sunnah. Others give more details, saying that in times of hardship and scarcity of food it is better to pay this zakat in kind, but in times of plenty, paying it in money is better because it is more helpful to the poor.

Time

Zakat al-Fitr becomes due when the sun has set on the last day of Ramadan, because this is what signals the end of the fast. The time to pay it is divided into two parts: the preferable one and the acceptable one. The preferable time is from the break of dawn on the Eid day until shortly before the Eid prayer. This is based on the *hadith* reported by Ibn [Umar: ‘The Prophet (peace be upon him) ordered that the Zakat al-Fitr should be paid out before people go out to offer the Eid prayer.’³⁵⁷ The acceptable time is one or two days before the Eid, as Ibn [Umar and other Companions of the Prophet (peace be upon him) did that.

It may not be delayed until after the Eid prayer has been offered. If it is so delayed, it counts as an ordinary charity, and the person delaying payment is deemed to have committed an

³⁵⁶ Al-Qaradawi, *Fiqh al-Zakat*, vol. 2, p. 960.

³⁵⁷ Related by al-Bukhari, *hadith* No. 1,503; Muslim, *hadith* No. 984.

offence. The Prophet (peace be upon him) said: ‘For whoever pays it before the prayer, it is well and accepted, and for the one who pays it after the prayer, it counts as an ordinary charity.’³⁵⁸ This type of zakat must be given only to the poor and needy.

The beneficiaries of zakat

Zakat is payable only to those who may benefit by it. These are the eight classes named in the following verse: ‘Zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah. And Allah is Knowing and Wise.’ (9: 60). To give more details about these classes:³⁵⁹

1. The poor: A poor person is one who does not have enough to meet his and his dependants’ needs of food, drink, clothes and home. He may have nothing, or may not have enough. He is given what meets his needs for a full year.
2. The needy: A needy person is one who gets half what he needs for living, or even more than half. He is given out of zakat funds what he needs for a year.
3. Administrative workers: This refers to anyone assigned by the Muslim ruler to collect zakat. The ruler gives him what he needs during his travel until he returns, even though he may be rich. This is because such a person devotes his time

³⁵⁸ Related by Abu Dawud, *hadith* No. 1,609; Ibn Majah, *hadith* No. 1,827; al-Hakim, vol. 1, p. 568.

³⁵⁹ Ibn Qudamah, *Al-Mughni*, vol. 3, p. 116.

to this work. The administrative workers include all those who are given the tasks of collecting, recording, safeguarding and distribution of zakat to its rightful beneficiaries.

This certainly applied when Muslim governments undertook the collection and distribution of zakat, however, in modern times most, if not all, Muslim governments have abandoned this duty. However, there are many civil and charitable organizations which have taken on this responsibility and undertake this duty. These may deduct from what they collect of zakat money to pay to their staff, who are employed for this task. However, they may not pay zakat money except for their work in the administration of zakat. If a member of staff works only half of his working hours on zakat duties, while the other half is devoted to other aspects of his employment, he may be paid only half his salary out of zakat funds.

4. Those whose hearts are to be won over: These are people who may be unbelievers and they are given money out of zakat to win their goodwill towards Islam, or they may be Muslims but not very strong in faith, or they are people who have non-Muslim relatives who need to be encouraged to look favourably at Islam, or whose help is needed, etc.
5. The freeing of people in bondage: This refers to Muslim slaves who may be bought to give them their freedom. Their price may be paid out of zakat funds. Alternatively, a slave might have agreed a deal to buy his own freedom,

and he or she is given what helps them to complete the deal and buy their freedom. This enables slaves to be good members of society, able to conduct their own affairs and to serve Allah's cause as best as they can. The same applies to pay ransom to free Muslim captives taken by the enemy.

6. Debtors: This applies to a person who has incurred a debt for a legitimate purpose, whether it is for personal reasons or to help others. Debtors are given from the zakat funds what helps them to repay their debts. If someone incurred a debt to pay for the reconciliation of quarrelling parties, he is helped with zakat funds, even though he may be wealthy.
7. To further Allah's cause: This applies to fighters for Allah's cause who volunteer to join the Muslim army and they have no salary. They are given money from zakat, even though they may not be in need.
8. The traveller in need: This refers to a traveller who is unable to continue his journey to his place of residence. He may not be able to borrow what he needs, so he is given from zakat what he needs for his journey home.

Zakat may not be given to:

1. People in money and those able to earn their living: The Prophet (peace be upon him) said: 'There is no share in zakat for anyone who has plenty or who is able to earn his living.'³⁶⁰ However, a person with sufficient means, or a

³⁶⁰ Related by Ahmad, vol. 5, p. 362; Abu Dawud, *hadith* No. 1,633; al-Nassa'i, vol. 5, p. 99.

rich person, may be given out of zakat if they qualify as zakat administrators or debtors. Likewise, the one who is able to earn one's living may be given zakat money if he is studying full time, provided that he studies either Islamic studies or a discipline needed by the Muslim community. The pursuit of such studies is akin to fighting for Allah's cause. On the other hand if a person is able to earn one's living but does not work in order to devote his time to worship, he may not be given zakat money. Such worship is voluntary and, at best, recommended. Unlike knowledge, worship benefits the worshipper only while knowledge benefits him and others.

2. Offspring, ancestors and wives: These are relatives that a man has a duty to look after. Whatever they need for their living is his responsibility. Therefore, it is not permissible to pay one's zakat to one's parents, grandparents, children, grandchildren or wives. To pay zakat to them reduces his liability towards them or makes them independent. As such, he would be like one paying his zakat to himself. However, it is permissible for a wife to give her zakat to her husband if he is poor, needy or in debt he can't pay off.
3. Unbelievers who do not belong to those whose hearts are to be won over: It is not permissible to pay zakat to unbelievers, as the Prophet (peace be upon him) says: 'It is taken from the rich among them and paid to their poor.' The Prophet (peace be upon him) was referring to the rich among the Muslims and their poor. One of the main objectives of zakat is to make those Muslims who are poor

self-sufficient, and to strengthen the ties of love and brotherhood within the Muslim community..

4. The Prophet's (peace be upon him) descendents: Zakat may not be paid to the Prophet's (peace be upon him) descendents. This is out of respect to the Prophet (peace be upon him) and his household and because they have a portion to be paid to them from the spoils of war as mentioned in 8:41 "And know that anything you obtain of the spoils of war – then indeed, for Allah is one fifth of it and for the Messenger and for [his] near relatives and the orphans, the needy, and the [stranded] traveler". The Prophet (peace be upon him) says: 'Charity is not to be paid to members of Muhammad's household: it is people's dirt.'³⁶¹ Members of the Prophet's (peace be upon him) household are said by some scholars to be the descendants of the clans of Hashim and al-Muttalib. Other scholars limit them to the Hashim clan, which means that zakat may be paid to the descendants of the al-Muttalib clan. This is the weightier view.
5. The slaves freed by members of the Prophet's (peace be upon him) household: The Prophet (peace be upon him) says: 'Charitable donation is not permissible for us; and the slaves that are freed by any people belong to their community.'³⁶²
6. Slaves: Zakat may not be paid to a slave, except one who has made an agreement with his master to buy his own

³⁶¹ Related by Muslim, *hadith* No. 1,072. This is a reference to the fact that zakat is meant to purify people and ensure their forgiveness. As such, it is like the water that washes dirt off people's clothes.

³⁶² Related by Abu Dawud, *hadith* No. 1,650; al-Tirmidhi, *hadith* No. 657; al-Hakim, vol. 1, p. 651.

freedom. He is paid zakat money to help him pay for his freedom.

Anyone who pays zakat to any of these classes, knowing that it is not payable to them, this is considered as a charity and he still has to pay his zakat to those who are worthy of receiving it.³⁶³

It is not necessary to satisfy all eight classes of beneficiaries when distributing the zakat funds. It is perfectly permissible to pay all the zakat funds to one only of these classes. Allah says: ‘If you disclose your charitable expenditures, they are good; but if you conceal them and give them to the poor, it is better for you, and He will remove from you some of your misdeeds [thereby].’ (2: 271). As we have noted, the Prophet (peace be upon him) defined zakat as a donation ‘to be taken from the rich among them and given to their poor.’ Moreover, Qabisah ibn Mukhariq undertook to pay the costs of sorting out a dispute between some of his people. He went to the Prophet (peace be upon him) to request help in this payment. The Prophet (peace be upon him) said to him: ‘Stay with us until we receive some zakat and we will pay it to you.’³⁶⁴ These statements show that the Qur’anic verse stating the classes of beneficiaries of zakat only indicates these who may benefit by zakat, but does not imply that all of them must share it out.³⁶⁵

³⁶³ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 145.

³⁶⁴ Related by Muslim, *hadith* No. 1,044.

³⁶⁵ Al-Bahuti, *Kashshaf al-Qina* [, vol. 2, p. 335.

The transfer of zakat to a different town

It is permissible to transfer zakat from the town of the payer to a near or distant town when this is needed. The distant town may be poorer than the town where the payer lives, or he may have poor relatives in a distant place. To pay one's zakat to one's relatives gives one the advantage of kindness to relatives, which is strongly encouraged by Islam. This is the correct view, because the verse defining the eight classes of beneficiaries is general in its import: 'Zakah expenditures are only for the poor and for the needy' (9: 60). This means that it is payable to the poor and the needy wherever they happen to be.³⁶⁶

³⁶⁶ Ibn Qudamah, *Al-Mughni*, vol. 2, p. 671.



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 7: ◆

THE PILGRIMAGE



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Chapter 7

The Pilgrimage (i.e. *hajj*)

The Arabic word *hajj*, i.e. the pilgrimage, originally means ‘to go for a definite aim’. In Islamic contexts it means ‘an act of worship through the fulfilment of certain rites in particular places during a specified period of time, in accordance with Allah’s messenger’s practice.’³⁶⁷

Importance: The pilgrimage is one of the five pillars upon which the structure of Islam is built. Allah says: ‘And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves – then indeed, Allah is free from need of the worlds.’ (3: 97). ‘Perform to their completion both the pilgrimage and the [*umrah* purely for Allah’s sake’ (2: 196). He also says: ‘Proclaim to all people the duty of pilgrimage. They will come to you on foot and on every kind of fast mount. They will come from every far-away quarter, so that they might experience much that shall be of benefit to them, and that they might extol the name of Allah on the days appointed [for sacrifice], over whatever heads of cattle He may have provided for them. Eat, then, of such [sacrificed cattle] and feed the unfortunate poor’ (22: 27–28).

³⁶⁷ Ibn [Abidin, *Al-Durr al-Mukhtar*, vol. 2, p. 189; al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 1, p. 459; Ibn Qudamah, *Al-Mughni*, vol. 3, p. 21.



As we have already noted, the *hadith* that mentions the five pillars of Islam includes the pilgrimage as one of them: ‘The structure of Islam has been built on five pillars: testifying that there is no deity other than Allah and that Muhammad is the Messenger of Allah (peace be upon him), attending regularly to prayers, paying the zakat, making the pilgrimage to the House, and fasting in Ramadan.’ The Muslim community is unanimous that the pilgrimage is a duty incumbent on everyone who is able to undertake the journey, physically and financially at least once in a lifetime.

Many are the *hadiths* that speak of the importance of the pilgrimage and its great reward. Abu Hurayrah quotes the Prophet (peace be upon him) as saying: ‘Performing the *[umrah]* more than once ensures the forgiveness of any sin committed in between them, and a dutiful pilgrimage earns the reward of nothing less than admittance into heaven.’³⁶⁸ The Prophet (peace be upon him) says: ‘Whoever performs the pilgrimage, keeping it free of any lewdness and wicked conduct, returns home [after completing his pilgrimage] free of sin, just like the day he was born.’³⁶⁹ [A’ishah reports that the Prophet (peace be upon him) said: ‘On no day does Allah free from hell more people than on the day of [attendance at] Arafat. Allah comes close and shows [the pilgrims] to the angels and says: “What do these people want?”’³⁷⁰ The reference to Allah ‘coming close’ means that He bestows His grace on the

³⁶⁸ Related by al-Bukhari, *hadith* No. 1,773; Muslim, *hadith* No. 1,349.

³⁶⁹ Related by al-Bukhari, *hadith* No. 1,521; Muslim, *hadith* No. 1,350.

³⁷⁰ Related by Muslim, *hadith* No. 1,348.

pilgrims. [Abdullah ibn Mas[ud reports that the Prophet (peace be upon him) said: ‘Perform the pilgrimage and the *[umrah* frequently, for they remove poverty and sins just like the furnace removes the foreign particles from iron, gold and silver. A dutiful pilgrimage earns no less a reward than heaven.’³⁷¹ Abu Hurayrah reports that the Prophet (peace be upon him) said: ‘Those who perform the pilgrimage and the *[umrah* are a delegation visiting Allah: if they pray Him, He grants their prayers and if they seek His forgiveness, He forgives them.’³⁷² [A’ishah reports: ‘I said: “O Messenger of Allah, we think that jihad (i.e. striving for Allah’s cause) is the best thing people can do. Should we not undertake jihad?” He said: “No, because the best type of jihad is a dutiful pilgrimage.”’³⁷³ Abu Hurayrah reported: ‘Allah’s messenger was asked: “Which deed is best?” He said: “To believe in Allah and His messenger.” People said: “Which comes next?” He said: “Jihad for Allah’s cause.” People further asked: “Then which?” He said: “A dutiful pilgrimage.”’³⁷⁴ Needless to say, the *hadith* reported by [A’ishah applies to women. They are not required to join the Muslim army on a campaign of jihad. Their best type of jihad is a dutiful pilgrimage.

Conditions: Five conditions need to be met to make the pilgrimage obligatory:

³⁷¹ Related by al-Tirmidhi, *hadith* No. 810; al-Nassa’i, *hadith* No. 2,631.

³⁷² Related by Ahmad, *hadith* No. 3,669; Ibn Majah, *hadith* No. 2,892; al-Tabarani in *Al-Mu [jam al-Awsat*, *hadith* No. 6,311.

³⁷³ Related by al-Bukhari, *hadith* No. 1,520.

³⁷⁴ Related by al-Bukhari, *hadith* No. 26; Muslim, *hadith* No. 83.

1. Islam: Making the pilgrimage is not acceptable from an unbeliever. To be a Muslim is essential to make any act of worship valid.
2. Sanity: Islamic duties are not required of a person who has lost his mind until he has regained sanity. [Ali quotes the Prophet (peace be upon him) as saying: ‘The pen (of accountability) is lifted as regards three types of people: the sleeper until he wakes up; the child until he has attained puberty; and the insane until he regains his sanity.’³⁷⁵
3. Puberty: The pilgrimage is not required of children, because they have not attained the age when duties become applicable to them, as noted in the *hadith* quoted above. However, if a child does perform the pilgrimage, his pilgrimage is counted as valid but it does not count toward meeting the duty of pilgrimage required of Muslims once in a life-time. When the child who already offered the pilgrimage in childhood attains puberty, the duty of pilgrimage applies to him or her. There is no disagreement among scholars on these points. Ibn [Abbas reports: ‘A woman lifted a child and asked: “O Messenger of Allah, is this child’s pilgrimage valid?” He said: “Yes, and you earn a reward.”’³⁷⁶
4. Freedom: The pilgrimage does not apply to a slave, but if a slave performs the pilgrimage, his pilgrimage is valid. If a slave is freed, the pilgrimage duty applies to him even if

³⁷⁵ Related by Ahmad, *hadith* No. 1,362; Abu Dawud, *hadith* No. 4,403; al-Tirmidhi, *hadith* No. 1,423; Ibn Majah, *hadith* No. 2,042.

³⁷⁶ Related by Muslim, *hadith* No. 1,336.

he had performed the pilgrimage when he was in bondage; he must perform another pilgrimage as a free man.

5. Ability: Allah says: ‘Pilgrimage to this House is a duty owed to Allah by all people who are able to undertake it’ (3: 97). The ability meant here is both physical and financial. This means that the person should be in good enough health to be able to undertake the journey. If he cannot because he is elderly, or has a chronic disease that is unlikely to be cured, he should send someone else to perform the pilgrimage on his behalf and he should pay that person all his expenses. The ability condition also means that the route a person travels to offer the pilgrimage should be safe, and that he has enough money both for his expenses during his travel and the expenses of his dependants during his absence, in addition to the cost of his travel whether by road, sea or air. Even if all these conditions are met but a person cannot travel for a reason beyond his control, for example the inability to obtain the necessary visa or travel permit, then the ability condition is not met. Such a situation might arise in countries that allow only those who are over 60 years of age to travel for the pilgrimage. In this case, if someone dies before reaching this age and was otherwise able to undertake the journey, his heirs should arrange for someone to offer the pilgrimage on his behalf. For females, the condition of an accompanying mahram³⁷⁷ is also required, though some

³⁷⁷ A mahram is either a husband or any male member of her relatives that she can't ever marry such as a father, brother, son, uncle, nephew etc.

scholars have ruled that a woman can travel for the pilgrimage as part of a group.

Essentials: The pilgrimage includes four essential requirements, i.e. *rukns*:

1. *Ihram*, i.e. consecration, is a state where an individual commits himself to be in before setting off to perform either the major or minor pilgrimage (*[umrah]*). When an individual is in the state of *Ihram*, certain things become forbidden for him to do which were previously permissible.
2. Attendance at Arafat on 9 Dhul-Hijjah. It is universally agreed that this attendance is essential, i.e. *rukhn*, as the Prophet (peace be upon him) says: ‘The pilgrimage is [attendance at] Arafat.’³⁷⁸ Attendance at Arafat starts at midday on that day and extends until the break of dawn of the following day.
3. The *tawaf* after Arafat. This is called *tawaf* of *ifadah* because it takes place after the pilgrims have proceeded on their journey to complete their other duties, after having attended at Arafat. Again it is universally agreed to be a *rukhn* as Allah says: ‘Thereafter let them complete the rites prescribed for them, fulfil their vows, and circumambulate the Ancient House’ (22: 29).

³⁷⁸ Related by Ahmad, *hadith* No. 18,774; al-Tirmidhi, *hadith* No. 889; Abu Dawud, *hadith* No. 1,949; al-Nassa’i, *hadith* No. 3,016; al-Hakim, vol. 2, p. 305.

4. Walking between the two hills of al-Safa and al-Marwah. This is the fourth *rukun*, based on [A'ishah's *hadith*: 'Allah does not take as complete the pilgrimage or the [*umrah* of a person who does not do the walk between al-Safa and al-Marwah.'³⁷⁹ The Prophet (peace be upon him) also says: 'Do the *sa [i* (which is the walk between al-Safa and al-Marwah) for it has been ordained to you.'³⁸⁰.

Duties

1. Entering into the state of consecration, i.e. *ihrām*, at the designated point (*Meeqat*) on one's route.
2. Staying at Arafat until sunset, if one arrives at Arafat during the day, because the Prophet (peace be upon him) stayed there until sunset as we will see when we report how he performed his pilgrimage. He said: 'Learn your rites from me.'³⁸¹
3. Staying at Muzdalifah until the break of dawn, after proceeding from Arafat. The Prophet (peace be upon him) permitted women, children and the weak to leave Muzdalifah after midnight.
4. Spending the next two or three nights at Mina.
5. Stoning the Jamrahs in the right order.
6. Shaving one's head for men, or cutting one's hair, as Allah says: 'with your heads shaved or your hair cut short' (48:

³⁷⁹ Related by Muslim, *hadith* No. 1,277.

³⁸⁰ Related by Ahmad, *hadith* No. 27,367; Ibn Khuzaymah, *hadith* No. 1,764; al-Hakim, vol. 4, p. 79; al-Bayhaqi, vol. 5, p. 98.

³⁸¹ Related by Muslim, *hadith* No. 1,297.

27). The Prophet (peace be upon him) did this and ordered that it should be done by all.

7. The *tawaf* of farewell at the end, except for women who are in the period or having postnatal bleeding. Ibn [Abbas reports: ‘Allah’s messenger ordered that people should make this *tawaf* the last thing they do before they depart, but he made it easier for women in the period.’³⁸²

Whoever omits any of these duties, either deliberately or out of forgetfulness, should compensate for it by sacrificing a sheep and in this case his pilgrimage is still considered valid. It is authentically reported that Ibn [Abbas said: ‘Whoever forgets or omits a part of his worship should offer a sacrifice.’³⁸³

Recommended practices

1. Taking a bath, wearing perfume (for men only) and putting on two white *ihram* garments.
2. Clipping one’s nails, removing pubic and armpit hair and trimming one’s moustache.
3. Performing the *tawaf* of arrival for those doing the pilgrimage in the *ifrad* or *qiran* methods.
4. Jogging in the first three rounds of the *tawaf* of arrival.
5. Baring one’s right shoulder when doing the *tawaf* of arrival.
6. Staying at Mina the night that proceeds the day of Arafat.

³⁸² Related by al-Bukhari, *hadith* No. 1,755; Muslim, *hadith* No. 1,328.

³⁸³ Related by al-Daraqutni, *hadith* No. 2,534; al-Bayhaqi, vol. 5, p. 30.

7. Repeating the phrases of *talbiyah* from the time of entering into the state of consecration (*Ihram*) until one has done the stoning at the Grand Jamrah, on the Day of Eid, i.e. 10th of the month.
8. Offering the Maghrib and [Isha' prayers together at Muzdalifah.
9. Stopping close to *al-Mash[ar al-Haram* at Muzdalifah from Fajr until shortly before sunrise, if possible. If not, at any place at Muzdalifah.

Practices prohibited during consecration (i.e. *ihram*)

The following nine practices are prohibited for anyone who is in the state of -consecration:

1. Men may not wear anything that is tailored to take the shape of the body or any part of it, whether it is a robe or trousers or anything similar. They wear two pieces of cloth, one is wrapped around the body, covering them from the waist to well below the knees, and the other thrown over their shoulders and covering the top part of the body. If one cannot find a garment to wrap himself with, i.e. *izar*, he may wear trousers. Women may wear whatever they wish except veils and gloves. They have to leave their faces and hands uncovered.
2. Wearing perfume after entering the state of *Ihram*, on body or clothes, and deliberately taking a smell of perfume. He may, however, smell plants and use kohl that has no smell.

3. Removing hair and clipping nails. This applies to both men and women. One may wash one's head gently. If one's nail is broken, one may get rid of it.
4. A man may not use a head cover, but he may be in the shade of something like a tree, a tent, etc., or he may use an umbrella when needed. Women may not cover their faces with something like a veil, whether showing their eyes or not.

If a person wears perfume, covers his head, or wears something tailored out of ignorance, forgetfulness, or because he is forced to do so, his mistake is overlooked. However, when the reason is removed, as when the person concerned learns of the prohibition or remembers or the compulsion is ended, he should stop this immediately.

5. Proposing or marrying, for oneself or someone else.
6. Sexual intercourse with one's wife. This renders the pilgrimage invalid if done before the initial release from consecration, even after the attendance at Arafat is over.
7. Sexual foreplay including kissing, touching and gazing with desire, but this does not invalidate the pilgrimage.
8. Hunting and killing game. He may kill the types of harmful animals that the Prophet (peace be upon him) allowed to kill in the Haram and elsewhere. These are ravens, rats, scorpions, kites, snakes and vicious dogs. He may not help in hunting or killing game, not even by pointing at game. If someone hunts an animal while not in the state of *Ihram* and was not assisted by someone in

Ihram, it is permissible to eat from it. Otherwise, this is prohibited.

9. No one, whether in consecration or not, may cut the trees of the Haram area, or its green plants that are not harmful. Branches that stretch into people's way and cause inconvenience may be cut. Excepted is a type of shrub tree called *al-idhkhar*, and what people themselves grow.

Compensations

When a person commits an offence and cuts one's hair, clips one's nails, wears tailored clothes or perfume, covers one's head, ejaculates as a result of gazing at women, or indulges in foreplay without ejaculation, a compensation is due which may be any of three things: 1) fasting three days; 2) feeding six poor people; or 3) sacrificing a sheep. When the Prophet (peace be upon him) saw Ka'b ibn 'Ajjah, who was troubled by lice in his head, he told him: 'Shave your head and fast three days, or feed six poor people, or sacrifice a sheep.'³⁸⁴ The same compensation is extended to the other offences by analogy.

For hunting or killing game: The person who killed it is given a choice; either to sacrifice a similar animal or to estimate the price of the animal and buy with it food. The food may be given to the poor in compensation for being unable to do an obligatory fast, giving everyone the equivalent of the fill of a man's cupped hands of wheat, or twice that of other food such

³⁸⁴ Related by al-Bukhari, *hadith* No. 1,815; Muslim, *hadith* No. 1,201.

as dates or barley. Alternatively, he may fast a day in place of feeding every poor person. Allah says: ‘O you who have believed, do not kill game while you are in the state of ihram. And whoever of you kills it intentionally – the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering [to Allah] delivered to the Ka'bah, or an expiation: the feeding of needy people or the equivalent of that in fasting, that he may taste the consequence of his deed. Allah has pardoned what is past; but whoever returns [to violation], then Allah will take retribution from him. And Allah is Exalted in Might and Owner of Retribution.’ (5: 95).

Sexual intercourse during the pilgrimage before the first release from consecration renders the pilgrimage invalid. Further compensation is required including repentance of his sin, sacrificing a camel and making up for the pilgrimage the following year. If this is done after the first release from consecration it does not invalidate the pilgrimage, but it requires sacrificing a sheep in compensation. Likewise, deliberate ejaculation by masturbation, foreplay, kissing or persistent gazing at women requires the sacrifice of a sheep in compensation but does not invalidate the pilgrimage.

For making a marriage contract, no compensation is required but the contract is null and void.

How to conduct the pilgrimage

The pilgrimage starts on 8 Dhul-Hijjah and ends at sunset on 13 Dhul-Hijjah. Before this, the pilgrim does the following:

1. A pilgrim choosing the *tamattu* [method starts his *ihram*, i.e. consecration, at the point of *miqat* and declares: *labbayka Allahumma [umrah*, (which means: I am responding to you, my Lord, intending to perform the [umrah). On reaching Makkah, he performs the *tawaf* and the *sa [i* (which is the walking between al-Safa and al-Marwah). He then shaves his head, which is preferable if he comes a month or so before Arafat, or cuts short his hair. He then releases himself from *Ihram* and wears his ordinary clothes. He then stays in Makkah or travels to nearby cities providing he doesn't return to his hometown.
2. A pilgrim choosing the *qiran* method starts his *ihram* at the point of *miqat* and declares: *labbayka Allahumma hajjan wa [umrah*, (which means: I am responding to you, my Lord, intending to perform the pilgrimage and the [umrah). On reaching Makkah, he performs the *tawaf* and the *sa [i* but he neither shaves his head nor releases himself from *Ihram*. He remains in *ihram* until he has preformed the stoning at the Grand Jamrah on 10 Dhul-Hijjah.
3. A pilgrim choosing the *ifrad* method starts his *ihram* at the point of *miqat* and declares: *labbayka Allahumma*

hajjan, (which means: I am responding to you, my Lord, intending to perform the pilgrimage). On reaching Makkah, he performs the *tawaf* and the *sa'i* but he neither shaves his head nor releases himself from consecration. He remains in *ihram* until he has preformed the stoning at the Grand Jamrah on 10 Dhul-Hijjah.

The *tawaf* of arrival is a Sunnah for those doing this great duty in either the *ifrad* or *qiran* methods. Following this *tawaf* with *sa'i* is a recommended Sunnah. One may also delay the *sa'i* until he has performed the *tawaf* of *ifadah*, i.e. after attending at Arafat.³⁸⁵

The pilgrimage days

1. 8 Dhul-Hijjah, which is called *Yawm al-Tarwiyah*

Pilgrims staying in Makkah or resident in Makkah are recommended to take a bath, wear perfume, and then enter into the state of consecration for the pilgrimage during mid-morning. Pilgrims start their consecration from the place where they happen to be in Makkah or Mina or any other place. They declare: *Labbayka Allahumma hajjan* (i.e. I respond to You, my Lord, intending to do the pilgrimage). The pilgrims who chose the *qiran* or *ifrad* methods are already in consecration.

³⁸⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 184.

Everyone who wants to perform the pilgrimage starts their journey to Mina before midday. It is a Sunnah to offer there the prayers of Thuhur, [Asr, Maghrib, [Isha' and Fajr in Mina, shortening every 4 *rak* [ah prayer to two *rak* [ahs only, but does not combine prayers. Those who are unable to join the imam may offer these prayers where they are, preferably in congregation. Each prayer is offered at its time. Pilgrims should repeat the phrases of *talbiyah* frequently. They stay the night in Mina, offering night worship and the witr prayers. They should steer away from all sin.

[Abd al- [Aziz ibn Rufay [reports: 'I said to Anas ibn Malik: "Tell me something you are sure of about Allah's messenger's practice: where did he offer Thuhur and [Asr prayers on *yawm al-tarwiyah* (i.e. 8 Dhul-Hijjah)?" He said: "In Mina." I asked: "Where did he offer [Asr prayer on the last day of the pilgrimage?" He said: "At al-Abtah (in Mina)." He then said to me: "Do as your leader does.'"

2. 9 Dhul-Hijjah

It is a Sunnah for pilgrims to offer the Fajr prayer at Mina and then devote themselves to the glorification of Allah and supplication. After sunrise, they go from Mina to Arafat and repeat phrases of *talbiyah* and glorification of Allah. The best known form of *talbiyah*, which means 'positive response', is: *Labbayk Allahumma labbayk; labbayk la sharik laka labbayk; inna al-hamda wal-ni [mata laka wal-mulk; la sharik lak*. This



means: ‘I come in response to You, my Lord; I respond to You, for You have no partner; all praise, blessings and dominion belong to You; You have no partners; I respond to You.’ There are other forms and they are good enough, but this is the one the Prophet (peace be upon him) used and most people, Arabs and non-Arabs, know it.

If it is easy for the pilgrim to stop at Namirah, the valley before reaching Arafat, he may do so. When it is midday, he should proceed to the adjacent area of Arafat. It is a Sunnah for the imam of the Muslim community to deliver a speech there. He should be inside the mosque where his speech should take the present situation into account. When the imam finishes his speech, the *Thuhur* prayer is called and the imam leads the prayer. The pilgrims offer the two obligatory prayers, *Thuhur* and [Asr, one after the other, and each is shortened to two *rak[ahs* only. There is one call to prayer, *adhan*, for both prayers and one *iqamah* for each. Pilgrims who cannot do that offer their prayers with the people sharing their camp in the same way: i.e. the two prayers together and shortened. After the prayer, the Sunnah is to proceed inside Arafat and stay there.

Attendance at Arafat means the presence of the pilgrim there on 9 Dhul-Hijjah in any form. He may be standing, sitting, mounted, in a car or a vehicle, etc. Such presence is a *rukn* of the pilgrimage, without which the pilgrimage is invalid. The time range for attendance at Arafat is from the break of dawn on 9 Dhul-Hijjah until the break of dawn on the following day. Any pilgrim who manages to be at Arafat at any time within

these two limits, even for a moment, fulfils the *ruk'n* and his pilgrimage is valid.

However, it is recommended to come into Arafat after the sun has started to come down at midday, and stay there until after sunset.

[Urwah ibn Mudarris reported: 'I went to the Prophet (peace be upon him) at Muzdalifah when he was about to start the prayer and said: "O Messenger of Allah, I travelled from the mounts of Tayyi'. I urged myself on and exhausted my camel. By Allah, I left no mountain but climbed it [to declare my intention]. Is my pilgrimage valid?" The Prophet (peace be upon him) said: "Whoever has joined us in this prayer of Fajr at Muzdalifah, and stopped with us until we move on, and has prior to that been at Arafat where he stopped by day or night, has completed his pilgrimage and achieved his purpose."³⁸⁶

The whole plain of Arafat is suitable for meeting the requirement of attendance at Arafat, except the middle of the Valley of Uranah which is just before Arafat. The Prophet (peace be upon him) stopped near the mount, which is known as Mount Arafat. Therefore to stop there is recommended, particularly if one can manage to position himself between the Mount and the Ka [bah. He should neither go on the Mount, nor climb up the rocks. If a pilgrim cannot stop by the Mount, he may stop at any place in Arafat.

³⁸⁶ Related by Abu Dawud, *hadith* No. 1,950; al-Tirmidhi, *hadith* No. 891.



It is a Sunnah to spend as much time as possible glorifying Allah, stopping where he feels the spirituality of the place, facing the *qiblah*, raising his hands in humility. He may stand up, sit down, or be in any means of transport and praise Allah, glorify Him, pray for His forgiveness and make his requests of Him. He may repeat the phrases of *talbiyah* as often as he wishes, and declare Allah's oneness and His supremacy. He should keep in mind that this is the greatest day of the year, when Allah's grace is bestowed in abundance. A pilgrim does well to choose the supplications included in the Qur'an and the *Hadith* and declare his repentance of past sins, repeatedly praying for Allah to erase these from his record. He should extol Allah's praises and pray Him to grant Prophet Muhammad (peace be upon him) (peace be upon him) His best blessings. His supplication should be marked with urgency and frequency, declaring his great need for Allah's help and support. He continues to glorify Allah and supplicate until sunset.

When the sun has disappeared, pilgrims should leave Arafat heading to Muzdalifah. If a pilgrim leaves Arafat before sunset, his attendance at Arafat and pilgrimage are valid, but he abandons a mandatory act that requires the expiation of slaughtering a sheep to be distributed to the poor of the Haram area.

After nightfall pilgrims proceed to Muzdalifah to spend the night there. They are urged to behave calmly and repeat the

phrases of *talbiyah* and cause no congestion. When they arrive at Muzdalifah, they say the call to prayer, *adhan*, and pray Maghrib and [Isha', one after the other, with one *iqamah* for each. This should be done after the time for [Isha' prayer has fallen, so that pilgrims would be delaying Maghrib until [Isha' time. Pilgrims stay that night at Muzdalifah. Then when Fajr is due, they pray Fajr, preceded by its Sunnah.

After offering Fajr prayer, pilgrims are recommended to go to the area called al-Mash [ar al-Haram, which is where the mosque is located. They stop there, facing the *qiblah*, raising their hands and supplicating and glorifying Allah. They praise Him, declare His oneness and repeat phrases of *talbiyah* and glorification. They do all this standing, seated or in their vehicles. They continue until shortly before sunrise, then they proceed towards Mina before sunrise. Anyone who finds it difficult to go to al-Mash [ar al-Haram, particularly because of the presence of large numbers of pilgrims, may stop anywhere in Muzdalifah and do the same things.

Men and women who are physically weak, or have a reason to opt for a lighter duty, may leave Muzdalifah and proceed to Mina after midnight, and they may perform the stoning at the Grand Jamrah, Aqabah, when they arrive at Mina.

3. 10 Dhul-Hijjah, the grand day of pilgrimage, which is the Eid day

Pilgrims calmly proceed from Muzdalifah to Mina before sunrise, repeating the phrases of *talbiyah* as they move along. If they are delayed because of the congestion there is no harm, they move when they can. When they reach Muhassir Valley, which is in between Muzdalifah and Mina, if they are walking they increase their speed for a short distance. Each pilgrim should pick up seven pebbles at Muzdalifah, or on the way to Mina, or in Mina itself, all of which is from the *sunnah*. This is valid but not necessary. They glorify Allah as they proceed and do not stop repeating the phrases of *talbiyah* until they have reached the Grand Jamrah.

When pilgrims are in Mina they have to do the duties that fall due, which are: stoning the Grand Jamrah; slaughtering their sacrifice; shaving their heads or cutting their hair; the *tawaf* of *ifadah* and the *sa[i]*. When a pilgrim arrives at the Grand Jamrah at Aqabah, which is the last one coming from Mina and the first coming from Makkah, he throws his seven pebbles at it after sunrise, saying *Allah-u akbar* as he throws each pebble. He holds the pebble in his right hand and lifts his arm to throw it, with Makkah to his left and Mina to his right, if he can manage to do so. When he has finished, he leaves the place and releases himself from *ihram*.

When a pilgrim finishes this act of stoning and shaves or clip his hair, all the restrictions of *ihram* are lifted except sexual intercourse with one's spouse.



When picking one's pebbles, the Sunnah is to choose small ones, no bigger than hazel nuts. It is not permissible to throw large stones, or anything other than little stones such as shoes, slippers, metal objects, etc. When doing the stoning, one must be careful not to harm others, or push them. On this day the time for stoning starts at sunrise and extends until the break of dawn the following day. If one performs this duty before dawn or after it but before sunrise, it is valid, but it is preferable to delay it until sunrise.

The second duty on the Day of the Eid is to slaughter the sacrificial animals. Pilgrims who have opted for the *tamattu* [or *qiran* methods need to slaughter their sacrifice. It is recommended for everyone who offers a sacrifice to partake of its meat and sip of its sauce when cooked, and to feed the poor. Sacrifice is an incumbent duty on those doing the pilgrimage in the *tamattu* [or *qiran* methods, and recommended for the ones choosing the *ifrad* method. It is perfectly appropriate to do the slaughter through the initiative organized by the Kingdom of Saudi Arabia to ensure that the sacrificial meat is used to the full. This is easily accomplished by buying the required voucher and appointing the Bank taking the money to do the sacrifice on one's behalf. The initiative aims to give the sacrificial meat to those in need anywhere in the Muslim world. To do the sacrifice in this way means that one forgoes partaking of the meat of the sacrifice, which is perfectly permissible.

Another duty that falls due on this day is to shave one's head or cut one's hair. Male pilgrims shave their heads, which is the



preferable option, or else they cut a little of their hair. Women cut about an inch or two centimetres.

It is permissible to delay shaving one's head and slaughtering one's sacrifice. The time range for these duties extends until the end of 13 Dhul-Hijjah. The stoning at the Grand Jamrah must be done on this day, 10 Dhul-Hijjah, and its time range extends until the night.

The most important duty of *tawaf* of *ifadah* also falls due on this day. When the pilgrim has finished his stoning, sacrifice and shaved his head or cut his hair, he may take a shower, put on his ordinary clothes, wear some perfume and proceed to Makkah to perform the *tawaf* of *ifadah*, which is the *tawaf* of the pilgrimage. No jogging is recommended in this *tawaf*, but when one finishes this *tawaf* one is recommended to pray two *rak'ahs* behind Maqam Ibraheem. The time for the *tawaf* of *ifadah* starts after the break of dawn on the Eid day, but its most preferable time is mid-morning on that day. If a pilgrim proceeded from Muzdalifah after midnight on the night before, and went on to Makkah and arrived before Fajr, he may perform the *tawaf* of *ifadah* before dawn. It is permissible to delay it so as to combine it with the *tawaf* of farewell in one action, so as to make it easier for the pilgrim himself and reduce the overcrowding at the Ka'bah. It is possible to delay this *tawaf* as its time extends to the end of the month of Dhul-Hijjah. Even if it is delayed further, it remains valid. Imam al-Nawawi and other scholars said that if a pilgrim forgets the



tawaf of *ifadah* and performs the *tawaf* of farewell, without intending to combine it with the *tawaf* of *ifadah*, or because of being unaware of this duty, this *tawaf* suffices for both.³⁸⁷

The fifth duty that becomes due on the day of the Eid is the *sa[i]*, i.e. the walk between the two hills of al-Safa and al-Marwah. Pilgrims who have opted for the *tamattu[]* method have this duty to perform. The same applies to pilgrims who opted for either the *ifrad* or *qiran* methods unless they had performed it after their first *tawaf*, which is the *tawaf* of arrival. In these two methods, there is one *sa[i]* due, which is preferably performed after the *tawaf* of arrival, but if it is delayed, then it should be performed after the *tawaf* of *ifadah*.

When a pilgrim has completed these duties, his release from *Ihram* is complete. All that was restricted or prohibited during *ihram* is now permissible, including sexual intercourse with one's wife.

This particular order of the duties that fall due on the Day of the Eid, i.e. 10 Dhul-Hijjah, is the one done by the Prophet (peace be upon him), but it is not required. Nor is it right to impose it on people. Many of his Companions came to the Prophet (peace be upon him) during his pilgrimage and told him that they did one duty ahead of another. He gave the same answer to all of those who reported a different order, saying, for example, that they did the sacrifice before the stoning or

³⁸⁷ Al-Nawawi, *Sharh Sahih Muslim*, vol. 8, p. 193; S. al-Oadah, *If[al wala Haraj*, p. 93.

performed the *tawaf* before shaving their heads. His answer was: ‘You may do so, and there is no harm’. He wanted to make things easier for people, because ease is an essential aspect of this great act of worship. Allah does not want to afflict people. He says: ‘And if Allah had willed, He could have put you in difficulty. Indeed, Allah is Exalted in Might and Wise.’ (2: 220) and ‘Allah wants to lighten your burdens,’ (4: 28).

Pilgrims should now return to Mina, where they stay for the rest of the day and the following two or three days and nights. They should offer the five obligatory prayers with the congregation in the al-Kheef Mosque, if possible. If not, then they should form congregations at any place in Mina to offer their obligatory prayers. Each 4-*rak* [ah prayer is shortened to two *rak* [ahs only, but the prayers are offered individually, each at its own time. No two prayers are joined together.

4. 11 Dhul-Hijjah

The following applies to all three days called the Tashriq days, i.e. 11, 12 and 13 Dhul-Hijjah.

Pilgrims stay in Mina on these days and nights. Scholars have different views, with some of them saying that staying on these nights in Mina is a duty, while many others say that it is a Sunnah, or recommended. This means that if one does not stay in Mina one need not make any compensation. However, pilgrims should do the stoning at the three Jamrahs every day. The proper time for stoning is after midday, but if one does it

at night, this is permissible. It is permissible to do it at night when needed but not after the break of dawn of the other day. The stoning takes 21 pebbles for each day, and pilgrims may pick these anywhere in Mina. If they had picked them at Muzdalifah, that is fine. The Sunnah is to walk to the Jamrahs, if possible. On each day, pilgrims may begin the stoning duty, starting at the first Jamrah, which is the nearest to the al-Kheef mosque. The pilgrim lifts his arm, facing the *qiblah* if possible, and says *Allah-u-akbar* before throwing each of his seven pebbles, which he should throw consecutively. When he has finished he moves forward a little to the right, faces the *qiblah*, lifts his hands and glorifies Allah, saying a long supplication. He then proceeds to the middle Jamrah and throws another seven of his pebbles in the same way, lifting his right arm with each and saying *Allah-u-akbar* as he throws each. Again, when he has finished stoning he moves forward a little, stops, faces the *qiblah*, lifts his arms and supplicates, but his supplication this time is a little shorter than at the first Jamrah. He then proceeds forward to the Grand Jamrah, Aqabah, and throws his last seven pebbles, one by one, in the same way. He stands, if possible, with Makkah to his left and Mina to his right. He does not stop for supplication after this stoning. Thus, the pilgrim would have done the complete stoning duty for this day, throwing 21 pebbles at three locations. He then goes back to his camp and spends his time, glorifying Allah, supplicating, reciting the Qur'an, enjoining others to do good and speaking against unacceptable behaviour, meeting people, offering them food and socializing.

5. 12 Dhul-Hijjah

On this day the pilgrim proceeds to do exactly what he did the previous day, stoning at the three Jamrahs. If he wishes to leave on this day, he should leave Mina before sunset. If he prepares to leave and starts on his way, but does not manage to leave Mina before sunset because of the congestion, he is not required to stay that night in Mina, but if he is still properly settled in Mina after sunset, he must stay and do the stoning again on the following day. On the other hand, if he intends to stay to the next day, he goes back to his camp and does the same as on the previous two days. This is the preferable option, as the Prophet (peace be upon him) did this on his pilgrimage.

6. 13 Dhul-Hijjah

On this day, pilgrims do the stoning at the three Jamrahs, as they did the previous two days. The time for stoning ends at sunset on this day.

All three Tashriq days are open for stoning, hence pilgrims may do the stoning for two days, on one day, delay the stoning until the last day, or do it at night; only if there is a need³⁸⁸.

If the stoning is delayed

³⁸⁸ Such as overcrowding or frailty on the part of the pilgrim, etc.

A pilgrim who has delayed the stoning until the last day starts doing this duty as for the first day, i.e. 11 Dhul-Hijjah, and performs the stoning at the three Jamrahs in the right order, as explained earlier. After stoning at the Grand Jamrah, he goes back to the first Jamrah to do the stoning for the second day, 12 Dhul-Hijjah, at the three Jamrahs in the same order. He repeats the whole process again for the last day, 13 Dhul-Hijjah. When he has done this, his pilgrimage duties are completed and he should leave Mina. It should be noted that if stoning is not done before sunset of the 13th, it cannot be done afterwards.

It is a Sunnah, if possible, to stop at al-Abtah, and offer the prayers of Thuhur, [Asr, Maghrib and [Isha', and to spend part of the night there. However, this has become practically impossible for almost all pilgrims. Omitting it does not cause a problem.

After that, pilgrims proceed to Makkah where they should do the *tawaf* of farewell if they are not resident in Makkah. Women who are in the period or still have postnatal bleeding are exempt from this *tawaf*. A pilgrim should make the *tawaf* of farewell the last thing he does in Makkah, but if he needs to delay his departure for a short time to have a meal, wait for other pilgrims in his group, or wait for his transport, he does not need to repeat the *tawaf* of farewell.

When the pilgrim has completed his pilgrimage, he is recommended to glorify Allah and praise Him for having facilitated his performance of this great and essential duty of

Islam, praying Him to overlook and forgive any shortcoming in his performance. Allah says: ‘When you have fulfilled your sacred duties, remember Allah as you remember your fathers – nay with a yet keener remembrance’ (2: 200).

On the way back

[Abdullah ibn [Umar reported: ‘When the Prophet (peace be upon him) started his journey home after an expedition, or after the pilgrimage or *[umrah*, whenever he came to a narrow passage or an open space, or a plateau, he would say *Allah-u akbar* three times then add: *La ilaha illa Allah wahdahu la shar iqa lah. Lahul-mulk wa lahul-hamd, wa huwa [ala kulli shay'in qadir. Ayibun, ta'ibun, [abidun, sajidun, lirabbina hamidun. Sadaq Allah wa [dah, wa nasar [abdah, wa hazam al-Ahzaba wahdah.*’³⁸⁹ This means: ‘There is no deity worthy of being worshipped other than Allah; He has no partners. To Him belongs all dominion and all praise; He is able to do everything. We take our way back, repenting of our sins, worshipping Allah and prostrating before Him, praising Him. Allah has fulfilled His promise, giving victory to His servant and on His own defeated the allied forces.’

The Sacrifice and its Rulings

³⁸⁹ Related by al-Bukhari, *hadith* No. 1,797; Muslim, *hadith* No. 1,344.

Al-hady is an Arabic term that refers to the sacrifice offered as part of the pilgrimage. The sacrifice comprises animals: camels, cows and sheep that are slaughtered to earn Allah's reward.

Types of sacrifice

1. Offering a sacrifice by slaughtering a sheep is obligatory for people offering the pilgrimage in the *tamattu* [or *qiran* methods. This is a sacrifice offered in gratitude to Allah for enabling the pilgrim to offer both the pilgrimage and the [*umrah* in the same season. If a pilgrim cannot find a sheep to sacrifice, or cannot afford it, he is required to fast three days during the pilgrimage. It is permissible for such a pilgrim to fast during the Tashriq days, i.e. 11–13 Dhul-Hijjah. He should also fast seven more days when he returns home. Allah says: 'He who takes advantage of performing the [*umrah* before the pilgrimage shall make whatever offering he can easily afford; but he who lacks the means shall fast three days during the pilgrimage and seven more days on returning home; that is, 10 days in all ' (2: 196). It is recommended that the pilgrim should partake of the meat of this type of sacrifice, as Allah says: 'Eat of their meat, and feed the poor who is contented with his lot, as well as the one who is forced to beg' (22: 36).
2. Sacrifice in compensation: This is the sacrifice that is compulsory when a pilgrim omits doing a duty or commits a violation of the restrictions of consecration, or in the case

of a pilgrim who starts the journey and enters into consecration but cannot reach Makkah to perform the pilgrimage. Allah says: ‘But if you are prevented, then [offer] what can be obtained with ease of sacrificial animals.’ (2: 196). Ibn [Abbas said: ‘Whoever forgets to perform, or omits, any part of his pilgrimage should offer a sacrifice.’ This type of sacrifice must be totally given to the poor in the Haram area. The person who needs to make it may not partake of its meat. The person prevented from entering Makkah or completing his ritual must slaughter his sacrifice wherever he is and distribute the meat to the poor.

3. Voluntary sacrifice: This is recommended to all pilgrims and all those doing the *[umrah]*, in order to follow the Prophet’s (peace be upon him) example. He sacrificed one hundred camels when he performed his pilgrimage. It is also recommended to partake of the meat of such sacrifice. The Prophet (peace be upon him) gave instructions to put a piece of every camel he sacrificed in a saucepan and the meat was cooked. He ate of it and sipped of its sauce.³⁹⁰
4. Pledged sacrifice: This refers to the sacrifice a pilgrim may pledge to be slaughtered in the Haram area, to earn Allah’s reward. Such a pledge must be honoured. Allah says: ‘Then let them end their untidiness and fulfill their vows’ (22: 29). It is not permissible for the person making such a pledge to eat of this type of sacrifice.

³⁹⁰ Related by Ibn Majah, *hadith* No. 3,158.

Time

1. The sacrifice for pilgrimage in the *tamattu* [or the *qiran* methods may be offered any time between the Eid prayer on Eid day (i.e. an hour after sunrise) until the end of the Tashriq days which is the 13th .
2. The sacrifice for having to break the *ihram* restrictions, such as having to shave one's head or wear ordinary clothes, has no specific time: its time is when this is done. The same applies to the sacrifice for omitting a duty. However, it should be as soon as possible without delay.
3. The sacrifice for being prevented from continuing with the pilgrimage: its time is when this takes place. What is required is to sacrifice a sheep. Seven people may share a sacrifice of one camel or a cow. Allah says: 'But if you are prevented, then [offer] what can be obtained with ease of sacrificial animals.' (2: 196).

Compensation

These are the obligations a pilgrim should offer in compensation for violating one of the restrictions during the pilgrimage, or neglecting any of its essentials or duties. These compensations are as follows:

1. Compensation for omitting some duties of the pilgrimage, such as not stoning or not entering into consecration at the point allocated for his place of start. Any of these

omissions requires the sacrifice of one sheep, or its equivalent, which is determined at one-seventh of a camel or cow. A pilgrim who cannot afford or cannot find such a sacrifice must fast three days during the pilgrimage and seven days when he has returned home. Allah says: 'He who takes advantage of performing the [*umrah*] before the pilgrimage shall make whatever offering he can easily afford; but he who lacks the means shall fast three days during the pilgrimage and seven more days on returning home; that is, 10 days in all. All this applies to those whose families are not resident in the vicinity of the Sacred Mosque' (2: 196).

It is recommended that the three days during the pilgrimage should be before the day of attendance at Arafat. If one misses out on this and fasts during the Tashriq days, this is acceptable. If one delays fasting until the Tashriq days are over, he is in error and the fasting is considered to be compensatory. This ruling outlines an order of priority. The compensation is to sacrifice, and this must be done except when one cannot find a sheep to sacrifice or cannot afford it. Only then can he fast instead.

2. Compensation for inability to continue with the pilgrimage journey. This takes place if something happens to stop the pilgrim and prevent him from reaching Makkah after the pilgrim has started his journey and entered into the state of consecration. It could be if an enemy stops Muslims from reaching Makkah, or a pilgrim is unjustly arrested, or if he falls ill and his illness is aggravated by

movement, or if his money is lost and he cannot pay his expenses, etc. This also applies to someone who starts on his journey having violated the local travel regulations and the security officers at the checkpoint stop him from continuing with his journey. He is, therefore, obliged to go back.

The compensation due is to slaughter a sheep, or its equivalent as mentioned earlier. Allah says: ‘But if you are prevented, then [offer] what can be obtained with ease of sacrificial animals.’ (2: 196).

3. Compensation for the violation of restrictions. This is the sacrifice that becomes due when a restriction associated with the state of consecration is violated, apart from sexual intercourse, killing an animal of game and making a marriage contract. Examples of such violations are having a haircut, wearing tailored clothes, clipping one’s nails, wearing perfume, etc.

Compensation for any such violation is to sacrifice a sheep or feed six persons or fast for three days. It is up to the pilgrim to choose which of these three compensations he offers. Allah says: ‘If any of you is ill or suffers from an ailment of the head [making shaving necessary must offer], he shall redeem himself by fasting, or alms, or sacrifice’ (2: 196). The Prophet (peace be upon him) asked Ka[b ibn [Ujrah when he saw lice falling from his head over his face: ‘Are you troubled by these?’ He affirmed that he was. The Prophet (peace be upon him) said: ‘Then

shave your head and fast three days, or feed six poor people or sacrifice a sheep.’

4. Compensation for killing game. This applies more widely than actually killing animals of game; it applies to a pilgrim who helps to kill such animals, even by only indicating where the animal is hiding, or handing something to the one who kills the animal, etc. If animals like the killed one are available, he must sacrifice a similar animal and give its meat to the poor in the Haram area. Allah says: ‘O you who have believed, do not kill game while you are in the state of ihram. And whoever of you kills it intentionally - the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering [to Allah] delivered to the Ka'bah, or an expiation: the feeding of needy people or the equivalent of that in fasting, that he may taste the consequence of his deed.’ (5: 95). This means that the person concerned may opt for the alternative of buying food to give to the poor of the Haram area, to the same amount as the value of the killed game animal. Alternatively, he may fast a number of days. The number is determined by fasting one day for the portion that is sufficient for one person of the food he needs to buy. If the killed animal does not have similar ones, it is valued and the estimated sum is used to buy food for the poor, or the person concerned fasts instead.
5. Compensation for sexual intercourse. If a pilgrim has sexual intercourse with his wife before his first release from consecration, his pilgrimage is rendered invalid. He



has to atone for his grave error by sacrificing a camel. If he cannot, then a cow can be substituted.

As we see, in all this the compensation may be fasting, donation or sacrifice. As Allah says: ‘And whoever among you is ill or has an ailment of the head [making shaving necessary must offer] a ransom of fasting [three days] or charity or sacrifice.’ (2: 196).

Compensation is due in two situations: 1) Violation of a prohibition without a valid reason. In this case, the compensation is required; and 2) the violation is done for a valid reason, and this requires compensation but no sin is incurred. If sacrifice is chosen for compensation, the sacrificed animal must be free of any physical defect, such as being lame or one-eyed or ill. If the sacrifice is in compensation for violation of restriction, the person concerned may not partake of its meat. If it is for the pilgrimage, or voluntary, he may eat some of it. Sacrifices may be slaughtered anywhere in the Haram area, except in the case of inability to continue one’s journey. In this case, the sacrifice is offered at the place where the pilgrim is stopped.



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 8: ◆

JIHAD



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Chapter 8

Jihad

Definition: Jihad is a noun derived from a root that means effort and striving. In Islamic contexts it covers all efforts a Muslim may exert in the advocacy of Islam and the establishment of all that gives Islamic society its character, so that life becomes consistent with Islam and Allah's word is made supreme.

The highest form of jihad is fighting the enemy. When Allah sent Prophet Muhammad (peace be upon him) as His messenger to all mankind, He commanded him to advocate the divine faith and tolerate whatever harm he and his followers might be subjected to. He told His messenger: 'Repel evil with that which is best. We are fully aware of all that they say' (23: 96). The form of jihad that the Prophet (peace be upon him) was commanded to exert during the Makkan period was to recite the Qur'an to all people, make his argument and provide its proofs. Allah said to him: 'Do not obey the unbelievers, but strive most vigorously against them with this [Qur'an]' (25: 52). Yet the unbelievers stopped at nothing in their enmity towards Islam and Muslims and they plotted to assassinate the Prophet (peace be upon him).

In response to this plot Allah instructed him to migrate with his Companions to Madinah. Then Allah gave His messenger

permission to fight his enemies in self defence and to give the Muslim community a secure base. Allah says: 'Permission [to fight] has been given to those who are being fought, because they were wronged. And indeed, Allah is competent to give them victory. [They are] those who have been evicted from their homes without right - only because they say, "Our Lord is Allah." And were it not that Allah checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of Allah is much mentioned. And Allah will surely support those who support Him. Indeed, Allah is Powerful and Exalted in Might. [And they are] those who, if We give them authority in the land, establish prayer and give zakah and enjoin what is right and forbid what is wrong.' (22: 39–41).

These verses justify granting the permission to fight, giving three reasons:

1. That the Muslims were unjustly persecuted and forced to leave their homeland against all right. Their enemies held nothing against them other than the fact that they they believed in the true religion, declaring that they worship none other than Allah.
2. Without granting this permission to fight, all places of worship where Allah's name is abundantly praised and glorified would have been demolished through the injustice of those who did not believe in Allah and the Last Day.
3. The ultimate purpose of victory, and the establishment of Islam on earth, is so that people can attend regularly

to their prayers, give in charity, enjoin the doing of what is right and forbid the doing of what is wrong.³⁹¹

Then Allah made fighting a duty of the Muslims, saying: ‘Fighting is ordained for you, even though it is hateful to you’ (2: 216). On the basis of this verse, fighting is a duty of the Muslim community in certain situations. It is a collective duty, which means that when sufficient numbers of Muslims undertake it and are able to repel the enemy, the others are exempt. Fighting becomes a personal duty in one of four situations:

- 1) When the ruler calls for full deployment.
- 2) When a person possesses skills that Muslims lack yet need for battle, as in the case of an air force pilot.
- 3) If the enemy attacks a Muslim city. In this case the whole population must be mobilized to fight the enemy off; and
- 4) If a person who is able to fight happens to be on site of the battle ground when Muslims and their enemies are about to engage.

Jihad is not a duty of non-Muslims, women, children, or ill and insane persons.

Islam urges Muslims to undertake jihad, making it an important task they should fulfil to uphold Allah’s rulings and establish the divine faith. It promises that fighters will be admitted into

³⁹¹ Sabiq, *Fiqh al-Sunnah*, vol. 2, pp. 620–1.



heaven as long as they remain steadfast in fighting for the truth. Allah says: ‘Indeed, Allah has purchased from the believers their lives and their properties [in exchange] for that they will have Paradise. They fight in the cause of Allah, so they kill and are killed. [It is] a true promise [binding] upon Him in the Torah and the Gospel and the Qur'an. And who is truer to his covenant than Allah? So rejoice in your transaction which you have contracted. And it is that which the great attainment is.’ (9: 111). As reported by Ibn [Abbas, the Prophet (peace be upon him) said: ‘Shall I tell who is the best of people? It is a man holding the rein of his horse, going to fight for Allah’s cause.’³⁹²

Jihad must be for Allah’s cause. If its aim is not to support Allah’s cause, then it is not jihad. Not everyone who fights a battle, claiming to be on jihad, is truly so. A man came to the Prophet (peace be upon him) and said: ‘Who of these fights for Allah’s cause: a man fighting to achieve war gains, a man fighting so as to gain reputation, and a man fighting so as to be recognized?’ The Prophet (peace be upon him) answered: ‘The one who fights so that Allah’s Word will reign supreme, is the one fighting for Allah’s cause.’ What this *hadith* tells us is that a person who fights for any material or mental gain, such as enhancing his standing among his people and being described as a hero, does not serve Allah’s cause, even though he may be fighting the enemies of Islam.

³⁹² Related by ibn Majah, *hadith* No. 3977



Allah's word is supreme when people are truly free, undeterred by any force from believing in the divine faith should they wish to embrace it. Islam does not compel anyone to accept it, but at the same time it does not accept that any force should stand in the way of people if they wish to believe in it. It lays down a fundamental and basic principle: 'There shall be no compulsion in [acceptance of] the religion. The right course has become clear from the wrong.' (2: 256). 'Say: "And say, "The truth is from your Lord, so whoever wills - let him believe; and whoever wills – let him disbelieve."' (18: 29). All Muslims are required to explain Allah's message to all people. They should inform them of it and make clear what Allah wants: that they should believe in His oneness and that He has no partners. They are then left free to believe in it or reject it. They are accountable for their choice. When some power takes action to compel people to reject the divine faith, preventing them physically from believing in Allah, the Muslims must, if they have adequate means, remove such tyranny and ensure people's freedom of choice.

This is the purpose of jihad, whether it is undertaken in self defence or in pursuit of the truth. Therefore, Islam establishes certain values and requires the Muslims to abide by them when they fight, whether they are commanders or ordinary soldiers. They set out in Allah's name and have no purpose other than to earn His pleasure. Allah does not accept that anyone should suffer injustice. Therefore, Muslims must observe these values, clearly stated in the Prophet's (peace be upon him) instructions to the commanders he sent out on missions and in the

instructions given by his rightly-guided successors. When the Prophet (peace be upon him) sent out an expedition, he instructed them as follows: ‘Move on by Allah’s name and for Him, following the faith of Allah’s messenger. Do not kill an elderly person, a child or a woman. Do not plunder. Put together any war gains you make. Pursue the right course and do things well, for Allah loves those who do well.’ (Related by Abu Dawud).

Human history, both recent and old, is full of cases of armies launching surprise attacks on peaceful villages and towns, killing, raping and looting. Muslim armies, by contrast, have to observe the highest moral standards of Islam. This is made absolutely clear in the letter of instructions given by the second Caliph, [Umar ibn al-Khattab, to his army commander Sa[d ibn Abi Waqqas and his army:

I command you and your soldiers to remain God-fearing in all situations. To be God-fearing is the best support you may have against your enemy and the best plan in war. I counsel you and your soldiers to guard against all sinful actions more than you guard against your enemy. Sinful action is more detrimental to an army than their enemy. Muslims earn Allah’s support because of their enemy’s disobedience of Allah. Had it not been so, we would not be a match for them: we lack their numbers and their equipment. Should we stand on equal terms with them in regard to disobeying Allah, they will overpower us. If we cannot achieve victory through being the better side



morally, we cannot win by our force alone. Learn that as you move on, you are accompanied by angels appointed by Allah, and these angels watch what you do. Therefore, remain shy of them and refrain from committing sin when you are on a mission to serve Allah's cause [...] Pray to Allah to help you against self temptation just as you pray Him to grant you victory against your enemy. I pray Him to grant this to us and you.

These values continued to be upheld by Muslims when they fought their enemies over many centuries. History does not record a single incident of a Muslim army plundering a city, looting and killing civilians. Yet recent history, particularly in our modern times, has witnessed massacres committed in Muslim countries. However, these are perpetrated by dictators who recognize neither Islamic values nor human values and honour no covenant in their treatment of believers or unbelievers.

These values are clearly consistent with the basic mission Allah has assigned to the Muslim community, which is the advocacy of the divine faith. Islam is a message of goodness that Allah wants to be delivered, in complete purity, to all mankind. It cannot reach them in such clarity unless Muslims abide by its values and other people realize that this is all due to their faith and their observance of its principles and teachings.

Distortion of jihad

In recent times, the image of jihad has been totally distorted, and the distortion is the work of two different sources. The first is from those who hate Islam; who associate jihad with terrorism and make Islam synonymous with terrorism. They consider every young Muslim man a potential terrorist, even though he may be the most peaceful of people. One only needs to review the output of the Western media, and the media of tyrannical governments in Muslim countries, to realize the extent of the sustained efforts of the media in both worlds to distort the image of Islam generally, and jihad in particular.

The other source has repeatedly become associated with Islam. Different groups commit actions that illustrate their sparse knowledge of Islam and their shallow understanding of its teachings, but they announce that they act in defence of Islam. They allege that by their actions they are defending Islam and serving its cause. All scholars of Islam and the masses oppose their methods, ideology and ways and publicly denounce their terrorist attacks and declare that such acts don't relate to Islam.

In reaction to all this injustice, calls were made to return to Islam, but some of these calls were merely emotional, knowing little of the true meaning of Islam and giving rise to the extremist groups that commit actions that Islam does not condone. They give their actions a false Islamic guise and the net result is that the actions of these extremist Islamic groups

play into the hands of the enemies of Islam, rather than serve Islam.

Fighting

The late scholar, al-Sayyid Sabiq wrote:

Islam pays particular attention to calling on mankind to adopt its guidance, so that they will enjoy the peaceful and blessed life of such guidance. The Muslim community is the one Allah has assigned to uphold the faith and deliver His revelations to the rest of mankind. Its task also commits it to ensure that people and communities are free. In this respect, it is the best of communities, undertaking the role of teacher. As such, it must preserve its own entity, protect its rights and strive to fulfil the role Allah has assigned to it. Any failure in this represents a great offence for which Allah administers a severe punishment of humiliation, degradation or even extinction. Islam forbids cowardice and advocacy of peace when the Muslim community has not fulfilled its task. Such peace is synonymous with cowardice and acceptance of lowly life. Allah says: ‘Do not lose heart or sue for peace. It is you who have the upper hand, and Allah is with you. He will never let your deeds go to waste’ (47: 35). This verse means that the Muslims have the upper hand in their faith, worship, morality, manners, knowledge and action.



Under Islam, peace is truly achieved through power. Hence, Allah has not made it absolute. He made a condition for peace, which is that the enemy should stop aggression and there be no injustice in the world so that no one will be persecuted because of his or her faith. Should a situation of this sort occur, Allah permits fighting...

Islam permits war when it is a necessity, but limits it to what is needed. No one is killed except those who are actively fighting. Anyone who stays away from it may not be killed or harmed for any reason. Moreover, Islam forbids the killing of women, children, ill people, the elderly, monks, priests and servants. Islam also forbids the disfigurement of the enemies killed in battle. Indeed, it prohibits the killing of animals and the destruction of farmland, water courses and resources and houses. Also forbidden under Islam is the killing of the wounded enemy soldiers and the chasing of those who run away. It looks at war as a surgical operation that should be confined to the diseased part of the body...

When Abu Bakr sent Usamah as Commander of an expedition to southern Syria, he gave him the following orders: Do not commit any treachery, plundering or disfigurement. Do not kill a child, an elderly, or a woman. Do not cut or burn any date tree or fruit tree. Do not slaughter any sheep, cow or camel except for food. You

shall encounter people who confine themselves in their hermitages, so leave them alone.³⁹³

Captives of war

When Muslims take enemy officers and soldiers as prisoners of war, they must treat these captives well. In the Battle of Badr, the first major battle in the history of Islam, the Muslims took a large number of unbelievers as prisoners. The Prophet (peace be upon him) gave orders that these captives should be treated well. His Companions gave them preference over their own families in food and drink, showing them every kindness. This order applies at all times to Muslims and their prisoners of war. Allah describes His good servants in these terms: ‘They give food – though they need it themselves – to the needy, the orphan and the captive’ (76: 8). After that, the Muslims may either grant them their freedom as an act of grace, or against ransom, or arrange a prisoner exchange. Allah says: ‘Now when you meet the unbelievers in battle, smite their necks. Then when you have thoroughly subdued them, bind them firmly. Thereafter, set them free either by an act of grace or against ransom, until war shall lay down its burden’ (47: 4).

War gains

The majority of scholars agree that war gains are divided into five shares. The first share belongs to the Muslim treasury, and it is taken by the Muslim ruler or anyone he has assigned for

³⁹³ Sabiq, *Fiqh al-Sunnah*, pp. 648-657.

the purpose. This share is distributed as Allah has ordered: ‘Know that one-fifth of whatever spoils you may acquire in war is for Allah and the Messenger, and for the near of kin, the orphans, the needy and the traveller in need’ (8: 41).

The other four shares are divided among all those who were present at the battle, provided they are free and sane adult men who were ready to fight, whether they actually took part in the fighting or not, and whether they are physically strong or weak. [Umar said: ‘The war gains belong to those present during the battle.’³⁹⁴ The division among the beneficiaries was shown by the Prophet (peace be upon him) after the Battle of Khaybar, when he gave foot soldiers one share each and gave two shares to horses, which meant that a man fighting on his horse received three shares, because at the time mounted fighters were more effective than foot soldiers.

Gains without battle

Fay’ is an Arabic term that refers to what Muslims gain from their enemy in a legitimate way, without fighting, such as booty left behind by unbelievers who fled when they heard of the approach of the Muslim army. This type of gain is spent as the Muslim ruler determines to be in the best interests of the Muslim community. [Umar reported: ‘The property left by the al-Nadīr tribe was *fay’* granted by Allah to His messenger, as the Muslims did not use their horses or arms during the

³⁹⁴ Related by [Abd al-Razzaq in *Al-Musannaf*, *hadīth* No. 9,698; al-Bayhaqī in *Al-Sunan al-Kubra*, vol. 9, p. 50.



confrontation. As such, they belonged totally to Allah's messenger. He used it to give to his family and the poor in the Muslim community, and used any residue to buy arms and equipment for future jihad campaigns.³⁹⁵

Truce agreements

A truce refers to an agreement made by the Muslim ruler or his deputy with the enemy to cease fighting for a specified period, whether short or long, as may be needed. This is perfectly permissible if it is of benefit to the Muslim community, as in the case when the Muslim community is in a state of weakness or unpreparedness to fight, or for some other valid reason such as the hope to be able to advocate Islam among unbelievers, etc. Allah says: 'If they incline to peace, then incline you to it as well' (8: 61). The Prophet (peace be upon him) made a peace treaty with the idolaters in Makkah, which is known as the al-Hudaybiyah peace treaty, specifying that it lasted for 10 years, and he concluded a peace agreement with the Jews in Madinah.

A truce agreement made by the Muslim ruler or his deputy is binding on the Muslim community and cannot be revoked or cancelled as long as the other party observes its commitments and the Muslim community fears no betrayal from them. Allah says: 'So long as they are true to you, be true to them' (9: 7), and: 'Believers, be true to your contracts' (5: 1).

³⁹⁵ Related by al-Bukhari, *hadith* No. 2,904; Muslim, *hadith* No. 1,757.

If the other party violates the truce agreement or treaty, resorting to fighting us or supporting our enemy against us, or killing a Muslim or taking our property, the agreement or treaty becomes invalid, as Allah makes clear; ‘And if they break their oaths after their treaty and defame your religion, then fight the leaders of disbelief, for indeed, there are no oaths [sacred] to them; [fight them that] they might cease.’ (9: 12).

If we have reason to believe that they are preparing to violate the treaty, we may give them notice of ending the treaty between us. We are not bound to honour it in full. Allah says: ‘If you [have reason to] fear from a people betrayal, throw [their treaty] back to them, [putting you] on equal terms. Indeed, Allah does not like traitors.’ (8: 58). The verse means that the other party should be aware that the treaty has been abrogated, so that the two sides are equally aware of the new fact. It is not permissible for Muslims to fight the other party before they have been notified of the abrogation of the treaty.³⁹⁶

Dhimmah and jizyah

Linguistically speaking, the Arabic term *dhimmah* means pledge, security or warranty. The *dhimmah pledge* means, in Islamic terminology, leaving some unbelievers alone and protecting them in return for their payment of *jizyah* and abiding by the Islamic rules that apply to them.³⁹⁷ In the *hadith* reported by Buraydah, the Prophet (peace be upon him) said to

³⁹⁶ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 208.

³⁹⁷ Ibid., p. 209.



him: ‘Then call them to believe in Islam: if they give you a favourable response, accept this from them and do not harm them [...] If they refuse, ask them to pay the tribute i.e. *jizyah*.’³⁹⁸

When the *dhimmah pledge* has been given, it becomes forbidden to fight those unbelievers. The Muslim state is required to protect them and their property, ensuring their freedom and that they come to no harm. [Ali is reported to have said: ‘They are paying us the *jizyah* so that their lives should be like our lives and their property like our property.’ The general rule agreed by scholars says: ‘They have the same rights and duties as we have.’

Islamic rules apply to people that have agreed a *dhimmah pledge* in two areas: the first is financial transactions. They may not enter into any transaction that is unacceptable under Islamic law, such as a usurious transaction. Secondly, the Islamic penal law applies to them when they commit punishable crimes. Anything that is related to religious beliefs and worship, and to family matters including marriage and divorce, is left to them to conduct as they wish. They have complete freedom in these matters. If they ask us to arbitrate in their disputes, we may agree or refuse to do so.³⁹⁹

³⁹⁸ Related by Muslim, *hadith* No. 1,731.

³⁹⁹ Sabiq, *Fiqh al-Sunnah*, vol. 2, pp. 662–3.

Pledge of security

This refers to giving an unbeliever a pledge of safety, ensuring that his life and property are safe for a specified period.⁴⁰⁰ Such a pledge may be common or private. The common is given to an unspecified number of people, such as the population of a certain area or a certain town or city. Like a truce agreement and the *dhimmah* pledge, none other than the Muslim ruler or his deputy can give such a pledge because it is a matter of public interest which only the ruler can decide. A private pledge of security is given to an individual or to a small number of people, normally less than ten.

Validity of the pledge of security

A pledge of security is perfectly acceptable as, in the first place, it relies on the Qur'anic verse that says: 'If any of the idolaters seeks asylum with you, grant him protection, so that he may hear the word of Allah, and then convey him to his place of safety. That is because the idolaters are people who lack knowledge.' (9: 6)

The right to give a pledge of security is confirmed for all Muslim men and women. Any Muslim individual may give such a pledge to any individual from the enemy camp requesting it. The only people that may not give such a pledge are children and insane people. The Prophet (peace be upon him) says: 'Pledges given by Muslims are of the same status.

⁴⁰⁰ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 209.



The most humble among them may offer it. They are all one unit against all who do not belong to them' (related by Ahmad, Abu Dawud, al-Nassa'i and al-Hakim). Umm Hani', the Prophet's (peace be upon him) cousin, extended protection to a man from among her in-laws on the day when Makkah fell to Islam, and the Prophet (peace be upon him) honoured her pledge.

Foreigners who visit Muslim countries in peacetime, according to the prevailing regulations, are in fact covered by a pledge of security that is different in nature from the one discussed in the books of Islamic jurisprudence. They enjoy the protection of the Muslim country and no aggression may be committed against them or their property. However, if they violate the laws of the Muslim country during their visit, they are put to trial according to the law of the land.



← RULINGS OF →
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◇ CHAPTER 9: ◇

COMMERCIAL TRANSACTIONS



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Chapter 9

Commercial Transactions

In Islamic contexts, a ‘sale’ means the permanent exchange of one property or legitimate benefit for another, even for a deferred handing over, provided that it is neither usury nor loan.⁴⁰¹

Ruling: Sales are permissible in Islam, as Allah says: ‘But Allah has permitted trade and has forbidden interest.’ (2: 275). Ibn [Umar reports that the Prophet (peace be upon him) said: ‘When two persons make a sale, each of them continues to have a choice as long as they are together and have not parted.’⁴⁰² It is universally agreed by Muslims that trade is permissible. Moreover, people need trade so that a person can have what is in possession of another, because it serves his interests and he cannot legitimately acquire it except by purchase. This means that sale is permissible because it meets people’s needs.⁴⁰³

Essentials: A sale has three essentials: parties, subject of sale, and a formula.⁴⁰⁴

⁴⁰¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 211.

⁴⁰² Related by al-Bukhari, *hadith* No. 2,112; Muslim, *hadith* No. 1,531.

⁴⁰³ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 5, p. 3,306.

⁴⁰⁴ Al-Shawkani, *Fath al-Qadīr*, vol. 5, p. 74; al-Bahuti, *Kashshaf al-Qina* [, vol. 2, p. 3.

Witnesses

To have witnesses to a sale is recommended, but not obligatory.⁴⁰⁵ Allah says: ‘Have witnesses when you make business deals’ (2: 282). This is a clear order, but it is meant as a recommendation, rather than obligation. [Imarah ibn Khuzaymah reports that his uncle, a Companion of the Prophet (peace be upon him), told him that the Prophet (peace be upon him) once bought a horse from a Bedouin and told the Bedouin to follow him so that he could give him the money. The Prophet (peace be upon him) walked fast, but the Bedouin was slow, and people continued to ask him if the horse was for sale, not realizing that the Prophet (peace be upon him) had already bought it.⁴⁰⁶ This *hadith* shows that the Prophet (peace be upon him) bought the horse but there was no one to witness the sale. Had it been necessary or obligatory, the Prophet (peace be upon him) would have ensured the presence of witnesses. Moreover, during his lifetime the Prophet’s (peace be upon him) Companions used to trade in the markets, but we have no report that he ordered any of them to ensure the presence of witnesses to a sale. Nor do we have a report that they brought witnesses to their deals. Needless to say, trading is something that goes on all the time, and if people were required to have witnesses for every sale, this would have caused hardship. Never the less, taking witnesses eliminates the possibility of cheating or denying what was agreed upon.

⁴⁰⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 214.

⁴⁰⁶ Related by Ahmad, *hadith* No. 21,883; Abu Dawud, *hadith* No. 3,607; al-Nassa’i, *hadith* No. 4,647; al-Hakim, vol. 2, p. 21.

Conditions: The following conditions must be met for the sale to be valid:

1. There must be agreement between the seller and the buyer. Allah says: ‘Believers, do not devour each other’s wealth illegally, unless it be through lawful trade which you conduct by mutual consent’ (4: 29). Abu Sa[‘id al-Khudri reports that the Prophet (peace be upon him) said: ‘A sale can only be through mutual agreement.’⁴⁰⁷
2. Each of the two parties should be a person of age, sane and rational.
3. The seller must be the owner of what is being sold, or someone acting for the owner, such as an attorney, guardian, executor, manager or employee assigned to selling. No person may sell something he does not own. The Prophet (peace be upon him) said to Hakim ibn Hizam: ‘Do not sell what you do not possess.’⁴⁰⁸
4. What is being sold should be something that is permissible to use in the normal way, not in case of necessity. Jabir reports that the Prophet (peace be upon him) said: ‘Allah has forbidden the sale of wines, carrion, pigs and idols.’⁴⁰⁹ Ibn [Abbas reports that the Prophet (peace be upon him) said: ‘If Allah forbids people to eat something, He also forbids them to take its price.’⁴¹⁰

⁴⁰⁷ Related by Ibn Majah, *hadith* No. 2,185; Ibn Hibban, *hadith* No. 4,967; al-Bayhaqi, vol. 6, p. 17.

⁴⁰⁸ Related by Ahmad, *hadith* No. 15,311; Abu Dawud, *hadith* No. 3,503; al-Tirmidhi, *hadith* No. 1,232; al-Nassa’i, *hadith* No. 4,613; Ibn Majah, *hadith* No. 2,187.

⁴⁰⁹ Related by al-Bukhari, *hadith* No. 2,236; Muslim, *hadith* No. 1,581.

⁴¹⁰ Related by Ahmad, *hadith* No. 2,221; Abu Dawud, *hadith* No. 3,488; al-Bayhaqi in *Al-Sunan al-Kubra*, *hadith* No. 11,051.

5. What is being sold can be delivered to the buyer. What cannot be delivered is considered like something that does not exist, and as such it cannot be sold. It is in fact a form of *gharar*, which means something deceptive: it has an appearance but its substance is unknown. In such a sale, the buyer may give the price agreed but may not obtain what he bought. Thus, it is not permissible to buy a fish that is still in the water, the stones that are still in the dates, birds flying in the sky, milk still in the cow, the unborn cub, or an animal in the wild. Abu Hurayrah reports: ‘Allah’s messenger has forbidden any *gharar* sale.’⁴¹¹
6. The subject of the sale must be known to both parties, either both seeing it at the time of the sale or by describing it in a way that distinguishes it from other things. Lack of knowledge of what is being bought and sold counts as *gharar*, which is forbidden. To buy something one has not seen, or one has seen but does not know, and it is not present at the time of the deal is wrong.
7. What is being sold should be defined and the price should be clearly stated.

Purchase by installments

This refers to a sale where the price of what is purchased is being paid in installments at specific dates or times.⁴¹² For example, a car being sold for 100,000 of the local currency on terms of an immediate payment of 40,000 and 12 monthly

⁴¹¹ Related by Muslim, *hadith* No. 1,513.

⁴¹² Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 219.

payments of 5,000 each. Such an arrangement as this is permissible, as [A'ishah reported: 'The Prophet (peace be upon him) bought food from a Jew with payment deferred until a specified date and gave him an iron shield as a pledge of surety.'⁴¹³

Conditions: In addition to the aforementioned conditions applicable to sales, the following conditions should be met for sales paid for by installments:

1. The seller must be in possession of the article to be sold and be able to dispense with it at the time of the sale. It is not permissible for the two parties of the sale to agree the price and the terms of payment, and then for the seller to buy the article and hand it over to the purchaser. This is forbidden because the Prophet (peace be upon him) said: 'Do not sell what you do not possess.'
2. It is not permissible to force the purchaser, either at the time of the deal or later, to pay more than the price agreed if the purchaser defaults on some installments when they fall due. To do so makes the transaction usurious, and all usurious transactions are forbidden in Islam.
3. It is forbidden for the purchaser to delay payment of any instalment if he is able to pay it when it is due.
4. The seller may not retain ownership of the goods after the sale. It is, however, permissible for the seller to stipulate that the goods are pledged to him, in order to guarantee payment of the installments on time.

⁴¹³ Related by al-Bukhari, *hadith* No. 2,068; Muslim, *hadith* No. 1,603.

Usury: definition and ruling

The Arabic term *riba*, which means ‘usury’, originally means ‘increase’. In Islamic usage it means ‘an increase in one of the two exchanged items without a compensation to offset this increase.’⁴¹⁴

Usury is forbidden, which is clearly stated in the Qur’an. Allah says: ‘Allah has made trade lawful and usury forbidden’ (2: 275), and ‘O you who have believed, fear Allah and give up what remains [due to you] of interest, if you should be believers.’ (2: 278). The Prophet (peace be upon him) considered it one of the major sins and he cursed all those who participated in usurious transactions, whatever was their role. Jabir reports: ‘Allah’s messenger (peace be upon him) cursed the one who devours usury, the one who pays it, the one who writes the contract between them and the two witnesses to the contract. He said that they are all the same.’ The Muslim community is unanimous that usury is forbidden in Islam.⁴¹⁵

Types

One: *Riba al-Faḍl* (i.e. an increase in quantity)

This means that the two items exchanged in a particular deal are of the same type but the quantity of one of them is more than the other. To give an example, a deal stipulates that the

⁴¹⁴ Ibn ʿAbidin, *Al-Durr al-Mukhtar*, vol. 4; p. 184.

⁴¹⁵ Al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 2, p. 21; *Al-Muhadhdhab*, vol. 1, p. 270; Ibn Qudamah, *Al-Mughni*, vol. 4, p. 1; *Al-Mabsut*, vol. 12, p. 109; Al-Shawkani, *Fath al-Qadir*, vol. 5, p. 274.

purchaser buys 1,000 kilograms of wheat for 1,200 kilograms of wheat. The two parties make the exchange when the deal is made and the increase of 200 kilograms of wheat is extra and is given for nothing in return.

Islamic law forbids this type of usury in six kinds of commodity: gold, silver, wheat, barley, dates and salt. If any of these six kinds is sold for the same kind, there can be no increase in the two quantities exchanged. Abu Saʿīd al-Khudri reports that the Prophet (peace be upon him) said: ‘If gold is sold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, or salt for salt, then it must be one for one, and immediate exchange. Whoever gives or asks for extra commits usury. The giver and the taker are the same.’⁴¹⁶ Anything that shares the same reason for prohibition is likewise forbidden. The reason that makes such an exchange usurious is measure and weight. Therefore, any extra given in a deal that exchanges quantities of the same kind that is determined by measure or weight is usurious and forbidden, even though the exchanged quantities of the same kind may differ in quality.⁴¹⁷

Two: *Riba al-Nasiʿah* (i.e. increase for a delay)

This refers to an additional quantity of one of the exchanged items in return for delayed payment, or in return for delayed possession in the sale of two kinds that share the reason applicable to *riba al-Faḍl*, when one of them is not money. To

⁴¹⁶ Related by Muslim, *ḥadīth* No. 1,584.

⁴¹⁷ Ibn al-Qayyim, *Iʿlām al-Muwaqqiʿīn*, vol. 2, p. 140.

give an example: One person sells 1,000 kilograms of wheat in return for 1,200 kilograms of wheat to be given in a year's time. The other form is to sell one kilogram of barley for one kilogram of wheat, but no exchange of the goods takes place.

This type of deal is forbidden, and all the texts that forbid and warn against usury in the Qur'an and the Sunnah primarily include this type of usury. It is the one that was practised in pre-Islamic days and is the type offered by usurious banks in our present time.⁴¹⁸ Abu Sa'īd al-Khudri reported that the Prophet (peace be upon him) mentioned gold and silver and then said: 'Do not sell anything of these that is not present in return for what is present.'⁴¹⁹

Loans: definition and supporting evidence

A loan is money given by one person to another to be returned later in the same amount, so as to benefit the recipient only. It is legitimate, as is clearly stated in numerous Qur'anic verses and *hadiths* that encourage helping others and easing their problems. It is universally agreed by Muslims that loans are perfectly lawful.⁴²⁰

Abu Rafī' reports that 'Allah's messenger borrowed a young camel from a certain man. He subsequently received a number of camels which were part of people's zakat. He ordered Abu

⁴¹⁸ Al-Ramli, *Nihayat al-Muhtaj*, vol. 39, p. 3; Ibn 'Abidin, *Al-Durr al-Mukhtar*, vol. 21; p 2.

⁴¹⁹ Related by al-Bukhari, *hadith* No. 2,177; Muslim, *hadith* No. 1,584.

⁴²⁰ Ibn 'Abidin, *Al-Durr al-Mukhtar*, vol. 4, p. 179; al-Dasuqi, *Hashiyah*, vol. 2, p. 222; Al-Dardir, *Al-Sharh al-Saghir*, vol. 3, p. 291.

Rafi [to give the man a similar camel. Abu Rafi [came back later and said that the youngest camel among them was already over six years old. The Prophet (peace be upon him) said to him: “Give it to him. The best of people are the ones who repay their debts best.”⁴²¹

Surety

The Arabic term *rahn*, which means ‘surety’, is defined as giving something of value as security for a debt. Should the borrower fail to repay his debt, then the surety may be used or sold to repay the creditor.⁴²² Its legitimacy is based on the Qur’anic verse that says in respect of loans that need to be documented: ‘And if you are on a journey and cannot find a scribe, then a security deposit [should be] taken.’ (2: 283). The fact that the verse mentions this in a case of travel is to highlight something that often happens. The Sunnah clearly indicates that giving something as surety is perfectly legitimate. [A’ishah reports: ‘The Prophet (peace be upon him) bought food from a Jew with payment deferred until a specified date and gave him an iron shield as a pledge of surety.’]

Rulings:

1. It is not permissible to give as surety something that cannot be sold, such as an endowment or a dog, because

⁴²¹ Related by Muslim, *hadith* No. 1,600. It should be noted that: 1) The older camel is more valuable than a young one because it could be better used and for harder tasks. Hence the Prophet’s (peace be upon him) comments. 2) The fact that the Prophet (peace be upon him) gave the man more than what was due to him does not constitute usury, because this was not agreed between them in advance. This is a gift he gave to the man, which is perfectly permissible. 3) The Prophet (peace be upon him) must have borrowed the camel in the first place to help someone else, not for his own use. Had it been for himself he could not have repaid the man from zakat, as zakat was not lawful for him to take.

⁴²² Ibn Qudamah, *Al-Mughni*, vol. 4, p. 326.

this cannot be used to repay the creditor. Nor is it permissible to give in pledge something that the giver does not own.

2. It is essential to know the amount of the surety, its type and description.
3. The party giving the surety should be a person who is qualified to take such an action, the owner of the thing to be pledged or has the authority to give it as surety.
4. Neither the party giving the surety, nor the one accepting it, can dispose of the pledged article without the consent of the other party.
5. It is not permissible for the person taking the surety to benefit by the pledged article unless it is an animal that can be ridden or milked. In this case, it is permissible for him to ride it or take its milk, provided that he bears the cost of looking after it.
6. The pledged article is a 'deposit' for the party receiving it, and he only guarantees it in case of misconduct. When the time is due of repaying the debt that the article was pledged in surety for, the creditor must repay it. If he does not, the judge forces him to repay it. If he still refuses to pay, the judge may punish or imprison him until he has repaid. Alternatively, he may order the sale of the pledged article to repay the creditor.

Partnership: definition and rulings

The Arabic term *sharikah*, which means in modern parlance ‘partnership, firm or company’, originally means joining two properties together so that they cannot be separated. In Islamic contexts it means ‘having joint rights or actions’.⁴²³ Examples of joint rights include the rights to inheritance, will, or a gift that gives shares of benefit or ownership. This is also called ‘partnership in ownership’. Having a joint action is one that results from partnership made by contract. This type is the focus of our discussion here.

Partnership is legitimate as evidenced by several Qur’anic verses and *hadiths*. Allah says: ‘Thus do many partners wrong one another, except for those who believe and do righteous deeds’ (38: 24) and ‘If they are more than two, then they shall share in one-third’ (4: 12).

Partnership is a legitimate contract which enables people to cooperate in investing their money and in undertaking large industrial, commercial or agricultural projects that they cannot individually undertake.

Hire

In Islamic terminology *ijarah*, or hire, means a contract to obtain a known benefit in an ongoing arrangement for a specific period from a known or described object, or a contract to get

⁴²³ Ibn Qudamah, *Al-Mughni*, vol. 5, p. 3,875.

some specific work for a specified remuneration.⁴²⁴ This is a legitimate arrangement as evidenced by the Qur'an and the Sunnah. Allah says: 'If, after that, they (i.e. your divorced wives) suckle your infants, pay them for it' (65: 6). 'Said one of the two women, "O' father, Hire him; for the best person that you could hire is one who is strong and worthy of trust"' (28: 26). It is confirmed that 'the Prophet (peace be upon him) and Abu Bakr hired a man from the al-Dayl tribe who was an expert guide.'⁴²⁵ This was when they migrated from Makkah to Madinah and they wanted him to take them along unfamiliar routes so as to elude their pursuers.

Stern warnings are given to those who do not pay people their agreed wages. Abu Hurayrah reports that the Prophet (peace be upon him) said: 'Allah Almighty said: "I shall be the adversary of three types of person on the Day of Resurrection: a man who has given his word by Me and has broken it; a man who has sold a free man and has consumed the price; and a man who has hired a workman, has exacted his due in full from him and has not given him his wage.'⁴²⁶ Ibn [Umar reports that the Prophet (peace be upon him) said: 'Give anyone you hire their wages before their sweat has dried.'⁴²⁷

Conditions for hire

1. The hire must be undertaken by someone who is qualified to act, i.e. a sane free adult with sound judgement.

⁴²⁴ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 242.

⁴²⁵ Related by al-Bukhari, *hadith* No. 2,264.

⁴²⁶ Related by al-Bukhari, *hadith* No. 2,227.

⁴²⁷ Related by Ibn Majah, *hadith* No. 2,443; al-Quda [i in *Musnad al-Shihab*, *hadith* No. 744.

2. The benefit to be gained must be recognised, because it is the subject matter of the contract. As such, it is treated in the same way as sale, where the article sold must be known.
3. The remuneration must be known, because it is given in an exchange of things. Hence it is treated like the price in a sale transaction.
4. The benefit should be lawful. No hire is valid for something forbidden such as fornication or selling wines.
5. The benefit should be possible to realize. It is not permissible to hire someone to do what he cannot possibly do, such as hiring a blind man to do something that needs sight.
6. The benefit should be owned by the one offering it, or he should be permitted to give it. Hire is a sale of benefits and, as such, this condition applies.
7. The period of hire should be known. Hire for an unspecified period is not permissible because it leads to contention.

Borrowing

To borrow means to gain the benefit of something, but it remains intact. A borrowed article is taken by the borrower to benefit by it, such as borrowing a car to take a journey then return it undamaged to its owner.⁴²⁸

⁴²⁸ Al-Bahuti, *Kashshaf al-Qina* [, vol. 4, p. 67.

Borrowing is lawful and encouraged in Islam because it is implied in Allah's order: 'And cooperate in righteousness and piety' (5: 2). Safwan ibn Umayyah reports that 'the Prophet (peace be upon him) borrowed from him body shields before the Battle of Hunayn.'⁴²⁹ Anas also reports that 'the Prophet (peace be upon him) borrowed a horse from Abu Talhah,' who was Anas's stepfather.

Conditions for borrowing

1. The borrower and the person lending the article should be qualified to take such an action, and the borrowed article should be owned by the person lending it.
2. The borrowed article should be usable for lawful purposes. It is not permissible to borrow something for whatever is forbidden, such as borrowing a cup made of gold or silver to use for drinking.
3. The borrowed article should remain intact after using it. If it is consumable, such as food, it cannot be lent or borrowed, unless the lender allows the person to consume the item and replace it with that which is similar. In conclusion, there should be no material benefit for the lender stipulated on the loan as this would make it *riba*.

⁴²⁹ Related by Ahmad, *hadith* No. 15,302; Abu Dawud, *hadith* No. 3,563; al-Hakim, vol. 2, p. 54.

Endowment

Endowment means dedicating something that can give benefit, while retaining ownership of it, in order to gain reward from Allah. This means that the principal is retained, but the yield is given freely.⁴³⁰ For example, a person may make a house an endowment, renting it and using the rent to help poor people, or to maintain a mosque, or to publish religious books, etc.

Creating an endowment is highly encouraged, and this is illustrated by what is reported about [Umar: ‘He obtained some agricultural land at Khaybar. He went to the Prophet (peace be upon him) and asked him: “O Messenger of Allah, I have this land at Khaybar, which is the most valuable property I have ever owned. What do you order me to do with it?” The Prophet (peace be upon him) said: “You may wish to retain the principal and dedicate the yield for charity.” [Umar did that, stipulating that the land itself would never be sold, given as a gift, or possessed by inheritance.’⁴³¹

Abu Hurayrah reports that the Prophet (peace be upon him) said: ‘When a human being dies, all his deeds come to an end except in three ways: a continuous act of charity, a useful contribution to knowledge or a dutiful child who prays for him.’⁴³² The continuous act of charity means the endowment.

⁴³⁰ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 6, p. 4,535.

⁴³¹ Related by al-Bukhari, *hadith* No. 2,737; Muslim, *hadith* No. 1,632.

⁴³² Related by Muslim, *hadith* No. 1,631.



Rulings: The following rulings apply to endowments:

1. The person dedicating the endowment must be qualified to take such action, being a sane, free adult who can make appropriate decisions.
2. The endowed property should be of a type that can be used for a long time, while it remains, and it must be clearly identified.
3. The endowment should be to serve a good purpose, such as the maintenance of mosques, helping poor people, education, etc. Its aim is to earn Allah's reward. Therefore, it is forbidden to make an endowment to maintain the temples of non-Muslims or to buy what is forbidden.
4. If what is endowed falls into a state that makes it of no benefit, it may be sold provided that its value is used for a purpose similar to that intended by the person who endowed it. For example, if it is a mosque the funds should go towards building a similar mosque, and if it is a house the funds should be used towards buying a similar house. This is to maintain the purpose for which it was originally endowed.
5. An endowment is a binding contract which is confirmed by a mere verbal statement. An endowment cannot be revoked or sold.
6. The endowed property should be identified; endowing what is unidentified is void.



7. The conditions stipulated by the person creating the endowment must be abided by, as long as they do not contravene Islamic law.
8. If the endowment is for the benefit of one's children and grandchildren, it should be shared equally between males and females.



— RULINGS OF —
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◆ CHAPTER 10: ◆

**MARRIAGE
& DIVORCE**

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Chapter 10

Marriage and Divorce

In Islamic terminology, the Arabic word *nikah* means a contract that permits an intimate, sexual relationship between man and wife in the legitimate way.⁴³³

Marriage is endorsed in the Qur'an, the Sunnah and the unanimity of scholars. Numerous Qur'anic verses confirm that it is lawful, such as: 'then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one.' (4: 3). 'Marry the single from among you as well as such of your male and female slaves as are virtuous' (24: 32). Many authentic *hadiths* encourage marriage: Ibn Mas'ud reports that the Prophet (peace be upon him) said: 'Young men, whoever of you can afford marriage should get married. It helps you lower your gaze and maintain your chastity. Those of you who cannot afford it may resort to voluntary fasting, for fasting serves as protection [from sin].'⁴³⁴ Ma'qil ibn Yassar reports that the Prophet (peace be upon him) said: 'Marry a woman who is loving and can give you children. I shall be taking pride in your numbers on the Day of Judgement.'⁴³⁵ All Muslims agree that marriage is lawful.

⁴³³ Al-Shawkani, *Fath al-Qadir*, vol. 2, p. 339; al-Dardir, *Al-Sharh al-Saghir*, vol. 2, p. 332; al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 3, p. 123; Ibn Qudamah, *Al-Mughni*, vol. 6, p. 445.

⁴³⁴ Related by al-Bukhari, *hadith* No. 5,066; Muslim, *hadith* No. 1,400.

⁴³⁵ Related by Abu Dawud, *hadith* No. 2,050; al-Nassa'i, *hadith* No. 3,227; Ibn Hibban, *hadith* No. 4,056; al-Hakim, vol. 2, p. 176.

Reasons marriage is lawful

Allah has made marriage lawful for a number of good purposes, including:

1. Maintaining one's chastity.
2. The establishment of a congenial relationship between man and wife that gives them both comfort and a settled home.
3. Maintaining proper lineage between parents and offspring, and close relationships with relatives and in-laws.
4. The continuity of the human race, and the steady increase of the Muslim population so that they may advocate the divine faith.
5. Safeguarding morality, so that people do not sink into adulterous relationships.

The marriage proposal

A proposal is a statement by a man making clear that he wishes to marry a certain woman and informing her guardian of his wishes.⁴³⁶

Certain rules apply in the case of engagement, including:

⁴³⁶ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 9, p. 6,492.

1. When a proposal is accepted, even implicitly, no other man may make a proposal of marriage to the same woman if he is aware of the first proposal. The Prophet (peace be upon him) says: ‘Let no man make a proposal when his brother has made one until the first one has either married the woman or abandoned his proposal.’⁴³⁷ To make another proposal is to undermine the first arrangement and to create ill-feelings.
2. It is forbidden to make a direct expression of one’s desire to a widowed woman while she is in her waiting period. Allah says: ‘You will incur no sin if you give a hint of a marriage offer to [widowed] women’ (2: 235). What the verse tells us is that a hint is permissible. A man may say to her, for example, ‘I hope that Allah will facilitate for me a marriage to a good woman’, or ‘I am hoping to get married’. Giving such a hint incurs no sin, which means that making a direct expression of intention is unlawful. If the woman is divorced and observing her waiting period and her divorce is revocable even a hint is not permissible, because the same rules apply to her as apply to married women.
3. Anyone who is asked about the character of a man making a proposal of marriage, or a woman to whom a proposal is made or considered, should state honestly their good and negative points. This is not considered backbiting; rather, it counts as honest advice which is mandatory to give.
4. A proposal is no more than an expression of desire and a promise of marriage; it cannot count as a marriage.

⁴³⁷ Related by al-Bukhari, *hadith* No. 5,144.

Therefore, each party is still considered a stranger to the other and the relevant rules apply to them.

Conditions for marriage

The following conditions must be met in any marriage:

1. Each of the two spouses must be identified in person. Marriage to an unidentified person cannot be valid, as in the case of the parent saying to the groom: ‘I give you my daughter in marriage’, if he has more than one daughter, or he may say to the groom’s father: ‘I give her to your son in marriage’, if the other has more than one son. Each spouse must be identified either by name or status, such as saying, ‘I give you my eldest daughter’.
2. Marriage by compulsion is not valid, and each of the two spouses must agree to the marriage. Abu Hurayrah reports that the Prophet (peace be upon him) said: ‘A previously married woman cannot be given in marriage unless she has been consulted, and a virgin cannot be given in marriage unless she has given permission.’⁴³⁸
3. The presence of the woman’s guardian. No one can give a woman in marriage except her guardian, because the Prophet (peace be upon him) says: ‘No marriage is valid without the presence of the guardian.’⁴³⁹ The guardian must be an adult, sane, free man and of the same religion as the girl, but probity is not a condition in this case

⁴³⁸ Related by al-Bukhari, *hadith* No. 5,136; Muslim, *hadith* No. 1,419.

⁴³⁹ Related by Ahmad, *hadith* No. 19,518; al-Tirmidhi, *hadith* No. 1,101; Abu Dawud, *hadith* No. 2,085; Ibn Majah, *hadith* No. 1,881; al-Hakim, vol. 2, p. 184; Ibn Hibban, *hadith* Nos. 4,077 and 4,090.

because the lack of probity does not deprive a father or guardian of the competence to give the woman in marriage, unless such lack is excessive.

4. The presence of witnesses. No marriage is valid without the presence of two adult Muslim men of integrity. The Prophet (peace be upon him) says: ‘No marriage is valid without the presence of the guardian and two sound witnesses. Anything else is invalid.’ Al-Tirmidhi said: ‘The standard practice of the scholars among the Prophet’s (peace be upon him) Companions and their successors is that no marriage is valid without the presence of witnesses...’ Needless to say, the condition requiring witnesses is to guard against any dispute, particularly with regard to the acknowledgement of children.
5. The absence of any reasons that preclude the marriage, such as the prospective spouses having been breast-fed by one woman, or the presence of another marital relation, or following a different religion, or other reasons such as either of them being at the time in the state of *Ihram* in pilgrimage or *[umrah]*.

Essentials for marriage

Marriage cannot take place without the following essentials:⁴⁴⁰

1. The two parties, i.e. the prospective husband and wife, who should be free of any reason that precludes the marriage, which will be outlined shortly.

⁴⁴⁰ Al-Bahuti, *Kashshaf al-Qina* [, vol. 5, p. 36.

2. Commitment: This is where the woman's guardian, or whoever is acting for her, makes clear that he is giving her in marriage.
3. Acceptance: This is what the husband or his attorney says: 'I accept this marriage', or 'I agree to this marriage.'

The commitment must precede the acceptance.

The dowry

Definition: The Arabic term *sadaq*, i.e. dowry, is derived from a root that means 'truth', but in an Islamic context it refers to the money the groom must pay to his bride in connection with the marriage contract.⁴⁴¹ It is required according to the Qur'an, the Sunnah and the unanimity of scholars.

Ruling: The husband must pay the dowry to his wife once the contract has been made, and it cannot be written off. This is clear from the Qur'an, as Allah says: 'And give the women [upon marriage] their [bridal] gifts graciously.' (4: 4) and 'To those with whom you seek to enjoy marriage, you shall give the dowers due to them' (4: 24). Sahl ibn Sa'd reports: 'A woman came to the Prophet (peace be upon him) and said that she had made herself a gift to Allah and His messenger. The Prophet (peace be upon him) said: "I have no need for wives." A man said to him: "Marry her to me." The Prophet (peace be upon

⁴⁴¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 301.

him) told him: “Give her some clothes in dowry.”⁴⁴² All Muslims agree that a dowry is both legitimate and required for marriage.⁴⁴³

Marital rights

A valid marriage contract creates many rights for both husband and wife. These are:

One: the wife’s rights

A wife has certain financial rights, such as the dowry and being looked after, and other rights, such as fairness, fine companionship, kindly treatment, etc. We may outline these as follows:

1. The dowry. This is mandatory, not something optional.
2. Being looked after: Which includes her food, clothes, medical care and home. All these must be provided by every husband to his wife.
3. Sexual intercourse: This is part of what is due to her in marriage, so that she may not fall to temptation.
4. Proper companionship and kind treatment: Allah orders: ‘And live with them in kindness’ (4: 19).
5. Fairness: If one has more than one wife, the husband should be fair in the treatment between one’s wives in the

⁴⁴² Related by al-Bukhari, *hadith* No. 5,029; Muslim, *hadith* No. 1,425.

⁴⁴³ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 301.

standard of living provided to them and in dividing his time equitably between them.

Two: the husband's rights

1. Wives should always keep their husband's secrets, revealing them to no one. Allah says: 'So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard.' (4: 34).
2. Obeying the husband in a fair manner, so that family life continues properly. The husband may not ask his wife anything that is not permissible in Islam. If he asks her to do what Islam prohibits, then the principle that applies here is: 'No creature may be obeyed in what constitutes disobedience of the Creator.'
3. Giving him his sexual pleasure if he desires her, unless there is a valid reason. The Prophet (peace be upon him) said: 'If a man calls his wife to his bed and she refuses, and he sleeps feeling angry with her, the angels will curse her until morning.'⁴⁴⁴
4. Taking care of the family home, his property and their children.
5. Kindly treatment and good manners.

⁴⁴⁴ Related by al-Bukhari, *hadith* No. 3,237; Muslim, *hadith* No. 1,436.



Dissolution of the marriage at the wife's request

Definition and status

The Arabic term *khul* [refers in Islamic law to the dissolution of the marriage in specific words and in return for compensation paid by the wife to her husband.

This is lawful in Islamic law, as Allah says: ‘If you have cause to fear that they would not be able to keep within the bounds set by Allah, it shall be no offence for either of them if she gives up whatever she may in order to free herself’ (2: 229). Ibn [Abbas reports: ‘Thabit ibn Qays’s wife said to the Prophet (peace be upon him): “O Messenger of Allah, I do not blame Thaabit ibn Qays for any defect in his character or his religious commitment, but I would hate to commit an act of disbelief now that I am a Muslim.” The Prophet (peace be upon him) asked her: “Will you give him back his garden?” She said: “Yes.” The Prophet (peace be upon him) said (to Thabit): “Take your garden back and divorce her once.”’⁴⁴⁵

The *khul* [is a dissolution of the marriage in return for compensation paid by the wife, repaying him the dowry he gave her, as in the quoted *hadith* when Thabit’s wife gave back the garden that she had received in dowry. It is permissible to agree a compensation that is less or more than the original dowry, according to the majority of scholars, but some scholars

⁴⁴⁵ Related by al-Bukhari, *hadith* No. 5,273. The garden at issue was the dowry Thabit gave his wife. Hence, he was entitled to get it back as she was the one to desire the termination of their marriage.

maintain that it may not be in excess of the original dowry. The *khul'* is considered like a final divorce, in the sense that the husband may not revoke it and reinstate the marriage during the waiting period. He may, however, re-marry her during her waiting period, but this will be a new marriage with a new marriage contract, and with her full agreement. The waiting period in the case of *khul'* lasts until the woman has completed one menstruation period.

Divorce

Definition and status

Divorce, or *talaq* in Arabic, means the dissolution of the marital bond.

Allah has put in place a complete system of rulings and practices, requiring both man and wife to heed them and to maintain an amicable relationship so that their marriage lasts for life. However, one or both of them may not heed these, which may lead to a strained relationship. If this is aggravated, reconciliation may become hard to achieve. Hence, it is necessary to put in place rules and regulations for the termination of the marriage in a way that safeguards the rights of both man and wife.⁴⁴⁶

⁴⁴⁶ Ibn Qudamah, *Al-Mughni*, vol. 7, p. 66.

Formulae for divorce

Divorce may be effected when the husband says certain words. These are of two types:⁴⁴⁷

1. Clear and unambiguous phrases: These are the words that mean divorce and cannot be interpreted in any other way. They include the word divorce in various expressions that use the past tense or use certain adjectives, such as: 'I have divorced you,' or 'You are divorced', or 'You are now a divorcee'. All these formulae indicate that the divorce has taken place. This does not apply to the use of the present, future or imperative forms, such as 'You will be divorced', or 'Get divorced'.
2. Ambiguous phrases: Which may mean divorce but may have different meanings, such as the husband saying to his wife: 'You are free', or 'Go to your family', or 'I have nothing to do with you'.

The difference between the two types is that when clear phrases are used, the divorce takes place even though the husband has not given his wife notice of his intention. It takes effect whether these phrases are said seriously or in jest. The Prophet (peace be upon him) says: 'Three statements are taken seriously, whether they are said in seriousness or in jest: marriage, divorce and the reinstatement of marriage (after divorce).' In the case of using ambiguous formulae, divorce takes effect only if the husband intends it as he says these words. The reason is that such formulae have more than one meaning. Therefore, it is his

⁴⁴⁷ Ibid., p. 98.

intention that determines whether he meant divorce or something else.⁴⁴⁸

Types of divorce

1. The *Sunnah* divorce, which follows the proper course permitted under Islamic law and in accordance with its provisions. This applies to the number of divorces and the time when it is done. According to the *Sunnah*, when divorce becomes inevitable the husband divorces his wife, saying the word of divorce once only when she is not in her menstrual period and provided that no sexual intercourse has taken place after her last period. He leaves the matter at that and does not add a second divorce throughout her waiting period. Allah says: ‘Prophet (peace be upon him)! When you⁴⁴⁹ divorce women, divorce them with a view to their prescribed waiting period, and reckon the period accurately’ (65: 1). The expression, ‘with a view to their prescribed waiting period’, means the time when they can start their waiting period which is after the menstrual cycle has finished. The menstrual period is not reckoned as part of this period. In explaining this Qur’anic statement, Ibn [Umar, Ibn [Abbas and other scholars said: ‘It indicates a time of cleanliness from menstruation without having had an intercourse.’⁴⁵⁰

2. The *Bid[ah* divorce follows an improper way that Allah has forbidden. This also applies to the number of divorces

⁴⁴⁸ Related by Abu Dawud, *hadith* No. 2,194; al-Tirmidhi, *hadith* No. 1,184; Ibn Majah, *hadith* No. 2,039.

⁴⁴⁹ The plural form is used here indicating that the address is to the Muslim community as a whole.

⁴⁵⁰ Ibn Kathir, *Tafsir al-Qur’an al-‘Azim*, vol. 8, p.143.



and the time when it is done. The *Bid'ah* divorce occurs when a husband divorces his wife three times, pronouncing them all at the same time, or separately in the same period when she is free of menstruation, or when she is in menstruation or having postnatal bleeding, or after having had sexual intercourse with her and before she has her next menstrual period and she is not confirmed to be pregnant. All these situations are included under the *Bid'ah* divorce, which is clearly forbidden in Islam. Anyone who resorts to any of these incurs a sin. All scholars agree that the *Bid'ah* divorce is strictly forbidden and whoever does it commits a sin.

‘There is no disagreement that this type of divorce is contrary to what Allah has made lawful in His book, the Qur’an, and what the Prophet (peace be upon him) made clear in the *hadith* concerning Ibn ‘Umar. Whatever is contrary to what Allah and His messenger have legislated is unacceptable, as made clear in a *hadith* reported by ‘A’ishah quoting the Prophet (peace be upon him): “Every action that is contrary to this matter of ours is rejected.” (Related by al-Bukhari and Muslim).

‘Whoever claims that this deviation constitutes a valid divorce, and that this action, which is contrary to what the Prophet (peace be upon him) has explained, commits the perpetrator to it, must produce evidence in support of this claim.

‘The early scholars that considered the *Bid'ah* divorce invalid include [Abdullah ibn Ma'mar, Sa'id ibn al-Musayyib and Tawus, a disciple of Ibn [Abbas. It is also the view of Khallas ibn [Amr and Abu Qulabah, both of whom were leading scholars of the generation following that of the Prophet's (peace be upon him) Companions. This is also the view of Ibn [Aqil, a leading scholar of the Hanbali school of *Fiqh* [...] the Zahiriyyah school of *Fiqh* and Ibn Taymiyyah. It is also one view endorsed by the Hanbali school.’⁴⁵¹

The *hadith* referring to Ibn [Umar's case mentions that he divorced his wife during the Prophet's (peace be upon him) lifetime at a time when she was in her period. His father, [Umar ibn al-Khattab asked the Prophet (peace be upon him) about this and he said to [Umar: ‘Tell him to take her back and retain her until she is clean from menses, and then she has her next period and completes it. Then when she is clean from menses he has the choice either to hold on to her as his wife or to divorce her. This is the time when she can start her waiting period and the one which Allah has ordered to be the start of the divorce.’

Suspension of marriage

The Arabic word *ila'* has no equivalent in English and many other languages, but it signifies a sort of suspension of the

⁴⁵¹ Sabiq, *Fiqh al-Sunnah*, vol. 2, p. 264.



marriage. In Islamic terminology, it refers to a case in which a man makes an oath by Allah or by one of His attributes that he would not have a sexual intercourse with his wife forever, or for a period of more than four months.⁴⁵²

Ila' is forbidden in Islam because it represents an oath to abandon a duty, which is helping his wife to maintain her chastity. If a man swears not to have sexual intercourse with his wife forever, or for more than four months, and he then has sexual intercourse with her and atones for his oath within the four months, then he has ended the situation of *ila'* and Allah may forgive him. If the four months have lapsed and he continues to take the same attitude, despite his wife's objection, the case is put to a judge who will order him to take one of two options: 1) To consider his oath as invalid, atone for it and resume the full marital relationship with his wife; or 2) to divorce his wife. If he refuses to take either one of the two options, the judge will dissolve the marriage.⁴⁵³

Making one's wife forbidden for one

The Arabic term *Zihar* means that a man tells his wife that she is to him like a relative of his whom he cannot marry, or as a part of such relative. He may say to her something like, 'You are to me like my mother's back.'⁴⁵⁴

⁴⁵² Al-Bahuti, *Kashshaf al-Qina* [, vol. 5, p. 406.

⁴⁵³ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 320.

⁴⁵⁴ Al-Shawkani, *Fath al-Qadir*, vol. 3, p. 225.

Zihar is strictly forbidden in Islam. Allah mentions it in the Qur'an and describes it as 'iniquitous and false' (58: 2). If a husband commits this sin and makes such a statement to his wife then all sexual matters, including kissing and foreplay, are forbidden for them until the man has atoned for his iniquitous falsehood. This is based on the Qur'anic verses that outline the recompense required in these cases: 'Those who separate themselves from their wives by saying, "You are as unlawful to me as my mother," and then go back on what they have said, must atone by freeing a slave before the couple may resume their full marital relation [...] However, he who does not have the means shall fast instead for two consecutive months before the couple may resume their full marital relation; and he who is unable to do it shall feed 60 needy people' (58: 3–4). The Prophet (peace be upon him) said to one of his Companions who said such a vow: 'Do not come near her until you have done what Allah has ordered you to do.'⁴⁵⁵

Atonement for *Zihar*

As is clear from the above-quoted verses, the atonement for *Zihar* takes different forms which are in the following order:

- 1) The freeing of a male or female slave who is a believer and who is without defects;
- 2) If he cannot find such a slave, or cannot find the money to buy such a slave if available, then he must fast for two consecutive lunar months. This consecutive fast cannot be

⁴⁵⁵ Related by al-Tirmidhi, *hadith* No. 1,200.

interrupted except by obligatory fasting, such as the fast of Ramadan, or by obligatory non-fasting such as the day of the Eid and the four days of Eid al-Adha, or by illness or travel;

- 3) In the case of one being physically unable to fast, the feeding of 60 needy people.

The Prophet (peace be upon him) ordered Salamah ibn Sakhr, who said *zihar* to his wife, to free a slave, and if he cannot find one to fast two consecutive months, and if he cannot then to feed 60 needy people.

A person who says this to his wife and yet has sexual intercourse with his wife before he has completed the atonement, his deed constitutes a grave sin. Nevertheless, he only has to do one atonement, and his wife remains unlawful to him until he has completed the atonement.⁴⁵⁶

The waiting period and its purpose

Definition: The *[iddah]* is an Arabic word which refers to a specific period, caused by divorce or her husband's death, during which a woman should wait by herself as an act of worship, or to ensure that she is not pregnant, or in mourning for her husband.⁴⁵⁷ It is valid according to the Qur'an, the Sunnah and the unanimity of scholars.

⁴⁵⁶ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 321.

⁴⁵⁷ Ibn Qudamah, *Al-Mughni*, vol. 7, p. 448.



In the Qur'an, Allah says: 'Divorced women shall wait, by themselves, for three monthly courses' (2: 228). 'As for those of your women who are beyond the age of monthly courses, as well as for those who do not have any courses, their waiting period, if you have any doubt, is three months. As for those who are with child, their waiting term shall end when they deliver their burden' (65: 4). 'Those of you who die leaving wives behind, their wives shall wait, by themselves, for four months and 10 days' (2: 234).

Al-Miswar ibn Makhramah, a Companion of the Prophet (peace be upon him), says that 'Sabi[ah al-Aslamiyyah became a widow, and a few days later, she gave birth to her child. She went to the Prophet (peace be upon him) to ask permission to get married. The permission was granted and she got married.'⁴⁵⁸ Other *hadiths* confirm this.

The waiting period is required to ensure that the woman is not pregnant, so that parenthood of the child cannot be confused. On the other hand, in cases of divorce it allows the husband to reconsider his action if the divorce is revocable. When he has thought carefully about the matter he may consider the reinstatement of his marriage. Thus, it serves as a cooling off period and safeguards the rights of the child in case the woman is pregnant.

⁴⁵⁸ Related by al-Bukhari, *hadith* No. 5,320.

Types of waiting period

The waiting period is of two types:

1. After her husband's death: A woman whose husband has died must observe a waiting period. If she is pregnant, her waiting period lasts until she has given birth, even if the birth takes place within an hour of the husband's death. Allah says: 'As for those who are with child, their waiting term shall end when they deliver their burden' (65: 4). This is confirmed by the above-quoted *hadith* concerning Sabi [ah al-Aslamiyyah.

If the widow is not pregnant her waiting period is four months and 10 days, whether the marriage has been consummated or not. The following verse applies to all women who lose their husbands and are not pregnant: 'Those of you who die leaving wives behind, their wives shall wait, by themselves, for four months and ten days' (2: 234).

2. After divorce: When a marriage is terminated by divorce or a judge's order, the woman must observe a waiting period. If she is pregnant, her waiting period lasts until she has given birth. Allah says: 'As for those who are with child, their waiting term shall end when they deliver their burden' (65: 4). If she is not pregnant, her waiting period lasts until she has completed three periods of cleanliness from menstruation after the termination of the marriage.

Allah says: ‘Divorced women shall wait, by themselves, for three monthly courses. It is unlawful for them to conceal what Allah might have created in their wombs, if they believe in Allah and the Last Day’ (2: 228). If the woman does not go through the menstrual cycle, either because of some condition or because she is past-menopause, her waiting period is three months. Allah says: ‘As for those of your women who are beyond the age of monthly courses, as well as for those who do not have any courses, their waiting period, if you have any doubt, is three months’ (65: 4).

If a man divorces his wife before their marriage has been consummated, i.e. without having sexual intercourse, she does not have to observe any waiting period. Allah says: ‘Believers! If you marry believing women and then divorce them before the marriage is consummated, you have no reason to expect them to observe a waiting period. Hence, provide well for them and release them in a becoming manner’ (33: 49).

Breastfeeding

Breastfeeding that affects marriages refers to the feeding of a child of less than two years of age on the breast of a woman other than his natural mother, after the woman has given birth.⁴⁵⁹

⁴⁵⁹ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 10, p. 7,373.

Ruling: Breastfeeding creates a relationship between the woman and the child that is equivalent to that of his mother, in respect of prohibiting marriages and permission of being alone together.⁴⁶⁰ This ruling relies on the Qur'an, the Sunnah and the unanimity of scholars. The Qur'anic verse that lists the women a man is forbidden to marry includes in the list: 'Your mothers who have given suckle to you, your suckling sisters' (4: 23). [A'ishah reports that the Prophet (peace be upon him) said: 'Breastfeeding prohibits (marriages) just as birth prohibits.'⁴⁶¹ Moreover, all Muslim scholars agree that breastfeeding forbids marriages like the blood relationship.⁴⁶²

Conditions:⁴⁶³ Two conditions must be fulfilled for breastfeeding to have its effect of creating a family relation and prohibit marriages:

- 1) The breastfeeding must take place before the child has completed two years of age. If it takes place after that, it has no effect. Allah says: 'Mothers may breastfeed their children for two whole years; [that is] for those who wish to complete the suckling' (2: 233). 'And his weaning takes place within two years' (31: 14). Umm Salamah, the Prophet's (peace be upon him) wife, reported that he said: 'No breastfeeding causes prohibition of marriages unless it is on the breast, reaches the bowels, and is before

⁴⁶⁰ Al-Bahuti, *Kashshaf al-Qina* [, vol. 5, p. 155.

⁴⁶¹ Related by al-Bukhari, *hadith* No. 2,646; Muslim, *hadith* No. 1,444.

⁴⁶² Ibn Qudamah, *Al-Mughni*, vol. 7, p. 537.

⁴⁶³ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 332.

weaning.⁴⁶⁴ This means that for breastfeeding to take effect, it must feed and nourish the child, stopping its hunger and helping its growth.

- 2) It is clear that the breastfeeding that initiates the relationship prohibiting certain marriages is general. The condition is fulfilled when the child has been given a full-feed on the breast of a woman other than its mother. The child must let go of her breast by himself, without anything happening to make the child do so. If the child takes only a suck or two, this has no effect, because it is less than a full feed and does not give proper nourishment. [A'ishah quotes the Prophet (peace be upon him) as saying: "A suck or two do not prohibit marriages.""] (Related by Muslim and in the four authentic anthologies).

‘Scholars have several views on this point which we may sum up as follows:

- All breastfeeding, whether little or plentiful has the same effect concerning future marriages, as the relevant verse speaks of breastfeeding in general.
- Prohibition of future marriages takes effect only when the child has had five separate feeds.
- The prohibition is confirmed by the child taking three feeds or more.⁴⁶⁵

The relationship that is created by breastfeeding entails two rulings: one causing prohibitions and another causing

⁴⁶⁴ Related by al-Tirmidhi, *hadith* No. 1,152; Ibn Hibban, *hadith* No. 4,224.

⁴⁶⁵ Sabiq, *Fiqh al-Sunnah*, vol. 2, pp. 75–76.

permissibility. With regard to the first ruling, breastfeeding prohibits marriages in the same way as a blood relationship. Thus, the breastfeeding woman becomes a mother of the child she breastfeeds. Her mother is its grandmother and her sisters are its aunts. Likewise, her daughters and granddaughters are its sisters and nieces. Her husband is its father and her husband's sisters are its paternal aunts. All these are forbidden to the child to marry when he grows up. Her sons and grandsons are its brothers and nephews. If the breastfed child is a girl, she cannot marry these when she grows up. With regard to permissibility, all that is permissible to a man through his relationship with his natural mother is also permissible to him through his relationship with his breastfeeding mother. [A'ishah reports that the Prophet (peace be upon him) said: 'Breastfeeding prohibits (marriages) just as birth prohibits.'

Confirmation of breastfeeding

The testimony of one woman who is well known to be a woman of integrity is sufficient to prove breastfeeding and make it effective, whether she confirms that she or another woman was the one who breastfed the child and provided that she makes clear that the breastfeeding took place when the child was less than two years of age. [Uqbah ibn al-Harith said: 'I married a woman, but another woman came to us and said that she breastfed both of us. I went to the Prophet (peace be upon him) and told him. He said: "How could you (continue with this marriage) when this has been said? Leave her."'⁴⁶⁶ This is a

⁴⁶⁶ Related by al-Bukhari, *hadith* No. 2,660.



testimony about things that are normally done in private. Therefore, the testimony of one woman is sufficient, as it is the case with witnesses of childbirth.⁴⁶⁷

Child custody

Definition: Child custody means, according to Islamic law, taking care of a child when it cannot look after itself, and to bring the child up, looking after it physically and mentally, protecting it against anything that could cause it harm.⁴⁶⁸

Ruling: Custody is obligatory to be taken by the adult if he or she is the only one to take it, or if there are more than one but the child accepts only one of them. It is obligatory because the child might come to harm or die if no one takes custody of it and to ensure its wellbeing. When there are several potential custodians it becomes a collective duty, which means that when one of them takes it the others are not accountable. Custody is given to either women or men who qualify, but women are always given priority because they are kinder to children, and better carers.

A child is in the custody of its parents, providing their marriage remains in force. If they are divorced the child's custody is given to the mother, unless she gets married to someone who is unrelated to the child. A woman complained to the Prophet

⁴⁶⁷ Ibn Qudamah, *Al-Mughni*, vol. 7, p. 558.

⁴⁶⁸ Al-Bahuti, *Kashshaf al-Qina* [, vol. 5, p. 765.

(peace be upon him) that her ex-husband wanted to take her child away from her. The Prophet (peace be upon him) said to her: ‘You have the right to the child ahead of him, unless you get married.’⁴⁶⁹

When someone is given custody of a child, it becomes the responsibility of that person to protect the child against anything that causes it harm until it grows up. The custodian has to look after the child’s feeding, nourishment, internal and external cleanliness, sleep, play and all its needs and requirements.⁴⁷⁰

Conditions applicable to the custodian

1. Being a Muslim: An unbeliever cannot be given the custody of a Muslim child, because the custodian may then bring the child up as an unbeliever.
2. Being a sane adult: Custody cannot be given to a young or insane or feeble-minded person because such people cannot manage their own affairs, let alone look after a young child.
3. Integrity, honesty and chastity: Custody cannot be given to someone who is known to be unworthy of trust, or one who is of loose morality. Such people cannot be trusted with the welfare of a young child. However, this condition is controversial. Ibn al-Qayyim discusses this at length: ‘It is right to say that integrity and honesty cannot be a condition for someone to take custody of a child, despite

⁴⁶⁹ Related by Ahmad, *hadith* No. 6,707; Abu Dawud, *hadith* No. 2,276; al-Hakim, vol. 2, p. 225.

⁴⁷⁰ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 334.

the fact that scholars of the Hanbali and al-Shafi'i schools of *Fiqh*, as well as other scholars, consider it so. To make it a condition is very difficult to justify. Had it been so, most children would be lost, and the community would face immense difficulties. Ever since the early days of Islam, the children of transgressor parents are brought up by them, with no one objecting to them, although they are the majority of people. When was a child ever taken away from his parents, or from one of them, on the grounds of their transgression?'

4. Physical and financial ability to look after the child: Child custody cannot be given to an elderly person who cannot take care of the child, or to someone with a disability such as being deaf and dumb.
5. The custodian must be a person of good common sense: One who is a spendthrift cannot be given custody, so that he or she would not squander the child's property.

All these conditions apply to both men and women. An additional condition applies to women which is that the woman to be given custody must not be married to someone who is totally unrelated to the child. The Prophet (peace be upon him) said to a child's mother: 'You have the right to the child, ahead of him (i.e. the child's father), unless you get married.' Custody becomes void if any of the conditions required is not met, or if any of the reasons precluding it applies.



Rulings applicable to custody

In the first place, the child's mother takes custody. The mother's relatives always have a stronger claim to it than the father's relatives. On this basis, the order of those entitled to it is as follows: the child's mother, but when there is a factor that prevents her taking custody, such as failing to meet its conditions, then the child's custody is transferred to her mother, then her grandmother, then the child's father's mother, then to the child's full sister, then to its sister on its mother's side, then to its sister on its father's side. If the child has no women relatives among these to take custody, or if there are relatives but do not qualify for custody, then custody is given to close relatives according to the line of inheritance: its father, then its grandfather of any level, then its full brother, then its half-brother on their father's side.

Payment for custody is treated in the same way as payment for breastfeeding the child. The mother is not entitled to any payment when she is still married, or when she is in her waiting period after divorce, because in these cases she is entitled to being looked after. When her waiting period is over, she is entitled to payment for custody of the child. Whoever else takes custody is entitled to payment from the first day. The child's father is responsible for payment for the child's custody, just as he is responsible for payment for its breastfeeding. Moreover, the father should pay for the rental of accommodation and its furnishing if the mother does not own any home of her own where she can look after the child. Furthermore, the father

should pay for the child's essential needs, such as food, clothes, healthcare, etc. The payment for custody is payable from the first day of the woman taking custody. If it is not paid it remains as a debt owed by the father, and it cannot be redeemed except through payment or if the woman in custody willingly forgoes it.

Duration

The period of custody comes to an end when the child is no longer in need of women's care, and attains an age when it can look after itself, managing to eat, dress and clean itself without help. Needless to say, there is no fixed age for this. The important thing is that the child shows such independence and the ability to look after itself. However, many scholars are of the view that custody comes to an end when a boy reaches seven years of age or a girl reaches nine years.

When custody is over

When the term of custody is over, if the child's father and custodian agree to the child staying with either of them, their agreement is endorsed. If they do not come to an agreement, then the child is given the choice. Whoever of them is chosen by the child has the stronger claim. A woman complained to the Prophet (peace be upon him) that her former husband wanted to take their child from her. The Prophet (peace be upon him) said to the child: 'This is your father and this is your



mother. Take either one's hand.' The child took his mother's hand, and she took him away. (Related by Abu Dawud).

All scholars are in agreement that there is no rigid rule on which parent has an absolute right to the child. Indeed, a parent who is known to be negligent of his duties cannot be given priority over the one who takes good care of the child. What is important in all this is the interests of the child and who takes better care of it. Ibn al-Qayyim said:

To whomever we give priority, whether on grounds of the child's choice, or drawing lots, or on personal basis, we only give priority when the child's interests are fulfilled in that way. If the mother is the better carer and she is more mindful of the child's needs, she is placed ahead of the father. In this case, we pay no heed to whose lot is drawn, or to the child's choice, as the child's choice is based on where more fun is available. If the child chooses the parent who is likely to provide more fun, the choice is discounted. The child is given to the parent who takes better care of it. Islamic law does not approve of anything else [...] If the mother ensures that the child goes to school and learns, while the child prefers to play with its mates and the father facilitates this, the mother has more claim to the child, without going to the process of choice or drawing lots. The reverse is also valid. The same applies in any situation when one parent defaults on what Allah commands with regard to the child while the other parent observes these. The latter is given priority [...] Our

teacher, Ibn Taymiyyah, said: ‘If either parent neglects educating the child and the duties Allah has imposed on him, that parent is disobedient of Allah and has no authority over the child. Indeed, anyone who is neglectful of his duties towards the child has no authority. That person is either removed from being the child’s guardian and the guardianship is given to someone else who will fulfil his duties, or he is given an assistant to fulfil these duties. What is important is to obey Allah and His messenger in ensuring the child’s good upbringing, as far as this is possible.’⁴⁷¹

Maintenance

In Islamic usage, the Arabic term *nafaqah*, which is translated as ‘maintenance’ means to provide for whoever one supports in food, clothes, residence and other needs.⁴⁷²

It is an incumbent duty on the husband to look after his wife, providing her with what she needs of food, residence, service and healthcare. He must provide all this even though his wife may be rich and have an income. This duty is made clear in the Qur’an, the Sunnah and the unanimity of scholars. Allah says: ‘Let them dwell wherever you dwell, according to your means, and do not harass them so as to make their lives a misery’ (65: 6). A companion of the Prophet (peace be upon him) asked him:

⁴⁷¹ Sabiq, *Fiqh al-Sunnah*, vol. 2, pp. 342–51.

⁴⁷² Ibn ‘Abidin, *Al-Durr al-Mukhtar*, vol. 2, p. 886; al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 3, p. 425.



‘To what is a man’s wife entitled as her right?’ The Prophet (peace be upon him) said: ‘You feed her as you feed yourself, give her clothes as you have. Do not hit her face, and do not abuse her verbally. You may not boycott her except at home.’ Scholars are unanimous that a wife is entitled to full maintenance by her husband, but they state certain conditions, such as that the marriage should be valid and that the woman must fulfil her marital duties, helping her husband maintain his chastity. However, the Zahiriyah scholars say that a wife is entitled to full maintenance for merely being married, and once a woman is married to a man she is entitled to being fully looked after. Ibn Hazm said: ‘A man must support his wife once the marriage contract is made, whether he asks for the consummation of the marriage or not, and even if she is still very young, rebellious or not, rich or poor, has a father or is an orphan, virgin or not, free or slave. He supports her according to his means.’⁴⁷³ There is no specified level of the amount of maintenance; it depends on the husband’s circumstances and whether he is rich, poor or of adequate means. If the husband refuses to pay his wife’s maintenance it becomes a debt owed by him, and this debt cannot be written off. It must be repaid unless the wife willingly forgoes it.

A woman observing a waiting period after a revocable divorce, and one observing a waiting period while she is pregnant, is entitled to full maintenance throughout her waiting period.

⁴⁷³ Ibn Hazm, *Al-Muhalla*, vol. 10.



Scholars have different views on the maintenance entitlement of a divorced woman whose divorce cannot be revoked.⁴⁷⁴

Maintenance of parents who are poor is a duty incumbent on their son when he has the means to support them. Parents may take a portion of their son's money, whether the son gives them leave to do so or not. Al-Shafi'i, Malik and Abu Hanifah agree that parents may only take what they need of their son's money. Imam Ahmad says that parents may take whatever they want of their son's money, whether they are in need or not.

Just as support for a poor parent is obligatory to a son who has adequate means, it is incumbent on a parent who has the means to support his son who is poor. Imam Ahmad says that if a son is of age and has no income, he is entitled to be supported by his father.

Support for poor relatives by their richer relations is a subject of much controversy between scholars. Some say that it is only due as a matter of kindness to relatives. The al-Shafi'i school of *Fiqh* say that such support is incumbent on a rich person to his father and ancestors of any level, and to children and offspring of any level, but it is not a duty beyond these. The Maliki school of *Fiqh* say that maintenance is due to father, mother, son and daughter only. It is not a duty to support grandparents or grandchildren. If parents or children are of a different religion, it is still due. The Hanbali school of *Fiqh* consider maintenance a duty incumbent on a relative who is in

⁴⁷⁴ Sabiq, *Fiqh al-Sunnah*, vol. 2, pp. 169–80.



means to his poor relatives whom he would be entitled to inherit, if they are in means. They thus attach it to the rights of inheritance. Where a person may inherit, he is also duty bound to give support. Thus they make gain commensurate with liability. Such rights are counterbalanced by similar duties.

It is also a duty to look after one's animals, giving them enough food and drink to live comfortably. If he refrains to do so, the ruler compels him to either maintain or sell or slaughter them. If he continues to refuse to fulfil his responsibility, the ruler takes the necessary action. The Prophet (peace be upon him) says: 'A woman was punished on account of imprisoning a cat until she died. As a result, she enters hell. Having restricted the cat, she did not give her food, nor did she let her loose to eat of what the earth offers.' He also says: 'A man was walking along his way when he was extremely thirsty. He came up to a well and he went down to drink. When he came up, he found a dog panting. The dog appeared very thirsty, licking the sand. The man thought: "This dog is as thirsty as I was a short while ago." He therefore went down the well again, filled his shoe with water, held it in his mouth, went back up and gave the water to the dog to drink. Allah was pleased with him and He forgave him his sins.' The Prophet's (peace be upon him) Companions said: 'O Messenger of Allah, will we be rewarded for what we do to our animals?' He said: 'You have a reward for everything you do for a living creature.'



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◆ **CHAPTER 11:** ◆

WILLS AND INHERITANCE



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Chapter 11

Wills and Inheritance

Wasiyyah, i.e. a will, according to Islam means bequeathing ownership after one's death in a voluntary way.⁴⁷⁵ Qur'anic and *hadith* texts, as well as the unanimous view of scholars, make clear that making a will is perfectly legitimate.⁴⁷⁶

Making a will is recommended, even though one may be in very sound health, as death may occur unexpectedly and all of a sudden. To make a will is not an obligation except for one who has an outstanding debt, or one holding something that belongs to another person, or has a duty. In these cases, a will is a duty so that the person concerned ensures that what he owes to others should be delivered after one's death. Allah makes it a duty of Muslims to deliver to their owners anything they hold in trust.⁴⁷⁷

Types of wills:

1. Obligatory: A will to ensure the repayment of debts and return things held in trust;
2. Recommended: A will made in favour of relatives who are not heirs and for charitable purposes;

⁴⁷⁵ Ibn [Abidin, *Al-Durr al-Mukhtar*, vol. 6, p. 648.

⁴⁷⁶ Ibn Qudamah, *Al-Mughni*, vol. 8, p. 390.

⁴⁷⁷ Al-Zuhaili, *Al-Fiqh al-Islami*, vol. 10, p. 7,443.

3. Reprehensible: A will made in favour of people who indulge in sin;
4. Forbidden: A will created for a forbidden purpose, such as building a temple. A will is also forbidden if it amounts to harming any of one's heirs.
5. Permissible: A will made in favour of relatives and non-relatives who are well off.

A will is deemed to have been made in one of three ways: a verbal statement, a written document, and a clear signal.

Conditions: The testator must be a person who is qualified to make a donation, by being an adult of sound mind. There are, however, two exceptions: a young testator who makes a will regarding his own funeral and burial, as long as this is within what is reasonable, and a weak-minded person making a will for charitable purposes, such as teaching the Qur'an or building a hospital.

The beneficiary of one's will must not be an heir of the testator. The Prophet (peace be upon him) says: 'No will may be made in favour of an heir.' If the beneficiary kills the testator, the will is rendered invalid.

The maximum amount a person can bequeath by will is one-third of his or her estate. It is preferable to make it less than one-third. If the estate is small, it is better that no will is made, so that the whole estate goes to the heirs.

Invalidity

A will becomes invalid if any of its conditions is not met. It is also invalid if the testator goes totally insane and his insanity continues until death. It is also invalid if the beneficiary dies before the testator, or if what is bequeathed is a certain object that perishes before the beneficiary takes possession of it.

Inheritance

Fara'id is a branch of Islamic law that deals specifically with inheritance, its rules and how each heir's share is calculated. The word is taken from a root that means 'to assign, determine, etc.' In Islamic law, *fard*, means a share assigned by Islam to its recipient. In Islam, inheritance means the 'rightful share due to an heir on the death of a relative.'⁴⁷⁸

What makes an heir

Three situations result in making heirs:⁴⁷⁹

1. Marriage: This means a valid marital contract must exist that has been made in the presence of the woman's guardian and two witnesses. Heirs are created even if the death occurs before the marriage is consummated, and even if the husband and wife have never been alone together. Allah says: 'You shall inherit one half of what

⁴⁷⁸ Ibn 'Abidin, *Al-Durr al-Mukhtar*, vol. 5, p. 345.

⁴⁷⁹ Ibid., vol. 5, p. 538; Al-Dardir, *Al-Sharh al-Saghir*, vol. 4, p. 619; Ibn Rushd, *Bidayat al-Mujtahid*, vol. 2, p. 355; al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 3, p. 4; al-Bahuti, *Kashshaf al-Qina'*, vol. 4, p. 448. Ibn Qudamah, *Al-Mughni*, vol. 6, pp. 304 and 326.



your wives leave behind' (4: 12). This is a general statement that applies in all cases.

2. Blood relations: This refers to a relationship created by reason of birth, and applies to near or distant relatives. It includes parents, ancestors, offspring and others.
3. *Wala'*: which is a contractual relationship between two persons, one of whom has no heir through blood relations. He says to the other person: "You are my *waliy* (i.e. relation). You inherit me when I die, and you pay the compensation due of me if I commit a crime of manslaughter or a lesser crime." According to the Hanafi school of *Fiqh*, such a contract initiates a reason of inheritance, but the majority of scholars do not uphold this relationship.

What prevents inheritance

Three reasons prevent inheritance:

1. Murder: All scholars agree that a deliberate murder is a cause that precludes inheritance. The murderer cannot inherit from his victim. The Prophet (peace be upon him) says: 'A murderer takes nothing of the estate.'⁴⁸⁰
2. Slavery: During the time when slavery was a recognized system, slaves could not inherit.
3. If the heir and his deceased relative belonged to different faiths. The Prophet (peace be upon him) says: 'A Muslim

⁴⁸⁰ Related by al-Daraqutni, *hadith* No. 4,573; al-Bayhaqi in *Al-Sunan al-Kubra*, vol. 6, p. 220.

does not inherit from an unbeliever, nor does an unbeliever inherit from a Muslim.’⁴⁸¹

It should be absolutely clear that no one may, under any circumstances, deprive an heir of his or her share of inheritance, nor is it up to anyone to give any heir more than the share to which that heir is entitled under the Islamic system of inheritance.

The heirs

Heirs may be males or females. There are nine types of male relatives: 1) son; 2) grandson and lower male grandchildren;⁴⁸² 3) father; 4) grandfather and higher male grandparents; 5) brother or half-brother; 6) nephew who is the son of a half-brother who has a different mother. If the deceased has the same mother then his nephew does not inherit; 7) paternal uncle; 8) son of a paternal uncle who is a full brother of the deceased’s father or a half-brother born to the same father; 9) husband, as Allah says: ‘You shall inherit one half of what your wives leave behind’ (4: 12).

Similarly, there are six types of female heirs: 1) daughter; 2) granddaughter who is the daughter of a son; 3) mother; 4) grandmother; 5) sister or half-sister; 6) wife, as Allah says: ‘They (i.e. your wives) shall inherit one quarter of what you leave behind’ (4: 12).

⁴⁸¹ Related by Muslim, *hadith* No. 1,614.

⁴⁸² i.e. great-grandchildren, etc.

Types of heirs according to their inheritance

1. Those who inherit assigned shares, known as *fard*: There are seven types of these heirs: husband, wife, the two grandmothers, mother and her two sons, i.e. the full and the half brothers of the deceased.
2. The heirs who do not have assigned shares. There are 10 of these, known as *ta[siib*: son, grandson, full brother and his son; half-brother from the same father and his son; full paternal uncle and his son; paternal uncle from the same father and his son.
3. Heirs who inherit as *fard* in one capacity and *ta[siib* in another, combining both. These are the father and the grandfather.
4. Heirs who inherit as *fard* in one capacity and *ta[siib* in another but do not combine both. These are the ones who jointly inherit one half of the estate, except the deceased's husband, and the ones who jointly inherit a share of two-thirds.

Altogether, there are 21 kinds of relatives who may be heirs with assigned shares. The assigned shares for them differ according to the type of the relationship with the deceased and the presence or absence of other heirs, and may be one-half, one-quarter, one-eighth, two-thirds, one-third and one-sixth.

One: Five kinds of heirs may take a share of one-half:

1. The husband, when his deceased wife has no male or female offspring by that marriage or an earlier one.
2. The deceased's daughter, when she has no siblings, male or female, who are also heirs of the deceased.
3. The deceased's son's daughter, when she is the only heir.
4. The deceased's full brother, when he has no siblings to share with him and the deceased has neither offspring nor parents or grandparents.
5. The deceased's half sister born to his father, when she has no siblings to inherit with her, and the deceased has neither offspring nor parents or grandparents, nor a full brother or a full sister.

Two: Two kinds of heirs may take a share of one-quarter:

1. The husband, when his deceased wife has another heir who is a son, a daughter or a grandchild.
2. The wife, when her deceased husband has no offspring to inherit from him.

Three: Heirs who take a share of one-eighth.

This applies to the deceased's wife, or wives, when her husband has offspring to inherit from him.⁴⁸³

Four: Four kinds of heirs together take a share of two-thirds:

1. The deceased's daughters, when their father has no son to share with them. Whether there are two daughters or more, they will share equally two-thirds of the deceased's estate.

⁴⁸³ Needless to say, the same rules apply if the deceased is a man or a woman. When we say 'no offspring to inherit from him' we mean 'from him or her'.

2. The deceased's son's daughters, when the deceased has neither children nor a grandson. If there are two or more such granddaughters, they equally share two-thirds of the deceased's estate.
3. The deceased's full sisters, when there are two or more of them and they have no full brother to share with them, and the deceased has no offspring to inherit from him.
4. The deceased's half-sisters born to his father, when there are two or more of them and they have no brother to share with them, and the deceased has no offspring, full brothers or full sisters to inherit from him.

Five: Two kinds of heirs inherit a share of one-third:

1. The deceased's mother, when the deceased has no offspring and no group of siblings to inherit from him.
2. Half brothers born to the deceased's mother, when the deceased has neither offspring nor parents or grandparents to inherit from him.

Six: Seven kinds of heirs take a share of one-sixth:

1. The deceased's father, when the deceased has children or grandchildren.
2. The deceased's grandfather, when the deceased has children or grandchildren.
3. The deceased's mother, when the deceased has offspring, and also when the deceased has no offspring but has siblings.
4. The deceased's grandmother, when the deceased's mother has already died.

5. The deceased's son's daughter, when she has no brother to inherit with her, and when the deceased has no higher offspring other than an heir who is entitled to a share of one-half. This granddaughter takes a share of one-sixth only when there is another heir inheriting one-half.
6. The deceased's half sister born to his father, when she has no brother to inherit with her, but the deceased must have a full sister who takes a share of one-half.
7. The deceased's half brother or half sister born to his mother, when a) the deceased has no offspring to inherit from him; b) the deceased has no male ancestors; and c) there is only one half brother or one half sister.

Ta[sib means the presence of heirs known as the *[asabah*, who inherit but have no pre-determined shares. If there is only one of them, and no heirs with assigned shares, that single heir takes all the property. If the single *[asabah* heir is joined by heirs who have assigned shares, he takes what remains after the other heirs take their assigned shares. The Prophet (peace be upon him) says: 'Give the assigned shares to the heirs entitled to them and what remains goes to the closest male.'⁴⁸⁴

There are three types of *[asabah*: 1) the person himself is *[asabah*; 2) the person becomes *[asabah* because of the presence of another; and 3) the person becomes *[asabah* when joined with another.

⁴⁸⁴ Related by al-Bukhari, *hadith* No. 6,737; Muslim, *hadith* No. 1,615.

Exclusion

This refers to the prevention of an heir from taking all or part of his or her share because of the presence of another who has a stronger claim. There are two types of exclusion:

1. A cause that prevents inheritance: There are three situations where this type of exclusion might apply, as we have noted: being a slave, killing the deceased and following a religion other than Islam. If any of these causes applies to an heir, it excludes that heir from inheriting. It is as though he or she did not exist, no matter what relationship he or she had with the deceased.
2. Exclusion of personnel: The most common form of exclusion, which works in two ways: a) Total exclusion, which means that the heir is disqualified and receives nothing. It may apply to any heir except six: father, mother, husband, wife, son and daughter; b) Partial exclusion, which means reducing the heir's share.



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◇ CHAPTER 12: ◇

OFFENCES



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Chapter 12

Offences

The Arabic term *jinayah*, which means ‘offence’, refers to a crime committed against a person, or property or honour. Muslim scholars dedicate the heading ‘Offences’ to apply to physical crimes against persons, and consider other offences to fall under the heading of ‘Mandatory Punishments’, or *Hudud*. As such, an offence, or *jinayah*, refers to a crime affecting a person physically and incur a punishment that is in the form of equal retribution, a financial fine or other recompense.⁴⁸⁵ An offence may be a crime leading to death, or a lesser harm.

An offence against life

This is the crime of killing. All Muslims agree that to kill without a lawful cause is strictly forbidden. Allah says: ‘Do not take any human being’s life – which Allah has made sacred – except in the course of justice’ (6: 151). There are three categories of killing: deliberate, semi-deliberate and accidental.

Deliberate killing, or murder

This refers to a case when the killer intends to unlawfully kill another human being, using means that will most probably lead to that person’s death. Three conditions must apply to make the

⁴⁸⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 341.



killing a murder: 1) The killer's intention is to kill his victim; 2) Knowledge that the person he intends to kill is a human being who enjoys the right to life; and 3) The means used is something that normally leads to killing, whether it has a sharp blade or not. Alternatively, the killing may be by using something or a method leading to death, such as poisoning or strangulation.

Ruling: Murder has two rulings, the first of which relates to the hereafter, the other relating to this life. Islam considers murder a cardinal sin incurring severe punishment in the life to come, unless the murderer repents and mends his ways, earning Allah's forgiveness. Allah says: 'He who deliberately kills a believer, his punishment is hell, therein to abide permanently. Allah will be angry with him, and will reject him, and will prepare for him a dreadful suffering' (4:93).

In this life, murder is punishable by death as a *qisas*, or equal punishment, unless the victim's immediate family pardon the killer. This means that the immediate family have the options of enforcing the death punishment on the killer, or to give him a free pardon, or demand indemnity, or to agree a higher sum. This is based on a *hadith* that quotes the Prophet (peace be upon him) as saying: 'Whoever commits a murder is given to the victim's immediate family. They may enforce the death penalty, or may take indemnity which is thirty camels over three years of age, and thirty over five years and forty pregnant she-camels. Whatever they agree above that is theirs to take.'⁴⁸⁶

⁴⁸⁶ Related by Ibn Majah, *hadith* No. 2,626.



Islam encourages its followers to forego their rights whenever possible. Therefore, giving a pardon in such cases is encouraged as it demonstrates a God-fearing attitude.

Semi-deliberate killing, or manslaughter

This occurs when the offender attacks his victim with something which does not normally cause death, but then the victim dies. This is a case similar to deliberate killing, in the sense that there is an assault, yet on the other hand it is similar to accidental killing, because of using something that does not normally cause death. Therefore the ruling here falls in between. The ruling applies even in cases where the attacker merely wanted to punish the person being attacked.⁴⁸⁷

Ruling: Like murder, this type of killing has two rulings.⁴⁸⁸ The first relates to the hereafter, which makes such action forbidden, incurring Allah's punishment for killing someone who has the right to life. However, this punishment is lesser than the one for murder. The second ruling relates to this life. The offender is required to pay indemnity to the victim's family. However, even if the victim's family demand the death penalty, it does not apply. The indemnity is payable from the estate of the offender. In addition he is required to free a slave from bondage. If he cannot find that, he is required to fast two consecutive months.

⁴⁸⁷ Ibn Qudamah, *Al-Mughni*, vol. 7, p. 677.

⁴⁸⁸ *Ibid.*, p. 775.

Accidental killing

The offender has no intention to kill the victim, but his action results in another's death,⁴⁸⁹ as in the case of a driver making an error that results in crashing his vehicle into another vehicle, or a wall or hitting a lamp post. If such an occurrence results in someone's death, it is considered accidental killing.

Ruling: The ruling relating to the hereafter is that accidental killing does not incur a sin or a punishment, while the ruling relating to this life is that indemnity is payable by the offender and his relatives over a period of three years.

Offences causing physical injury

These include every type of harm that affects a human being but does not lead to death, including wounds and loss of limbs or other organs. In all such offences, a *qisas* punishment is enforced, based on the Qur'an, the Sunnah and unanimity of scholars. In the Qur'an Allah says: 'A life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and a similar retribution for wounds' (5: 43). Al-Rubayyi [, a lady Companion of the Prophet (peace be upon him), broke the front teeth of a maid. The Prophet (peace be upon him) said: 'According to Allah's book, a similar punishment is due.'⁴⁹⁰ Moreover, all Muslim scholars agree that equal punishment

⁴⁸⁹ Ibid., p. 770.

⁴⁹⁰ Related by al-Bukhari, *hadith* No. 4,499; Muslim, *hadith* No. 1,675.

(*qisas*) is due, if possible,⁴⁹¹ in any case that results in bodily harm.

Offences causing bodily harm are of three categories: 1) wounds; 2) loss of a limb; and 3) loss of function of a bodily organ.

Wounds

Wounds are of two kinds: a) wounds to the face or the head; and b) wounds to the rest of the body.

Scholars have identified 10 degrees of wounds for these two categories. The first five are: a wound that scratches the skin; a wound that causes little blood; a wound that cuts the flesh lightly but does not reach the bones; a wound that goes deeper into the flesh but does not reach the membrane that separates the flesh from the bone; and a wound that reaches this membrane. In any of these five degrees, no equal, i.e. *qisas* punishment or indemnity is due. It is left to the judge to determine the compensation payable by the offender.

The other five degrees are a wound that cuts the membrane and exposes the bone, which incurs five% of the total indemnity payable in the case of killing; a wound that exposes and breaks a bone, which incurs 10% of the indemnity; a wound that dislocates a bone whether it is exposed and broken or not, which incurs 15% of the indemnity; a wound that reaches the

⁴⁹¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 350; al-Bahuti, *Kashshaf al-Qina* [, vol. 5, p. 638.



meninges, the membranes enclosing the brain; and a wound that cuts the meninges and reaches the brain. Each of these last two wounds incurs one-third of the total indemnity.

Added to these is a wound that goes deep into the body, whether in the abdomen, chest or back, and this type also incurs one-third of the indemnity.

The bases for estimating such compensation is found in the Sunnah: The Prophet (peace be upon him) sent a written message to the people of the Yemen, stating that wounds going as deep as the meninges enclosing the brain incur one-third of the indemnity, and the wound that causes the fracture of a skull or a facial bone incurs 15%, while the one that exposes the bone incurs five% of the indemnity.⁴⁹² Moreover, scholars are unanimous that to cause the fracture of a skull bone incurs 15%, and they agree that wounds going deep into the body incur one-third of the indemnity. Zayd ibn Thabit, a learned Companion of the Prophet (peace be upon him), ruled that a wound that exposes or breaks a facial or skull bone incurs 10% of the indemnity, and his ruling was not opposed. Furthermore, a wound that pierces the meninges incurs nothing less than a wound that reaches the meninges without piercing them, which is one-third of the indemnity.

These five degrees of wounds are not subject to *qisas*, except for the first one, which exposes a bone. This is the only one of these degrees of wounding that can be exacted to measure. If

⁴⁹² Related by al-Nassa'i, *hadith* No. 4,853; al-Hakim, vol. 1, p. 552; al-Bayhaqi, vol. 4, p. 89.

qisas is applied to the others, it may easily result in aggravation or reduction. Therefore, such equal punishment is not attempted, but recompense is required.⁴⁹³

The other kinds of wound refers to those in the rest of the body, and they differ greatly. However, we may say that what does not allow *qisas* if it affects the face or the head also precludes it in the rest of the body. The only exception is a wound that exposes a bone, such as a chest bone. This is due to the fact that it is very difficult to ensure equality and causing the same extent of harm as the offender caused. Hence, an indemnity is payable to the victim as a judge may decide.

Loss of limb

There are also three categories of this offence: deliberate, semi-deliberate and accidental. Equal punishment is only applicable to the deliberate category if three conditions are observed:

1. It should be possible to achieve equal punishment without aggravating the injury. This means that when an amputation is exacted, any amputation should be at a joint or to a defined limit, such as a finger, a wrist or an elbow. No equal punishment is possible for a wound that does not end at a clear limit, such as a wound going deep into the body. Nor can equal punishment apply to a break of bone

⁴⁹³ Al-Zuhaili, *Al-Fiqh al-Islami wa Adillatuh*, vol. 7, p. 296.

other than teeth. Thus, it does not apply to the break of an arm or a leg.

2. The organs of the offender and the victim should be the same in name and location. This means that if the victim loses his left arm, the equal punishment must apply to the left arm of the offender. If the victim loses his right thumb, the equal punishment must apply to the offender's right thumb, not to any other finger.
3. The organs of the offender and the victim must be equally complete and healthy. If the victim loses his arm which had missed fingers, equal punishment must apply to an arm with the same loss of fingers.

Loss of function of a bodily organ

If the offender causes the loss of the function of a bodily organ, *qisas*, or equal punishment, cannot apply because it is practically impossible to determine the exact measure of punishment. Instead, he must pay the victim the full indemnity. If the offender causes partial loss of function, and the extent of loss can be properly assessed, the punishment can be in the same proportion of the indemnity, such as a half or one quarter. If the loss cannot be assessed, the punishment is determined by a judge. The function that may be lost totally or partially include the mind, hearing, sight, smell, voice, taste, chewing, sex, etc.⁴⁹⁴

⁴⁹⁴ Al-Khatib al-Shirbini, *Mughni al-Muhtaj*, vol. 2, p. 62; al-Bahuti, *Kashshaf al-Qina* [, vol. 6, p. 37.

Indemnity

The Arabic term *diyah*, i.e. indemnity, is defined as the money given to the victim or to his immediate family because of the offence. Its payment is a duty according to the Qur'an and the Sunnah and the unanimity of scholars. In the Qur'an Allah says: 'He who kills a believer by mistake must free a believing soul from bondage and pay an indemnity to his family, unless they forgo it by way of charity' (4: 92). Abu Hurayrah reports that the Prophet (peace be upon him) said: 'Whoever suffers the killing of a close relative has the better of two options: either to kill (the offender) or to accept indemnity.' There is also the document the Prophet (peace be upon him) gave to [Amr ibn Hazm explaining the indemnities due for different offences. All Muslim scholars are of the view that indemnity for such offences is obligatory. The purpose of putting this legislation in place is to save life and protect people against criminals who may find it easy to kill if they can escape a severe punishment.

Who is to pay:

If a person is killed, or is caused grievous bodily harm, there can be only two possibilities:

- If the offence that results in the loss of life is absolutely deliberate, the whole amount of the indemnity should be taken from the property of the offender, if the family of the victim forgo equal punishment. The one who is

responsible for the loss must bear the cost, as Allah says: ‘No one shall be made to bear the burden of another’ (6: 164).

- If the offence is accidental or semi-deliberate, the indemnity is payable collectively by the offender’s relatives. Abu Hurayrah reports: ‘Allah’s messenger ruled in the case of the embryo of a woman from the Lihyan tribe, as she had a miscarriage because of a physical attack, that the attacker should give as indemnity a male or female slave. Then the woman who was to pay the indemnity died. The Prophet (peace be upon him) ruled that her property belongs to her children and her husband and the indemnity was to be paid by her relatives.’⁴⁹⁵

The indemnity is payable by the offender’s close relatives because such accidental offences are frequent, and there are often extenuating circumstances. Hence, it is right that he should be helped so as to reduce his burden. By contrast, the deliberate offender pays the indemnity himself for freedom from suffering an equal punishment. Hence, when the victim or his family forgo equal punishment, he must pay the indemnity himself.

⁴⁹⁵ Related by al-Bukhari, *hadith* No. 6,740; Muslim, *hadith* No. 1,681.

The indemnity and its assessment

The indemnity was originally assessed by a number of camels. The Prophet (peace be upon him) said to [Amr ibn Hazm: ‘The indemnity for the killing of a believer is 100 camels...’ He also says: ‘In the case of a semi-deliberate accidental killing, which is caused by using something like a whip or a stick, [the indemnity] is 100 camels.’⁴⁹⁶ [Amr ibn Shu[ayb reports: ‘During the Prophet’s (peace be upon him) lifetime, the indemnity was 800 dinars (the gold currency) or 8,000 dirhams (the silver currency) [...] It remained so until [Umar’s reign. He addressed the people and said: “Camels are now more expensive.” He assessed the indemnity for those who pay in gold as 1,000 dinars, and who pay in silver as 12,000 dirhams, and those whose business is in animals as 200 cows or 2,000 sheep, and those who trade in clothes as 200 suits.’⁴⁹⁷ This means the standard by which the indemnity is assessed was camels, while the other options are supposed to be of equal value. [Umar did this in the presence of other Companions of the Prophet (peace be upon him), and none objected to him, thus unanimity was achieved. Therefore, the indemnity should be paid in the form of camels or their value.⁴⁹⁸

The basis of assessment is the indemnity for killing a free Muslim, which is 100 camels. It is increased in the case of

⁴⁹⁶ Related by Ahmad, *hadith* No. 6,719; Abu Dawud, *hadith* No. 4,541; al-Nassa’i, *hadith* No. 4,793.

⁴⁹⁷ Related by Abu Dawud, *hadith* No. 4,542; al-Bayhaqi in *Al-Sunan al-Kubra*, vol. 8, p. 77.

⁴⁹⁸ Al-Bahuti, *Kashshaf al-Qina* [, vol. 6, p. 17.



murder and manslaughter by requiring 40 of these camels to be pregnant females.

It is clear on the basis of [Umar's ruling specifying different types of property that the important point is to impose a severe punishment to serve as a deterrent. Scholars have given extensive details of the amount of indemnity required for different offences and the extent of the damage suffered by the victim. Courts assess the indemnity payable according to the extent of the damage caused.



← RULINGS OF →
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 13: ◆

MANDATORY PUNISHMENTS

(HUDUD)



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Chapter 13

Mandatory Punishments (*Hudud*)

The Arabic term *hadd* (plural: *hudud*) is defined as a punishment stated in Islamic law for encroaching on the limits set by Allah. It is also defined as a punishment stated in Islamic law, as a deterrent from committing a similar offence.⁴⁹⁹ The legitimacy of these punishments is based on the Qur'an, the Sunnah and the unanimity of scholars. Specific punishments are stated in the Qur'an and the Sunnah as applicable to certain crimes, such as adultery and theft.

The *hudud*, i.e. mandatory punishments, aim to deter people from committing acts of disobedience of Allah and encroaching on what He has forbidden. Thus, they help to spread security and reassurance in the community. In addition, they serve to absolve the guilty of their guilt. In his report on how the Ansar pledged support and protection to the Prophet (peace be upon him), [Ubadah ibn al-Samit mentions that the terms of that pledge included that 'Whoever commits any of these (offences) and is punished for them, such punishment absolves him.'⁵⁰⁰

⁴⁹⁹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 361.

⁵⁰⁰ Related by al-Bukhari, *hadith* No. 6,784; Muslim, *hadith* No. 1,709.

Adultery

Definition and ruling

In Arabic, *zina* stands for both fornication and adultery. Linguistically speaking, it means having sexual intercourse outside marriage. In Islamic terminology, it refers to sexual intercourse between man and woman when there is no legitimate marital relationship, real or imagined, between them.⁵⁰¹

Fornication and adultery are major sins. Allah says: ‘Do not come near adultery. It is indeed an abomination and an evil way’ (17: 32). [Abdullah ibn Mas‘ud reports: ‘I asked Allah’s messenger which sin is the gravest in Allah’s sight? He said: “To attribute an equal to Allah when He is the One who created you.” I said: “This is certainly grave. What comes next?” He said: “To kill your child so that he (or she) does not share your food.” I asked: “Which comes next?” He said: “To commit adultery with your neighbour’s wife.”’⁵⁰²

The nature of this sin

Adultery is one of the gravest and most wicked sins as it leaves very serious effects on both individuals and society. It causes the absence of clarity of lineage, which leads to people’s rights of inheritance being mixed up, and families split and collapse

⁵⁰¹ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 364.

⁵⁰² Related by al-Bukhari, *hadith* No. 6,861; Muslim, *hadith* No. 86.

as a result, with grave consequences for children and their upbringing. When adultery leads to pregnancy, the child is often brought up by someone who is not its real father. Social ties are considerably weakened by the spread of adultery, and therefore Islam warns very sternly against all sexual relations outside the marriage bond and prescribes severe punishments for it.

The mandatory punishment for adultery

An adulterer can be either a *muhsan* or a non-*muhsan*. A person is defined as *muhsan* if he or she meets the following conditions: 1) Having had normal and legitimate sexual intercourse; 2) The preceding intercourse was in a legitimate marital relationship; and 3) Both man and woman must be at the time of their sexual intercourse sane, free adults. Thus, a *muhsan* person is one who has had sexual intercourse with his wife when they both were lawfully married and free, sane adults. This makes four conditions that must be met for the mandatory punishment for adultery to be enforceable: adulthood, sanity, freedom and a previous sexual intercourse in a legitimate marriage.

The mandatory punishment for adultery is stoning to death, whether the adulterer is a man or a woman. This punishment is confirmed to have been stated and done by the Prophet (peace be upon him).



It is reported that [Umar addressed the people as follows: ‘Allah sent Muhammad with the message of the truth and revealed the Book to him. His revelations included the verse that mentions stoning and we read and understood it. The Prophet (peace be upon him) enforced the stoning punishment as we did after him. I fear that as time passes someone might say that the stoning punishment is not in Allah’s book. Thus people would err by abandoning something Allah has legislated. The stoning punishment is right and in Allah’s book applicable to stoning, enforceable on adulterous men and women provided the required evidence is confirmed, or pregnancy takes place, or confession is given.’⁵⁰³ Abu Hurayrah reports: ‘A Muslim man came to the Prophet (peace be upon him) in the mosque and called out to him, saying: “O Messenger of Allah, I have committed adultery.” The Prophet (peace be upon him) turned away from him. The man came over to face him and said, “O Messenger of Allah, I have committed adultery,” and the Prophet (peace be upon him) turned away from him. The man did this four times. When he had confessed four times, the Prophet (peace be upon him) called him over, and asked him: “Do you suffer from any insanity?” The man said, “No.” The Prophet (peace be upon him) asked him: “Are you married?” The man said: “Yes.” The Prophet (peace be upon him) said to people: “Take him away and stone him.”’⁵⁰⁴

⁵⁰³ Related by al-Bukhari, *hadith* No. 3,872; Muslim, *hadith* No. 1,691.

⁵⁰⁴ Related by al-Bukhari, *hadith* No. 6,825; Muslim, *hadith* No. 1,691.



An adulterer who does not meet the above-mentioned conditions that make a person *muhsan* is given a lesser punishment. The punishment in this case is 100 lashes and exile for one year. To send the woman adulterer into exile, she must be accompanied by a *mahram*, i.e. a relative whom she is forbidden to marry, such as her father or brother. This punishment is stated in the Qur'an: 'As for the adulteress and the adulterer, flog each of them with a hundred stripes, and let not compassion for them keep you from [carrying out] this law of Allah, if you truly believe in Allah and the Last Day; and let a number of believers witness their punishment' (24: 2). [Ubadah ibn al-Samit reports that Allah's messenger said: 'Take this from me; take this from me. Allah has stated a way for them (i.e. the adulterers): the virgin man and the virgin woman 100 lashes and exile for a year.' Exile means sending the adulterer away from his home town.

Scholars differ on whether the physical punishment should be combined with a year's exile. Al-Shafi'i and Ahmad ibn Hanbal confirm that both are applicable. Malik and al-Awza'i consider that the adulterer is sent into exile and punished physically, but the woman adulterer is not. Abu Hanifah maintains that exile is not added to the physical punishment unless the judge considers that it serves an important purpose. In this case he orders exile, as he determines.

Proof

Before the punishment for adultery is enforced, the crime must first be proven to have occurred. The proof required is one of two things: the first is four confessions by the adulterer, even if these confessions are made at different times. The Prophet (peace be upon him) accepted the confessions of Ma [iz and the Ghamidia woman. Four confessions are required because when Ma [iz confessed three times, the Prophet (peace be upon him) sent him away. Only when he added a fourth confession did the Prophet (peace be upon him) enforce the punishment.

When a confession is made, the person making the confession must make absolutely clear that he has had penetrative intercourse. The reason is that he may speak of adultery but means only having had some pleasure with a woman without actually going as far as penetrative intercourse. In that case, no mandatory prescribed punishment is due. When Ma [iz made his confession before the Prophet (peace be upon him), the Prophet (peace be upon him) said to him: ‘Perhaps you might have only kissed the woman or played with her?’ Ma [iz said: “No...” The Prophet (peace be upon him) repeated his questioning, wanting to make clear that the man meant full intercourse. He hoped that Ma [iz would give reason to make the case short of confirmation. When Ma [iz made it absolutely clear, doubt was removed.

It is absolutely important that the person concerned should stick by his confession throughout. The Prophet (peace be upon him) repeatedly sought confirmation from Ma [iz, hoping that he

would go back on his confession. When there was no way out and the punishment had to be enforced, people stoned Ma [iz. As the stoning was going on, Ma [iz tried to escape and people chased him. When the Prophet (peace be upon him) heard of this, he said: ‘You should have let him escape.’⁵⁰⁵

The other type of proof is the testimony of four witnesses. Allah says: ‘Why did they [who slandered] not produce for it four witnesses? And when they do not produce the witnesses, then it is they, in the sight of Allah, who are the liars.’ (24: 13). For their testimony to be accepted, the following conditions must apply:

1. There must be four of them together. If there are less than four, their testimony is not accepted.
2. The witnesses must be sane adults. Testimony by an insane person, or a boy who has not attained puberty, is unacceptable.
3. They must be men of integrity. Women are not acceptable as witnesses to adultery because they are too honourable to witness an act of lewdness. On the other hand, a person of suspect morality and integrity is unacceptable. Allah says: ‘Call to witness two persons of known probity from among yourselves’ (65: 2).
4. The witnesses must have seen the act of adultery, describing it so graphically as to leave absolutely no doubt that they mean penetrative sex, not mere foreplay or

⁵⁰⁵ Related by al-Tirmidhi, *hadith* No. 1,428; Ibn Majah, *hadith* No. 2,554.

similar pleasurable action. They must have actually seen the adulterer's penis inside the woman's vagina.

5. The witnesses must be Muslims; as the testimony of an unbeliever in such a case is unacceptable.
6. They must give their testimony in the same session, whether they come together or separately.

If any of these conditions does not apply, the witnesses are deemed to have made a false accusation and the punishment for that offence is enforced against them all.⁵⁰⁶ They would be flogged 80 lashes as Allah said, “And those who accuse chaste women and then do not produce four witnesses – lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient.” (24: 4)

The crime of false accusation of adultery

Qadhf is an Arabic root that originally means ‘throwing stones or similar objects’, and then came to be used to mean accusing others of committing immoral offences such as adultery and fornication, as such accusations also cause harm to the accused. In Islamic terminology it refers to false accusation of adultery or sodomy.

Ruling: Making a false accusation of adultery is one of the major sins and it is forbidden by clear statements in the Qur'an and the Sunnah, and by the unanimity of scholars. It is

⁵⁰⁶ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 367.

absolutely forbidden to accuse anyone of immoral and lewd action. Allah says: ‘Indeed, those who [falsely] accuse chaste, unaware and believing women are cursed in this world and the Hereafter; and they will have a great punishment’ (24: 23).

Abu Hurayrah reports that the Prophet (peace be upon him) urged believers to ‘avoid the seven major sins’. He mentioned among these the ‘false accusation of chaste believing women of adultery’.⁵⁰⁷ All Muslim scholars agree that making such a false accusation is strictly forbidden and consider it as a major sin.⁵⁰⁸

Punishment for false accusation

Allah has determined that the punishment for anyone who accuses a Muslim of adultery, without providing the necessary proof, is 80 lashes. Furthermore, the accuser is considered a *fasiq*, i.e. ‘transgressor’ and he is totally disqualified as a witness in any case whatsoever. The punishment applies to all accusers, men or women. Allah says: ‘And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient.’ (24: 4) If such a person repents of his deed, his testimony is accepted. To ensure that, his repentance includes that he acknowledges the falsehood of his accusation, regrets it and prays to Allah to grant him forgiveness. Allah says: ‘Excepted are those who

⁵⁰⁷ Related by al-Bukhari, *hadith* No. 2,766; Muslim, *hadith* No. 89.

⁵⁰⁸ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 369.



afterwards repent and make amends; for Allah is Much-Forgiving, Ever-Merciful' (24: 5).

Allah has prescribed this severe punishment for the false accusation of adultery for several reasons: 1) protecting society; 2) safeguarding people's honour; 3) putting an end to evil talk; and 4) ensuring that indecency continues to be held as repugnant in Muslim society.⁵⁰⁹

Drinking intoxicants

Khamr is a general word that refers to any substance that enshrouds the human mind. In Islamic terminology it refers to any intoxicating drink, whether it is squeezed, brewed or cooked.⁵¹⁰

Ruling: Drinking any type of intoxicant is forbidden, whether it is in small or large quantities. Indeed drinking is a major sin which is forbidden in the Qur'an and the Sunnah, as well as by the unanimity of scholars. Allah says: 'Believers, intoxicants, games of chance, idolatrous practices and divining arrows are abominations devised by Satan. Therefore, turn away from them so that you may be successful' (5: 90). The order to 'turn away' is a definitive statement of prohibition. [A'ishah reports that the Prophet (peace be upon him) said: 'Any drink that intoxicates is forbidden to take.'⁵¹¹ The Muslim community has

⁵⁰⁹ Ibn Qudamah, *Al-Mughni*, vol. 8, p. 215.

⁵¹⁰ *Ibid.*, p. 304.

⁵¹¹ Related by al-Bukhari, *hadith* No. 242; Muslim, *hadith* No. 2,001.

always universally agreed that it is forbidden. Scholars have also included all types of narcotics and drugs such as cannabis, amphetamines, cocaine, benzodiazepines, heroin, etc.

Reason

One of the greatest and most important blessings Allah has given to man is the mental faculty which distinguishes him from other creatures. Intoxicant drinks cause a person to lose his mind, lead to quarrels and hatred between people, prevent people from attending to their prayers and other aspects of worship. Therefore, Allah has forbidden drinking because of these multiple evils. Intoxicants are indeed an important means used by Satan to cause people harm. Allah says: ‘Satan seeks only to stir up enmity and hatred among you by means of intoxicants and games of chance, and to turn you away from the remembrance of Allah and from prayer. Will you not, then, desist?’ (5: 91).

Punishment

The punishment for drinking intoxicants is 40 lashes, but it may be increased to 80 if the Muslim ruler determines that such an increase is needed to make the punishment a more effective deterrent. [Ali said concerning the case of al-Walid ibn [Uqbah: ‘The Prophet (peace be upon him) and Abu Bakr applied a punishment of 40 lashes, while [Umar made it 80.

Both ways are Sunnah, and this last one is what I prefer.’⁵¹²
Anas reports: ‘The Prophet (peace be upon him) used to punish drinking by 40 lashes, using shoes and dried branches.’⁵¹³

Conditions: To enforce this punishment, the following conditions apply:

1. The offender must be a Muslim. Islamic punishments do not apply to unbelievers.
2. He must be an adult, having attained puberty. A young child is not punishable.
3. He must be sane, for punishment does not apply to a madman or one who is mentally impaired.
4. He should have freely chosen to use intoxicants. Punishment does not apply in a situation of compulsion. The last three conditions are based on the Prophet’s (peace be upon him) statement: ‘Allah pardons my community whatever they do by genuine mistake, omit out of forgetfulness, or have to do under compulsion.’
5. He must know that Islam forbids drinking intoxicants.
6. He should know that what he drinks is an intoxicant. If he drinks it believing it to be something else, no punishment is due.

The punishment for drinking becomes enforceable in either of two situations: 1) A free confession by the offender, stating that he has drunk an intoxicant out of his own free choice; or 2) The testimony of two Muslim men of probity that he has done so.

⁵¹² Related by Muslim, *hadith* No. 1,707.

⁵¹³ Related by Muslim, *hadith* No. 1,706.

Theft

Definition, ruling and punishment

Theft is defined in Islam as ‘To take something belonging to another person stealthily from where similar things are normally kept, subject to certain conditions.’

Theft is forbidden because it is an aggression on other people’s rights and taking their property unlawfully. Its prohibition is based on the Qur’an, the Sunnah and the unanimity of scholars. Allah expels the person who commits this major sin from His grace. Narrated 'Aisha: ‘The hand of a thief was not cut off during the lifetime of the Prophet (peace be upon him) except for stealing something equal to a shield in value.’⁵¹⁴

Under Islamic law theft is punishable by cutting the hand of the thief, whether a man or a woman. Allah says: ‘[As for] the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah. And Allah is Exalted in Might and Wise.’ (5: 38). Muslims are agreed that theft is strictly forbidden and that the punishment of cutting the hand of the thief should be generally enforced.⁵¹⁵ There are a number of strict conditions that must

⁵¹⁴ Related by al-Bukhari, *hadith* No. 6,792.

⁵¹⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 375.

be fulfilled in order for such a punishment to be implemented. Among these conditions:

- 1- It should be stolen stealthily. If it was taken publicly or by force in broad day light, people can come to his rescue and help.
- 2- The stolen property should be something of worth, because that which is of no worth has no sanctity.
- 3- The value of the stolen property should be above a certain limit, which is three Islamic dirhams or a quarter of an Islamic dinar⁵¹⁶, or their equivalent in other currencies.
- 4- The stolen property should have been taken from a place where it had been put away or secured, like a drawer or safe.
- 5- The theft itself has to be proven, either by the testimony of two qualified witnesses or by the confession of the thief twice.
- 6- The person from whom the property was stolen has to ask for it back; if he does not, then the thief's hand is not to be cut off.

⁵¹⁶ Islamic *dinar*: 22k gold (.917) equivalent to 4.25 grams; *dirham*: pure silver equivalent to 3.0 grams.

Reasons

Islam respects the right of people to own their property and forbids any aggression against this right, whether it is by theft, embezzlement, cheating, bribery, betrayal of trust or any other way of unlawfully taking other people's property. A thief is a bad element in society and if he is unpunished, his evil may spread and cause very serious consequences. Therefore, Islam prescribes this punishment so that it serves as a deterrent to others, stopping them from committing this crime, and to ensure the protection of people's property and rights.⁵¹⁷ It should be noted that such a punishment is only carried out for stealing stealthily as mentioned above in the conditions.

Discretionary punishments

Definition and purpose

When used in a context of Islamic law, the Arabic term *ta'zîr* refers to 'punishment for any act of disobedience to Allah which does not carry a mandatory punishment or require a particular recompense.'⁵¹⁸ It is required for any such sin, whether by doing what is forbidden or neglecting what is obligatory, provided the Muslim ruler is aware of it. The

⁵¹⁷ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 376.

⁵¹⁸ Ibn al-Qayyim, *I'lam al-Muwaqqi'in*, vol. 2, p. 99.

Prophet (peace be upon him) said: ‘No beating may go above 10 lashes except in mandatory punishments stated by Allah.’⁵¹⁹

The enforcement of any *ta [zir* punishment is subject to the Muslim ruler’s discretion: he may exact it or leave it, as he deems to be in the best interests of the Muslim community.

Ta [zir punishments are needed to protect society against chaos and corruption, stop injustice, subject offenders to legal retribution and deter others from following their example.⁵²⁰

Enforcement

Sinful actions that require the enforcement of a *ta [zir* punishment are of two types. The first is to neglect or omit duties when one is able to fulfil them, such as the repayment of debts, delivering things held in trust to their rightful owners, safeguarding the property of orphans and delivering these when the orphans come of age. Any of these may be punished by *ta [zir* until the person concerned does his duty. This is based on the *hadith* reported by Abu Hurayrah who quotes the Prophet (peace be upon him): ‘Delaying the repayment of a debt by a person able to repay it is an act of injustice.’⁵²¹ In another narration: “allows his punishment”

⁵¹⁹ Related by al-Bukhari, *hadith* Nos. 6,848 and 6,849; Muslim, *hadith* No. 1,708.

⁵²⁰ Ibn Qudamah, *Al-Mughni*, vol. 9, p. 328.

⁵²¹ Related by al-Bukhari, *hadith* No. 2,400; Muslim, *hadith* No. 1,564.

The other type of actions requiring *ta [zir* is to do what is forbidden, such as spreading false rumours against people, backbiting, favouritism in jobs, taking bribes, lesbianism, etc. No specific punishment is made mandatory for these and similar matters.

Extent of punishment

Allah has not prescribed any measure in *ta [zir* punishments, leaving this to the discretion of the judge as he determines to fit the crime. Some scholars are of the view that *ta [zir* can go as high as the capital punishment if this serves the interests of the Muslim community, as in the case of a Muslim acting as a spy for the enemy. Such scholars maintain that if the death penalty is the only way to stop such people, then it should be enforced.⁵²²

Types of *ta [zir* punishment

Ta [zir punishments may be classified as follows:

1. Physical punishments, such as flogging and death.
2. Punishments related to property, such as fines or breaking or destroying tools that are necessary for doing what is forbidden, such as wine bottles, gambling games, etc.
3. A combination of physical and financial punishment, such as the case of punishing someone who steals from a place other than a secure one by lashes and a double fine. The

⁵²² Ibn Qudamah, *Al-Mughni*, vol. 8, p. 325.



Prophet (peace be upon him) ruled that a thief who steals the hanging dates before they are placed in the store incurs a punishment of flogging and a double fine. A thief who steals from the store is punishable by cutting his hand.

4. Punishments of imprisonment and exile.
5. Moral punishments, such as public rebuke.



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◆ CHAPTER 14: ◆

OATHS AND PLEDGES



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Chapter 14

Oaths and Pledges

An oath is made to confirm something by Allah's name or one of His attributes.⁵²³ Oaths may be classified into three categories with respect to their validity and commitment.

1. Idle oath: This is when a person says the words of an oath without intending his statement as an oath. He may say, for example, 'Yes, by Allah', or 'No, by Allah', without intending his words to be an oath asserting what he is saying. This is called an 'idle oath', or to use the Arabic term, *laghu*. Alternatively, a person may say an oath confirming what he believes to be true, but he later realizes that it is false. Such oaths are taken as they are; the person saying them is not accountable for them, incurs no sin and there is no need to make any atonement for them.⁵²⁴ Allah says: 'Allah does not impose blame upon you for what is unintentional in your oaths, but He imposes blame upon you for what your hearts have earned. And Allah is Forgiving and Forbearing.' (2: 225).
2. Confirmed oath: This is an oath intended and insisted upon by the person saying it. It relates to future matters and refers to something possible. As this is a valid and intended oath, going back on it requires atonement. Allah

⁵²³ Ibn Qudamah, *Al-Mughni*, vol. 8, p. 790.

⁵²⁴ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 387.

says: ‘Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths.’ (5: 89).

3. False oath: A false oath is a major sin and is a lie intended to cheat, swindle other people’s rights or refute their rightful claims. The person saying it knows that he or she is telling a lie and it does not take place and cannot be atoned for, because it is too grave to be washed off by some atonement. In this respect, it is like the idle oath. However, the person who swears such an oath should repent and, if it results in denying people their rights, these rights must be returned to them. This oath is called an ‘immersing oath’ because it immerses the swearer in sin and leads him to hell.⁵²⁵ The basis of ruling that it is forbidden is the Qur’anic verse: ‘And do not take your oaths as [means of] deceit between you, lest a foot slip after it was [once] firm, and you would taste evil [in this world] for what [people] you diverted from the way of Allah , and you would have [in the Hereafter] a great punishment.’ (16: 94). Ibn [Umar quotes the Prophet (peace be upon him) as saying: ‘The gravest sins are associating partners with Allah, being undutiful to one’s parents, murder and an immersing oath.’⁵²⁶ Abu Hurayrah reports that the Prophet (peace be upon him) said: ‘Five sins cannot be atoned for: the association of partners with Allah, wrongful murder, false claims against a believer,

⁵²⁵ Ibid., p. 388.

⁵²⁶ Related by al-Bukhari, *hadith* No. 6,675.



deserting the army in battle, and a false oath to make a wrongful gain.’⁵²⁷

Atonement for oaths

Allah, in His mercy, has made clear a way to go back on one’s oath and release oneself from its import. Allah says: ‘Allah has already ordained for you [believers] a way to release you from such oaths’ (66: 2). The Prophet (peace be upon him) says: ‘Anyone who swears about something and then discovers that a different thing is better should do the better thing and atone for his oath.’⁵²⁸ Such atonement or release becomes obligatory if the swearer goes back on his oath and does not honour it.

The way Allah has chosen for people to release themselves from their oaths includes a choice between ordered options. The choice is between feeding 10 poor people, or giving each of these 10 poor people a garment that he could wear for prayer, or to set a slave who is a believer, free. If the swearer cannot comply with any of these choices, he fasts for three days. Allah says: ‘Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths. So its expiation is the feeding of ten needy people from the average of that which you feed your [own] families or clothing them or the freeing of a slave. But whoever cannot find [or afford it] – then a fast of three days [is required].’ (5: 89). Thus, the first three are given

⁵²⁷ Related by Ahmad, *hadith* No. 8,737.

⁵²⁸ Related by al-Bukhari, *hadith* No. 6,722; Muslim, *hadith* No. 1,650.

as alternatives to choose from, but when these options cannot be met, fasting becomes the way out.⁵²⁹

Conditions for atonement

If the swearer goes back on his oath, the atonement becomes obligatory only if the following three conditions are met:

1. It must be a valid oath, intended by the swearer for something to happen. The oath is not valid unless sworn by Allah, or one of His names or attributes. He says: ‘Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths.’ (5: 89). This makes clear that the atonement applies only to a valid oath. A swearing formula that is said without any intention to say an oath is an idle one and requires no atonement.
2. The person swearing an oath should do so out of his own choice. If he is compelled to make an oath, his oath is not valid and bears no atonement. The Prophet (peace be upon him) says: ‘My community will not be accountable for what they do through a genuine mistake, what they omit to do out of forgetfulness, and what they are compelled to do.’
3. When the swearer goes back on his oath and does what he swore not to do or refuses what he swore to do, remembering his oath all the time and choosing to go back

⁵²⁹ Ibn Qudamah, *Al-Mughni*, vol.8, p. 756.

on it. If he does this as a result of forgetting his oath or under duress, no atonement is due from him.

If at the time of saying an oath, the swearer makes an exception, adding to his oath the words, ‘Allah willing’, and then he goes back on his oath, he gives no atonement.⁵³⁰

Pledges

In Islamic terminology, the Arabic word *nadhr* means ‘an adult Muslim pledges to do something for Allah’s sake.’⁵³¹ To make such a commitment is legitimate according to the Qur’an, the Sunnah and the unanimous agreement of scholars, as we will presently explain.

It should be clear that making such a pledge is discouraged from the Islamic point of view. Ibn [Umar reported that ‘the Prophet (peace be upon him) told us not to make pledges, saying that they do not prevent anything. It is merely a means to get a miserly person to part with some of his money.’⁵³² This is because making such a pledge is to commit oneself to do what he is not obliged to do, causing himself some hardship. A Muslim is encouraged to do good deeds without making such pledges.⁵³³

⁵³⁰ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 389.

⁵³¹ Ibid., p. 392.

⁵³² Related by al-Bukhari, *hadith* No. 6,692; Muslim, *hadith* No. 1,639.

⁵³³ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 392.

However, if a person pledges himself to do something good, he must fulfil his commitment. Allah says: ‘Whatever alms you give or pledges you make are known to Allah’ (2: 270). ‘They [are those who] fulfill [their] vows and fear a Day whose evil will be widespread.’ (76: 7). [A’ishah reports that the Prophet (peace be upon him) said: ‘Whoever pledges to obey Allah must obey Him, and whoever pledges to disobey Allah must not disobey Him.’⁵³⁴

Allah praises those who fulfil their pledges and vows, and He commands that pledges should be fulfilled. This shows that what the Prophet (peace be upon him) said about it does not prohibit it altogether, but simply discourages it. What is discouraged is to initiate such a commitment through a pledge. However, once it is made, it should be fulfilled in obedience to Allah. It should be remembered that a pledge must be made to Allah and not to anyone else. Therefore, if one makes a pledge that he would do something at a grave or to some deceased person who was thought to be very pious during his lifetime, such a pledge is a form of associating partners with Allah, and that is the gravest of sins.⁵³⁵

Conditions and wording

A pledge is valid only if it is stated by a sane adult person making a free decision. It cannot be done by a child, a madman

⁵³⁴ Related by al-Bukhari, *hadith* No. 6,696.

⁵³⁵ Al-Nadawi, *Al-Fiqh al-Muyassar*, p. 392.

or a person of impaired mental faculty, or one acting under compulsion.

To make a pledge, a person should say: ‘I owe it to Allah that I will do such and such’, or ‘I commit myself to do this and that’, or other words stating what he is pledging to do.⁵³⁶

Types

Pledges may be valid or invalid; permissible or forbidden; binding or worthless. A pledge is valid and binding if it involves something good, such as a voluntary act of worship, with the pledging person hoping to earn Allah’s pleasure. It is invalid and worthless when a person pledges to do something at the grave of someone he thinks to have been pious, or pledges to kill someone or to do some other forbidden act, such as drinking intoxicants. If anyone makes such a pledge, he must not do it, because he would be doing what Allah has forbidden and he incurs Allah’s displeasure and becomes liable to His punishment.

Pledges may be conditional or general. If a person makes a pledge without attaching it to any condition, his pledge is general. It may be made for no reason, or in a token of gratitude to Allah. For example, if he says: ‘I pledge to Allah that I will fast for two days,’ such a pledge must be fulfilled. A conditional pledge is one which the speaker attaches to an event. For example, a person may say: ‘If Allah cures my sick

⁵³⁶ Ibid., p. 393.

daughter, I will give so much to charity.’ When the thing he mentions in his pledge takes place, he must honour that pledge.⁵³⁷

Rulings: There are five types of pledges with regard to the rulings that may apply to what people commit themselves to:

1. An open-ended pledge: This refers to a case when one says, ‘I pledge to Allah’, but does not specify anything. In this case, the pledge is considered like an oath and atonement for unfulfilled oath applies whether the pledge is conditional or unconditional. [Uqbah ibn [Amir reports that the Prophet (peace be upon him) said: ‘The atonement of an unspecified pledge is the same as the atonement for an oath.’⁵³⁸
2. A pledge in anger or in an argument: This refers to a conditional pledge intended to prevent or force something, or to imply that what another person is saying is true or false. For example, a person may say to another, ‘If I speak to you again’, or ‘If I do not tell you when I receive it’, or ‘If this be true then I will spend a whole night in prayer’. Such a pledge is treated like an oath, because it is not intended as a commitment. It is to encourage or prevent something. Therefore, the person who says it is given a choice: either to do what he said or to atone for it like an oath.
3. A pledge to do what is permissible: This refers to a pledge to do any ordinary and permissible thing, such as pledging

⁵³⁷ Ibid., p. 394.

⁵³⁸ Related by Ahmad, *hadith* No. 17,301; Abu Dawud, *hadith* No. 3,323; al-Tirmidhi, *hadith* No. 1,528.

to wear a blue shirt, or to drive a car, etc. According to Ibn Taymiyyah, this does not commit the person saying it to anything. Ibn [Abbas reports: ‘The Prophet (peace be upon him) was speaking to the people when he noticed a man standing up. He enquired about him. He was told that his name was Abu Isra’iil and that he pledged to stand up in the sun, without a shade, and not to speak, and to fast. The Prophet (peace be upon him) said: “Tell him to speak, move into the shade and sit down, but he should continue his fast.”’⁵³⁹

4. A pledge to do what is forbidden: This is when a person pledges himself to do something that Allah has forbidden, such as to drink wine, or to give a donation to graves, or to fast on the Eid day, or a woman pledging to fast when she is in her period. Such pledges are ineffective and must not be fulfilled. The Prophet (peace be upon him) said: ‘Whoever pledges to disobey Allah must not disobey Him.’ To do what is forbidden is unacceptable at all times. No atonement is due for such a pledge.
5. A pledge to do an act of worship: As when a person pledges to offer a number of prayers, fast for a number of days, go on pilgrimage or give charitable donations. This may be conditional on a future event or totally unrestricted. In the latter case, it must be fulfilled, but if it is conditional, it becomes due when the event to which it is attached takes place. The Prophet (peace be upon him) says: ‘Whoever pledges to obey Allah must obey Him.’

⁵³⁹ Related by al-Bukhari, *hadith* No. 6,704.

Examples of pledges that must not be fulfilled

Any pledge to do something that is forbidden constitutes disobedience to Allah and must not be fulfilled. There are different types of such pledges, for example:

1. A man may vow that he would disown his family, or a woman may pledge that she would fast when she is in the period. These are forbidden actions and such pledges must be ignored and never fulfilled, as the Prophet (peace be upon him) says: ‘Whoever pledges to disobey Allah must not disobey Him.’⁵⁴⁰
2. People may make pledges to dead people, thinking that those people are close to Allah and can intercede with Him. A person may visit the grave of a well known individual, and address him by name or the honourable status that he thinks belongs to him, then adds: ‘If my lost child returns...’, or ‘If my sick daughter is cured...’, or ‘If this business of mine is successful, then I will give in your honour (an amount) of money, food, oil, candles, etc.’ This is a grave sin, in fact it is a form of elevating that dead person to the status of a partner with Allah. No sin is greater than this, because making a pledge and fulfilling it is an act of worship, and worship may not be offered to any creature, dead or alive. Worship is offered to Allah alone.

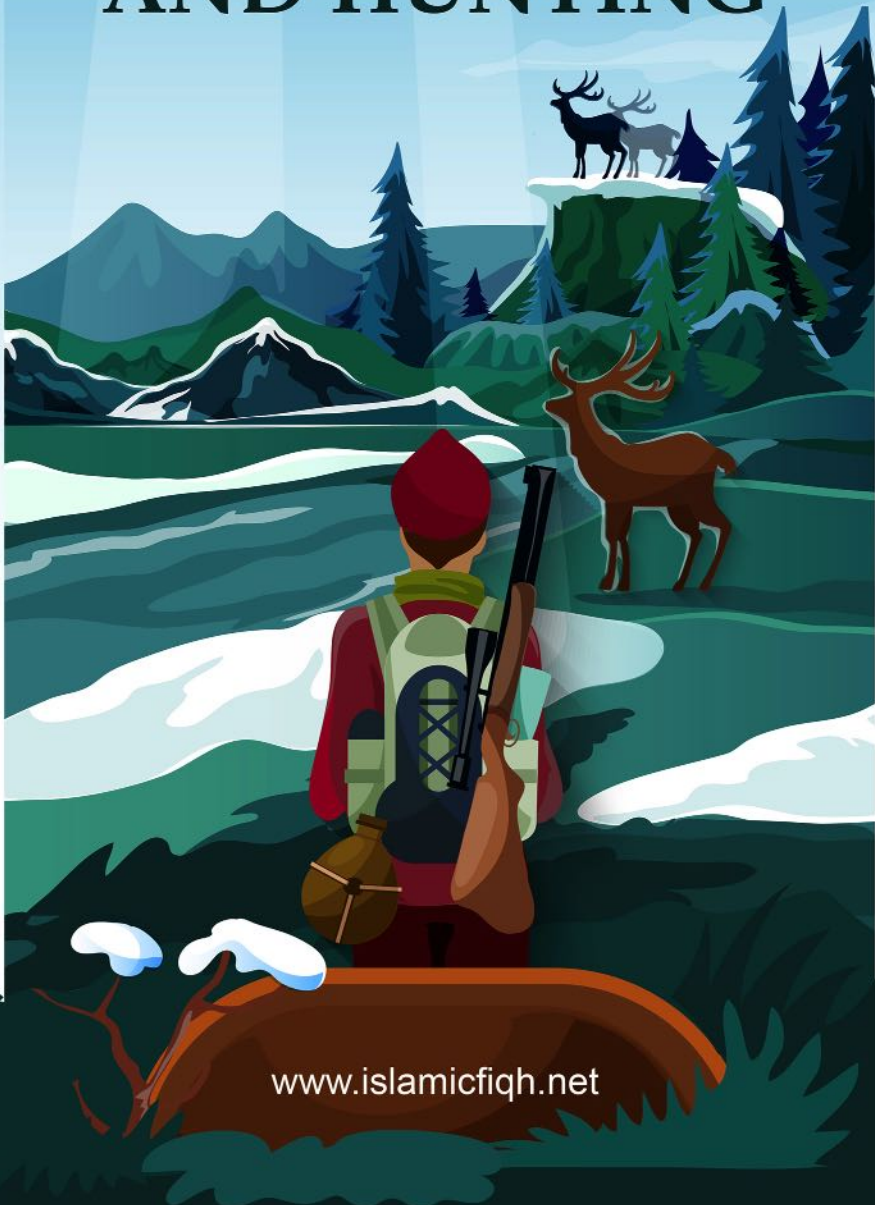
⁵⁴⁰ Related by al-Bukhari, *hadith* No. 6,696.



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◆ CHAPTER 15: ◆

FOOD, ANIMAL SLAUGHTER AND HUNTING



Chapter 15

Food, Animal Slaughter and Hunting

The basic rule that defines what is permissible or forbidden to eat is the Qur’anic verse that says: ‘Say: “In all that has been revealed to me, I do not find anything forbidden to eat, if one wishes to eat thereof, unless it be carrion, or blood poured forth, or the flesh of swine – for all that is unclean – or a sinful offering over which any name other than Allah’s has been invoked. But if one is driven by necessity, neither intending disobedience nor exceeding his bare need, then know that your Lord is Much-Forgiving, Ever-Merciful”’ (6: 145). Allah also says: ‘He makes lawful to them the good things of life and forbids them all that is foul’ (7: 157). ‘Say, “Who is there to forbid the beauty which Allah has produced for His servants, and the wholesome means of sustenance?” Say: “They are [lawful] in the life of this world, to all who believe”’ (7: 32).

The second of these verses mentions the ‘good things of life’ and pronounces them as lawful. This occurs in the context of eating and refers to whatever is wholesome and useful for man to eat. Allah forbids only what has a bad effect on man’s health or what is sinful. This means that all food is lawful to eat except what Allah, in His infinite wisdom, has made forbidden. Allah says: ‘He has clearly spelled out to you what He has forbidden you [to eat] unless you are driven to do so by sheer necessity’ (6: 119). The ‘spelling out’ takes three forms: 1) a clear

statement of permission; 2) a clear statement of prohibition; and 3) giving no verdict of either. The Prophet (peace be upon him) refers to this as he says: ‘Allah has made certain things obligatory, so do not neglect these; and He has made others forbidden, so do not approach them; and He has set certain limits, so do not transgress these; and He has left things unspecified, without forgetting them, so do not search after these.’⁵⁴¹

What is stated as permissible to eat:

The principal rule is that every type of food that is clean and harmless is permissible. Permissible food is either vegetarian produce, such as grains, nuts and fruits, or animal meat. Animals are divided into water animals and land animals.

1. Water animals are those which live only in water, such as all varieties of fish. These are permissible to eat, except for poisonous water animals which are harmful. Also, forbidden to eat are aquatic or amphibious animals that are considered dirty or foul, such as crocodiles because they have sharp teeth and they kill their prey.

Al Qurtubi related from Ibn Al Arabi that he said: 'The meat of the amphibious predators is unlawful because it embodies two conflicting rules: one that it is lawful [sea creatures] and the other that it is

⁵⁴¹ Related by al-Daraqutni, *hadith* No. 4,396; al-Hakim, vol. 4, p. 129; al-Bayhaqi, vol. 10, p. 22.



unlawful [land predators]. Now the ruling of unlawfulness is given priority to that of lawfulness. So, it is unlawful to eat the meat of crocodile or alligator.

Furthermore, it is forbidden to eat frogs because the Prophet (peace be upon him) prohibited their killing.

It is permissible for Muslims to eat water animals whether they have been caught by a Muslim or a non-Muslim, and whether there are similar land animals that are permissible to eat or not. There is no need to slaughter water animals before eating them. Allah says: ‘Lawful to you is all water-game, and whatever food the sea brings forth, as a provision for you and for travellers’ (5: 96). Explaining this verse, Ibn [Abbas said: ‘Water-game refers to what is fished, and the “food” refers to what the sea washes off.’⁵⁴² Abu Hurayrah reports: ‘A man said: “O Messenger of Allah, we travel by sea and we carry with us some water. If we are to use it for ablution we will be thirsty and without water to drink. Can we do our ablution with sea water?” The Prophet (peace be upon him) said: “The sea water is pure, and its dead animals are lawful to eat.”’⁵⁴³

2. Land animals. What is stated to be lawful to eat of land animals may be summarized as follows:

- Cattle, i.e. camels, bovine animals and sheep: Allah says: ‘He creates cattle which give you warmth and

⁵⁴² Related by al-Daraqutni, *hadith* No. 4,728; Ibn Kathir, *Tafsir al-Qur’a*, vol. 3, p. 189.

⁵⁴³ Related by Ahmad, *hadith* No. 8,735; Abu Dawud, *hadith* No. 5,116; al-Tirmidhi, *hadith* No. 3,956; al-Nassa’i, *hadith* No. 59.

other benefits; and from them you obtain food' (16: 5). 'Lawful for you are the animals of grazing livestock except for that which is recited to you [in this Qur'an]' (5: 1).

- Horse meat: Jabir ibn [Abdullah said: 'On the day of the Battle of Khaybar, the Prophet (peace be upon him) prohibited eating the flesh of donkeys and permitted horse meat.'⁵⁴⁴
- The desert lizard: Ibn [Abbas reported: 'a desert lizard was eaten at Allah's messenger's home.'⁵⁴⁵ The Prophet (peace be upon him) said: 'Eat it, as it is permissible, but I do not like it.'⁵⁴⁶
- The zebra: Abu Qatadah reported that he 'saw a zebra and slaughtered it. The Prophet (peace be upon him) asked: "Do you have any of it left?" Abu Qatadah answered: "We have a leg of it." The Prophet (peace be upon him) took it and ate of it.'⁵⁴⁷
- Rabbits: Anas reports that he took a rabbit and Abu Talhah (his stepfather) slaughtered it and sent its leg to the Prophet (peace be upon him) who accepted it.⁵⁴⁸
- The hyena: Jabir reports: 'I asked the Prophet (peace be upon him) about the hyena, and he said: "It is game. If it is hunted by a person when he is in the state of consecration (i.e. *ihram*), he should atone for it by

⁵⁴⁴ Related by al-Bukhari, *hadith* No. 5,520; Muslim, *hadith* No. 1,941.

⁵⁴⁵ Related by al-Bukhari, *hadith* No. 2,575; Muslim, *hadith* No. 1,947.

⁵⁴⁶ Related by al-Bukhari, *hadith* No. 7,267; Muslim, *hadith* No. 1,944.

⁵⁴⁷ Related by al-Bukhari, *hadith* No. 2,845; Muslim, *hadith* No. 1,196.

⁵⁴⁸ Related by al-Bukhari, *hadith* No. 2,572; Muslim, *hadith* No. 1,953.

slaughtering a horned sheep.”⁵⁴⁹ Ibn Hajar mentions that several *hadiths* confirm that the hyena is lawful to eat.⁵⁵⁰

- Poultry, including ducks and geese: Abu Musa reports: ‘I saw Allah’s messenger eating poultry.’⁵⁵¹
- Locusts: [Abdullah ibn Abi Awfa reports: ‘We joined the Prophet (peace be upon him) on six or seven military expeditions and we ate locusts with him.’⁵⁵²

What is specifically forbidden to eat:

The basic rule about forbidden food is that whatever is unclean, unwholesome or harmful must not be eaten. These may be summarized as follows:

1. There are 10 forbidden types of food mentioned in Allah’s book. Allah says: ‘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,’ (5: 3).

⁵⁴⁹ Related by Ahmad, *hadith* No. 14,425; Abu Dawud, *hadith* No. 3,801; al-Tirmidhi, *hadith* No. 851; Ibn Majah, *hadith* No. 3,236; al-Nassa’i, *hadith* No. 2,836.

⁵⁵⁰ Ibn Hajar, *Fath al-Bari*, vol. 9, p. 574.

⁵⁵¹ Related by al-Bukhari, *hadith* No. 5,517; Muslim, *hadith* No. 1,649.

⁵⁵² Related by al-Bukhari, *hadith* No. 5,495; Muslim, *hadith* No. 1,952.

- ‘Carrion’ refers to any animal that dies without being properly slaughtered. This is forbidden because as its blood is not spilled, it is likely to be harmful to eat. However, when there is no other food available, and one is about to die out of starvation, small quantities may be eaten only to sustain life. Excluded are fish and locusts, which can be eaten without the requirement of being slaughtered.
- ‘Blood’ refers to spilled blood, as Allah says in another verse: ‘I do not find anything forbidden to eat [...] unless it be carrion, or blood poured forth...’ (6: 145). The blood left over in the flesh and the veins after slaughter is permissible as this is impossible to fully drain. Also, it excludes what is specifically mentioned as permissible, such as the liver and the spleen.
- The ‘flesh of swine’ is forbidden. Allah has combined all these three in the verse that says: ‘In all that has been revealed to me, I do not find anything forbidden to eat, if one wishes to eat thereof, unless it be carrion, or blood poured forth, or the flesh of swine – for all that is unclean’ (6: 145).
- That ‘which has been dedicated to other than Allah’ refers to the flesh of any animal slaughtered in the name of anyone other than Allah, because this implies associating partners with Allah. The slaughter of animals for food is an act of worship, and it cannot be addressed to anyone other than Allah. He says: ‘Pray to your Lord and sacrifice to Him alone’ (108: 2).

- The ‘animal that has been strangled’, is forbidden to eat whether through natural causes or deliberately (by suffocation).
- ‘Or by a violent blow (beaten to death)’, by a staff or a hammer or some heavy article.
- ‘Or killed by a fall’, from a high place and dies.
- ‘Or gored to death’ by another animal and dies.
- ‘Or those from which a wild animal has eaten (savaged by a beast of prey),’ such as a lion, tiger, wolf, dog, etc. The beast may eat a part of it and leave the remainder.

However, in each of the last five cases, if the animal is caught before it dies and is slaughtered properly, it thus becomes lawful to eat, as Allah says in the same verse: ‘except that which you may have slaughtered when it is still alive.’

- ‘And those which are sacrificed on stone altars’. These refer to the altars that were erected around the Ka [bah where animals were sacrificed in pre-Islamic days. Again, this is an idolatrous act, and therefore, it is forbidden to eat the animals slaughtered on these altars. Needless to say, this is a general statement and it applies to all animals slaughtered on altars, statues or other structures that are associated with worship of any kind. Such slaughtered animals are unlawful to eat.

2. Also forbidden is all food and drink that is harmful, such as poison, wine and all intoxicants and narcotic drugs. Allah says: ‘Do not, with your own hands, throw

yourselves to ruin' (2: 195). 'Do not kill yourselves' (4: 29).

3. It is forbidden to eat any part cut from a living animal, as the Prophet (peace be upon him) says: 'Whatever is cut off when the animal is alive is forbidden.'⁵⁵³
4. Predators, such as lions, tigers, leopards, wolves, etc. Abu Tha[labah reports that 'Allah's messenger prohibited eating the flesh of any beast with canine teeth.'⁵⁵⁴ The Prophet (peace be upon him) said: 'Any beast with canine teeth is forbidden to eat.'⁵⁵⁵
5. Birds which catch their prey with their claws, such as eagles, falcons, kites and owls. Ibn [Abbas reports: 'Allah's messenger has forbidden eating the flesh of any beast with canine teeth and any bird of prey with claws.'⁵⁵⁶
6. Scavenger birds such as vultures, ravens and crows, because they feed on what is unwholesome.
7. Any animal we are recommended to kill, such as snakes, scorpions, mice and kite. [A']ishah reports that the Prophet (peace be upon him) said: 'Five harmful animals may be killed even in the Haram: the crow, kite, scorpion, mouse and the predatory dog.'⁵⁵⁷
8. Domestic donkeys. Jabir reports: 'On the day of the Battle of Khaybar, the Prophet (peace be upon him) forbade eating domestic donkeys but permitted horse meat.'⁵⁵⁸

⁵⁵³ Related by Ahmad, *hadith* No. 21,903; Abu Dawud, *hadith* No. 2,858; al-Tirmidhi, *hadith* No. 1,480.

⁵⁵⁴ Related by al-Bukhari, *hadith* No. 5,780; Muslim, *hadith* No. 1,932.

⁵⁵⁵ Related by Muslim, *hadith* No. 1,933.

⁵⁵⁶ Related by Muslim, *hadith* No. 1,934.

⁵⁵⁷ Related by al-Bukhari, *hadith* No. 1,829; Muslim, *hadith* No. 1,198.

⁵⁵⁸ Related by al-Bukhari, *hadith* No. 4,219; Muslim, *hadith*, No. 1,941.



9. What is disgusting to eat, such as mice, snakes, wasps and bees. Allah says: ‘He forbids them all that is foul_’ (7: 157).
10. Any animal that feeds mostly on impurities, whether it be a camel, an ox, a sheep, chicken, or any other. However, if the animal is confined and given wholesome food for several days until it becomes clean, then it becomes permissible to eat. Ibn [Umar reported: ‘Allah’s messenger prohibited eating animals that feed on impurities.’⁵⁵⁹ Ibn [Umar used to confine such animals for three days before slaughtering, but other scholars say that they should be confined for longer.

When no ruling is given

It is permissible to eat anything to which no ruling of prohibition applies, since all things are originally permissible. This is indicated by the Qur’anic statement: ‘It is He who created for you all that is on earth’ (2: 29). Abu al-Darda’ reports that the Prophet (peace be upon him) said: ‘Whatever Allah has permitted in His book (i.e. the Qur’an) is lawful, and whatever He has prohibited is forbidden. What He has not mentioned is left to you, so accept from Allah what He has given you, for Allah would not forget anything. He then recited the verse that says: “Never does your Lord forget anything” (19: 64).’

⁵⁵⁹ Related by Abu Dawud, *hadith* No. 3,785; al-Tirmidhi, *hadith* No. 1,824; Ibn Majah, *hadith* No. 3,189.

It is also discouraged to eat uncooked onions, garlic and similar plants that give a bad breath, such as leeks and radishes, just before going to mosques and places of collective worship.

Animal slaughter

Slaughter should be in accordance with the way recommended by Islam, which is to cut the throat and oesophagus of the animal that is under control, or to stab an animal that cannot be controlled.⁵⁶⁰

Slaughter may be in one of three ways: 1) to cut the throat of the animal under certain conditions; 2) to cut the lowest part of the neck, which is the recommended way of slaughtering a camel; and 3) inflicting a wound in any other part of the animal's body, as in hunting or killing uncontrolled animals. Rafi' ibn Khadij reported: 'A camel went wild, but a man hit him with an arrow which restricted his movement. The Prophet (peace be upon him) said: "Some of these domestic animals run wild like beasts. If any of yours gets wild, do the same as you have seen."' ⁵⁶¹

To slaughter an animal under control in the proper way is obligatory, without it the animal is not permissible to eat. There are no differing views over this matter among scholars because what is not properly slaughtered is considered carrion, and it is

⁵⁶⁰ Al-Bahuti, *Kashshaf al-Qina'*, vol. 3, p. 201.

⁵⁶¹ Related by al-Bukhari, *hadith* No. 5,509; Muslim, *hadith* No. 1,968.



forbidden to eat carrion, apart from fish, water animals and locusts.

Conditions for proper slaughter

Different conditions apply to the slaughterer, the animal being slaughtered and the tool used for slaughter.

One: Conditions applicable to the slaughterer

1. The slaughterer, whether man or woman, Muslim or a follower of another divine religion, must be a sane person of sound judgement. Regarding Muslims, Allah says after mentioning the animals that are forbidden to eat: ‘except that which you may have slaughtered when it is still alive’ (5: 3). In respect of non-Muslims, He says: ‘The food of those who were given the Scriptures before you is lawful to you’ (5: 5). Ibn [Abbas said: ‘The food to which the verse refers is their slaughtered animals.’ It is not permissible to eat of the animals slaughtered by other unbelievers, or by a mad or drunk person, or by a child.
2. The slaughterer must not dedicate his slaughtered animal to anyone other than Allah, or in the name of anyone else. If the slaughterer dedicates it to an idol, or a Muslim or non-Muslim person, or to a Prophet (peace be upon him), it becomes forbidden to eat. In giving the details of what is forbidden, Allah includes the animal ‘and that which has been dedicated to other than Allah.’ (16: 115).

When these two conditions are met, the slaughtered animal is lawful to eat, and it does not matter if the slaughterer is a man, a woman, old, young, or free.

Two: Conditions applicable to the slaughtered animal

1. To cut the animal's throat, oesophagus, trachea, and the two jugular veins. Rafi[ibn Khadij reports that the Prophet (peace be upon him) said: 'When the animal's blood has been profusely shed and Allah's name is mentioned at the time of slaughter, then eat of it, but do not use teeth and claws.'⁵⁶²
2. Allah's name must be mentioned when the slaughter is about to be made. Allah says: 'And do not eat of that upon which the name of Allah has not been mentioned, for indeed, it is grave disobedience.' (6: 121). It is recommended also to glorify Allah, saying *Allah-u akbar*, as the Prophet (peace be upon him) is reported to have done so.⁵⁶³

Three: The condition applicable to the tool

When slaughtering an animal, a blade of iron or brass or sharp stone should be used, provided that it is sharp enough to cut the throat and the jugular veins swiftly to let the blood pour out. It should not be a blade made of a bone like an animal's teeth, or of claws like those of birds.

⁵⁶² Related by al-Bukhari, *hadith* No. 2,488; Muslim, *hadith* No. 1,968.

⁵⁶³ Related by al-Bukhari, *hadith* No. 5,565; Muslim, *hadith* No. 1,966.

Things to avoid

1. It is reprehensible to slaughter the animal with a blunt blade, because this tortures the animal. Ibn [Umar reports: ‘Allah’s messenger commanded that blades should be sharpened and kept unseen by the animals.’⁵⁶⁴
2. It is also reprehensible to break the animal’s neck or to start to skin it before it is dead. Shaddad ibn Aws quotes the Prophet (peace be upon him) as saying: ‘When you slaughter, slaughter well.’⁵⁶⁵ [Umar said: ‘Do not be hasty before the slaughtered animal has died.’⁵⁶⁶
3. The slaughterer should not sharpen his blade with the animal looking at what he is doing, nor slaughter an animal while the other animal is watching.-

Slaughter by followers of other religions

The animals slaughtered by Jews and Christians are lawful for Muslims to eat, as Allah says: ‘The food of those who were given the Scriptures before you is lawful to you’ (5: 5). All Muslim scholars are in agreement with this. This is due to the fact that like Muslims, Jews and Christians believe that it is forbidden to dedicate their slaughtered animals to anyone other than Allah or to eat carrion. In this, they are unlike idolaters, atheists, Majians, etc. whose slaughtered animals are forbidden

⁵⁶⁴ Related by Ahmad, *hadith* No. 5,864; Ibn Majah, *hadith* No. 3,172.

⁵⁶⁵ Related by Muslim.

⁵⁶⁶ Related by al-Bayhaqi in *Al-Sunan al-Kubra*, vol. 9, p. 278.



for Muslims to eat. The same applies to those who ascribe partners to Allah or who worship graves and shrines.

Hunting

This refers to the killing of an animal in the wild, which is lawful to eat, has no owner and cannot be brought under human control.

To hunt is perfectly permissible. Allah says: ‘Lawful for you are the animals of grazing livestock except for that which is recited to you [in this Qur’an] - hunting not being permitted while you are in the state of ihram.’ (5: 1). ‘Only when you are clear of the Sacred Precincts and released from the state of consecration may you hunt.’ (5: 2) [Adiy ibn Hatim reports that the Prophet (peace be upon him) said: ‘If you let your trained dog loose [to pick up your game] and mention Allah’s name on it, you may eat of it.’⁵⁶⁷

All this applies if hunting is needed for food. However, if it is merely for fun it is prohibited because it becomes an idle game. The Prophet (peace be upon him) prohibited making animals mere targets for shooting.⁵⁶⁸

⁵⁶⁷ Related by al-Bukhari, *hadith* No. 5,483; Muslim, *hadith* No. 1,929.

⁵⁶⁸ Related by al-Bukhari, *hadith* No. 5,513; Muslim, *hadith* No. 1,956.

Permissible and prohibited hunting

All hunting and fishing is permissible except in specific conditions:

1. It is forbidden to do any hunting in the Sacred Precincts around the Ka[bah, which is known as the Haram area. The prohibition applies to everyone, whether they are in the state of consecration (*Ihram*) or not. This rule is universally agreed by Muslim scholars, as the Prophet (peace be upon him) said on the Day when Makkah fell to Islam: ‘This city has been consecrated by Allah ever since He created the heavens and earth [...] its plants must not be pulled out and its game must not be frightened.’⁵⁶⁹ Ibn Hajar explains that ‘the Prophet’s (peace be upon him) phrase, “its game must not be frightened” refers to hunting, as scholars say that the prohibition to frightening game applies even more emphatically to killing it.’⁵⁷⁰
2. It is forbidden for anyone who is in the state of consecration (*ihram*) to hunt or to help anyone in hunting, whether by action or pointing it out or in any other way. Allah says: ‘O you who have believed, do not kill game while you are in the state of *ihram*.’ (5: 95). It is also forbidden for a person in *Ihram* to eat of anything he has wrongfully hunted, or was hunted for him, or he helped to be hunted. Allah says: ‘but forbidden to you is game from the land as long as you are in the state of *ihram*’ (5: 96). When he was on his way to Makkah for his pilgrimage,

⁵⁶⁹ Related by al-Bukhari, *hadith* No. 3,189; Muslim, *hadith* No. 1,353.

⁵⁷⁰ Ibn Hajar, *Fath al-Bari*, vol. 4, pp. 55–6.



the Prophet (peace be upon him) was brought a zebra as a gift by al-Sa [b ibn Jaththamah, but he could not accept it. He said to al-Sa [b: 'It is only because we are in consecration that we have to return it.'⁵⁷¹

Conditions for the permissibility of game

Certain conditions apply to the hunter and the tool used for hunting in order to make game lawful to eat.

The same conditions that apply to the slaughterer of animals for food also apply to the hunter: he must be a Muslim, Christian or a Jew and to be sane. Game killed by a madman, a drunken person, a Majian, an idolater or an apostate is unlawful to eat because the hunter is considered in the same position as the slaughterer. Animals that do not need to be slaughtered, such as all types of water animals and locusts, are also permissible to eat if they are fished or hunted by a person whose meat is forbidden to eat. Moreover, the hunter must intend to hunt, because shooting is treated in the same way as killing animals for food; the right intention is necessary.

Tools used in hunting are of two types. The first has a blade, like a sword or a knife or an arrow. It is necessary that such tools should spill the blood of the hunted animal, and are not made of bones or claws. The tool used in hunting must wound the animal with its blade, not with its weight. The Prophet

⁵⁷¹ Related by al-Bukhari, *hadith* No. 1,825; Muslim, *hadith* No. 1,193.



(peace be upon him) says: ‘When the blood has been spilled and Allah’s name is mentioned, you may eat.’ The Prophet (peace be upon him) was asked about the use of arrows that have no sharp edge. He said: ‘If it pierces the flesh, eat of it, but if it kills with its width, do not eat of it.’⁵⁷² This ruling equally applies to the use of stones, sticks, traps and metals, and other tools without a blade. However, shooting with bullets makes game permissible to eat because bullets go deep into the body and shed the animal’s blood.

The other type is using animals and birds of prey to kill game with their teeth or claws, such as dogs and falcons. It is perfectly permissible to eat game hunted in this way. Allah says: ‘Say, "Lawful for you are [all] good foods and [game caught by] what you have trained of hunting animals which you train as Allah has taught you. So eat of what they catch for you, and mention the name of Allah upon it, and fear Allah.’ (5: 4).

A further condition is that the animals and birds of prey used for hunting must be trained how to take away game. When released, trained animals go for the game itself, and do not chase anything else, and they should stop when they are told to stop. These conditions apply particularly to hunting dogs. Wilder beasts, such as the leopard, hardly ever respond and as such it is not permissible to eat the killed animal. Properly trained birds of prey chase game when sent and come back when called. Furthermore, hunting animals must not eat of the killed animal before they bring it to the hunter.

⁵⁷² Related by al-Bukhari, *hadith* No. 5,477; Muslim, *hadith* No. 1,929.

These conditions are based on the Qur'anic verse that says: 'They ask you, [O Muhammad], what has been made lawful for them. Say, "Lawful for you are [all] good foods and [game caught by] what you have trained of hunting animals which you train as Allah has taught you. So eat of what they catch for you, and mention the name of Allah upon it, and fear Allah."' (5: 4). Moreover, [Adiy ibn Hatim reports that the Prophet (peace be upon him) said: 'If you sent your dog and mentioned Allah's name and he catches and kills the game, you may eat. If the dog eats of it, do not eat, because he only kills for himself.'⁵⁷³

Another condition is that when the hunter sends his animal or bird of prey, he must mention Allah's name. This is clear in the above-quoted *hadith* and the Qur'anic verse: 'You may eat of what they catch for you. But mention Allah's name over it and have fear of Allah' (5: 4). If the hunter forgets to mention Allah's name, the game is still lawful to eat.

If the hunter has wounded his game and finds it still alive as he gets to it, he must slaughter it in the normal way. It is unlawful to eat unless it is so slaughtered after catching it alive. If he finds it dead, it need not be slaughtered.

⁵⁷³ Related by al-Bukhari, *hadith* No. 5,484; Muslim, *hadith* No. 1,929.



— RULINGS OF —
ISLAMIC LAW
A SIMPLIFIED PRESENTATION



◆ CHAPTER 14: ◆

JUDGING DISPUTES AND TESTIMONIES



Chapter 16

Judging Disputes and Testimonies

The Arabic term *qada'* means giving a ruling according to Islam and making it binding on people, so as to settle disputes and end quarrels.⁵⁷⁴

To have a judging authority is a collective duty, which means that if a sufficient number of people undertake it the rest of the community incur no sin. If all of the people who are qualified to undertake it refuse to do so all of the community bear the responsibility, because society cannot function rightly without it. In fact it earns great reward from Allah, because it supports victims of injustice, sets matters to right, ensures that everyone gets their dues, settles quarrels between people, maintains law and order and combats corruption.

Therefore, the Muslim ruler must appoint judges as the needs of the community dictate, so that people's rights are secured and injustice is removed. Anyone who takes up such a responsibility and handles it as it should be rightly handled, provided that he is qualified for it, earns rich reward from Allah. On the other hand, one who is unqualified and takes it nevertheless commits a grave sin.⁵⁷⁵

⁵⁷⁴ Ibn 'Abidin, *Al-Durr al-Mukhtar*, vol. 4, p. 309; al-Dardir, *Al-Sharh al-Saghir*, vol. 4, p. 129.

⁵⁷⁵ Ibn Qudamah, *Al-Mughni*, vol. 9, p. 34.

The basis of the justice system is the Qur'an, the Sunnah and the unanimity of scholars. In the Qur'an Allah says: '[We said], "O David, indeed We have made you a successor upon the earth, so judge between the people in truth and do not follow [your own] desire, as it will lead you astray from the way of Allah."' (38: 26). In the Sunnah, the Prophet (peace be upon him) says: 'If a judge makes a ruling after he has carefully looked at all aspects, he receives double reward when he makes the right judgement. If he looks carefully at all aspects and gives a wrong ruling, he receives a single reward.'⁵⁷⁶

The Prophet (peace be upon him) himself acted as a judge and appointed judges. His Companions who succeeded him did the same, as did the early Muslim generations. On the other hand, all Muslims agree that it is important to appoint judges to settle disputes between people.

Conditions applicable to judges

Certain conditions must be observed when appointing a judge. These are:

1. Islam: To be a Muslim is one of the essentials of probity and integrity.
2. Sanity and adulthood: A child or a madman cannot be judges and are normally looked after by others.

⁵⁷⁶ Related by al-Bukhari, *hadith* No. 7,352; Muslim, *hadith* No. 1,716.

3. Probity: A man of loose moral conduct may not be appointed as a judge. Allah says: ‘Believers! If any evildoer comes to you with a piece of news, make sure of it first, lest you should wrong others unwittingly and then regret your action’ (49: 6). If such a person is unacceptable as reliable in what he tells, he is less so as a judge.
4. Sound constitution: The person to be appointed as a judge must be free of permanent disabilities, such as being dumb, deaf or blind. Such disabilities make him unable to judge disputes, although some scholars question the condition of sight.
5. Judges should have a thorough knowledge of the Qur’an and the Sunnah, be well versed in all aspects of the Islamic faith, be able to distinguish what is right and what is wrong, be free of prejudice and be keen to maintain justice.

Scholars, particularly Imam al-Shafi [i, also require a judge to have attained the degree of scholarship that enables him to exercise *ijtihad*, or scholarly discretion. This means that he should have thorough knowledge of the Qur’anic verses and the *hadiths* that outline verdicts and rulings. He should also know what early scholars have said about different cases, where they agree and where they disagree, and he should be well versed in language and analogy, or *qiyas*.

Scholars have different views on whether women may be judges. Abu Hanifah makes clear that a woman may be a judge in all cases except hudud (mandatory/castigatory punishments)

and qisas (retribution) cases, while al-Tabari and ibn Hazm consider that she could be a judge in any dispute or case as long as she meets the requirements for the position.

Manners and values to be observed by judges

1. A judge should have a strong character and be held in high esteem, but he should be neither arrogant nor violent. He should be soft-hearted but not weak, so that a powerful disputant may not think that he can sway a judge over to his side, nor a weak one despair of receiving justice.
2. He should be careful and forbearing, so that he is not angered by what the parties to the dispute under consideration may say.
3. He should be intelligent and alert, so as not to be deceived.
4. He should be a man of integrity and probity, steering away from whatever Allah has forbidden.
5. He should be content, truthful and able to make his own judgement. [Ali is reported to have said: ‘No one may be a true judge unless he has five qualities: probity, forbearance, having thorough knowledge of what has passed before him, ready to consult people of wisdom and be brave, fearing no one other than Allah.’ A similar statement is also attributed to [Umar ibn [Abd al- [Aziz.
6. It is strictly forbidden that a judge should speak to either of the two parties to a dispute in secret, or to favour one of them over the other or to teach either of them how to make his argument or present his evidence.

7. It is also forbidden for a judge to give his ruling when he is in a state of anger. The Prophet (peace be upon him) said: ‘No arbiter between two disputants may give a ruling when he is angry.’⁵⁷⁷ This may be extended by analogy so as to include anything that may blur the judge’s vision, such as worries, fears, hunger, thirst, fatigue, illness, etc.
8. It is forbidden for a judge to take a bribe. Abu Hurayrah reports that the Prophet (peace be upon him) said: ‘Allah curses the one who gives a bribe when seeking a ruling and the one who takes it.’⁵⁷⁸ Taking a bribe stops a judge from giving the other party his right, or makes him knowingly give a wrong ruling, and either course is extremely bad.
9. It is also forbidden for a judge to take gifts from both or either party to the dispute he is looking into. If a personal friend used to give him gifts before he assumed the post of a judge, he may continue to accept these gifts provided that he is not looking into a dispute to which his friend is a party. If a judge refrains from accepting all gifts, it is certainly better for him. A judge should abstain from anything that may influence his judgment or affect his reputation. Scholars mention that he should not even do his own shopping and selling, particularly at shops where he is known. He should guard against being given favourable treatment, for such favours are akin to giving him a gift, and ideally a judge should assign his shopping

⁵⁷⁷ Related by al-Bukhari, *hadith* No. 7,158; Muslim, *hadith* No. 1,717.

⁵⁷⁸ Related by Ahmad, *hadith* No. 9,023; al-Tirmidhi, *hadith* No. 1,336; Ibn Majah, *hadith* No. 2,313.

and selling to an agent who should not be known to be acting for him.

10. A judge may not rule on any case in which he, or any relative of his, is party, particularly when he cannot be a witness in a case involving such a relative. Nor may he rule on a case to which an enemy of his is a party. In any such case, his ruling would be suspect.
11. A judge may not rule in any case on the basis of his own knowledge of the event or the case, because his judgement would then be suspect.
12. A judge should appoint any assistant he may need, such as a clerk to write down the proceedings, a doorman, an interpreter, etc. so that he devotes himself solely to looking into the cases submitted to him.
13. A judge must give his rulings on the basis of the Qur'an and the Sunnah. If he cannot find in either a text that can be the basis of his judgement, he looks into cases where unanimity of scholars had been achieved. If he still finds no basis and he is qualified to exercise *ijtihad*, he uses his scholarly discretion. Otherwise, he must seek a fatwa by a qualified Mufti.
14. A judge must be absolutely fair to both parties.
[Umar wrote to Abu Musa al-Ash'ari, a learned Companion of the Prophet (peace be upon him) whom [Umar appointed as a judge: 'Be fair to people in your attention to them, your court and your judgement, so that

the weak does not despair of having justice and the strong does not hope to sway you over.’⁵⁷⁹

Testimonies and witnesses

Linguistically speaking, the term *shahadah* means a ‘confirmed piece of information’, and it is derived from a root that means ‘to see’. According to Muslim scholars, it means ‘telling about a right belonging to someone other than oneself against another person, who is not oneself, in a court of justice.’ It is also defined as ‘telling what the witness knows in a particular form, which is to say “I give witness that so and so...”, or “I have seen so and so...” or words to this effect.’⁵⁸⁰

Ruling: To bear witness that pertains to the rights of human beings is a collective duty. If some people undertake it and they are enough to establish the rights of everyone, all others are exempt. If anyone is needed to bear testimony in order to clarify the rights of the parties in a particular dispute, then it is the duty of that person to give testimony. Allah says: ‘Witnesses must not refuse when they are called in’ (2: 282). To give testimony in a court of law is a personal obligation and a duty if one is summoned to testify. Allah says: ‘You shall not withhold testimony, for he that withholds testimony is sinful at heart’ (2: 283).

⁵⁷⁹ Related by al-Daraqutni, *hadith* No. 4471.

⁵⁸⁰ Ibn Qudamah, *Al-Mughni*, vol. 9, p. 216.

Giving evidence is required according to the Qur'an, the Sunnah and the unanimity of scholars. In the Qur'an, Allah says: 'Witnesses must not refuse when they are called in' (2: 282). 'And bring to witness two just men from among you and establish the testimony for [the acceptance of] Allah.' (65: 2) Ibn Mas'ud reports that the Prophet (peace be upon him) said to one of his Companions that judgement in his dispute was dependant on 'your two witnesses; or else, his oath.'⁵⁸¹ Ibn 'Abbas reported that the Prophet (peace be upon him) said: 'Evidence must be presented by the claimant, and an oath is taken by the defendant.'⁵⁸² All scholars agree that giving testimony is required to prove people's rights.⁵⁸³

Acceptable witnesses

Certain conditions must be met by individuals to be acceptable as a witness:

1. Islam: The testimony of an unbeliever is unacceptable, as Allah says: 'Call to witness two persons of known probity from among yourselves' (65: 2). He also describes witnesses as ones 'And bring to witness two witnesses from among your men.' (2: 282), and an unbeliever does not meet these conditions.

However, testimony by people who follow earlier divine religions are acceptable in cases of making a will when

⁵⁸¹ Related by al-Bukhari, *hadith* No. 2,669; Muslim, *hadith* No. 138.

⁵⁸² Related by al-Tirmidhi, *hadith* No. 1,341; al-Daraqutni, *hadith* No. 4,311; al-Bayhaqi in *Al-Saghir*, *hadith* No. 3,101.

⁵⁸³ Ibn Qudamah, *Al-Mughni*, vol. 9, p. 164.

one is on travel. This exception is made for cases of urgent need and when they are the only ones available. Allah says: ‘Believers, let there be witnesses to what you do when death approaches you and you are about to make bequests: two persons of probity from among your own people, or two others from outside, if the disaster of death come to you when you are travelling through the land’ (5: 106). Ibn [Abbas and many scholars say that the reference in the verse to ‘two others from outside’ means the followers of earlier divine religions.⁵⁸⁴

2. Adulthood and sanity: The testimony of a young person is unacceptable, even if he is known to be a person of integrity. The unacceptability is based on the young person’s mind being incompletely developed. However, the testimony of young persons against one another is acceptable in cases of injuries, particularly before they have dispersed and if they are in agreement. Likewise, the testimony of a madman, a person of impaired mental faculty and a drunk is unacceptable, because their testimony is unreliable.
3. Speech: The testimony of a mute person who cannot speak is unacceptable even though his signals are understood. His signals are only acceptable with regard to rulings that affect him personally, because relying on these is necessary. However, if the mute person gives evidence in writing, it is acceptable.

⁵⁸⁴ Ibn Kathīr, *Tafsīr al-Qurʿān*, vol. 3, p. 211.

4. Accuracy and good memory: Testimony is unacceptable when given by one who is known to be simple-minded, or liable to frequent mistakes, because he is unreliable and what he may state in court may be erroneous. Yet, as everyone is liable to make mistakes, the testimony of one who makes few mistakes is accepted.
5. Probity: The testimony of a *fasiq*, or transgressor, is unacceptable, as Allah says: ‘Call to witness two persons of known probity from among yourselves’ (65: 2). Probity is a quality that applies to one who is religious, a person of integrity and who attends to what is required and recommended by Islam and avoids what is forbidden and reprehensible.

Rulings pertaining to the testimony

1. The witness must be fully aware of what he is testifying. He may not testify to what he does not know. Allah says: ‘Do not pursue that of which you have no knowledge’ (17: 36). ‘But only those who testify to the truth [can benefit], and they know.’ (43:86). Knowledge is gained through the senses like sight and hearing, or through publicity and wide circulation of people and information, particularly in certain matters such as births and deaths.
2. A testimony by parents in favour of their children, or by children in favour of their parents, is not acceptable according to the majority of scholars. However, a number of eminent scholars disagree, including [Umar ibn al-

Khattab, Justice Shurayh, [Umar ibn [Abd al-[Aziz, Ibn al-Mundhir and al-Shafi[i in one of his two views. They say that the testimony of a parent for his child or a child for his parent is acceptable as long as they meet the condition of probity. Likewise, a testimony by one spouse in favour of the other is unacceptable. On the other hand, a testimony against such close relatives is acceptable, as it cannot be motivated by favouritism. Allah says: ‘Believers! Be ever steadfast in upholding justice, bearing witness to the truth for the sake of Allah, even though it be against yourselves, or your parents and kin’ (4: 135).

3. A testimony against one’s opponent is unacceptable, as is a testimony by which the witness hopes to achieve some gain or repel some harm. However, when the enmity between them is a religious one, the testimony is accepted. Thus, a testimony by a Muslim against an unbeliever, or one who follows the Sunnah against one who disregards it, is acceptable.
4. A witness must give a testimony that he believes to be absolutely true, even though it may be against his closest relatives. Favouritism is totally rejected. Allah says: ‘Believers! Be ever steadfast in upholding justice, bearing witness to the truth for the sake of Allah, even though it be against yourselves, or your parents and kin’ (4: 135). This requires a witness to not show any favouritism, even to his parents or his next of kin. The testimony must be truthful, even though it may bring some harm to those who are closely related to the witness.



5. A testimony quoting another witness is accepted because it may be necessary. However, it is only accepted when the original witness cannot be brought in because he has died, or is severely ill. Moreover, the probity of both the original witness and the one giving the testimony must be well confirmed.
6. A false testimony is unacceptable, because it implies lying. Perjury is a major sin. Allah says: ‘Shun, then, the filth of idolatrous beliefs and practices; and shun every word that is untrue’ (22: 30). ‘The Prophet (peace be upon him) said to those attending him: “Shall I tell you which the gravest sins are?” They said: “Yes, Messenger of Allah.” He said: “Claiming that Allah has partners; and being undutiful to one’s parents.” Up to saying this, the Prophet (peace be upon him) was reclining, but he sat up and said: “and perjury.” He continued repeating this last one until his Companions wished that he would stop.’⁵⁸⁵ Needless to say, perjury prevents justice and causes injustice.
7. A witness may not be given remuneration for giving his testimony, but if he cannot walk to the court where he is expected to give his testimony, he may be given transport or his fare paid.
8. The number of witnesses differs according to the case being considered. In adultery and sodomy, the minimum number of witnesses required is four men, as Allah says: ‘Why did they not produce four witnesses to prove it? Since they have not produced witnesses, then in the sight

⁵⁸⁵ Related by al-Bukhari, *hadith* No. 2,654; Muslim, *hadith* No. 87.



of Allah, they are certainly liars' (24: 13). In cases involving crimes that carry mandatory punishments, such as theft, and in cases that are not concerned with money but are by nature known to men, such as marriage, divorce, parenthood, acting for someone else, wills, etc. two male witnesses are required. Women are not acceptable as witnesses in these cases, because as Allah says regarding re-marriage after divorce: 'Call to witness two persons of known probity from among yourselves' (65: 2). This is extended by analogy to all other cases that are not financial in nature. With regard to financial transactions, such as selling, renting, loans, mortgage, deposits, and other financial contracts, two male witnesses, or one man and two female witnesses are needed. Allah says in the verse outlining the regulations of loans: 'Call in two of your men to act as witnesses, but if two men are not available, then a man and two women' (2: 282). Also in cases of financial transactions it is acceptable to have one male witness supporting the claim when given under oath. The Prophet (peace be upon him) gave a ruling in a case on this basis.

In cases that are mostly unknown to men, such as the physical condition of a woman, her virginity, birth, breastfeeding, the crying of a newborn at birth, etc. the testimony of one woman of probity is accepted.

If a person claims to have become poor after he had been well off, this can only be confirmed by the testimony of three men. The Prophet (peace be upon him) told



Qabisah ibn al-Khariq that requesting financial aid is permissible in three cases only, one of which is: ‘A person who suffers loss of wealth if three men of sound mind among his people say: “This person has suffered a grave loss.”’⁵⁸⁶

9. It is not necessary that the witness should say when testifying, ‘I bear witness...’, or ‘I testify that...’ He may simply say: ‘I saw this’, or ‘I heard that’, or a statement to this effect.

⁵⁸⁶ Related by Muslim, *hadith* No. 1,044.



Arabic	English	Definition
<i>Adhan</i>	The call to prayer.	<i>Adhan</i> announces the start of each of the five obligatory prayers and consists of specific wording.
<i>‘Awrah</i>		The area needed to be covered from others who are not permitted to look at it.
<i>Bay‘</i>	Sale	The exchange of an item of value for something else of value, transferring possession and ownership.
<i>Bid‘ah</i>	Deviation or innovation	Something introduced into the religion which is at variance with what is known from the Prophet (peace be upon him) and which has no basis in Islam. There are two types: one that makes the person a transgressor and one that takes him out of the faith altogether.
<i>Daman</i>	Personal surety	Commitment by a guarantor to another in providing a duty of care or an article, or a person who is bound to fulfil what is due.



<i>Dhimmah</i>	Pledge or covenant	A commitment by the Muslim community to leave some unbelievers alone and protect them in return for their payment of <i>jizyah</i> and that they abide by the Islamic rules that apply to them.
<i>Diyah</i>	Blood money	An indemnity that is required to be paid by a killer, or his clan or close relatives, to the victim's close relatives.
<i>Fara'id</i>	Inheritance law	A branch of Islamic law that deals specifically with inheritance, its rules and how each heir's share is calculated.
<i>Fard</i>	Obligatory	According to the majority of scholars: something that is obligatory.
Fatwa	Ruling	A legal opinion given by an Islamic scholar on a specific question.
Fay'		<ol style="list-style-type: none">1. The length of the shadow of an object at midday, when Thuhur prayer becomes due.2. Any gains Muslims make from unbelievers, whether movable or immovable, without fighting or raising forces.



<i>Fiqh</i>		Knowledge of Islamic practical rulings as deduced from detailed evidence.
<i>Ghusl</i>	Ritual bath	Washing one's entire body with water. The obligatory <i>ghusl</i> is the bath undertaken to remove the state of ceremonial impurity, i.e. <i>janabah</i> , and the woman's <i>ghusl</i> after the end of her menstrual period or postnatal bleeding.
<i>Hadanah</i>	Custody	The care and maintenance of a young child who cannot attend to its own needs and giving it what it needs in terms of training and education.
<i>Hadith</i>	Report(s)	Reports describing the statements, actions, approval, or physical or moral description of the Prophet Muhammad (peace be upon him) (peace be upon him). According to this particular definition it is synonymous with the



		term <i>Sunnah</i> as used by scholars of <i>Hadith</i> .
<i>Hady</i>		Sacrificial animals to be slaughtered at Al-Haram as part of the pilgrimage.
<i>Hajb</i>	Exclusion	Excluding an heir from taking all or part of their inheritance because of the presence of another heir who is closer to the deceased. Total exclusion is called <i>hajb hirman</i> , and partial exclusion <i>hajb nuqsan</i>
<i>Hajj</i>	Pilgrimage	Travelling to Makkah to perform a special act of worship in Makkah and its surrounding area. The most important parts are attendance at Arafat and the <i>tawaf</i> of <i>ifadah</i> around the Ka'bah
Al-Haram	Sanctuary	In general use it refers to Makkah and its surrounding area. It is also used to refer to Madinah and its surrounding area.
Haraam	Forbidden	Any action that incurs condemnation of the perpetrator from the Islamic point of view.

<i>Hayd</i>	Menstruation	A condition that prevents a woman from performing acts that require purity, such as prayer and handling the Qur'an. A woman does not fast during menstruation. This condition is the natural discharge of menses by an adult woman who is neither ill nor pregnant and who has not reached menopause.
<i>Hudud</i> (Sing. <i>hadd</i>)	Mandatory punishment	A specified punishment that must be inflicted as it encroaches on the limits set by God Almighty.
<i>'Iddah</i>	Waiting period	The period of time a woman must stay unmarried when her current marriage comes to an end, either by divorce or death.
<i>Ihram</i>	Consecration	To deliberately enter into a state of intent in which something that is normally permissible becomes forbidden.
<i>Ijab</i>	Commitment	The commitment made by a woman's father or guardian to give her in



		marriage to a particular person.
<i>Ijarah</i>	Rent/hire	A contract giving the benefit of use in return for an agreed remuneration.
<i>Ijma'</i>	Unanimity or consensus	Universal agreement after the death of the Prophet (peace be upon him), to arrive at a practical ruling on an issue related to Islam.
<i>Ijtihad</i>	Scholarly discretion	Exerting one's best effort to gain a thorough knowledge of the Qur'an and <i>hadith</i> in order to arrive at a religious ruling. <i>Ijtihad</i> applies to individual scholars, not to collective effort.
<i>Ila'</i>	Suspension of marriage	A husband makes an oath that he will not have sexual intercourse with his wife.
<i>Ilah</i>	Deity	A god who is worshipped, whether worthy of it or not. Alternatively, that which is dearly loved, trusted, appealed to for help, feared, venerated and prayed to in hope.



<i>Irth</i>	Inheritance	The estate of a deceased person including money, articles and any other properties and items of value, moveable or immovable.
<i>Istihadah</i>	Bleeding other than menstruation	Vaginal discharge of blood other than menses or postnatal bleeding. It may be caused by illness or a disorder.
<i>Istihsan</i>	Subtle analogy	<ol style="list-style-type: none">1. A ruling on a question that is different from the rulings to similar questions as a result of some firm evidence requiring such distinction;2. Exerting the discretion allowed by Islamic law in giving a ruling to questions.
<i>Istinja'</i>	Toilet cleanliness	Removing the impurities caused by discharge through one's private parts using water.
<i>I'tikaf</i>	Seclusion	Staying in a mosque in order to worship God.
<i>Janabah</i>	State of ceremonial impurity	A state resulting from the discharge of semen, with desire, when awake, asleep, or through sexual intercourse with or



		without ejaculation. It prevents the person concerned from offering prayers, reciting the Qur'an or being in a mosque until it is lifted by taking a bath.
Jihad	Striving for God's cause	Doing all we can to prevent enemies attacking Islam and to fight whoever attacks Muslims when they advocate Islam.
<i>Jinayah</i>	Offence	A crime committed against a person, property or honour that causes harm to the perpetrator or someone else.
<i>Jizyah</i>	Tribute (Taxation)	Consensual payment taken from unbelievers in the land of Islam to ensure peace between them and the Muslim community. Payment of <i>jizyah</i> will ensure their safety and their right to permanently reside in the land of Islam.
<i>Kaffarah</i>	Atonement or expiation	A particular response, such as freeing a slave, fasting for a number of days or feeding needy people, in atonement for

		wrong actions, especially missing obligatory actions.
<i>Khamr</i>	Alcoholic drinks	Whatever intoxicates, i.e. clouds the mind.
<i>Khuff</i>	Shoes or socks	Something a person wears on his feet that cover the ankles.
<i>Khul'</i>		Dissolution of a marriage at the woman's request in return for compensation to be paid to the husband.
<i>Kira'</i>	Hire	1. Rent or hire of property. 2. Wage paid in return for rendering a service.
Laylat al-Qadr	Night of Power	A blessed night, when the Qur'an was revealed and to which Surah 97 is devoted. It occurs in the last ten days of Ramadan, or according to what is widely known in earlier generations, the night of 27 Ramadan, and is celebrated with blessings from the angels.
<i>Mahr</i>	Dowry	Something of value that is required to be paid to a woman when she is married or because of sexual intercourse. It is also called <i>sadaq</i> .



<i>Mahram</i>		A relative whom a woman is forbidden to marry forever, such as her father, brother or uncle.
<i>Makruh</i>	Reprehensible or disliked	Something that Islam prefers not be done but is not prohibited. Any person who refrains from doing such actions is rewarded but the one who does it is not punished.
<i>Mandub</i>	Encouraged	Something that Islam encourages without making it obligatory. A person who does such actions earns reward, but the one who omits it is not liable to punishment.
Mash 'ala al-Khuffayn		Wiping both <i>khuffs</i> with one's wet hand instead of washing one's feet when performing the ablution; permissible under certain conditions.
<i>Ma'siyah</i>	Disobedience	Deliberate disobedience of the commands of Allah, such as a deliberate omission of prayers, accepting usury, pledging to do something that is forbidden, etc.



<i>Miqat</i>	Appointed place	The place at which a pilgrim enters into the state of consecration (<i>Ihram</i>).
<i>Mubah</i>	Permissible	Any action Islam permits to be done or omitted, without meriting reward or incurring punishment.
<i>Muhsan</i>		A free, sane Muslim adult who has had sexual intercourse with his or her spouse, even once.
Muzdalifah		A place in Saudi Arabia, between Arafat and Mina, where pilgrims spend part of the night before 10 Dhul-Hijjah after having finished attendance at Arafat. The place is also called <i>Jam'</i> .
<i>Nadhr</i>	Pledge	A pledge made by an adult Muslim to do something that earns reward from God, even if it is made conditionally.
<i>Nafaqah</i>	Maintenance	What a person must provide of food, clothes, shelter, etc. for himself and his dependants, such as his wife, children, relatives and animals.
<i>Najasah</i>	Impurity	Any foul thing such as urine attached to one's



		body, clothes or in the place where one is praying.
<i>Nikah</i>	Marriage	A contract of marriage between a man and a woman that makes a pleasurable and sexual relationship permissible, under certain conditions. Another name for it is <i>zawaj</i> .
<i>Nisab</i>	Zakat threshold	A minimum amount that once exceeded requires the payment of zakat. In monetary terms, it is the equivalent of 595 grams of pure silver, or 85 grams of pure gold.
<i>Qabool</i>	Acceptance	What is uttered by the second party to a contract denoting acceptance of a contract after the first party has made a commitment. This may be by word, action or signal.
<i>Qadhf</i>	An unproven accusation	Accusing someone of committing fornication or adultery without providing the required evidence.
<i>Qard</i>	loan	Giving a loan to another person as an act of



		kindness, so that the other person benefits by it and repays it at a later date.
Qatl al- 'Amd	Deliberate killing	An act intended to cause death, using a weapon or a method that leads to killing in most cases.
Qatl al- Khata'	Accidental killing	An act by someone that results in the death of another without intending to kill.
<i>Qiblah</i>	The direction faced in prayer	When Muslims offer their prayers, they face in the direction of the Ka'bah.
<i>Qisas</i>	Retribution	To punish an offender in a crime of killing, injury or amputation in the same way to the injuries suffered by the victim.
<i>Qiyas</i>	Analogy	Applying a ruling specified by a religious text on a certain matter to another matter for which no text refers, provided the same reasoning applies to both of them. This term is used in the sense of scholarly discretion.
Qur'an	The Qur'an	God's word as revealed to Prophet Muhammad

		<p>(peace be upon him) (peace be upon him), whose recitation is an act of worship and which is recorded in writing in the <i>mus haf</i>. The term is used to refer to the complete Qur'an or any part of it.</p>
<i>Rahn</i>	Surety	<p>Giving something of monetary value as security for a loan. The amount of the loan is taken from it or its price should the debtor be unable to repay the debt.</p>
<i>Riba</i>	Usury	<p>An increase in price without suitable compensation. It is of two types: the <i>riba</i> of debt, which is also called <i>riba al-nas i 'ah</i>, and the <i>riba</i> of sale, which is also called <i>riba al-fa dl</i>.</p>
<i>Riddah</i>	Apostasy	<p>To disbelieve in Islam, by word or action, after once having believed in it – such as prostrating oneself in respect before an idol or throwing the Qur'an contemptuously in the rubbish.</p>



		God, <i>Allah-u akbar</i> , and concluding with <i>salam</i> . It has specific essentials and well-defined conditions and it is offered at particular times.
<i>Salat al-Janazah</i>	Prayer before burial	The prayer for a deceased person, given in a particular form without bowing or prostration. It consists mainly of supplication.
<i>Sariqah</i>	Theft	To stealthily take something belonging to another person, or to take possession of someone else's property or belongings, knowing that the perpetrator has no claim to it.
<i>Shahadat al-Zur</i>	Perjury	The major sin of knowingly giving a false testimony.
<i>Shahid</i>	Witness	A person who relates what he knows about a situation or event.
Al-Shari'ah	Islamic law	What God has legislated for His servants in all matters of religion, including commandments of what to do and what not to do, permissions



		and prohibitions, duties and limitations, recommendations and rulings.
<i>Sharikah</i>	Partnership	A confirmed right to items or benefits that is shared between two or more persons.
<i>Sharṭ</i>	Condition	Something that is necessary for a ruling but does not form part of it. The ruling is lost when condition does not exist, but it need not be if the condition exists. For example, ablution is a condition for the validity of prayer.
Sunnah	The Prophet's (peace be upon him) practice	The way of life led by God's messenger (peace be upon him) and his companions in belief, economy, word and deed. It is the Prophet's (peace be upon him) practice, free of suspicion and personal desire. The opposite of <i>bid'ah</i> , people are said to be either the people of the Sunnah or the people of <i>bid'ah</i> .



<i>Ta [ah</i>	Obedience	Derived from a root meaning submissiveness and acceptance of orders, it means drawing closer to God through doing what He and His messenger have ordered. It is also called ' <i>ibadah</i> ' or 'worship'.
<i>Taharah</i>	Purification	The use of water to remove impurities such as urine, or the use of water, or dust in dry ablution, to remove a state of ceremonial impurity.
<i>Talaq</i> <i>Raj [i</i>	Revocable divorce	A divorce after which a husband may reinstate his marriage to a wife that he has divorced once or twice, during her waiting period, without the need for a new marriage contract, a fresh dowry or similar conditions. The marriage can be reinstated by word of mouth or by having sexual intercourse with his divorced wife, etc.
<i>Tawaf</i>		Walking around the Ka [bah seven times in worship of God, during

		the pilgrimage and <i>[umrah]</i> , and at other times. It is essential to include one <i>tawaf</i> during the <i>'umrah</i> , while the pilgrimage includes three <i>tawafs</i> : on arrival, which is recommended; after attendance at Arafat, which is essential and the pilgrimage is invalid without it; and before departure from Makkah, which is a duty.
<i>Tawhid</i>	Belief in God's oneness	To attribute worship, Lordship and the Names and attributes to God alone; or to address all worship to God alone.
<i>Tayammum</i>	Dry ablution	Choosing a clean patch of earth in order to purify oneself and be able to do some acts of worship, such as prayer. The earth should be struck with one's hands in a particular way then one can wipe one's face and hands to achieve purification.
<i>Ta'zir</i>	Discretionary punishment	A punishment for a breach of a right owed to God or a human being that is undefined in



		religion but is obligatory. It is mostly applicable to any act of disobedience to God that bears no mandatory punishment, retaliation or atonement.
<i>'Umrah</i>	An act of worship	An act of worship consisting of visiting and performing the ritual walk around the Ka'bah, and the walk between the two hills of al-Safa and al-Marwah.
<i>Wajib</i>	Mandatory	Whatever is ordered by Allah or His Messenger to be performed, and incurs clear sin when omitted
<i>Wala'</i>		A contractual relationship between two persons that results from setting a slave free or making a pledge of allegiance. In certain cases it may be a cause for inheritance.
<i>Waliy</i>	Woman's guardian	An adult, sane, free man who acts in the best interest of a woman in her marriage. This is normally her father but may be her closest relative if her father is unavailable.



<i>Waqf</i>	Endowment	Giving something away so that its revenue goes to charity and it can never be owned by others. For example, a farm may be consecrated as endowment so that its produce goes to the poor.
<i>Wasiyyah</i>	Will	A deed that passes ownership of something of value to someone else after one's death.
<i>Wudu'</i>	Ablution	Washing one's face, arms, head and feet with water in a particular way to gain the state of purification necessary for the validity of prayer and other acts of worship.
Al-Wuquf bi- [Arafah	Attendance at Arafat	During the pilgrimage season, to stop on 9 Dhul-Hijjah and the following night at a place called [Arafah, or Arafat, near Makkah in Saudi Arabia – even for a short while.
<i>Yamin</i>	Oath	Giving emphasis to one's word by adding something great, such as God's name or some of His attributes. It may be an oath to divorce, or to



		make a pledge, or using a name of some religion other than Islam.
Yawm [Arafah]	The day of Arafat	On the ninth day of Dhul-Hijjah all pilgrims attend at a place called <i>Ard</i> [Arafah, or the plain of [Arafah.
Zakat	Obligatory charity	A set financial duty liable to be paid for certain types of property at certain times.
Zakat al-Fitr	Charitable duty for Eid	A specific duty levied on all Muslims and the benefits given to the poor at the end of the fast in the month of Ramadan.
<i>Zihar</i>	Denial of the status of one's wife	A Muslim who describes his wife, even if she is a non-Muslim, young, or mad; or describes any part of her that refers to her person, as someone who is forbidden for him to marry. It used to be stated as: 'You are to me like my mother's back.'
<i>Zina</i>	Fornication/adultery	Indulging in sexual intercourse with someone outside a legitimate marital relationship.



← **RULINGS OF** → **ISLAMIC LAW** **A SIMPLIFIED PRESENTATION**

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funding, translation and editing for this project supervised by osoul global center

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