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ISLAMIC LAWS



SHEIKH HUSAIN WAHID
KHORASANI

Chapter 1

Editor's Note

In the Name of Allah, the Most Beneficent, the Most Merciful,

This version of the English Risalah of the rulings of Sheikh Wahid Khorasani is not the official version. However, the text of this English Risalah has been taken directly from his official website and edited for better understanding of the common English speaking people.

The official English translation had few laws and at times sections missing which have been added here and have been marked in Italics. These additions of missing laws have been done by translating those missing laws from the official Urdu version into English. Similarly, you will find in certain places selected word are marked in Italics because they have been either replaced instead of those word used in the official translation for better understanding or have been added within brackets to better explain what was meant by the translator (with the use of the official Urdu translation of Sheikh Wahid's Risalah).

In addition, the spellings of the Fiqh terminologies used have been replaced for better readability and understanding, for example, in the official translation the word Qadha to denote missed prayers or fasting has been written as QaÁÁ which a simple reader would read as 'qa-aa' making no sense at all.

I encourage you to keep updated with the laws from the official website of Sheikh Wahid and compare from there to be

certain of following his rulings correctly. His English Risalah can be found at <http://wahidkhorasani.com/English/Fatwa/>

I hope Inshallah this effort helps to reader to better understand the laws to be able to correctly apply them. If you find any errors, please contact me by email at mo-hibe.alemhammad@gmail.com

Ya Ali,

A Lover of Ahlul Bayt

Chapter 2

The Precepts of Taqleed

1. A person's belief in the fundamentals of Islam must be based on his own research and knowledge. Taqleed—following others in an issue without knowledge of the issue—in these fundamentals is invalid. In issues other than these, including those which are not self-evident nor amongst the necessities of the religion, and also in issues which necessitate deduction from primary sources, one has to either be:

a. A Mujtahid who can deduce his responsibility from the primary sources;

b. A Muqallid who acts according to the verdict of a Mujtahid, the conditions of whom will be mentioned later;

c. A Muhtaaf who acts in a precautionary manner which ensures that he has fulfilled his responsibility. For example, if a number of Mujtahids consider an act to be prohibited while others consider it to be permissible, he should abstain from performing it. Similarly, if some Mujtahids consider an act to be obligatory while others deem it to be permissible, he should perform the act. Hence, a person who is not a Mujtahid and is not able to act on precaution either, must do Taqleed of a Mujtahid.

2. In the issues alluded to previously, Taqleed in religious laws means to act according to the verdict of a Mujtahid. Such a Mujtahid, whose verdicts have authority for a Muqallid, should be male, sane, a twelver Shi'a, of legitimate birth, just, alive—even if the Muqallid was a discerning child during the Mujtahid's lifetime—and based on obligatory precaution he should also be Baligh.

A just person is one who performs the acts which are obligatory upon him and abstains from the ones which are prohibited. The sign of being just is that one is apparently of good character, such that if one were to inquire about him from the people in his area, his neighbors or those who have had social interactions with him, they would attest to his good character. In the event that a person knows in a general manner of a difference in the verdicts of the Mujtahids in the precepts that concern him, then the Mujtahid whom he follows should be the most learned. The most learned Mujtahid is one who is better than all the Mujtahids of the time at understanding the laws of God, and the injunctions ordained by the intellect and the sharia. This applies unless the verdict of the one who is not the most learned conforms to precaution.

3. A Mujtahid or the most learned Mujtahid can be identified through one of the following ways:

a. A person himself attains certainty that a particular individual is a Mujtahid or the most learned one, such as a person who is of an adequate scholarly capacity to identify a Mujtahid or the most learned one;

b. Two just scholars who are capable of identifying a Mujtahid or the most learned one, attest that a particular individual is a Mujtahid or the most learned one, provided that their testimony is not contradicted by that of two (other) just scholars. In fact, a Mujtahid or the most learned one can be identified through the testimony of one trustworthy expert only when there is no reasonable doubt that his word is inaccurate;

c. A group of scholars who can identify a Mujtahid or the most learned one, and their opinion brings about satisfaction, attest that an individual is a Mujtahid or the most learned one.

4. If one knows—albeit in a general manner—of a difference in the verdicts of two or more Mujtahids, in the event that he personally has knowledge of them being equal in knowledge, or a religious authority is established to that effect, he should act according to the verdict of one whose verdict coincides with precaution. If the verdict of neither of them coincides with precaution, such as the case wherein one Mujtahid obligates a

complete prayer while the other obligates qasr (shortened prayers), he should act on precaution by performing both.

If acting on precaution is not possible, such as a case wherein one Mujtahid obligates an act while another prohibits it, or acting upon precaution entails hardship, he should act upon the verdict of one who is more wary in issuing verdicts. If they both be equal in this respect as well, he is free to choose between them.

The ruling is the same in cases other than these, be it the case wherein the presence of the most learned is substantiated but not determined in any particular individual, or the case wherein the presence of the most learned is considered probable, provided that acting upon precaution is possible and does not entail hardship. If acting upon precaution is not possible or it entails hardship, in the event that the presence of a most learned is known but not individualized, if the probability of being more learned is greater in one individual, he should act upon his verdicts.

If they both or all be equal in this respect, then based on precaution he should act according to the verdict of the one who is more wary in issuing verdicts. If they also be the same in this respect as well, he is free to choose between them. In the event that the presence of a more learned is considered probable, based on precaution he should act upon the verdicts of one whom he reasonably speculates or considers it possible that he be the most learned, or the probability of that individual being the most learned is higher. If none of these are possible, based on obligatory precaution he should act upon the verdicts of one who is more wary in issuing verdicts. If they be equal in this respect as well, he is free to choose between them.

5. There are four ways of acquiring the verdicts of a Mujtahid:

- a. Hearing it from the Mujtahid himself;
- b. Hearing it from two just individuals who relate the verdict of the Mujtahid;
- c. Hearing it from a trustworthy and reliable person, provided that there is no strong reason to assume otherwise, or he attains satisfaction with respect to his statement;

d. Seeing it in the Risaalah (book of Islamic laws) of a Mujtahid, provided one is satisfied with the accuracy of the Risaalah.

6. One can continue to act upon the verdict of a Mujtahid as long as he is not certain that it has changed. If he speculates that the verdict may have changed, it is not necessary for him to investigate.

7. If the most learned Mujtahid issues a verdict on an issue, one who has the responsibility to act upon that Mujtahid's verdict cannot refer to another Mujtahid on that issue. However if he does not issue a verdict and states that based on precaution one should act in a certain manner—for example, if he states that based on precaution one should recite the tasbeehaat al-arba three times in the third and fourth Rak'ah of the prayers—the follower should either act upon that precaution, which is the obligatory precaution, or act upon the verdict of a Mujtahid who is the most learned after him and that Mujtahid states that reciting the tasbeehaat once is sufficient. The ruling is also the same in cases wherein the Mujtahid states that a ruling is open to further reflection or is problematic. In the case of recommended or reprehensible acts which have been mentioned in this book, one should perform them with the intention of Rajaa'.

8. If a Mujtahid issues a precautionary verdict before or after issuing a definite verdict—for example, if he were to state that washing a Najis vessel once in Kurr water renders it Tahir, although based on precaution it should be washed three times—his follower may forgo acting upon that precaution, which is a recommended precaution.

9. If the Mujtahid whom one was responsible to follow passes away, in the event that he ascertains the Mujtahid who is alive to be more learned than the one who passed away, and is aware of a difference—albeit in a general manner—in the verdicts of the two Mujtahids, it is obligatory for him to refer to the one who is alive. In the event that he knows of the Mujtahid who passed away to be the most learned, and does not

establish for himself that the living Mujtahid is more learned, he must continue to act upon the verdicts of the one who has passed away, irrespective of whether he had obligated himself to act upon the Mujtahid's verdicts while he was alive or not, or had actually acted upon them or not, or had knowledge of those verdicts or not.

10. If a person's responsibility in a particular issue is to act upon the verdicts of a living Mujtahid, he cannot once again refer to the verdicts of one who has passed away.

11. It is obligatory for a person to learn the verdicts of the issues which he commonly faces in his day to day life.

12. If a person comes across an issue for which he does not know the ruling, he should act upon precaution, or do Taqleed based on the aforementioned conditions. However, if he is aware, in his daily affairs, of a difference in the verdicts of a Mujtahid who is the most learned and the one who is not—albeit in a general manner— and the verdict of the most learned is not accessible to him, in the event that he cannot delay the action until he acquires the verdict, or delaying it entails hardship, he can act upon the verdict of one who is not the most learned.

13. If a person informs another of the verdict of a Mujtahid and the verdict then changes, it is not necessary for him to inform the other person of the change. However, if he realizes after informing the other person that he made a mistake in relating the verdict, and it leads to contravening a compulsory ruling, he must rectify his error if it is possible to do so.

14. If the actions of a mukallaf (one subject to religious obligations) who performed his actions without doing Taqleed for a certain period were according to the real verdict or the verdict of the Mujtahid whom he is currently responsible to follow, his actions are valid.

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Part 1
The Precepts of Taharah

Mutlaq and Mudhaaf Water

15. Water is either Mutlaq or Mudhaaf. Mudhaaf water is water which has been extracted from something, like watermelon juice or rose water, or water which is mixed with something else, such as water which has been mixed with mud or something similar, to an extent that it cannot be termed water anymore. Any water other than mixed water is called Mutlaq water, and it is of five types:

- a. Kurr water
- b. Qaleel water
- c. flowing water
- d. rain water e. water of a well

Kurr Water

16. Kurr water is the amount of water which fills a container whose length, width and depth are three hand spans each.

17. If A'in al-Najasah like urine or blood, or anything which has become Najis , like a Najis cloth, falls in Kurr water and if the smell, colour or taste of the water changes owing to the Najis object, it becomes Najis; but if it does not, then it does not become Najis.

18. If the smell, colour or taste of Kurr water changes owing to something which is not Najis, it does not become Najis.

19. If an A'in al-Najasah like blood contacts water which is more than Kurr and changes the smell, colour or taste of a portion of it, and the unchanged part is less than Kurr, the entire water becomes Najis. However if the unchanged part is equivalent to Kurr or more, then only that portion which has changed will be Najis.

20. If the water of a fountain is connected to Kurr, it will make Najis water Tahir (Pure). However if it falls on the Najis water drop by drop, it will not make it Tahir unless something is placed over the fountain, so that before the drops are formed it connects directly to the Najis water. In fact, based on recommended precaution the water of the fountain should be mixed (one should not suffice with mere contact between the two waters.) with the Najis water.

21. If a Najis object is washed under a tap which is connected to Kurr, and if water which flows from that object remains connected to a source which is not less than Kurr, and its smell, colour or taste has not changed owing to Najasah, then it will be Tahir.

22. If a part of Kurr water freezes to ice, leaving a quantity which is not equal to Kurr, and the liquid water comes in

contact with Najasah, it will become Najis. Any amount of water which melts thereafter from the ice will also become Najis.

23. If the quantity of water was equal to Kurr and later on someone doubts whether it has decreased to less than Kurr or not, it will be treated as Kurr water. That is, it will make a Najis object Tahir, and will not become Najis if Najasah comes in contact with it. If the quantity of water was less than Kurr and one suspects that it may have become equal to Kurr, it will be treated as less than Kurr water.

24. There are a few ways of establishing a volume of water to be equal to Kurr:

- a. A person attains certainty or satisfaction himself;
- b. Two men who are just testify to it;
- c. One trustworthy individual testifies to it, provided that there is no reasonable doubt that his word is inaccurate;
- d. Based on the statement of one who possesses the water, provided he is not accused of being a liar.

Qaleel Water

25. Qaleel water is water which does not spring forth from the earth and its quantity is less than Kurr.

26. If Qaleel water is poured on something which is Najis, or if a Najis object contacts it, it becomes Najis. However if it is delivered with pressure on a Najis object, only that part which contacts it will be Najis, and the water which has not contacted the Najis object will be Tahir.

27. Qaleel water which is poured over a Najis object to remove the A'in al-Najasah and then separates from it, is Najis. Similarly, the Qaleel water which is poured over a Najis object to wash it after the A'in al-Najasah has been removed, should also be avoided as an obligatory precaution.

28. The water which has been used to wash the outlet of urine or stool does not make Najis a Tahir object which comes in contact with it, subject to the following five conditions:

a. Its smell, colour or taste has not changed owing to Najasah;

b. Additional external Najasah has not come in contact with it;

c. Any other Najasah like blood has not been released with the urine or stool;

d. Based on precaution, particles of stool do not appear in the water;

e. More than the usual amount of Najasah has not spread around the orifice.

Flowing Water

Flowing water is that water which springs forth from the earth and then flows, like the water of a spring or a canal.

29. If Najasah comes in contact with flowing water, even if it be less than Kurr, as long as its smell, colour or taste does not change, it is Tahir.

30. If Najasah comes in contact with flowing water, only the portion whose smell, colour or taste changes due to the Najasah is Najis. The side which is connected to the spring is Tahir, even if it be less than Kurr. Similarly, the water on the other side of the stream will be Tahir if it is equal to Kurr, or if it is connected to the water near the spring through unchanged water. If not, it is Najis.

31. The water of a spring which does not flow, but replaces water every time water is drawn from it, will be treated as flowing water. This means that if it comes in contact with Najasah, it is Tahir as long as its smell, colour or taste does not change.

32. If water at the bank of a canal is stationary, but is connected with flowing water, and upon contacting a Najis object its smell, colour or taste does not change, it does not become Najis.

33. If a spring is active in winter, but remains dormant in summer, it will be treated as flowing water only when it is active.

34. Even though the water of the pool in a bath may be less than Kurr, it will be treated as flowing water as long as it is connected to a source whose water is equivalent to Kurr.

35. The water from the pipes fitted in bathrooms and buildings, pouring through taps and showers, will be treated as

flowing water if it is connected to a tank holding water which is not less than Kurr.

36. Water which flows on the ground but does not gush out from the earth, will become Najis upon contacting Najasah if it is less than Kurr. However, if the water flows with force and Najasah contacts its lower end, the upper end will not become Najis.

Rain Water

37. If rain falls once upon a Najis object which does not contain any A'in al-Najasah, the areas which come in contact with the rain will become Tahir. It is also not necessary to wring carpets, clothes or other similar items. However, if only a few droplets of rain fall, it will be of no (canonical) benefit. Rather it should rain in such a manner that one should be able to say, "It is raining." In fact, based on obligatory precaution, it should rain in such a quantity that if it falls on a hard surface, the water starts to flow on it.

38. If rain water falls on an A'in al-Najasah and splashes elsewhere, and if the A'in al-Najasah is not found in the water, nor does it acquire the smell, colour or taste of the Najasah, then that water is Tahir. So, if it rains on blood and then splashes, and particles of blood are seen in the water, or it acquires the smell, colour or taste of blood, it is Najis.

39. If there is A'in al-Najasah on the roof of a building, the water that flows down from the roof or the drain spout after contacting the Najis object will be deemed Tahir as long as the rain continues to fall on the roof. After the rain stops falling, if it is known that the water that is flowing down has contacted a Najis item, it will be Najis.

40. A Najis earth or ground on which rain falls becomes Tahir, and if it begins flowing on the ground, and reaches a Najis area under the roof while it is still raining, it makes that area Tahir as well.⁴¹ If rain water falls on Najis dust and - before becoming mudhaf - soaks it, it becomes Tahir even though it may have turned into mud due to the rain.

42. If rain water gathers in a place, even if its quantity is less than Kurr, and a Najis thing is washed in it while it is raining, it becomes Tahir provided its smell, colour or taste does not change due to the Najasah.

43. If it rains on a Tahir carpet which is spread over a Najis ground, and if the water seeps onto the Najis ground, the carpet does not become Najis. In fact, the ground also will become Tahir.

44. If rain water gathers in a hole and its quantity is less than Kurr, it will become Najis if a Najis object contacts it after it has stopped raining.

Water of a Well

45. The water of a well which springs forth from the earth, even though its quantity may be less than Kurr, does not become Najis owing to something Najis falling in it, unless its colour, smell, or taste changes. However, it is recommended that in the event of certain Najasah falling in it, a quantity of water should be drawn from the well. Details about this quantity have been elucidated in more detailed texts.

46. If Najasah falls into a well and changes the smell, colour or taste of its water, it will become Tahir as soon as the change vanishes. The recommended precaution is to wait till it is mixed with the fresh water springing from the earth.

Chapter 3

The Rules of Various Waters

47. Mudhaaf water, the details of which were explained in article 15, cannot make a Najis object Tahir, and Wudhu or Ghusl performed with Mudhaaf water is void.

48. Mudhaaf water, be its quantity less than Kurr or more than it, becomes Najis upon contacting a Najis object. However, generalizing this ruling for large amounts of (Mudhaaf) water is objectionable. If the water contacts a Najis object with force, the amount that has touched the Najis object will be Najis, while the amount that has not, will remain Tahir. For example, if rose water from a sprinkler is sprinkled over a Najis hand, the amount that has reached the hand will be Najis, while the amount which has not, will be Tahir.

49. If Najis Mudhaaf water is mixed with Kurr water or flowing water in a manner that it can no longer be called Mudhaaf water, it becomes Tahir.

50. Water which was originally Mutlaq and it is not known whether it has turned into Mudhaaf water or not, will be treated as Mutlaq. It will make a Najis object Tahir and Wudhu or Ghusl performed with it will be valid. Water which was originally Mudhaaf water, and it is not known whether it has turned into Mutlaq water or not, will be treated as Mudhaaf water. It will not make Najis objects Tahir, and Wudhu or Ghusl performed with it will be invalid.

51. Water about which it is not known whether it is Mutlaq or Mudhaaf, and it is also not known whether it was originally

Mutlaq or Mudhaaf, will not make Najis things Tahir, and Wudhu or Ghusl performed with this water will be invalid. However if it comes in contact with a Najis object and its quantity is equal to or more than Kurr, it will be treated as Tahir.

52. When an A'in al-Najasah like blood or urine contacts water, and changes its smell, color or taste, it becomes Najis even if it is Kurr or flowing water. However, if the smell, color or taste of the water changes owing to a Najasah which is outside it—for example, if a carcass, which is lying beside the water, causes a change in its smell—the water will not become Najis.

53. Water in which A'in al-Najasah such as urine or blood is poured, changing its smell, color or taste, is connected to Kurr or flowing water, or if rain water falls on it, or is blown over it by the winds, or rain water falls on it through the drain spout while it is raining, the water will become Tahir if the change vanishes. As a recommended precaution, rain water, Kurr water, or flowing water should get mixed with it.

54. If a Najis object is made Tahir in Kurr or flowing water, the water which causes the object to become Tahir and then separates from it, is itself Tahir as well.

55. Water which was originally Tahir, and it is not known whether it has become Najis or not, will be deemed Tahir; and water which was originally Najis, and it is not known whether it has become Tahir or not, is Najis.

56. The leftovers (food or drink) of a dog, a pig, and a Kafir other than the Ahl al-Kitaab, are Najis and forbidden to consume. However, the leftovers of animals whose meat is forbidden to consume are Tahir albeit Makrooh to consume, with the exception of cats (It is not Makrooh to consume their leftovers.)

Chapter 4

The Rules of Relieving Oneself

57. It is obligatory for a mukallaf conceal his private parts when relieving himself and at all other times from individuals who can distinguish good from evil, even if they are Mahram to him, be they mukallaf or not. However, a husband and wife are exempted from this obligation.

58. It is not necessary for a person to conceal his private parts with any particular item. It will be sufficient, for example, if he conceals them with his hand.

59. When relieving oneself, nor should the front part of one's body, meaning the chest and the stomach, face the Qiblah, nor should the back part face it.

60. If a person relieves himself with the front part of his body or the back facing the Qiblah, but turns the private parts away from that direction, it will not be sufficient. Similarly, when the front part of the body or the back does not face Qiblah, as an obligatory precaution, he should not allow the private parts to face that direction or have its back towards it.

61. The recommended precaution is that one should not face the Qiblah or have one's back towards it while performing Istibra , nor at the time of purifying the front and back orifices.

62. If one is compelled to choose between revealing the private parts to someone who is not a Mahram to them and between facing or giving his back to the Qiblah, then guarding his private parts is obligatory. Additionally, it is an obligatory

precaution that in this case he should sit with his back facing the Qiblah. The same ruling applies if he is forced to sit facing the Qiblah or with his back to the Qiblah for any other reason.

63. It is a recommended precaution that even a child should not be made to sit with his face or back facing the Qiblah while relieving himself. However if the child positions himself in that direction, it is not obligatory to divert him.

64. It is forbidden to relieve oneself in the following four places:

- a. In blind alleys, without the permission of the people who live there;
- b. On the property (land) of a person who has not granted permission for the purpose;
- c. At a place which is dedicated exclusively for its beneficiaries, like some schools and seminaries;
- d. In places which will result in violating the sanctity of a believer or one of the sacred religious places.

65. In the following three cases, the back orifice can only be made Tahir with water:

1. If another Najasah, like blood, is excreted along with the feces.
2. If an external Najasah reaches the orifice.
3. If the soiled area around the orifice is more than the normal area. In the cases other than those mentioned above, the back orifice can be made Tahir either by water or by using a cloth, a stone or other similar items in a manner which will be explained. It is always better to wash it with water (For further details see articles 68 to 70.).

66. The front orifice cannot be made Tahir without water. If one uses Kurr or running water, then washing the orifice once will suffice. However, if one uses under-Kurr water, then the obligatory precaution is to wash it twice, and it is better to wash it three times. Areas other than the natural orifice should be washed more than once.

67. If the back orifice is washed with water, one should ensure that no particles of the feces are left on it. However, there is no harm if the colour or the smell remains. In fact, if it is washed thoroughly in the first instance, leaving no particles of stool, then it is not necessary to wash it again.

68. The back orifice can be made Tahir with a stone, clod, cloth or similar items provided they are dry and Tahir. Additionally there is no objection if there is slight moisture on it which does not reach the orifice.

69. The recommended precaution is that back orifice should be made Tahir using three pieces of stone, clod or cloth. One can also suffice himself with one piece if the orifice is made completely clean with it. On the other hand, if the orifice does not become clean using three pieces, more pieces should be used until the orifice becomes completely clean. However, there is no objection if traces of the stool which usually remain upon cleansing with a stone or similar items, remain in that area.

70. It is forbidden to make the back orifice Tahir using objects whose reverence is obligatory, such as a paper on which the name of God, the prophets and the infallible imams (Peace be upon them all), and objects other than these whose reverence has been made obligatory by religious legislation. However, if someone performs istinja with such objects, the area becomes Tahir. The realization of Taharah in the process of istinja through the use of bones and dung is objectionable.

71. If a person doubts whether he has made the orifice Tahir or not, it is obligatory for him to make it Tahir, even if he always used to purify the area immediately after relieving himself.

72. If a person doubts after prayers if he purified the orifice before prayers or not, in the event that he is not certain of any heedlessness on his part with respect to making the orifice Tahir before prayers, his prayers are valid. However, the orifice will be treated as Najis.

Istibra

73. Istibra is a procedure performed by men after urinating. Its purpose is to ensure that the fluid that is discharged after urinating does not have to be treated as urine. There are certain ways of performing Istibra. The best of them is that after passing urine, the middle finger of the left hand should be drawn across the area between the anus and the base of the penis. Then the thumb should be placed on the penis, and the forefinger below it, drawing the two to the point of circumcision three times. Finally the tip of the penis should be squeezed three times.

74. The liquid which comes out of the penis of man after joking and jesting with or embracing a woman is pure and same is the case with the liquid which at times comes out after semen and that semen is not mixed with it, and similarly the liquid which at times comes out after urine and that urine is not mixed with it, is pure. And if a person performs Istibra after urinating and then liquid comes out of his penis and he doubts whether it is urine or one of the above- mentioned three liquids that liquid is pure.

75. If a person doubts whether he has performed Istibra or not and a liquid comes out of his penis about which he does not know whether it is pure or not that liquid is impure and if he has performed ablutions it becomes void. However, if he doubts whether he performed the Istibra correctly or not and a liquid comes out of his body about which he does not know whether it is pure or not that liquid is pure and it does not also invalidate the ablutions.

76. In case a person does not perform Istibra after urinating and on account of sufficient time having passed since he urinated he is sure that no urine is left inside the urinary organ and in the meantime some liquid discharges from it about which he is not sure as to whether it is pure or not, that liquid is pure and does not also make the Wudhu void.

77. If a person performed Istibra after urinating and also performed Wudhu and if after doing Wudhu a liquid comes out of his body which he considers to be urine or semen it is obligatory for him to perform Ghusl as a precautionary measure and also to perform Wudhu. However, if he has not already performed Wudhu, it is sufficient to perform just Wudhu.

78. Istibra is not prescribed for female after urinating and if a liquid comes out of her body and she doubts whether it is urine that liquid is pure and it does not also invalidate ablutions and ceremonial bath.

Recommended and Makrooh Acts While Relieving Oneself

79. When a person enters the lavatory it is recommended that he should first place his left foot inside it and having covered his head he should sit at a place where no one can see him. It is also recommended that he should place the weight of his body on the left foot, and while leaving the lavatory he should first place his right foot.

80. It is Makrooh to face the sun or the moon while evacuating bowels or bladder. But if a person somehow covers his private parts it is not Makrooh. Apart from this it is not desirable to sit for urinating etc. facing against the wind; it is also Makrooh to sit on the roadside or in alleyways or in front of the doors of the house or under the shade of the fruit-yielding trees. It is also Makrooh to eat something in this condition or take more than usual time sitting there or to wash with the right hand. Unnecessary talking is also not desirable. However it does not matter if one is constrained to talk or if one does Zikr of Allah which at all times is recommended.

81. It is Makrooh to urinate while standing, or on hard earth, or in the holes of the animals, or in the water especially standing water.

82. It is also Makrooh to suppress evacuation of bowels or urine, and unlawful if it is injurious for health.

83. It is recommended that one should urinate before offering prayers, sleeping and having sexual intercourse, and after the seminal discharge.

Chapter 5

Najis Things

84. The following ten things are Najis:

1. Urine
2. Feces
3. Semen
4. Dead body
5. Blood
6. Pig
7. Dog
8. Kafir
9. Wine
10. Fuqa' (Beer)

Urine and Feces

85. The urine and feces of the following species is Najis: human beings, and animals whose meat is forbidden (to consume) and its blood gushes forth when its vein is slit. The feces or droppings of the following species are Tahir: animals whose meat is forbidden to consume, but its blood does not gush out, like those fish whose meat is forbidden, and small animals or insects which do not have any flesh, like mosquitoes and flies. Based on recommended precaution, one should refrain from the urine of animals whose meat is forbidden and its blood does not gush out.

86. The urine and droppings of birds whose meat is forbidden, is Tahir, but it is better to refrain from them based on precaution.

87. The urine and feces of an animal which subsists on Najasah, and of a quadruped that has been defiled by a human being, and of a kid (a young goat) who was nursed by a pig—the details of which will be elaborated later—are Najis. Similarly, based on obligatory precaution, the urine and feces of a lamb which has been nursed by a pig is also Najis.

Semen

88. The semen of human beings, and animals whose meat is forbidden and its blood gushes forth, is Najis. Based on obligatory precaution, the semen of an animal whose meat is permissible to consume, but its blood gushes out is also Najis.

Dead Body

89. The dead body of a human being is Najis. Similarly, the carcass of animals that have gushing blood is Najis, irrespective of whether it dies a natural death, or is killed in a manner other than that prescribed by Islam. As the blood of a fish does not gush forth, its carcass is Tahir, even if it dies in water.

90. The parts of a dead animal which do not contain life, such as wool, hair, and mink, are Tahir provided it is not an essentially Najis animal.

91. If flesh, or any other part which contains life, is severed from the body of a living human being, or a living animal that has gushing blood, it will be Najis.

92. Small pieces of skin which peel off from the lips, or other parts of the body, are Tahir.

93. An egg which is expelled from a dead hen is Tahir if a hard shell has formed around it. However, its shell should be washed with water because it was in contact with a dead body. As for an egg which does not contain a hard shell, considering it as Najis is problematic.

94. If a lamb or a kid dies before it is able to graze, the rennet found in its stomach is Tahir. Based on obligatory precaution, its exterior surface should be washed with water.

95. Liquid medicines, perfumes, ghee, soap and wax polish, which are imported from non-Muslim countries, are Tahir if one is not certain of their being Najis.

96. The meat, fat or hide of an animal which has been obtained from a Muslim market, is Tahir. Similarly, it is Tahir if it is in the possession of a Muslim who deals with it in a manner that one would deal with an animal that is slaughtered according to Islamic law. It is not Tahir if the Muslim has obtained it from a non-Muslim, and has not investigated whether it was

acquired from an animal that was killed according to Islamic law.

Blood

97. The blood of human beings, and of animals whose blood gushes forth when its vein is cut, is Najis. Therefore, the blood of an animal or insect whose blood does not gush forth, like fish and mosquitoes, is Tahir.

98. If an animal, whose meat is halal, is slaughtered in accordance with Islamic law, and a normal amount of blood is released, then the blood that has remained inside the body will be Tahir. However, if the blood returns into the animal's body, either caused by placing the animal's head in an elevated position or caused by its breathing, then that blood will be Najis.

99. The blood found in an egg yolk is forbidden to consume, and based on obligatory precaution it will be treated as Najis.

100. The blood which is sometimes seen while milking an animal, is Najis, and makes the milk Najis as well.

101. If the blood that is discharged from the mouth, like blood from the gums, vanishes as it gets mixed with the saliva, then there is no need to avoid the saliva. However, if it does not vanish, and the saliva comes out of the mouth, it is necessary to avoid it.

102. If the blood which dries under the nail or skin on account of being battered, can no longer be called blood, it is Tahir. However, if it can be called blood, it is Najis. Therefore, if the skin tears or peels off, and an object comes in contact with the blood, it will become Najis. In this case, if drawing the blood from the area or making the area Tahir for the purpose of Wudhu or Ghusl entails hardship, the person must perform Tayammum instead.

103. If a person cannot discern whether blood has dried under his skin, or whether it is the flesh that has taken on similar characteristics as a result of being battered, it will be considered Tahir.

104. Even a small particle of blood falling in food, while it is being boiled, will make the entire food together with its container Najis, and boiling, heat, or fire does not make it Tahir.

105. The pus that forms around a wound while it is healing is Tahir, as long as it is not known to have mixed with blood.

Dogs and Pigs

106. Dogs and pigs which live on land are Najis, and even their hair, bones, nails and bodily fluids are Najis. However, beavers and porpoises are Tahir.

107. A Kafir is a person who denies the existence of God, the prophethood of Prophet Muhammad (Peace be upon him and his progeny), or the Day of Judgment. A person who doubts in the existence of God or the prophethood of the Holy Prophet, or ascribes partners to God or doubts in His oneness, is also a Kafir and is Najis. Similar are the khawarij—those who went out against an infallible Imam—and the ghulaat—those who believe in the divinity of an Imam or believe that God dwells within their bodies—and the nawasib—those who are enemies of one of the Imams or Lady Fatimah Zahra (Peace be upon)—and anyone who denies one of the necessities of the religion, such as prayers or fasting, while knowing that it is a necessity of the religion. As for the Ahl al-Kitaab—the Christians and the Jews—the stronger view is that they are Tahir, although it is better to avoid them.

108. The entire body of a Kafir, including his hair, nails, and bodily fluids, are Najis.

109. If the parents and grandparents of a non-Baligh child are all Kafir, then he is Najis as well, except if he is discerning child and professes Islam. If even one of them is a Muslim, the child is Tahir, except if he is a discerning child and professes kufr (infidelity).

110. A person about whom it is not known whether he is a Muslim or not, will be considered Tahir. However, he will not have the privileges of a Muslim, like, he cannot marry a Muslim woman, nor can he be buried in a Muslim cemetery.¹¹¹ A person who insults any of the fourteen infallibles on account of enmity, is Najis.

Wine

112. Intoxicating wine and date wine are Najis. Other than these two liquids, the recommended precaution is to avoid the Najasah of all other liquid intoxicants, with the exception of Fuqa', the rules of which will be elaborated later. If the substance is not originally in liquid form, such as marijuana and some narcotics, it will be Tahir even if it is liquefied.

113. All kinds of industrial alcohol which are used to paint doors, windows, tables, chairs and other items, are Tahir.

114. If grapes or grape juice comes to a boil on account of being cooked, it is Tahir, though consuming it is forbidden. However, if it comes to a boil on account of a process other than cooking, consuming it is forbidden, and based on obligatory precaution, it is also Najis.

115. If dates, currants, raisins, or their juices come to a boil, they are Tahir and it is permissible to consume them.

Fuqa'

116. Fuqa', which is prepared from barley, and is also known as beer, is Najis. However barley water which is medically prepared, and is called Maa' al-Sha'eer is Tahir.

117. The perspiration of a person who enters the state of Janabah by committing a forbidden act is Tahir. However, based on obligatory precaution, prayers should not be offered with that sweat. Similarly, sexual intercourse with the wife while she is in Haydh will entail the rulings of Janabah through a forbidden act.

118. If a person has sexual intercourse with his wife during a time when it is forbidden, like in the month of Ramadhan while fasting, his perspiration is Tahir, but based on obligatory precaution he should not pray with that sweat.

119. If a person who enters Janabah by a forbidden act performs Tayammum instead of Ghusl, and perspires after performing Tayammum, based on obligatory precaution, his perspiration will be governed by the same rules which applied to his perspiration before the Tayammum.

120. If a person enters Janabah by a forbidden act, and then engages in lawful sexual intercourse, the obligatory precaution is that he should not offer prayers with his perspiration. However, if he first engages in lawful sexual intercourse, and then commits the forbidden act, his perspiration will not be treated as the perspiration of a person who has entered Janabah by a forbidden act.

121. The perspiration of a camel which is habituated to consuming human feces is Najis based on obligatory precaution, and the perspiration of every other animal which is habituated to consuming human feces is Tahir, although prayers may not be offered with either of them.

Ways of Establishing Najasah

122. There are three ways of establishing the Najasah of any object:

1. One should be certain or satisfied that the thing is Najis. If one suspects that something may be Najis, it is not necessary to avoid it. Accordingly, there is no problem in dining at restaurants and coffee shops where care-free people, and people who do not observe Taharah and Najasah, go to eat, as long as one is not certain or satisfied that the food being served is Najis.

2. The person possessing the item says that it is Najis, provided he is not accused of being a liar. For example, if the wife, or a servant, or a maid says that a particular utensil or any other object which is in her possession, is Najis, it will be accepted as Najis, provided she has not been accused of being a liar. If two just persons testify that a certain thing is Najis, rather if one just person, or a trustworthy person who may not be just, says that an item is Najis, one must refrain from that item as long as there is no reasonable doubt contrary to his statement.

123. If a person does not know whether a thing is Tahir or Najis out of ignorance of its ruling—for example, if he does not know whether blood is Tahir or not—he should inquire about the ruling. Additionally, as long as he has not inquired about it, he should act with precaution. However, if despite knowing the ruling, he doubts whether the item is Tahir or not—for example, he doubts whether a substance is blood or something else, or knows it to be blood, but does not know if it is the blood of a mosquito or a human being—it is Tahir and he does not have to inquire about it.

124. If a thing was initially Najis, and then one doubts whether it has become Tahir or not, it will be considered Najis. Conversely, if a thing was initially Tahir, and then one doubts whether it has become Najis or not, it will be considered Tahir. Additionally, even if it is possible for him to find out whether it is Najis or Tahir, it will not be necessary for him to investigate.

125. If a person knows that one of the two vessels or dresses that he possesses is Najis, but does not know which one in particular is Najis, he must refrain from both of them. However, if he knows that either his own dress is Najis or a dress which is not in his possession, he does not have to refrain from his own dress.

How a Tahir Item Becomes Najis

126. If a Tahir item comes in contact with a Najis item, and if either or both of them are so wet that the wetness of one reaches the other, the Tahir item will become Najis. However, if the wetness is so minimal such that it is not transmitted to the other item, the Tahir item will not become Najis. A great number of renowned scholars have stated that an item which has become Najis will unconditionally make other items Najis. However, this ruling is problematic—wherein it touches non-Qaleel water or other liquids—in cases other than the first medium, and therefore observing precaution by avoiding it, should not be forsaken in items which touch the second and third Najis medium.

127. If a Tahir item comes in contact with a Najis item, and a person doubts whether one or both items were wet or not, the Tahir item will not become Najis.

128. If a person does not know which one of two items is Tahir and which is Najis, and does not know them to be originally Najis either, then if a Tahir item which is wet comes in contact with one of them, it will not become Najis.

129. If a ground, cloth or anything similar contains wetness through which Najasah is transmittable, then every part of it—containing the wetness—which comes in contact with a Najis item will become Najis, while the other parts will remain Tahir. The same applies to cucumbers, melons and similar items.

130. Whenever syrup, ghee or a similar fluid is aqueous enough, such that removing a portion of it does not result in the formation of an empty area, the entire fluid becomes Najis the moment a part of it becomes Najis. However, if it is viscous enough such that it leaves behind an empty area when a part of it is scooped out, though it may get filled later on, then only the part which comes in contact with the Najis item becomes Najis. For example, if the feces of a mouse fall into such a

liquid, then only the part wherein the feces fell becomes Najis, while the remaining liquid is Tahir.

131. If a fly or similar insect sits on a thing which is wet and Najis, and then sits on a thing which is wet and Tahir, the Tahir thing becomes Najis if the person knows the fly to be carrying Najasah. If he doesn't, it remains Tahir.

132. If a part of one's body which is perspiring becomes Najis, all those parts to which the sweat reaches, will also become Najis. The parts which do not come in contact with the sweat will remain Tahir.

133. If the phlegm which is produced by the nose or the throat contains blood, the portion that contains blood is Najis, while the rest is Tahir. Hence, if the phlegm comes out of the mouth or nose, the parts which a person is certain have come in contact with the Najis part of the phlegm, will be Najis, and the parts which he doubts have come in contact with it will remain Tahir.

134. If a ewer or a vessel with a hole in its bottom is placed on Najis ground, and its water ceases to flow, allowing water to collect under it, till it is considered as one with the water inside the vessel, the water in the vessel will become Najis. However, if the water inside the vessel continues to flow forcefully, it will not become Najis.

135. If a thing enters the human body and comes in contact with Najasah, in the event that upon exiting the body, it does not contain the Najasah, it is Tahir. Hence, if the apparatus of enema, or its water, is inserted in one's rectum, or a needle, knife, or any similar thing, is inserted into the body and contains no trace of Najasah when it is taken out, it is not Najis. Same is the case with saliva and mucus of the nose, if it contacts blood within the body, but contains no trace of blood when it comes out of the body.

Rulings Regarding Najis Items

136. It is forbidden to make the script or the pages of the Qur'an Najis if it results in violating its sanctity. If it does become Najis, it is obligatory to wash it immediately. The same ruling applies even if it does not result in the violation of its sanctity, based on obligatory precaution.

137. If the cover of the Qur'an becomes Najis, causing its desecration, it must be washed with water.

138. Placing the Qur'an on A'in al-Najasa which is dry, is forbidden if doing so results in its desecration. It is also obligatory to remove it in this case.

139. Writing the Qur'an with Najis ink, even one letter of it, amounts to making it Najis. If written, it should be erased or washed off.

140. If giving the Qur'an to a Kafir involves its desecration, it is forbidden to give it to him, and it is obligatory to take it back from him.

141. If a page of the Qur'an or any sacred object—like a paper on which the name of Allah, the holy prophet or the infallibles (Peace be upon them all) is written—falls in a lavatory, it is obligatory to take it out and wash it, even if it entails an expenditure. However, if taking it out is not possible, the lavatory should not be used until one is certain that the paper has decomposed. Similarly, if Turbat al-Husain (the sacred soil around the grave of Imam al-Husain -Peace be upon him-) falls into the lavatory, and it is not possible to take it out, the lavatory should not be used as long as one is not sure that it has completely decomposed.

142. It is forbidden to eat or drink an item which is essentially Najis or has become Najis. It is also forbidden to make others eat or drink the same. However, one may give the item which has become Najis to a child, or an insane person. If a

child or an insane person eats or drinks a Najis thing on his own accord, or makes food Najis with his Najis hands before consuming it, it is not necessary to stop him from doing so.

143. There is no objection in selling or lending a Najis thing which can be made Tahir; however, the buyer or the borrower must be informed about it if he may eat or drink from it, or do something in which Taharah is stipulated.

144. If a person sees someone eating or drinking something Najis, or praying with a Najis dress, it is not necessary for him to inform the other person.

145. If an area or a carpet in a person's house is Najis, and he sees the wet body or dress of a visitor touching the Najis area, he has to inform the visitor about it if he himself has been the cause of the Najasah, and the Najasah may be transmitted to foods and beverages.

146. If the host comes to know during the meal, that the food is Najis, he should inform the guests about it. If one of the guests becomes aware of it, it is not necessary for him to inform others about it. However, if his dealings with the other guests are such, that on account of them being Najis, he too may end up eating or drinking something Najis, he should inform them of it after the meal.

147. If a borrowed item becomes Najis, and the owner uses the item for eating or drinking—a utensil, for example—then it is obligatory to inform him of its Najasah. However, if it is something like a dress, he does not have to inform the owner of its Najasah, even if he knows that the owner prays in it. In the event that the owner would like to pray with clothes which are genuinely Tahir, based on obligatory precaution, he should inform the owner of its Najasah.

148. If a child says that a thing is Najis, or that he has washed it, his word cannot be accepted. However, if he is a discerning child and claims that he washed something, his word can be accepted if he is trustworthy and there is no strong

reason to assume otherwise. The same applies if he claims that an item is Najis.

Chapter 6

Mutahiraat

149. Twelve things can make Najis things Tahir, and they are known as Mutahiraat. These are:

1. water
2. Earth
3. Sun
4. Istihalah
5. Inqilaab
6. Intiqaal
7. Islam
8. Subjection
9. Removal of A'in al-Najasah.
10. The Istibra of an animal that consumes Najasah.
11. The disappearance of a Muslim.
12. Release of a normal amount of blood. The detailed rulings for each of these will be explained below.

Water

150. Water makes Najis items Tahir, given the following four conditions: a. The water should be Mutlaq. Hence, Mudhaaf water, like rose water or willow water, will not make a Najis item Tahir; b. The water itself should be Tahir; c. The water should not become Mudhaaf while it is being used to wash the Najis item. Furthermore, in the last washing, its smell, color or taste should not change owing to the Najis item. In washings other than the last one, there is no harm if it does so. For example, if an item must be washed twice, and its color, taste or smell changes in the first washing, and then it is made Tahir with water that does not change, that item will become Tahir; d. After an item is washed with water, it should not contain the A'in al-Najasah. Using Qaleel water to make an item Tahir entails some more conditions which will be explained later.

151. If the interior of a vessel becomes Najis, it should be washed three times with Qaleel water. If Kurr or flowing water is used, once will be sufficient. However, if a dog consumes a liquid from a vessel, it should first be scrubbed with Tahir earth, and then, having the earth removed, it should be scrubbed with a mixture of earth and water. Combining both forms of scrubbing is based on obligatory precaution. Water should then be poured over the vessel to rinse off the earth, and then it should be washed once with Kurr or flowing water, or twice—based on obligatory precaution—with Qaleel water. Similarly, if a vessel is licked by a dog, based on obligatory precaution, it should be made Tahir in the aforementioned manner.

152. If the mouth of a vessel which has been licked by a dog, is narrow, and cannot be scrubbed with earth, a cloth or something similar should be tied around a stick, and used to scrub earth in the vessel, if possible. The earth should be removed, and the vessel should then be scrubbed with wet earth in a similar manner. Combining both forms of scrubbing are necessary based on obligatory precaution. If this is not possible, the scrubbing should be done by intensely shaking the

vessel, followed by washing it in the manner described in the previous article.

153. If a pig consumes a liquid from a vessel, or a field-mouse dies in it, it should be washed seven times, be it with Qaleel, Kurr or flowing water. A similar ruling will apply to a vessel which has been licked by a pig, based on obligatory precaution.

154. A vessel which has become Najis because of wine should be washed three times, be it with Qaleel, Kurr or flowing water. The recommended precaution is that it should be washed seven times.

155. If an earthenware which has been made with Najis clay, or has absorbed Najis water, is placed in Kurr or flowing water, the areas which come in contact with the water will become Tahir. If one wishes to make its interior Tahir as well, it should remain in the Kurr or flowing water to an extent that water penetrates all parts of it. If the earthenware is moist, such that it prevents water from reaching its interior, it should be allowed to dry and then placed in Kurr or flowing water.

156. There are two ways of washing a Najis vessel in Qaleel water: a. The vessel should entirely be filled with water and emptied, three times. b. An amount of water should be poured into the vessel, and then the vessel should be swirled in a manner that the water reaches all parts of it. The water should then be poured out. This process should be repeated three times.

157. If a large pot—like a cauldron—becomes Najis, it becomes Tahir if it is entirely filled with water and emptied, three times. Similarly, if water is poured from above in a manner that it covers all the Najis areas, and then all of it is poured out, three times, it will become Tahir. As an obligatory precaution, the vessel that is used to draw out the water should be washed prior to emptying the pot for the second and third time.

158. If Najis copper or similar meltable items are washed with water, their exterior becomes Tahir.

159. If a baking oven becomes Najis with urine, and water is poured twice from above in a manner that it reaches all the Najis areas, the oven will become Tahir. If it becomes Najis with something other than urine, and the A'in al-Najasah is removed from it, it will then be sufficient to wash it once in the manner described above. The recommended precaution is that the water should be poured over it after the removal of the A'in al-Najasah. It is better that a small hole is dug at the bottom of the oven, allowing the water to collect in it. The water should then be removed and the hole should be covered with Tahir sand.

160. If a Najis item is submerged in Kurr or flowing water, in a manner that the water reaches all the Najis parts, it will become Tahir. As for clothes, carpets and similar items, wringing it or squeezing it in some manner—by massaging it or squashing it with the feet—is necessary. In the event that clothes or similar items become Najis because of urine, washing it once in Kurr or flowing water will be sufficient.

161. An item which has become Najis with urine can be made Tahir with Qaleel water in the following manner: The water should be poured over the item and allowed to separate from it. If traces of urine do not remain on the item, the Qaleel water should be poured over it once again. In this manner the item will become Tahir. As for clothes, carpets and similar items, each time the remaining water should be forced out of it by wringing it or using any similar method.

162. If a thing becomes Najis with the urine of a suckling child who has not started to eat food, and water is poured once over it, whereby it reaches all the Najis areas, the thing will become Tahir. The recommended precaution is that water should be poured over it one more time. It is also not necessary to wring clothes, carpets or similar items in this case.

163. A thing which has become Najis with something other than urine, can be made Tahir with Qaleel water by pouring it once over the thing and allowing it to flow off, after the A'in al-Najasah has been removed. The obligatory precaution is that the water should be poured over it after the A'in al-Najasah has been removed. If the thing is a cloth or a similar item, the remaining water should flow off by wringing it or using any similar method.

164. If a thread woven mat is to be made Tahir with water, be it Qaleel, Kurr or flowing water, the excess water should be removed by wringing it or using a similar method.

165. If the exterior of wheat grains, rice, soaps or similar items, becomes Najis, it can be made Tahir by immersing it in Kurr or flowing water. If the interior of these items becomes Najis, it can be made Tahir by following the process of making earthenware Tahir, as suggested in article 155.

166. If a person doubts if Najis water has penetrated the interior of a soap or not, it's interior will be considered Tahir.

167. If the exterior surface of rice, meat or any similar item becomes Najis with something other than urine, it can be made Tahir by placing it in a bowl, pouring water once over it and then emptying the bowl. Upon completion the bowl becomes Tahir as well. If the thing becomes Najis by urine, it is necessary to wash it twice. If a cup or similar vessel becomes Najis, be it by urine or something else, based on obligatory precaution, water should be poured over it three times, and then emptied. As for a thing which requires wringing for it to become Tahir, like a dress, it should be wrung and the remaining water should be forced out of the item.

168. If a Najis cloth which has been dyed with indigo or any other dye, is immersed in Kurr or flowing water, or is washed in Qaleel water, it becomes Tahir as long as Mudhaaf water does not come out of it when it is wrung.

169. If a dress is washed in Kurr or flowing water, and later black mud or something similar is observed on it, it will be Tahir as long as one does not suspect that the black mud has prevented water from reaching the dress.

170. If bits of mud or soap are observed on a dress or similar item after it is washed, it will be Tahir. However, if the Najis water penetrates to the interior areas of a soap or mud, their exterior surface will be Tahir, whilst the interior will be Najis.

171. No Najis item will become Tahir as long as the A'in al-Najasah is not removed from it. However there is no harm if the smell or taste of the Najasah remains on it. Hence, if blood is removed from a cloth and then it is washed, it will become Tahir even if the smell or color of the blood remains on it. However, if one suspects from the smell or color that particles of the Najasah have remained on it, it will be Najis.

172. If the Najasah on a person's body is removed by placing it in Kurr or flowing water, the body becomes Tahir. Washing it multiple times is not necessary, even in the case of urine.

173. If Najis food remains between the teeth, and the mouth is rinsed in a manner that the water reaches all the areas around the Najis food, its exterior becomes Tahir.

174. If the Najis hair on one's head or face is washed with Qaleel water, the remaining water must wrung out of the hair.

175. If a Najis body or cloth is washed with Qaleel water, the adjacent areas which are attached to it—and water usually flows to those areas when the body is washed—will also become Tahir once the Najis part becomes Tahir. In other words, the adjacent areas do not have to be washed separately. Rather, upon being washed, the Najis area and the adjacent areas become Tahir together. The same will apply to a Tahir item which is placed next to a Najis item, and water is poured over both of them.

176. Najis meat or fat can be washed like all other items. The same applies to a body, cloth or any similar item which contains a small amount of a greasy substance, provided it does not prevent the water from reaching it.

177. If a utensil or one's body—for example—is Najis, and greasy enough to prevent water from reaching it, then the greasy substance should be removed prior to washing it, thereby allowing the water to reach the item.

178. A Najis item that does not contain the essential Najasah, becomes Tahir if it is washed once under a tap that is connected to Kurr. If the item does contain the A'in al-Najasah, and it is removed by placing it under the tap or by any other means, and the water that flows from the item does not change its smell, color or taste owing to the Najasah, it is rendered Tahir with the tap water. However, if the smell, color or taste of the water changes owing to the Najasah, a sufficient amount of tap water should be poured over it, until the water flowing away from the item does not change owing to the Najasah.

179. If a person washes an item and attains certainty that it has become Tahir, but later doubts if he removed the A'in al-Najasah from it or not, he should wash it again and attain certainty or satisfaction that the A'in al-Najasah has been removed.

180. If a ground that absorbs water—for example a ground that contains sand or gravel—becomes Najis, it can be made Tahir with Qaleel water.

181. If a floor which is made from stones, bricks or any hard material which does not absorb water, becomes Najis, it can be made Tahir with Qaleel water. However, the water should be poured to an extent that it starts to flow on the floor, and then if it is allowed to drain through a hole in the ground, the entire floor becomes Tahir. If it is not allowed to drain, the area where the water gathers will remain Najis. To make that area Tahir, the water should be drawn with a Tahir object. In this case, it is better that hole be dug for the water to collect in it.

The water should then be drawn from it and the hole should be covered with earth.

182. If the exterior surface of salt-stone or anything similar becomes Najis, it can be made Tahir with Qaleel water, provided the water does not become Mudhaaf water.

183. If a syrup made from Najis sugar is used to make sugar cubes, the sugar cubes will not become Tahir by placing them in Kurr or flowing water.

Earth

184. The earth will make the sole of the feet and the sole of the shoes Tahir if the following three conditions are fulfilled: a. The earth is Tahir; b. It is also dry; c. If the A'in al-Najasah, like blood or urine, or a Najis thing, like Najis mud, is stuck to the sole of the feet or the shoes, it should get cleared by walking or rubbing the feet or shoes against the earth. Additionally, the ground should be composed of sand, stones, bricks or something similar. Hence, walking over a carpet, a straw mat, grass or anything similar will not render the Najis sole Tahir.

185. Making the Najis sole of the feet or the shoes Tahir by walking over a tar road or a wooden floor is problematic.

186. It is better to walk a distance of fifteen arm-lengths or more to make the sole of the feet or shoes Tahir, although the Najasah may get cleared by walking a shorter distance or rubbing it against the ground.

187. It is not necessary for the sole of the shoes or the feet to be wet. They will become Tahir by walking on the earth even if they are dry.

188. After the sole of the shoes or the feet become Tahir by walking on earth, the areas around the sole which usually become soiled as well, will also be Tahir.

189. If the palms or knees of a person who crawls on his hands and knees, become Najis, making them Tahir by crawling on earth is problematic. The same applies to the tip of a cane, the sole of an artificial foot, the shoes of quadrupeds, and the wheels on a CAR, bicycle or any other vehicle.

190. There is no harm if smell, color or small particles—which are not visible to the naked eye—remain on the sole of the shoes or the feet after walking on the earth. The recommended precaution though, is that one should walk to an extent that these qualities disappear as well.

191. The inner parts of the shoes do not become Tahir by walking. Additionally, making the bottom of the socks Tahir by walking is problematic.

The Sun

192. The sun will make the ground, buildings, things which have been installed on a building, such as a door or a window, and also nails which have been hammered into a wall, Tahir, provided the following five conditions are fulfilled:

a. The Najis thing should be wet. Therefore, if it is not wet, it should be made wet so that the sun can make it dry.

b. If the A'in al-Najasah is on the thing, it should be removed before the sun makes the Najis thing dry.

c. Nothing should obstruct the sunlight from directly falling on the thing. Therefore, if the sunlight falls on the object from behind a curtain, or the clouds or any similar impediment, and makes the Najis thing dry, it will not become Tahir. However there is no harm if the impediment is thin enough that it does not serve to obstruct the sunlight.

d. Only the sun should make the Najis thing dry. Thus, if the Najis thing is made dry by the wind and the sun, it will not become Tahir. However there is no harm if a light wind blows over the thing, such that it cannot be said that it aided in drying it. e. If the Najasah has penetrated a building or a structure, the sun should make it all—the surface and the interior—dry at once. Therefore, if it shines on a Najis ground or building and makes its surface dry, and then shines upon it once again, making its interior dry, only the surface will be Tahir and the interior part will remain Najis.

193. Making Tahir a Najis straw mat, a tree or vegetation that grows on the ground by sunlight is problematic.

194. If the sun shines on a Najis ground, and later a person doubts if the ground was wet while the sun was shining on it, or if the wetness was made dry by the sun, the ground will remain Najis. The same applies if he doubts whether the A'in al-Najasah was removed from it before the sun shone on it, or not, or doubts if something obstructed the sunlight or not.

195. If the sun shines on one side of a Najis wall, also causing the other side to become dry, both sides will become Tahir, even though the sun may not have shone on the other side.

Istihalah

196. If a Najis thing gets transformed into a Tahir thing, such that the common understanding would be that it has undergone a change in its essential properties—for example, a piece of Najis wood burns and is reduced to ashes, or the body of a dog falls into a salt marsh and is decomposed into salt—it is Tahir. However, if its essential properties do not change—for example, if Najis wheat is ground into flour or baked into bread—it will not be Tahir.

197. Clay pots which have been made from Najis clay, are Najis. The recommended precaution is that one should refrain from charcoal which has been obtained from Najis wood.

198. If a person doubts whether a Najis item has undergone istihalah or not, in the event that the reason for the doubt is uncertainty as to whether the Najis subject has remained or not, the item will be Najis.

Inqilaab

199. If wine turns into vinegar by itself or by pouring something into it, like salt and vinegar, it becomes Tahir.

200. If wine that is fermented from Najis grapes or any other organic compound, turns into vinegar in the same vessel, it does not become Tahir. If the wine is poured into another vessel which is Tahir, and it turns into vinegar, based on obligatory precaution it will not be Tahir. The same will apply if an external Najasah falls into the wine and gets disintegrated in it.

201. Vinegar which is obtained from Najis grapes, raisins or dates is also Najis.

202. If one wishes to make vinegar from grapes or dates, there will be no harm if the tiny date or grape stems are attached to the dates or grapes. In fact, there is no harm in adding cucumbers, eggplants and similar fruits to it, even if it be prior to adding the vinegar, unless one knows it has transformed into an intoxicant prior to becoming vinegar.

203. Consuming grape juice which is brought to a boil by placing it over a fire, is forbidden. However, if it is allowed to boil for so long that two-thirds of it evaporates, leaving one-third to remain, it becomes permissible (to consume it). It was also elaborated in article 114 that grape juice does not become Najis if it comes to a boil over a fire. However, if it comes to a boil through a process other than this, it is forbidden (to consume it) and based on obligatory precaution it is also Najis. The obligatory precaution is that it does not become permissible or Tahir unless it turns into vinegar.

204. If two-thirds of a quantity of grape juice gets reduced without being brought to a boil, the remaining amount will become Najis if it comes to a boil.

205. If it is not known whether a quantity of grape juice has come to a boil or not, it will be lawful. However, if it does come

to a boil, it does not become lawful until one is certain that two-thirds of it has been reduced.

206. If some grapes are attached to a bunch of unripe grapes, and the juice that is extracted from them is brought to a boil, it will be permissible to consume it as long as it is not considered grape juice prior to boiling.

207. If a grape berry falls into something that is boiling over a fire, and the grape itself starts to boil, but does not disintegrate, it will only be forbidden to consume the grape.

208. If (grape) syrup is being cooked in several pots, it is permissible to stir the syrup which has not yet boiled with a skimmer that has been used to stir a syrup which has already come to a boil.

209. If it is not known whether a particular grape is ripe or not, it will be permissible to consume it if it comes to a boil.

Intiqaal

210. If human blood or the blood of an animal who has gushing blood—meaning that its blood gushes out when its vein is slit—is transfused into the body of an animal that does not have gushing blood, and is considered to be that animal’s blood, it becomes Tahir. Such a transfusion is called intiqaal. Similarly, the rest of the Najasah will have the ruling of the parts of the animal that they have been transferred to, if they become a part of that animal’s body. If they don’t become a part of it, and the animal’s body only acts like a carrier for the Najasah, it will remain Najis. It is due to this that the human blood sucked by a blood-sucking leech is Najis, for it is not considered to be the blood of the leech, rather it is still considered as human blood.

211. If a person kills a mosquito that is sitting on his body, and does not know if the blood that spurted from the mosquito was sucked from him or belongs to the mosquito itself, the blood will be considered Tahir. The same will apply if he knows that it was sucked from him, but now forms a part of the mosquito’s body. However, if the period between sucking the blood and killing the mosquito is so short, that it is considered to be the blood of a human being, or if it is not known whether it is considered to be the blood of the mosquito or the human being, the blood will be Najis.

Islam

212. If a Kafir testifies to the oneness of Allah—be it in any language—and the prophethood of the seal of the prophets (Peace be upon him and his progeny), he becomes a Muslim. Therefore, if he was previously considered to be Najis, upon becoming a Muslim, his body, saliva, nasal mucus, and perspiration are all Tahir. However, if an A'in al-Najasah was on his body the instance that he became a Muslim, he should remove it and wash the area. In fact, even if the A'in al-Najasah was removed prior to his becoming a Muslim, the obligatory precaution is that he should wash the affected area.

213. If his clothes which were wet, came in contact with his body while he was a Kafir, and he was not wearing them at the moment that he became a Muslim, they will be Najis. In fact, even if he was wearing them, based on obligatory precaution he should refrain from them.

214. If a Kafir pronounces the Shahadatayn, and a person does not know if he has accepted Islam in his heart or not, he will be Tahir. The same will apply if he knows that the Kafir has not accepted Islam in his heart, but does not do anything that is contradictory to his apparent declaration of the Shahadatayn.

Taba'iyah (Subjection)

215. Taba'iyah or subjection is a process wherein a Najis thing becomes Tahir owing to another thing becoming Tahir.

216. If wine turns into vinegar, the areas of the vessel which came in contact with the alcohol while it was boiling also become Tahir. The cloth or any other item that is usually placed over it, also becomes Tahir if it had become Najis with the wine. However, if the outer surface of the vessel becomes Najis with the wine, the obligatory precaution is that one should refrain from it after the wine has turned into vinegar.

217. The child of a Kafir becomes Tahir through subjection in the following two cases: a. The child of a Kafir who becomes a Muslim. The Kafir's child is subject to the ruling of his father in the issue of being Tahir. The same will apply if his grandfather, mother or grandmother becomes a Muslim. b. The child of a Kafir who is taken captive by Muslims, provided that his father or one of his grandparents does not accompany him. In these two cases, the Taharah of the child through the process of subjection rests on the condition that the child does not declare his kufr while he is capable of discerning right from wrong.

218. All the things which have been washed along with a dead body—the table or stone on which a dead body is given Ghusl, the cloth that is used to cover his private parts, and the hands of one who gives Ghusl to the dead body—become Tahir after the Ghusl is complete.

219. When a person washes something with water, his hands, which are washed along with that thing, become Tahir when that thing itself becomes Tahir.

220. If a dress or similar item is washed with Qaleel water, and then wrung to a normal extent, such that the water used to wash it separates from it, the water that remains in it is Tahir. The ruling of the water that separates from it was elaborated in article 27.

221. If a vessel is washed with Qaleel water, the water that remains in it after the water that was used to wash it separates from it, is Tahir. The ruling for the water that separates from the thing was elaborated in article 27.

The Removal of the A'in al-Najasah

222. If the body of an animal is tainted with an A'in al-Najasah like blood, or with a Najis object, like Najis water, its body becomes Tahir once the A'in al-Najasah has been removed. The same applies to the inner areas of a human's body, like the inner areas of the mouth or the nose. For example, if a person's gums are bleeding and the blood disappears in his saliva, washing his mouth will not be necessary. However, if false teeth come in contact with the blood, they should be washed based on obligatory precaution.

223. If particles of food remain between one's teeth, and he starts to bleed from his mouth, the food particles will be Tahir as long as one is not certain that the blood has come in contact with them. If the particles come in contact with the blood, based on obligatory precaution they will be considered Najis.

224. If the parts of the lips or eyelids that come together when the mouth or the eyes are closed, come in contact with a Najis thing, based on obligatory precaution they should be washed. The same will apply to the parts which a person does not know whether they belong to the inner areas of the body or the outer areas.

225. If Najis dust or sand settles on a dress, carpet or anything similar which is dry, and the thing is shaken in a manner that the sand or dust comes off, then it will not become Najis even if a wet thing comes in contact with it.

The Istibra of an Animal Which Eats Najasah

226. The urine and dung of an animal which is habituated to consuming human excrement, is Najis, and it can be made Tahir by subjecting the animal to the process of Istibra. This means that it should not be allowed to consume Najasah for a period of time, and based on obligatory precaution, Tahir food should be given to it, such that it would not be considered as an animal that consumes Najasah after that period. Based on obligatory precaution, the above process should be carried out for the following number of days for each animal:

- a. Forty days for a camel
- b. Twenty days for a cow
- c. Ten days for a sheep
- d. Five days for a water-fowl
- e. Three days for a domestic hen

If the animal is still considered to be one that consumes Najasah after this period, one should act upon the above instructions for a period of time after which the animal would not be considered to be consuming Najasah anymore.

The Disappearance of a Muslim

227. If one attains certainty that the dress or body of a Muslim has become Najis, or that a thing in his possession has become Najis, and the Muslim then disappears, the thing is Tahir provided one entertains the possibility that the Muslim could have washed the Najis thing. Based on obligatory precaution, adhering to the following conditions is necessary:

a. The Muslim should consider the thing that has made his body or dress Najis, to be Najis. Therefore, if for example, his wet dress comes in contact with a Kafir, for example, but he does not consider it to be Najis, one cannot consider that cloth to be Tahir after the disappearance of the Muslim.

b. He should know that his dress or body has contacted a Najis thing, and he should not be one who is careless about the issue of Taharah and Najasah.

c. The person should see him using it for purpose in which the Taharah of the dress or the body is a condition. For example, he should see him praying in those clothes, or eating from that vessel.

d. One should also consider it probable that the Muslim knows that Taharah is a condition for the thing in the act which he is performing with it. Therefore, if for example, he does not know that the clothes of one who is praying have to be Tahir and one cannot pray with clothes that are Najis, then one cannot consider those clothes to be Tahir.

e. The Muslim should be Baligh.

228. If a person attains certainty or satisfaction that a thing which was Najis has become Tahir, or two just individuals inform him of its Taharah, or one just individual, or if a person who is trustworthy informs him of its Taharah, and there is no reasonable doubt that his word is inaccurate, then that thing is Tahir. The same applies if the person who possesses the Najis thing states that it is Tahir, provided that he is not accused of being careless about Taharah and Najasah, and it also applies if a Muslim has washed a Najis item, and it is not known if he washed it properly or not.

229. If a person has been charged with the responsibility of washing a person's clothes, states that he has washed the clothes, and one attains satisfaction in his statement, or if he is trustworthy and one does not have reasonable doubt that his word is inaccurate, then those clothes are Tahir. However, if the cloth is in the person's possession and he has not been accused of being careless about Taharah and Najasah, then one does not necessarily have to attain satisfaction in his testimony.

230. If a person is of a mental state wherein he does not attain certainty or satisfaction from washing a Najis thing, he can suffice himself to the manner in which normal people make things Tahir.

Release of a Normal Amount of Blood

231. The blood that remains in the body of an animal which has been slaughtered according to Islamic law is Tahir, provided a normal amount of blood has been released from the body, as explained in article 98.

232. The preceding rule is limited to animals whose meat is permissible to consume, and is not applicable to animals whose meat is not permissible to consume.

Rules Pertaining to Utensils

233. It is forbidden to eat or drink from a utensil that is made from the hide of a dog, pig or a meetah (An animal that has not been slaughtered according to Islamic law), if a wet substance has caused the utensil to become Najis. The vessel should not be used for Wudhu, Ghusl or any other task wherein it's Taharah is a condition. The recommended precaution is that the skin of a dog, pig or meetah should not be used, even if it is not in the form of a utensil.

234. Eating or drinking from utensils that are made from gold and silver is forbidden. Based on obligatory precaution, any use of such utensils is forbidden, even if it be for the purpose of decorating a room. However, there is no problem in retaining them. Similarly, it is permissible to manufacture gold and silver vessels, and to buy, sell or rent them, unless it is for the purpose of decoration, wherein it is problematic.

235. If a detachable tea cup handle is made from gold or silver, and upon detaching from the cup it is considered a utensil, it will be subject to the rulings of a utensil made from gold and silver. However, if it is not considered a utensil, then there is no problem in using it.

236. There is no harm in using a utensil which has been plated with gold or silver. However, one should avoid eating or drinking from the silver section of a utensil which has been coated with a layer of silver.

237. If an alloy forged from gold and another metal, or silver and another metal, is used to make a utensil, there is no harm in using it as long as the ratio of gold or silver in it is such, that it is not considered to be a utensil made from gold or silver

238. If a person transfers food from a utensil made from gold or silver into another utensil, knowing that eating from such a utensil is forbidden, there is no harm in eating from the second utensil, provided his actions do not amount to utilizing a utensil made of gold or silver, in the common understanding..

239. There is no harm in using a hookah mouthpiece, a scabbard of a sword or dagger, or a Qur'an case, which has been made from gold or silver. The recommended precaution is that the receptacles of perfume, surmah (kohl), and drug, which are made from gold or silver, should not be used.

240. There is no harm in eating or drinking from a utensil made from gold or silver if one is compelled to do so, but only to the extent that is absolutely necessary. Using it beyond this limit is not permissible.

241. If one does not know whether a utensil was made from gold, silver or something else, then there is no harm in using it.

Chapter 8

Wudhu

242. It is obligatory to wash the face and the hands, and wipe the front part of the head (the area of the head facing the sky) and the top surface of the feet, in Wudhu.

243. The length of the face must be washed, starting from the top of the forehead, where the hair starts to grow, to the bottom of the chin. Its width, which is the facial area covered by the area between the tips of the thumb and the middle finger, should also be washed. In order to ensure that the prescribed area has been completely washed, one should also wash a part of the adjacent areas.

244. If a person's face or hands are bigger or smaller than normal, he should observe the area covered by ordinary people when washing their faces, and he too should wash to the same extent. However, if both his hands and face are abnormal, but proportionate to each other, then he should wash his face according to the manner prescribed in the previous article.

245. If a person suspects that there is dirt or something else in his eyebrows, the corner of his eyes or the side of his lips, and his suspicion is reasonable, he should inspect it before performing Wudhu, and remove the dirt if it is there.

246. If facial skin is visible from beneath the facial hair, one should ensure that the water reaches the skin. However, if it is not visible, washing the facial hair will be sufficient, and it will not be necessary to make the water reach areas beneath the hair.

247. If one doubts whether the facial skin is visible from beneath the hair, then he should wash the hair and also ensure that water reaches the skin as well.

248. It is not obligatory to wash the inner areas of the nose, nor parts of the lips or the eyes which are not visible when they are closed. However, one must be certain that no area that needs to be washed has remained unwashed. If an individual did not know that he must wash the facial area to the extent that he is certain to have fulfilled his obligation, and does not know if he washed the aforementioned areas in the Wudhus that he has performed, all the prayers that he has performed with such Wudhus should be performed again with a new Wudhu, if their time has not elapsed. As for the prayers for which the time has elapsed, he should perform their Qadha.

249. The hands should be washed starting from above going downwards, and if they are washed starting from below and going upwards, the Wudhu is invalid. The same applies to washing the face based on obligatory precaution.

250. If a person makes his hands wet, and wipes them over his face and hands, given that the wetness of the hand is to an extent that it causes water to flow over the face or hands upon wiping them, it will be sufficient.

251. After washing the face, the right hand, followed by the left hand, should be washed from the elbow to the tip of the fingers.

252. In order to ensure that one has completely washed his hands, he should also wash a part of the area above the elbows.

253. If a person washes his hands up to his wrists prior to washing his face, he too must wash his hands down to the tip of the fingers when washing his hands. If he washes down to his wrists only, his Wudhu will be invalid.

254. Washing the hands and face in Wudhu once is obligatory, twice is recommended and the thrice or more is forbidden. The first, second or third washing will be determined by one's intention to wash that part with the intention of performing Wudhu. For example, if he pours water over his face three times, and the third time makes the intention to wash the part with the intention of Wudhu, there will be no harm in it, and the third washing will count as his first washing. However, if pours water over his face three times, with the intention of washing it for Wudhu each time, the third washing will be forbidden.

255. After washing both hands, the front part of the head should be wiped with the water of Wudhu that is leftover in one's hands. The obligatory precaution is that one should wipe with the inner surface of one's right hand, and the recommended precaution is that he should wipe from the back to the front.

256. The area to be wiped comprises of one section from the four sections of one's head, located right above the forehead. Wiping any extent of any part on the defined area will be sufficient. It is recommended that the width of the wiping should be at least three joined fingers, and its length should be that of one finger.

257. It is not necessary to wipe over the skin on one's head; rather, one can also wipe on the hair that is located in the frontal area. However, a person who has long hair—for example, if he was to comb his hair, it would fall over his face or other parts of his head—should wipe at the base of his hair, or part his hair and wipe over the skin. If he gathers the hair that fall over his face or other parts of the head, on the frontal part of the head, and wipes over them, or wipes over hair from other areas of the head which have gathered in the frontal area, his wiping will be invalid.

258. After wiping the head, using the wetness that is leftover on the hands from the water of Wudhu, one should wipe over his feet. The obligatory extent is that one should wipe from the

tip of any toe to the protuberance on the top part of one's foot, while the recommended precaution is that it should be wiped up to the ankle joint. The obligatory precaution is that right foot should be wiped first, and then the left foot, and similarly, the right foot should be wiped with the right hand, and the left foot with the left hand.

259. It is sufficient to wipe the foot by covering a width of any extent. However, it is better that the entire top surface of the foot is wiped using the entire surface of one's palm.

260. The obligatory precaution in wiping the feet is that the hand should be placed on the tip of the toes and then drawn towards the ankle, or it should be placed on the joint of the ankle on one's foot and then drawn to the tip of the toes. One should not simply place his entire hand on the foot and then draw it a little.

261. While wiping the head or the feet, the hands should be drawn over them. One should not hold his hand stationary over them, and then wipe across the hand using his head or foot. There is no harm, however, if the head or foot moves a little as the hand is being drawn across them.

262. The area being wiped should be dry. If the area is wet to the extent that the wetness of the hand has no effect on it, the wiping will be invalid. However, there is no harm if the wetness is so insignificant that the wetness leftover after wiping the area would be considered—in the common understanding—as the wetness leftover from the hands only.

263. If there is no wetness leftover on the hands for the purpose of wiping, one cannot make his hands wet with extra water. Rather, he should draw water from the part of his beard that falls within the boundaries of his face, and wipe his head or feet with it. Drawing water from areas other than the beard, and wiping with it is problematic.

264. If the wetness of the hand is just sufficient for wiping the head, one should wipe his head with the same wetness. He

should then draw water for wiping the feet from the part of his beard that is considered to be a part of the face.

265. Wiping over the shoes or socks is not valid. However, if one cannot take off his shoes or socks due to extremely cold weather, fear of thieves or wild animals, or similar dangers, based on obligatory precaution, he should wipe over his shoes or socks, and in addition, he should also perform Tayammum.

266. If the top surface of the foot is Najis, and one cannot make it Tahir for the purpose of wiping over it, he should perform Tayammum.

Wudhu by Immersion

267. Wudhu al-irtimasi or Wudhu by immersion is the act of immersing one's face and hands in water with the intention of performing Wudhu. However, wiping (the head or feet) with the wetness leftover on the immersed hands, is problematic. Therefore, if a person wishes to wash his left hand by immersion, he should avoid immersing the area between the wrists and the fingertips; instead he should wash that area with his right hand. Based on obligatory precaution, Wudhu by immersion cannot be realized by withdrawing a part that is already in the water.

268. When performing Wudhu by immersion, the hands should be washed starting from above and going downwards. Hence, if a person makes the intention of performing Wudhu as he immerses his hands in water, he should ensure that they are immersed starting from the elbows. Similarly, based on obligatory precaution, he should immerse his head starting from his forehead.

269. There is no harm if some of the parts are washed by immersion, and the others are not washed by immersion.

Supplications which are Recommended While Performing Wudhu

270. It is recommended for the one who is performing Wudhu, to recite the following supplication while drawing water with his hands:

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? ?????????? ?? ?????????????? ????? ?????????????? ??? ??

In the name of Allah, and by Allah, O Allah make me amongst the repentant ones, and make me amongst the ones who purify themselves. Bismillahi wa billah allahummaj'alni minat tawwabina waj'alni minal mutatahhirin.

While rinsing the mouth, he should recite:

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?????????? ???????????

O Allah, grant me my defense the day I meet you, and unfurl my tongue with your remembrance.

Allahumma laqqini hujjati yawmal qaak, wa atliq lisani biz-ikrik. While performing istinshaq (rinsing the nose) he should recite:

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?? ? ??? ?????????? ?????????? ?? ?????????????? ?? ???????????

O Allah, do not forbid the breeze of paradise upon me, and make me amongst those who will feel its breeze, experience its tranquility, and smell its fragrance. Allahumma la tuharrim 'alaya rihal jannati waj'alni mimman yashummu riha ha wa rawha ha wa tiba ha.

While washing the face, reciting the following supplication is recommended:

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?? ??? ????? ????? ???????? ???????? ????????????? ?????? ?????????????

O Allah brighten my face on the day when the faces will be darkened, and do not darken my face on the day when the faces will be brightened.

Alla humma bayyiz wajhi yawma taswaddufihil wujuh wala tusawwid waj hi yawma tabyazzul fihil wujuh.

While washing the right hand, he should say:

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????????????? ?????????????? ?? ?????????????? ???????? ? ??????????

O Allah, give me my book (of deeds) in my right hand, and an everlasting life in paradise in my left hand, and reckon me with an easy reckoning.

Alla humma a'tini kitabi bi yamini wal khulda fil jinani bi yasari wa hasibni hisaban yasira.

And while washing the left hand:

??????? ? ? ??? ?????????? ?????????? ?????????????? ?? ?? ???
????????? ?????????? ?? ?? ?????????????? ?????????????? ?????? ?????????? ??
????????? ?????? ?????? ?????? ? ?????????? ??? ??????

O Allah, do not give me my book (of deeds) in my left hand, or behind my back, nor make it chained to my neck, and I seek refuge in You from the garments of fire.

Alla humma la tutini kitabi bishimali wala min wara'i zahri wala taj alha maghlu latan ila unuqi wa a'uzu bika min muqat ta'atin niran.

Then, while wiping his head, he should say:

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O Allah, encompass me with Your mercy, Your blessings and Your forgiveness. Alla humma ghashshini bi rahmatika wa barakatika wa 'afwika. And while wiping his feet, he should recite:

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O Allah, make firm my feet on the day when the feet will slip, and make my striving in that which will make you pleased with me, O Majestic, O Munificent. Alla humma thabbitni alas sirati yawma tazillu fihil aqdam. Waj'al sa'yi fi ma yurzika 'anni ya zal jalali wal ikram. Having performed the Wudhu, it is recommended to recite:

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I bear witness that there is no god except Allah.

O Allah, make me amongst the repentant ones, and make me amongst those who purify themselves, and all praise is exclusively for Allah, Lord of all the worlds.

Ashhadu an la ilaha illal lahu allahummaj'alni minat tawwa-been waj'alni minal mutatahhirin walhamdu lillahi rabbil a'alameen.

Conditions for the Validity of Wudhu

The following are the conditions for the validity of Wudhu:

Condition No. 1: The water used to perform Wudhu should be Tahir. Condition No. 2: The water should also be Mutlaq.

271. The Wudhu performed with Najis or Mudhaaf water is invalid, even though a person may not be aware of it being Najis or Mudhaaf, or may have forgotten about it. Additionally, if he had offered prayers with the same Wudhu, he should repeat his prayers after performing a valid Wudhu.

272. If a person does not have any water available for performing Wudhu except for Mudhaaf turbid water, he should perform Tayammum if the time for offering prayers is very short. If sufficient time is available to him, he should wait for the water to become clear, or make it clear himself and then perform Wudhu with it.

Condition No. 3: The water used to perform Wudhu should be Mubah, and based on obligatory precaution, the space wherein he performs his Wudhu should also be Mubah.

273. The Wudhu performed with water which is usurped, or water for which one does not have proof that the owner is pleased with its usage, is forbidden and invalid. If the water for Wudhu is poured in a usurped area, and one is not able to perform Wudhu in a place other than that place, he should perform Tayammum instead. If, however, he is able to perform Wudhu in another place, he should perform Wudhu in that (other) place. If he commits an act of disobedience in this case, and performs Wudhu in the usurped area, the validity of his Wudhu will be problematic.

274. It is not permissible to perform Wudhu in the restroom of a school, if one does not know whether it has been dedicated for public use, or for the students of the school only. There is no harm in performing Wudhu if one attains satisfaction in its

publicity, even if it is attained by observing members of the general public performing Wudhu in the pool.

275. If a person does not intend to offer his prayers in a mosque, he cannot perform Wudhu in the restroom of the mosque if he does not know whether it has been dedicated for public use, or only for those who intend to pray in that mosque. However, if people who do not intend to pray in that mosque normally perform their Wudhu there, and through their actions one attains satisfaction that it has been dedicated for public use, he may perform his Wudhu in that restroom.

276. Performing Wudhu in the restrooms of an inn, a hotel or similar lodging for those who do not intend to stay there, is only valid if one acquires satisfaction with respect to the owner's permission, even if it is acquired by observing Wudhu being performed by those who are not lodging in those premises.

277. There is no harm in performing Wudhu in a large river, even if one does not know if the owner is pleased with it or not. However, if the owner prohibits performing Wudhu in the river, or if one knows that the owner is not pleased with its use, then performing Wudhu in it is not permissible. The same applies, based on obligatory precaution, if the owner is a minor or is insane, or if the river is under the jurisdiction of a usurper, or if one speculates that the owner may not be pleased with its usage. However, there is no harm in performing Wudhu, drinking water or benefiting from rivers and canals which pass through populated areas, such as villages, even if the owner may be a minor or an insane person.

278. If a person forgets that the water is usurped, and performs Wudhu with it, it will be valid. However, if a person usurps the water himself, then forgets that the water was usurped, and performs Wudhu with it, it will not be valid if he has not repented for usurping the water. In the event that he has repented for his actions, the invalidity of his Wudhu will be problematic.

Condition No. 4: The water container used to perform Wudhu should be Mubah.

Condition No. 5: Based on obligatory precaution, the container should also not be made from gold or silver. These two conditions are elaborated in the subsequent articles.

279. If the water for Wudhu is in a usurped container, and one does not have access to water other than it, he should transfer it to another container if he is able to do so in a legal manner, and then perform Wudhu with it. If this is not possible, he should perform Tayammum, and if he is able to procure other water, he should perform Wudhu with it. In both cases, if he commits an act of disobedience and draws water from the vessel, and performs Wudhu with it, his Wudhu will be valid. Given the same circumstances, if he performs Wudhu by drawing water from a container made from gold or silver, his Wudhu will be valid, irrespective of whether other water is available to him or not. If he performs Wudhu by immersion in a usurped container, his Wudhu will be prohibited and invalid, irrespective of whether other water is available to him or not. If, however, he performs Wudhu by immersion in a container made from gold or silver, its permissibility and validity is problematic.

280. If a brick or a stone, for example, in the construction of a pool is usurped, there is no harm in performing Wudhu in it, as long as drawing water from it does not count as making use of that brick or stone in the common understanding. However, if it does amount to making use of it, and one does not have any other water available to him, he should perform Tayammum. Of course, if he is able to procure water other than the water in the pool, he should perform Wudhu with it. In both cases, if he commits an act of disobedience and draws water from the pool, and then performs Wudhu with it, it will be valid. However, if he performs Wudhu by immersion, assuming that it amounts to making use of the brick or the stone in the common understanding, his Wudhu will be invalid.

281. If a pool or a canal is constructed in the courtyard of (the shrine of) one of the Imams (Peace be upon the all) or their descendants, in an area that used to be a burial ground, there is no harm in performing Wudhu in that pool or canal as long as one does not know that the grounds of the courtyard have been dedicated for burial purposes.

Condition No. 6: The parts of Wudhu should be Tahir when they are being washed or wiped, even if the Taharah is acquired while washing it with Wudhu water, provided that the water is mu'tasim. Mu'tasim water is water which does not become Najis upon contacting a Najis thing, like rain water, Kurr and flowing water.

282. If prior to completing Wudhu, a part which has already been washed or wiped becomes Najis, the Wudhu will still be in order.

283. If a part of the body other than the parts of Wudhu is Najis (while performing Wudhu), the Wudhu will be valid. However, if one has not made the orifice Tahir from urine or stool, the recommended precaution is that he should first make them Tahir and then perform Wudhu.

284. If one of the parts of Wudhu is Najis, and after Wudhu one doubts if he washed the part prior to performing Wudhu or not, his Wudhu will be invalid if he was oblivious to its being Tahir or Najis while performing Wudhu. If he knows or considers it probable that he was not oblivious to it, his Wudhu is valid. In either case, he must wash the part that was Najis.

285. If there is a wound or a cut on the hands or the face which does not stop bleeding, and water is not harmful for it, after washing the uninjured and sound areas of the limb in proper sequence—in the manner that was elaborated in article 249—one should place the wounded or injured area in Kurr or flowing water, and apply pressure to an extent that it stops bleeding. While the area is still in water, he should wipe with his hand over the wound or injury, starting from above and

going downwards, such that the water flows over it. This should be performed with the intention of performing Wudhu. He can then continue with the rest of the acts of Wudhu, bearing in mind that the wiping of the head and feet must be done with the water leftover on his palms.

Condition No. 7: There should be sufficient time to perform Wudhu and offer prayers.

286. Whenever the remaining time is so short, that if a person performs Wudhu, a part of his prayer or the entire prayer will have to be offered after its designated time, he should perform Tayammum instead. However, if the time required to perform Wudhu is the same as the time required to perform Tayammum, he should perform Wudhu.

287. If a person whose duty is to perform Tayammum due to the shortness of time, performs Wudhu instead, with the intention that it is a recommended act itself, or it has been legislated for another recommended act, such as reciting the Qur'an, the Wudhu will be valid. However, if he performs it with the intention of offering that prayer, in a manner that had Wudhu not been a pre-requisite for prayers, he would not have the intention of performing it, his Wudhu will be invalid.

Condition No. 8: He should perform Wudhu with the intention of qurbah (drawing closer to Allah) and with sincerity. The term "intention of qurbah" denotes that the act should be performed with an intention that relates it to Allah, the Exalted, like performing it to fulfill the Lord's command and because it is an act beloved unto Him.

288. It is not necessary to verbalize the intention for performing Wudhu, or to make it pass through one's mind. Rather, if one performs all the acts of Wudhu with a divine motive, it will be adequate.

Condition No. 9: Wudhu should be performed in the sequence that was previously elaborated. A person should first wash his face, followed by his right hand, and then the left

hand. Thereafter, he should wipe his head and then the feet. If Wudhu is not performed in this sequence, it will be invalid. Based on obligatory precaution, the left foot should be wiped after the right foot.

Condition No. 10: The acts of Wudhu should be performed successively.

289. If a period of time elapses between the acts of Wudhu, such that when one wants to wash or wipe a part, the preceding parts have already dried, his Wudhu will be invalid. However, if only the part preceding the part that he wants to wash or wipe becomes dry—for example, when one wants to wash the left hand, his right hand has become dry, but his face is still wet—his Wudhu will be in order.

290. If the acts of Wudhu are performed successively, but the parts preceding each part become dry due to excessively hot weather, raised body temperature or similar conditions, the Wudhu will be valid.

291. There is no harm in walking while performing Wudhu. Thus, if one takes a few steps after washing his face and hands, and then wipes his head and feet, his Wudhu will be valid.

Condition No. 11: The face and hands should be washed by the individual himself, and so should the head and feet be wiped by him. If another person performs the Wudhu on him or assists him in washing his face and hands or wiping his head and feet, his Wudhu will be invalid.

292. A person who cannot perform Wudhu himself, should appoint someone to perform it on him. Additionally, if the other person demands wages, he should pay him if he is able to, and if it does not cause him hardship. However, he should make the intention of Wudhu himself, and based on obligatory precaution, so should the one assisting him. He should also wipe with his own hands, and if he is unable to do so, his assistant should hold his hand and help him to wipe the part. If even this is not

possible, the assistant should take the wetness from the person's hands, and wipe his head and feet with it.

293. One should not seek assistance in performing the acts of Wudhu which he can perform by himself.

Condition No. 12: The one performing Wudhu should not be constrained from using the water.

294. One who fears that he may get sick if he performs Wudhu, should not perform it. Similarly, if he fears that using up the water for Wudhu will result in him remaining thirsty, and the thirst will lead to his illness, he should not perform Wudhu. If the thirst does not lead to his illness, he is free to choose between Wudhu and Tayammum. If he is unaware that using the water is harmful for him, and performs Wudhu with it, it will be valid even if he later comes to realize that it was harmful for him, provided that incurring that harm is not forbidden by the sharia.

295. If there is no harm in washing the face and hands with a limited amount of water, which is just sufficient for performing Wudhu, and using more than it is harmful, one should perform Wudhu by limiting himself to that amount of water.

Condition No. 13: There should be no obstacle on the parts of Wudhu which prevents the water from reaching it.

296. If a person knows that something is stuck to a part of Wudhu, but doubts whether it prevents water from reaching it or not, he should either remove the thing, or ensure that water reaches the areas below it.

297. Dirt under a fingernail which is of normal length will not harm one's Wudhu. However if the nail is cut, the dirt must be removed prior to performing Wudhu. If the nail is abnormally long, the dirt below the area of the nail which exceeds the normal length should be removed.

298. If swelling occurs on the face, hands, frontal area of the head, or upper surface of the feet, due to a burn or any other reason, washing and wiping over it will be sufficient. If a hole is formed in the area, it will not be necessary to make water reach the areas below the skin. In fact, if a part of its skin gets peeled off, it will not be necessary to make water reach areas below the parts which have not peeled off. However, if the skin which has been peeled off sometimes sticks to the body and sometimes hangs loose, he should either cut it off, or ensure that water reaches the areas below it.

299. If a person doubts whether something is stuck to the parts of Wudhu, and his doubt is deemed sensible by the people—like a potter doubting whether clay is stuck to his hands after work—he should inspect his hands, or scrub it to an extent that he attains satisfaction that even if clay was previously stuck to his hands, it has now been removed, or that the water has reached the areas below it.

300. There is no harm if the areas that need to be washed or wiped contain dirt, as long as it does not prevent water from reaching the body. The same will apply if following plastering or a similar task, a substance which does not prevent water from reaching the skin remains on the hands. However, if one doubts whether its presence prevents water from reaching the body or not, it should be removed.

301. If prior to performing Wudhu, a person knows that some parts of Wudhu contain obstacles that prevent water from reaching the body, and then doubts after performing Wudhu whether water reached those parts or not, his Wudhu will be valid provided he is not certain that he was oblivious to it while performing Wudhu.

302. If some parts of Wudhu contain an obstacle which at times allows water to reach areas below it, and at times it doesn't, and having performed Wudhu one doubts if water reached the areas below it, he should perform Wudhu again if he knows that he was oblivious to this fact while performing Wudhu.

303. Having performed Wudhu, if a person spots an obstacle on the parts of Wudhu which prevents water from reaching those parts, and does not know if the obstacle was present while performing Wudhu or appeared thereafter, he should perform Wudhu again if he knows that he was oblivious to it while performing Wudhu. If he wasn't, his Wudhu is valid.

304. Having performed Wudhu, if a person doubts whether an obstacle was present on the parts of Wudhu which prevents water from reaching them, his Wudhu will be valid as long as he is not certain that he was oblivious to it while performing Wudhu.

The Rules of Wudhu

305. A person who frequently doubts in the actions and conditions of Wudhu should not pay heed to his doubts if they extend to the point of becoming satanic insinuations.

306. If a person doubts whether his Wudhu has been invalidated or not, he should treat it as valid. However, if he does not perform Istibra after urinating, performs Wudhu, and then a fluid is released from the frontal orifice, for which he does not know whether it is urine or another fluid, his Wudhu will be void.

307. A person doubts whether he has performed Wudhu or not, should perform Wudhu.

308. If a person knows that he has performed Wudhu, and that he has also committed an act which invalidates Wudhu, like urinating, but does not know which of the two preceded the other, given the different circumstances, he should act in the following manner:

a. If he realizes this before offering his prayers, he should perform Wudhu again.

b. If he realizes this while praying, he should discontinue his prayers and perform Wudhu.

c. If he realizes it after completing his prayers, the prayers that he has already offered will be valid, provided he is not certain that he was oblivious to it at the start of his prayers. He should however perform Wudhu for all subsequent prayers.

309. If a person attains certainty during or after performing Wudhu, that he has not washed or wiped some parts, he will have to start all over again if the parts that precede that part have become dry due to a prolonged passage of time. If the parts have not become dry, or have become dry due to hot weather or similar reasons, he should wash or wipe the parts of Wudhu starting from the place that was not washed or wiped properly, and all the parts following it. Similarly, if a person doubts while performing Wudhu if an area was washed

or wiped properly, he too should act according to these instructions.

310. If a person doubts after offering prayers whether he had performed Wudhu or not, his prayers will be valid provided he is not certain that he was oblivious to it at the start of his prayers. He should however perform Wudhu for subsequent prayers.

311. If a person doubts while praying if he had performed Wudhu or not, his prayers are void. He has to perform Wudhu and offer his prayers again.

312. If a person comes to know that his Wudhu was invalidated, but doubts whether it was invalidated before or after prayers, the prayers that he has already offered are valid.

313. If a person who is afflicted with urinary or fecal incontinence is certain that there will be a period of respite from the leakage or the excretion within the allocated time for prayers, which is just sufficient for performing Wudhu and offering prayers, he should perform Wudhu and pray in that interval of respite. If the interval of respite that he is afforded is only sufficient for performing the obligatory components of Wudhu and prayers, he should perform the obligatory components and leave out the recommended ones.

314. If a person is not afforded an interval of respite that is sufficient for Wudhu and prayer, and urine or feces is involuntarily leaked or excreted from him once or a few times during the prayer, the prayer will suffice even if it is offered with one Wudhu. The recommended precaution is that he should perform Wudhu each time urine or feces is excreted from him, in a period of time which does not nullify the condition of succession (muwalaat) in prayer. Having done Wudhu, he should continue with the rest of his prayer.

315. If a person is afflicted with continued urinal or fecal incontinence, his Wudhu will suffice for several prayers, unless

he commits another act which invalidates his Wudhu. It is better that he should perform a separate Wudhu for each prayer. It is not necessary to perform an additional Wudhu for performing a forgotten Sajdah or a forgotten Tashahhud, or for offering salat al-Ihtiyat.

316. A person who is afflicted with continued urinal or fecal incontinence does not have to offer prayers immediately after performing Wudhu, although the recommended precaution is that he should do so.

317. Based on recommended precaution, a person who suffers from continued urinal or fecal incontinence should refrain from touching all the things which are forbidden to touch for a person who is not in the state of Wudhu.

318. A person who is suffering from urinal incontinence should protect himself by using a pouch which is filled with cotton or any other absorbent material which will prevent the urine from spreading to other areas. The obligatory precaution is that he should wash the orifice prior to every prayer, unless it entails hardship. In the event that he offers the Z'uhr and the A'sr prayers together, or the Maghrib and the I'sha prayers together, he does not have to wash the orifice between the two prayers. Similarly, one who suffers from fecal incontinence, if possible, should prevent the fecal matter from spreading to other areas for a period that is required to offer prayers. The obligatory precaution is that he should wash the orifice prior to every prayer, unless it entails hardship.

319. A person who suffers from urinal or fecal incontinence, if possible, should control the leakage of urine or excretion of feces for a period that is required to offer prayer, if it does not entail hardship. In fact, if his incontinence is easily treatable, he should get it treated.

320. After overcoming urinal or fecal incontinence, a person who used to suffer from them does not have to offer the Qadha of the prayers which were performed according to his responsibility during the period of incontinence. However, if his

incontinence is cured during the allocated time of prayers, he should repeat the prayers offered during that time.

321. A person who cannot control passing wind from the anal orifice should act according to the rules which are applicable to people who are suffering from incontinence.

Things Which Necessitate Wudhu

322. It is obligatory to perform Wudhu in the following six cases:

1. To offer obligatory prayers, other than the prayer for the dead. As for recommended prayers, Wudhu is a condition for their validity.

2. To perform a Sajdah or a Tashahhud which was forgotten during prayers, and to perform the two Sajdah al-Sahw which are performed for a forgotten Tashahhud. If he performs an act which invalidates his Wudhu in the interval between his prayer and performing these acts, like urinating, the obligatory precaution is that he should repeat his prayer. However, it is not obligatory to perform Wudhu for the Sajdah al-Sahw which is performed for any other reason.

3. To perform an obligatory Tawaf in Hajj or umrah.

4. If a person makes a Nazr (vow), or a covenant, or swears to perform Wudhu.

5. If he makes a Nazr to touch the Qur'an with a part of his body, provided his Nazr is valid, like a Nazr to kiss the Qur'an.

6. To wash a Qur'an which has become Najis, or to remove it from a place where its presence would be concomitant with violating its sanctity, if he is compelled to touch the script of the Qur'an with his hands or any other part of his body. However if delaying the task for the period required to perform Wudhu results in disrespecting the Qur'an, he should remove it from the area without having performed Wudhu, or wash it if it has become Najis.

323. Touching the script of the Qur'an—that is, causing any part of the body to touch the script of the Qur'an—is forbidden on one who does not have Wudhu. There is no harm in causing bodily hair to touch the Qur'an, as long as it is not considered a part of the skin. If the Qur'an is translated into English or any other language, there is no harm in touching parts of its script which do not contain the names of Divine essence and Divine attributes.

324. It is not obligatory to prevent a child or an insane person from touching the script of the Qur'an. However, if their touching of the Qur'an is deemed sacrilegious, they should be restrained.

325. Based on obligatory precaution, one who does not have Wudhu should not touch the names of Divine essence and Divine attributes, no matter what language they are written in. The recommended precaution is that he should also refrain from touching the blessed names of the fourteen infallibles (Peace be upon them all).

326. If a person performs Wudhu or Ghusl prior to the time of prayer with the intention of being in a state of purity, it will be deemed valid. There is also no harm in performing Wudhu close to the time of prayer, with the intention of preparing oneself for prayer. In fact, it is recommended to do so.

327. If a person attains certainty that the time of prayer has set in, or obtains a proof authorized by the sharia to that effect, and makes the intention of an obligatory Wudhu, but does not stipulate the intention of obligation, his Wudhu will be valid even if he later realizes that the time for prayer had not set in.

328. It is recommended for a person to perform Wudhu for acts whose perfection through Wudhu is established in the traditions, even though Wudhu may not be a condition for the validity of those acts. Examples of this include the rites of Hajj, other than the obligatory Tawaf and the prayers for it, wherein Wudhu is a condition for their validity. It is also recommended for the prayer for the dead, laying a dead body in the grave, going to the mosque, reading the Qur'an and writing it, and sleeping. It is also recommended for one who has Wudhu, to perform it again. Whenever a person performs Wudhu for any of the above mentioned reasons, he can also perform any of the acts for which Wudhu is obligatory. For example, he can offer prayers or perform an obligatory Tawaf with that Wudhu.

Things Which Invalidate Wudhu

329. The following seven things invalidate Wudhu:

First and second: urinating and defecating from the natural orifices, or an artificial orifice if it is the regular outlet. In fact, based on obligatory precaution, it will invalidate Wudhu even if the artificial orifice is not the regular outlet. *In addition*, a fluid which resembles urine and is discharged before Istibra is performed, will be subject to the rulings of urine.

Third: Intestinal gas which is released from the anal orifice, or an artificial orifice based on the details that were elaborated for defecation, regardless of whether a significant amount of gas is released or not.

Fourth: Sleeping, and it occurs when the ears cease to hear.

Fifth: Things which divest a person of his ability to intellect, such as insanity, intoxication and unconsciousness.

Sixth: Istihadha for women, which will be elaborated later.

Seventh: Janabah.

The Rules of the Wudhu of Jabeerah

The term Jabeerah refers to things which are used to bandage a wound or a fracture, and also the ointments which are applied over wounds and similar injuries.

330. If there is an unbandaged wound, boil or fracture on any one of the parts of Wudhu, and water is not harmful for it, Wudhu should be performed in the normal manner.

331. If a person has an unbandaged fracture on his face or his hands, and water is harmful for it, but wiping over it with a wet hand is not, he should wipe over it with a wet hand. The same will apply in the case of a wound or a boil, based on obligatory precaution. The recommended precaution is that he should thereafter place a Tahir cloth over the area, and wipe over it with a wet hand.

However, should this be harmful as well, or should the wound or fracture be Najis and unwashable, in the case of a wound, he should wash the area around it as described in the section on Wudhu, starting from above and going downwards. It is also not necessary to perform Tayammum. The recommended precaution however, is that he should place a Tahir cloth over the area, wipe over it with a wet hand, and then perform Tayammum as well. In the case of a fracture, he must perform Tayammum, and based on obligatory precaution, having performed Wudhu, he should place a Tahir cloth over the area, and wipe over it with a wet hand. 332. If a person has an unbandaged wound, boil or fracture in the frontal area of his head, or the top surface of his feet, and he is unable to wipe over it—either because the wound covers the entire area for wiping, or wiping over the unaffected areas is not possible—based on obligatory precaution, he should combine performing Wudhu by placing a Tahir piece of cloth over the area and wiping over it with the wetness leftover from Wudhu, and performing Tayammum.

333. If removing the bandage around a wound, boil or fracture does not entail hardship for a person, and water is not harmful for it either, he should first remove it and then perform Wudhu, irrespective of whether the wound or similar

injury is on the face or hands, in the frontal area of the head or the top surface of the feet.

334. If a person has a bandaged wound, boil or fracture on his face or hands, and opening the bandage or pouring water over it is either harmful or entails hardship, he should wash the areas which will not be harmed, and do not entail hardship, and wipe over the bandage.

335. If it is not possible to unbandage a wound, but the bandage and the wound are both Tahir, and it is possible to make water reach the wound, and it does not entail harm or hardship, then one should ensure that water reaches the wound while observing the proper sequence of the acts. In the case where the wound is on the face, the above ruling is based on obligatory precaution. However, if the Jabeerah is on the face, and it is not possible to make the water reach it while observing the proper sequence, precaution dictates that one should wash the area, and also wipe over it while observing the proper sequence. If the wound or the bandage is Najis, and it is possible to wash it and to make water reach the wound, causing no harm or hardship, then one must wash it and also make water reach the wound while performing Wudhu. In the event that it is not possible to make water reach the wound, or it entails harm or hardship, or the wound is Najis and it is not possible to wash it, or (washing the Najasah) entails harm or hardship, one should wash the areas around the wound. If the Jabeerah is Tahir, he should wipe over it. If the Jabeerah is Najis, or it is not possible to wipe over it with a wet hand, he should place a Tahir cloth over it, and do both: wipe over the cloth and perform Tayammum, based on obligatory precaution. He should also place the cloth over the Jabeerah in a manner that it would be considered a part of the Jabeerah, to the fullest possible extent. In the event that it is not possible to place a cloth over the Jabeerah, or to wipe over it, based on obligatory precaution he should wash the areas around it in the manner that was described in the section on Wudhu, and should perform Tayammum as well.

336. If the Jabeerah encompasses the entire face, or the entire hand, or both hands, the obligatory precaution is that one should perform Wudhu of Jabeerah and Tayammum as well.

337. If the Jabeerah encompasses all the parts of Wudhu, the obligatory precaution is that one should perform Wudhu of Jabeerah and Tayammum as well.

338. If a person has a Jabeerah on his palms or fingers, and has wiped over them with a wet hand while performing Wudhu, he should wipe his head and feet with the same wetness.

339. If a Jabeerah covers the entire width of the upper surface of the foot, but a part of the toes and a part of the upper area—which is obligatory to wipe—is uncovered, one should wipe over the foot in the uncovered areas, and wipe over the Jabeerah in the areas covered by the Jabeerah.

340. If there are multiple jabeerahs on the face or hands, one should wash the areas between them. If the jabeerahs are on the head or the surface of the feet, one should wipe on the areas between them. As for the areas which contain the Jabeerah, one should act according to the rules of Jabeerah in those areas.

341. If a Jabeerah covers more than the usual area around a wound, and it is not possible to remove it without difficulty, based on obligatory precaution, one should perform the Wudhu of Jabeerah and Tayammum as well. If however, removing the extra Jabeerah is possible without difficulty, one should remove it. Then, if the wound is on the face or the hands, one should wash the uncovered area, and if it is on the head or the feet—and wiping the area is obligatory—one should wipe over it. As for the areas covered by the Jabeerah, one should act according to the rules of Jabeerah.

342. If there is no wound, cut or fracture on the parts of Wudhu, but water is still harmful for it for some other reason, one should perform Tayammum instead of Wudhu.

343. If an area on the parts of Wudhu is phlebotomized, and it is not possible to wash it due to the harm it may cause, then its ruling will be the same as the ruling of a wound or a cut, as elaborated in the previous article. If a person is unable to wash it for any other reason, like if the blood does not cease to flow, he should perform Tayammum instead.

344. If something is stuck to one of the parts of Wudhu or Ghusl, and removing it is not possible, or entails hardship, based on obligatory precaution one should perform Wudhu or Ghusl of Jabeerah and Tayammum as well.

345. In all the ghusls, with the exception of the Ghusl for a dead body, the (ruling for the) Ghusl of Jabeerah is like the Wudhu of Jabeerah, and based on obligatory precaution, it should be performed sequentially. However, if there is a wound or a boil on the body, be it covered with a Jabeerah or uncovered, , albeit there is a case to be made for being free to choose between Ghusl and Tayammum, the obligatory precaution is that one should perform Ghusl. If there is a fracture on the body, then its ruling, and the ruling of the area with the fracture, wound or boil for the purpose of Ghusl is the same as the ruling for the face and the hands in Wudhu.

346. If a person's responsibility is to perform Tayammum, and he has a wound, boil or fracture on some of the parts of Tayammum, he should perform the Tayammum of Jabeerah according to the instructions given for the Wudhu of Jabeerah.

347. If a person who has to offer prayers with Wudhu or Ghusl of Jabeerah knows that he will not be divested of his excuse prior to the end of the allocated time for prayers, he can offer his prayers at its earliest time. However, if he is hopeful that his excuse will be removed prior to the end of the specified time, it is better that he should wait. If his excuse is not removed, he should offer prayers towards the end of the specified time by performing Wudhu or Ghusl of Jabeerah. In the event that he offers his prayers at its earliest time, and his excuse is removed prior to the end of the allocated time, he should perform (the normal) Wudhu or Ghusl and offer his prayers again.

348. If a person is compelled to keep his eyelashes attached to each other due to an eye disease, or if water is harmful for his eyes due to an eye condition, he should perform Tayammum.

349. A person who does not know whether his responsibility is to perform Tayammum or Wudhu of Jabeerah, should perform both, based on obligatory precaution.

350. Prayers which were offered with Wudhu of Jabeerah, wherein the excuse persisted to the end of the allocated time for prayers, are valid. In fact, he can offer the subsequent prayers with the same Wudhu given that his excuse persists for the entire time (allocated for that prayer). Whenever his excuse is

removed, based on obligatory precaution he should perform Wudhu for subsequent prayers.

Chapter 9

The Obligatory Ghusls

There are seven Wajib ghusls:

1. Ghusl Janabah
2. Ghusl Haydh
3. Ghusl Nifas
4. Ghusl Istihadha
5. Ghusl for touching a dead body.
6. Ghusl for a dead body.
7. Ghusl which becomes obligatory on account of one's having taken a vow or an oath to perform it.

Chapter 10

The Rules of Janabah

351. A person enters the state of Janabah on account of the following two reasons: 1. Sexual intercourse 2. Ejaculation, be it while sleeping or awake, by releasing a significant amount of semen or an insignificant amount, with pleasure or without, voluntarily or involuntarily.

352. If a fluid is released from a man, and he does not know if it is semen, urine or another fluid, it will be subject to the rulings of semen if it spurts out, is accompanied with intense pleasure, and thereafter the body experiences a feeling of laxity. If he doesn't observe any of these signs, or some of them, it will not be treated as semen. However, in the case of an ailing person, if it is ejaculated with intense pleasure, it will be treated as semen, even if it does not spurt out, and does not result in the body becoming lax. As for a woman, if she ejaculates with a feeling of intense pleasure, the Ghusl of Janabah will be obligatory on her.

353. If a fluid which contains one of the three aforementioned signs is emitted from a man who is not sick, and he does not know if it contains the other signs or not, given that he was in the state of Wudhu before its emission, he can suffice himself with that Wudhu. If however, he was not in the state of Wudhu, it will be sufficient for him to perform Wudhu only.

354. It is recommended to urinate after ejaculation. If a person does not urinate after ejaculation, and thereafter observes a fluid which he cannot tell if it is semen or another fluid, it will be subject to the rulings of semen.

355. If a man has intercourse with a woman, and he penetrates to the point of circumcision or more, be it the front or back orifice, both of them will enter the state of Janabah,

regardless of whether ejaculation occurs or not. If a man has intercourse with another man, based on obligatory precaution he should perform Ghusl, and also perform Wudhu if he was not previously in the state of Wudhu. If he was, performing Ghusl only will be sufficient. The aforementioned rulings will not differ for a Baligh or a non-Baligh, a sane person or an insane person, one who intended to commit the act or one who did not.

356. If a man doubts whether he has penetrated to the point of circumcision or not, Ghusl will not be obligatory on him.

357. If a man has intercourse with an animal and ejaculates, performing Ghusl only will suffice. If he does not ejaculate, and was in the state of Wudhu prior to intercourse, again performing Ghusl only will suffice. If however, he was not in the state of Wudhu, the obligatory precaution is that he should perform Ghusl and perform Wudhu as well.

358. If movement of seminal fluid is felt but it is not emitted, or if a person doubts whether he has emitted semen or not, Ghusl will not be obligatory upon him.

359. One who cannot perform Ghusl, but can perform Tayammum instead, is allowed to have intercourse with his wife, even if the time of prayer has set in.

360. If a person observes semen on his clothes, and knows it to be his own, and also knows that he has not performed Ghusl for it, he should perform the Ghusl of Janabah. As for the prayers that he is certain were offered after the ejaculation, he should repeat them if the time for them has not yet elapsed. If the time has elapsed, he should offer the Qadha for those prayers. As for the prayers that he speculates were offered prior to the ejaculation, he does not have to repeat them, nor offer their Qadha.

361. The following five acts are forbidden on one who is in the state of Janabah: One: Causing any part of one's body to touch the script of the Qur'an, or the Blessed Name of Allah, be it written in any language, and the rest of His Most Beautiful Names. Based on recommended precaution, he should not touch the names of the prophets, imams and lady Fatimah (Peace be upon them all).

Two: Entering Masjid al-Haraam and Masjid al-Nabawi, even if it be entering from one door and exiting from another.

Three: Staying or halting in any other mosque. However, there is no problem in entering from one door and exiting from another. Similarly, staying in the shrine of the Imams is also forbidden. In fact, the obligatory precaution is that one should refrain from visiting the shrine of the Imams, even if it be entering from one door and exiting from another.

Four: Placing an item in the mosque. Similarly, based on obligatory precaution it is forbidden to enter a mosque for the purpose of taking something from it.

Five: Reciting any one of the four verses for which Sujood is obligatory. These verses are located in the following Surahs: Alif-Lam-Meem Sajdah (Surah 32), HA-Meem Sajdah (Surah 41), Al-Najm (Surah 53), and Iqra (Surah 96). Based on obligatory precaution, he should refrain from reciting the other verses of these Surahs as well. In fact, he should refrain from reciting Bismi Allah al-Rahman al-Raheem, or a part of it, with the intention of reciting it as a part of these Surahs.

Acts Which are Makrooh for One Who is in Janabah

362. It is Makrooh for a person who is in the state of Janabah to perform any of the following nine acts:

One and

Two: Eating and drinking. It is not Makrooh if he performs Wudhu or washes his hands.

Three: Reciting more than seven verses from the Surahs which do not contain the verses for which a Sajdah is obligatory.

Four: Causing a part of his body to touch the cover of the Qur'an, its margins or borders, or the space between its scripts.

Five: Carrying the Qur'an with himself.

Six: Sleeping. It is not Makrooh if he performs Wudhu, or performs Tayammum instead of Ghusl on account of not having water.

Seven: Dying his hair or body with henna or a similar dye.

Eight: Applying oil on his body.

Nine: Engaging in sexual intercourse after a nocturnal emission.

The Ghusl of Janabah

363. The Ghusl of Janabah is a recommended act with respect to itself. It becomes obligatory for performing the obligatory acts for which Taharah is stipulated. It is not obligatory though, for the prayer for the dead, Sajdah al-Shukr (Sajdah of gratitude), Sajdah al-Sahw—except the Sajdah al-Sahw which is performed for a Tashahhud which was forgotten during prayers—and obligatory sajdahs of the Qur'an.

364. It is not necessary to specify whether one is performing an obligatory Ghusl or a recommended one while performing Ghusl; rather, if one performs Ghusl with the intention of drawing closer to Allah—as was specified in the section on Wudhu—and with a sincere intention, it will suffice.

365. If a person is certain that the time of prayer has set in, or obtains a proof authorized by the sharia to the same effect, and intends to perform an obligatory Ghusl, but does not stipulate the intention of obligation, his Ghusl will be valid, when he later finds out that he performed the Ghusl prior to the time of prayer.

366. A Ghusl be it an obligatory one or a recommended one, can be performed in two ways: sequentially or by immersion.

Chapter 11

Sequential Ghusl (Al-Ghusl al-Tartib)

367. In a sequential Ghusl, with the intention of performing Ghusl, one should first wash his head and neck, and then his body. Based on obligatory precaution, he should first wash the right side of his body and then the left side. If a person washes his head after washing his body, either intentionally or out of forgetfulness, or due to his ignorance of the ruling, it will be sufficient for him to wash his body again. If he washes the right side of his body after the left side, based on obligatory precaution he should wash the left side again. To claim that a sequential Ghusl can be materialized by moving each of the three parts under running water with the intention of Ghusl, is problematic.

368. Based on obligatory precaution, half of the navel and half of the private parts should be washed with the right side of the body and the other half with the left side. Better still, the entire navel and private parts should be washed when washing each side.

369. In order to attain certainty that one has washed all the three parts—the head and the neck, the right side and the left side—completely, he should wash a portion of the other parts along with the part that he is washing; rather, the recommended precaution is that he should wash the entire right area of the neck along with the right side of the body, and the entire left area of the neck along with the left side of the body.

370. If a person realizes after performing Ghusl that he has not washed a part of his body, but does not know which part of the body it is, the head, the right or the left side, then it is not necessary to wash the head again. And if the part of the body presumed to be unwashed is on the left side then it is

necessary to wash it, and if it is located on the right side of his body, he should first wash the unwashed area based on obligatory precaution before washing the left side of his body.

371. If a person realizes after performing Ghusl that he has not washed a part of his body, and it is located on the left side of his body, washing the unwashed area will be sufficient. If however, it is located on the right side of his body, he should first wash the unwashed area, and then based on obligatory precaution he should wash the entire left side of his body. If the unwashed area is located on the head or the neck, having washed the area, he should wash his entire body, and based on obligatory precaution, he should wash the right side before the left.

372. If someone doubts about having washed a part of the left side prior to completing his Ghusl, then washing that very area will suffice. If however, having washed a part of the left side, he doubts about having washed a part of the right side, based on obligatory precaution, he should wash the area in doubt and then wash the entire left side. If he doubts about having washed a part of the head or neck, and is engaged in washing another part of his body, his doubt will not be credible and his Ghusl will be valid.

Chapter 12

Ghusl by Immersion (Al-Ghusl al-Irtimasi)

373. Ghusl by immersion is realized by immersing the entire body underwater, and to claim that it can also be realized when a part of the body is already in water, and the remainder is then immersed in it, is problematic. Based on obligatory precaution, the immersion should occur in a manner that the common understanding of an instantaneous immersion should hold true of it.

374. In a Ghusl by immersion, based on obligatory precaution one should maintain the intention of performing Ghusl from the time the first part of the body is immersed in water, to the immersion of the last part.

375. If one realizes after performing Ghusl that water has not reached a part of his body, whether he knows the exact area or not, he has to perform Ghusl all over again.

376. If one does not possess time to perform a sequential Ghusl, but possesses time to perform Ghusl by immersion, he should perform Ghusl by immersion.

377. One who has put on Ihram for Hajj or Umrah cannot perform Ghusl by immersion. As for the one who is fasting, the ruling for his case has been mentioned in article 1625.

Chapter 13

The Rules of Performing Ghusl

378. It is not necessary for the body to be Tahir prior to performing a sequential Ghusl, or one by immersion; rather, if immersing oneself in water or pouring water over one's body—provided the water is mu'tasim—with the intention of performing Ghusl, causes the body to become Tahir, the Ghusl will be valid. Mu'tasim water is water which does not become Najis upon coming in contact with a Najis thing, like rain water, Kurr and flowing water.

379. If a person who enters the state of Janabah by committing a forbidden act, performs Ghusl with warm water, it will be valid even if he perspires. The recommended precaution though, is that he performs Ghusl with cold water.

380. If a part of the body remains unwashed during Ghusl, the Ghusl will be invalid if it was performed by immersion. However, if it was a sequential Ghusl, its ruling has been covered in article

371. It is also not necessary to wash parts of the body—like the inner areas of the ears and the nose—which are deemed to be the inner areas of the body in the common understanding.

381. If a person doubts whether a part of the body is an internal part of it or an external part, he should wash it if it was previously considered an external part. If it was not previously considered so, he does not have to wash it. In the event that the previous state is unknown, based on obligatory precaution, he should wash it.

382. If the hole pierced for an earring or a similar purpose is so wide that its inner surface is counted as an external part of the body, it too has to be washed. However, if it is not counted as an external part, it does not have to be washed, unless one

doubts whether it counts as an external part or not, in which case it should be washed based on precaution.

383. Anything which prevents water from reaching the body should be removed. If a person performs Ghusl by immersion before attaining certainty that the obstacle has been removed, he will have to repeat his Ghusl. If he performed sequential Ghusl, then he will be subject to the ruling elaborated in article 372.

384. If a person doubts while performing Ghusl if a thing which prevents water from reaching the body is present on his body, or not, he should investigate until he attains satisfaction that such an obstacle is not present.

385. Short hairs which are considered a part of the body, must be washed while performing Ghusl. However it is not obligatory to wash the long hairs. In fact, if a person pours water over his body in a manner that it reaches the skin but does not wet the long hairs, his Ghusl will be valid. However if it is not possible to make water reach the skin without wetting the long hairs, he should wash them as well so that the water reaches the body.

386. All the conditions which were stipulated for the validity of Wudhu, such as the water being Tahir and Mubah, are also stipulated for the validity of Ghusl. However, it is not necessary to wash the body starting from above and going downwards while performing Ghusl. Similarly, in a sequential Ghusl, it is not necessary to wash the subsequent parts immediately after washing a part. Hence, there is no harm in washing the head and neck, and then waiting for a while before washing the body. Similarly, there is no harm in washing the right side and then waiting for a while before washing the left side. However, if a person who suffers from urinal or fecal incontinence can control the release of urine or feces for a period that is just sufficient for performing Ghusl and praying, he should complete his Ghusl immediately and offer his prayers right away.

387. If someone intends not to pay the fees for using a public bath, or intends to use it on credit without being certain that the owner will agree to it, the Ghusl he performs in that bath will be invalid, even if he is later able to convince the owner.

388. If the owner agrees to the use of the public bath on a credit basis, but the person performing Ghusl does not intend to pay his credit off, his Ghusl will be invalid. Similarly, if he plans to pay with money which is illegal according to the sharia, his Ghusl will again be void.

389. If a person pays the owner of a public bath with money whose Khums has not been paid, he will have performed a forbidden act, and his Ghusl will also be invalid.

390. If a person purifies the back orifice using the water of the pool at the public bath then doubts before taking Ghusl as he has purified the back orifice using the water of the pool whether or not the owner is agreeable to his taking Ghusl his bath is void. It is valid if before taking bath the parties the bath-keeper agree to it.

391. If a person doubts whether he performed Ghusl or not, he should perform Ghusl. However, if he doubts after performing Ghusl whether he performed the Ghusl properly or not, it will be valid as long as he speculates that he was not oblivious while performing Ghusl.

392. While performing Ghusl, if a person commits an act that invalidates Wudhu, like urinating, based on obligatory precaution he should complete his Ghusl, repeat it and perform Wudhu as well, unless he switches from sequential Ghusl to Ghusl by immersion.

393. If a person's responsibility is to perform Tayammum in place of Ghusl due to the lack of time, and instead he performs Ghusl, thinking that he has sufficient time for Ghusl and prayers, his Ghusl will be valid if he performs it with the intention of purifying himself from the state of Janabah, reading the Qur'an or any similar act. If however, he performs it with the intention of offering that prayer, in the sense that had it not been for the prayer, he would not have intended to perform Ghusl, his Ghusl will be invalid.

394. If a person who had entered the state of Janabah and offered prayers, later doubts whether he performed Ghusl or not, his prayers will be valid if he considers it probable that he was not oblivious to it at the start of his prayers. He will however, have to perform Ghusl for subsequent prayers. In the event that he commits an act which invalidates Wudhu after offering his prayers, he should also perform Wudhu and repeat

the prayers that have been offered if their time has not yet elapsed, or offer their Qadha if it has.

395. One who has to perform various obligatory ghusls can perform each of them separately. However, after performing the first Ghusl, he should not perform the rest with the intention of an obligatory Ghusl. He can also perform a single Ghusl with the intention of performing all of them. In fact, if he makes the intention of any one particular Ghusl from these ghusls, it will suffice in lieu of the rest.

396. If a verse of the Qur'an or the name of Allah, is written on a part of one's body, and he wishes to perform sequential Ghusl, he should cause water to reach that part in a manner that he avoids touching it. The same will apply if he wishes to perform sequential Wudhu and a verse of the Qur'an is written on one of the parts of Wudhu, and based on obligatory precaution if the name of the Lord, the All Exalted, is written on it. It is recommended to observe precaution with respect to the names of the prophets, the imams and Lady Fatimah while performing Wudhu or Ghusl.

397. One who has performed the Ghusl of Janabah should not perform Wudhu for offering prayers. In fact, one can offer prayers without performing Wudhu after performing any of the obligatory ghusls—with the exception of the Ghusl for Istihadha Mutawassitah—or any of the recommended ghusls which are listed in article 650, albeit the recommended precaution is that he should perform Wudhu as well.

Chapter 14

Istihadha

One of the different types of bloods discharged from a woman's womb is the blood of Istihadha, and a woman who is in the state of Istihadha is referred to as a Mustahadhah.

398. The blood of Istihadha in most cases is cold and yellow in colour. It is not discharged with pressure, nor does it cause irritation, and neither is it thick. However, it is possible that at times it may be dark or red in colour, warm, thick, irritating, or discharged with pressure.

399. Istihadha is of three types: Qaleelah (light), Mutawassitah (medium), and Katheerah (heavy). If the blood only stains the surface of a piece of cotton that is inserted in the vaginal area, but does not soak it, the Istihadha will be termed Qaleelah. If it soaks the piece of cotton, albeit a section of it, but does not stain the menstrual pad, or any other absorbent item that a woman would normally wear to absorb the flow of blood, the Istihadha will be termed Mutawassitah. If it soaks the piece of cotton, and stains the menstrual pad as well, the Istihadha will be termed Katheerah.

The Rules of Istihadha

400. In the case of Istihadha Qaleelah, a woman must perform Wudhu prior to every prayer, and based on obligatory precaution she should also change the cotton. She must also wash the surface of the vaginal area if the blood has spread to it.

401. In the case of Istihadha Mutawassitah, a woman must perform Ghusl for every Fajr prayer, and also perform the duties of one who is in Istihadha Qaleelah, as explained in the previous article, until the Fajr prayer of the next day. If she enters this state prior to any other prayer, she should perform Ghusl for that prayer and also perform the duties of one who is in Istihadha Qaleelah until the Fajr prayer of the next day. If she deliberately or out of forgetfulness does not perform Ghusl prior to the prayer for which the Ghusl is obligatory, she should perform Ghusl prior to the subsequent prayer, regardless of whether she is still bleeding or has ceased to do so.

402. In the case of Istihadha Katheerah, in addition to the duties of Istihadha Mutawassitah mentioned in the previous article, based on obligatory precaution she should also change the pad or wash it (in the case of reusable pads). She must also perform one Ghusl for Z'uhr and A'sr prayers and one for Maghrib and I'sha prayers, and should not delay praying A'sr after Z'uhr and I'sha after Maghrib. If she delays praying the second prayer, be it the A'sr or the I'sha prayer, she should perform Ghusl again. It should also be noted that the Ghusl of Istihadha Katheerah does suffice in lieu of Wudhu.

403. If the blood of Istihadha is discharged prior to the time of prayer, and a woman has not performed the Ghusl or Wudhu for it, she should do so before offering her prayer, even if she is not a Mustahadhah at that moment.

404. A woman in the state of Istihadha Mutawassitah, who has to perform Ghusl and Wudhu, can perform either of them first, and it will be valid. It is better however, that she should perform Wudhu first. However, if one who is in the state of Istihadha Katheerah wishes to perform Wudhu, she must do so prior to performing Ghusl.

405. If the Istihadha Qaleelah of a woman is transformed to Mutawassitah after Fajr prayer, she should perform Ghusl for Z'uhr and A'sr prayers. If it occurs after Z'uhr and A'sr prayers, she should perform Ghusl for Maghrib and I'sha prayers.

406. If the Istihadha Qaleelah or Mutawassitah of a woman is transformed to Katheerah after Fajr prayer, she should perform one Ghusl for Z'uhr and A'sr prayers, and another for Maghrib and I'sha. If this occurs after Z'uhr and A'sr prayers, she should perform a Ghusl for Maghrib and I'sha prayers.

407. If a woman who is in the state of Istihadha Mutawassitah or Katheerah, remains in that state until the time for prayers sets in, but performs Ghusl for prayers before the time sets in, her Ghusl will be void. It is however permissible for her to perform a Ghusl prior to the time of Fajr prayer with the intention of Rajaa', and then perform the night prayer. Precaution dictates that she should perform another Ghusl for the Fajr prayer after the time for it sets in.

408. A woman who is in the state of Istihadha must perform all the duties mentioned for a woman in her state for every prayer—other than the daily prayers, whose ruling was mentioned earlier—she wishes to perform, be it an obligatory prayer or a recommended one. The same will apply if she wishes to offer her daily prayers again out of precaution, or wishes to offer a prayer in congregation that she has already offered individually. Precaution dictates that a woman in the state of Istihadha Katheerah should also perform Wudhu. If she offers these prayers during the time of a daily prayer for which she has already performed Ghusl, obligatory precaution dictates that she should perform Ghusl again. As for offering the Ihtiyat prayers, the forgotten Sajdah, the forgotten Tashahhud, and the two Sajdah al-Sahw which have to be performed for a forgotten Tashahhud, she does not have to perform all the duties of a Mustahadhah for them, if she performs them immediately after completing her prayer. It is also not obligatory to perform the duties of Istihadha for the Sajdah al-Sahw of prayers.

409. After the blood of a Mustahadhah ceases to flow, she should perform the duties of Istihadha for her first prayer only, and it is not necessary for subsequent prayers.

410. If a woman who does not know which category of Istihadha applies to her, wishes to offer prayer, should either act

on the basis of precaution or inspect herself. For example, she should insert a cotton ball in the vaginal area, wait for a few moments and then remove it. Once she realizes which category of Istihadha applies to her, she should act according to the rulings prescribed for it. If she knows that her state will not change prior to the time that she would like to pray, she can even inspect herself before the time of prayer sets in.

411. If a woman engages herself in prayer without inspecting herself, with the intention of drawing closer to Allah, and acts according to her actual responsibilities—for example, she was actually in the state of Istihadha Qaleelah and coincidentally acted according to its responsibilities—her prayer will be valid. If however, she lacks the intention of drawing closer to Allah, or does not act according to her actual responsibilities—for example, she was in the state of Istihadha Mutawassitah, but acted according to the responsibilities of Istihadha Qaleelah—her prayer will be void.

412. If a woman is unable to inspect herself, and does not know which category of Istihadha applies to her, the obligatory precaution is that she should perform the greater set of duties in order to be certain that she has acted according to her responsibility. For example, if she doesn't know whether she is in Istihadha Qaleelah or Mutawassitah, she should act according to the rulings of Mutawassitah. If she is uncertain between Mutawassitah and Katheerah, she should act according to the rulings of Katheerah, and should also perform Wudhu for every prayer. If however, she knows her previous state, she should act according to it.

413. If the blood of Istihadha remains internally at the onset of its appearance, and does not come out, it will not invalidate one's Wudhu or Ghusl. If it comes out, albeit an insignificant amount, it will invalidate Wudhu and Ghusl.

414. If a Mustahadhah inspects herself after praying, and does not observe any blood, she can offer prayers with the same Wudhu, even though she may know that she will discharge more blood.

415. If a Mustahadhah knows that she stopped bleeding from the time she was engaged in performing Wudhu or Ghusl, she can delay offering her prayer for as long as she knows that she has retained this state.

416. If a Mustahadhah knows that she will be purified from her state before the time for prayer ends, or that she will cease bleeding for a period that is sufficient for offering prayers, she should pray when she ceases to bleed.

417. After performing Ghusl and Wudhu, if the blood ceases to flow externally, and the Mustahadhah knows that she will be completely purified before the time for prayer elapses, allowing her to perform Ghusl, Wudhu and offer her prayer, she should delay offering her prayer. Once the bleeding stops, she should perform Ghusl and Wudhu again, and offer her prayer. If the time for prayer becomes very short, it is not necessary to perform Ghusl and Wudhu again; rather, based on obligatory precaution she should perform Tayammum for Ghusl and (one) for Wudhu, and then offer her prayers.

418. A woman who is in the state of Istihadha Mutawassitah or Katheerah should perform Ghusl once she is completely purified from bleeding. However, if she knows that from the time she was engaged in performing Ghusl for her previous prayer, there has been no extra discharge, and that she is completely purified, she does not have to perform Ghusl again.

419. A woman in the state of Istihadha Qaleelah, Mutawassitah or Katheerah should not delay offering her prayers after she has acted according to the rules of her state, except in the case which was mentioned in article 415. There is no harm in proclaiming the azan or the iqamah before praying, or performing the recommended acts of prayer, such as reciting Qunoot or other similar acts. The recommended precaution is that she should abstain from performing the recommended acts if she remains pure for the period it takes to perform the obligatory components of prayer.

420. If a Mustahadhah delays offering her prayers after acting according to the rulings of her state, be it Wudhu or Ghusl, she should perform the Wudhu or Ghusl once again, according to the requirements of her state, and immediately offer her prayers, unless she knows that she meets the conditions described in article 415.

421. If the blood of Istihadha flows continuously and does not cease flowing, after performing Ghusl a woman should prevent the blood from flowing out, if doing so is not harmful for her. If she ignores to do so, and blood flows out, she should perform

Ghusl again, and if she had prayed earlier, she should repeat her prayer.

422. If the blood does not cease to flow while a Mustahadhah is performing Ghusl, her Ghusl will be valid. However, if her state changes from Mutawassitah to Katheerah while she is performing Ghusl, she should start her Ghusl all over again.

423. The recommended precaution is that a Mustahadhah should prevent blood from flowing out throughout the day on which she is fasting, to the extent that she can.

424. The fast of a woman who is in the state of Istihadha Katheerah is valid if she performs the ghusls which are obligatory for all the daytime prayers. Similarly, based on obligatory precaution she should also have performed the Ghusl for the Maghrib and I'sha prayers of the night before the day she wishes to fast.

425. If a woman becomes a Mustahadhah after A'sr prayers and does not perform her Ghusl until sunset, her fast will be in order.

426. If a woman's state changes from Istihadha Qaleelah to Mutawassitah or Katheerah prior to prayers, she should accordingly perform the acts of a Mutawassitah or Katheerah as elaborated earlier. If her state changes from Mutawassitah to Katheerah, she should perform the acts of Istihadha Katheerah. In fact, even if she had already performed the Ghusl of Istihadha Mutawassitah, it will be of no benefit and she will have to perform Ghusl again for Istihadha Katheerah.

427. If a woman's state changes from Istihadha Mutawassitah to Katheerah in the midst of her prayer, she should discontinue her prayer and perform the Ghusl and other duties of Istihadha Katheerah. She should then offer the same prayer again, and based on recommended precaution she should also perform Wudhu prior to performing Ghusl. If she does not have sufficient time to perform Ghusl, having performed Wudhu, she should perform a Tayammum in lieu of Ghusl. If she is not afforded the time to perform Tayammum either, based on obligatory precaution she should complete her prayer in that state, and offer the Qadha after the time has elapsed. Similarly, if her state changes from Istihadha Qaleelah to Mutawassitah or Katheerah, she should discontinue her prayer and perform the duties of Istihadha Mutawassitah or Katheerah.

428. If the blood stops flowing in the midst of prayer, and the Mustahadhah does not know whether it has also stopped flowing internally or not, and realizes after completing her prayers that it had stopped flowing, she will have to perform her duties in terms of performing Wudhu or Ghusl and will have to offer her prayer again.

429. If a woman's state changes from Istihadha Katheerah to Mutawassitah, she should perform the acts of a Katheerah for her first prayer and the acts of a Mutawassitah for subsequent prayers. For example, if prior to Z'uhr prayer, her state changes from Istihadha Katheerah to Mutawassitah, she should perform Ghusl for Z'uhr prayer and Wudhu for A'sr, Maghrib and I'sha prayers. However, if she does not perform Ghusl for Z'uhr prayer, and only has enough time to offer A'sr prayer, she should perform Ghusl for A'sr prayer. If she does not do so, she should perform Ghusl for Maghrib prayer. If she fails to do that, and only has enough time to offer I'sha prayer, she should do so for her I'sha prayer.

430. If a Mustahadhah Katheerah stops bleeding for a period before every prayer and then bleeds again, if the interval is sufficient for performing Ghusl and offering prayer, she should perform Ghusl and offer prayer in that interval. If the interval is not sufficient for prayer in a purified state (with Ghusl), then the Ghusl that she had performed will suffice. If the interval is sufficient for Ghusl and offering a part of the prayer, obligatory precaution dictates that she perform Ghusl and offer her prayer in that interval.

431. If a woman's state changes from Istihadha Katheerah to Qaleelah, she must perform the duties of a Katheerah for her first prayer, and the duties of a Qaleelah for subsequent prayers. Similarly, if one's state changes from Istihadha Mutawassitah to Qaleelah, she should perform the duties of a Mutawassitah for her first prayer, and the duties of a Qaleelah for subsequent prayers.

432. Even if a Mustahadhah fails to perform one of the duties that are obligatory upon her, her prayer is invalid.

433. Precaution dictates that a Mustahadhah who has performed Ghusl or Wudhu for prayer is not permitted to allow any part of her body to touch the script of the Qur'an when she

is not compelled to do so. If however she is compelled, she may do so, but based on precaution she should perform Wudhu.

434. A Mustahadhah who has performed the Ghusl that is obligatory upon her, is permitted to go to the mosque, stay in it, recite a verse of the Qur'an that obligates a Sajdah, or have intercourse with her husband, even though she may not have performed some of the acts that she used to perform prior to praying, such as changing the cotton and pads. The stronger view is that these acts are also permissible without performing Ghusl, although the more precautionary measure is to avoid it.

435. If prior to the time of prayer, a woman in the state of Istihadha Katheerah or Mutawassitah wishes to recite a verse that obligates a Sajdah, or wants to go to the mosque, or her husband wants to have intercourse with her, the recommended precaution is that she should perform Ghusl.

436. The prayer for signs (Salat al-Ayat) is obligatory on a Mustahadhah, and to perform it, she should first perform all the duties that were mentioned for daily prayers. Precaution dictates that if she is in the state of Istihadha Katheerah, she should also perform Wudhu.

437. Whenever the prayer of signs becomes obligatory on a Mustahadhah during the time allocated for one of the daily prayers, she should perform the duties of a Mustahadhah separately for the daily prayer and the prayer for signs, even though she may want to pray one immediately after the other.

438. A Mustahadhah should delay praying her Qadha prayers until she is purified. If the time left for offering the Qadha prayers is nominal, for every Qadha prayer she should perform all the duties that are obligatory upon her for performing adaa prayers.

439. If a woman knows that the blood being discharged by her is not the blood from a wound, but does not have the rulings of Haydh or Nifas according to the sharia, then she should act according to the rulings of Istihadha. In fact, if she doubts whether it is the blood of Istihadha or another blood, and given that it does not have the signs of the other blood, based on obligatory precaution she should perform the duties of a Mustahadhah.

Chapter 15

Haydh

Haydh is the blood that is usually discharged from a woman's womb on a monthly basis for a few days. When a woman observes the blood of Haydh, she is known as a Haaidh.

440. The blood of Haydh is usually thick, warm, dark or red in colour, and is discharged with pressure and minor irritation.

441. A woman who completes sixty lunar years becomes a Ya'isah, and if she observes blood, it is not considered the blood of Haydh. The obligatory precaution is that upon completing fifty lunar years, and until completing sixty, she should combine the rulings of a Ya'isah and a nonYa'isah, be she a Qurashiyy or a non-Qurashiyy. Therefore, if she observes (blood with) the signs of Haydh during this interval, or observes blood during the days of her regular menses, the obligatory precaution is that she combine the prohibitions of a Haaidh and the obligations of a Mustahadhah.

442. The blood that is observed by a girl who has not completed nine lunar years is not the blood of Haydh.

443. It is possible for a pregnant woman or a woman who is breastfeeding to observe the blood of Haydh, and there is no difference in the rules of Haydh between a woman who is pregnant and one who is not. The obligatory precaution is that a pregnant woman who observes blood with the qualities of Haydh after twenty days have passed from the beginning of her (previous) menses, should combine the prohibitions of a Haaidh and the obligations of a Mustahadhah.

444. If a girl does not know whether she has completed nine lunar years or not, and she observes blood which does not have the signs of Haydh, then it does not count as the blood of Haydh. However, if it has the signs of Haydh, it is the blood of

Haydh, and she has completed nine years according to the sharia.

445. If a woman does not know whether she is a Ya'isah or not, and she observes blood for which she does not know whether it is the blood of Haydh or not, she should treat herself as a non-Ya'isah.

446. The period of Haydh cannot be less than three days, nor can it be more than ten days.

447. The first three days of Haydh must be consecutive. Therefore, if for example, she observes blood for two days, and it stops flowing for a day, and then she observes it again for another day, it is not Haydh. The recommended precaution is that in cases such as the aforementioned example, she should combine the prohibitions of a Haaidh with the obligations of a Mustahadhah.

448. At the onset of Haydh, the blood must flow out. However it is not necessary for the blood to flow out for all the three days: rather, it is sufficient for the blood to be internally present, though it will not be sufficient if it remains in the womb. Therefore, if a woman stops bleeding for a short period within those three days, in a manner that is common between women, it will still count as Haydh.

449. It is not necessary for a woman to observe blood on the first night, nor the fourth night. However, the blood should not cease to flow on the second and third night. Therefore, if the blood continuously flows starting from the azan of Fajr on the first day until the sunset of the third day, it undoubtedly is Haydh. It similarly is Haydh if it starts to flow at some point during the day on the first day, and stops at the same time of the day on the fourth day. However, if it starts at the sunrise of the first day, and stops at the sunset of the third day, the obligatory precaution is that she should combine the prohibitions of a Haaidh with the obligations of a Mustahadhah.

450. If a woman observes blood with the qualities of Haydh for three consecutive days, and it ceases to flow, and thereafter she observes blood with the qualities of Haydh once again, and the sum of the days that she was bleeding and the days that she was not is less than ten, then the days that she was not bleeding will also be counted as Haydh. The same will

apply if the blood is observed during the days that coincide with her regular menses.

451. If a woman observes blood that does not flow for less than three days or more than ten days, but cannot distinguish whether it is the blood from a wound or a boil, or the blood of Haydh, she should treat it as the blood of Haydh if it has the qualities of Haydh, or it is observed during the days that coincide with her regular menses. In cases other than these two, she should not treat it as Haydh if she knows that her previous state (prior to observing the blood) was Taharah (purity), or does not know her previous state. However, if she was previously in the state of Haydh, she should treat it as Haydh as long as it is canonically possible to treat the blood from her previous state, combined with the doubtful blood, as the blood of Haydh.

452. If a woman observes blood, and has yet to complete three days, but cannot distinguish whether it is the blood from a wound or a boil, or the blood of Haydh, and the blood does not contain the qualities of Haydh, nor does it coincide with her regular menses, she should treat it as Haydh if she was previously—as elaborated in the previous article—in the state of Haydh. If she wasn't, she should continue to perform her acts of worship.

453. If a woman observes blood, and doubts whether it is the blood of Haydh or Istihadha, she should treat it as Haydh if it fulfills the conditions of Haydh.

454. If a woman observes blood and cannot distinguish whether it is the blood of Haydh or blood from a broken hymen, she should either inspect herself, or act on precaution by combining the prohibitions of a Haaidh with the obligations of a woman who is purified. To inspect herself, she should insert a cotton ball in the vaginal area, leave it there for a short while and then remove it. If the blood only stains the sides of the cotton ball, it is the blood from the hymen, and if it covers its entire surface, it is the blood of Haydh.

455. If a woman bleeds for less than three days, after which she stops bleeding, and then bleeds again for three days which coincide with her regular menses, or her discharge has the qualities of Haydh, then the blood from her second discharge will be the blood of Haydh. As for the first discharge, it will not

be treated as Haydh even if it coincides with her regular menses.

The Rules of Haydh

456. The following things are forbidden for a Haaidh: a. Acts of worship which must be performed with Wudhu, Ghusl or Tayammum, like prayers. The prohibition with respect to these acts of worship implies that it is not permissible to perform them with the intention that it is an act commanded by the sharia or desired by it. However, it is permissible to perform the acts of worship which do not require Wudhu, Ghusl or Tayammum, like the prayer for the dead. b. All the acts which are forbidden for one in the state of Janabah, as elaborated in the section on the rules of Janabah. c. To engage in vaginal intercourse, regardless of whether the penetration is less than the point of circumcision or not, and whether ejaculation occurs or not. The prohibition applies to both the man the woman involved. Obligatory precaution dictates that one should also refrain from engaging in anal intercourse with a Haaidh. Other than intercourse, all other forms of pleasure, including kissing and foreplay, are permitted.

457. It is also forbidden to have intercourse with a woman who may not definitely be in the state of Haydh, but has to treat herself as such according to the sharia. Therefore, if a woman bleeds for more than ten days, and based on the rulings which will be elaborated later, has to determine her Haydh based on the menses of her relatives, her husband cannot have intercourse with her during those days.

458. If a man has intercourse with his wife while she is in the state of Haydh, based on recommended precaution, he should pay the weight of 18 chickpeas of coined gold as Kaffarah if it occurs in the first part of her Haydh. If it occurs in the second part, he should pay the weight of 9 chickpeas of coined gold, and if it occurs in the third part, he should pay the weight of 4.5 chickpeas of coined gold. For example, if a woman observes the blood of Haydh for six days, and her husband engages in intercourse with her on the night or day of the first or second day, he should pay the weight of 18 chickpeas of coined gold. If he has intercourse on the night or day of the third or fourth day, he should pay the weight of 9 chickpeas of coined gold, and on the night or day of the fifth or sixth day, the

weight of 4.5 chickpeas of coined gold. There is no Kaffarah due on the woman.

459. Based on recommended precaution, a man should pay Kaffarah—as elaborated in the previous article—for engaging in anal intercourse with a Haaidh.

460. If it is not possible to procure coined gold, a person should pay its value instead. If its value on the day he wishes to give it to a poor person differs from its value on the day he had intercourse, he should give Kaffarah based on its value on the day he wishes to give it to a poor person.

461. If a person has intercourse with his wife in the first, second and third part of her Haydh, based on recommended precaution, he should pay the sum of all three Kaffarahs, which is equivalent to 1.75 Mithqaal of gold coins.

462. If a person has intercourse multiple times with a Haaidh, the recommended precaution is that he should pay a Kaffarah for each time he had intercourse.

463. If a man realizes that the woman has become Haaidh while he is engaged in intercourse with her, he should pull out from her immediately. If he fails to do so, the recommended precaution is that he should pay the Kaffarah.

464. If a person commits adultery with a Haaidh, or has intercourse with a Haaidh who is not Mahram to him, mistaking her for his wife, the recommended precaution is that he should pay the Kaffarah.

465. The recommended precaution is that a person who cannot afford to pay the Kaffarah should give charity to a poor person. If he cannot afford even that, he should seek forgiveness.

466. If a person has intercourse with a Haaidh out of ignorance—given that he is an excusable ignorant—or out of forgetfulness, he does not have to pay the Kaffarah. To claim the same for a culpable ignorant is problematic.

467. If a person believes that a woman is in the state of Haydh, and has intercourse with her, but later finds out that she was not a Haaidh, he does not have to pay the Kaffarah.

468. Divorcing a woman who is in the state of Haydh—as it will be elaborated in the section on the rules of divorce—is invalid.

469. If a woman claims that she is in the state of Haydh, or is no longer in the state of Haydh, her claim should be accepted.

470. If a woman becomes a Haaidh in the midst of prayer, her prayer will be invalidated.

471. If a woman doubts in the midst of prayer whether she has become a Haaidh or not, her prayer is valid. If she realizes after the completion of prayer that she had in fact become a Haaidh in the midst of her prayer, her prayer will be invalid.

472. Once a woman is purified from the blood of Haydh, it is obligatory upon her to perform Ghusl for prayer, and all other rituals of worship which require Wudhu, Ghusl or Tayammum. The method of performing the Ghusl is like that of the Ghusl of Janabah. The recommended precaution is that she should also perform Wudhu prior to performing Ghusl.

473. Once a woman is purified from the blood of Haydh, divorcing her is valid, even if she has not performed her Ghusl. Her husband can also have intercourse with her. However, the obligatory precaution is that the vaginal area should be washed prior to intercourse. The recommended precaution is that the man should abstain from having intercourse with her prior to Ghusl, especially if he is not intensely longing for it. As for the other acts which were forbidden for her in the state of Haydh, like staying in a mosque or touching the script of the Qur'an, they do not become permissible for her until she performs Ghusl.

474. If the water is not sufficient for performing Ghusl and Wudhu, but is sufficient for performing Ghusl, one should perform Ghusl. The recommended precaution is that she should perform Tayammum in lieu of Wudhu. If the water is sufficient for Wudhu only, and not enough for Ghusl, she should perform Wudhu with it, and perform Tayammum in lieu of Ghusl. If there is no water available for either of them, she should perform two tayammums, one in lieu of Ghusl and the other in lieu of Wudhu.

475. There is no Qadha for the prayers that a woman did not offer whilst she was in the state of Haydh. The ruling for the prayer for signs will be mentioned in article 1514. She must however, fast the Qadha of the fasts of the month of Ramadhan. As for the fast which becomes obligatory due to a specific Nazr—meaning that she makes a Nazr to fast on a particular day—and that day coincides with her Haydh, obligatory precaution dictates that she should fast its Qadha.

476. Whenever the time for prayer sets in, and a woman knows that if she delays offering her prayer, she will become a Haaidh, she must offer her prayer immediately. Based on obligatory precaution, the same will apply if she speculates (that she will become a Haaidh).

477. If a woman delays offering prayer from its prime time, and a period of time elapses which is sufficient for offering one prayer which possesses (all) the conditions and is divested from the obstacles of its validity (in accordance to her own state), and thereafter she becomes a Haaidh, it will be obligatory on her to offer the Qadha of that prayer. Based on obligatory precaution, the same will apply if she has enough time to offer a prayer in the state of purity from Hadath (state of ritual impurity), albeit by performing Tayammum, even though she may not possess some of the other conditions, such as a covering or purity from khabath .

478. If a woman is purified from bleeding towards the end of the allocated time of prayer, and is afforded enough time to perform Ghusl and one Rak'ah of prayer or more, she should offer the prayer. If she fails to do so, she must offer its Qadha.

479. If a Haaidh does not have enough time to perform Ghusl after she becomes pure, but is able to offer prayer with Tayammum, the obligatory precaution is that she should offer the prayer with Tayammum. In the event that she fails to do so, its Qadha will not be obligatory on her. However, if her duty to perform Tayammum is due to another reason—for example, if the water is harmful for her—it is obligatory that she perform Tayammum and offer the prayer. In the event that she fails to do so, it is obligatory on her to offer the Qadha.

480. If a Haaidh doubts after becoming pure whether she has enough time to perform her prayer or not, she should perform it.

481. If she does not offer her prayer, thinking that she does not have enough time to perform the prerequisites of prayer and offer at least one Rak'ah of it, only to realize later on that she in fact did have enough time, she must offer its Qadha.

482. At the time of prayer, it is recommended for a Haaidh to make herself Tahir from the blood, change her cotton and pad, perform Wudhu, and be seated in a Tahir area facing the Qiblah, engaging herself in tasbeeh, tahleel and tahmeed for the

period it takes to offer the prayer. If she cannot perform Wudhu, she should perform Tayammum instead.

483. It is Makrooh for a Haaidh to dye herself with henna or any similar dye, or to cause any part of her body to touch the spaces between the script of the Qur'an. However there is no harm in carrying the Qur'an with herself, or reading from it.

Chapter 16

The Categories of Women in Haydh

484. Women in the state of Haydh are of six types:

1. A woman with the habit of time and duration: a woman who observes the blood of Haydh at a particular time (of the month) in two consecutive months, and the duration of her days of Haydh is the same in both months, such as a woman who observes blood from the first day of a month to the seventh day in two consecutive months.

2. A woman with the habit of time: a woman who observes the blood of Haydh at a particular time in two consecutive months, but the duration of her days of Haydh is not the same in both months, such as a woman who observes blood on the first day of the month in two consecutive months, but is purified from it on the seventh day in the first month and the eighth day in the second month.

3. A woman with the habit of duration: a woman whose duration of her days of Haydh is the same in two consecutive months. However, the blood is observed at different times (in the month), such as a woman who observes blood from the fifth day to the tenth day in the first month, and the seventh day to the twelfth day in the second month. To claim that a habit can be formed by observing blood twice for the same duration in one month is problematic, such as a woman who observes blood for five days starting from the first of the month, and ten days later observes blood for another five days.

4. A Mudhtaribah: a woman who has observed blood for a few months without forming a particular habit, or a woman whose habit has been broken and has not formed a new one.

5. A Mubtadi'ah: a woman who is observing blood for the first time.

6. A *Nasiyah*: A woman who has forgotten her habit. Each of these categories has a separate set of rules which will be elaborated in the subsequent articles.

1. A Woman with the Habit of Time and Duration

485. Women who have the habit of time and duration are of two types:

1. A woman who observes the blood of *Haydh* at a particular time (of the month) in two consecutive months, and is purified from it at a particular time as well. An example would be a woman who observes the blood of *Haydh* on the first day of the month and is purified from it on the seventh day, in two consecutive months, whereby causing her habit of *Haydh* to be from the first of the month to the seventh.

2. A woman who observes the blood of *Haydh* at a particular time in two consecutive months, and after observing blood for three or more days, she is purified from it for one or more days, and then observes blood once again, given the following two conditions:

1. The sum of the days she observes blood and the days that she is purified from it, does not exceed ten days

2. The sum of the days she observes blood and the days she is purified from it, is the same in both months. In this case her habitual duration will be the length of the days she observed blood and the days that she was purified from it. It is also not necessary for the interval of purity to be of the same duration in both months. An example of this would be a woman who observes blood from the first of the month to the third in the first month, and is then purified from it, and thereafter observes blood once again for three days. In the second month, she observes blood for three days, and is then purified from it for less than three days or more than it, and thereafter observes blood once again, and their sum equals nine days. In this case she will be a *Haaidh* for all the nine days, and her habitual duration will be nine days as well.

486. If a woman with the habit of time and duration observes blood at her habitual time, or a little before it—albeit to an extent that the common understanding would consider her menses to be early—she must act upon the rulings of a *Haaidh*

that were mentioned earlier, even if the blood does not possess the qualities of Haydh. If she later comes to realize that it was not Haydh—for example, if she is purified from it prior to completing three days—she should offer the Qadha of all the rituals of worship that she had not performed. The same will apply if it is delayed from the first day of her habit, but does not occur outside her habitual days. As for the blood that she observes outside her habitual days, and does not possess the qualities of Haydh, it will not be considered Haydh if it occurs two or more days after the end of her habitual days. If it occurs less than two days after her habitual days, obligatory precaution dictates that she combine the prohibitions of a Haaidh and the obligations of a Mustahadhah.

487. If a woman with the habit of time and duration observes blood for the entire duration of her habitual days, and a few days before it—albeit to an extent that the common understanding would consider her menses to be early or with the qualities of Haydh—and after it with the qualities of Haydh, and the sum of the days does not exceed ten, all of the blood will be Haydh. If it exceeds ten days, then only the blood observed during her habitual days will be Haydh, and the blood observed before it and after it is Istihadha. She must also offer the Qadha of the rituals of worship that she did not perform during the days preceding her habitual days, and the days after it. If she observes blood during her habitual days, and a few days before it—albeit to an extent that the common understanding would consider her menses to be early or with the qualities of Haydh—and the sum of the days does not exceed ten, then all of it is Haydh. If it exceeds ten days, it is Haydh only during her habitual days, and the blood observed prior to it will be Istihadha. If she had not performed her rituals of worship during those days, she should offer their Qadha. If she observes blood during her habitual days, and a few days after it with the qualities of Haydh, and the sum of the days does not exceed ten, then all of it is Haydh. If the blood does not possess the qualities of Haydh during the days following her habitual days, obligatory precaution dictates that she combine the prohibitions of a Haaidh and the obligations of a Mustahadhah during those days. If the sum of the days exceeds ten, it will be Haydh during her habitual days and Istihadha during the rest.

488. If a woman with the habit of time and duration observes blood during a part of her habitual days, along with a few days prior to it—albeit to an extent that the common understanding would consider her menses to be early, or if it possesses the qualities of Haydh—and the sum of the days does not exceed ten, then all of it is Haydh. If it exceeds ten days, then it is Haydh for the days she observed blood during her habitual days, in addition to a few days prior to it—albeit to an extent that the common understanding would consider her menses to be early, or if it possesses the qualities of Haydh—for as long as the sum of the days is equivalent to her habitual days. In the days preceding it, it will be Istihadha. If she observes blood during a part of her habitual days, along with a few days after it, and the sum of the days does not exceed ten, all of it will be Haydh, provided the blood observed after the habitual days possesses the qualities of Haydh. If it does not possess the qualities of Haydh, she should consider it to be Haydh for the length of (the days she observed blood during) her habitual days and the days following it for as long as their sum is equivalent to her habitual days. From the days that exceed this sum until the tenth day, obligatory precaution dictates that she combine the prohibitions of a Haaidh and the obligations of a Mustahadhah. If it exceeds ten days, she should consider it as Haydh for the length of her habitual days, and Istihadha for the rest.

489. If a woman with a habit (in her menses) observes blood for three days or more, and is then purified from it, and then observes blood once again, and the days between the two discharges is less than ten, whilst the sum of all the days that she observed blood and the days that she was purified is more than ten—for example, after observing blood for five days, she is purified for five days, and observes blood once again for another five days—then such a case can take on the following forms:

a. All the blood that was observed during the first discharge occurs during her habitual days, and the second discharge, which was observed after she was purified, does not occur during her habitual days, in which case she must consider all of the first discharge as Haydh and the second discharge as Istihadha. The same will apply if she observes a part of the discharge during her habitual days and a part of it before

it—albeit to an extent that the common understanding would consider her menses to be early—or if it possesses the qualities of Haydh, be it before her habitual days or after it.

b. The first discharge does not occur during her habitual days, whilst the entire second discharge or a part of it, as elaborated in the previous case, occurs during her habitual days, in which case she must consider all of the second discharge as Haydh and all of the first as Istihadha.

c. A portion of the first and second discharge occurs during the habitual days, and the portion of the first discharge that was observed during the habitual days is not less than three days, in which case all the blood will be Haydh as long as the sum of that portion, and the days that she was purified between the two, and the part of the second discharge which occurred during her habitual days does not exceed ten days. The portion of her first discharge which occurred prior to her habitual days, and the portion of the second discharge which occurred after her habitual discharge, will be considered as Istihadha. For example, if her habitual days were from the third to the tenth of the month, and she observes blood from the first to the sixth in a particular month, after which she is purified from it for two days and then observes blood until the fifteenth, it will be Haydh from the third to the tenth. On the first and the second day, as well as the eleventh to the fifteenth, it will be Istihadha.

d. A portion of the first and second discharge occurs during the habitual days, however the portion of the first discharge which occurs during her habitual days is less than three days, in which case she must combine the prohibitions of a Haaidh and the obligations of a Mustahadhah during both discharges. During the interval of purity, she should combine the prohibitions of a Haaidh and the obligations of a woman who is pure from bleeding.

490. If a woman with the habit of time and duration does not observe blood during her habitual days, but observes blood during days other than it for the length of her days of Haydh, in the event that it possesses the qualities of Haydh, she should consider it as Haydh.

491. If a woman with the habit of time and duration observes blood at her habitual time, and it is not for less than three

days, however its duration is more or less than her (usual) habit, and then she is purified from bleeding, only to observe blood once again for the duration of her habitual days, possessing the qualities of Haydh, she should consider all of it as Haydh as long as the sum of the days of both discharges and the interval of purity in between does not exceed ten days. If it does exceed ten days, she should consider the blood observed during her habitual days as Haydh and the other blood as Istihadha.

492. If a woman with the habit of time and duration observes blood for more than ten days, the blood that she observed in her habitual days will be Haydh, even if it does not possess the qualities of Haydh. The blood observed after her habitual days will be Istihadha, even if it possesses the qualities of Haydh. For example, if a woman whose habit of Haydh is from the first to the seventh of the month, observes blood from the first of the month to the twelfth, during the first seven days it will be Haydh and during the following five days it will be Istihadha.

2. A Woman with the Habit of Time

493. Women with the habit of time are of two types:

1. A woman who observes the blood of Haydh (starting) at a particular date in two consecutive months, and after a few days she is purified from it. However the duration of her Haydh is not the same in both months. An example of this would be a woman who observes blood on the first day of the month in two consecutive months. However she is purified from it on the seventh day in the first month and on the eighth day in the second month. Such a woman should consider the first day of the month as her habitual time for Haydh.

2. A woman who observes the blood of Haydh for three or more days (starting) at a particular time in two consecutive months, and is then purified from it. She then observes blood once again and the sum of all the days she observes blood along with the interval of purity does not exceed ten days, provided that the sum in the second month is more or less than the first month. For example, the sum of the days is eight days in the first month and nine days in the second month. Such a

woman should also consider the first day of the month as her habitual time for Haydh.

494. If a woman with the habit of time observes blood on her habitual date, or a little before it—albeit to an extent that the common understanding would consider her menses to be early—or a little after her habitual date—albeit to an extent that the common understanding would consider her menses to be late—she should act according to the rulings that were mentioned for a Haaidh, even if the blood does not possess the qualities of Haydh. If she later realizes that it was not Haydh—for example, she is purified from the bleeding before completing three days—she should offer the Qadha of the rituals of worship that she had not performed.

495. If a woman with the habit of time observes blood for more than ten days, and is unable to distinguish Haydh from its qualities, she should consider the habitual duration of her relatives as her duration of Haydh, be they paternal or maternal, dead or alive. Obligatory precaution dictates that if their habitual duration is not six or seven days, she should combine the prohibitions of a Haaidh with the obligations of a Mustahadhah during the difference between their days and six or seven days. However, she can only consider their habitual duration to be her own if all of their durations are the same. If their durations are not the same—for example, some have a habitual duration of five days and some seven days—she cannot consider their habit to be her own in Haydh.

496. A woman with the habit of time who considers the habitual duration of her relatives to be her own, should consider the day which marks the beginning of her habit every month as the beginning of her Haydh. For example, a woman who used to observe blood on the first day of the month, and would be purified from it sometimes on the seventh and sometimes on the eighth; if she observes blood for twelve days in one month, and the habitual duration of her relatives is seven days, she should consider it as Haydh during the first seven days of the month and Istihadha during the rest.

497. If a woman who must consider the habitual duration of her relatives to be her own, does not have any relatives, or if they do not share a similar duration, obligatory precaution dictates that every month she should consider the first day she

observes blood to the sixth or seventh day as Haydh, and the rest as Istihadha.

3. A woman with the habit of duration

498. Women with the habit of duration are of two types:

1. A woman whose duration of her days of Haydh is the same in two consecutive months, but the time (of the month) she observes blood is not the same. In this case, the number of days she observes blood will be her habitual duration. For example, if she observes the blood of Haydh from the first day to the fifth day in the first month, and from the eleventh day to the fifteenth day in the second month, her habitual duration will be five days.

2. A woman who observes the blood of Haydh for three or more days in two consecutive months, and is purified from it for one or more days, and then observes blood once again, provided the time she observes blood in the first month is different from the second month. In such a case, if the sum of all the days she observed blood and the days that she was purified does not exceed ten days, and it is the same in both the months, then all the days she observed blood and the interval of purity in between will be considered as her habitual duration of Haydh. It is also not necessary for the days that she was purified between the two discharges to be of the same duration in both the months. For example, she observes blood from the first to the third in the first month, and is purified for two days, and then observes blood once again for three days. In the second month she observes blood from the eleventh to the thirteenth, and is purified from it for two days or more, or less, and then observes blood once again, and the sum of all the days is eight, her habitual duration is eight days. Another example would be that she observes blood for eight days in one month, and in the second month for four days, after which she is purified, and then observes blood once again, and the sum of all the days of her discharge and the interval of purity is eight days. In this case, her habitual duration will be eight days.

499. If a woman with the habit of duration observes blood with the qualities of Haydh for a duration that is longer or shorter than her habitual duration, but it does not exceed ten

days, she should consider all of it as Haydh. If it exceeds ten days, and all of it possesses the qualities of Haydh, she should consider it as Haydh for the length of her habitual duration, starting from the (first) day she observed blood. She should consider the rest as Istihadha. However, sometimes all the observed blood is not of uniform quality, in that it possesses the qualities of Haydh during some of the days, and the qualities of Istihadha during others. In such a case, if the duration of the days the blood possesses the qualities of Haydh coincides with the duration of her habitual days, she should consider it as Haydh during those days, and Istihadha during the rest. If however, the days in which the blood possesses the qualities of Haydh are more than her habitual days, she should consider it as Haydh for the length of her habitual days. As for the exceeding days in which the blood possesses the qualities of Haydh, but does not surpass ten days, obligatory precaution dictates that she combine the prohibitions of a Haaidh with the obligations of a Mustahadhah during those days. If the days in which the blood possesses the qualities of Haydh is not less than three, but it is less than her habitual days, she should consider it to be Haydh during those days. As for the exceeding days, up until the length of her habitual duration, obligatory precaution dictates that she combine the prohibitions of a Haaidh with the obligations of a Mustahadhah during those days.

4. A Mudhtaribah

500. If a Mudhtaribah—a woman who has observed blood in a few months, but has yet to develop a regular habit, or a woman whose habit was broken, and has not yet developed a new habit—observes blood for more than ten days, and all of it possesses the qualities of Haydh, she should consider it as Haydh for six to seven days, if that is the habitual duration of her relatives. She should consider the rest as Istihadha. If it is lesser—for example, five days—then she should consider it as Haydh during those days, and obligatory precaution dictates that for the days in which their habitual duration differs from six or seven days—which is a day or two—she should refrain from the acts which are forbidden on a Haaidh and should perform the acts which are obligatory on a Mustahadhah. If

however, the habitual duration of her relatives is more than seven days—for example, nine days—she should consider it to be Haydh for six or seven days. Obligatory precaution dictates that for the days between the habitual duration of her relatives and six or seven days—which is two or three days—she should refrain from the acts which are prohibited on a Haaidh and perform the acts which are obligatory on a Mustahadhah.

501. If a Mudhtaribah observes blood for more than ten days, which possesses the qualities of Haydh on some days and Istihadha on others, then the blood possessing the qualities of Haydh will all be considered as Haydh if it is not discharged for less than three days or more than ten days. If it is not possible to consider all of the blood that possesses the qualities of Haydh as Haydh—for example, she observes blood with the qualities of Haydh for five days, and Istihadha for five days, and Haydh once again for another five days—then if it is possible to consider each of the discharges with the qualities of Haydh as Haydh—in that each of them is not less than three days or more than ten days—she should combine the prohibitions of a Haaidh and the obligations of a Mustahadhah in both the discharges. As for the discharge between the two, which does not possess the qualities of Haydh, she should consider it as Mustahadhah. If it is only possible to consider one of the discharges as Haydh, then she should consider it as Haydh, and the rest as Istihadha.

5. A Mubtadi'ah

502. If a Mubtadi'ah—a woman who is observing blood for the first time—observes blood for more than ten days, and all of it possesses the qualities of Haydh, she should consider the habitual duration of her relatives as (the duration of) her Haydh, and the rest as Istihadha. If she does not have any relatives, or her relatives have varying habits, obligatory precaution dictates that she consider the first three days as Haydh. She should then combine the prohibitions of a Haaidh and the obligations of a Mustahadhah in the first month until the tenth day, and in subsequent months until the sixth or seventh day.

503. If a Mubtadi'ah observes blood for more than ten days, some of which possesses the qualities of Haydh and some the

qualities of Istihadha, and the blood with the qualities of Haydh is not discharged for less than three days or more than ten days, then all of it (with the qualities of Haydh) is Haydh. However, if she observes blood with the qualities of Haydh once again, before ten days have passed after the first discharge with the qualities of Haydh—for example, she observes dark blood for five days, followed by yellow blood for nine days, and then dark blood once again for five days—she should consider the middle discharge as Istihadha. As for the first and third discharge, she should act on precaution by combining the prohibitions of a Haaidh with the obligations of a Mustahadhah.

504. If a Muftadi'ah observes blood for more than ten days, some of which possesses the qualities of Haydh and some the qualities of Istihadha, but the blood with the qualities of Haydh is discharged for less than three days, then all the observed blood is Istihadha.

6. A Nasiyah

505. A Nasiyah can be of three types:

1. A woman who only had a habit of duration and has forgotten it. In this case, if she observes blood with the qualities of Haydh for not less than three days or not more than ten days, she should consider all of it as Haydh. If it is for more than ten days, she should consider it as Haydh for as long as she entertains the possibility that it is Haydh. If the (assumed) duration is less than six days, or more than seven days, she should combine the prohibitions of a Haaidh with the obligations of a Mustahadhah during the difference between the duration and six or seven days, a choice which is hers to make.

2. A woman who only had a habit of time and has forgotten it. In this case, if she observes blood with the qualities of Haydh, and it is not for less than three days or more than ten days, all of it will be Haydh. If the discharge is for more than ten days, and she knows that some of it coincides with her habitual days, she should combine the prohibitions of a Haaidh with the obligations of a Mustahadhah for the entire length of the discharge, even though all of the discharge or a part of it may not possess the qualities of Haydh. The same will apply if

she does not know, but entertains the possibility that it may coincide with her habitual days. If she does not entertain this possibility, and some of the blood possesses the qualities of Haydh and some of it Istihadha, and the blood with the qualities of Haydh is not discharged for less than three days or more than ten days, it will be considered Haydh and the rest Istihadha. If all of the blood possesses the qualities of Haydh, or the part which possesses the qualities of Haydh exceeds ten days, she should treat it as Haydh for six or seven days, and Istihadha for the rest.

3. A woman with the habit of time and duration. This too can take on three forms:

a. She has only forgotten her habitual time. Her responsibility is the same as the one elaborated in no. 2 above, unless the blood possesses the qualities (of Haydh) and she knows that it does not coincide with her habitual days, and it exceeds ten days. In this case, if her habitual duration is six or seven days, she should treat it as Haydh for that duration. However, if her habitual duration is more or less than that, obligatory precaution dictates that she combine the prohibitions of a Haaidh with the obligations of a Mustahadhah during the difference between that duration and six or seven days, a choice which is hers to make. She should treat it as Istihadha for the rest of the days. b. She has only forgotten her habitual duration. In this case, the blood she observes starting from the habitual time for a period she is certain is not less than her habitual duration, will be considered Haydh. As for the days exceeding this duration, if the blood possesses the qualities of Haydh, and along with the aforementioned duration does not exceed ten days, all of it will be considered Haydh. If it does exceed ten days, and the durations she conjures is the length of her habitual duration is less than six days, she should consider it as Haydh for that duration, and until the sixth or seventh day—a choice that is hers to make—she should combine between the prohibitions of a Haaidh and the obligations of a Mustahadhah. If the (probable) duration is more than seven days, it will be Haydh until the sixth or seventh day—a choice that is hers to make—and from the day of her choice (sixth or seventh) to the (probable) duration, which does not exceed ten days, she should observe the same precaution. c. She has forgotten her

habitual duration and habitual time. In this case, if the observed blood possesses the qualities (of Haydh), and is not discharged for less than three days or more than ten days, all of it is Haydh. If it does exceed ten days, and she knows that it does not coincide with her habitual days, and she conjures her habitual duration to be six or seven days, she should consider it as Haydh and the rest as Istihadha. If the (probable) duration is less than six days, she should consider it as Haydh for that duration, and until the sixth or seventh day—a choice that is hers to make—the obligatory precaution is to observe the responsibilities of a Haaidh and a Mustahadhah. If the (probable) duration is more than seven days, it is Haydh until the sixth or seventh day—a choice that is hers to make—and from the day of her choice (sixth or seventh) to the (probable) duration, which does not exceed ten days, the same precaution should be observed.

If the quality of the blood varies, some possessing the qualities of Haydh and some of Istihadha, the blood possessing the qualities of Haydh will be Haydh if it is not discharged for less than three days or more than ten days. As for the blood that was observed with the qualities of Istihadha, if she knows that it does not coincide with her habitual days, it is Istihadha. If she entertains the possibility that it coincides with her habitual days, she must act on precaution by observing the responsibilities of Haydh and Istihadha.

Miscellaneous Rulings on Haydh

506. If a Mubtadi'ah, a Mudhtaribah, a Nasiyah, or a woman who has the habit of duration observes blood with the qualities of Haydh, she should not perform the rituals of worship. If she later realizes that it was not Haydh, she must offer the Qadha of the rituals that she did not perform. However, if they observe blood that does not possess the qualities of Haydh, they must continue to perform the rituals of worship, except for a Nasiyah who attains certainty in the occurrence of her menses. She must not perform the rituals of worship for as long as she deems it probable that she is in her menses.

507. If a woman with a habit in her Haydh—be it a habit of time, a habit of duration or a habit of time and duration—observes blood in two consecutive months that is contrary to her (regular) habit, whose time, number of days, or time and number of days is the same, her habit will revert to what she has observed in these two months. For example, if she used to observe blood from the first of the month to the seventh, and would then be purified, and thereafter observes blood in two consecutive months from the tenth to the seventeenth, and is then purified, her habit will be from the tenth to the seventeenth.

508. The “passage of one month” refers to the passage of thirty days from the first day that the blood is observed, and not from the first day of the month to the last day.

509. If a woman, who usually observes blood once a month, observes blood twice in a particular month, and both the discharges possess the qualities of Haydh, she should consider both of them as Haydh as long the interval of purity between the two discharges is not less than ten days.

510. If a woman observes blood with the qualities of Haydh for three days or more, and then observes blood with the qualities of Istihadha for ten days or more, and once again observes blood with the qualities of Haydh for three days, she should treat the first and the last discharge which possessed the qualities of Haydh as Haydh.

511. If a woman is purified before (the completion of) ten days, and also knows that no blood is left internally, she should

perform Ghusl for her rituals of worship, even though she may speculate that she will observe blood once again prior to the completion of ten days. However, if she is certain that she will observe blood once again prior to the completion of ten days, she should not perform Ghusl.

512. If a woman is purified (from bleeding) prior to (the completion of) ten days, and entertains the possibility that blood may be present internally, she must observe precaution, or insert a piece of cotton in the vaginal area, wait for a short while and then remove it. The recommended precaution is that she should perform this whilst standing, with her stomach touching a wall, and one her legs raised on the wall. If it is clean, she should perform her Ghusl and her rituals of worship. If it is not clean—even if it be stained with a yellowish liquid—she should wait, provided she does not have a habit in her Haydh or if her habit is ten days. Then, if she is purified prior to the completion of ten days, she should perform her Ghusl (right away), and if she is purified on the tenth day, or bleeds in excess of ten days, she should perform her Ghusl on the tenth day. If her habitual duration is less than ten days, and she knows that she will be purified prior to the completion of ten days, or on the tenth day, she should not perform Ghusl. If she deems it probable that her bleeding will exceed ten days, it is obligatory on her to refrain from performing her rituals of worship. After that she can perform the duties of a Mustahadhah. The recommended precaution is that she combines the prohibitions of a Haaidh with the obligations of a Mustahadhah until the tenth days. This ruling is specific to a woman who was not bleeding continuously prior to her habit. If she has been, she should consider it as Haydh during her habitual days, and Istihadha during the rest.

513. If she considers it as Haydh during some days, and does not perform her rituals of worship, only to realize later on that it was not Haydh, she must offer the Qadha of the prayers and fasts that she did not perform during those days. If she assumes that it is not Haydh and performs the rituals of worship, and later realizes that it was Haydh, she must offer the Qadha of her fasts even if she had fasted during those days.

Chapter 17

Nifas

514. If the blood that a mother observes after childbirth—due to the delivery itself—ceases to flow prior to ten days, or on the tenth day, it is the blood of Nifas. The same will apply to the blood that is discharged upon the delivery of the first parts of the baby, based on obligatory precaution. A woman who is in the state of Nifas is called a nufasa'a.

515. The blood that a woman observes prior to the appearance of the first parts of a baby is not Nifas.

516. It is not necessary for the baby to be completely formed; rather, even if it is incomplete— provided the common understanding is that she has given birth—the blood that she observes until ten days is Nifas. If there is a doubt whether the common understanding considers it as giving birth, the blood will not be subject to the rulings of Nifas.

517. It is possible that the blood of Nifas may not be discharged for more than a mere moment. However, it does not exceed more than ten days.

518. If a woman ever doubts if she has miscarried something or not, or if that which was miscarried was a baby or not, it is not necessary for her to investigate. Additionally, the discharged blood is canonically not the blood of Nifas, albeit the recommended precaution is that she investigates.

519. It is forbidden for a nufasa'a to cause a part of her body to touch the script of the Qur'an, the blessed name of the Lord's essence, and all of His other beautiful names. The rest of the acts which are forbidden for a Haaidh are also forbidden for her, based on obligatory precaution, and that which is obligatory on a Haaidh is also obligatory on her.

520. The divorce of a nufasa'a is void, and it is forbidden to have intercourse with her. However, if her husband engages in intercourse with her, he does not have to pay a Kaffarah.

521. Once a woman is purified from the blood of Nifas, in a manner that blood is not even present internally, she should perform Ghusl and her rituals of worship. If she observes blood again, and sum of all the days she observed blood along with the interval of purity in between, does not exceed ten days, she will consider both discharges along with the interval of purity to be Nifas if she had a habit in her Haydh, and the interval of purity fell between two discharges which occurred during her habit. For example, if her habitual duration was six days, and she was purified for two days in between the six days, then it will be Nifas in all the six days. Otherwise, it will be Nifas during the days which she observed blood. As for the days in which she was purified, obligatory precaution dictates that she combine the prohibitions of a Haaidh with the obligations of a woman who is purified.

522. If a woman is purified from the blood of Nifas, but entertains the possibility that blood may be present internally, obligatory precaution dictates that she insert a piece of cotton and wait for a short while. If the cotton is clean, she should perform Ghusl for her rituals of worship.

523. If the blood of Nifas exceeds ten days, and she has a habit in her Haydh, she should consider it as Nifas for the length of her habitual duration, and the rest as Istihadha. If she does not have a habit, she should consider it as Nifas until day ten, and the rest as Istihadha. The recommended precaution is that the one who has a habit should refrain from the acts which are forbidden on a nufasa'a, and perform the acts which are obligatory on a Mustahadhah, from the day after her habitual duration to the eighteenth day after childbirth. The same will apply to a woman without a habit, from the day after the tenth day to the eighteenth day after child birth.

524. If a woman whose habitual duration is less than ten days, observes blood for more than her habit, she should treat it as Nifas for the length of her habit. Obligatory precaution dictates that she refrains from performing the rituals of worship for one day after her habitual duration. For the rest of the days, until the tenth day, she is free to choose between

applying the rules of a Mustahadhah and refraining from performing the rituals of worship. If the blood exceeds ten days, she should consider the days after her habitual duration as Istihadha, and offer the Qadha of all the acts that she did not perform during that period. For example, if a woman who had a habitual duration of six days, observes blood for more than six days, she should consider it as Nifas for six days, and on the seventh day, she should refrain from performing her rituals of worship based on obligatory precaution. On the eighth, ninth and tenth day, she is free to choose between refraining to perform her rituals of worship, and performing the duties of a Mustahadhah. If she observes blood for more than ten days, it is Istihadha for the days after her habitual duration.

525. If a woman who has a habit in her Haydh observes blood continuously for one month after childbirth, it will be Nifas for the length of her habitual duration. As for the blood that she observes after Nifas until ten days (after Nifas), it is Istihadha even if it be during her habitual days. For example, if a woman whose habit of Haydh is from the twentieth to the twenty seventh of every month, gives birth on the tenth day of the month, and observes blood continuously for a month, it will be Nifas until the seventeenth day. From the seventeenth day until another ten days—including the blood that is observed during her habitual days, which were from the twentieth to the twenty seventh—it will be Istihadha. After the passage of ten days, if the blood she observes is during habitual days, it will be Haydh, regardless of whether it possesses the qualities of Haydh or not. The same will apply if it does not occur during her habitual days, but possesses the qualities of Haydh. However, if the discharge is neither during her habitual days, nor does it possess the qualities of Haydh, it will be Istihadha.

526. If a woman who does not have a habitual duration (in her Haydh) observes blood continuously for a month after childbirth, the first ten days of it will be Nifas, and the second ten days will be Istihadha. As for the blood that is observed after it, if it possesses the qualities of Haydh, or is observed during her habitual time, it is Haydh, and if not, it too is Istihadha.

Chapter 18

The Ghusl for Touching a Dead Body

527. If a person touches the dead body of a human being—by causing a part of his body to come in contact with—which has gone cold, and has not been given Ghusl, he has to perform the Ghusl for touching a dead body, regardless of whether he touches it while sleeping or while awake, volitionally or non-volitionally. In fact, even if his nails or bones come in contact with the nails or bones of the dead body, he will have to perform Ghusl. However, if he touches the carcass of a dead animal, Ghusl will not be obligatory on him.

528. It is not obligatory to perform Ghusl for touching a dead body that has not entirely gone cold, even if one touches a part which is cold.

529. If one causes his own hair to come in contact with the body of a dead person, or causes his body to come in contact with the dead person's hair, or his own hair to come in contact with the dead person's hair, and the hair is such that it is considered to be a part of the body, based on obligatory precaution, he will have to perform Ghusl.

530. It is obligatory to perform Ghusl for having touched the body of a dead child or an aborted fetus that is at least of four months. However, it is not obligatory to perform Ghusl for having touched an aborted fetus that is less than four months, unless life has been breathed into it. Hence, if a fetus of four months is stillborn, and its body goes cold, if it comes in contact with outer part of its mother's body, she will have to perform the Ghusl for touching a dead body.

531. If a baby is born after the death of its mother, and comes in contact with its mother's body after it has gone cold,

it will be obligatory on him (or her) to perform the Ghusl for touching a dead body after he becomes Baligh.

532. If a person touches a dead body on which all the three ghusls have been performed, he will not have to perform the Ghusl for touching a dead body. However, if he touches the dead body prior to the completion of the third Ghusl, he will have to perform the Ghusl for touching a dead body even if the part he touched has already been washed in the third Ghusl.

533. If an insane person or a non-Baligh child touches a dead body, the Ghusl for touching a dead body will become obligatory on the insane person upon becoming sane, and on the child upon becoming Baligh. In addition, if a discerning child performs the Ghusl for touching a dead body, his Ghusl will be valid.

534. If a part that contains a bone is separated from a dead body which has not been given Ghusl, and a person touches that part before it is given Ghusl, based on precaution he will have to perform the Ghusl for touching a dead body. However, if the severed part does not contain a bone, performing Ghusl will not be obligatory. If however, a part is separated from the body whilst it is alive, touching it will not necessitate a Ghusl, even if the part contains a bone.

535. It is not obligatory to perform Ghusl for having touched a bone which does not contain any flesh, and has not been given Ghusl either, irrespective of whether it was separated from a person's body while he was alive or after his death. The same ruling applies to touching a tooth that has been removed from a person, irrespective of whether he was dead or alive.

536. The Ghusl for touching a dead body should be performed like the Ghusl of Janabah is performed, and if a person who has performed this Ghusl wishes to offer prayers, he does not have to perform Wudhu, albeit the recommended precaution is that he should do so. 537. If a person touches a number of dead bodies or touches a dead body a number of times, it will be sufficient for him to perform one Ghusl.

538. There is no harm if a person who has not performed Ghusl after having touched a dead body, halts or stays in a mosque, engages in sexual intercourse or recites the Surahs that contain the verses for which Sajdah is obligatory. However, he must perform Ghusl for prayers and similar acts.

Chapter 19

The Rules Relating to a Dying Person

539. Obligatory precaution dictates that a Muslim who is dying—one who is about to give his life—should be made to sleep on his back if possible, in a manner that the sole of his feet face the Qiblah, be the Muslim a man or a woman, young or old. If for any reason it is not possible to make him sleep exactly in this manner, the recommended precaution is that they should act according to these instructions as closely as possible. Similarly, if it is not possible to make him lie down in any possible manner, the recommended precaution is to make him sit facing the Qiblah. If this not be possible either, he should be made to sleep on his right or left side with his body facing the Qiblah.

540. The obligatory precaution is that as long as the body has not been taken away, it should be laid facing the Qiblah. Recommended precaution dictates that the same be done during Ghusl. However, once the ghusls are completed, it is recommended to lay it in the same manner as it is laid for offering prayers on it.

541. Based on precaution, it is obligatory upon every Muslim to make a dying person face the Qiblah (in the manner described above). If possible, he should seek permission from the dying person himself. If it is not possible, or if the permission of the dying person is not legally valid, based on precaution he should seek permission from the dying person's guardian.

542. It is recommended to instruct the Shahadatayn, the belief in the twelve Imams (Peace be upon them) and the rest of the doctrinal truths to a dying person in a manner that he understands. In fact, it is recommended to repeat the

aforementioned beliefs to him until he dies. It is also recommended to instruct Dua al-Faraj to the dying person.

543. It is recommended that the following supplication be instructed to a dying person in a manner that he understands: ??
?? ?? ??? ? ?? ?? ?? ?? ??? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ?
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O Allah, forgive me the much (that I have committed) of your sins, And accept from me the little (that I have performed) of your obedience, O the one who accepts the little and forgives the much, Accept from me what is little and forgive me the much, Surely you are the all-Excusing, the all-Forgiving. O Allah have mercy on me, for surely you are all Merciful.

Allahhummagfir liyal kathira mim ma'asika waqbal minniyal yasira min ta'atika ya mayyaqbalul yasira wa ya'fu 'anil katheer, iqbal minniyal yasira wa'fu 'anniyal katheer. Innaka antal 'afuwwul ghafur. Allahummar hamni fa innaka Raheem.

544. If a dying person is experiencing the throes of death, it is recommended to place him in the area where he used to pray, provided it does not cause him discomfort.

545. It is recommended to recite the following selections from the Qur'an at the bedside of a dying person: Yasin, al-Safaat and al-Ahzab, Ayat al-Kursi, and the last three verses of Surah al-Baqarah. In fact, one should recite whatever he can from the Qur'an for the dying person.

546. It is Makrooh (reprehensible) to leave a dying person alone, to place something over his stomach, to talk excessively or to cry in his presence, and to leave womenfolk alone with him. It is also Makrooh for someone in the state of Janabah or Haydh to be in his presence.

The Rulings Relating to a Dying Person After His Death

547. It is recommended to close the eyes and lips, and tie the chin of a person after his death. It is also recommended to straighten his hands and legs and to place a cloth over his body. Believers should be informed of his death so that they may attend his funeral. If he dies at night, the area in which the body is placed should be lighted. It is also recommended to hasten his burial. However, if his death is not certain, the believers should wait until it becomes known to them. If the deceased is a pregnant woman, and the baby in her womb is alive, the burial should be delayed for a period that allows for the baby to be delivered from the womb through a caesarean section. The stomach should then be stitched prior to giving Ghushl to the body. It is better to deliver the baby by making the incision on the left side of the mother.

The Rules of Ghusl, Shrouding, Prayers and Burial

548. The Ghusl, Hunoot, shrouding, prayer and burial of a deceased believer is obligatory upon every Muslim. If some of the Muslims undertake these tasks, others will be relieved of it. However, if no one undertakes the responsibility, all of them will have sinned.

549. If a person engages himself in performing the rites for a dead person, it is not obligatory upon others to proceed towards the same. However, if the person does not complete the rites, others should do so.

550. If a person attains certainty that others are engaged in performing the rites of a dead person, or obtains a proof authorized by the sharia to that effect, it will not be obligatory upon him to proceed towards it. However if he is doubtful of it, or speculates that they may be engaged in it, it will be obligatory for him to proceed towards fulfilling the rites.

551. If a person knows that the Ghusl, Hunoot, shrouding, prayers or burial of a deceased was performed incorrectly, he should perform it again. However if he speculates that it was invalid, or doubts whether it was performed incorrectly or not, it will not be necessary for him to perform it again.

552. The permission of the guardian of the deceased must be sought for performing the Ghusl, Hunoot, shrouding, prayer and burial for the deceased.

553. The guardian of a woman is her husband. As for others, the men who inherit from the deceased have precedence over the women, and precedence is subject to their precedence in inheritance. In the event that one who is closer in blood-relationship and one who has precedence in inheritance are both present—for example, if the paternal grandfather of the deceased and the son of the deceased's grandson are both present—the obligatory precaution is that the one who has precedence in inheritance should take the permission of the one who is closer in bloodrelationship.

554. If a person claims to be the guardian of a dead person, his claim should be accepted if one attains satisfaction in it, or if the corpse is in his possession. It should also be accepted if

two just persons attest to his claim, or even if one trustworthy person attests to his claim, provided that there is no strong reason to assume otherwise. The same will apply if a person claims that the guardian has permitted him to perform the Ghusl, shrouding and burial of the dead person, or claims to be the appointed executor of the deceased in the matter of the his final rites.

555. If the dead person appoints a person other than his guardian to perform his Ghusl, shrouding, prayer and burial, then the authority will lie with the appointed person in these matters. The recommended precaution is that he should also seek the permission from the guardian. The person who is appointed by another to undertake the responsibility of his final rites, can refuse the responsibility while the testator is alive. If he accepts it though, he should act according to it. If however he does not refuse to undertake it while the testator is alive, or if his refusal is not conveyed to him, the obligatory precaution is that the appointee should act according to it.

How to Perform the Ghusl for a Dead Body

556. It is obligatory to give the following three ghusls to a dead body: a. Ghusl with water which is mixed with lotus leaves (sidr). b. Ghusl with water which is mixed with camphor (kafoor). c. Ghusl with unmixed water.

557. The lotus leaves and camphor should not be so excessive whereby it makes the water Mudhaaf. It should also not be so little such that one cannot state that they have been mixed with the water.

558. If a sufficient amount of lotus leaves or camphor cannot be acquired, recommended precaution dictates that the available amount should be mixed in the water.

559. If a person passes away in the state of Ihram, be it for Hajj or umrah, he should not be given Ghusl with camphor water. In lieu of it, he should be given Ghusl with unmixed water, unless he was in the state of Ihram for Hajj, and had completed the sa'ee, in which case he should be given Ghusl with camphor water.

560. If lotus leaves, or camphor, or both are not available, or if using them is not permissible—like if it amounts to usurpation—in lieu of each of the items which is not available, obligatory precaution dictates that the corpse should be given Ghusl with unmixed water with the intention of giving Ghusl to it in lieu of the Ghusl with the item that is not available. One should also perform Tayammum on the corpse with the same intention.

561. The person giving the Ghusl to the dead body should be a Muslim, a believer in the twelve Imams (Peace be upon them), sane, Baligh, and aware of the rulings pertaining to the Ghusl, even if he learns it whilst the Ghusl is being performed.

562. The person giving the Ghusl to a dead body should have the intention of drawing closer to Allah, as explained in the section on Wudhu, and should also have a sincere intention. It will suffice to maintain this intention until the completion of the third Ghusl.

563. It is obligatory to give Ghusl to the child of a Muslim, even if he was born out of wedlock. However, the Ghusl, Hunoot, shrouding, and burial of a Kafir or his offspring is not

permissible. As for one who was insane from childhood, and became Baligh in that state, he should be given Ghusl if both of his parents or one of them is a Muslim, or if he is subject to the rulings of a Muslim for any other reason. Otherwise, giving Ghusl to him is not permissible.

564. If a still-born baby is four months or older, it is obligatory to give Ghusl to it. However, if it has not completed four months, and if life has not been breathed into it, obligatory precaution dictates that it should be wrapped in a cloth, and buried without giving Ghusl to it.

565. It is not permissible for a man to give Ghusl to a woman or vice-versa, and it renders the Ghusl invalid. However, a wife can give Ghusl to her husband, and so can he to her. The recommended precaution however, is that they should refrain from doing so.

566. A man can give Ghusl to a young girl who is not of a discerning age, and similarly so can a woman give Ghusl to a young boy who is not of a discerning age. The emphatic recommendation however, is that a boy who is more than three years of age be given Ghusl by a man, and girl who is more than three years old be given Ghusl by a woman.

567. If no man is available to give Ghusl to a deceased man, then the women who are related to him and Mahram to him—like his mother, sister, paternal aunt or maternal aunt—or those who are related to him through marriage, or are Mahram to him through wet-nursing, can give the Ghusl to him. Similarly, if no woman is available to give Ghusl to a deceased woman, men who are related to her and Mahram to her, or are related to her through marriage, or are Mahram to her through wet-nursing, can give Ghusl to her. Obligatory precaution dictates as long as a member of the same gender is present, a Mahram of the opposite gender will not take his or her place. It is also not obligatory to give Ghusl from under a dress, although the precaution is that it should be done so. However, one should not look at the private parts, and based on precaution the private parts should be covered.

568. If the deceased and the one giving Ghusl are both men, or they are both women, it is permissible to leave the body of the deceased bare, except for the private parts. 569. Looking at the private parts of a dead person—except for a husband

and wife—is forbidden. If the person giving Ghusl looks at it, he will have committed a sin, although the Ghusl will be valid.

570. If any part of a dead person's body is Najis, it should be made Tahir through the process elaborated in article 378. In fact, it is better to make Tahir every part prior to washing it; rather it is better to make the entire body Tahir prior to starting the Ghusl.

571. The Ghusl for a dead body is like the Ghusl of Janabah, and the obligatory precaution is that as long as sequential Ghusl is possible, the dead body should not be given Ghusl by immersion. In the sequential Ghusl, (washing) the right side should precede the left side, and one is free to choose between pouring water over the body or by submerging the body in water.

572. It is not necessary to give the Ghusl of Janabah or Haydh to someone who died in the state of Janabah or Haydh; rather the Ghusl given to a dead body will be sufficient. 573. It is not permissible to accept wages for giving Ghusl to a dead body, and if a person gives Ghusl for the wages, the Ghusl will be invalid. However, it is permissible to accept wages for performing the non-essential pre-requisites of the Ghusl.

574. If water is not available, or if using it is not permissible, Tayammum should be performed on the dead body in lieu of every Ghusl. Obligatory precaution dictates that a (fourth) Tayammum should also be performed in lieu of all the three ghusls. If the person who is performing the Tayammum, makes the intention of Maafee al-Zimmah—that is, he makes the intention that I am performing this Tayammum to fulfill that which I am in reality responsible for performing—then the fourth Tayammum will not be necessary.

575. One who is performing the Tayammum on the dead body should strike his own palms on the earth and wipe his palms over the face of the dead body and the back side of his hands. If possible, based on obligatory precaution, he should also perform the Tayammum with the palms of the deceased as well.

576. The body of a Muslim should be shrouded with three pieces of clothing: a loin-cloth (a cloth wrapped around the waist like a skirt), a tunic (shirt) and a cloth that extends from the head to the toes. 577. The length of the loin-cloth and the

tunic should be such that it would be considered a loincloth and a tunic in the common understanding. However, the obligatory precaution is that the loin-cloth should cover the area between the navel and the knees, and it is better if it covers the area between the chest and the feet. Based on obligatory precaution, the tunic should cover the entire body starting from the shoulder, and based on obligatory precaution, going down to the middle of the shin. In fact, it is better that it reaches the feet. The head-to-toe cover should be long enough such that it would be possible to tie a knot on both ends of it. It should also be wide enough such that one side of it can overlap the other side.

578. If the inheritors of the deceased are Baligh, and they permit an amount to be withdrawn from the inheritance that is more than the cost of the most basic shroud—as elaborated in the previous article—it will not be problematic to do so. The obligatory precaution is that one should not withdraw more than the cost of the minimum obligatory shroud from the portion of an inheritor who is not Baligh.

579. If a person makes a will that the amount required for an ideal shroud be withdrawn from one-third of his estate, one can accordingly do so. The same will apply if he makes a will that one-third of his estate be used for himself, but does not specify how it should be used, or only specifies how a part of it should be used. 580. If the deceased did not make a will that the cost of the shroud be withdrawn from one-third of his estate, and one wishes to withdraw it from his actual estate, he should act according to the ruling specified in article 578.

581. The husband bears the responsibility for providing his wife's shroud, even though she may have her own wealth. Similarly, if the husband divorces his wife through a revocable divorce—as elaborated in the section on the rules of divorce—and the wife passes away prior to the completion of her iddah (waiting period), the husband will have to provide her shroud. If the husband is not Baligh, or if he is insane, the guardian of the husband will have to provide the wife's shroud from the husband's wealth. Obligatory precaution dictates that the husband must provide the shroud of a recalcitrant wife (Naashizah) and a temporary wife as well.

582. It is not obligatory on the family of a deceased person to provide his shroud. In the event that the deceased does not have any wealth of his own, the shroud should be provided by the person who was obligated to pay for the deceased's expenses during his lifetime.

583. It is obligatory for the combination of the three pieces of a shroud to be opaque enough so that the body cannot be seen through them. In fact, based on obligatory precaution, neither should each of the three pieces be so thin that the body is visible through them.

584. It is not permissible to shroud a dead body with pieces of clothing which are usurped, even though no other pieces may be available. Hence, if the shroud on a dead body is usurped, and the owner does not approve of it, it should be taken off the deceased's body, even if it has already been buried. It is also not permissible to shroud a body with the Najis hide of a dead animal when other options are available. In fact, it is problematic even when one is compelled out of necessity. Similarly, it is problematic to shroud a body with the Tahir hide of a dead animal when other options are available.

585. It is not permissible to shroud a dead body with a Najis cloth—in the case of a Najasah that has been excused in prayer, this ruling is based on obligatory precaution—or a cloth that is made of pure silk, or a silk blend in which the ratio of the blends is not greater than the silk. Based on obligatory precaution, it is also not permissible to use a cloth that is woven with gold. However there is no harm in using these clothes if one is compelled to do so out of necessity.

586. Based on obligatory precaution, it is not permissible to shroud a body with a cloth made from the wool or hair of an animal whose meat is forbidden, when other options are available. The same ruling applies to shrouding a body with the hide of an animal whose meat is permissible to consume, and has been slaughtered according to Islamic law. However, there is no problem in shrouding a body with the cloth made from the wool or hair of an animal that is permissible to consume, although the recommended precaution is to avoid these as well.

587. If the shroud on a corpse becomes Najis owing to his own Najasah or any other Najasah, and it is possible to wash or

cut out the Najis area without ruining the shroud, one should do so, even if it occurs after the body has been laid in the grave. If however, it is not possible to wash or cut out the Najis area, but it is possible to replace it, it should be replaced. In the event that the Najasah is one that is excused in prayer, this ruling will apply to it based on precaution.

588. If a person who has put on Ihram for Hajj and umrah passes away, he should be shrouded like all other Muslims, and there is no harm in covering his head and face.

589. It is recommended for a person to prepare his own shroud during his lifetime, and every time he looks at it, he will be rewarded.

The Rules of Hunoot

590. Having given Ghusl to the body, it is obligatory to apply Hunoot on it, which is done by applying camphor to the forehead, the palms, the knees and the tip of the big toes. Recommended precaution dictates that a small amount of camphor should also be placed on these parts. It is recommended to apply camphor on the tip of the nose as well. The camphor should be powdered and fresh, and if it is so stale that it has lost its fragrance, it will not suffice.

591. The recommended precaution is that the camphor should first be applied on the forehead. However, a sequence has not been stipulated for applying it on the other parts.

592. One is free to choose between applying the camphor before the body is shrouded, while it is being shrouded or after it has been shrouded.

593. If a person who has put on the Ihram for Hajj or umrah passes away, it is not permissible to apply Hunoot on him. However, if he has put on the Ihram for Hajj and passes away after completing the sa'ee, it is obligatory to apply Hunoot on him.

594. If a woman who has not completed her iddah after the death of her husband, passes away, it is obligatory to apply Hunoot on her.

595. The obligatory precaution is that the dead body should not be fragranced with musk, ambergris (A'mbar), aloeswood (O'ud) or other fragrances. The fragrances should not be mixed with the camphor either. 596. It is also recommended to mix a small amount of Turbat al-Husain (Peace be upon him) in the camphor. However, the camphor should not be applied on places that would result in committing sacrilege. In addition, the amount of turbah should not be so much that once it is mixed with camphor, the resulting mixture is no longer considered as camphor.

597. If camphor is not available, or the available amount is only sufficient for the Ghusl, then applying Hunoot will not be necessary. If the available amount is more than what is required for Ghusl, but not sufficient for all the parts, recommended precaution dictates that it should first be applied on the

forehead, and then other parts of the body if an amount is leftover.

598. It is recommended to place two pieces of fresh wet twigs in the grave with the dead body.

The Rules of the Prayer for the Dead

599. It is obligatory to offer prayer on the dead body of a Muslim. It is also obligatory to offer prayer on the body of child who is subject to the rulings of a Muslim and has completed six lunar years. 600. There is no harm in offering prayer on a child who has not completed six lunar years, with the intention of *Rajaa'*. However, offering prayer on the body of a stillborn child is not canonically prescribed.

601. The prayer for the dead should be offered after giving *Ghusl*, applying *Hunoot* and shrouding the body. If it is offered prior to these rites or between them, it will not be adequate, even if it was due to forgetfulness or ignorance of the ruling.

602. It is not necessary for the one who wishes to offer the prayer for the dead to have performed *Wudhu*, *Ghusl* or *Tayammum*. His clothes and body do not have to be *Tahir* either. In fact, even if he offers the prayer with clothes that are usurped, it will not be problematic.

The recommended precaution is that he should observe all the conditions that have been stipulated for other prayers. However, obligatory precaution dictates he should avoid all the things that are inconsistent with the unspoken agreement between the observant believers with respect to the prayer for the dead.

603. The person offering the prayer should be facing *Qiblah*. It is obligatory that the dead body be placed in front of him, lying on its back, in a manner that its head is situated to his right and its feet to his left.

604. The recommended precaution is that the area on which the one offering the prayer is standing should not be usurped. It should also not be much higher or much lower than the area on which the body is placed. Of course, there is no harm if the height difference between the two is not significant.

605. The person offering the prayer should not be situated very far from the body. However, there is no harm if the one who is offering the prayer in congregation is situated at a distance from the body, as long as the rows (of the congregation) are connected to each other. 606. The person offering the prayer should be situated directly in front of the body. However, if

the prayer is offered in congregation, and the rows of the congregation extend beyond the length of the body, the prayers of those who are not situated directly in front of the body will be in order.

607. There should be no curtain, wall or any other barrier between the body and the person offering the prayer. However, there is no harm if the body is placed in a coffin or a similar container.

608. The private parts of the deceased should be covered whilst the prayer is being offered on it. In the event that it is not possible to shroud the body, the private parts should still be covered, even if it be with a slab, or a brick, or any similar item.

609. The person offering the prayer should be a believer, and even though the prayer of a nonBaligh child is in order, it will not compensate for the prayer of a Baligh person. He should also pray standing, with the intention of attaining proximity to Allah and with sincerity. He should also specify the deceased when making his intention. For example, he may say, "I am offering prayer on this deceased's body to attain proximity to Allah."

610. If no one who can offer the prayer on the deceased while standing is available, it can be offered while sitting.

611. If the deceased has made a will that a particular person should offer prayer on his body, the recommended precaution is that the person should seek permission from the guardian of the deceased, and the guardian too should grant him the permission.

612. It is permissible to offer the prayer multiple times on a single body.

613. If a body is buried without offering the prayer on it, be it intentionally, forgetfully or owing to an excuse, it is obligatory to offer the prayer over his grave with the conditions previously stipulated for the prayer for a dead body, as long as the body has not completely disintegrated. The same will also apply in the case where the offered prayer was invalid.

How to Offer the Prayer for the Dead

614. The prayer for the dead is composed of five takbeers (glorifying Allah with the statement Allahu Akbar), and it will be sufficient if the person offering the prayer recites the takbeers in the following manner:

After the first takbeer, he should recite: ?

? ?? ?? ? ?????? ??? ?? ?? ?????? ? ?? ? ????? ? ??????? ? ????? ?
? ?? ??? ? ? ?? ????? ? ? ?

I bear witness that there is no god but Allah and that Muhammad is the Messenger of Allah.

Ash hadu an la ilaaha illal lahu wa ash hadu anna Muhammadar Rasulullah.

After the second takbeer: ?

? ?? ?? ????? ?? ? ?????? ?? ?? ?????? ?? ?? ?????? ?? ???

O'Allah! Bestow blessing upon Muhammad and his progeny Alla humma salli 'ala Muhammadin wa aali Muhammad.

After the third takbeer:

?
??? ?????? ? ????? ?????? ?? ?? ?? ? ?????? ? ????? ?? ??? ?? ???

O'Allah! Forgive all the believing men and women Alla hum-maghfir lil mu'mineena wal mu'minaat.

After the fourth takbeer, if the deceased is a man:

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O'Allah! Forgive this (male) dead body

Alla hummaghfir li haadhal mayyit.

And if the deceased is a woman: ?

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O'Allah! Forgive this (female) dead body Alla hummagfir li haadhihil mayyit. He should then complete his prayer with the fifth takbeer. It is better to recite the following recitations after each takbeer:

After the first takbeer:

? ????????? ???? ? ? ? ?????? ? ? ???? ? ? ? ? ???? ????? ? ? ????
?? ??????? ???? ? ??????? ? ????? ? ? ? ???? ? ? ? ???? ? ? ? ????
??? ? ? ? ? ? ?????? ? ? ? ? ?????? ? ? ? ? ? ?????? ? ? ? ? ? ??????
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I testify that there is no god except Allah. The One, there is no partner for him. I testify that Muhammad is His servant and Messenger, whom He sent with truth as a giver of glad tidings and a warner till the Judgment Day.

Ash hadu an la ilaaha illallahu wahdahu la shareeka lah. Wa ash hadu anna Muhammadan 'abduhu wa Rasuluh, arsalahu bil haqqi bashirau wa nadheeran bayna yada yis sa'aa.

Following the second takbeer: ?

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O'Allah, exalt Muhammad and the progeny of Muhammad and bless Muhammad and the progeny of Muhammad and have mercy on Muhammad and the progeny of Muhammad, like You exalted and blessed and had mercy on Ibrahim and the progeny of Ibrahim, indeed You are the praised and the majestic.

And exalt all the prophets and messengers and martyrs and the truthful and all the righteous servants.

Alla humma salli 'ala Muhammadin wa aali Muhammadiu wa barik 'ala Muhammadin wa aali Muhammadiu, warham Muhammadan wa aala Muhammadin ka afdhali ma sallayta wa barakta wa tarah hamta 'ala Ibrahima wa aali Ibrahima innaka Hamidum Majeed wa salli 'ala jamee'il ambiya'i wal-mursalina wash-shuhadaa'i was-siddeeqeena wa jamee'i 'ibaadilla his-saliheen.

Following the third takbeer:

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??????? ? ???? ? ? ? ? ? ? ???? ? ? ???? ? ? ? ? ? ? ? ?
??????? ? ???? ? ? ? ? ? ? ???? ? ? ? ? ? ? ? ? ? ? ? ?
????? ???? ? ? ? ? ? ? ???? ? ? ? ? ? ? ? ? ? ? ? ? ? ?
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O'Allah, forgive the believer men and the believer women and the Muslim men and the Muslim women, their living and their dead. And continue the connection of good between us and them; indeed You are the acceptor of supplications and You have power over everything. Alla hum maghfir lil mu'minina wal mu'minati wal muslimina wal muslimat, al ahya'i minhum wal amwat tabi' baynana wa baynahum bil khayrati innaka mujibud-da'waat innaka 'ala kulli shay'in Qadeer.

After the fourth takbeer, if the deceased is a man, he should recite:

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Alla humma inna hadhihi amatuka wabnatu 'abdika wabnatu amatika nazalat bika wa anta khayru manzulin bihi. Alla humma inna la na'lamu minha illa khayra wa anta a'alamu biha minna. Alla humma in kanat mohsinatan fa zid fi ihsaaniha wa in kanat musi'atan fatajaawaz 'anha waghfir laha. Alla hummaj'alha 'indaka fi a'laa 'illiyyeen wakhluf 'ala ahliha fil gh-abireen warhamha bi-rahmatika ya ar hamar Rahimeen.

615. The takbeers and the recitations in between should be recited consecutively, in a manner that the prayer does not lose its form.

616. A person who is reciting the prayer in congregation should recite the takbeers and the recitations himself, even if he is offering it behind an Imam.

The Recommended Acts of the Prayer for the Dead

617. The following things are recommended while offering the prayer for the dead:

1. The person offering the prayer should have performed Wudhu, Ghusl or Tayammum. The obligatory precaution is that he should only perform Tayammum in the event that performing Wudhu or Ghusl is not possible, or if he fears that by performing Wudhu or Ghusl he will not be able to attend the prayer.

2. If the deceased is a man, the Imam of the congregation, or the one offering the prayer individually, should stand at the center of the body's height. If the deceased is a woman, he should stand in front of the body's chest.

3. He should offer the prayer bare-footed.

4. When pronouncing the takbeers he should raise his hands.

5. The distance between him and the body should be so short, that if the wind were to blow, his clothes would touch the body.

6. The prayer should be offered in congregation.

7. The Imam of the congregation should pronounce the takbeers and the recitations loudly, whilst those reciting with him should pronounce it softly.

8. In congregational prayer, the person praying with the Imam should stand behind him, even if he is alone.

9. The person offering the prayer should supplicate abundantly for the deceased and for all the believers.

10. The prayer should be offered at a location that people frequent for offering prayers on the dead.

11. If a woman in the state of Haydh offers the prayers in congregation, she should stand alone in a separate row.

618. It is reprehensible (Makrooh) to offer the prayer for the dead in a mosque, except for masjid al-Haraam, wherein it is not reprehensible.

The Rules of Burial

619. The corpse should be buried in the ground in a manner that its odor does not reach the people, and scavenging animals are not able to exhume it. If there is a fear that these animals may exhume the body, the grave should be fortified with bricks or similar objects.

620. If burying the corpse in the ground is not possible, it should be placed in a vault or a coffin whereby the objectives of burial are realized.

621. The body should be laid in the grave on its right side, in a manner that its anterior faces the Qiblah.

622. If a person dies at sea, one should wait until they reach land and then bury his body in the ground, as long as his body does not decay, and there is no problem in retaining his body on the ship. Otherwise, his body should be given Ghusl, Hunoot and shrouded at sea. After offering the prayer on his body, it should be laid in a large container, and the lid of the container should be closed on it. Thereafter it should be thrown into the sea. The obligatory precaution is that as much as possible, the front of the body should face the Qiblah. If this is not possible, a heavy weight should be tied to its feet, and it should then be thrown into the sea. If possible, it should be thrown in an area where it does not get devoured immediately by sea predators.

623. If it is feared that an enemy may dig open the grave of a deceased, exhume his body, and sever his ears, nose or other limbs, then if possible, the body should be buried at sea as elaborated in the previous article.

624. The cost of burying the body at sea, or fortifying the grave of a deceased can be withdrawn from the actual estate of a deceased, in the event that doing so is necessary.

625. If a Kafir woman passes away, along with the baby in her womb, and the father of the baby is a Muslim, then the woman should be made to lie on her left side, with her back facing the Qiblah, so that the front of the child faces the Qiblah. Based on obligatory precaution, the same will apply if the spirit has not yet entered its body.

626. It is not permissible to burry a Muslim in the cemetery of the kafirs, nor is it permissible to burry a Kafir in a Muslim cemetery.

627. It is not permissible to burry a Muslim in an area that would be a sign of disrespect to him, like burying him in a landfill.

628. It is not permissible to burry a deceased on usurped land, or a land which has been dedicated for a purpose other than burial.

629. It is not permissible to burry a dead body in the grave of another body, if it amounts to infringing on another person's right, or the exhumation of a grave that has not decomposed, or amounts to disrespecting the deceased. Otherwise, there is no problem in doing so provided the grave is old, and the first body has disintegrated or has been exhumed.

630. If the thing that was severed from a deceased is a part of his body, it must be buried with him. If it be his hair, nail or tooth, it should be buried with him based on obligatory precaution. As for the nail or tooth which separates from him during his lifetime, its burial is recommended.

631. If a person dies in a well, and it is not possible to retrieve his body, then the entrance of the well should be closed, and it should be considered his grave.

632. If a baby dies in the womb of its mother, and leaving it in the womb is dangerous for the mother, it should be delivered through the easiest possible manner. If one is forced to cut it into pieces, there is no problem in doing so. However, it should be delivered by her husband if he is skilled at it, or another woman who is skilled at it, if he is not. If such a woman is not available, a Mahram man who is skilled at it, or a skilled non-Mahram man if a Mahram is not available. If a skilled non-Mahram man cannot be located either, one who is not skilled at the task—determined by observing the aforementioned sequence—can deliver the baby.

633. If a mother dies and the baby in her womb is alive, even if there is no hope for the baby's survival, one of the persons mentioned in the previous article—determined by observing the stipulated sequence—should make an incision in her stomach in an area which does not endanger the wellbeing of the

baby. He should then deliver the baby from the womb and stitch it up in preparation for Ghusl.

The Recommended Acts of Burial

634. It is recommended that the depth of the grave be equal to the length of an average person, and that the deceased be buried in the nearest graveyard, unless the more distant graveyard is better due to a particular reason. For example, if righteous people have been buried in that graveyard, or if people frequent it to recite Surah al-Fatihah. It is also recommended to place the coffin on the ground a few yards away from the grave. It should be slowly carried towards the grave three times, each time placed on the ground and then lifted again. The fourth time it should be lowered into the grave. If the deceased is a man, when the body is placed on the ground for the third time, his head should be positioned at the lower end of the grave. The fourth time (the body is lifted), it should be lowered into the grave headfirst. If the deceased is a woman, the third time her body is placed on the ground, it should be placed next to the side of the grave which is towards the Qiblah. Her body should be lowered into the grave sidewise, and a cloth should be spread over the grave while lowering the body. It is also recommended to gently lift the body from the coffin and lower it into the grave, and to recite the supplications which have been prescribed prior to burying the body and whilst burying the body. Once the body has been placed in the niche within the grave, the knots in the shroud should be undone. His face should then be placed on the earth, and an earthen headrest be formed under his head. Some unbaked bricks or lumps of clay should be placed behind his body so that it does not turn onto its back. Then, just before covering the niche, someone should place his right hand on the deceased's right shoulder, his left hand firmly on his left shoulder, and his mouth close to the deceased's ear, and shake him vigorously, saying:

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Isma' ifham ya fulan ibn fulan. Listen and understand, O fulan ibna fulan Instead of the expression

'Aliyyin wa Ja'far abna Muhammadin wa Musabna Ja'farin wa 'Aliyyabna Musa wa Muhammad abna 'Aliyyin wa 'Aliyyabna Muhammadin wal Hasan abna 'Aliyyin wal Qa'imal hujjatal Mahdi salawatullahi 'alayhim aaimmatul mu'mininina wa hujajullaahi 'alal khalqi ajma'eena wa a'immatuka a'immatu hudan abrarun ya fulan abna fulan.

Are you on the same covenant on which you were when you parted from us? That covenant is the testimony of the fact that there is no God but Allah, Who is only One and Who has no partner. And the testimony of the fact that undoubtedly Muhammad, may the Peace of Allah be on him and his progeny, is the slave and prophet of Allah and is the lord of all the prophets and is the last of them and that Ali is the chief of the believers and the leader of all the successors and he is such and Imam whose obedience has been made obligatory on the whole world. And that Hasan and Husain and Ali son of Husain, and Muhammad son of Ali and Ja'far son of Muhammad, and Moosa son of Ja'far, and Ali son of Moosa, and Muhammad son of Ali, and Ali son of Muhammad, and Hasan son of Ali, and Muhammad, the awaited one, son of Hasan - may the Peace of Allah be on them all - are the Imams of all believers and are the authorities on the whole world, and all these Imams are guides for the pious persons. O fulan ibna fulan,

He should then address him with the following: ?

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Allah's peace be upon them, are my Imams, my leaders, my chief, and my intercessors and I keep friends with them and have hatred for their enemies in this world as well as in the world to come." O fulan ibna fulan, know that...

Thereafter, he should say the following:

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Annal laha tabaraka wa ta'ala ni'mar-Rabbu wa anna Muhammadan sallal lahu 'alayhi wa aalihi ni'mar Rasulu wa anna 'Aliyyabna Abi Talibiw wa awladahul ma'suminal aa'immatal ithna 'ashara ni'mal aa'imma wa anna ma ja'a bihi Muhammadun sallal lahu 'alayhi wa aalihi haqqun wa annal mawta haqqun wa suwala munkarin wa nakirin fil qabri haqqun wal ba'tha haqqun wan nushura haqqun wassiraata haqqun wal mizaana haqqun wa tataayural kutubi haqqun wa annal jannata haqqun wan-naara haqqun wa annas saa'ata aa'tiyatul la rayba feeha wa annallaaha yab'athu man fil qubur.

Allah, the Exalted, is undoubtedly the best of Providers, and Muhammad, may the peace of Allah be upon him and his progeny, is undoubtedly the best of the prophets and that Ammeerul Mo-mineen Ali Ibne Abi Talib and the eleven Imams who are his descendants, are undoubtedly the best Imams and leaders. Whatever message Muhammad, may the peace of Allah be upon him and his progeny, has brought is true. Undoubtedly death is true, the questioning of Munkar and Na-keer in the grave after death is true, coming to life after death is true, the scale [Meezan] is true, the Path [Siraat] is true, accounting of deeds is true, and undoubtedly there will be a Day

of Judgment. Allah will undoubtedly bring to life those who are in the graves. He should then ask him: *???? ?? ?????? ?? ?????* (He should replace the expression *?? ?????* (fulan) with the name of the deceased.) *Afahimta ya fulan. Have you understood, O so and so! This should be followed with the following statements:*

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Thabbata kallaahu bil qawlith thabiti wa hadakallaahu ila sir-atim mustaqeemin 'arrafallaahu baynaka wa bayna awliya'ika fi mustaqarrim min rahmatihi Allahumma jaafil ardha 'an jambayhi was'ad biruhihi ilayka wa laqqihi minka burhanan. Allahumma 'afwaka 'afwaka

may Allah keep you firm on these beliefs and may He guide you on the right path and may Allah introduce you to friends in the vicinity of His mercy. O Allah, make the ground spacious for him (her) on both the sides and raise his (her) soul towards You and direct Your Guidance to him (her). O Allah, pardon us, pardon.

635. It is recommended that the person placing the body in the grave be in the state of Taharah, barefooted, and bare-headed. He should exit the grave from the lower end, and after exiting the grave, he should recite the following

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Inna lillahi wa inna ilaihi raji'oona wal-hamdulillahi rabbil 'aalameen. Allahummarfa' darajatahu fi aa'la illiyeena wakhluf 'ala 'aqibihi fil ghabireen (wa 'indaka nahtasibuhu) ya Rabbal 'alameen.

Verily we belong to Allah and verily to Him shall we return and Praise belongs to Allah the Lord of the worlds, O'Allah elevate his status to the Highest of the High places and near his family members that passed away O' the Lord of the worlds.

It is recommended that those who are present at the burial, other than the relatives of the deceased, should pour sand over the grave using the back of their hands. If the deceased is a woman, the person who is Mahram to her should lay her in the grave. If a Mahram is not present, her relatives should place her in the grave.

636. It is recommended to form the grave in the shape of a square or a rectangle, and its height be equivalent to four fingers. A sign should also be placed over it so that it is not mistaken for another person's grave. Water should also be sprinkled over the grave, and after doing so, those who are present should place their hands over the grave, with their fingers parted, and thrust them into the earth. They should recite the blessed Surah of al-Qadr seven times, and seek forgiveness for the deceased. They should also recite the supplications that have been recommended, such as the following supplication: ?

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*Allahumma jaafil ardha 'an jam bayhi was'ad (saa'id) roohahu
ila arwaahil momineena filliyeena wa alhiqhu bissaliheen.*

637. After the departure of those who have taken part in the burial ceremonies, it is recommended for the guardian of the deceased, or a person who has been granted permission by the guardian, to instruct the prescribed supplications to the deceased.

638. It is recommended to console the bereaved family after the burial. However, if a significant period has elapsed, and consoling them would bring back memories of the loss, it is

better to refrain from doing so. It is also recommended to send food to the household of the deceased for three days, and it is Makrooh to join them for meals.

639. It is recommended for a person to be patient at the death of a close one, especially the death of one's own children. Whenever he remembers the deceased, he should say:

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Inna lillahi wa inna ilaihir raji'oon.

He should also recite Qur'an for the (sake of the) deceased, and construct the grave in a firm manner, so that it is not ruined within a short period. He should also seek his needs from Allah by the grave of his parents.

640. It is not permissible to scratch one's face or body, or to hit oneself while grieving for the loss of a beloved, if it entails significant harm. If it does not, obligatory precaution dictates that one should still refrain from doing so.

641. It is not permissible to tear apart one's collar while grieving for the death of a beloved, other than one's father or brother. However, while grieving for the loss of one's father or brother, it is permissible.

642. If a woman scratches her face while grieving for a beloved, causing it to bleed, or pulls out her hair, the recommended precaution is that she should free a slave, or give food to ten needy people, or provide them with clothing. The same will apply if a man tears apart his collar while grieving for the loss of his wife or children.

643. The recommended precaution is that one should not raise his voice too much while weeping for a deceased.

Salat al-Wahshah

644. It is recommended to recite two Rak'ah of Salat al-Wahshah on the first night after the burial of the deceased. The manner of offering this prayer is that a person should recite Ayat alKursi once after Surah al-Fatihah in the first Rak'ah, and in the second Rak'ah he should recite Surah al-Qadr ten times after al-Fatihah. After the Salam of the prayer, he should recite:

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Allahumma salli 'ala Muhammadin wa Aali Muhammadin, wab'ath thawaabaha ila qabri fulan. (Instead of the expression ????? ?? (fulan) he should mention the name of the deceased.)

645. Salat al-Wahshah may be offered during any part of the first night after the burial. However, it is better that it be offered during the early part of the night, after the I'sha prayer.

646. If it is decided to transfer the body to a town faraway, or delay its burial for any other reason, then Salat al-Wahshah should be delayed until the first night after his burial.

Exhumation

647. It is forbidden to dig open the grave of a Muslim, even if he be a child or insane. However, if his body has disintegrated, and his bones have turned into dust, there is no problem in doing so.

648. It is forbidden to dig open the grave of the descendants of an Imam, the martyrs, the scholars, and other people, digging whose graves would be disrespectful, even though many years may have passed (after their burial).

649. It is not forbidden to dig open a grave in the following cases:

1. The body is buried on usurped land, and the owner is not pleased to let it remain there.

2. The shroud or any other thing that is buried with the body, is usurped, and the owner is not pleased to let it remain in the grave. The same will also apply if something from the deceased's wealth which is passed on to his inheritor, is buried with him, and the inheritor is not pleased to let the thing remain in the grave, unless the thing is of insignificant value. In this case, digging open the grave is problematic.

3. The deceased is buried without performing Ghusl on his body, or shrouding his body, as long as digging open the grave is not a sign of disrespect to him. The same will also apply if it is later realized that the Ghusl was invalid, or if the body was shrouded in a manner not prescribed by the sharia, or if the body was laid in the grave without making it face the Qiblah.

4. The body needs to be examined to establish a right which is more important than the honor of the deceased.

5. The body is buried in an area which amounts to disrespecting the deceased, such as the cemetery of the kafirs, or a landfill.

6. The grave needs to be dug open for a canonical issue which is of more importance than exhumation. For example, delivering a baby that is alive from the womb of its mother, after the mother has been buried.

7. If there is a fear that scavengers may tear apart the deceased's body, or the grave may get flooded, or an enemy may exhume the body.

8. A part of the deceased's body needs to be buried along with the rest of his body. The obligatory precaution is that the part should be buried in a manner that the rest of the body is not exposed.

Chapter 20

The Recommended Ghusls

650. Certain ghusls are recommended in the sacred canon of Islam. Amongst these are:

1. The Ghusl of Friday (Ghusl al-jumu'ah). Its prescribed time commences after the azan of Fajr, and extends until the time of Z'uhr. It is better that it be performed close to the time of Z'uhr. If a person does not perform it by Z'uhr, he should perform it prior to sunset without the intention of adaa or Qadha. If he fails to perform it on Friday, it is recommended that he performs it Qadha between the morning and sunset of Saturday. One who knows that he will not be able to obtain water on Friday, may perform the Ghusl on Thursday day with the intention of Rajaa'.

It is recommended that the person performing the Ghusl of Friday recite the following while performing the Ghusl:

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Ash hadu an la ilaaha il lal lahu wahdahu la sharika lah wa anna Muhammadan 'abduhu wa Rasulullah. Allahumma salli 'ala Muhammadin wa Aali Muhammadiw waj'alni minat tawwabeena waj'alni minal muta taahhireen.

2. The Ghusl on the night of the first, seventeenth, nineteenth, twenty first, twenty third and twenty fourth of Ramadhan.

3. The Ghusl on the day of Eid al-Fitr and Eid al-Adha. Its prescribed time commences from the azan of Fajr and ends at sunset, albeit the more precautious practice is that if it is

performed between Z'uhr and sunset, it should be done so with the intention of Rajaa'. In fact, it is better that it be performed prior to the Eid prayer.

4. The Ghusl on the night of Eid al-Fitr, and its prescribed time is after sunset. The obligatory precaution is that if he performs it during the remaining part of the night and before the azan of Fajr, he should do so with the intention of Rajaa'.

5. The Ghusl on the eighth and ninth day of Zul Hijjah. On the ninth day, it is more precautionary to perform it at mid-day.

6. The Ghusl for offering the Qadha of the prayer for signs, by someone who intentionally failed to offer the prayer during a total solar eclipse.

7. The Ghusl by a person who caused a part of his body to come in contact with a dead body which has been given Ghusl.

8. The Ghusl for (putting on) Ihram.

9. The Ghusl for entering the Divine sanctuary (around Makkah) (The sanctuary is a part of Makkah which is greater than the area cover by Masjid al-Haraam.)

10. The Ghusl for entering Makkah.

11. The Ghusl for visiting the Kaaba.

12. The Ghusl for entering the Kaaba.

13. The Ghusl for slaughtering a camel, or slaughtering other quadrupeds, or shaving one's head (Îalq).

14. The Ghusl for entering the illuminated city of Madina.

15. The Ghusl for entering the sacred sanctuary of the Prophet, the boundaries of which are determined by the mountains of A'air and Wa'eer.

16. The Ghusl for bidding farewell to the sanctified grave of the Prophet.

17. The Ghusl for imprecating an enemy (Mubahila)

18. The Ghusl given to a newborn.

19. The Ghusl for performing Istikharah.

20. The Ghusl for seeking rainfall.

21. The Ghusl that is performed when the entire solar disk is covered during a total solar eclipse.

22. The Ghusl for visiting the shrine of Imam al-Husain (Peace be upon him).

23. The Ghusl for seeking forgiveness from transgression and kufr.

651. The scholars of jurisprudence have mentioned many recommended ghusls. The following are some of them:

1. The Ghusl on all the odd nights of Ramadhan, and the Ghusl on every night during the last ten nights of Ramadhan, and an additional Ghusl towards the end of the twenty third night.

2. The Ghusl on the twenty fourth day of Zul Íjjah.

3. The Ghusl of Eid Nowruz, the fifteenth of Shaban, the ninth and seventeenth of Rabi alAwwal, and the twenty fifth of Zul Qadah.

4. The Ghusl performed by a woman who has perfumed herself for someone other than her husband.

5. The Ghusl performed by a person who fell asleep in the state of intoxication.

6. The Ghusl performed by a person who went to see a hanged person, and actually saw him. However, if he sees him by chance or out of helplessness, or for example, he had gone for the purpose of giving testimony, the Ghusl will not be musta'ab (recommended) in his case.

7. The Ghusl for entering Masjid al-Nabawi (Peace be upon him and his progeny).

8. The Ghusl for performing the ziyarah of the Masumeen (Peace be upon them all), be it from near or from a distance.

9. The Ghusl on the day of Eid al-Ghadeer. However, the more precautionary measure is that these ghusls be performed with the intention of Rajaa'.

652. Having performed the recommended ghusls mentioned in article 650, a person may proceed to perform acts which require Wudhu, like offering prayers. However, the ghusls which are performed with the intention of Rajaa' do not suffice in lieu of Wudhu.

653. If a number of ghusls are recommended for a person to perform, and he performs one Ghusl with the intention of performing all of them, it will suffice.

Chapter 21

Tayammum

Tayammum must be performed in lieu of Ghusl or Wudhu in the following seven circumstances:

Case One

First: when it is not possible to procure enough water for performing Wudhu or Ghusl.

654. If the person is situated in a populated area, he should search for water for Wudhu or Ghusl to an extent that he loses hope in finding water. If he is situated in a desert, on uneven land, he should search for water for a distance covered by an arrow released from a normal bow (the kind used during the olden days). If he is on even land, he should search for twice this distance. Obligatory precaution dictates that he search for water in the entire circular area having the aforementioned radii, centered at his location.

655. If some of the land around him is flat, and some of it uneven, he should search for the distance covered by an arrow in the uneven areas, and twice this distance in the flat areas, in the manner described in the previous article.

656. A person does not have to search for water in the directions that he is certain do not contain water, or has a proof authorized by the sharia, to that effect.

657. If a person whose time for prayer is not constrained, and is afforded enough time to procure water, attains certainty that water is available in an area which is further than the distance he is obligated to search, he should go to that area to procure water as long as it does not entail hardship or harm.

The same will apply if a proof authorized by the sharia is established to that effect. However, if he merely speculates that water may be available in an area, he does not have to go to that area even though it may be highly probable, unless he attains satisfaction. It is however more precautionary that he do so.

658. It is not necessary for a person himself to go searching for water; rather, he may send someone whose word satisfies him. In fact, the same will apply if the person is trustworthy and one does not have a reasonable doubt contrary to his statement, even though his statements may not evoke satisfaction. In both cases, if one person goes searching, it will suffice in lieu of the rest, even if they be many.

659. If a person speculates that he may have some water within his belongings, in his house, or within the group he is travelling with, he should search to an extent that he attains certainty or satisfaction that water is not available, or to an extent that he loses hope in finding water.

660. If a person searches for water before the time of prayer, and fails to find any, and he remains in that area until the time of prayer, obligatory precaution dictates that if he speculates that water may have been located within the area, he should not suffice himself with the search that was conducted earlier, unless it was conducted close to the time of prayer, such that it would allow him to offer prayer at its prime time.

661. If he searches for water after the time of prayer sets in, and fails to find any, and he remains in that area until the time for the subsequent prayer, obligatory precaution dictates that if he speculates that water may have been located within the area, he should conduct another search for water.

662. It is not necessary to search for water in the following cases: a. when the time for prayer is constrained b. when one fears from thieves or wild animals for his life, or belongings which are significant in accordance to his status c. when searching for water is so difficult, that undertaking the search entails hardship

663. If a person does not go searching for water until the time left for prayer becomes constrained, he will have committed a sin. However, his prayer offered with Tayammum will be valid, even if he later comes to know that had he gone searching for water, he may have found it. The recommended

precaution is that he also offers the Qadha of the prayer.⁶⁶⁴ If a person who has certainty that he cannot find any water, does not go searching for water, and offers his prayer with Tayammum, only to realize later on that had he gone searching for water, he may have found some, he should offer his prayer again with Wudhu if the time for that prayer has not elapsed.⁶⁶⁵ If a person does not find water after conducting a search for it, and offers his prayer with Tayammum, only to realize later on that water was in fact available in the area that he searched, he should offer his prayer with Wudhu if the time for it has not elapsed. If it has, his prayer will be valid.

666. If a person who has certainty that the time for prayer is constrained, does not go searching for water, and offers his prayer with Tayammum, only to realize after his prayer and before the end of the allocated time that he did in fact have time to go searching for water, he should repeat his prayer. If he realizes after the time allocated for that prayer, he does not have to offer its Qadha.

667. If a person has Wudhu after the time of prayer sets in, and he knows or attains a proof authorized by the sharia—such as attaining satisfaction or other proofs—that should he break his Wudhu, he will not be able to procure water for Wudhu, or may not be able to perform Wudhu, he should refrain from doing so as long as he is able to maintain his Wudhu and it does not cause him hardship or harm. However, he is permitted to have intercourse with his wife, even if he knows that he will not be able to perform Ghusl after it.

668. If a person is in the state of Wudhu prior to the time of prayer, and knows or has a proof authorized by the sharia, that should he break his Wudhu, he will not be able to procure water, or may not be able to perform Wudhu, the recommended precaution is that he should not break his Wudhu if he is able to maintain it without incurring harm or hardship.

669. If a person has just enough water for performing Wudhu or Ghusl, and knows or has a proof authorized by the sharia that should he spill the water, he will not be able to procure more water, it is not permissible for him to spill that water if the time for prayer has set in. If it has not, he should not spill it based on recommended precaution.

670. If a person knows or has a proof authorized by the sharia that he is unable to find water, he is not permitted to break his Wudhu after the time of prayer has set in without the fear of harm or hardship, nor is he allowed to spill the water in his possession. However, the prayer that he offers with Tayammum is in order, although the recommended precaution is that he offers its Qadha as well.

Case Two

671. If a person cannot procure water due to his own incapacity, or fear of thieves, animals or similar beings, or does not have the equipment for drawing water from a well, he should perform Tayammum. The same will apply if procuring the water or using it entails such a degree of hardship that it is not bearable by a person.

672. If a person needs to buy or rent the equipment for drawing water from a well, such as a bucket and a rope, he should procure the equipment even if it be at an exorbitant price. The same will apply if water is sold at an exorbitant price. However, if procuring them requires so much money that should he pay for it, it would entail hardship and difficulty for him, he does not have to do so.

673. If a person is forced to take a loan to procure water, he should do so. However, a person who is certain or attains satisfaction that he will not be able to pay off his loan, is not permitted to take a loan.

674. If digging a well does not entail hardship, one should dig a well to procure water.

675. If someone grants an amount of water to a person without counting it as a favor to him (and reminding him of it), he should accept it.

Case Three

676. If a person fears that using water may endanger his life, or fears that he may develop a sickness or a defect, or that his sickness may be prolonged, become severe, or become difficult to cure, he should perform Tayammum instead. However, if hot

water does not cause harm to him, he should perform his Wudhu or Ghusl with hot water.

677. It is not necessary that he be certain that water is harmful for him; rather, if he even fears that it may be harmful for him, and his fear is considered to be reasonable by the people, he should perform Tayammum instead.

678. If a person is afflicted with an eye disease, and water is harmful for his eyes, he should perform Tayammum instead.

679. If a person performs Tayammum being certain of the harm (of using water), or fearing its harm, but realizes prior to offering prayer that it is not harmful for him, his Tayammum will be void. If he realizes this after offering his prayer, and the allocated time for the prayer has not yet elapsed, he should offer his prayer with Wudhu or Ghusl. However, if the allocated time has elapsed, then its Qadha is not obligatory.

680. If a person performs Wudhu or Ghusl, being certain or satisfied that water is not harmful for him, and he later realizes that it was harmful for him, his Wudhu or Ghusl will be void if the harm is to an extent that inflicting such harm on oneself is forbidden.

Case Four

681. Whenever a person fears that should he use water for Wudhu or Ghusl, he will be afflicted with one of the problems listed below, he should perform Tayammum instead:

1. He may immediately or eventually suffer from a thirst that would result in his own death or illness, or bearing the thirst may entail hardship for him.

2. The people whom he is obligated to protect may die or become ill due to thirst.

3. If he fears for the people or animals whose loss, illness or restlessness may cause him hardship, or if the loss of the animal would inflict a significant loss—in accordance to his status—on him.

682. If a person, in addition to having Tahir water for performing Wudhu or Ghusl, also possesses Najis water which is sufficient for drinking for himself and those associated to him, and they know it to be Najis, and abhor drinking Najis water, he should set the Tahir water aside for drinking, and offer

his prayer with Tayammum. However, if the water is meant for a child or an animal, he should give the Najis water to them, and perform Wudhu or Ghusl with the Tahirwater.

Case Five

683. If a person's clothes or body are Najis, and he possesses an amount of water which if he were to use to perform Wudhu or Ghusl, there would not be any water left for making his clothes or body Tahir, he should wash his clothes or body and offer his prayer with Tayammum. However, if there is nothing on which he can perform Tayammum, he should use the water for Wudhu or Ghusl, and offer his prayer with Najis clothes or a Najis body.

Case Six

684. If a person does not possess any water besides water which is forbidden for him to use, or a vessel besides one that is forbidden for him to use—like an amount of water or a vessel that is usurped—he should perform Tayammum instead of Wudhu or Ghusl.

Case Seven

685. Whenever the time left for offering prayer is so constrained that should one perform Wudhu or Ghusl, he would have to offer his entire prayer or a part of it outside the allocated time, he should perform Tayammum instead, unless the time it takes to perform Ghusl or Wudhu is the same as the time it takes to perform Tayammum, in which case he should perform Wudhu or Ghusl.

686. If a person delays offering his prayer to such a time that he does not have enough time to perform Wudhu or Ghusl, he will have committed a sin. However, the prayer that he offers with Tayammum is in order. The recommended precaution is that he should also offer its Qadha with Wudhu or Ghusl.

687. If a person doubts that were he to perform Wudhu or Ghusl, he may not have enough time to offer his prayer, such a person should perform Tayammum.

688. If a person performs Tayammum due to time constraints, and after offering his prayer is able to perform Wudhu, but fails to do so until water is no longer available to him, should his duty be to perform Tayammum, he should perform Tayammum once again for the subsequent prayer.

689. If a person who possesses water offers his prayer with Tayammum due to time constraints, and in the midst of his prayer loses the water, recommended precaution dictates that should his duty be to perform Tayammum, he should perform Tayammum once again for the subsequent prayer.

690. If a person has enough time to perform Wudhu or Ghusl, and offer his prayer without performing the recommended acts, such as iqamah and Qunoot, he should perform Wudhu or Ghusl and offer his prayer without the recommended acts. In fact, should he not have enough time to recite the second Surah, he should perform Ghusl or Wudhu and offer his prayer with the latter Surah.

Things on Which Tayammum is Permissible

691. Tayammum performed on sand, gravel, lumps of clay, stones and anything that is considered a part of the earth in the common understanding, is valid. The recommended precaution is that as long as sand is available, one should not perform Tayammum on other things. If sand is not available, he should perform it on gravel or lumps of clay, and if these two are not available, he should perform it on stone.

692. The Tayammum performed on gypsum and limestone is also valid. The recommended precaution is that one should not perform Tayammum on baked gypsum, baked limestone or baked bricks when other alternatives are available. However, Tayammum on stones such as aqeeq (carnelian) and feroza (turquoise) is not permissible.

693. If a person cannot find sand, gravel, lumps of clay, stones, gypsum or limestone, he should perform Tayammum on the dust particles that settle on clothes, carpets, or similar items. If one cannot find dust either, he should perform Tayammum on mud. If he is not able to find mud either, the recommended precaution is that he should pray without performing Tayammum. However, it is obligatory upon him to offer its Qadha later.

694. If one is able to gather sand by shaking a carpet or similar item, then performing Tayammum on dust particles is invalid. Similarly, if he is able to gather some sand by drying an amount of mud, then performing Tayammum on mud is invalid.

695. If a person who does not possess water, possesses some ice or snow, if possible, he should melt it and perform Wudhu or Ghusl with the melted water. If melting it is not possible, and neither does he have anything on which Tayammum is valid, the recommended precaution is that he should dampen his parts of Wudhu or Ghusl with the snow or ice, and offer his prayer. However, he must offer the Qadha of the prayer (offered with the aforementioned Wudhu).

696. If some straw or similar substance on which Tayammum is not valid, is mixed in with the sand or gravel, one cannot perform Tayammum on it. However if its quantity is so

insignificant that it is considered to have disappeared in the sand or gravel, then the Tayammum performed on it will be valid.

697. If one does not possess anything on which Tayammum is valid, he should procure it by buying it or by carrying out a similar transaction, if it is possible to do so and does not entail hardship.

698. The Tayammum performed on a mud wall is valid. The recommended precaution is that as long as dry earth or sand is available, one should not resort to wet earth or sand for Tayammum.

699. The thing on which Tayammum is performed must be Tahir. If a person does not possess a Tahir thing on which he can perform Tayammum, the recommended precaution is that he should perform Tayammum on the Najis thing, and offer his prayer with it. He must later offer the Qadha of that prayer.

700. If a person has certainty that Tayammum on a particular substance is valid, and performs Tayammum on it, realizing later on that Tayammum on that substance is invalid, he must offer once again all the prayers that he offered with such a Tayammum.

701. The thing on which a person performs Tayammum and the place in which it is situated should not be usurped. Hence in a person performs Tayammum on usurped sand, or pours the sand that he owns on another person's property without his permission, and then performs Tayammum on it, his Tayammum will be invalid. However, the condition that the location of the one performing Tayammum not be usurped is not legitimate for the validity of the Tayammum.

702. Precaution dictates that the Tayammum performed in a usurped area is invalid. An example of this would be a person who strikes his hands on his own land, and then enters another person's property without his permission, and wipes his hands on his forehead.

703. The Tayammum performed on a usurped thing or a thing that is located on a usurped property is invalid, even if the person does not know of it being usurped. The same will apply to a Tayammum performed in a usurped area, based on obligatory precaution. However if the person forgets that it is usurped or becomes negligent of it, it will be valid, unless he

himself is the usurper and has not repented for usurping it. In this case the Tayammum performed on a usurped thing or a thing which is on usurped land is invalid. As for the case wherein he has repented, his Tayammum will similarly be invalid based on obligatory precaution.

704. If a person is imprisoned in a usurped area, and the water and sand in the area are both usurped, he should offer his prayer with Tayammum.

705. Obligatory precaution dictates that the thing on which Tayammum is performed should have some dust which sticks to the hands. It is also recommended to shake one's hands after striking them on the thing.

706. It is Makrooh to perform Tayammum on the earth in a pit, sand on the streets, and saline earth which is not covered with a layer of salt. If the saline earth is covered with a layer of salt, then Tayammum performed on it is invalid.

Instructions on How to Perform Tayammam

707. Four acts are obligatory in the Tayammum that is performed in lieu of Ghusl or Wudhu:

1. Intention

2. Striking both the palms on something on which Tayammum is valid. Obligatory precaution dictates that both the palms be struck at the same time.

3. Wiping both the palms on the entire forehead and its sides, starting from where the hair grows down to the eyebrows and the area above the nose. The obligatory precaution is that the hands be wiped over the eyebrows as well.

4. Wiping the left palm over the entire back of the right hand, and then wiping the right palm over the entire back of the left hand.

708. The recommended precaution is that the Tayammum, be it in lieu of Wudhu or Ghusl, be performed in the following manner: one should strike his hands once on the earth and wipe over his forehead and the back of his hands, and strike once again on the earth and wipe the back of his hands.

New Section

709. If one fails to wipe even a small part of his forehead or the back of his hands, his Tayammum will be invalid, regardless of whether he fails to do so intentionally or is ignorant of the rulings, or fails to do so out of forgetfulness. However one does not have to be very particular; rather as long the entire forehead and the back of the hands are considered to have been wiped, it will be sufficient.

710. In order for one to be certain that he has wiped the entire back of his hands, he should also wipe a part of the area above the wrist. However it is not necessary to wipe between the fingers.

711. The forehead and the back of the hands should be wiped starting from above and going downwards, and its acts should be performed successively. If the interval between each act is so long that it can no longer be claimed that the person is performing Tayammum, his Tayammum will be void.

712. In his intention, a person must specify whether his Tayammum is in lieu of Ghusl or in lieu of Wudhu. If it be in lieu of Ghusl, he must specify the Ghusl, and if he does so in a general manner—for example, he makes the intention that the Tayammum that he is performing is in lieu of the first thing that became obligatory on him, or the second one—it will suffice. If only one Tayammum is obligatory on him, and he makes the intention of performing his actual duty, it will be valid even if he had made a mistake in determining it.

713. Recommended precaution dictates that the forehead, the palms and the back of the hands be Tahir, if possible.

714. To perform Tayammum, a person should remove the rings from his fingers. If there is an impediment on his forehead, palms or the back of his hands, he should remove it as well, such as anything thing that is stuck to those areas.

715. If there is a wound on the forehead or the back of the hands, and he cannot unbandage the cloth or similar bandage that is tied around it, he should wipe his hands over them. Similarly, if there is a wound on a palm, and one is unable to unbandage the cloth or similar bandage that is on his palm, obligatory precaution dictates that he strikes his palms with the

cloth on the thing on which Tayammum is valid, and wipe it over his forehead and the back of his hands. He should then do the same (strike and wipe) with the back of his hands.

716. There is no harm if a person has hair growth on his forehead or the back of his hands. However, if the hairs from his head fall on the forehead, he should push them back.

717. If a person entertains the possibility that there may be an impediment on his forehead, his palms or the back of his hands, and this possibility is considered reasonable amongst the people, he should inspect them until he attains certainty or satisfaction that no such impediment exists in those areas. In fact, should a trustworthy person inform him that no such impediment exists, it will suffice as long as there is no reasonable doubt contrary to his statement.

718. If a person's duty is to perform Tayammum, and he is incapable of doing so—even to the extent of placing his hands on the sand—he should seek assistance. If he is unable to perform Tayammum even with assistance, he should appoint a representative. The person who is appointed as his representative should give Tayammum to the person with the person's own hands. If this is not possible either, the representative should strike his own hands on the thing on which Tayammum is valid and then wipe it over the afflicted person's forehead and the back of his hands. As for the intention, the person himself should make the intention, and obligatory precaution dictates that so should the representative.

719. If a person doubts whilst performing the Tayammum whether he has forgotten to perform a part of it or not, he should not pay heed to his doubt if he has passed that stage. If he has not, he should perform that part.

720. Having wiped the left hand, if a person doubts whether he performed his Tayammum correctly or not, his Tayammum will be deemed valid as long as he considers it probable that he was not oblivious while performing Tayammum. If his doubt is with respect to wiping the left hand, he should wipe it, unless he has already engaged himself in an act for which Taharah is a prerequisite, or if maintaining succession (muwalaat) is no longer possible. However, if he doubts whether he wiped his left hand properly or not, his Tayammum will be deemed valid.

721. If a person's duty is to perform Tayammum, he cannot perform Tayammum for a prayer before the time for the prayer sets in. However, if he performs Tayammum for another obligatory or recommended act, and his excuse persists until the time of prayer, he can offer his prayer with that Tayammum as long as he does not have hope in being divested of the excuse prior to the end of the allocated time. If he does have hope in it, offering prayer with that Tayammum is problematic.

722. If a person's duty is to perform Tayammum, and he does not have any hopes of being divested from his excuse prior to the end of the allocated time, he can offer his prayer with Tayammum even though there may be a lot of time left. However, if he has not lost hope in it, he should delay offering his prayer. If his excuse is removed, he should offer his prayer with Wudhu or Ghisl. If not, he should offer his prayer with Tayammum towards the end of the allocated time.

723. If a person who is unable to perform Wudhu or Ghisl, attains certainty or satisfaction that he will be divested of his excuse, he cannot offer his Qadha prayers with Tayammum. If he does not, he can perform his Qadha prayer with Tayammum. However, should he be divested of his excuse later on, he will have to offer those prayers again with Wudhu or Ghisl.

724. A person who is unable to perform Wudhu or Ghisl can offer the nafila prayers which are to be offered at a particular time, with Tayammum, as long as he does not have hope of being divested of his excuse before the end of its allocated time. If he has not lost hope in it, obligatory precaution dictates that he offer the prayer towards the end of its allocated time.

725. If a person whose duty based on obligatory precaution is to perform the Ghisl of Jabeerah along with Tayammum, offers his prayer after performing Ghisl and Tayammum, and after his prayer commits an act that breaks his Wudhu, like urinating, he should out of precaution perform Tayammum in lieu of Ghisl for the subsequent prayer, and perform Wudhu as well. If the act which breaks Wudhu occurs prior to his prayer, he should perform Wudhu and Tayammum for that prayer as well.

726. If a person performs Tayammum because water is unavailable, or owing to another excuse, his Tayammum becomes invalid once the excuse ceases to exist .

727. The things that invalidate Wudhu also invalidate the Tayammum that is performed in lieu of Wudhu, and similarly, the things that invalidate Ghusl also invalidate the Tayammum that is performed in lieu of Ghusl.

728. If a number of ghusls are obligatory on a person who is unable to perform Ghusl, it will be sufficient for him to perform one Tayammum in lieu of the Ghusl of Janabah, if the Ghusl of Janabah is one of them. If the Ghusl of Janabah is not one of them, he should perform a Tayammum in lieu of each of the ghusls.

729. If a person who cannot perform Ghusl wishes to perform an act for which Ghusl is obligatory, he should perform Tayammum in lieu of the Ghusl. Similarly, if a person who is unable to perform Wudhu wishes to perform an act for which Wudhu is obligatory, he should perform Tayammum in lieu of Wudhu.

730. If a person performs Tayammum in lieu of the Ghusl of Janabah, it will not be necessary for him to perform Wudhu. However, if he performs Tayammum in lieu of other ghusls, he should perform Wudhu as well. If he is unable to perform Wudhu, he should perform another Tayammum in lieu of the Wudhu.

731. If a person performs Tayammum in lieu of the Ghusl of Janabah, and then commits an act which invalidates Wudhu, he should perform Tayammum in lieu of Ghusl for subsequent prayers if he is unable to perform Ghusl for them. The recommended precaution is that he perform Wudhu as well. The same ruling applies to the Tayammum that is performed in lieu of a Ghusl which is obligatory due to a major Hadath other than Janabah—such as Haydh, Nifas and touching a dead body—with the exception that he must perform Wudhu as well.

732. If a person has to perform a Tayammum in lieu of Ghusl and another in lieu of Wudhu to perform a particular act, such as offering prayer, he does not have to perform a third Tayammum with the intention of being able to perform that act. However, if he performs the first Tayammum with the intention that it is lieu of Ghusl or Wudhu, and the second Tayammum with the intention of Maafee al-Zimmah—that which he is truly responsible for—he will have acted in accordance with precaution.

733. If a person whose duty is to perform Tayammum, performs Tayammum for a particular purpose, he can also perform other acts for which Wudhu or Ghusl is obligatory as long as his Tayammum is valid and his excuse persists. However, if his excuse was the lack of time, or if despite having water, he performed Tayammum to offer the prayer for the dead or for sleeping, then he can only perform the acts for which he performed the Tayammum.

734. It is better for a person to offer the Qadha of the prayers that he offered with Tayammum in the following five cases:

1. He intentionally placed himself in the state of Janabah, and fearing harm from using water, he offered his prayer with Tayammum.

2. Despite knowing or speculating that he may not be able to locate water, he intentionally placed himself in the state of Janabah, and then offered his prayer with Tayammum.

3. He did not go searching for water until the end of the allocated time, and then offered his prayer with Tayammum, only to realize that had he gone searching, he may have found some water.

4. He intentionally delayed offering his prayer, and eventually offered it at the end of the allocated time with Tayammum.

5. Despite knowing or speculating that he would not be able to find any water, he spilt the water that he had and offered his prayer with Tayammum.

Chapter 22

The Precepts of Prayer

Before detailing the rulings of prayer, it is necessary to point out two things:

First: The Importance of Prayer There are close to a hundred verses in the Qur'an that speak of prayer. Here we shall limit ourselves to pointing out a few of them. God granted Abraham (Peace be upon him) the position of prophethood, messengership and friendship. He tested him with trials and tribulations, after the passing of which, he attained a level of perfection and the lofty position of Imamate. After all this, he turned to God and said: And from among my descendants? (2:124) to which God replied: My pledge does not extend to the unjust (2:124). After attaining the lofty position of Imamate and God's acceptance of extending His pledge to his descendants, he stood before the house of God supplicating: My Lord! Make me a maintainer of the prayer, and my descendants [too] (14:40). This supplication from one who attained such a position is ample proof for the importance of prayer. Similarly, when Abraham settled his descendants near the house of God, he said: Our Lord! I have settled part of my descendants in a barren valley, by Your sacred House, our Lord, that they may maintain the prayer (14:37).

There is a chapter in the Qur'an by the name of "The Believers". This chapter enumerates the attributes of the believers. The chapter begins with the attribute of humility in prayer: Those who are humble in their prayers (23:1) and ends its enumeration of attributes with their watchfulness over prayer: And who are watchful of their prayers (23:9). One can deduce from these verses that the beginning and end of faith is prayer. The fruit of this faith, the basis of which is prayer is: It is they who

will be the inheritors, who shall inherit paradise, and will remain in it forever (23:11-12).

There is also great mention of prayer in the traditions of the Prophet (Peace be upon him and his progeny) and his pure household. It is sufficient that we narrate one tradition from them to depict the grandeur of prayers before them. Imam Ja'far al-Sadiq (Peace be upon him) has said: "After the gnosis of God, I know not a thing better than the five daily prayers". It should be known that the nonentity of knowledge of the Imam regarding a matter is his knowledge of its nonentity. This tradition from the Imam is an elucidation of the word of God: This is the Book, there is no doubt in it, guidance to the God wary, who believe in the Unseen, and maintain the prayer (2:2-3). We note in this verse that maintaining prayer has been mentioned immediately after the belief in the Unseen.

Prayer is the most inclusive of all worship. Within it are the acts of worship (ibadaat al-fe'li) and verbal worship (ibadaat al-qawli). The acts of worship consist of the Ruku, Sujood, Qiyam and quO'ood (the sitting between Sujood). The verbal worship consists of tasbeeh (glorifying), takbeer (exalting), tahmeed (extolling) and tahleel (deifying), which are known as the four pillars of the gnosis of God, the Glorified, and the Exalted. This includes all the states of worship of the angels of proximity, for amongst them are those whose worship is in a state of Qiyam, while others in quO'ood, Ruku or Sujood.

Numerous descriptions have been ascribed to prayer in the Prophetic traditions. Some of them are as follows: the apex of the religion, the last admonition of the prophets, the most beloved of deeds, the best of deeds, the foundation of Islam, the reception of the all-Merciful, the path of the prophets and that through which the servant ascends to a lofty position. The Time for Z'uhr and A'sr Prayers Second: Man must take caution not to attend prayers in haste. He should constantly remember God, be in a state of humility, abasement and gravity. He should know who he is addressing and should consider himself naught before the grandeur and magnificence of the Lord of the worlds. It is further necessary for the worshipper to seek forgiveness for the sins that prevent the acceptance of prayer such as: envy, pride, backbiting, eating forbidden food,

drinking intoxicants, not giving Khums and Zakat. Along with seeking forgiveness, he should refrain from every form of sin.

It is also befitting that he abstain from deeds that diminish the reward of prayers such as: praying in a state of sleepiness, when experiencing the urge to urinate and while looking towards the sky. He should rather engage himself in that which increases the reward of prayer, such as: applying perfume, combing the hair, brushing the teeth, ensuring ones attire is tidy and wearing a carnelian ('aqeeq) ring.

The Obligatory Prayers

There are six obligatory prayers:

1. The five daily prayers, including the Friday prayers
2. Prayer for signs
3. Prayer for the dead, given that the term “prayer” is canonically applicable to it in a nonfigurative manner. In either case—be it applicable or not—it is obligatory to perform it.
4. Prayer after an obligatory Tawaf around the Kaaba
5. The Qadha prayers of one’s father which are obligatory on the eldest son
6. Prayers that become obligatory through being hired, making a Nazr or a covenant, by swearing to perform it, or stipulating it in a contract.

The Five Daily Prayers

The five daily prayers, besides the Friday prayer, include: the Fajr prayer which is two Rak'ah, followed by Z'uhr and A'sr prayers, both of which are four Rak'ah. This is followed by Maghrib, which is three Rak'ah, and then I'sha, which is four Rak'ah.⁷³⁵ In the cases of travelling or fear, one must reduce the four Rak'ah prayers to two Rak'ah, the conditions of which shall be elaborated in its own place.

The Time for Z'urh and A'sr Prayers

736. If a small stick or something similar in shape—called a gnomon—is driven perpendicularly into a flat ground, when the sun rises in the morning, the shadow of the stick will point towards the West. The more the sun rises, its shadow decreases. In most cities, the shadow reaches its shortest point at the beginning of canonical mid-day (Z'uhr al-Shar'i) after which the growth of the shadow will be from the East. The further the sun declines towards the West, the more its shadow will increase. Hence, when the shadow reaches its shortest point, and thereafter starts to increase, it will indicate that the time for canonical mid-day has entered. However, in certain cities, the shadow completely disappears. When it appears once again, it will indicate that the time for canonical mid-day has entered.

737. The time for Z'uhr and A'sr is between the time the sun begins to decline from its zenith and sunset. If a person deliberately prays A'sr before Z'uhr, his prayer is invalid, except in the case where there is only sufficient time to perform one prayer. In such a case, if one has not yet performed his Z'uhr prayer, he should first pray his A'sr and then his Z'uhr with the intention of Qadha. However, if a person forgetfully prays his A'sr before his Z'uhr, his prayers are valid. He consider it as his Z'uhr prayer and then pray another four Rak'ah with the intention of ma fi zimmah, based on obligatory precaution.

738. If a person forgetfully begins A'sr prayers before Z'uhr and realizes his mistake whilst praying, he must change his intention from Z'uhr to A'sr prayers. That is, he should make the intention that: all that which I have recited up till now and that which I have occupied myself with has been Z'uhr prayer. After completing his prayer, he should pray the A'sr prayer.

739. Friday prayer is Wajib al-Ta'aayuni (a Wajib without alternatives) in the presence of an infallible Imam (Peace be upon him) or somebody appointed by the Imam. In his occultation however, the mukallaf is free to choose between offering Z'uhr prayer or Friday prayer, provided its conditions are met. Although the precaution is Z'uhr prayer, it is better to offer the Friday prayer.

740. The time for Friday prayer is constricted. Based on obligatory precaution it should not be delayed from the beginning of the time for Z'uhr prayer, after it has been established with certainty, satisfaction or the conjectural proofs authorized by the sharia.

The Time for Maghrib and I'sha Prayers

741. The obligatory precaution is that the Maghrib prayer should be delayed from the setting of the sun until the redness in the eastern sky—which usually appears after the setting of the sun—has passed overhead.

742. The time for Maghrib and I'sha prayers for a person who is not constrained, is until midnight. However for the one constrained due to forgetfulness, sleep, Haydh or other reasons, the time is extended until the true Fajr (also known as the second Fajr) sets in. Since I'sha prayers must be prayed after Maghrib prayers in the case one is mindful of it, if he intentionally prays it before Maghrib, his prayer is invalid, except when the time left is only sufficient for I'sha, in which case it is necessary to pray I'sha before Maghrib.

743. If a person mistakenly prays I'sha before Maghrib, and realizes after completing his prayer, it is valid. He must then offer the Maghrib prayer.

744. If a person forgetfully prays I'sha before Maghrib, and realizes his mistake whilst he is praying, he should change his intention to Maghrib prayer, complete the prayer and then offer his I'sha prayer, unless he has reached the Ruku of the fourth Rak'ah. In this case he must stop praying, pray Maghrib afresh and then I'sha. 745. The time for I'sha prayers for a person who is not constrained, ends at midnight. Based on obligatory precaution, night must be calculated from sunset up until the azan of Fajr, and not sunrise.

746. If a person deliberately does not pray Maghrib and I'sha until midnight, the precaution is that he should pray them prior to the azan of Fajr, without making the intention of Qadha or adaa.

The Time for the Fajr Prayer

747. Close to the azan of Fajr, a whiteness appears in the Eastern sky that moves towards the West. This appearance of whiteness is called the first Fajr. When this whiteness spreads the sky, it is called the second Fajr and is the beginning of the Fajr prayer. The time for the Fajr prayer ends when the sun rises.

Chapter 23

The Rules of Praying Time

748. A person can commence with his prayers when he is certain or content that the time of prayers has set in. He can also rely on two just men who attest to the setting in of the prayer time, or one trustworthy person provided there is no strong reason to assume otherwise. A person may also commence praying if a person who is an expert in discerning prayer timings and is trustworthy, calls the azan to announce setting in of the prayer time.

749. If a person due to natural causes, such as clouds or thick dust, or individual impediments, such as blindness or being in jail, is unable to discern the setting in of the prayer time with certainty or means authorized by the sharia, he must delay his prayers until he attains certainty that it has set in, or a proof authorized by the sharia is established to that effect.

750. If the time of prayer is established for a person through one of the previously mentioned means and he begins his prayer, and then realizes during the prayer that the time of prayer has not set in, his prayer is invalid. His prayer is similarly invalid if he realizes it after the completion of his prayer. If he realizes whilst praying that the time of prayer has set in, or upon completing it realizes that the time of prayer had set in while he was praying, his prayer is valid.

751. If a person was unaware that one should commence with his prayers after establishing the setting in of the time of prayer, and later realizes that he prayed all his prayers within the allocated time, his prayer is valid. If he later realizes that he prayed prior to the allocated prayer time, or is unable to discern whether he prayed within the time or not, his prayer is

invalid. His prayer is similarly invalid if he realizes that the time of prayer set in whilst he was praying.

752. If a person who is certain or content that the time of prayer has set in, begins to pray, and then doubts whether the time has actually set in or not, his prayer is invalid. However, if he had certainty or was content during his prayer that the time of prayer has set in, but doubts as to whether what he has already completed of his prayer was within the allocated prayer time or not, his prayer is valid.

753. If there is little time left for prayer to the extent that if a person performs the recommended components of prayer, a part of his prayer will be completed after the allocated time, he must not perform the recommended components. For example, if by reciting the Qunoot, a part of his prayer will be completed after the allocated time, he must not recite the Qunoot.

754. If a person only has sufficient time to complete one Rak'ah within the allocated time, his prayer is adaa. However, a person should not deliberately delay his prayer to such a time.

755. If a person who is not a traveler only has adequate time to perform five Rak'ah of prayer until sunset, he must pray both Z'uhr and A'sr prayers. If the time is inadequate for five Rak'ah, he must only pray A'sr and then pray Z'uhr with the intention of Qadha. Similarly if a person who is not exempted only has adequate time to pray five Rak'ah of prayer until midnight, he must pray both Maghrib and I'sha prayers. If the time is less than that, he must only pray I'sha and then Maghrib. Based on obligatory precaution, Maghrib should be offered with the intention of ma fi zimmah, without the intention of it being adaa or Qadha.

756. If a person who is a traveler only has adequate time to perform three Rak'ah of prayer until sunset, he must pray both Z'uhr and A'sr prayers. If the time is less than that, he must only pray A'sr and then pray Z'uhr with the intention of Qadha. Similarly a traveler who is not exempted and only has adequate time to pray four Rak'ah of prayers until midnight must pray both Maghrib and I'sha. If the time is less than that, but it is possible for him to perform I'sha along with one rak'a of Maghrib before midnight, then it is necessary to perform I'sha prayer first and do Maghrib immediately afterwards. And if he

doesn't have enough time for this either, then it is necessary for him to perform I'sha first and the Maghrib. Based on obligatory precaution, Maghrib should be offered with the intention of ma fi zimmah, without the intention of it being adaa or Qadha. If after completing I'sha he finds that there is still adequate time for one Rak'ahor more until midnight, he must pray Maghrib prayer without delay with the intention of adaa.

757. It is recommended to pray each prayer as soon as its time sets in, for it has been strongly emphasized. The closer one prays to the earliest time the better, unless it is preferable to delay it, such as waiting to pray in congregation.

758. Whenever a person who wants to offer a prayer in its earliest time, has to perform Tayammum due to a legitimate excuse, and he knows that his excuse will remain until the end of the prayer time, he can pray his prayer in its earliest time. If however, he conceives there to be a possibility that his excuse will be alleviated, he must wait until it is alleviated. In the case his excuse is not alleviated, he should pray near the end of the allocated time. It is not necessary that he wait until there is only time for him complete the obligatory components of prayer; rather if he has time to perform the recommended components, such as the azan, the iqamah and Qunoot, he can perform Tayammum and offer his prayers with the recommended components. In the case of legitimate excuses other than Tayammum, such as Taqiyyah it is permissible to pray in the earliest time of prayer, and it is not necessary to repeat the prayer even if the hindrance is removed near the end of the remaining time. In cases other than Taqiyyah, one may pray at the earliest time if he conceives there to be no possibility of the situation changing. However, if the situation does change within the allocated time, the prayer must be repeated.

759. If a person who is ignorant of the rulings of prayer or the rulings of doubt and forgetfulness (in prayers), entertains the possibility that he would face an instance where his ignorance of these rulings would lead him to contravene an obligatory duty or an obligatory precaution, based on precaution, he must delay his prayer from its earliest time to learn the necessary rulings. However, if he is content that he will be able to complete his prayer correctly, he may begin his prayer in its earliest time. In such a case, if he does not come across any

instance where he is ignorant of the ruling, his prayer is valid. However, if he faces an instance, the ruling of which he does not know, he may opt for one of the two possibilities at hand. After completing his prayer, he should investigate the ruling to see whether his prayer was invalid and needs to be repeated, or whether it was valid in which case its repetition is not necessary.

760. If there is ample time for prayer and a creditor seeks that which is owed to him, one should first pay his debt and then pray [wherever paying it off is possible]. The same applies to other cases wherein one comes across an obligatory task that must be accomplished urgently, such as realizing the mosque has become Najis. In such a case, he must first purify the mosque and then pray. In both cases, if he prays first, he has sinned. However, his prayer is valid.

Chapter 24

The Prayer that must be Prayed in Sequence

761. The A'sr prayer must be prayed after the Z'uhr, and the I'sha prayer must be prayed after the Maghrib. If one deliberately prays A'sr before Z'uhr or I'sha before Maghrib, his prayers are invalid.

762. If a person begins his prayer with the intention of Z'uhr and during his prayer he realizes he has already offered the Z'uhr prayer, he cannot change his intention to the A'sr prayer. He must discontinue his prayer and start A'sr prayer afresh. The same applies for Maghrib and I'sha prayers.

763. While praying the A'sr prayer, if a person doubts whether he has prayed the Z'uhr prayer or not, he must change his intention to the Z'uhr prayer. However, if there is inadequate time and after the completion of the prayer the sun will have set, not leaving time for even a single Rak'ah, he must complete his prayer with the intention of the A'sr prayer. He must then consider his Z'uhr prayer to have been completed [i.e. ignore his doubt].

764. If a person becomes certain or content during his A'sr prayer that he had not prayed the Z'uhr prayer, and changes his intention to the Z'uhr prayer, and then he remembers—before performing any part of the prayer—that he did actually pray his Z'uhr prayer, he must complete the rest with the intention of the A'sr prayer. The same will apply if he has not performed a rukn of prayer. In this case he must repeat the Zikr and Qira'ah that he had performed with the intention of the Z'uhr prayer, with the intention of the A'sr prayer. In both these cases, based on recommended precaution, he should complete the prayer and repeat the prayer he offered with the intention of the A'sr prayer. However, if that which he had

performed was a Rak'ah, a Ruku or two Sujood, he must repeat his A'sr prayer

765. If a person doubts during the I'sha prayer, before reaching the Ruku of the fourth Rak'ah, as to whether he has prayed Maghrib or not, and there is inadequate time for even one Rak'ah to be prayed after the completion of the prayer, he must complete the rest of his prayer with the intention of the I'sha prayer. He must then consider his Maghrib prayer to have been completed [i.e. ignore the doubt]. In the case that there is adequate time for him to complete one Rak'ah or more, he must change his intention to the Maghrib prayer, complete a three Rak'ah prayer, and then offer the I'sha prayer.

766. If a person doubts during the I'sha prayer, after having reached the Ruku of the fourth Rak'ah, as to whether he has prayed Maghrib or not, his prayer is invalid if his time is not constricted. In this case he must repeat both Maghrib and I'sha prayers. Similarly his prayer is invalid and should be repeated if there is adequate time to complete five Rak'ah. In the case the time left is less than this, he should complete his I'sha prayer which will be considered valid. He should then consider his Maghrib prayer to have been completed [i.e. ignore his doubt].

767. If a person repeats a prayer he has already prayed due to precaution, and during his prayer he remembers that he has not prayed the prayer prior to it, he cannot change his intention to the prior prayer. For example, if a person is praying his A'sr prayer (again) due to precaution, and he remembers he has not prayed his Z'uhr prayer, he cannot change his intention to the Z'uhr prayer.

768. It is not permissible to change ones intention from Qadha to adaa or from a recommended prayer to an obligatory prayer.

769. If there is ample time left for prayers, it is permissible for a person to change his intention from adaa to Qadha during his prayer. In such a case, the changing of intention should be possible. For example, if he wishes to change his intention from the Z'uhr prayer to the Fajr prayer, his must not have entered the Ruku of the third Rak'ah.

Chapter 25

Recommended Prayers

770. There are numerous recommended prayers and they are referred to as nafilah prayers.

Amongst the nafilah prayers, the daily nafilah have been emphatically recommended. On a day other than Friday, they consist of thirty four Rak'ah, divided in the following manner:

Z'uhr eight Rak'ah

A'sr eight Rak'ah

Maghrib four Rak'ah

I'sha two Rak'ah

Night prayer eleven

Rak'ah Fajr two Rak'ah

Since the nafilah of I'sha, based on obligatory precaution, should be prayed in a sitting position, it is only counted as one Rak'ah.

On Fridays, four Rak'ah are added to the sixteen Rak'ah of the nafilah of Z'uhr and A'sr prayers. B

ased on the opinion of a great number of renowned scholars, it is better that six Rak'ah of these should be prayed when the sun is clearly visible above the horizon, and six Rak'ah when the sun has risen considerably above the horizon.

Another six Rak'ah should be prayed before the sun passes the zenith, and two more after it passes the zenith.

771. Out of the 11 Rak'ah of the Night prayer, 8 Rak'ah should be offered with the intention of the Night nafilah, 2 Rak'ah with the intention of Shaf'a prayers, and 1 Rak'ah with the intention of witr prayers. Complete instructions regarding the Night prayers are given in the books of Du'a.

772. It is permissible to perform nafilah prayers while sitting, however it is better to calculate two Rak'ah prayed in a sitting

position as one Rak'ah. For example, one who wishes to perform the nafila of Z'uhr [which are eight Rak'ah] sitting down, should pray sixteen Rak'ah. If he wishes to perform the witr prayer sitting down, he should pray two separate prayers, one Rak'ah each.

773. One should not perform the nafila prayers of Z'uhr and A'sr whilst travelling. There is no problem however, in reciting the nafila of I'sha with the intention of Rajaa'.

The Times of the Daily Nafila

774. The nafila of Z'uhr prayer is to be prayed before the Z'uhr prayer and its time is from the commencement of the time of Z'uhr. Based on obligatory precaution, the termination of its time is when the shadow of the stick, which is visible after the time of Z'uhr sets in, reaches 2/7th of the length of the stick itself. For example, if the length of the stick is seven hand spans, when the shadow of the stick reaches the length of two hand spans, based on obligatory precaution, it is the termination of the time for the nafila of Z'uhr.

775. The nafila of A'sr prayer is to be prayed before A'sr prayer. Based on obligatory precaution, the termination of its time is when the shadow of the stick, which is visible after the time of Z'uhr sets in, reaches 4/7th of the length of the stick itself. If a person wishes to pray the nafila after their allotted time, based on obligatory precaution he should pray the nafila of Z'uhrafter Z'uhr and the nafila of A'sr after A'sr and should not make the intention of adaa or Qadha.

776. The time for the nafila of Maghrib is after one completes his Maghrib prayer and extends to the end of the time of Maghrib. Based on recommended precaution, one should pray it before the disappearance of the redness that appears in the western sky after sunset. If one prays it after this time, he should do so without the intention of adaa or Qadha.

777. The time for the nafila of I'sha is after one completes his I'sha prayer up until midnight. However it is better to offer it immediately after I'sha.

778. The time of the nafila of Fajr, based on obligatory precaution is after the first Fajr up until the appearance of redness in the Eastern sky. If one wishes to perform it after the appearance of the redness, he should pray it after his Fajr prayer. In such a case, he should not make the intention of adaa or Qadha. A person who performs the night prayer may also pray the nafila of Fajr immediately after the night prayer.

779. Based on the opinion of a great number of renowned scholars, the time of the night prayer is from midnight up until the azan of Fajr prayer. However, it is not implausible that its time is from the commencement of the night until the azan of

the Fajr prayer and that its prime time is between midnight and the azan of the Fajr prayer. It is better to offer it in the last third of the night.

780. Even though according to a great number of renowned scholars, the time of the night prayer is from midnight. However, a traveler or one for whom it is difficult to pray at midnight, can pray it from the commencement of the night. It is not implausible that it is permissible for other than these two to pray it at that time as stated in the previous ruling.

The Ghufaylah Prayers

781. The Ghufaylah prayer is amongst the well known recommended prayers, and it is prayed between the Maghrib and I'sha prayers. In the first Rak'ah after Surah al-Fatihah, instead of the second Surah, the following verses should be recited: ??

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Wa dhannuni idh dhahaba mughadhiban fadhanna allan naqdira 'alaihi fanaada fidh Zulumati alla ilaaha illa anta subhaanaka inni kuntu minadh dhalimeen fastajabna lahu wa najjainahu minal ghammi wa kadhalika nunjil mu'mineen

(21:87-88) And the Man of the Fish, when he left in a rage, thinking that We would not put him to hardship. Then he cried out in the darkness," There is no god except You! You are immaculate! I have indeed been among the wrongdoers! So We answered his prayer and delivered him from the agony; and thus do We deliver the faithful.

In the second Rak'ah after Surah al-Fatihah, instead of the second Surah, the following verse should be recited:

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Wa 'indahul mafaatihul ghaybi la ya'lamuha illa huwa wa ya'lamu ma fil barri wal bahri wa ma tasqutu miw waraqatin

illa ya'lamuha wa la habbatin fi Zulumatil ardhi wa la ratbiw wa la yaabisin illa fee kitaabim mubeen.

(59: 6) With Him are the treasures of the Unseen; no one knows them except Him. He knows whatever there is in land and sea. No leaf falls without His knowing it, nor is there a grain in the darkness of the earth, nor anything fresh or withered but it is in a manifest Book.

Then in Qunoot, the following supplication should be recited:

(Instead of the expression ??? ? ??? ??? ? ? (kadha wa kadha), one should express his needs)

Alla humma inni as aluka bi mafaatihli ghaybil lati la ya'lamuha illa anta an tusalliya 'alaa Muhammadin wa Aali Muhammadiw wa an taf'al bi kadha wa kadha...

(O Allah! I beseech You with the keys of the unseen, which no one knows but You, to send Your blessings on Muhammad(Ò) and the progeny of Muhammad, and that You fulfill for me...) Followed by the following supplication:

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Alla humma anta waliyyu ni'mati wal qaadiru 'ala talibati ta'lamu haajati fa as aluka bihaqqi Muhammadiw wa Aali Muhammadin 'alayhi wa 'alay himussalaamu lamma qadhay-taha lee.

(O Allah! You are the Guardian of my bounties, and you are able to fulfill my wishes. You know of my need, and therefore I will not cease to beseech you for the sake of Muhammad and the progeny of Muhammad—upon them be peace—until you fulfill it for me.)

Chapter 26

The Rules of Qiblah

782. The location where the Kaaba is situated is the Qiblah. Prayers must be offered facing the Qiblah. If a person who is at a great distance stands in such a way that it is said he is facing the Qiblah, it is sufficient. Similar is the case for other issues which must be performed facing the Qiblah, such as the slaughtering of an animal.

783. A person who prays while standing must have his face, chest and stomach facing the Qiblah. The recommended precaution is that the toes should also point towards the Qiblah.

784. A person who has to pray while sitting should have his face, chest and stomach facing the Qiblah.

785. A person who is unable to offer his prayer in a sitting position should lay on his right in such a manner that the front of his body faces the Qiblah. If that is not possible, he should lay on his left in such a manner that the front of his body facing the Qiblah. If he is unable to do to that, he must pray lying on his back with the sole of his feet facing the Qiblah.

786. The Ihtiyat prayer, the forgotten Tashahhud, the forgotten Sajdah, and the Sajdah al-Sahw that is performed for the forgotten Tashahhud, should all be performed while facing the Qiblah.

Based on recommended precaution, other instances of Sajdah al-Sahw should also be performed while facing the Qiblah.

787. The recommended prayer that is prayed in a stationary position must be prayed facing the Qiblah. However, it is not necessary to face the Qiblah for the prayers that are performed while walking or riding, even though they may be for an obligatory Nazr.

788. One who wishes to pray must endeavor to determine the direction of the Qiblah until he attains certainty or satisfaction, or is informed by the testimony of two just persons, or one trustworthy person, provided one does not have a reasonable doubt contrary to his statement. Similarly, one may use the Qiblah used in Muslim cities for prayers or positioning the graves. If one finds himself devoid of these, he must endeavor to determine the Qiblah, and act upon the information he attains though it be conjectural. He must act according to it even if the conjecture is obtained through the statement of a disbeliever or a corrupt person, who determined it based on scientific principles.

789. A person who merely has conjectural knowledge regarding the direction of the Qiblah, cannot act on his knowledge if he is able to obtain more accurate information regarding its direction. For example, if a guest obtains conjectural knowledge regarding the direction of the Qiblah through the statement of the host and is able to obtain more accurate information regarding it, he must not act based on the host's statement.

790. It is sufficient for a person to pray in any direction if he does not possess any means to determine the direction of the Qiblah, or despite his efforts, he was not even able to obtain conjectural knowledge regarding it. The recommended precaution is that he prays in all four directions if there is sufficient time.

791. If a person attains certainty, or that which has the ruling of certainty, or conjectural knowledge, that the direction of Qiblah is in one of two directions, he must pray in both directions.

792. If a person intends to pray in more than one direction and wishes to offer two prayers which should be prayed in sequence, like the Z'uhr and A'sr prayers, the recommended precaution is that he pray the first prayer in all the intended directions, and then commence with the second prayer.

793. If a person is unable to attain certainty or that which has the ruling of certainty about the direction of the Qiblah, and wishes to perform an act, besides prayer, that requires him to face the Qiblah, such as slaughtering an animal, based on obligatory precaution he must delay performing the act in

the event that he is able to do so, so that he may locate the Qiblah. If he is unable to do so or if delaying it will cause him hardship, he may act according to conjectural knowledge. If he is unable to attain conjectural knowledge, in the case where slaughtering the animal is necessary—for example, if he delays, he will lose his life—facing any direction shall be valid.

Chapter 27

Covering the Body in Prayers

794. A man must cover his private parts during prayer even if no one is able to see him. The recommended precaution is that he should also cover the area between his navel and his knees during prayer.

795. A woman must cover her entire body during prayer, including her head and hair. The recommended precaution is that she should also cover the soles of her feet. It is not however necessary for her to cover the part of her face which is washed in Wudhu, or her hands up to the wrist, or her feet up to the ankles. Nevertheless, in order to ensure that the parts of the body which have to be covered are actually covered, she should cover a portion of the sides of her face and a portion that is lower than her wrists and ankles.

796. A person who intends to offer the Qadha for a forgotten Sajdah or a forgotten Tashahhud or a Sajdah al-Sahw for the Qadha of a forgotten Tashahhud, should cover his body as he would do so while praying. The recommended precaution is that he must do the same while offering Sajdah al-Sahw for other than the aforementioned case.

797. The prayers of a person who deliberately or on account of not knowing—in the case where he is culpable for falling short in his efforts to learn the ruling—did not cover his private parts while praying, are invalid.

798. A person who realizes in the midst of his prayer that his private parts are visible should cover them immediately. Based on obligatory precaution, he should complete his prayer and then repeat it. However, if he realizes after the completion of his prayer, that his private parts were visible during the prayer, his prayer is valid. Similarly his prayer is valid if while

praying he realizes that his private parts were previously visible, but are covered at the time of his realization.

799. If the clothes of a person cover his private parts while he is standing, but may not do so in another position, such as Ruku or Sujood, his prayer is valid if he is able to conceal them by some other means. However, the recommended precaution is that he should not pray with such clothes.

800. It is permissible for a person to cover himself with grass or the leaves of a tree. However, the recommended precaution is that he should do so only when he has no alternative.

801. If a person has nothing other than mud to conceal his private parts, based on obligatory precaution, he must pray the normal prayers by covering his private parts with mud, and also offer the prayer of the unclothed under compulsion.

802. If a person does not have anything to cover himself, and entertains the possibility that he may find something before the time of prayer comes to an end, the recommended precaution is that he delay his prayer. If he does not find anything, he should pray near the end of its time in accordance with his responsibilities. He may also pray at the commencement of the prayer time.

In such a case, if he does not find anything by the end of the prayer time, his prayer is valid. If he manages to do so, he must repeat his prayer.

803. If a person who intends to pray does not have anything to cover his private parts, not even mud or slime, he may pray standing provided that no discerning individual is looking at his private parts. Based on obligatory precaution, he should place his hand over his private parts, and make a sign to indicate Ruku and Sujood. Based on obligatory precaution, the sign made for Sujood must be of a greater degree. If a discerning individual can see him, he should pray sitting and perform Ruku and Sujood by making signs. Based on obligatory precaution, the sign made for Sujood must be of a greater degree.

Chapter 28

The Condition of the Clothing Worn for Prayer

804. There are six conditions for the clothing that is worn during prayer:

1. It should be Tahir.
2. It should be Mubah (not usurped).
3. It should not be made from the parts of a dead body.
4. It should not be made from an animal whose meat is forbidden.
5. If the person offering prayers is a male, his clothing should not be of pure silk.
6. If the person offering prayers is a male, his clothing should not be embroidered with gold, the details of which shall be explained later.

805. The clothing worn during prayer must be Tahir. If one prays with Najis clothing or a Najis body despite having alternatives, his prayer is invalid.

806. If a person does not know—due to his own culpability—that praying with Najis clothing or a Najis body renders the prayer invalid, and he prays with a Najis cloth or Najis body, his prayer will be invalid.

807. If a person is unaware of an item being Najis due to ignorance of its ruling—for example, he is unaware that the sweat of a disbeliever who is not an Ahl al-Kitaab is Najis—and prays with it, his prayer is invalid is the case he is a culpable ignorant.

808. If a person is oblivious of his body or clothing being Najis and realizes it after the completion of his prayer, his prayer is valid. Based on recommended precaution, if he realizes within the time frame of prayer, he should repeat his prayer.

809. If a person forgets that his body or clothing is Najis and realizes it during his prayer or after it, he must repeat his prayer. If the time for prayer has elapsed, he must perform its Qadha.

810. If the body or clothes of a person who is engaged in prayer become Najis, and he realizes it before praying anything of the prayer with the Najasah, provided he has ample time remaining, and given that washing his clothes or body, or changing his clothes, or taking off his clothes does not break the form of his prayer, he should—in the midst of his prayer—either:

a. wash his clothes or body b. or, change his clothes c. or, take off his clothes if something is covering his private parts. The same will apply if he realizes that his clothes or body has become Najis, but doubts if it became Najis at that moment or it was Najis from before. However, if it turns out that washing his body or clothes, or changing his clothes, or taking off his clothes breaks the form of his prayer, or if he removes his clothes, it will expose his private parts, his prayers will have been rendered invalid. Subsequently he should offer his prayers again with Tahir clothes and a Tahir body.

811. A person who begins his prayer while there is nominal time remaining, must render his body or clothing Tahir by means of water or changing his clothes if doing so will not invalidate his prayer:

a. If his body or clothing becomes Najis and he realizes that it has become Najis before having prayed anything of his prayer.

b. If his body or clothing are Najis but he doubts as to whether they were Najis from before or whether they became Najis during that time If another article of clothing is covering his private parts, he should remove the Najis clothing and complete his prayer. However, if there is no other article of clothing covering his private parts and he cannot change his clothes, nor render them Tahir by means of water, it is an obligatory precaution that he complete his prayer with the Najis clothing.

812. If the body of a person who is engaged in prayer becomes Najis, and he realizes it before praying anything of the prayer with the Najasah, given that there is nominal time

remaining, he should: Wash his body, if doing so does not break the form of his prayer. Continue praying in the same state (of Najasah), if washing his body breaks the form of his prayer. In this case, his prayer will be valid. The same will apply if he realizes that his body has become Najis, but doubts if it became Najisat that moment or was Najis from before.

813. If a person doubts whether his body or clothes are Tahir, and does not have certainty, or that which has the ruling of certainty of it previously being Najis, and he prays in such a condition, his prayer is valid even if he later realizes that it had in fact become Najis.

814. If a person washes his clothes with water and attains certainty, or that which has the ruling of certainty of it being Tahir, and prays with that clothing, his prayer is in order even if he later realizes that it had not become Tahir.

815. If a person finds blood on his body or clothing, and has certainty that it is not amongst the blood which is considered Najis—for example, he is certain that it is the blood of a mosquito—and if he realizes after prayer that it was in fact amongst the blood that prayer cannot be offered with, his prayer is valid.

816. If a person is certain that the blood on his body or clothing is Najis, but amongst the blood that is permissible for one to pray in—for example the blood of a wound or that of a boil—his prayer is valid even if he later realizes that it was in fact amongst the blood that prayer cannot be offered with.

817. If a person forgets that an item is Najis, and his body or clothing contacts it with wetness, and he prays in the state of forgetfulness (of the Najasah), but remembers it again after the completion of his prayer, his prayer is valid. However, if a person's body makes a moist contact with an item, the Najasah of which he has forgotten, and he proceeds to perform Ghusl and offer prayers without having washed the Najasah, both his Ghusl and prayer will be invalid. The only exception is the case wherein performing Ghusl causes his body to become Tahir as well; for example, performing Ghusl with mu'taÒam water, the water which does not become Najis upon contacting Najasah, such as Kurror flowing water. Similarly, if a person's bodily parts of Wudhu make a moist contact with an item, the Najasah of which he has forgotten, and he performs Wudhu and

offers prayers prior to making that part Tahir, both his Wudhu and prayer will be invalid. The only exception is the case wherein he performs Wudhu in such a manner that the parts of Wudhu become Tahir as well, as in the case of performing Wudhu with mu'ta'Am water.

818. If a person only has one set of clothing, and both his body and clothes become Najis, and the water in his possession is solely sufficient to make one of them Tahir, based on precaution, he must make his body Tahir and pray with Najis clothing except in the following two cases:

a. If the Najasah of the body is less than that of the clothing.

b. If one washing is required to make the body Tahir, whilst two washings are required to make the clothing Tahir. In the above cases, rendering the clothes Tahir takes precedence.

819. A person who only has one set of clothing and it is Najis, must pray with the Najis clothing and his prayer is valid.

820. If a person has two articles of clothing and knows that one of the two is Najis, but does not know which of the two, he must pray with both of them, if there is ample time at his disposal. For example, if a person wishes to perform Z'uhr and A'sr prayers, he must perform Z'uhr with each article and likewise A'sr. However, if the time left is nominal, he must pray with either one of the two, and after completing his prayer, he must either pray with the other article or with clothing that is Tahir.

821. The clothing a person utilizes to conceal his private parts whilst praying must be Mubah(not usurped). If a person who knows that the utilization of usurped clothing is forbidden, or due to his negligence did not learn the ruling that wearing usurped clothing is prohibited, knowingly conceals his private parts by means of usurped clothing, his prayer is invalid. However, in the following cases, the utilization of usurped clothing does not cause the invalidation of prayer, though the precaution is that it should be avoided:

a. When the article of clothing is insufficient to conceal the private parts. b. When the article of clothing is sufficient for concealing the private parts, but is not being worn during prayer, like a large handkerchief or a loincloth that is in one's pocket, given that it does not move along with the movement of

the one who is praying. However, if it moves along with his movements, then praying in it would be problematic. c. When a usurped article of clothing is utilized for other than concealing the private parts.⁸²² If a person knows that the utilization of usurped clothing is forbidden, but does not know that using it to conceal the private parts during prayer invalidates the prayer, and he intentionally utilizes it whilst praying, his prayer is invalid.⁸²³ If a person utilizes usurped clothing to conceal his private parts during prayer, but he is unaware that it is usurped, his prayer is valid. Similarly, the prayer of a person who forgetfully utilizes usurped clothing and he is not the usurper, is valid. However, if one who usurped the clothing himself, forgets that he usurped it, and utilizes it to conceal his private parts, his prayer is invalid if he has not repented for usurping it. If he has repented, to claim that his prayer is invalid is problematic.⁸²⁴ If a person does not know or forgets that his clothing is usurped, and realizes it whilst praying, he must remove the usurped clothing if his private parts are concealed by means of another article of clothing, and he is immediately able to remove the usurped clothing or he is able to do so without breaking the muwalaat sequence of the prayer. One must break his prayer and pray with clothes that are not usurped as long as there is sufficient time for at least one Rak'ah if: a. There is nothing else concealing his private parts. b. Or, he is unable to immediately remove the usurped clothing. c. Or, removing the clothing would break the sequence of the prayer. However, if the time left is insufficient for even one Rak'ah, he must take off the article of clothing while praying, and observe the rulings of those who pray unclothed as discussed in article 803.⁸²⁵ If a person prays with usurped clothing to save his life, or for example prays with usurped clothing to avoid its theft, his prayer is valid even though it may cover his private parts.⁸²⁶ If a person purchases clothing with the very money on which Khums has not been paid, then the ruling of praying with such clothing is that of praying with usurped clothing.⁸²⁷ The clothing worn during prayer should not be made from the parts of a carcass of an animal that has gushing blood (an animal whose blood gushes forth when its vein is cut). In fact, based on obligatory precaution, one should not even wear clothing which is made

from the parts of the carcass of an animal that does not have gushing blood, such as a fish or a snake.⁸²⁸ If a person prays while carrying with himself a part of a carcass that contains life, such as a piece of meat or skin, based on precaution his prayer is invalid even if it is not a part of his clothing.⁸²⁹ If a person prays while carrying with himself a part that has no life—such as hair or wool, both of which do not contain life—from the carcass of an animal that is permissible to consume, his prayer is valid.

830. The clothing worn during prayer should not be made from parts of an animal whose meat is forbidden (to consume). Even if the hair of such an animal be on the body or clothing of a person, his prayer is invalid.⁸³¹ If the saliva, nasal fluid, or any other bodily fluid from an animal whose meat is forbidden—such as a cat—is on the body or clothing of a person, given that it is still wet, his prayer is invalid. However, if it has dried in such a manner that its essence is removed, his prayer is valid.⁸³² There is no problem if the hair, sweat, saliva or nasal fluid of another person is on the body or clothing of one who is praying. Similarly, there is no problem if he has a pearl, bee wax or honey with him.⁸³³ If a person doubts whether his clothing is made from an animal whose meat is permissible (to eat) or forbidden, it is permissible to pray with it, regardless of whether it was acquired in an Islamic country or a non-Islamic country.⁸³⁴ It is permissible to pray with an oyster shell or articles made from it, such as buttons.⁸³⁵ There is no harm in wearing pure fur during prayer, but based on obligatory precaution, one should not pray wearing the skin of a squirrel.⁸³⁶ If a person prays wearing clothing made from an animal whose meat is forbidden, be it forgetfully or due to ignorance (of it being made from such an animal), it is not necessary for him to repeat his prayer. The recommended precaution however, is that he repeats it. Similarly, it is not necessary to repeat it if he is an excusable ignorant with respect to the ruling.⁸³⁷ It is forbidden for a man to wear gold embroidered clothing, and doing so during prayer invalidates it. There is no problem however for women to wear them in or outside of prayer.⁸³⁸ Wearing items made of gold, such as a golden necklace, a golden wrist watch, golden glasses, a gold ring or items similar to these is forbidden for men, and if a man

prays while wearing them, his prayer is invalid. However, there is no problem in women utilizing such items in or outside of prayer.⁸³⁹ If a man wears an item made of gold—for example a gold ring—forgetfully, or he does not know it is made of gold, or doubts whether it is made of gold or not, and prays with it, his prayer is valid.⁸⁴⁰ The clothing of a man who is praying should not be made from pure silk. Based on obligatory precaution, the same applies to articles such as a cap or a waistband. In fact, it is forbidden for men to wear clothes made from pure silk outside of prayer as well.⁸⁴¹ If a part or all of the lining of a man's clothing is made from pure silk, it is forbidden for him to wear it, and doing so during prayer will invalidate it.

842. If a person does not know whether an article of clothing is made from pure silk or not, wearing it is permissible and there is no problem in doing so during prayer.

843. There is no problem in having a pure silk handkerchief or similar article in one's pocket and prayer is not invalidated with it.

844. There is no problem in a woman utilizing clothing made from pure silk in and outside of prayer.

845. There is no problem in wearing clothing that is gold embroidered, made from pure silk, or usurped, if one is compelled to do so. Additionally, if one is compelled to wear clothes, and possesses no clothes until the end of the prayer time, other than the aforementioned articles, he can pray in such clothes.

846. If a person possesses no clothing other than that which is usurped or made from the parts of a carcass, until the end of the time for prayer, but is not compelled to wear clothes, he must observe the rulings of those who pray unclothed as elaborated in article 803.

847. If a person possesses no clothing other than that which is made from the parts of an animal whose meat is forbidden, until the end of prayer time, and he is compelled to wear it, he may offer his prayer with it. However, if he is not compelled, he must observe the rulings of those who pray unclothed.

848. If a man possesses no clothing other than that which is made of pure silk or that which is gold embroidered, until the end of the prayer time, given that he is not compelled to wear it, he must observe the rulings of those who pray unclothed.

849. If one does not possess any articles of clothing to cover his private parts, it is obligatory for him to acquire it, although by purchasing or renting it. However, if one has insufficient funds to acquire it, or if spending money on it would cause him harm, acquiring it is not necessary. In this case he may either pray according to the rules of the unclothed, or bear the harm and acquire the clothing for prayer.

850. If a person grants an article to one who does not possess any clothing, or offers to lend it to him, he must accept it if it does not cause him any hardship. In fact, if requesting a person to grant him or lend him an article of clothing is not of harm to him, he must request either of the two.

851. It is forbidden to wear clothing, the material, colour or stitch of which, is aberrant in such a manner that it becomes a cause of one's humiliation, or it cause's one to stand out and become obtrusive. If a person utilizes such clothing in his prayer to cover his private parts, it is not implausible that its ruling be the ruling of usurped clothing as elaborated in article 821.

852. If a man wears women's clothing or a woman wears men's clothing, in the case that they make it a part of their regular apparel, as a precaution, it will be forbidden to do so, and the use of such clothing during prayer to cover the private parts, based on precaution, will cause its invalidation.

853. It is not permissible for a person who has to pray while lying, to utilize a blanket or a quilt made from the parts of an animal whose meat is forbidden. Similarly, one should not pray on a mattress that is made from the parts of an animal whose meat is forbidden, if he wraps it around himself. If it is made of pure silk or it is gold embroidered, and the one praying is a man, or if it is Najis, based on obligatory precaution one should not pray in it.

Instances When Taharah of the Body or Clothing is not Necessary on Prayer

854. There are three instances—the details of which shall follow—where if the body or clothing of the one praying is Najis, his prayer is valid. a. When one's body or clothing has become Najis with the blood from a wound, cut or boil on his body. b. When one's body or clothing has become Najis with blood, the area of which is smaller than that of a dirham. The size of a dirham—with regards to the amount of blood that is excusable in prayer—is approximately the size of the top-most joint of the index finger. c. When one is compelled to pray with a Najis body or Najis clothing. The one instance where it is permissible to pray with Najis clothing is when one's smaller articles of clothing, such as his socks or cap, are mutanajjis. The rulings for these four instances shall be elaborated in the subsequent articles.

855. If there is blood from a wound, a cut or a boil on one's body or clothing, and pouring water over the body or clothing, or taking off the clothing, causes hardship for the common person, one can pray with the blood until the wound, cut or boil heals. The same applies if the pus that oozed out with the blood, or the ointment that was applied on his wound, became Najis, and is stuck to his clothes or his body.

856. If a person prays with the blood of a cut or a wound that usually heals within a short period, and washing it is not difficult for the common person, and it is not smaller in size than a dirham, his prayer is invalid.

857. If a part of one's body or clothing that is at a distance from the wound, becomes Najis by means of wetness or fluid from the wound, it is not permissible to pray with it. However, if an area of the body or clothing that is usually stained by the wound or becomes Najis by means of its wetness, there is no problem in praying with it.

858. If the body or clothing of a person contacts blood from internal piles, or a wound within the mouth or the nose, or wounds similar to these, it is apparently permissible to pray with it. However, if the blood is from external piles, then it is definitely permissible to pray with it.

859. If a person who has a wound on his body, discovers blood on his body or clothing equal to or greater than the size of a dirham, but does not know whether it is the blood from the wound or not, it will not be permissible for him to pray with it.

860. If there are numerous wounds on the body, the proximity of which is so nominal that they are all considered as one wound, there is no problem in praying with their blood until they all heal. However, if the distance between them is such that each is deemed to be a wound on its own, one must make his clothes and body Tahir from the blood of each wound that heals, if it is not smaller than a dirham.

861. If the blood of a dog, a pig, an animal whose meat is forbidden, a carcass, a Kafir who is not from the Ahl al-Kitaab, or the blood of Haydh, is found on the body or clothing of one who is praying, his prayer is invalid, even if it be the size of the tip of a needle. Based on obligatory precaution, the blood of Nifas and Istihadha have the same ruling. However, there is no problem in praying with other instances of blood, such as blood from a human body that is not essentially Najis, or the blood of an animal whose meat is permissible to consume, even if it be found on numerous parts of the body, provided the total area covered by the blood is lesser than a dirham.

862. Blood that flows onto clothing without lining in such a manner that it soaks through to the other side, is deemed as one blood. However, if the other side is separately stained with blood, each is to be deemed a separate instance of blood. Therefore if the blood on both sides—in the case the blood soaks through without lining—is smaller than that of a dirham, it is permissible to pray with it and if it is equal to or greater than a dirham, prayer with it is invalid.

863. If blood flows onto clothing with lining in such a manner that it seeps onto the lining, or blood that flows onto the lining and soaks through to the exterior, each must be considered a separate instance of blood. Therefore, if the blood on the clothing and the lining is less than a dirham, prayer with it is valid. If however, it is equal to or greater than a dirham, prayer with it is invalid.

864. If the blood on one's body or clothing is lesser than a dirham and it comes in contact with some wetness, resulting in its surrounding becoming Najis, prayer with it is invalid even if

the blood and the wetness be lesser than a dirham. However, if the wetness solely contacts the blood and not its surroundings, there is no problem in praying with it.

865. If the body or clothing is not contaminated with blood, but through making a moist contact with blood, they become Najis, it is not permissible to pray with it even if the Najis area is smaller than a dirham.

866. If the blood on the body or clothing, the area of which is smaller than that of a dirham, contacts another Najasah, such as urine, it is not permissible to pray in it.

867. If smaller articles of clothing, such as socks or cap, which are insufficient for covering the private parts, become Najis, it is permissible to pray wearing them as long as they do not contravene the other conditions of the clothes of one who is praying, like not being made from the parts of a carcass, an A'in al-Najasah or an animal that is forbidden. There is also no problem in praying with a Najis ring.

868. It is permissible to have Najis items with oneself, such as a tissue paper, a key or a knife during prayer.

869. If one knows the area of the blood on the body or clothing is smaller than that of a dirham, but suspects it is from the blood for which there is no exemption, it is permissible to pray with it and it is not necessary to wash it.

870. If one knows the area of the blood on the body or clothing is smaller than that of a dirham, but does not know that it is from the blood for which there is an exemption, and he prays with it, but realizes later that it is from the blood which is not exempted, it is not necessary for him to repeat the prayer. Similarly if he conceives the blood to be less than a dirham, but after completing his prayer he realizes it is greater than a dirham, it is not necessary for him to repeat the prayer.

Recommended Acts

871. A number of things are recommended with respect to the clothes of the one who is praying. Amongst them are the following: a turban along with its final fold passed under the chin, wearing an Aba' (a cloak), white clothing, and the cleanest clothing at one's disposal, to apply perfume and to wear a carnelian ('Aqeeq) ring.

Makrooh Acts

872. A number of things are Makrooh with respect to the clothes of the one who is praying. Amongst them are the following: to wear black, dirty, or tight clothing, or to wear the clothes of a drunkard, or of one who is careless with regards to Najasah. Similarly, it is Makrooh to keep the buttons of one's clothing open and the obligatory precaution is to abstain from praying in a cloth or with a ring which contains facial illustrations. The Place of Prayer There are seven conditions for the area on which one is praying

Chapter 29

The Places of Prayer

There are seven conditions for the area on which one is praying

Condition 1

The place of the prayer should not be usurped.

873. If a person offers his prayer on a usurped property, even if it be on a usurped rug, blanket or similar items, his prayer will be invalid if the areas of Sujood are usurped. Based on obligatory precaution, the same applies to prayers offered on a usurped bed or similar item. However, there is no harm in praying under a usurped ceiling or a usurped tent.

874. To pray on a property—the right of utilization and benefit of which belongs to another person—without the permission of the one who owns the right to utilize it, renders the prayer invalid. For example, if the owner of a rental property, or another person utilizes the property for prayer without the permission of the tenant, his prayer is invalid. Similarly, if a person dictates before his demise that one third of his property must be utilized for a particular cause, it is not permissible to utilize the property for prayer until the third is separated from the rest. Praying on a property to which another has a right to—for example, praying on a property which someone has demarcated with a stone fence—without the individual's permission will render the prayer invalid, if it intrudes on his jurisdiction. In cases other than this, there is no problem in doing so. For example, praying on a property that has been mortgaged. One may pray on the property with the permission of the

mortgagor, even though the mortgagee may not be pleased with him praying on the property.

875. The prayer of one who usurps the place of a person who is seated in a mosque, is invalid.

876. If one prays in a place and does not know whether it is usurped or not, and after the completion of his prayer realizes that the area of Sajdah is usurped, his prayer is invalid. However, if one forgets that a particular area is usurped, prays there and later remembers it was usurped, his prayer is valid. However, if one usurps the property himself, and forgetfully prays in it, his prayer is invalid if he has not repented for the usurpation. If he has repented, then to claim that his prayer is invalid is problematic.

877. The prayer that is performed in an area where the area of prostration is usurped, and one knows of its usurpation, is invalid, even if the person is ignorant of its invalidation.

878. If the animal or saddle of one who is compelled to pray while riding is usurped and he performed Sujood upon the animal or the saddle, his prayer is invalid. The recommended prayers are similarly invalid in such a case. However, if the shoes (of the animal) are usurped, to claim his prayer is invalid is problematic.

879. If a person has mutual ownership of a property, it is not permissible for him to utilize the property without the consent of his partner until his share of the property is separated.

880. If a person purchases property with very money, the Khums of which has not been disbursed, the utilization of it is forbidden, and prayer on such a property is invalid.

881. If the owner of a property consents to its utilization, and one is aware that his consent is not genuine—i.e. he is in fact displeased with its utilization—prayer on such a property is invalid. Conversely, if he does not consent, but one is certain that he permits its utilization, prayer on it is valid.

882. The utilization of a deceased's property, the Khums or Zakat of which has not been disbursed, is forbidden, and prayer on it is invalid if there would be no surplus in the estate after the disbursement of Khums and Zakat. However, if the debt is disbursed or one becomes the guarantor of the debts with the approval of the Hakim al-Shar'i, there is no problem in

utilizing it, or praying on it, with the permission of the inheritors.

883. The utilization of the property of a deceased who is indebted to the people is forbidden and prayer on it is invalid without the consent of the creditors, in the case there would be no surplus in the estate after the disbursement of the debts. However, if one becomes the guarantor of the debt with the approval of the creditors, it is permissible to utilize the property with permission of the inheritors and to pray on it is valid.

884. If a deceased has no debt, but amongst his heirs is a minor, insane or absentee, it is forbidden to utilize the property without the consent of their guardian and to pray on it is invalid.

885. Prayer on the property of another is only permissible in the case one has certainty or a proof authorized by the sharia for the consent of the owner. It is similarly permissible if one obtains general consent of use, from which, the consent of prayer is understood. For example, if one consents that another may sit and lie down on his property, the permission to pray is also normally understood from it.

886. To pray on land great in expanse, which was elaborated in article 277, is not conditional upon the permission of its owner.

Condition 2

887. The place of prayer for obligatory prayers should not be in motion in such a manner that it disturbs the composure of the body, or hinders the obligatory components unless one is compelled. If one is compelled to perform prayer in a place in motion with the aforementioned characteristics, such as a car, ship or train due to nominal time, or another reason, he should keep the composure of his body to the degree possible and ensure he observes the Qiblah. If they divert from the Qiblah, he should redirect himself to it.

888. There is no problem in performing prayer in a car, ship, train or any other means of transportation, while it is stationary.

889. Prayer on stack of wheat or barley or that similar to them, which cause one to lose the composure of the body is invalid.

Condition 3

890. Prayer should be performed only where one gives the possibility of its completion. Prayer in a place one is confident he will be unable to complete it due to wind, rain, assemblage of people, or other similar obstacles, is invalid even if he manages to complete it.

891. Prayer in a location where it is forbidden to linger, such as a roof, the collapsing of which is nigh, is valid, though one would have sinned.

892. If standing or sitting on an object becomes the cause of the violation of its sanctity, and violating its sanctity is forbidden, such as a rug on which the name of God is imprinted, it is not permissible to pray on it, and based on obligatory precaution, to pray on it is invalid.

Condition 4

The height of the ceiling, for the place of prayer should not be low to the degree one is unable to stand perpendicularly and should not be small to the degree that one is unable to perform Ruku or Sujood.

893. If one is compelled to perform prayer in such a place where it is not possible to stand at all, he must pray sitting, and if it is not possible to perform Ruku or Sujood, he should perform them by means of signaling the head.

894. If praying ahead of the grave of the Prophet or the Imams (Peace be upon them all) violates their sanctity, it is forbidden and invalid. The obligatory precaution is that it is similarly forbidden even if it does not violate their sanctity. However, if there is an object, such as a wall, between one and the grave, he may commence with prayer. The distance caused by the Sandooqal-shareef (wooden construction above the grave), the Dhareeh (the silver enclosure around the Sandooq al-Shareef) or the cloth settled upon it, is insufficient.

Condition 5

895. If the place of prayer is Najis, it should not be wet in such a manner that Najasah, which invalidates prayer, contacts the clothing or body of the person praying. However, the place of prostration—where one places the forehead—should be

Tahir. If it is Najis, it renders the prayer invalid, even though it may be dry. The recommended precaution is that the place of prayer should be entirely Tahir.

Condition 6

The distance between a man and woman during prayer should be at least one hand span. However, it is Makrooh for there to be less than ten ziraa' distance in places other than Makkah.

896. If a woman prays adjacent to or ahead of a man with less than the aforementioned distance, and they simultaneously commence with prayer, they should both repeat their prayers. Based on obligatory precaution, the same applies if one commenced before the other, and they should both repeat their prayer.

897. If there is a wall, curtain or another object between a man and woman that obstructs their vision of each other, their prayer is valid, even if the distance between them is less than mentioned earlier.

Condition 7

The place of prostration—where the forehead is placed—should not be more than four closed fingers higher or lower than the tip of the toes, and based on obligatory precaution, it should not be higher or lower than where he places his knees. The details of this ruling shall be elaborated in the section of Sujood.

898. It is not permissible for a non-Mahram man and woman to be together in a place where they are unaccompanied and the entry of another is impossible, if they entertain the possibility of sin. The recommended precaution is that they should not pray in such a place.

899. Prayer in a place where a harp or similar instruments are being played, is not invalid, however, it is forbidden to listen to them. It is similarly forbidden to be present in such a gathering except for the purpose of impeding their use.

900. It is not permissible to pray on the roof top of the Kaaba unless one is compelled. The recommended precaution is that one should not pray inside the Kaaba. However, there is no problem in the case one is compelled.

901. There is no problem in praying a recommended prayer inside the Kaaba. It is in fact recommended to pray a two Rak'ah prayer opposite every rukn of the Kaaba.

Places Where it is Recommended to Pray

902. Praying in the mosque has been highly advocated in the sharia. The best mosques where prayer may be offered in order of value are:

1. Masjid al-Haraam
2. Masjid al-Nabawi
3. Masjid al-Kufa
4. The Bayt al-Muqaddas mosque
5. The central (Jami') mosque of every city
6. The local mosque 7. The mosque of a bazaar

903. It is better for a woman to pray in the house; rather, in the most hidden area of the house.

904. Praying in the shrines of the Imams (Peace be upon them all) is recommended. In fact, it is understood from certain narrations that praying in the shrine of Amir al-Mu'menin and Imam Husain (Peace be upon them) is better than praying in a mosque.

905. It is recommended to frequent a mosque and to attend a mosque where nobody prays. It is Makrooh for the neighbour of a mosque to pray in an area other than the mosque without a legitimate excuse.

906. It is recommended that one abstains from sharing a meal with one who does not attend the mosque. Similarly it is recommended to abstain from taking counsel from him, becoming his neighbour, marrying the women in his family or giving a woman in marriage to him.

Places where it is Makrooh to Pray

907. Prayer in certain places is Makrooh; amongst them are:

1. In a bath;
2. On a salt marsh;
3. Facing a person;
4. Facing a door that is open;
5. On a highway, street or alleyway if it is not a cause of inconvenience for others. If it is, then inconveniencing others is forbidden;
6. Facing a fire or a lantern;
7. In the kitchen or any place where there is a furnace.
8. Facing a well or a hole in the ground that is used for urination;
9. Facing a photo or a statue of a body that possesses a spirit, unless a curtain is drawn over it;
10. In a room where a junub (a person in the state of Jana-bah) is present;
11. In a place where the face of a living creature is present, even if it is not facing the person offering prayer.
12. Facing a grave;
13. On top of a grave;
14. Between two graves;
15. In a graveyard;

908. It is recommended for a person to place an object in front of himself if he is praying in a passageway or facing somebody. In this case it will be sufficient to place a rope or a stick in front oneself.

Chapter 30

The Rules of a Mosque

909. It is forbidden to make the floor, ceiling, roof or inner walls of a mosque Najis. If a person realizes that any of the aforementioned has been rendered Najis, he should immediately make them Tahir. Obligatory precaution dictates that the outer walls of the mosque should similarly not be rendered Najis. If they are, the Najasah should be removed and it should be made Tahir.

910. If a person is unable to make a mosque Tahir or requires help for the task, but is unable to obtain it, it is not obligatory on him to make it Tahir. However, he should inform a person who is able to, and entertains the possibility that such a person will in fact make it Tahir.

911. If an area of the mosque is rendered Najis in a manner that it is not possible to make it Tahir without digging or demolishing the area, one should dig it or break it. If it is not a complete demolition, and does not harm that which is dedicated (Waqf) to the mosque, it is not obligatory to fill the area that was dug, or rebuild the area that was demolished. However, if an object like a brick becomes Najis, it should be washed and returned to its original place if possible.

912. If somebody usurps the property of a mosque and builds a house or a similar construction on it, obligatory precaution dictates that it is forbidden to render it Najis, though it is not obligatory to make it Tahir. However, it is not permissible to render a demolished mosque Najis and is obligatory to make it Tahir even if it is not utilized for prayers.

913. To render the shrines of the Imams (Peace be upon them all) Najis is forbidden. If it is rendered Najis, it is obligatory to make it Tahir if it is a cause of its desecration. In

fact, recommended precaution dictates that it should be made Tahir even if it is not the cause of its desecration.

914. It is forbidden to make a mat of the mosque Najis, and precaution dictates that the one who rendered it Najis should make it Tahir. Recommended precaution dictates that one should make it Tahir even if he was not the one to render it Najis. However, if the Najasah is a cause of its desecration, it must be made Tahir.

915. It is forbidden to take an item that is essentially Najis or mutanajjis to the mosque, if it will cause its desecration. In fact, the recommended precaution is that one should not take an item that is essentially Najis to a mosque even if it will not cause its desecration.

916. If the mosque is utilized for lamentation ceremonies, and tents are erected, carpets are laid, black clothes are draped over the walls, or equipment for making tea is placed in it for the ceremonies, there is no problem in it as long as it does not obstruct people from praying and does not damage the mosque.

917. To decorate the mosque with gold or with the depictions of living things, such as humans and animals, is not permissible based on obligatory precaution. As for the depictions of inanimate objects, such as a flower or a plant, it is Makrooh.

918. It is not permissible to sell a mosque, make it a part of one's property, or a part of the highway, even if it is demolished.

919. It is forbidden to sell the door, window or other items of a mosque. In the case of a demolished mosque, such items should be utilized to repair the same mosque. However if the items are not useful for that mosque, they should be utilized for another mosque. If they are not useful for any mosque, and are not considered a part of the mosque but have been dedicated to that mosque, they can be sold with the permission of a shar'i guardian. The money obtained from 154

the sale of the item(s) should be used for repairing the same mosque if possible. If not, it should be used for repairing another mosque. If even that it not possible, it should be used for any good cause.

920. To build or to repair a mosque is recommended. If a mosque is ruined in such a manner that its repair is not

possible, it is permissible to demolish it and rebuild it. In fact, it is permissible to demolish a mosque that is not ruined, and increase its size to meet the needs of those who pray there.

921. To clean and illuminate a mosque is recommended. It is also recommended for one who wishes to visit a mosque to apply perfume, wear clean and valuable clothing, check the sole of his shoes for Najasah, enter the mosque with his right foot, exit the mosque with his left foot, and be the first to enter the mosque and the last to leave it.

922. It is recommended for one who enters a mosque to offer a two Rak'ah prayer with the intention of venerating and respecting the mosque. In fact, it is sufficient to offer any other obligatory or recommended prayer.

923. It is Makrooh to sleep in a mosque unless one is compelled to do so. It is also Makrooh for one to speak of worldly matters, to occupy himself with handicraft, or recite a poem that does not contain admonishment or similar content in a mosque. It is similarly Makrooh to spit out one's saliva, mucus or phlegm in a mosque, seek out one's lost property, or raise one's voice. However there is no harm in raising one's voice to recite the Azan, rather it is recommended.

924. It is Makrooh to allow a child or an insane person to enter a mosque. It is also Makrooh for one to enter a mosque with malodorous breath, caused by consuming onion, garlic or their like, that would annoy people

Chapter 31

Azan and Iqamah

925. It is recommended for men and women to recite the azan and iqamah before the daily obligatory prayers. They are not however prescribed for other obligatory or recommended prayers. Although, it is recommended to proclaim al-Salat three times prior to the Eid al-Fitr and Eid al-Adha prayer, if they are offered in congregation. It may also be proclaimed for other than these two prayers, such as the prayer for signs, with the intention of Rajaa'.

926. It is recommended to recite the azan in the right ear and the iqamah in the left ear of a new born child. It is better that this be done on the first day of the baby's birth.

927. The azan consists of the following eighteen sentences:

| Statements | No. of times | Translation? |
|---|---------------------|---------------------|
| <p>?? ? ????? ? ?? ??????</p> <p>Allahu Akbar</p> <p>God is greater than being described??</p> | Four | |
| <p>????????????? ? ?????? ? ?? ? ??? ? ??? ? ???</p> <p>Ash'hadu an la ilaaha ill'Allah</p> <p>testify that there is no god -diety but Allah</p> | Two | I |
| <p>????? ? ? ? ?????????? ?? ? ?? ?? ??? ? ??? ? ???</p> <p>Ash'hadu anna Muhammadar Rasul'Allah</p> <p>testify that Muhammad ibn Abdellah(Peace be upon him and his progeny) is His messenger?</p> | Two | I |

| | | |
|---|-----|----------|
| <p>Hayya alas salaah Hasten to prayer</p> | Two | |
| <p>Hayya alal falaah Hasten to success</p> | Two | |
| <p>Hayya ala khairil amal Hasten to the best of deeds</p> | Two | |
| <p>Allahu Akbar is greater than being described??</p> | Two | God |
| <p>La ilaaha ill'Allah no deity but Allah</p> | Two | There is |

The iqamah consists of the following seventeen sentences:

| Statements Translation? | No. of times | |
|--|---------------------|---|
| <p>Allahu Akbar greater than being described??</p> | Two | God is |
| <p>Ash'hadu an la ilaaha ill'Allah</p> | Two | I testify that there is no god - deity - but Allah |
| <p>Ash'hadu anna Muhammadar Rasul'Allah</p> | Two | I testify that Muhammad ibn Abdellah(Peace be upon him and his progeny) is His messenger? |

| | | |
|--|-----|-------------|
| <p>Hayya alas salaat prayer</p> | Two | Hasten to |
| <p>Hayya alal falaah success</p> | Two | Hasten to |
| <p>Hayya ala khairil amal the best of deeds</p> | Two | Hasten to |
| <p>Qad qaamatis salaat prayer has been established</p> | Two | Indeed |
| <p>Allahu Akbar greater than being described??</p> | Two | God is |
| <p>La ilaaha ill'Allah deity but Allah</p> | One | There is no |

928. The statement *Ash'hadu anna Aliyyan wali'ullah* ("I bear witness that Ali (Peace be upon him) is the vicegerent of God") is not a part of the azan, nor the iqamah. However, since the guardianship of Amir al-Mu'menin (Peace be upon him) is the completion of the religion, to recite it in any state, including after the statement *Ash'hadu anna Muhammadun rasulullah* ("I bear witness that Muhammad (Peace be upon him and his progeny) is the messenger of God" is the best means of attaining Divine proximity.

929. There should not be major intervals between the sentences of azan and iqamah. If the interval between two sentences is greater than what is deemed normal, one should start again from the beginning.

930. It is forbidden to pronounce the azan or iqamah by turning the vocal cord of the throat in such a manner that the voice produced from the throat is deemed ghina, the type of singing that is common in gatherings of vanity (lahw). If it is not deemed ghina, it is Makrooh.

931. There are two obligatory prayers for which the azan has not been canonically prescribed: 1. The A'sr prayer at Arafat on the day of 'Arafat, the 9th of Dhu al-Íijah 2. The I'sha prayer on the night of Eid al-Adha for one who is present in Mash'ar al-Haraam The azan is not canonically prescribed in the aforementioned prayers when there is no interval between it and the preceding prayer, or the interval between them is so minimal that it is commonly understood that the prayers have been combined.

932. If azan or iqamah has been pronounced for a congregational prayer, one attending the congregational prayer should not individually pronounce them for his own prayer.

933. If a person goes to a mosque for congregational prayer and arrives after the congregational prayer is over, he cannot pronounce the azan or iqamah for his prayer as long as the rows of the congregation have not broken up, and the people have not dispersed, given the conditions that shall be mentioned in the following article.

934. If a person wishes to offer a prayer individually or with another congregation, in a place where a group of people are offering congregational prayer, or have just finished offering it but their rows have not yet broken up, the injunction for the azan and iqamah is lifted from him given the following six conditions (this exemption is an omission, meaning that the azan and iqamah should not be pronounced):

1. The congregational prayer should be in a mosque. Therefore, if it is not in a mosque, the injunction for the azan and iqamah is not lifted.

2. The (other) congregation should have pronounced the azan and iqamah for their prayer.

3. The congregational prayer should not be invalid.

4. The prayer of the person and that of the congregation should be in the same place. Therefore if the congregation is inside the premises of the mosque, while he intends to pray on

the roof top, the injunction for the azan or iqamah is not lifted from him.

5. Both the congregational and individual prayer should be with the intention of adaa.

6. The person's prayer and that of the congregation should share a common time. For example, both should be offering the Z'uhr prayer or the A'sr prayer, or he should be offering Z'uhr while the congregation is offering A'sr or vice versa.

935. If the person doubts the third condition in the aforementioned article, i.e. he doubts the validity of the prayer, the azan and iqamah is annulled in his case. However, if he doubts whether the rows of the congregation have broken up or not, or doubts the realization of the other four conditions, and he is aware of the previous state, he must act according to it. For example, if a person doubts whether the rows of the congregation have broken up or not, due to the darkness of the night, he should assume they are intact. Another example is if he doubts whether the azan or iqamah has been pronounced for the congregational prayer or not, he should assume that they were not pronounced, and should pronounce them with the intention of performing a recommended act. In a case where the previous state is unknown, he may pronounce the azan and iqamah with the intention of Rajaa'.

936. It is recommended for a person who hears the azan to repeat each sentence he hears. However, in the case of the iqamah, the sentences, "Hasten to prayer" up till the sentence, "Hasten to the best of deeds" should be repeated with the intention of Rajaa'. It is recommended to repeat the rest with the intention of it being Zikr.

937. If a person hears another pronouncing the azan and iqamah, regardless of whether he repeated it with him or not, it is not necessary for him to pronounce them as long as a major interval has not elapsed between the azan (and iqamah) and the prayer he intends to offer.

938. The azan a man hears from a woman does not cause it to be annulled in his case, regardless of whether he listened to it with the intention of deriving pleasure or not.

939. The azan and iqamah for congregational prayer should be pronounced by a man. However, it is sufficient for a woman

to pronounce them for a congregational prayer that is comprised solely of women.

940. The iqamah should be pronounced after the azan, and if it is pronounced prior to the azan, it is not valid. Additionally, the following conditions are sanctioned in the iqamah: pronouncing it whilst standing, and being in the state of Taharah from Hadath (through Wudhu, Ghusl or Tayammum).

941. If the sentences of the azan or iqamah are not pronounced in their proper sequence—for example, if one pronounces the sentence *Allah Akbar* before *Allahu Akbar*—he should repeat the azan from where the sequence was disturbed.

942. There should not be a large passage of time between the azan and iqamah. If the passage of time between the two is such that the pronounced azan is no longer considered the azan for the iqamah concerned, it is recommended to repeat both. It is similarly recommended to repeat them if the passage of time between them and the prayer is such that it is no longer deemed the azan and iqamah for the prayer concerned.

943. The azan and iqamah should be pronounced in correct Arabic. If therefore, they are pronounced in erroneous Arabic, or if a letter is pronounced in place of another, or if one pronounces its English translation, it is not valid.⁹⁴⁴ The azan and iqamah should be pronounced after the time of prayer has set in. Therefore, if one pronounces them prior to the prayer time deliberately or forgetfully, they shall be deemed invalid.

945. If prior to pronouncing the iqamah, a person doubts whether he has pronounced the azan or not, he should pronounce the azan. However, if his doubt sets in after he has begun to pronounce the iqamah, pronouncing the azan will not be necessary.

946. Prior to pronouncing a part of the azan or iqamah, if a person doubts whether he has pronounced the part preceding right before it or not, he should pronounce it. However, if he doubts regarding the preceding sentence while pronouncing the part after it, it will not be necessary to pronounce the preceding sentence.

947. It is recommended for a person to stand facing Qiblah while pronouncing the azan. This recommendation is accentuated during the pronouncement of the testimonies. It is

also recommended to be in a state of Wudhu or Ghusl, place two fingers in each ear, raise and elongate the voice, pause for a short time between each sentence, and avoid talking between them.

948. It is recommended to maintain bodily composure while pronouncing the iqamah and to pronounce it in a lower voice than the azan. One should not join the lines of the iqamah to each other (in his recitation). However, he should neither pause between each line to the extent that he pauses in the azan.

949. It is recommended to keep an interval between the azan and iqamah by sitting, offering a two Rak'ah prayer, speaking, or reciting tasbeeh. It is however Makrooh to speak between the azan and iqamah of Fajr prayer.

950. It is recommended that the person appointed to pronounce the public azan be just, punctual and have a loud voice. It is also recommended that he pronounce the azan from an elevated place.

The Obligatory Components of Prayer

There are eleven obligatory components in prayer:

1. Intention
2. Qiyam (standing)
3. Takbeerat al-Ihram
4. Ruku
5. Sujood
6. Qira'ah
7. Zikr
8. Tashahhud
9. Salam
10. Sequence (tarteeb)
11. Succession (muwalaat) between the components of prayer

951. Some of the obligatory components of prayer are its pillars and some are not. If a person omits the pillars deliberately or accidentally, his prayer is deemed invalid. However, if he accidentally omits those which are not its pillars, his prayer shall not be deemed invalid. The pillars of prayer are five. They include the intention, Takbeerat al-Ihram, the Qiyam that is conjoined with Ruku, i.e. standing before going to Ruku, Ruku and two Sujood for every Rak'ah. If any of the components are deliberately performed in excess of the prescribed limit, the prayer will be deemed absolutely invalid. However, if an excusable ignorant person deliberately recites Takbeerat al-Ihram in excess, then to claim that his prayer is invalid is problematic. If he accidentally performs an extra Ruku or two Sujood in one Rak'ah, his prayer is invalid. Otherwise it is not.

Intention

952. Prayer should be offered with the intention of attaining proximity to God, as previously mentioned in the section on Wudhu, and it should be offered with sincerity. It is not however necessary to pass the intention through the mind, nor is it necessary to verbalize it. For example, it is not necessary to say: "I am offering four Rak'ah Z'uhr prayer in obedience to the Lord's command." In fact, it is not permissible to verbalize the intention for the Ihtiyat prayer.

953. If a person makes the intention to offer a four Rak'ah prayer, either Z'uhr or A'sr, without vaguely or distinctly specifying whether it is Z'uhr or A'sr, his prayer is invalid. An example of vaguely specifying the intention is while intending to offer Z'uhr prayer, a person commences with the intention of that which was made obligatory on him first, rather than make the intention of Z'uhr prayer itself. Another example is when the Qadha of Z'uhr prayer is obligatory on a person, and he wishes to offer the Qadha prayer or the Z'uhr prayer during the time of Z'uhrprayer, he should specify in his intention the prayer he is offering, albeit in a vague manner. For example, in the case of the Qadha prayer of Z'uhr, he should make the intention that he is offering the prayer that was first to be made his responsibility.

954. A person should hold on to his intention from the beginning to the end of his prayer. If therefore, a person becomes negligent during prayer to such a degree that if one were to ask him what he is doing, he would not know what to reply, his prayer is invalid.955. Prayer should be offered solely for the Lord of the worlds. Therefore, if a person ostentatiously offers prayer—that is, prays to show off to people—his prayer is invalid, regardless of whether he offered prayer solely for the people, or whether he offered it for God and the people.

956. Even if a part of a person's prayer is offered ostentatiously, his prayer is invalid. Rather, if a person offers his prayer for God, but ostentatiously offers it in a particular place, such as a mosque, or a particular time, such as its prime time, or in a particular mode, such as in congregation, his prayer is invalid. Obligatory precaution dictates that even if the

recommended components of prayer, such as the Qunoot, are offered ostentatiously, the prayer is invalid.

Takbeerat al-Ihram

957. It is obligatory to say **Allahu Akbar** (Allahu Akbar) at the beginning of every prayer, and it forms a pillar of the prayer. The letters of the word Allah, the letters of the word Akbar and the two word combined, should be pronounced consecutively and in correct Arabic. If a person says them in incorrect Arabic, or pronounces its translation, it is invalid.

958. Obligatory precaution dictates that the Takbeerat al-Ihram should not be joined with recitations preceding it, such as the iqamah or any supplication that is recited prior to it.

959. Recommended precaution dictates that the articulation of the words Allahu Akbar should not be joined to the words following it, such as bismillah al-rahman al-raheem. If one wishes to join them, the letter **Á** in the word Akbar should be pronounced with a Dhammah.

960. One should maintain bodily composure while pronouncing Takbeerat al-Ihram. If a person deliberately pronounces it while his body is in a state of motion, it will be deemed invalid.

961. The Takbeerat al-Ihram, Surah al-Fatihah and the latter Surah, the Zikr and the supplications should be vocalized in such a manner that the person himself can hear it. If a person cannot hear it due to weakness in his hearing, deafness or a noisy environment, he should recite in a manner whereby he would be able to hear it in the absence of the impediment.

962. If a person is mute or has a defect in his tongue, on account of which he is unable to correctly pronounce Allahu Akbar, he should pronounce it however he can. If he is unable to pronounce it at all, he should pass it through his mind, oscillate his tongue for the takbeer and signal by means of his finger.

963. It is recommended to recite the following supplication preceding Takbeerat al-Ihram:

 ? ? ? ????? ? ?? ? ??? ? ??
 ? ?????? ?? ?? ? ? ???
 ? ? ?????? ?? ??????
 ???????? ? ???
 ? ?????? ?? ??? ?

Ya Muhsinu qad ataakal musiu wa qad amartal muhsina an yatajaawaza 'anil musiee antal Muhsinu wa anal musiu fabihaqqi Muhammadiw wa Aali Muhammad-in salli alaa Muhammadiw wa Aali Muhammadiw wa ta-jaawaz 'an qabeehi ma ta'lamu minni.

O You Who are benevolent, here stands before You, a sinner. And it is You Who has commanded the benevolent to overlook [the sins of] the sinners. You are the benevolent and I the sinner. So by the right of Muhammad and his progeny, bless Muhammad and his progeny and overlook the ugly deeds from me, of which You are aware.

964. It is recommended to raise the hands adjacent to the ears while pronouncing Takbeerat al-Ihram and other takbeer during prayer.

965. If a person doubts whether he has pronounced Takbeerat al-Ihram or not, he should disregard his doubt if it occurred after he began to recite a part of the Qira'ah. However, if the doubt occurred prior to it, he should pronounce the Takbeerat al-Ihram.

966. If after having pronounced the Takbeerat al-Ihram, one doubts if he pronounced it correctly or not, he should disregard his doubt, regardless of whether he has begun reciting something else or not. The recommended precaution is that he should complete his prayer and then repeat it.

Qiyam

967. The Qiyam during Takbeerat al-Ihram and the one preceding Ruku, which is referred to as Qiyam Muttasil bi al-Ruku, are pillars of prayer. Other instances of Qiyam, such as the Qiyam during the recitation of Surah al-Fatihah and the second Surah, and the Qiyam following Ruku, are not pillars. If a person omits them due to forgetfulness, his prayer is valid.

968. It is obligatory to stand for a moment prior to Takbeerat al-Ihram and following it, to ensure that it has been pronounced whilst standing.

969. If a person forgets to perform Ruku, and recollects after descending to the sitting position (prior to Sujood), he should stand, and then perform Ruku. If a person performs Ruku without standing, straight from the sitting position, his prayer is invalid, because he has not performed the Qiyam Muttasil bir Ruku.

970. When a person stands for Takbeerat al-Ihram, or the Qira'ah, his body should be stationary, and he should not bend towards any side. Obligatory precaution dictates that he should not lean on anything as long as he is not compelled; however, there is no problem if he is compelled, or if he moves his feet while bowing for Ruku.

971. There is no problem if a person forgetfully moves or bends his body, or leans on an object during the obligatory Qiyam of Takbeerat al-Ihram or the Qira'ah.

972. Obligatory precaution dictates that both feet should be placed on the ground while standing. It is however not necessary to spread the weight of the body between both feet. In fact, there is no problem if the weight is concentrated on one foot.

973. If a person, who is able to stand properly, spreads his feet in a manner that one would no longer deem him to be standing, his prayer is invalid. Obligatory precaution dictates that his prayer is similarly invalid if his standing is not what is normally deemed standing

974. A person should maintain bodily composure while reciting the obligatory Zikr of prayer. If he wishes to move his body

forward or backwards, or wishes to move his body slightly to the right or left, he should remain silent.

975. If a person recites a recommended Zikr while in motion, both the Zikr and the prayer are valid. However, if he recites the recommended Zikr of prayer, with the intention of reciting that which is a part of the prayer, the precaution is that he should maintain bodily composure, even though his prayer will be valid if it loses composure. However, the Zikr *?? ???? ??? ???? ?* (bi *Îawl illÁhi wa quwwatihi aqÛmu wa aqO'oodu*) should be recited while standing up.

976. There is no problem in moving the hands or fingers during the Qira'ah or the obligatory Zikr, although recommended precaution dictates that they too should remain stationary.

977. If a person involuntarily moves his body while reciting Surah al-Fatihah, the second Surah or tasbeehaat al-arba'ah, in such a manner that his body loses its composure, recommended precaution dictates that once his body regains composure, he should repeat that which was recited in motion.

978. If a person loses the ability to stand in the midst of his prayer, but his inability does not persist until the end of the allocated time, he should offer his prayers whilst standing, once he is able to do so. However, if his inability persists until the end of the allocated time, he should offer the remainder of his prayer sitting. Similarly, if he is unable to offer his prayer sitting, he should offer it lying down. However, he should not begin with the Qira'ah or the obligatory Zikr until the body has regained composure. The rulings of the recommended Zikr of this article and the following articles have been elaborated in article 975.

979. A person should not offer prayer sitting, so long as he is able to do so standing. For example, if a person cannot stop his body from shaking, or is compelled to lean on something, bend his body sideways, bend down, or spread his legs wider than usual, in such a manner that it is still deemed an instance of standing in these three cases, he should stand in whatever manner he is able to and offer his prayer. However, if he is unable to stand in any manner, he should offer his prayer sitting in an upright position.

980. A person should not offer prayer lying down, so long as he is able to do so sitting. If he is unable to sit in an upright

position, he should sit in any manner he can. If he is unable to sit in any manner, he should lie on his right side as elaborated in the articles relating to the rules of Qiblah. If he is unable to do so, he should lie on his left side. If that too is not possible, he should lie on his back with the soles of his feet facing the Qiblah.

981. If a person offers prayer sitting, but is able to perform Ruku conventionally after reciting Surah al-Fatihah and the latter Surah, or after tasbeehaat al-arba'ah, he should stand and then perform Ruku. If he is unable to do so, he should perform Ruku while sitting.

982. If a person offers prayer lying down, but is able to sit up during his prayer, he should offer his prayer sitting to the extent he can. Similarly, if he is able to stand during his prayer, he should stand for the duration he is able. He should not however commence with Qira'ah or the obligatory Zikr until his body has stopped moving.

983. If a person offers his prayer sitting, but is able to stand during prayer, he should do so to the extent he can. He should not however commence with the Qira'ah or the obligatory Zikr until his body has stopped moving.984. If a person who is able to stand, fears that owing to his standing, he may develop an illness, or encounter harm, he may offer his prayer while sitting. If he fears the same from sitting, he may offer his prayer while lying down.

985. If a person deems it probable that he may be able to offer his prayer standing towards the end of the allocated time, it is better he delay his prayer. Then, if he was unable to stand, he should offer his prayer in a manner that accords to his duty (at that moment). Similarly, it is better that a person who can offer his prayer while lying on his side or his back at the onset of the allocated time, delay it and act according to his obligation towards the end of the allocated time.

If a person offers his prayer in its prime time, but later develops the ability to offer it standing or sitting, he should repeat his prayer according to his ability.

986. It is recommended to perpendicularly uphold one's vertebral column and neck while standing, slacken the shoulders, place the hands on the thighs, conjoin the fingers and look at the place of Sujood. He should also spread the weight of his

body equally between his feet, keep both feet in line, and stand in humility and submission. If the one praying is a man, the distance between his feet should be between three open fingers to a hand span, whereas a woman should keep her feet together.

Qira'ah

987. In the first two Rak'ah of the daily obligatory prayers, one should first recite Surah al-Fatihah and then another complete Surah. Surah al-Dhuha and Surah Inshira (Surah 93 & 94) are together considered one Surah in the prayer, and so are Surah al-Fil and Surah al-Quraysh (Surah 105 & 106).

988. If there is nominal time remaining for prayer, or if a person is compelled to omit the latter Surah—for example, if a person fears that a thief, a beast or something else may cause him harm—he should abstain from reciting it. If a person is ill, or has an urgent need, he is exempt from reciting the latter Surah. However, if such a person recites it, he should not recite it with the intention of it being a component of prayer; rather, he may recite it with the intention of reciting the Qur'an.

989. If a person deliberately recites the second Surah before Surah al-Fatihah, while deeming it a component of the prayer, his prayer is invalid. However, if he does so mistakenly, and recollects during its recitation, he should abandon it, and after reciting Surah al-Fatihah, he should recite it from the beginning.

990. If a person forgetfully omits Surah al-Fatihah or the latter Surah, or both, and recollects after entering Ruku, his prayer is valid.

991. If prior to bowing for Ruku, a person realizes that he has not recited Surah al-Fatihah and the latter Surah, he should recite them. If he realizes he only omitted the latter Surah, he should only recite the latter Surah. However, if he realizes he only omitted Surah al-Fatihah, he should first recite it and then repeat the latter Surah. Similarly, if a person bows, but prior to entering Ruku realizes he omitted Surah al-Fatihah, the second Surah or both, he should abide by the aforementioned instructions.

992. If a person deliberately recites one of the four Surahs containing the verse that makes Sujood obligatory, as elaborated in article 361, it is obligatory to perform the Sujood for reciting it, after reciting the verse. Obligatory precaution dictates in such an event, he should complete his prayer and

thereafter repeat it. One should similarly repeat his prayer if he commits a sin by not performing the Sujood.

993. If a person accidentally begins reciting a Surah containing a verse which makes Sujood obligatory, but realizes prior to reaching the verse that obligates Sujood, he should abandon reciting it and instead recite another Surah. However, if he realizes after reciting the verse that obligates Sujood, he should out of precaution perform Sujood by means of signaling, complete the Surah, and recite another Surah with a non-specific intention of attaining proximity—in the sense that if his duty is to recite another Surah, then this be it, and if not, it be with the intention of reciting the Qur'an—and he should perform its Sujood after completing the prayer.

994. If a person gives ear to a verse that obligates Sujood during prayer, his prayer is valid. He should however signal with the intention of performing the Sujood of recitation. Recommended precaution dictates that he should also perform a conventional Sujood after completing his prayer.

995. It is not necessary to recite the second Surah in the recommended prayers, even if the prayer is deemed obligatory due to a Nazr or something similar. However, some recommended prayers have a particular Surah prescribed for them, such as Salat al-Wahshah (Refer to article 664 for details on Salat al-Wahshah). If a person wishes to offer it according to its prescribed instructions, he should recite the very Surah that was recommended.

996. It is recommended to recite Surah al-Jumu'ah (Surah 62) in the first Rak'ah and Surah al-Munafiqoon (Surah 63) in the second Rak'ah, after reciting Surah al-Fatihah in the Friday prayer and the Z'uhr prayer offered on Friday. Recommended precaution dictates that if a person begins to recite them, he should not abandon them for another Surah.

997. If a person begins to recite Surah al-tawhid (Surah 112) or Surah al-kafirun (Surah 109) after Surah al-Fatihah, he cannot abandon them and begin another Surah. However, if a person forgetfully begins reciting one of them in the Friday prayer or the Z'uhr prayer offered on Friday, in lieu of Surah al-Jumu'ah (Surah 62) or Surah al-Munafiqoon (Surah 63), he may abandon them and recite Surah al-Jumu'ah (Surah 62) or Surah al-Munafiqoon (Surah 63). The recommended precaution

is that one should not abandon it after half or more of the Surah has been recited.

998. If a person deliberately recites Surah al-tawhid (Surah 112) or Surah al-kafirun (Surah 109) in the Friday prayer or the Z'uhr prayer offered on Friday, obligatory precaution dictates that he should not abandon it for Surah al-Jumu'ah (Surah 62) or Surah al-Munafiqoon (Surah 63), even if he has yet to recite half of it.

999. If a person begins reciting a Surah, other than Surah al-tawhid (Surah 112) or Surah alkafirun (Surah 109), he may abandon it in lieu of another as long as half of it has not been recited. Obligatory precaution dictates that one should not abandon it between half and two thirds of its recitation. However, once two thirds has been recited, it is not permissible to abandon it for another Surah.

1000. If a person forgets a part of the latter Surah, or due to compulsion, such as constriction of time or other causes, is unable to complete the latter Surah, he may abandon it and begin another Surah, even if two thirds of it has been recited and even if it be Surah al-tawhid (Surah 112) or Surah al-kafirun (Surah 109).

1001. It is obligatory for a man to recite Surah al-Fatihah and the second Surah in the Fajr, Maghrib and I'sha prayers aloud, while it is obligatory on both men and women to recite Surah al-Fatihah and the second Surah in the Z'uhr and A'sr prayers in a low voice.

1002. A man should ensure that all the words of Surah al-Fatihah and the second Surah are recited aloud, including their final letters.

1003. A woman may recite Surah al-Fatihah and the second Surah in the Fajr, Maghrib and I'sha prayers aloud or in a low voice. However, obligatory precaution dictates that if a non-Mahram hears her voice, she should recite in a low voice. In the event that the recitation of a woman is deemed forbidden—for example, when a non-Mahram hears her reciting in a delicate and complaisant voice—it is not permissible for her to recite aloud. If she does, her prayer is invalid.

1004. If a person deliberately recites aloud where he should recite in a low voice or vice versa, his prayer is invalid. However, if he does so out of forgetfulness or ignorance of its

ruling, his prayer is valid. If a person realizes his mistake while reciting Surah al-Fatihah or the latter Surah, it is not necessary for him to repeat the parts he has already recited.

1005. If a person recites Surah al-Fatihah and the second Surah in an unusually loud voice—for example, shouting out its words—his prayer is invalid.

1006. A person must learn how to pray, so he may offer it correctly. If a person is unable to learn it at all, he should offer it in whatever manner he can. Recommended precaution dictates that if a person is unable to learn that which the Imam of a congregation undertakes in place of the follower, he should offer his prayer in congregation.

1007. If a person does not know Surah al-Fatihah, the second Surah and other components of prayer properly, he should endeavor to learn them if he is able to and if there is sufficient time left for the prayer. If the remaining time is nominal, he should offer his prayer in congregation if possible.

1008. It is permissible to take wages for teaching the recommended components of prayer. However, obligatory precaution dictates that one should not take wages for teaching its obligatory components.

1009. If a person does not know one of the words of Surah al-Fatihah or the latter Surah, and is culpable for his ignorance, or if he deliberately omits it, or if he pronounces a letter in lieu of another, such as ? in place of ? , or if he recites the vowels, such as fatha or kasra, where he is not supposed to, or omits the tashdeed on a letter, his prayer is invalid.

1010. If a person thinks that he knows a word correctly, and recites it in that manner in his prayer, but later realizes he recited it incorrectly, his prayer is valid as long as he is not culpable for his ignorance in his belief of it being correct. Recommended precaution dictates that he should repeat his prayer if there is time, or offer its Qadha if the time has passed. However, if he is culpable for his ignorance, he should repeat his prayer if there is time, or offer its Qadha if the time has passed.

1011. If a person does not know for example, if a word contains the letter ? or ? , he should endeavor to learn it. If he recites it in two or more ways, with the intention of the correct pronunciation being a part of his prayer, while the

incorrectly pronounced word is commonly inferred as erroneous Zikr or erroneous Qira'ah—for example, while the person recites (???????????? ??????) he repeats the word (?????????) twice, once with ? and once with?—his prayer is valid. However, in the event that the incorrect pronunciation is deemed human speech, his prayer is invalid. His prayer is similarly invalid if he is unaware of the positioning of the Arabic vowels, such as the fatha and kasra. If they are at the end of the word, in which case pausing is permissible, he should either always pause, or join with sukoon. It is not obligatory to become versed with its lattermost vowels, and prayer shall be deemed valid.

1012. If a word contains the letter ? , while the vowel of its preceding letter is a Dhammah and the subsequent letter is a ? , such as in the word ? ?, or it contains the letter ? (alif), while the vowel of its preceding letter is fatha and the subsequent letter is a ? , such as in the word ???, or it contains the letter ? while the vowel of its preceding letter is kasra and the subsequent letter is a ? , such as in the word ???, recommended precaution dictates that these three letters should be recited with madd, i.e. they should be elongated. If the letter subsequent to ? ? ? is a letter with sukoon instead of ? , then these three letters should be recited with madd. For example, in ??????? ?? ? the letter ? after ? (alif) contains sukoon, therefore the letter ? (alif) should be recited with madd. If a person does not abide by the aforementioned instructions, his prayer is invalid.

1013. Obligatory precaution dictates that one should not pause on the vowels during the Qira'ahin prayer. What is meant by pausing here is when a person recites the final vowel of a word, such as fatha, kasrah or Dhammah, and then recites the next word with an interval between the two. For example, a person recites ??? ? ? ?? ????????? ? ? ?? ??? while giving the “?” of the ??? ? ? ? ?? ??? a kasrah, and then pauses for a moment and then recites ?? ? ? ??? ? ? ? ? ?? ???. Recommended precaution dictates that one should not join after sukoon. What is meant by not joining after sukoon is when a person does not recite the final vowel of a word, such as the fatha, kasrah or Dhammah, and then recites the next word without any interval between the two. For example, if a person

recites Surah al-Fatihah and does not recite the kasrah of the "Q", and then recites Surah al-Fatihah without any interval.

1014. In the third and fourth Rak'ah of prayer, one may either recite Surah al-Fatihah or tasbeehaat al-arba'ah (Reciting Surah al-Fatihah or tasbeehaat al-arba'ah) once, although it is better that tasbeehaat al-arba'ah be recited thrice. A person may recite Surah al-Fatihah in one Rak'ah and tasbeehaat al-arba'ah in the other. However, it is better to recite tasbeehaat al-arba'ah in both.

1015. If there is nominal time remaining for prayer, one should recite tasbeehaat al-arba'ah once.

1016. It is obligatory on both men and women to recite Surah al-Fatihah or tasbeehaat al-arba'ah in the third and fourth Rak'ah in a low voice.

1017. Obligatory precaution dictates that if a person recites Surah al-Fatihah in the third or fourth Rak'ah, its bismillah should also be recited in a low voice.

1018. If a person is unable to learn the tasbeehaat al-arba'ah, or is unable to recite it correctly, he should recite Surah al-Fatihah in the third and fourth Rak'ah.

1019. A person who recites tasbeehaat al-arba'ah in the first two Rak'ah, under the impression that they are the last two Rak'ah, should recite Surah al-Fatihah and the second Surah if he realizes prior to reaching Ruku. However, if he realizes during or after Ruku, his prayer is valid. 1020. If a person recites Surah al-Fatihah in the last two Rak'ah, under the impression that they are the first two Rak'ah, or recites Surah al-Fatihah in the first two Rak'ah, under the impression they are the last two Rak'ah, his prayer is valid, regardless of whether he realizes prior to Ruku or after it.

1021. If during the third or fourth Rak'ah, a person intended to recite Surah al-Fatihah, but due to a slip of the tongue, he began to recite tasbeehaat al-arba'ah, or vice versa, he must abandon it and repeat either Surah al-Fatihah or tasbeehaat al-arba'ah. However, if he is habituated to reciting that which came upon his tongue, he may complete it and his prayer will be valid.

1022. If a person is habituated to reciting tasbeehaat al-arba'ah in the third and fourth Rak'ah, but begins to recite Surah al-Fatihah without intending it—even without the intention of that which is obligatory on him—he should abandon it and repeat either Surah al-Fatihah or tasbeehaat al-arba'ah.

1023. It is recommended to seek forgiveness from God after reciting tasbeehaat al-arba'ah in the third and fourth Rak'ah. For example, one should say: ?

?? ????? ?

(I seek forgiveness from Allah, my Lord, and to Him do I return.) Astaghfirullaaha rabbi wa atubu ilaih Or

?? ? ? ?? ? ? ?????????? ? ?

(O! Allah! Forgive me!)
Allahummagh firlee

If a person doubts whether he has recited Surah al-Fatihah or tasbeehaat al-arba'ah, prior to bowing for Ruku—regardless of whether it is while he is seeking forgiveness or after it—he should recite either Surah al-Fatihah or tasbeehaat al-arba'ah.

1024. If during the Ruku of the third or fourth Rak'ah, a person doubts whether or not he has recited Surah al-Fatihah or tasbeehaat al-arba'ah, he should dismiss his doubt. However, if he doubts prior to reaching the limits of Ruku, he should stand and recite either Surah al-Fatihah or tasbeehaat al-arba'ah.

1025. Whenever a person doubts whether he has correctly recited a verse or a word in a verse after its completion, he should dismiss his doubt, regardless of whether he has begun to recite the next part or not. However, if he entertains this doubt prior to its completion, he should attend to his doubt and repeat the word and that which is after it correctly, even if it entails repeating that which is before it. In both cases, there is no problem in repeating the verse or word to ensure its correctness, so long as it does not entail satanic whispering, in which case, repeating it is forbidden. However, to claim that such a repetition invalidates prayer is problematic,

though obligatory precaution dictates that one should repeat his prayer after completing it.

1026. It is recommended for one to recite “ ? ?? ?????? ?? ??????? ?????? ” (I seek refuge in Allah from the accursed Satan) in the first Rak’ah prior to Surah al-Fatihah.

1027. It is recommended to recite Surah al-Qadr (Surah 97) in the first Rak’ah and Surah altawhid (Surah 112) in the second Rak’ah of every prayer.

1028. It is Makrooh to not recite Surah al-tawhid (Surah 112) in any of the daily prayers throughout the day.

1029. It is Makrooh to recite Surah al-tawhid (Surah 112) in one breath.

1030. It is Makrooh to recite the Surah that one recites in the first Rak’ah of prayer, in the second Rak’ah, except for Surah al-tawhid (Surah 112).

Ruku

1031. After the Qira'ah of every Rak'ah, one should bow to such a degree that the tips of his fingers reach his knees. This action is known as Ruku. The recommended precaution is that one should be able to place his hands over his knees.

1032. There is no problem if a person bows to the degree necessary for Ruku, but does not place his fingers over his knees.

1033. If a person bows in an unusual manner, for example, if he bows to his left or right side, his Ruku is invalid, even if his hands reach his knees.

1034. It is necessary that a person bow with the intention of Ruku. Therefore, if a person bows for another reason, such as killing an insect, it shall not be deemed Ruku. In the event he bows for another reason, he should stand, and then bow again for Ruku. This will not add to the pillars of prayer, and therefore will not invalidate his prayer.

1035. If a person's hands or knees are different from others', for example, his/her arms are abnormally long, to the extent that if he bows slightly, his hands would reach his knees, or if his knees are abnormally low, to the extent that he would need to bow a great deal for his hands to reach his knees, he should bow to the normal degree.

1036. A person who performs Ruku sitting, should bow to the degree that his face is positioned above his knees. The precaution is that one should bow to the degree that he would bow, were he to perform Ruku standing.

1037. Unless a person is compelled, it is obligatory to recite either *Subhaan'Allah* (glory be to Allah) three times, or *Subhaana rabbiyal 'adheeme wa bihamdeh* (glory be to Allah, the Supreme and Him do I praise) once, or any Zikr that is equal to it in length. Recommended precaution dictates that the aforementioned tasbeeh should be given precedence over other Zikr, and when time is constricted or one is compelled, it is sufficient to recite *Subhaan'Allah* once.

1038. The words in the Zikr of Ruku should be recited in close succession, correct Arabic, and it is recommended the

Zikr be ? ? ? ? ? ?? ????? ???? ? ??????????? ? ????? ?? ?, recited three, five or seven times; rather, even more than seven times.

1039. One should maintain bodily composure during the obligatory Zikr of Ruku. Obligatory precaution dictates that one should also maintain bodily composure during the recommended Zikr of Ruku, if it is recited with the intention of the Zikr that is specified for Ruku. However, if it is recited with the intention of Zikr in general, bodily composure is not necessary.

1040. If during the obligatory Zikr of Ruku, a person involuntarily moves his body to the extent that he loses bodily composure, he should repeat the Zikr after regaining composure. However, if the movement of his body is so minute that it does not result in him losing composure, or he moves his fingers, there is no harm in it.

1041. If a person deliberately recites the Zikr of Ruku prior to bowing the degree necessary for Ruku, and prior to attaining bodily composure, his prayer is invalid, unless he is an excusable ignorant, in which case his prayer shall not be deemed invalid.

1042. If a person deliberately raises his head from Ruku, prior to completing its obligatory Zikr, his prayer is invalid, unless he is excusable for his ignorance, in which case his prayer shall not be deemed invalid. A person who inadvertently raises his head from Ruku, should recite the Zikr once he regains bodily composure, if he recollects prior to leaving the state of Ruku. However, if he recollects after leaving the state of Ruku, his prayer is valid.

1043. Whenever necessary, it is permissible for a person to limit the Zikr of Ruku to one ?? ????? ? ????? ?? ?and the recommended precaution is that he recites the other two while returning to the upright position.

1044. If a person is unable to maintain bodily composure in Ruku due to an illness or something similar, his prayer is valid. He should however ensure that its obligatory Zikr is recited prior to leaving the state of Ruku.

1045. If a person is unable to bow the necessary degree required for a shar'i Ruku, as elaborated in article 1031, he should lean on something and perform the shar'i Ruku. If he is unable to perform Ruku even by leaning on something, but is capable of performing a conventional bowing, obligatory

precaution will dictate that he perform a conventional bowing. Additionally, he should also indicate Ruku by signaling with his head while standing. If he is unable to perform a conventional bowing either, or is unable to bow at all, obligatory precaution will dictate that he sit down when wanting to perform Ruku, and perform his Ruku while sitting. He should then also recite another prayer, and indicate its Ruku by signaling with his head while standing.

1046. If a person whose duty is to perform Ruku by means of signaling with the head, is unable to do so, he should close his eyes with the intention of Ruku and recite the Zikr. He should then open his eyes with the intention of standing from Ruku. If he is unable to do this, he should pass the intention of Ruku in his mind and recite its Zikr.

1047. If a person is unable to perform Ruku standing or sitting, even to a degree that is known as Ruku in the common understanding, and is only able to bow slightly while sitting, he should pray standing and perform Ruku by means of signaling with the head. In the event that his bowing while being seated is to an extent that it is deemed as Ruku in the common understanding, the obligatory precaution is that he offer another prayer as well, and when wanting to perform Ruku, he should sit down and bow to that extent.

1048. If a person bows to the point of Ruku, stands up, and then bows again to the point of Ruku, his prayer is invalid. If after a person has reached the bowing position of Ruku, he further bows in such a manner that he exceeds the required limit for Ruku, and then returns to the position of Ruku, his prayer will not be deemed invalid so long as he returns to Ruku from the very state of bowing.

1049. After completing the Zikr of Ruku, one should stand upright, attain bodily composure and then proceed for Sujood. If a person deliberately proceeds to Sujood prior to standing, or prior to attaining bodily composure, his prayer is invalid.

1050. If a person forgets to perform Ruku, but recollects prior to reaching Sujood, he should stand and then perform Ruku. If a person performs Ruku from the state of bowing—without standing—his prayer is invalid.

1051. If after one's forehead contacts the earth for Sujood, a person recollects that he did not perform Ruku, he should

stand, and then perform Ruku and his prayer will be valid. Obligatory precaution dictates that a person should offer Sajdah al-Sahw for the additional Sujood. Recommended precaution however dictates that he should repeat his prayer. If a person recollects during his second Sujood, his prayer is invalid.

1052. It is recommended to recite takbeer prior to Ruku, while one is standing upright. It is also recommended to push one's knees back in Ruku, maintain a flat back, stretch forth the neck and maintain it at the level of the back, look between the feet and recite Salawat either prior to the Zikr or after it. After standing from Ruku, while standing upright with a composed body, one can recite:

? ?

(Allah hears he who praises Him)

Same' Allahu Liman Hamidah

1053. It is recommended for women to place their hands on the area above the knees and abstain from pushing their knees back during Ruku.

Sujood

1054. A person should perform two Sujood after Ruku in every Rak'ah of the obligatory and recommended prayers. Sujood is to place one's forehead on the ground with the intention of humility. It is obligatory to place the palms, the knees, and the big toes on the ground in the Sujood of prayer.

1055. The two Sujood combined, form one pillar of prayer. If in a rak'a, a person deliberately or forgetfully omits both Sujood or performs two additional Sujood, his prayer is invalid.

1056. If a person deliberately omits a Sujood or performs an additional one, his prayer is invalid. The rulings for a person who does so inadvertently shall be elaborated later.

1057. If a person deliberately or inadvertently does not place his forehead on the ground, he has not performed Sujood, even if the other bodily parts may have contacted the ground. However, if a person places his forehead on the ground, but omits inadvertently placing the other bodily parts on the ground, or inadvertently omits the Zikr, his Sujood is valid.

1058. Unless one is compelled, it is obligatory to recite either **Subhaan'Allah** three times or **Subhaana rabbiyal a'ala wa bihamdeh** (Glory be to my Lord, the exalted and He do I praise) once or any Zikr that it is equal to it in length, in Sujood. Recommended precaution dictates that the aforementioned tasbeeh should be given precedence over Zikr in general. The words of Zikr should be recited in close succession and in correct Arabic. It is recommended that **Subhaan'Allah** be recited three, five, seven or more times.

1059. One should maintain bodily composure while reciting the obligatory Zikr in Sujood. Obligatory precaution dictates that one's body should similarly be composed while reciting the recommended Zikr, if it is recited with the intention of the Zikr of Sujood.

1060. If before one's forehead makes contact with the ground, or before his body gains composure, he deliberately recites the Zikr of Sujood, or deliberately raises his head from Sujood prior to completing its Zikr, his prayer is invalid, unless

he excusable for his ignorance, in which case his prayer is valid in both the aforementioned assumptions.

1061. If a person inadvertently recites the Zikr of Sujood before his forehead contacts the ground, but realizes his mistake prior to raising his head from Sujood, he should repeat the Zikr while his body is composed. 1062. If after raising his head from Sujood, a person realizes that he raised his head from Sujood prior to completing its Zikr, his prayer is valid.

1063. If a person deliberately raises one of the seven parts of the body while reciting the Zikr of Sujood, his prayer is invalid if he is culpable for his ignorance. However, there is no problem if he raises the body parts, other than the forehead, and places them again on the ground, while he is not reciting Zikr.

1064. If a person inadvertently raises his forehead from the ground before completing the Zikr of Sujood, he should not place it on the ground again, and should deem it as one Sujood. However, if he inadvertently raises the other body parts from the ground, he should once again place them on the ground, and recite the Zikr.

1065. After completing the Zikr of the first Sujood, one should sit up, maintain bodily composure and then proceed to the second Sujood.

1066. The place where the forehead is placed should not be four closed fingers higher or lower than the tips of the toes. Obligatory precaution dictates that it should similarly not be four closed fingers higher or lower than the knees.

1067. Obligatory precaution dictates that if a person prays on a sloped ground, the slope of which is unknown, and the place where the forehead is placed is four closed fingers higher or lower than the place where the tips of the toes and the knees are placed, his prayer is invalid.

1068. If a person mistakenly places his forehead on an area that is four closed fingers higher than the tips of his toes, and if it is elevated to an extent that his posture is no longer deemed Sujood, he should raise his head and place it on something that is not high, or its height is to the measure of four closed fingers or less. If it is elevated to an extent that it is still deemed Sujood, he should pull his forehead onto something, the height of which is to the measure of four closed fingers or less. If it is not possible to pull his forehead onto

something lower, obligatory precaution dictates that he should complete his prayer and pray again.

1069. There should be nothing separating the forehead and the thing on which Sujood is performed. Therefore, if the turbah is dirty to a degree that the forehead no longer makes contact with it, the Sujood will be invalid. However, there is no problem if the colour of the turbah has changed.

1070. A person should place his palms on the ground during Sujood. In the event that he is compelled, he may place the back of his hands on the ground. If he is unable to do that, obligatory precaution dictates that he should place his wrists on the ground. If this too is not possible, he should place any part of his arm, up to his elbow on the ground. However, if that too is not possible, he should place his arms on the ground.

1071. A person should place the big toes on the ground, though the recommended precaution is that he should place the tips of the toes on the ground. If the other toes, or the upper surface of the foot is placed on the ground, or the big toe does not contact the ground due to long nails, his prayer will be invalid. If a person offered his prayer in the aforementioned manner, he should repeat his prayer if he is culpable for his ignorance. However, if he is excusable for his ignorance, his prayer will be valid.

1072. If a person's big toe is partially severed, he should place the remaining part of it on the ground. In the event that it is entirely severed, or the remaining part is extremely short in length, obligatory precaution dictates that the other toes should be placed on the ground. If one has no toes, he should place whatever is remaining of his feet on the ground.

1073. If a person performs Sujood in an unusual manner, such as affixing the chest and stomach to the ground, or stretching the feet, obligatory precaution dictates that he should repeat his prayer, even if the aforementioned seven parts of the body made contact with the ground.

1074. The turbah or any other item that is utilized for Sujood should be Tahir. However, there is no problem if the ground on which the turbah is placed, or a portion of the turbah itself is Najis, so long as the forehead is placed on the Tahir portion.

1075. If there is a boil or something similar on one's forehead, the unaffected part of it should be placed on the ground.

However, if that is not possible, one should make a small hole in the thing on which Sujood is valid, and place the boil inside the cavity, while placing the required portion of the unaffected part on it. Recommended precaution dictates that the cavity should be in the ground.

1076. Obligatory precaution dictates that if a boil or wound has covered the entire forehead, one of the two sides of the forehead and the chin should be placed on the ground, even if it necessitates the repetition of prayer. If it is not possible to place both on the ground, only the chin should be placed on it. If it is not possible to place the chin either, Sujood should be performed by means of signaling.

1077. If a person is unable to make the forehead contact the ground, he should bow to the degree he can, place the turbah, or any other object on which Sujood is valid on an elevated object, and place the forehead on it in manner that it is said he has performed Sujood. In such a case, the palms, knees and big toes should be placed on the ground in their usual manner.

1078. If there is no elevated object on which the turbah or anything else on which Sujood is valid can be placed, one should raise the turbah or the other object with his hands and perform Sujood on it. In the event he is unable to do so, somebody else should raise it for him so he may perform Sujood on it.

1079. If a person is unable to perform Sujood at all, he should do so by means of signaling with the head. If he cannot signal with the head, he should signal with the eyes. If that is not possible either, he should pass the intention through his mind and recite its Zikr.

1080. If the forehead involuntarily rises from Sujood, if possible, one should prevent it from reaching the place of Sujood again, and this shall be deemed as one Sujood, regardless of whether he recited its Zikr or not. If he is unable to prevent it, and it involuntarily contacts the place of Sujood again, deeming them both one Sujood is problematic, albeit there is certainty that at least one Sujood was performed. Therefore, if he has not recited the Zikr, obligatory precaution dictates that he should recite it with the intention of executing that which he has been commanded, more general than the intention for an obligatory or recommended act.

1081. In the event that one must observe dissimulation (Taqiyyah), he may perform Sujood on a carpet or something similar, and it is not necessary for him to go to another place for offering his prayer. However, if he is able to perform Sujood on a mat, or another object upon which Sujood is valid, and is able to perform it without falling into hardship, he should abstain from performing Sujood on carpet or anything similar to it.

1082. If Sujood is performed on a mattress filled with feathers or another object upon which one is unable to maintain stability, it will be invalid.

1083. If a person is compelled to offer prayer on muddy ground, he should perform Tashahhud and Sujood in their conventional manner so long as staining of the clothes or the body does not cause hardship to him. If it does, one should perform Tashahhud and Sujood while standing, wherein the Sujood is performed by means of signaling with the head, and his prayer will be valid.

1084. In the first and third Rak'ah that do not have Tashahhud, such as the first and third Rak'ah of the A'sr and I'sha prayers, recommended precaution dictates that one should sit stationary for a moment after rising from Sujood and then stand up.

The Things on Which Sujood is Valid

1085. Sujood should be performed on the earth or on things that grow from the earth and are not deemed edible or wearable, such as wood and tree leaves. Therefore, Sujood on edible or wearable items—such as wheat, barley and cotton—or things that neither grow from the earth, nor are they a part of the earth—such as gold, silver, tar, asphalt, or any similar substance—is invalid. Obligatory precaution dictates that it is similarly invalid to perform Sujood on valuable stones, such as turquoise or emerald.

1086. It is not permissible to perform Sujood on vine leaves as long as it is normally edible.

1087. It is valid to perform Sujood on things that grow from the earth, and serve as food for animals, such as grass and straw.

1088. It is valid to perform Sujood on flowers that are not deemed edible. It is not valid however, to perform Sujood on herbal medicine, if the herb itself is edible. Recommended precaution dictates that one should also abstain from performing Sujood on herbal medicine, the water of which is used by means of boiling and steaming.

1089. The Sujood performed on plants that are deemed edible in some parts of the world, and inedible in other parts is invalid. Similar is the case of Sujood performed on unripe fruits.

1090. The Sujood performed on limestone and gypsum is valid. Recommended precaution dictates that Sujood should not be performed on baked limestone and gypsum, or brick and pottery made from mud unless one is compelled.

1091. One may perform Sujood on paper that is made from a material on which Sujood is valid, such as straw. However, to perform Sujood on paper that is made from cotton or something similar is problematic.

1092. The best thing to perform Sujood on is the turbah of Imam Husain (Peace be upon him). After it, one should perform Sujood on earth, stone or plants, in order of priority.

1093. If a person does not possess anything on which Sujood is valid, or if he possess it, but is unable to perform Sujood on

it due to extreme heat or cold, or similar reasons, he should perform Sujood on his clothes, provided they are not made from silk. The precaution is that one should give precedence to clothing made from cotton and linen over those made from wool or soft wool. If a person is unable to procure clothing, obligatory precaution dictates that he should perform it on turquoise, carnelian, and their like, or on paper that is made from cotton. If these are not available either, he should perform it on paper made from silk. If paper made from silk is not available, he should perform it on an object on which Sujood would usually be invalid unless one is compelled. However, recommended precaution dictates that as long as it is possible to perform Sujood on the back of one's hand, one should abstain from performing Sujood on an object on which Sujood is usually invalid. If it is not possible to perform it on the back of one's hand, one should abstain from performing it on other material while cotton, linen, tar or asphalt is available.

1094. The Sujood performed on mud and soft clay, on which the forehead cannot remain stable, is invalid.

1095. If the turbah sticks to the forehead during the first Sujood, it is necessary to remove it before the second.

1096. If the thing on which Sujood is performed is lost during prayer, and he does not possess anything on which Sujood is valid, he should discontinue his prayer if there is ample time remaining. However, if there is nominal time remaining, he should act according to the instructions provided in article 1093.

1097. If during Sujood, a person realizes that he has placed his forehead on an object upon which Sujood is invalid, he should raise his head and place it on something upon which Sujood is valid if there is sufficient time and if it is possible to do so. Obligatory precaution dictates that he should also perform two Sajdah al-Sahw. If it is not possible, he should offer his prayer from the beginning. In the event that the time remaining for prayer is nominal, he should act according to the instructions provided in article 1093.

1098. If after raising his head from Sujood, a person realizes that he had placed his forehead on something on which Sujood is invalid, he should perform it on something on which Sujood is valid. Obligatory precaution dictates that he should offer two

Sajdah al-Sahw. However, if this occurs in both the Sujood of a Rak'ah, his prayer will be invalid.

1099. To perform Sujood for other than God is forbidden. Some people place their foreheads on the ground before the graves of the Imams (Peace be upon them all). There is no problem in it if it is done with the intention of thanking God. Otherwise it is forbidden.

The Recommended and the Makrooh Acts of Sujood

1100. The following are recommended in Sujood:

1. To recite takbeer after standing up completely from Ruku, for one who is offering the prayer standing, and after sitting up completely, prior to proceeding for Sujood, for one who is offering the prayer sitting.

2. While proceeding for Sujood, a man should first place his hands on the ground, whereas a woman should first place her knees on the ground.

3. To place the nose on the turbah or anything else on which Sujood is valid.

4. To join one's fingers together, place them adjacent to the ear during Sujood in a manner that their tips point towards Qiblah.

5. To supplicate during Sujood, seeking ones need and to recite the following supplication:?

??

???? ??? ? ??? ? ? ?? ????????? ? ?? ? ? ?? ? ? ? ? ?? ??? ? ? ?
 ? ? ? ? ????? ?? ??? ? ? ? ??? ? ?? ? ?? ?????????? ? ? ? ??? ? ?? ?
 ? ? ? ? ?????????? ? ? ? ?? ??? ? ??????????

Ya khayral mas uleena wa ya khayral mu'teen arzuqni warzuq 'iyaali min fadhlikal wasi' fa innaka Zul fadhilil 'adheem O best of those who are asked and O best of those who give. Grant me and grant my family from Your expansive bounty. For you are the possessor of a supreme bounty.

6. To sit on one's left thigh after Sujood, and place the right foot on the sole of the left foot.

7. To recite takbeer after sitting up from every Sujood, once the body is composed.

8. To recite the following once the body is composed after completing the first Sujood:

Astaghfirullaaha rabbi wa atubu ilaih

9. To prolong one's Sujood, and to place the hands on the thighs while sitting.

10. To recite takbeer for the second Sujood while maintaining bodily composure.

11. To recite Salawat in Sujood.

12. To lift one's hands after lifting the knees from the ground when standing.

13. Men should abstain from placing their elbows and abdomen on the ground, and separate their arms from their sides. Women should place their elbows and abdomen on the ground and should join their body parts together. Other recommended acts for Sujood have been elaborated in more detailed books.

1101. It is Makrooh to recite the Qur'an during Sujood. It is also Makrooh to blow at the place of Sujood in order to remove dust from it. However, if a word is deliberately verbalized due to the blowing, its ruling is elaborated on in the sixth ruling from things that invalidate prayer. Other Makrooh acts for sujud have been elaborated in more detailed books.

Obligatory Sujood of the Qur'an

1102. Each of the following four Surah contains a verse which obligates Sujood:

1. Surah al-Sajdah (32:15)
2. Surah Fussilaat (41:38)
3. Surah al-Najm (53:62)

4. Surah al-Alaq (96:19) If a person recites or hears these verses, he must perform a Sujood immediately after its completion. In the event that a person forgets to do so, he should perform Sujood upon recollecting, unless he recollects during prayer, in which case he should act according to the instructions elaborated in articles 992, 993 and 994. If a person hears a verse of Sujood involuntarily, recommended precaution dictates that he should perform Sujood.

1103. If upon hearing a verse of Sujood, a person recites it himself, he should perform two Sujood.

1104. If a person recites or hears a verse of Sujood during a Sujood other than that of prayer, he should raise his head and perform Sujood again.

1105. If a person hears a verse of Sujood from an undiscerning child, who is unable to distinguish good from bad, or a person who did not intend to recite the Qur'an, or hears the sound of a verse of Sujood—for example—from a gramophone or a stereo, it is not obligatory on him to perform Sujood. However, if a person at a radio station recites one of the verses of Sujood with the intention of reciting a verse of the Qur'an, and it is heard by people over the radio, Sujood becomes obligatory on them.

1106. The place where the obligatory Sujood of the Qur'an is performed should not be usurped. Obligatory precaution dictates that the place of the forehead should not be four closed fingers greater or lesser in height than the place of the tips of his fingers. It is not necessary for a person to have performed Wudhu or Ghusl. It is neither necessary for one to face the Qiblah, cover his private parts, perform it with a Tahir body or Tahir clothes, or to meet the required conditions for clothing in prayer.

1107. During the obligatory Sujood for (reciting) the Qur'an, it is necessary to place the forehead on something on which Sujood is valid. Obligatory precaution dictates that the parts of the body that are placed on the ground for Sujood during prayer should also be placed on the ground.

1108. It is not necessary to recite anything upon placing the forehead on the ground for the obligatory Sujood for (reciting) the Qur'an. However, it is recommended to recite a Zikr and it is better to recite the following:

? ?? ? ? ?? ??????????? ? ????? ? ?? ????? ? ? ? ??
 ?????????????? ? ?? ?????????????? ? ????? ? ?? ????? ? ????? ? ? ? ??
 ?????????????? ? ????? ? ?????????? ? ?? ? ? ? ? ? ?? ? ??
 ?????????????????? ????? ? ? ? ?? ?? ? ? ?? ? ? ?? ?? ?? ?
 ?????????????????? ? ? ?? ? ??? ? ?? ? ? ? ?? ??? ? ?? ? ?????? ??? ? ? ?
 ?? ? ?? ?????? ? ? ? ?? ? ?? ?? ? ? ? ?? ? ?? ? ? ?

La ilaaha ill'Allahu haqqan haqqa, la ilaaha ill'Allahu eimaanaw wa tasdeeqa. La ilaaha ill'Allahu 'ubudiyatan wa riqqa. Sajadtu laka ya Rabbi ta'abbudau wa riqqa. La mustankifau wa la mustakbiran bal ana 'abdun dhaleelun dha'eefun khaaifun mustajeerun.

Chapter 33

Tashahhud

1109. A person should recite the Tashahhud after the second Sujood in the second Rak'ah of every prayer, whether obligatory or recommended, in the third Rak'ah of Maghrib prayer and in the fourth Rak'ah of Z'uhr, A'sr and I'sha prayers. Tashahhud is also obligatory in the witr prayer. Tashahhud is recited in the following manner: ?

??? ? ????? ? ?? ? ?? ? ? ??? ? ????????????? ? ? ??? ? ?? ? ?? ?
? ??? ? ?? ? ? ? ??? ? ????? ? ? ? ?? ? ? ??????? ?? ? ?? ?? ?? ? ?
??? ? ?? ??? ? ??? ?? ? ????????? ??? ?? ? ?? ?? ? ????? ????????? ? ?

(I testify that there is no God but Allah, He alone, without any partner, and I testify that Muhammad is His servant and His messenger. O Allah, send Your blessings upon Muhammad and the progeny of Muhammad) Ash'hadu al la ilaaha ill'Allahu wahdahu la shareekalah. Wa ash'hadu anna Muhammadan 'abduhu wa rasuluh. Allahumma salli 'ala Muhamamdin wa Aali Muhammad.

Obligatory precaution dictates that Tashahhud should only be recited in the aforementioned manner. In the obligatory prayers, one should sit up after the second Sujood, and recite the Tashahhud with a composed body. It is not however necessary to sit or maintain bodily composure in the recommended prayers.

1110. The words of Tashahhud should be recited consecutively, in a manner that is normal, and in correct Arabic.

1111. If a person forgets to recite the Tashahhud and stands up, but then recollects prior to entering Ruku, he should sit and recite the Tashahhud. He should then stand again, recite what should be recited in that Rak'ah and complete his prayer. Recommended precaution dictates that one should offer two Sajdah al-Sahw upon completing the prayer, for standing up inopportunistically. If a person however recollects upon entering Ruku or after it, he should complete his prayer and based on recommended precaution, recite a QadhaTashahhud after reciting Salam. He should also perform two Sajdah al-Sahw for the forgotten Tashahhud.

1112. It is recommended to sit on the left thigh during Tashahhud and to place the upper portion of the right foot on the sole of the left foot. Prior to reciting the Tashahhud, it is recommended to say: ? ? ???? ? ? ? ?? ? ? ? (All praise belongs to Allah)AlhamdulillahOr to say:

? ? ???? ? ??? ? ?? ??? ? ?? ? ? ??? ? ? ???? ? ? ? ?? ?????? ?
 ?????????? ? ?????? ?? ? ???

(In the name of Allah, for Allah and all praise belongs to Allah, and the best names belong to Allah)

Bismillahi wa billahi wal-hamdulillaahi wa khayrul asmaai lillah

It is also recommended to place one's hands on the thighs, to join the fingers together, and look at one's lap. After reciting Salawat in the first Tashahhud, one should recite:?

??? ?? ? ? ??? ? ?? ? ? ????? ? ? ?? ? ? ????? ? ?? ? ? ??? ? ?

(And accept his (the prophet's) intercession and raise his rank)

Wa taqabbal shafa'atahu warfa' darajatah

1113. It is recommended for women to place their thighs together while reciting Tashahhud.

Chapter 34

Salam

1114. After the Tashahhud in the last Rak'ah of prayer, it is recommended say the following while sitting with a composed body: *Assalaamu 'alayka ayyuhan nabiyyu wa rahmatullaahi wa barakaatuh* After it, one must say the following: *Assalaamu 'alayna wa 'ala 'ibaadillahis saliheen* Or: *Assalaamu 'alaikum* It is recommended to add the following after saying:

Assalaamu 'alayna wa 'ala 'ibaadillahis saliheen

(and Allah's mercy and His blessings) *wa rahmatullaahi wa barakaatuh* In the event one first proclaims:

Assalaamu 'alayna wa 'ala 'ibaadillahis saliheen

it is recommended to follow it up with: *Assalaamu 'alayna wa 'ala 'ibaadillahis saliheen*

1115. If a person forgets to say the Salam for prayers and recollects before the form of the prayer has broken, and he has not deliberately or forgetfully performed an action that would invalidate his prayer, such as turning his back to the Qiblah, he should say it and his prayer shall be deemed valid.

1116. If a person forgets the Salam for prayers and recollects after deliberately or inadvertently performing an action that would invalidate his prayer, such as turning his back to the

Qiblah, his prayer is invalid. If he recollects after the form of his prayer has broken, without having deliberately or forgetfully performed an act that would invalidate the prayer, obligatory precaution dictates that his prayer be considered invalid nonetheless.

Chapter 35

Sequence

1117. If a person deliberately breaks the sequence of prayer, such as reciting the second Surah before Surah al-Fatihah, his prayer will be invalid, unless he is an exculpatory ignorant and the two places where the sequence is broken are not pillars. In such an event, his prayer will be valid.

1118. If a person forgets to perform a pillar of the prayer, and performs the subsequent pillar, such as performing the two Sujood prior to Ruku, his prayer will be invalid.

1119. If a person forgets to perform a pillar of the prayer, and performs a component after it that is not a pillar, such as reciting Tashahhud prior to the two Sujood, he should perform the pillar and repeat that which he mistakenly performed before it.

1120. If a person forgets to offer a component of prayer that is not deemed a pillar and then engages in a pillar of prayer, such as forgetting to recite Surah al-Fatihah and then proceeding to Ruku, his prayer will be valid.

1121. If a person forgets to offer a component of prayer that is not deemed a pillar, and engages himself with a component, which too is not a pillar, such as forgetting Surah al-Fatihah, and reciting the second Surah, he should perform that which he has forgotten and repeat that which he mistakenly performed.

1122. If a person performs the first Sujood with the belief that it is the second, or the second Sujood with the belief that it is the first, his prayer will be valid. In such an event, his first Sujood shall be deemed the first and the second shall be deemed the second.

Chapter 36

Succession

1123. A person should offer his prayer whilst observing succession, meaning that he should perform the components of prayer, such as Ruku, Sujood, and Tashahhud, in consecutive continuity. He should not interlude between them to a degree that would break the form of the prayer. He should similarly maintain the succession in the recitations of prayer, in a manner that is normal. If he interludes between them to such a degree that it would not be said that he is praying, his prayer will be invalid.

1124. If a person deliberately interludes between the letters or words of prayer to such a degree that their form, or their composition breaks, his prayer will be deemed invalid, unless he is an exculpatory ignorant, and the interlude is not to a degree that would break the form of prayer and it is not in Takbeerat al-Ihram.

If a person inadvertently interludes between the letters or words of prayer, and the interlude is not to the degree that would break the form of prayer, and it is not in Takbeerat al-Ihram, he should repeat the letters or words in their usual manner, so long as he has not entered the next pillar. If something after that has been recited, it is necessary to repeat it. However, if one has not entered the next pillar, his prayer will be valid. If there is no pillar after it, such as the last Tashahhud, he should repeat the letters or words and that which is after them if he realizes it prior to the Salam. However, if he realizes after the Salam, his prayer will be valid. If a person interludes between the letters or words of Salam to a degree that would eliminate its succession, he should act

according to the instructions elaborated in articles 1115 and 1116, concerning one forgetting to recite the Salam.

1125. Elongating Ruku or Sujood, or reciting a lengthy Surah does not break the form of prayer.

Chapter **37**

Qunoot

1126. It is recommended to recite Qunoot after Qira'ah, preceding the Ruku of the second Rak'ah of obligatory and recommended prayers. However, in the shaf' prayer, the more precautionary measure is that one should recite it with the intention of Rajaa' al-matloobiyyah(hoping that it is a desirable act). As for the witr prayer, although it is only one Rak'ah, it is nonetheless recommended to recite the Qunoot in it prior to the Ruku. There is one Qunoot in each Rak'ah of the Friday prayer. There are five Qunoot in the prayer for signs, whereas in the prayers for Eid al-Fitr and Eid al-Adha, there are five Qunoot in the first Rak'ah, and four Qunoot in the second. Obligatory precaution dictates that the Qunoot of the Eidal-Fitr and Eid al-Adha prayer should not be omitted.

1127. It is recommended to place the hands opposite the face, the palms of the hands facing the sky, holding them next to each other during Qunoot. It is also recommended to join all the fingers together except for the thumb, and to look at one's hands during Qunoot.

1128. Whatever is recited of supplication, Zikr, or whispered prayer (munajat) is sufficient for Qunoot, even if it only be (??? ?????). However, it is better to recite:?

??????
? ?????????? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ?
?????????? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ?
????????? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ?
?
?????? ? ????????

La ilaaha ill'Allahul haleemul kareem. La ilaaha ill'Allahul 'aliyyul 'adheem. Subhaan'Allahi rabbis samawaatis sab'i wa rabbil aradheenas sab'i wa ma fee hinna wa ma baynahunna wa rabbil 'arshil 'adheemi wal hamdulillaahi rabbil 'aalameen.

1129. It is recommended for a person to recite Qunoot aloud. However, if he is offering his prayer in congregation, and the Imam is able to hear his recitation, it is Makrooh to recite it aloud.

1130. If a person deliberately omits the Qunoot, there shall be no Qadha for it. However, if one forgets and realizes prior to bowing to the measure of Ruku, it is recommended to return to an upright position and recite it. If he realizes during Ruku, it is recommended for him to offer its Qadha after it, and if he realizes during Sujood, he should offer its Qadha after the Salam of prayer.

Translation and Explanation of Prayer

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Chapter 38

The Ta'qibaat of Prayer

1131. It is recommended for a person to occupy himself with Ta'qibaat—reciting Zikr, supplications and Qur'an—for a period of time after prayer. It is better that a person faces the Qiblah and engages in them before his Wudhu, Ghusl or Tayammum is invalidated, and before he moves from his place. It is not necessary that the Ta'qibaat be recited in Arabic. However, it is better that the Ta'qibaat prescribed in the books of supplication be recited. One of the greatly advocated Ta'qibaat is the tasbeeh of Lady Fatimah al-Zahra (Peace be upon her) in which a person should recite (?? ? ??? ? ? ?? ????? ?) thirty four times, followed by (???? ????? ? ? ? ?? ??? ? ?) thirty three times, followed by (?? ????? ? ??? ?? ?? ?) thirty three times.

1132. It is recommended to offer a sajdah al-Shukr after prayer, for which it is sufficient that a person place his forehead on the ground with the intention of offering gratitude. However, it is better that a person recite (??? ????????? ???? ?) or (??? ? ? ?) one hundred times, three times or just once. It is similarly recommended to offer sajdah al-Shukr whenever a blessing is endowed, or an affliction is distanced from a person.

Sending Salawat on the Prophet (s)

1133. It is recommended that whenever a person says or hears one of the names of the prophet (Peace be upon him and his progeny), such as Muhammad or Ahmad, or his title and epithet, such as Mustafa or Abu al-Qasim, he send Salawat on the prophet (Peace be upon him and his progeny), even if he is engaged in prayer.

1134. When a person writes one of the names of the prophet (Peace be upon him and his progeny), it is recommended to accompany it with Salawat in writing. It is similarly recommended to send Salawat on the prophet (Peace be upon him and his progeny) whenever one remembers him.

Things That Invalidate Prayer

1135. There are twelve things that invalidate prayer, and these are known as the Mubtilaat

First: If one of the conditions of prayer is nullified whilst praying. For example, if a person realizes whilst praying that his covering is usurped.

Second: If the Wudhu or Ghusl is broken either deliberately, inadvertently or due to helplessness, such as the discharge of urine from the body. However, if a person suffers from urinary or fecal incontinence, and urine or stool is discharged from his body, his prayer shall be deemed valid if he acts in accordance with the instructions provided in the section on Wudhu. Similarly, if blood is discharged from the body of a Mustahadhah, her prayer shall be deemed valid if she acts in accordance with the instructions provided in the section on Istihadha.

1136. If a person involuntarily falls asleep during prayer, and he does not know whether he fell asleep during or after the prayer, obligatory precaution dictates that he should repeat his prayer.

1137. If a person knows that he voluntarily fell asleep, but doubts whether he fell asleep after the prayer, or if he—whilst praying—forgot that he was engaged in prayer and went to sleep, his prayer will be valid.

1138. If a person wakes up while in the state of Sujood, and doubts whether he is in the last Sujood of his prayer or Sajdah al-Shukr, he should repeat his prayer.

Third: If a person places a hand on another during prayer, while deeming this act a component of prayer, his prayer will be void, unless he is an exculpatory ignorant. Obligatory precaution dictates that his prayer shall similarly be invalid if he

does so with the intention of it being a form of worship, unless he is an exculpatory ignorant.

1139. There is no harm if a person places a hand on another, on account of being compelled, forgetfulness, dissimulation (Taqiyyah), or for another purpose, such as scratching the hand.

Fourth: If a person says amen after reciting Surah al-Fatihah, whilst considering it a component of prayer, or without stipulating the intention of supplication, his prayer shall be deemed invalid. In fact, to say it after Surah al-Fatihah with the intention of supplication is also problematic. However, there is no problem if he is an exculpatory ignorant, or he is practicing taqiyah or does so accidentally.

Fifth: If a person deliberately turns his back to the Qiblah, or turns to its right or left, his prayer will be invalidated. In fact, if a person turns away from the Qiblah to such a degree that one would say he is not facing the Qiblah, his prayer will be invalid, even if he has not completely turned to the right or left. If a person inadvertently turns without completely turning to the right or left, his prayer will be valid. However, if he turns completely (to the right or left), and then recollects, he should repeat his prayer even if the time remaining is only sufficient for one Rak'ah. If the time remaining is insufficient for one Rak'ah, or he recollects after its time, there is no Qadha for it. If however he had turned his back to the Qiblah, obligatory precaution dictates that he offers its Qadha.

1140. If a person deliberately turns his head to such a degree that he faces the right or left of the Qiblah, or if he turns more than this, his prayer will be invalid. However, if he turns his head to such a degree that one would not say he has turned away from the Qiblah, his prayer will not be invalid. If he turns away from the Qiblah to such a degree that one would say he has turned away from it, but has not turned completely to the right or left side of the Qiblah, his prayer will be invalid if his turning was deliberate. However, if he had turned inadvertently, his prayer will be valid. If he inadvertently turns his head away from the Qiblah to the degree that he is facing its right or left side, and then realizes, obligatory precaution dictates that he repeat his prayer if there is time remaining, even if it is only sufficient for one Rak'ah. However, if the time remaining is

less than this, or he realizes after the time for the prayer, there will be no Qadha for it. If however he had inadvertently turned his back to the Qiblah, he should offer its Qadha based on obligatory precaution.

Sixth: If a person speaks during prayer by articulating a word that is no less than two letters and holds meaning, regardless of whether he intends to convey its meaning or not, his prayer will be invalid, unless he is an exculpatory ignorant. The same will apply, as dictated obligatory precaution, if the word is formed of two letters or more, but holds no meaning. In both cases, there is no problem if a person inadvertently says it, in which case, he should perform a Sajdah-Sahw.

1141. If a person verbalizes a word that is formed of one letter, while the word holds meaning, such as the word ?? in Arabic, which is an imperative form of the word guard, his prayer will be invalid if he intended to convey its meaning. His prayer will similarly be deemed invalid, as dictated by obligatory precaution, if he knows the meaning of the word, though he does not intend to convey its meaning, or if the word does not hold any meaning.

1142. There is no problem if one coughs or belches during prayer. However, if a person deliberately moans during prayer, his prayer will be invalid, unless he is an exculpatory ignorant.

1143. If a person says a word with the intention of it being Zikr, such as ?? ? ??? ? ? ?????, and while saying it, he raises his voice in order to draw one's attention to something else, there is no problem in it. However, if he says it with the intention of drawing one's attention to something else, or with both the intention of Zikr and to draw one's attention, his prayer will be invalid unless he is an exculpatory ignorant and it is other than Takbeerat al-Ihram. If a person says it with the intention of Zikr, though his intention was caused by his wish to draw one's attention to something else, his prayer will not be deemed invalid.

1144. There is no problem in reciting the Qur'an with the intention of Qur'anic recitation—not with the intention that it is a part of prayer—other than the four verses of obligatory Sujood. There is also no problem in supplicating during prayer. However recommended precaution dictates that the supplication should not be recited in a language other than Arabic.

1145. There is no problem if a person deliberately repeats a portion of Surah al-Fatihah, the second Surah or the Zikr of prayer a few times without the intention of them being a component of prayer, or repeats them for the purpose of precaution. However, if it is due to Satanic whisperings, it is forbidden, though the invalidation of the prayer is problematic.

1146. One should not greet another with Salam during prayer. If a person is greeted during prayer, he should reply exactly as he was greeted. For example, if one greeted him with Salamun 'alaykum (???? ??? ? ?????? ?), he should reply with Salamun 'alaykum (???? ??? ? ?????? ?), except in reply to 'alaykum al-Salam (???? ??? ????? ??? ? ?), to which, based on obligatory precaution, he should reply Salamun 'alaykum (???? ??? ? ?????? ?).

1147. One should immediately reply when greeted with Salam, whether during prayer or elsewhere. The reply should be in such a manner that it is deemed a reply to that greeting in the common understanding. If a person deliberately or due to forgetfulness, delays the reply in such a manner that it is no longer deemed the reply for the greeting, he should not reply if it is during prayer, and if not, it is not obligatory for him to reply.

1148. One should reply to the Salam in such a manner that the individual who greeted him hears it. However, if the individual who greeted him is deaf, or greeted him and moved away promptly, it is sufficient to reply him in a normal manner.

1149. A person praying should reply to the Salam with the intention of it being a greeting, though there is no harm in considering it a supplication.

1150. If a non-Mahram man or woman or a discerning child—one who is able to discern between good and bad—greet a person who is praying, it is obligatory to reply. However, if a woman greets a person who is praying with (?? ??? ? ?????? ?), he should, based on obligatory precaution, reply with (?? ??? ? ?????? ?), without pronouncing a fatha or kasrah on the kÁf (?).

1151. If a person does not reply when greeted with Salam during prayer, his prayer shall be valid, though he would have sinned.

1152. If a person incorrectly greets a person praying with Salam, in such a manner that it is still deemed Salam, it is obligatory to reply to him. Obligatory precaution dictates that one should reply him correctly. However, if the greeting is in such a manner that it would not be deemed Salam, it is not permissible to reply.

1153. It is not obligatory to reply someone who greets with Salam jokingly or in order to ridicule. Obligatory precaution dictates that it is obligatory to reply the Salam of a man or woman who is not a Muslim. While replying one should suffice himself with the word (???? ?), or the word (?? ??? ? ?), though the more cautious response is to reply with the word (?? ??? ? ?).

1154. If a person greets a group of people with Salam, it is obligatory on all of them to reply. However, if one of them replies, it will suffice.

1155. If a person greets a group of people with Salam, and another person, who the person did not intend to greet, replies him, the others are not exempt from the obligation to reply.

1156. If a person greets a group of people, and a person amongst them who is praying, doubts whether he intended to greet him as well or not, he should not reply. The same will apply if the person knows that the person intended to greet him as well, but someone else replies him. However, if he knows he intended to greet him as well, and he does not receive a reply from anybody else, he should reply to his greeting.

1157. It is recommended to greet with Salam. It has also been recommended in the narrations that a rider should greet the one on foot, and the one standing should greet the one who is sitting, and one who is young should greet the one who is older.

1158. If two people simultaneously greet each other with Salam, obligatory precaution dictates that they both should reply each other.

1159. It is recommended to offer a better reply to the Salam, except during prayer. For example, if one is greeted with (???? ??? ? ?????? ?), he should reply with (?????????? ? ?????? ??? ? ?????? ?).

Seventh: If a person deliberately laughs aloud, his prayer will be deemed invalid, unless he is an exculpatory ignorant. There

is no problem if a person deliberately laughs without vocalizing it, or laughs aloud inadvertently.

1160. If a person's condition changes in order to suppress his laughter, such as his face turning red, it is not necessary to repeat the prayer, unless he encounters another obstacle, such as losing the form of the prayer.

Eight: Obligatory precaution dictates that crying out of concern for worldly affairs, shall invalidate the prayer, unless the person is an exculpatory ignorant. However, crying in fear of God, or for the here-after, is amongst the best of deeds.

1161. If a person remains silent during prayer to the extent that one could no longer say that he is praying, his prayer is invalid.

1162. If a person performs an act, or remains silent for some time, and owing to his behavior, falls into doubt whether he has broken the form of his prayer or not, he should repeat his prayer. Recommended precaution however dictates that he should complete his prayer and then repeat it.

Ninth: If a person performs an act that would break the form of prayer in such a manner, that it would no longer be deemed prayer in the common understanding, such as jumping in the air or something similar to it, be it deliberately or out of forgetfulness, his prayer will be invalidated. However, there is no problem in doing something that would not break the form of prayer, such as signaling with the hand.

1163. If a person swallows the food which remains between the teeth, during prayer, his prayer will not be invalid. Similarly, there is no problem if there is sugar or its like, remaining in the mouth that gradually dissolves and is swallowed.

Tenth: If a person eats or drinks during prayer, be it deliberately or out of forgetfulness, in such a manner that one would not say that he is praying, his prayer will be invalid. However, if one would still consider him to be praying, then if he does so deliberately, his prayer would still be invalid as dictated by obligatory precaution. However if he is an exculpatory ignorant or if it is due to forgetfulness, there is no problem in it. If a person is engaged in the witr prayer before Fajr, and becomes thirsty, while he intends to fast that day, and he fears that Fajr will arise upon finishing his prayer, and there is water two to three steps in front of him, he may drink from it during prayer,

so long as he does not perform an action that would invalidate the prayer, such as turning away from the Qiblah.

Eleventh: The doubt regarding the number of Rak'ahs that arises in a two Rak'ah prayer, such as the Fajr prayer or a traveler's prayer, or a three Rak'ah prayer, or in the first two Rak'ah of a four Rak'ah prayer, will invalidate the prayer, provided that the person remains in the state of doubt.

1164. If after completing his prayer, a person doubts whether he performed an action whilst praying that would invalidate his prayer or not, his prayer will be valid.

Chapter 40

Things That are Makrooh in Prayer

1165. It is Makrooh to turn one's face slightly to the right or left, in a manner that one would not say he has turned away from the Qiblah. Otherwise (if he turns away from it), his prayer will be invalid as it has already been elaborated. It is similarly Makrooh to close one's eyes, turn them to the right or left, play with one's beard or hands, interlock the fingers of one hand in another, to spit, or to look at the script of the Qur'an, the writing in a book, or the inscription on a ring. It is also Makrooh to become silent while reciting Surah al-Fatihah, the second Surah, or a Zikr, in order to hear somebody speak. In fact, any act that destroys the state of humility is Makrooh.

1166. It is Makrooh to offer prayer in the state of drowsiness, or while withholding one's need to urinate or defecate. It is similarly Makrooh to wear tight socks that are a cause of pressure on the feet. A list of Makrooh acts, other than the aforementioned ones have been elaborated in more detailed texts.

Chapter 41

The Occasions Where it is Permissible to Break an Obligatory Prayer

1167. It is forbidden to voluntarily break an obligatory prayer. However, there is no harm in doing so in order to protect one's property, or to avert financial losses or bodily harm.

1168. If a person is unable to protect his own life, or the life of another, the protection of whose life is obligatory on him, or to protect a property, the guarding of which is obligatory on him, without breaking his prayer, it will be obligatory on him to break it.

1169. If there is ample time remaining for prayer and a creditor seeks that which is owed to him while a person is engaged in prayer, he should repay his debt whilst praying, if possible. However if it is not possible to repay him without breaking the prayer, he should break his prayer, repay his debt and then pray.

1170. If a person realizes during prayer that the mosque is Najis, he should complete his prayer if the time remaining is nominal. If there is ample time remaining and he is able to make it Tahir without breaking his prayer, he should make the area Tahir and then complete his prayer. In the event that it breaks the form of his prayer, it is not permissible for him to break his prayer if it is possible to make it Tahir after completing his prayer. However, if the Najasah remaining there is a violation of its sanctity, he should break his prayer and make the mosque Tahir and then offer his prayers. It is similarly necessary to break one's prayer if it would become impossible to make the mosque Tahir after completing the prayer.

1171. If a person who must break his prayer, continues and completes it, his prayer will be valid, though he would have

sinned. Recommended precaution however dictates that he should repeat his prayer.

1172. If a person forgets to proclaim the azan or iqamah, and recollects prior to entering Ruku, while there is ample time remaining for prayer, it is recommended for him to break his prayer to proclaim them. It is similarly recommended for one to break his prayer for iqamah, if he recollects before Qira'ah.

Chapter 42

Doubts in Prayer

There are twenty three types of doubts in prayer. Eight of these invalidate the prayer, though the invalidation by some of them is based on precaution. Six of them should be dismissed, whereas the other nine are valid doubts.

Doubts That Invalidate Prayer

1173. The following doubts will invalidate the prayer:

1. The doubt concerning the number of Rak'ah, that arises in a two Rak'ah obligatory prayer, such as the Fajr prayer, or the traveler's prayer. However, the doubt with respect to the number of Rak'ah that arises in recommended prayers or the Ihtiyat prayer does not invalidate it.

2. The doubt concerning the number of Rak'ah, that arises in a three Rak'ah prayer.

3. When a person engaged in a four Rak'ah prayer, doubts whether he has performed one Rak'ah or more.

4. When a person offering a four Rak'ah prayer, doubts prior to completing the Zikr of the second Sujood whether he has performed two Rak'ah or more.

5. When a person does not know how many Rak'ah he has performed.

6. The doubt between two and five Rak'ah or two and more than five Rak'ah. However, obligatory precaution dictates that when such a doubt arises, one should assume he has offered two Rak'ah, complete his prayer and then repeat it.

7. The doubt between three and six Rak'ah or three and more than six Rak'ah. However, obligatory precaution dictates that when such a doubt arises, one should assume he has offered three Rak'ah, complete his prayer and then repeat it.

8. The doubt between four and six Rak'ah or four and more than six Rak'ah. However, obligatory precaution dictates that when such a doubt arises, one should assume he has offered four Rak'ah, complete his prayer and then repeat it.

1174. If one of the doubts that invalidate prayer arises, one should cogitate to such an extent that the doubt becomes concrete, after which he can break his prayer. It is better to prolong his cogitation until the form of the prayer breaks.

The Doubts That Should Be Dismissed

1175. The following doubts should be dismissed:

1. Doubt concerning an act when the place for performing it has passed, such a person doubting in Ruku whether or not he has recited Surah al-Fatihah

2. The doubt that arises after the Salam of prayer

3. The doubt that arises after the time of prayer has passed

4. The doubt of a person who doubts excessively (katheer al-shakk) 5

. The doubt of the Imam of a congregational prayer concerning the number of Rak'ah, in the event that the follower is aware of its number, or vice versa

6. The doubt that arises in recommended prayers or the Ihtiyat prayer

1. Doubts Concerning an Act, when the Place for Performing it has Passed

1176. If a person doubts whilst praying whether he has performed an obligatory component of prayer or not, such as doubting whether he has recited Surah al-Fatihah or not, he should perform it so long as he has not proceeded to the subsequent obligatory component. However, if the doubt arises after engaging in the subsequent obligatory component, he should dismiss his doubt. An example of this occurs when a person who is reciting the second Surah doubts as to whether he recited Surah al-Fatihah or not.

1177. While reciting a verse, if a person doubts whether he has recited the preceding verse or not, or while reciting the latter part of a verse, he doubts whether he has recited its beginning or not, he should dismiss his doubt.

1178. If a person, after completing Ruku or Sujood, doubts whether he has performed its obligatory component or not, such as its Zikr, or maintaining a composed body, he should dismiss his doubt.

1179. If while proceeding for Sujood, a person doubts whether he has performed Ruku or not, obligatory precaution dictates that he should stand, perform Ruku, complete his prayer

and repeat it. If he doubts whether he stood up after Ruku or not, he should stand again, proceed for Sujood and complete his prayer.

1180. If a person doubts while rising to stand, whether he has performed Sujood or not, he should return and perform it. The same will apply if he doubts whether he has performed Tashahhud or not.

1181. If a person who offers his prayers sitting or lying, doubts while reciting Surah al-Fatihah or tasbeehaat al-arba'ah whether he has performed Sujood or Tashahhud, he should dismiss his doubt. If he entertains this doubts prior to engaging in Surah al-Fatihah or tasbeehaat al-arba'ah, then in this case if he does not know whether his state, such as sitting, is a sitting which is in lieu of standing, or otherwise, he must return (to the previous state) and perform the item in doubt. However, if he knows that it is in lieu of standing, then if the doubt is with regards to performing Tashahhud, obligatory precaution dictates that he should perform it with a non-specific intention of attaining proximity (an intention which is more general than one of obligation or recommendation), and his prayer is valid. However, if his doubt is with regards to performing Sujood, obligatory precaution dictates that he complete his prayer and offering it again.

1182. If a person doubts whether he has performed a pillar of prayer or not, he should perform it so long as he has not proceeded to the next component of prayer. For example, prior to reciting the Tashahhud, if he doubts whether he has performed the two Sujood or not, he should perform them. However, in the event that he later realizes he had already performed that pillar, and that pillar is either Ruku, or two Sujood, his prayer will be deemed invalid.

1183. If a person doubts whether he has performed a component of prayer that is not a pillar, he should perform it so long as he has not proceeded to the next component of prayer. For example, if while reciting the second Surah, a person doubts whether he has recited Surah al-Fatihah or not, he should recite Surah al-Fatihah. If he later realizes that he had already recited it, his prayer will be valid.

1184. If a person doubts whether he has performed a pillar of prayer or not, he should dismiss his doubt if he has

proceeded to the next component of prayer. For example, if a person doubts while reciting the Tashahhud whether he performed the two Sujood or not, he should dismiss his doubt. If however, he later realizes that he had omitted it, and the pillar is Takbeerat al-Ihram in particular, his prayer will be deemed invalid irrespective of whether he has proceeded to the next pillar or not. In the event it is other than Takbeerat al-Ihram, and he has not proceeded to the next pillar, he should perform it. However, if he has proceeded to the next pillar, his prayer will be invalid. For example, if prior to the Ruku of the subsequent Rak'ah, a person realizes that he had not performed the two Sujood, he should perform them. However, if he realizes after proceeding to Ruku, his prayer will be invalid.

1185. If a person doubts whether he has performed a component of prayer that is not a pillar, he should dismiss his doubt if he has proceeded to the next component. For example, if a person doubts while reciting the second Surah whether he has recited Surah al-Fatihah or not, he should dismiss his doubt. However, if he later realizes that he had not performed it, he should perform it so long as he has not proceeded to the subsequent pillar. If he has already engaged in the subsequent pillar, his prayer will be valid. Therefore, if for example he remembers while engaged in Qunoot that he has not recited the second Surah, he must recite it. However, if he remembers it while he is engaged in Ruku, his prayer will be valid.

1186. If a person doubts whether he has said the Salam of prayer or not, he should dismiss his doubt if he has proceeded to the next prayer, or engaged himself in an act that would break the form of the prayer and remove him from the state of one who is praying. However, if the doubt arises prior to these, he should say the Salam, even if he has begun to recite the Ta'qibaat. If he doubts whether he said the Salam correctly or not, he should dismiss his doubt in any case.

2. Doubts That Arise After Salam

1187. If after completing the Salam of prayer, a person doubts whether he offered his prayer correctly or not—such as doubting whether he had performed Ruku or not—or doubts whether he had offered four Rak'ah or five, he should dismiss

his doubt. A great number of renowned scholars have said that if both possibilities entertained in the doubt are invalid, his prayer will be invalid. An example of this is a person who doubts after completing the Salam of a four Rak'ah prayer, whether he offered three or five Rak'ah. However, this ruling is problematic and obligatory precaution dictates that he should perform another Rak'ah, perform two Sajdah al-Sahw after Salam, and also repeat his prayer.

3. Doubts That Arise After the Prayer Time

1188. If after the time of prayer has passed, a person doubts whether he has offered his prayer or not, or speculates that he has not offered it, it is not necessary for him to offer it. However, if a person doubts before the time of the prayer has elapsed whether he has offered his prayer or not, he will have to offer his prayer even though he may be speculating that he has already offered it.

1189. If a person doubts after the time of prayer has elapsed whether he offered his prayer correctly or not, he should dismiss his doubt.

1190. If the time of Z'uhr and A'sr prayers has passed, and a person knows that he has offered a four Rak'ah prayer, but does not know whether he offered it with the intention of Z'uhr or A'sr prayer, he should offer a four Rak'ah Qadha prayer with the intention of offering the prayer that is obligatory on him.

1191. If the time of Maghrib and I'sha prayer has passed, and a person knows he has offered a prayer, but does not know whether he offered a three Rak'ah prayer or four Rak'ah prayer, he should offer the Qadha of both the Maghrib and I'sha prayer.

4. The Doubt of One Who Doubts Excessively (Katheer al-Shakk)

1192. Katheer al-shakk is a person who is considered to doubt a lot according to the common understanding. An instance of katheer al-shakk is a person who entertains a doubt in each of three consecutive prayers. Such a person should

dismiss his doubt so long as his doubt is not caused by anger, fear or anxiety.

1193. If a *katheer al-shakk* doubts whether he has carried out a part or condition of prayer or not, he should assume that he has carried it out. For example, if he doubts whether he has performed the *Ruku* or not, he should assume he has done so. Similarly if he doubts whether he has performed an act that invalidates prayer or not, such as doubting whether he has performed two or three *Rak'ah* in the *Fajr* prayer, he should assume the validity of his prayer.

1194. If a person who excessively entertains doubts regarding a particular part of prayer, entertains a doubt regarding another part, he should act according to the instructions of that doubt. For example, if a person who entertains a lot of doubts regarding *Sujood*, doubts whether he has performed *Ruku* or not, he should act according to its instructions. That is, if he has not performed *Sujood*, he should perform the *Ruku*. However, if he has proceeded to *Sujood*, he should dismiss his doubt.

1195. If a person who excessively entertains doubts in a particular prayer, such as the *Z'uhr* prayer, entertains a doubt in another prayer, such as the *A'sr* prayer, he should act according to the instructions for that doubt.

1196. If a person who entertains a lot of doubts while praying in a particular place, entertains a doubt while praying in another place, he should act according to the instructions for that doubt.

1197. If a person doubts whether he has become *katheer al-shakk* or not, he should act according to the instructions of the doubt (he entertains in his prayer). On the other hand, a *katheer al-shakk* should dismiss his doubts until he is certain he has returned to a normal condition.

1198. If a person who doubts excessively, entertains a doubt as to whether he has performed a pillar or not, and dismisses his doubt only to realize later on that he had in fact omitted that pillar, his prayer will be deemed invalid if it is the *Takbeerat al-Ihram*, regardless of whether he has proceeded to the subsequent pillar or not. If it is other than the *Takbeerat al-Ihram*, he should perform it, so long as he has not proceeded to the subsequent pillar. However, if he has proceeded to the

subsequent pillar, his prayer will be deemed invalid. For example, if a person doubts whether he performed Ruku or not, and dismisses his doubt, but prior to engaging in Sujood, realizes that he had not performed Ruku, he should return and perform it. However, if he realizes it during his second Sujood, his prayer will be deemed invalid.

1199. If a person who doubts excessively, entertains a doubt as to whether or not he has performed a part of prayer that is not a pillar, and dismisses his doubt, only to realize later on that he had in fact omitted it, he should perform it so long as he has not passed its place. However, if its place has passed, his prayer will be valid. For example, if a person doubts whether he has recited Surah al-Fatihah or not, and dismisses his doubt, but realizes during Qunoot that he had omitted it, he should recite it. If he realizes after proceeding to Ruku, his prayer will be valid.

5. The Doubt of the Imam and the Follower

1200. If the Imam of a congregational prayer doubts concerning the number of Rak'ah, for example, he doubts whether he has performed three Rak'ah or four Rak'ah, then in the event that the follower is certain or speculates that he has performed for example, four Rak'ah, and makes the Imam realize that he has performed four Rak'ah, the Imam should complete his prayer and he will not have to offer the Ihtiyat prayer. Similarly, if the Imam is certain about the number of Rak'ah he has performed, or speculates about it, but the follower doubts, he should dismiss his doubt.

6. Doubts in Recommended Prayers

1201. If a person doubts concerning the number of Rak'ah he has offered in a recommended prayer, and if the possibility with the higher number of Rak'ah invalidates the prayer, he should assume he has performed the lesser number of Rak'ah. For example, if during the nafila of Fajr, a person doubts whether he has performed two Rak'ah or three, he should assume he has performed two Rak'ah. However, if the possibility with the higher number does not invalidate the prayer, such as

a doubt between one and two Rak'ah, his prayer will be valid, regardless of the option he adopts

1202. The omission of a nafila prayer's pillars invalidates it. However, there is no harm in increasing its pillars. Therefore, if a person forgets a component of the nafila, and recollects while engaged in the subsequent pillar, he should perform the forgotten component, and repeat the pillar he was engaged in. For example, if a person recollects while engaged in Ruku that he forgot to recite Surah al-Fatihah, he should recite Surah al-Fatihah and then repeat the Ruku.

1203. If a doubt arises concerning one of the components of a nafila prayer, be it a pillar or not, he should perform it so long its place has not passed. However, if its place has passed, the doubt should be dismissed.

1204. If during a two Rak'ah nafila, a person speculates that he has performed three Rak'ah or more, his prayer will be valid. If he speculates that he has performed two Rak'ah or less, he should act according to his speculation. For example, if he speculates that he has offered one Rak'ah, he should offer one more Rak'ah.

1205. If during a nafila prayer, a person performs an act which would obligate him to perform a Sajdah al-Sahw in an obligatory prayer, or if he forgets one Sujood, or the Tashahhud, and recollects after the Salam of the prayer, neither Sajdah al-Sahw, nor the Qadha become obligatory on him.

1206. If a person doubts whether he has offered a recommended prayer or not, he should assume he has not offered it if it is a prayer that is not time-specific, such as the prayer of Ja'far alTayyaar (Peace be upon him). He should similarly assume he has not offered it if it is a prayer that is time-specific, such as the daily nafila, if his doubt arises within the specified time. However, if his doubt arises after the specified time has elapsed, he should dismiss his doubt.

Valid Doubts

1207. There are nine cases, in which, if a doubt concerning the Rak'ah of prayer arises in a four Rak'ah prayer, a person should cogitate and based on obligatory precaution, he should not delay his cogitation. If he attains certitude or suspects one of the possibilities in his doubt, he should act according to it, and complete his prayer. If he does not attain certitude or does not have a reasonable doubt about any of the possibilities, he should act in accordance with the subsequent nine instructions:

First: If after completing the obligatory Zikr of the second Sujood, a person doubts whether he has performed two or three Rak'ah, he should assume he has performed three Rak'ah, perform another Rak'ah and complete his prayer. After the prayer, he should offer a single Rak'ah of Ihtiyat prayer standing.

Second: If after completing the obligatory Zikr of the second Sujood, a person doubts whether he has performed two or four Rak'ah—although there is case to be made for offering the option between starting the prayer from the beginning, or assuming that one has offered four Rak'ah and performing the Ihtiyat prayer—obligatory precaution however, dictates he should assume he has offered four Rak'ah, complete his prayer and offer a two Rak'ah Ihtiyat prayer standing.

Third: If after completing the obligatory Zikr of the second Sujood, a person doubts whether he has performed two, three or four Rak'ah, he should assume he has performed four Rak'ah, complete his prayer and then offer a two Rak'ah Ihtiyat prayer standing and then another two Rak'ah Ihtiyat prayer sitting.

Fourth: If after completing the obligatory Zikr of the second Sujood, a person doubts whether he has performed four or five Rak'ah, he should assume he has performed four Rak'ah, complete his prayer and offer two Sajdah al-Sahw. However, if any

one of these four doubts arise after completing the first Sujood, or prior to completing the obligatory Zikr of the second Sujood, his prayer will be invalid.

Fifth: If during any component of prayer, a person doubts whether he has performed three or four Rak'ah, he should assume he has performed four Rak'ah and complete his prayer. Based on the opinion of a great number of renowned scholars, he should then offer either a single Rak'ah Ihtiyat prayer standing or a two Rak'ah Ihtiyat prayer sitting. However, obligatory precaution dictates that he should select the two Rak'ah Ihtiyat prayer sitting.

Sixth: If a person doubts whether he has performed four or five Rak'ah while he is standing, he should sit down, recite the Tashahhud and Salam. Based on the opinion of a great number of renowned scholars, he should then offer either a single Rak'ah Ihtiyat prayer standing or a two Rak'ah Ihtiyat prayer sitting. However, obligatory precaution dictates that he should select the two Rak'ah Ihtiyat prayer sitting.

Seventh: If a person doubts whether he has performed three or five Rak'ah while he is standing, he should sit down, recite the Tashahhud and Salam, and then offer a two Rak'ah Ihtiyat prayer standing, as previously elaborated in the second case.

Eighth: If a person doubts whether he has performed three, four or five Rak'ah while he is standing, he should sit down, recite the Tashahhud and Salam, and then offer a two Rak'ah Ihtiyat prayer standing and then a two Rak'ah Ihtiyat prayer sitting.

Ninth: If a person doubts whether he has performed five or six Rak'ah while he is standing, he should sit down, recite the Tashahhud and Salam, and then offer two Sajdah al-Sahw. Recommended precaution dictates that a person should also offer two Sajdah al-Sahw for standing inopportunately in the last four cases.

1208. If a valid doubt arises, one should not break his prayer. It is necessary for a person to act according to the instructions that have been prescribed for his doubt. If a person does not act according to these instructions, and begins another prayer without performing an act that invalidates (his first) prayer, such as turning away from the Qiblah, both his prayers will be deemed invalid. However, if he performs an act that invalidates prayer and then begins another prayer, his second prayer will be valid.

1209. If a doubt arises for a person, for which the Ihtiyat prayer becomes obligatory, he should offer it upon completing his prayer and not repeat his prayer from the beginning. If a person does not offer the Ihtiyat prayer, and repeats his prayer from the beginning without performing an action that invalidates prayer, his second prayer will also be deemed invalid. However, if a person engages in prayer after performing an action that invalidates prayer, his second prayer will be valid.

1210. If an invalidating doubt arises for a person, and he knows that if he proceeds to the next component of prayer, it will result in certainty or conjecture for him, it is not permissible for him to continue his prayer in the state of doubt. For example, if while standing, a doubt arises for a person whether he has performed one Rak'ah or more, and he knows if he proceeds to Ruku, it will result in either certainty or conjecture with respect to one of the possibilities, it is not permissible for him to proceed to Ruku.

1211. If a valid doubt—as previously elaborated—arises in the mind of a person, he should contemplate immediately. One may delay his contemplation, so long as anything that may give rise to certainty or conjecture towards one side of the doubt is not eliminated by this delay. For example, if a person doubts during Sujood, he may delay his contemplation until after the Sujood.

1212. If a person initially conjectures, leaning towards one of two possibilities, but later the two possibilities become equal in his eyes, he should act in accordance with the instructions prescribed for the doubt. However, if both possibilities are initially equal in his eyes, and he adopts the possibility that is in accordance to his obligation, but then he conjectures,

leaning towards one of the two possibilities, he should adopt that possibility and complete his obligation.

1213. A person who does not know whether he is more inclined towards one of the two possibilities or whether both possibilities are equal in his eyes, should act according to the instructions prescribed for the doubt. The recommended precaution is that if the doubt is amongst the doubts which are valid, and a case of the Ihtiyat prayer, then if the possibility that he entertains is the higher number (of Rak'ah), he should complete his prayer based on that possibility and offer the Ihtiyat prayer as well. If however, the possibility that he entertains is the lower number, of it his doubts is not amongst the valid doubts, he should complete his prayer based on that possibility, and then repeat his prayer.

1214. If a person realizes that he had entertained a doubt during prayer, for example he had doubted whether he had offered two or three Rak'ah, and he assumed he had offered three Rak'ah, but having completed his prayers, he does not know whether his conjecture was towards three Rak'ah or whether both were equal in his eyes, he should offer the Ihtiyat prayer.

1215. If while reciting the Tashahhud, or after standing up, a person doubts whether he has performed two Sujood or not, and he concurrently entertains one of the doubts that are valid after completing two Sujood, such as doubting whether he has performed two or three Rak'ah, his prayer will be deemed valid so long as he observes the instruction prescribed for that doubt.

1216. If a person doubts whether he has performed one or two Sujood prior to engaging in Tashahhud, or prior to standing up (in a Rak'ah that does not have a Tashahhud), and he concurrently entertains one of the doubts that is valid after performing two Sujood, his prayer will be deemed invalid.

1217. If whilst standing, a person entertains a doubt between three and four, or three, four and five Rak'ah, and he recollects that he omitted one or two Sujood from the previous Rak'ah, his prayer will be deemed invalid.

1218. If a person's doubt is eliminated, but another doubt arises—for example, a person first doubts whether he performed two or three Rak'ah, then doubts whether he has

performed three or four Rak'ah—he should act according to the instructions prescribed for the second doubt.

1219. If after completing his prayer, a person doubts whether he had entertained a doubt, for example, between two and four Rak'ah, or three and four Rak'ah, he may disengage from the prayer and after performing an action that invalidates prayer, such as turning his back to the Qiblah or speaking deliberately, he may repeat his prayer, though recommended precaution dictates that he should act according to the instructions for both of the doubts and then repeat his prayer.

1220. If after completing his prayer, a person realizes that a doubt had risen for him during prayer, but does not know whether it was a valid doubt or not, or if it was a valid doubt, he does not know which of the valid doubts it was, he may disengage from his prayer, perform an act that invalidates the prayer, and then repeat his prayer. However, recommended precaution dictates that he should first act according to the prescribed obligations for valid doubts and then repeat his prayer.

1221. If a person who offers his prayers sitting, entertains a doubt for which it is necessary to offer a one Rak'ah Ihtiyat prayer standing, or a two Rak'ah Ihtiyat prayer sitting, he should offer a one Rak'ah Ihtiyat prayer sitting. If he entertains a doubt for which it is necessary to offer a two Rak'ah Ihtiyat prayer standing, he should offer two Rak'ah Ihtiyat prayer sitting.

1222. If a person who offers his prayers standing, becomes unable to stand while offering the Ihtiyat prayer, he should complete his prayer in a manner that a person who is sitting would offer it, the rulings of which were previously elaborated.

1223. If a person, who offers his prayers sitting, is able to stand during the Ihtiyat prayer, he should act according to the duty of one who offers his prayers standing.

Chapter 43

The Ihtiyat Prayer

1224. A person, upon whom the Ihtiyat prayer is obligatory, should immediately stipulate the intention for Ihtiyat prayer after reciting Salam. He should then pronounce the Takbeerat alIhram, recite Surah al-Fatihah and then proceed to Ruku and Sujood. If a one Rak'ah Ihtiyatprayer is obligatory on him, he should recite the Tashahhud after the two Sujood and recite Salam. However, if a two Rak'ah Ihtiyat prayer is obligatory upon him, after the two Sujood he should perform another Rak'ah similar to the first Rak'ah, and recite Salam after the Tashahhud.

1225. There is no Qunoot or second Surah in the Ihtiyat prayer. One should recite it in a low voice and should not verbalize its intention. Obligatory precaution dictates that the (??? ???) should also be recited in a low voice.

1226. If prior to offering the Ihtiyat prayer, a person realizes that he offered his prayer correctly, the Ihtiyat prayer would thereafter not be applicable. If a person realizes during the Ihtiyatprayer, it is not necessary for him to complete it and may thereafter complete it with the intention of a two Rak'ah nafila prayer.

1227. If prior to offering the Ihtiyat prayer, a person realizes that the Rak'ah he performed were less than what is required, he should perform what was omitted so long as he has not performed an act that invalidates prayer. Obligatory precaution dictates that he should offer two sajdah al-Sahw for the inopportune Salam and for any other extraneous instance that may have occurred. However, if he has performed an action that invalidates prayer, such as turning his back to the Qiblah, he should repeat his prayer.

1228. If after offering the Ihtiyat prayer, a person realizes that the portion omitted from his prayer is equal to the Ihtiyat prayer—for example, if the doubt was between two and four Rak'ah, and a person offers a two Rak'ah Ihtiyat prayer, and it later transpires that he did in fact only perform two Rak'ah—his prayer will be valid.

1229. If after offering the Ihtiyat prayer, a person realizes that portion omitted from his prayer is less than the Ihtiyat prayer—for example, if the doubt was between two and four Rak'ah, and a person offers a two Rak'ah Ihtiyat prayer, and it later transpires that he had in fact performed three Rak'ah—he should repeat his prayer¹²³⁰. If after offering the Ihtiyat prayer, a person realizes that the omitted portion of his prayer is greater than the Ihtiyat prayer, and has performed an act that invalidates prayer, such as turning his back to the Qiblah, he should repeat his prayer. However, if he has not performed an act that invalidates prayer, obligatory precaution dictates he should supplement the omitted portion to his prayer and complete it. He should then offer two sajdah al-Sahw for the inopportune Salam in the actual prayer and the Ihtiyat prayer, and for any other extraneous instance that may have occurred. He should then repeat his prayer.

1231. If a person entertains a doubt between two, three and four Rak'ah, and after performing two Rak'ah of Ihtiyat prayer standing, he recollects that he had performed two Rak'ah of prayer, it is not necessary for him to offer two Rak'ah Ihtiyat prayer sitting.

1232. If a person entertains a doubt between three and four Rak'ah, and during the two Rak'ah Ihtiyat prayer that is offered sitting, prior to arriving at the first Ruku, he recollects that he had in fact performed three Rak'ah, he should disregard what he has offered, and should complete the omitted portion of his prayer, as dictated by obligatory precaution. He should then offer two sajdah al-Sahw for the additional Salam, and another two for the additional Tashahhud, if there was any, and then repeat his prayer. However, if he recollects after Ruku, his prayer will be deemed invalid.

1233. If a person entertains a doubt between two, three and four Rak'ah, and during the two Rak'ah Ihtiyat prayer that is offered standing, prior to arriving at the second Ruku, he

recollects that he had in fact performed three Rak'ah, then obligatory precaution will dictate that he sit and complete his Ihtiyat prayer as a one Rak'ah prayer. He should then offer two sajdah al-Sahw for the additional Salam and another two for the additional Tashahhud, if there was any, and repeat his prayer.

1234. If during the Ihtiyat prayer, prior to arriving at the first Ruku, a person realizes that the omitted portion of his prayer is greater or less than the Ihtiyat prayer, and he is unable to complete the Ihtiyat prayer in a manner that conforms to the omitted portion—for example, if a person entertains a doubt between three and four Rak'ah, and during the two Rak'ah Ihtiyat prayer that is offered sitting, he realizes that he had in fact performed two Rak'ah—he should disregard the Ihtiyat prayer (as two Rak'ah sitting cannot account for two Rak'ah standing). Obligatory precaution dictates that he should complete the omitted portion of his prayer, offer two sajdah al-Sahw for the additional Salam and another two for the additional Tashahhud, if there was any, and repeat his prayer. However, if he realizes after the first Ruku, his prayer will be deemed invalid.

1235. If a person doubts whether he has offered an Ihtiyat prayer that he was obligated to offer or not, he should dismiss his doubt if the time of prayer has elapsed. However, if there is time remaining, and only a small period of time has elapsed between the prayer and his doubt, and he has not performed an act that invalidates the prayer, such as turning his back to the Qiblah, he should offer the Ihtiyat prayer. However, if he has performed an act that invalidates prayer, or a great period of time has elapsed between the prayer and his doubt, obligatory precaution dictates that he should repeat his prayer.

1236. If a person performs two Rak'ah in lieu of one Rak'ah in the Ihtiyat prayer, or an additional rukn, the Ihtiyat prayer will be deemed invalid, therefore requiring him to repeat the original prayer.

1237. If during an Ihtiyat prayer, a person entertains a doubt regarding a component of the Ihtiyat prayer, he should perform it, so long as its place has not passed. However, if its place has passed, he should dismiss his doubt. For example, if he doubts whether he has recited Surah al-Fatihah or not, he should

recite it so long as he has not proceeded to Ruku. However, if he has proceeded to Ruku, he should dismiss his doubt.

1238. If a person entertains a doubt regarding the number of Rak'ah (he has offering) in an Ihtiyat prayer, then if the greater number of Rak'ah invalidates the prayer, he should assume he has performed the lesser number of Rak'ah. However, if the greater number of Rak'ah does not invalidate the prayer, he should assume the greater. For example, if a person doubts he whether has performed two or three Rak'ah while engaged in a two Rak'ah Ihtiyat prayer, he should assume he has performed two Rak'ah, as three Rak'ah would invalidate the prayer. However, if a person doubts whether he has performed one or two Rak'ah, he should assume he has performed the greater number, being two Rak'ah, as it would not invalidate the prayer.

1239. If a person engaged in an Ihtiyat prayer, forgetfully increases or decreases one of its components which is a pillar, it would not require a sajdah al-Sahw, except that which shall be elaborated in article 1241.

1240. If a person doubts whether he has carried out a component or condition of the Ihtiyatprayer after reciting the Salam, he should dismiss his doubt.

1241. If during the Ihtiyat prayer, a person forgets to perform Tashahhud or one Sujood, and is unable to perform it during its own place, recommended precaution dictates that he should offer its Qadha and two sajdah al-Sahw if he omitted the Tashahhud and if he omitted a Sujood, he should offer its Qadha.

1242. If an Ihtiyat prayer, and the Qadha of a Sujood or Qadha of a Tashahhud, or two sajdah al-Sahw become obligatory on a person, he should offer the Ihtiyat prayer first.

1243. In regards to the Rak'ah of the prayers, the position of a conjecture is that of certainty. For example, if a person does not know for certain whether he has offered one Rak'ah or two Rak'ah, but conjectures that he has offered two Rak'ah, then he should assume that he has offered two Rak'ah. And if in a prayer of four Rak'ah, he conjectures that he has offered four Rak'ah, it is not necessary for him to offer the Ihtiyat prayer. However in the matter of acts, the position of conjecture is that of doubt. Hence, if he conjectures that he has performed

Ruku and has not yet entered Sujood, he should perform Ruku. And if he conjectures that he has not recited Surah al-Fatihah and has already started reciting the second Surah, he should ignore his conjecture and his prayers will be in order.

1244. The rulings for doubts, inadvertence and conjecture in the other obligatory prayers are the same as their ruling in the daily obligatory prayers. For example, if a person engaged in the prayer for signs, doubts whether he has performed one or two Rak'ah, his prayer will be deemed invalid, as a doubt in a two Rak'ah prayer, invalidates it. If he conjectures he has performed one Rak'ah, or conjectures he has performed two Rak'ah, he should complete his prayer based on his conjecture.

Chapter 44

Sajdat al-Sahw

1245. There are five instances where one is required to perform two sajdat al-Sahw after the Salam of prayer, in the manner that will be elaborated. These instances are as follows:1. When a person inadvertently speaks during prayer2. When a person forgetfully omits a Tashahhud3. When a person entertains a doubt in a four Rak'ah prayer, Rak'ah after reciting the Zikr of the second Sujood of the fourth Rak'ah, as to whether he has offered four or five Rak'ah. Similarly if a person doubts while standing whether he offered five or six Rak'ah, (he will have to perform two sajdat al-Sahw) as elaborated in section four and nine of article 12074. Based on obligatory precaution, when a person offers an inopportune Salam, such as inadvertently offering it in the first Rak'ah5. Based on obligatory precaution, when a person forgetfully omits one Sujood, and similarly when a person accidentally omits or adds a component of prayer Recommended precaution dictates that a person should also offer two sajdat al-Sahw, for standing where one should be sitting, or sitting where one should be standing.

1246. If a person speaks during prayer accidentally, or speaks under the impression that he has completed his prayer, he should offer two sajdat al-Sahw.

1247. It is not necessary to offer sajdat al-Sahw for the sound produced by sighing, or coughing. However, if a person inadvertently verbalizes the sound akh or ah, he should offer two sajdat al-Sahw.

1248. If a person correctly repeats a thing that he had inadvertently recited in the wrong manner, he will not have to perform sajdat al-Sahw for having recited it in the wrong manner.

1249. If a person inadvertently speaks for some time during prayer, it is sufficient for him to offer two sajdah al-Sahw if his speaking would be deemed as one speech in the common sense.

1250. If a person inadvertently omits tasbeehaat al-arba'ah, obligatory precaution dictates that he should offer two sajdah al-Sahw after his prayer.

1251. If a person inadvertently recites (???? ?? ?? ??? ? ??? ? ??? ? ? ?? ? ??? ?? ?? ??? ? ??????? ???) or(? ?? ??????? ??? ? ??? ????? ? ??????????? ?? ? ??????? ???) in a place where Salam should not be offered, obligatory precaution dictates that he should offer two sajdah al-Sahw. He should similarly offer two sajdah al-Sahw if he accidentally recites a part of the above two Salam. However, if a person accidentally recites(?? ??????? ??? ? ??? ????? ? ??????????????? ?? ????? ? ? ? ? ?? ??? ? ??????? ???), recommended precaution dictates that he should offer two sajdah al-Sahw.

1252. If a person recites all three Salam inopportunistically, two sajdah al-Sahw will be sufficient.

1253. If a person forgetfully omits a Sujood or the Tashahhud, and recollects prior to arriving at the Ruku of the next Rak'ah, he should return and perform it. Recommended precaution dictates that he should offer two sajdah al-Sahw for standing inopportunistically.

1254. If during Ruku or after it, a person realizes that he omitted one Sujood from the previous Rak'ah, he should offer its Qadha after the Salam, and obligatory precaution dictates that he should offer two sajdah al-Sahw. Similarly, if during Ruku or after it, a person realizes that he omitted the Tashahhud from the previous Rak'ah, recommended precaution dictates that he should offer its Qadha, and must offer two sajdah al-Sahw.

1255. If a person deliberately does not offer sajdah al-Sahw after the Salam of prayer, he will have sinned, and he is obligated to offer it at the earliest possible time. However, if a person forgets to offer it, he should do so immediately upon recollecting, and it is not necessary for him to repeat his prayer.

1256. If a person doubts whether sajdah al-Sahw has become obligatory on him or not, he is not obligated to perform it.

1257. If a person doubts whether he is obligated to offer two sajdah al-Sahw or four, it is sufficient that he offer two.

1258. If a person knows that he has not performed one of the two sajdah al-Sahw, and it is not possible to recover it, he should offer two sajdah al-Sahw again. If he knows he has performed three, obligatory precaution dictates that he should perform two sajdah al-Sahw again.

How to Perform Sajdat al-Sahw

1259. Immediately after the Salam of prayers, one should make an intention of performing sajdat al-Sahw and should place one's forehead on something on which it is permissible to perform Sujood as well as based on obligatory precaution, place all those parts of the body on that ground (that are necessary to be on the ground while performing Sujood. Refer to article 1054 for details) recite the following:?

????????? ? ?????? ?? ? ??? ?????? ??? ?????? ? ? ? ? ?? ??? ?
????????? ??? ?? ?????? ??? ? ??? ?????? ? ??????

Bismillahi wa billah As Salamu alayka ayyuhan Nabiyyu wa rahmatullahi wa bara katuh.

Then one should sit down and perform another Sujood and recite the same as mentioned above. After performing the second Sujood, sit down again and recite Tashahhud (as mentioned in article 1109) and then say:?

???? ?? ? ????????? ???

AsSalamu alaykum

The Qadha of a Forgotten Sujood or Tashahhud

1260. One is obligated to meet all the conditions of prayer, such as Taharah of the body and clothing, direction of the Qiblah, and all other conditions for the forgotten Sujood or Tashahhud, the Qadha of which one is obligated to offer. The same applies to the two sajdah al-Sahw that one is obligated to offer for an inopportune Tashahhud.

1261. If a person forgets several Sujood, for example one Sujood from the first Rak'ah and one from the second Rak'ah, he should offer Qadha for both after prayer. Obligatory precaution dictates that he should also offer two sajdah al-Sahw for each of the forgotten Sujood after performing the Qadha for both of them. If it is not necessary to specify which Sujood the Qadhais being offered for, and similarly which of the two, sajdah al-Sahw is being offered for.

1262. If a person forgets one Sujood and Tashahhud, he is obligated to offer the Qadha of the Sujood, and recommended precaution dictates that he should similarly offer the Qadha of the forgotten Tashahhud. Obligatory precaution dictates that the Qadha of the Sujood should be offered before the Qadha of the Tashahhud. He must also offer two sajdah al-Sahw for the forgotten Tashahhud, and similarly—based on obligatory precaution—for the forgotten Sujood.

1263. If a person forgets two Sujood from two different Rak'ah, it is not necessary to observe their Qadha sequentially.

1264. If between the Salam of prayer and a Qadha Sujood, a person carries out an act that would invalidate prayer, whether performed inadvertently or deliberately, such as turning his back to the Qiblah, obligatory precaution dictates that after the

Qadha of the Sujood, he repeat the prayer. He should similarly repeat his prayer if this occurs for the sajdah al-Sahw that is offered for the Qadha of a Tashahhud.

1265. If a person recollects after the Salam of prayer that he had forgotten a Sujood or the Tashahhud in the final Rak'ah of prayer, he should return and complete his prayer if he has not carried out an act that would invalidate the prayer, whether performed inadvertently or deliberately, such as turning his back to the Qiblah. Obligatory precaution dictates, he should also offer two sajdah al-Sahw for the inopportune Salam and another two sajdah al-Sahw if he had forgotten one Sujood, and had recited the Tashahhud prior to the Salam.

1266. If between the Salam of prayer and the Qadha of a Sujood, a person carries out an act that would obligate sajdah al-Sahw, such as speaking inadvertently, he should offer the Qadha of the Sujood, and as dictated by obligatory precaution, offer two sajdah al-Sahw for speaking inadvertently, and two sajdah al-Sahw for the forgotten Sujood.

1267. If a person does not know whether he has forgotten a Sujood, or the Tashahhud of the second Rak'ah, he should offer a Qadha for the Sujood, and two sajdah al-Sahw.

1268. If a person entertains a doubt of whether he has forgotten a Sujood or Tashahhud, he is not obligated to offer a Qadha for the Sujood, or sajdah al-Sahw.

1269. If a person knows that he had forgotten a Sujood or Tashahhud, but doubts whether he recollected prior to the Ruku of the preceding Rak'ah and performed it, or he did not recollect during prayer, he should offer a Qadha for the Sujood and based on obligatory precaution, offer two sajdah al-Sahw. However, if the forgotten component was Tashahhud, he should offer two sajdah al-Sahw.

1270. If a person is obligated to offer the Qadha of a Sujood, and also offer sajdah al-Sahw for something else, obligatory precaution dictates that he should first offer the Qadha of the Sujood, and then proceed to the sajdah al-Sahw.

1271. If a person doubts whether he has offered the Qadha of a Sujood after completing his prayer or not, obligatory precaution dictates that he should perform it if his doubt arises after the time for prayer had elapsed. However, if it arises during the time for the prayer, he must offer it.

Chapter 46

Addition or Omission of the Obligatory Components of Prayer

1272. If a person deliberately adds or omits any of the obligatory components of prayer, be it even one letter, his prayer will be deemed invalid.

1273. If a person adds or omits one of the components of prayer out of ignorance, and he is a culpable ignorant, his prayer will be invalid. However, if he is an excusable ignorant, or if he forgetfully adds or omits an obligatory component that is not a rukn, his prayer will be valid. As for obligatory components that are rukn, their rulings have been elaborated in article 951. If a person recites Surah al-Fatihah or the second Surah with a low voice in the Fajr, Maghrib or I'sha prayers, or recites them aloud in the Z'uhr or A'sr prayers, or while traveling he prays the Z'uhr, A'sr or I'sha prayers in four Rak'ah, out of ignorance (in all these cases), his prayers will be valid, though he be a culpable ignorant

1274. If during prayer, or after it, a person realizes that his Wudhu or Ghusl was invalid, or he realizes that he engaged in prayer without performing Wudhu or Ghusl, his prayer will be invalid. He should repeat his prayer with Wudhu or Ghusl, or if its time has elapsed, offer its Qadha.

1275. If a person remembers after reaching the Ruku, that he forgetfully omitted the two Sujood of the preceding Rak'ah, his prayer will be invalid. However, if he realizes prior to reaching the Ruku, he should return and perform the two Sujood. Thereafter he should stand and recite Surah al-Fatihah and the second Surah, or recite tasbeehaat al-arba'ah, and complete his prayer. He should then, as dictated by obligatory precaution, offer two sajdah al-Sahw for the additional Qira'ah

or tasbeehaat. Recommended precaution dictates that he should also offer two sajdah al-Sahw for the inopportune standing.

1276. If prior to reciting (???? ?? ?? ??? ? ??? ? ??? ? ? ?? ? ??? ?? ?? ??? ? ????????) or (? ?? ??????? ??? ? ??? ????? ? ??????????? ?? ? ??????? ????), a person realizes that he did not perform the two Sujood of the last Rak'ah, he should perform them, and then repeat the Tashahhud and recite the Salam. Obligatory precaution dictates that he should offer two sajdah al-Sahw for the additional Tashahhud.

1277. If prior to the Salam, a person realizes that he omitted one or more of the last Rak'ah(s) of prayer, he should perform the Rak'ahs that he had forgotten.

1278. If a person realizes after the Salam of prayer, that he omitted one or more of the last Rak'ah(s) of prayer, and has also performed an act that would invalidate prayer, whether performed inadvertently or deliberately, such as turning his back to the Qiblah, his prayer will be invalid. However, if he did not carry out such an act, he should immediately perform the Rak'ah(s) that he forgetfully omitted. Obligatory precaution dictates that he should offer two sajdah al-Sahw for the additional Salam, and another two sajdah al-Sahw if had performed an additional Tashahhud.

1279. If after the Salam, a person performs an act that would invalidate prayers, whether performed inadvertently or deliberately, such as turning his back to the Qiblah, and later realizes that he had omitted the last two Sujood of prayer, his prayer will be invalid. However, if he realizes it prior to performing an act that would invalidate his prayer, he should perform the two forgotten Sujood, and repeat the Tashahhud and the Salam. Obligatory precaution dictates that he should offer two sajdah al-Sahw for the inopportune Salam, and another two sajdah al-Sahw for the additional Tashahhud.

1280. If a person realizes that he had offered the entire prayer prior its prescribed time, he should repeat it. If its time has elapsed, he should offer its Qadha. However, if he offered some of it prior to its prescribed time, its ruling has been elaborated in article 751.

If a person realizes that he was not facing the Qiblah, his prayer will be deemed valid if the deviation from the Qiblah

was between the left and right side. However, if the deviation was greater than this, he should repeat his prayer if he realizes it within its prescribed time. If he realizes after its prescribed time, he is not obligated to offer its Qadha, unless he had his back to the Qiblah, in which case, obligatory precaution dictates that he offer its Qadha. In all of the above cases, if a person was facing a direction other than the Qiblah due to his ignorance of the sharia ruling, his prayer will be deemed invalid.

Chapter 47

The Prayer of a Traveler

A traveler who meets the following eight conditions must offer the traveler's prayer (Qasr prayer) for the Z'uhr, A'sr and I'sha prayers, meaning that he must offer them as two Rak'ahs:

The First Condition:

The distance he travels should not be less than eight farsakh as defined by the sharia. A farsakh defined by the sharia is slightly less than five and a half kilometers.

1281. If the totality of the outward and return journey of a person is eight farsakh, and both the outward journey and the return are no less than four farsakh each, he should offer his prayer as qasr. Therefore, if a person's outward journey is three farsakh, and his return journey is five farsakh, or vice versa, he should offer a conventional prayer.

1282. If a person's outward and return journeys are four farsakh each, he should offer his prayer as qasr and abstain from fasting, even if he does not return the very same day or night. Recommended precaution dictates that he should also offer his prayers conventionally.

1283. If a person departs for a brief journey, the distance of which is less than eight farsakh, or he does not know whether the journey is eight farsakh or not, he should offer his prayer conventionally. If he doubts whether the distance is eight farsakh or not, he is not obligated to investigate and should offer his prayer conventionally.

1284. If one just person, or a trustworthy worthy person declares that the journey is eight farsakh, and there is no reasonable doubt contrary to his statement, he should offer his prayers as qasr.

1285. If a person is certain that his journey is eight farsakh, and he offers his prayers as qasr, and it later transpires that it was not eight farsakh, he should offer those prayers as four Rak'ah prayers. If their prescribed time has elapsed, he should offer their Qadha.

1286. If a person is certain that his journey is not eight farsakh, or doubts whether it is eight farsakh or not, and during his journey, he realizes that it is eight farsakh, he should offer his prayers as qasr, even though only a small portion of his journey may be remaining. If he had already offered a conventional prayer, he should offer it again as qasr if he realizes it within its prescribed time. If he realizes it after its prescribed time has elapsed, he is not obligated to repeat it.

1287. If a person travels between two locations several times, the distance between which is less than four farsakh, he should offer a conventional prayer, even though the totality of the distance he has travelled may be equivalent to eight farsakh. 1288. If there are two routes to a destination, one being eight farsakh and more, while the other being lesser than it, then if a person adopts the route that is eight farsakh, he should offer his prayer as qasr. However, if he adopts the route that is less than eight farsakh, he should offer his prayer conventionally.

1289. If there is a wall bordering the city, a person should calculate the eight farsakh commencing from the wall. However, if there is no wall bordering it, a person should calculate it from the last houses of the city.

The Second Condition:

The traveler should have the intention of traveling eight farsakh from the beginning of his journey. Therefore, if a person travels to a place that is less than eight farsakh, and after arriving there, he intends to depart to another place, the distance of which, when added to the original journey equals to eight farsakh, he should offer his prayer conventionally since he did not have the intention of travelling eight farsakh from the beginning. However, if he wishes to travel eight farsakh from there, or travel four farsakh to a place where a journey breaker is not realized, such as a place where he does not

intend to remain for ten days, and then travel another four farsakh to his hometown, or another location where he intends to remain for ten days, he should offer his prayers as qasr (traveler's prayer).

1290. If a person does not know the total distance of his journey—for example, he departs in search of a lost person, and does not know how much he will need to travel in order to locate him—he should offer his prayer conventionally. However, if the distance of the return journey to his hometown, or a place where he intends to remain for ten days is eight farsakh or greater, he should offer his prayer as qasr. Similarly, if in the midst of his journey, he intends to travel to a location at a distance of four farsakh, where a journey breaker will not be realized—for example, he does not intend to remain there for ten days—and his return journey is also four farsakh, he should offer his prayer as qasr.

1291. A traveler may only offer his prayer as qasr in the event that he has the intention of travelling the distance of eight farsakh. Therefore, if a person departs from a city, for example with the intention that if he finds a travelling companion, he will travel the distance of eight farsakh, he should offer his prayer as qasr if he is confident that he will find such a companion. However, if he is not confident of it, he should offer his prayer conventionally.

1292. If a person intends to travel eight farsakh, even if he travels a small portion of the distance each day, he should offer his prayer as qasr once he reaches the authorized limit, which will be defined in the eighth condition. However, if the distance he travels each day is so minimal that he would not be deemed a traveler in the common sense, such as travelling ten or twenty meters, he should offer his prayer conventionally.

1293. If a person is under the authority of another during a journey, such as an employee who is travelling with his employer, he should offer his prayer as qasr if he knows the distance is eight farsakh. However, if he does not know, he should offer his prayer conventionally. In addition, he is not obligated to ask him, and in the event that he does, the employer is not obligated to respond to him.

1294. If a person who is under the authority of another during a journey, knows, conjectures or even senses the possibility

that he may separate from him prior to reaching four farsakhs, he should offer his prayer conventionally.

1295. If a person is under the authority of another during a journey, he should offer his prayer conventionally if he is not confident that he will not separate from him prior to reaching four farsakhs, even if the lack of confidence is caused by entertaining the possibility that there may arise a barrier for his journey. However, if he is confident that he will not separate from him, then any unexpected possibilities will not affect his case, and he will have to offer his prayer as qasr.

The Third Condition:

One should not renege from his intention in the midst of his journey. Therefore, if a person reneges on his intention prior to reaching four farsakhs, or becomes uncertain of it, he should offer his prayer conventionally.

1296. If after traveling four farsakhs, a person breaks his journey by either deciding to remain there, or deciding to return after ten days, or wavers between remaining and returning, he should offer his prayer conventionally.

1297. If after traveling four farsakhs, a person breaks his journey and decides to return, he should offer his prayer as qasr if his return journey is not less than four farsakh, and one of the journey breakers has not been realized for him, such as the intention of remaining in that location for ten days.

1298. If a person departs for a journey that is eight farsakh, and after traveling a portion of that distance, he decides to travel to a new location, he should offer his prayer as qasr if the distance between the location where he began his journey to the new destination is eight farsakh.

1299. If a person departs for a location that is eight farsakhs away, and after traveling four farsakhs, he wavers on whether to travel the remaining portion of the eight farsakhs, or to return without remaining in a location for ten days, he should offer his prayer as qasr, regardless of whether he travels during his doubt or not, and regardless of whether he decides to travel the remaining distance or not.

1300. If after traveling four farsakhs, a person wavers on whether he should travel the remaining portion of the eight

farsakhs or return to his place of origin, and he entertains the possibility that he may remain in the place where he entertained the doubt or at another location, for ten days, he should offer his prayer conventionally even if he decides to continue the rest of his journey without remaining there for ten days. However, if after his doubt, he decides to travel another eight farsakhs, or four farsakh outward and a four farsakh return, he should offer his prayer as qasr from the moment he begins his journey.

1301. If prior to reaching four farsakhs, a person doubts whether he should travel the remaining distance or not, and then decides to travel the remaining distance, then in the event the distance remaining in his journey is eight farsakhs, or four farsakhs outward and four farsakhs return, he should offer the traveler's prayer from the moment he begins his journey.

The Fourth Condition:

A person should not intend to pass through his hometown, or remain in a location for ten days, prior to traversing a distance of eight farsakhs. Therefore, if a person intends to pass through his hometown, or remain in location for ten days prior to completing a journey of eight farsakhs, he should offer his prayer conventionally.

1302. If a person does not know whether he will pass through his hometown or not, or remain in a location for ten days or not, prior to traversing a distance of eight farsakhs, he should offer his prayer conventionally.

1303. A person who intends to pass through his hometown, or remain in a location for ten days, prior to traversing eight farsakhs, or a person who wavers on whether he will pass through his hometown or not, or remain in a location for ten days or not, should offer his prayer conventionally even if he decides against passing through his hometown, or remaining in a location for ten days.

The Fifth Condition:

The journey should not be for committing a forbidden act. If it is carried out to commit a forbidden act, such as stealing,

assisting an oppressor in his oppression, or harming a Muslim, or if the journey itself is forbidden—for example, he has taken a shar'i oath not to travel, or the journey entails harm for him, bearing which is forbidden—he should offer his prayer conventionally.

1304. A journey that is not obligatory, and is the source of the annoyance of one's mother and father, is forbidden. If a person departs on such a journey, he should offer his prayer conventionally and observe the obligatory fasts.

1305. If the journey of a person is not forbidden, and is not for a forbidden act, he should offer his prayer as qasr even if he commits a sin, such as backbiting or consuming intoxicants.

1305. If the journey of a person is not forbidden, and is not for a forbidden act, he should offer his prayer as qasr even if he commits a sin, such as backbiting or consuming intoxicants.

1306. If a person travels to avoid performing an obligatory act, he should offer his prayers conventionally. Therefore if a debtor is able to repay his debt, and his creditor demands the return of his money, if he is unable to repay his debt while traveling, and he travels in order to flee from it, he should offer his prayer conventionally. However, if his journey is not to avoid performing an obligatory act, he should offer his prayer as qasr, even if he avoids performing obligatory acts during his journey.

1307. If the journey of a person is not forbidden, however it is on usurped land, or the animal he is riding or any other means of transportation that he is utilizing, is usurped, obligatory precaution dictates that he should offer both the conventional prayer and the qasr prayer. However, if his journey on the usurped ride is to flee from returning it to its owner, he should offer his prayer conventionally.

1308. A person who travels with an oppressor without being compelled, he should offer his prayer conventionally if journeying with the oppressor assists the oppressor in his oppression, or is the cause of the grandeur, magnificence or strengthening of the rule of the oppressor. However, if he is compelled, or travels with him in order to—for example—relieve an oppressed person, he should offer his prayer as qasr.

1309. If a person travels for recreational and touristic purposes, his journey is not forbidden, and should offer his prayer as qasr.

1310. If a person travels to hunt for amusement and fun, his outward journey will be deemed a sin, and his prayer will be conventional. However, if his return journey is eight farsakh, and is not for hunting for amusement, his prayer will be qasr. If he travels to hunt as a source of livelihood (income), he should offer his prayer as qasr. His prayer will similarly be shortened if he travels to hunt for trade. However, recommended precaution dictates that he should offer both the qasr and the conventional prayer, and fast along with offering its Qadha.

1311. If a person travelled for a forbidden act, and the return journey itself is eight farsakhs, he should offer his prayer as qasr. Recommended precaution dictates that he should offer both the conventional and the qasr prayer if he has not repented for his sin.

1312. *If a person who began his journey with the intention of sinning, and during the midst of his journey abandons the idea of committing the sin, and if the remaining journey consists of eightfarsakh, or it is four farsakh and he wants to go and then return covering a total distance of eight farsakh (four farsakh going and four farsakh to return back), hence after beginning his journey he should offer shortened prayers.*

1313. If a person who did not begin his journey with the intention of sinning, in the midst of his journey makes the intention to travel the remaining distance for a sin, he should offer his prayer conventionally from the moment he begins his journey with the new intention. As for the prayers that he offered in the shortened form, if the traversed distance is equal to the distance stipulated for a traveler, it will be valid. If it is not, the obligatory precaution is that he should repeat it if it is in its prescribed time, and offer its Qadha if its time has elapsed.

The Sixth Condition:

The person should not be a nomad, such as desert dwellers who roam the deserts, moving to any place where they can locate food and water for themselves and their cattle, and proceed to another location after a short period. Such people who

carry their dwelling and necessary equipment with themselves wherever they go, should offer their prayer conventionally.

1314. If a nomad travels in order to locate a place of residence or pasture for his animals, he should offer his prayer conventionally if he takes his tent and necessary equipment along with him. Otherwise, he should offer his prayer as qasr.

1315. If a nomad travels for ziyarah, Hajj, trade or reasons similar to these, he should offer his prayer as qasr.

The Seventh Condition:

Travelling should not be his profession. Therefore, a driver, a herdsman, a ship captain or similar persons, should offer their prayers conventionally, even if they travel for transporting their home furniture. This ruling applies when the common sense deems his profession to be travelling. For example, it is said that his profession is driving, or camel driving. His profession should similarly not require him to travel, such as a person whose residence is in one place, and his occupation—such as trade, teaching, or medicine—is in another place, in such a manner that he is required to travel on most days, or—for example—every second day.

1316. If a person whose profession is travelling, travels for another reason, such as ziyarah or Hajj, he must offer shortened prayers. However, if—for example—a driver rents out his car for the purpose of ziyarah, and he himself also undertakes the ziyarah, he must offer the prayers conventionally.

1317. A caravan (tour) leader, such as a person who transports pilgrims to Mecca for Hajj, should offer his prayer conventionally if his profession is travelling. However, if it is not, and the period of his journey is short, such as a journey by air, he should offer his prayer as qasr. In the event the period of his journey is lengthy, obligatory precaution dictates that he should offer both the conventional and qasr prayer.

1318. If a caravan (tour) leader, such as a person who transports pilgrims to Mecca from a far distance, travels the whole year, or a great portion of it, he should offer his prayer conventionally.

1319. A person whose profession is travelling, only for a portion of the year, such as a driver who hires out his vehicle only

in the summer or the winter, should offer his prayer conventionally during the journey for his work in that period of the year. However, recommended precaution dictates that he offer both the conventional and travelers prayer.?

1320. A driver or a salesman who usually travel two to three farsakhs within a city, should offer his prayer as qasr if perchance he departs for a journey of eight farsakh away from his city.

1321. If a stableman whose profession is travelling, remains in his hometown for ten days or more, regardless of whether he had initially made the intention to remain there for ten days or not, should offer his prayer as qasr in his first journey after his ten day stay. However, obligatory precaution dictates that others, whose profession is travelling, or are required to travel for their profession, offer both the conventional and qasr prayer.

1322. If a stableman whose profession is travelling, remains in other than his hometown for a period of ten days or more, and had initially made the intention of remaining there for ten days, he should offer his prayer as qasr in the first journey that he undertakes after his ten day stay. However, obligatory precaution dictates that others, whose profession is travelling, or are required to travel for their profession, should offer both the conventional and travelers prayer.

1323. If a person whose profession is travelling, entertains a doubt of whether he has remained in his hometown or another location for ten days or not, he should offer his prayer conventionally.

1324. A person who tours various cities and has not established a hometown for himself should offer his prayer conventionally.

1324. A person who tours various cities and has not established a hometown for himself should offer his prayer conventionally.

1325. If travelling is not a person's profession, and he—for example—owns some goods in a city or a village, and pursues numerous journeys in close succession in order to transport his goods, he should offer his prayer as qasr, unless he spends a greater amount of his time travelling than he does in his hometown.

1326. If a person abandons his hometown, and intends to select a new hometown, then given that travelling is not his profession, he should offer his prayer as qasr in his journey.

The Eighth Condition:

The eighth condition is that a person should reach the authorized limit, meaning he should be at a distance from his hometown to a degree that he is no longer able to hear the azan of the city. When he is no longer able to see the townsmen, he has definitely reached the authorized limit, so long as there is no obstacle in between. As for a location other than one's hometown, the moment one exits his place of stay, or the place where he remained for thirty days in a state of indecision, he should offer his prayer as qasr.

1327. The moment a traveler who is returning to his hometown hears the sound of its azan, he should offer his prayer conventionally. However, a person who intends to stay at a location for ten days should offer his prayer as qasr until he arrives at his place of stay.

1328. If a city is elevated to such a degree that its people are visible from a great distance, or located in a depression in such a manner that if one were to move a small distance from it, its people would no longer be visible, and a resident of the city intends to depart on a journey, in order to be certain that he has reached the authorized limit (as elaborated in condition eight), he should travel to such a distance, that were it situated on plain land, its people would not be visible. Similarly, if its elevation or depression is more than usual, to be certain of having reached the authorized limit, one should take the normal limit into consideration.

1329. If a person begins a journey from an uninhabited location, there is no problem if he offers his prayer as qasr once he has reached a place where its residents would not be visible, if it had residents.

1330. If a traveler reaches such a distance that he is no longer able to determine whether the sound arising from it is the azan or another sound, he should offer his prayer as qasr. However, if he is able to determine that it is the azan, but is

unable to discern its words, he should offer his prayer conventionally.

1331. If a traveler reaches such a distance where he is unable to hear the azan pronounced from its households, however he is able to hear the azan of the city that is usually pronounced from an elevated place, he should offer his prayer conventionally.

1332. If a traveler reaches a distance where he is unable to hear the azan of the city, which is usually pronounced from an elevated place, however he is able to hear the azan pronounced from an extremely elevated place, he should offer his prayer as qasr.

1333. If the sound of the azan is unusual or a person has an unusual hearing ability, he should only offer his prayer as qasr from a place where a person with an average power of hearing would not be able to hear a normal azan.

1334. When departing for a journey, if a person doubts whether he has reached the authorized limit or not, he should offer his prayer conventionally. If a traveler who is returning to his hometown doubts whether he has reached the authorized limit or not, he should offer his prayer as qasr. However, if from the commencement of his journey, he knew this doubt would arise upon his return, or if he is plagued with the same doubt in the same location during his return, he should take precaution and delay his prayer in his outward and return journey until he is certain he has passed the authorized limit, or offer both the conventional and qasr prayer, regardless of whether both the outward and return journey are within the prescribed time, regardless of whether his outward and return journey are both within the prescribed prayer time, or whether the time of the first prayer has elapsed on his return journey.

1335. A traveler who passes through his hometown on his journey, should offer his prayer conventionally once he has reached the authorized limit.

1336. If a traveler arrives at his hometown during his journey, he should offer his prayer conventionally while he is there. However, if he intends to travel eight farsakh from it, or four farsakh outward and four farsakh return, he should offer his prayer as qasr once he crosses the authorized limit.

1337. The location a person selects as his place of residence and living shall be deemed his hometown. However, if a person is born there, and it is the hometown of his parents, selecting it for residence in such a case is not a necessary condition. In fact, it will be deemed his hometown until he relinquishes it as his hometown.

1338. If a person intends to remain in a location that is not his original hometown for a period of time and then move to another location, that location will not be deemed his hometown.

1339. A person who establishes a location as his residence, and resides therein like a person who considers it his hometown, such that if a journey arises for him, he would return to that very location, even though he does not intend to remain there permanently, it will not be deemed his hometown; however the rulings of a hometown will apply to it.

1340. A person who resides in two different locations, for example, he remains in one city for six months and another for six months, both shall be considered his hometown. Similarly, if he selects more than two locations as his residence in such a manner that it is said—in the common sense—that each place is his permanent residence.

1341. If a person owns a property in a location, and intends to remain there for six months continuously, and has remained there for that period, but has presently changed his decision to remain there, the rulings of a hometown will not apply to it, though the emphatic precaution is that he should offer both the conventional and qasr prayer there.

1342. If a person reaches a place that used to be his hometown, but has relinquished it as his hometown, the rulings of a hometown shall not apply to it.

1343. A traveler who intends to remain in a location for ten successive days, or knows that he will be compelled to remain there for ten days, should offer his prayer conventionally at that location.

1344. It is not necessary for a traveler who intends to remain in a location for ten days to have the intention of remaining there on the first night, or the eleventh night. As long as he intends to remain there from the commencement of the first day—which based on obligatory precaution is from the rise of

Fajr al-Sadiq—until the sunset of the tenth day, he should thereafter offer his prayer conventionally. He should similarly offer it conventionally if he intends to remain there—for example—from the afternoon of the first day until the afternoon of the eleventh day.

1345. A traveler who intends to remain in a location for ten days should offer his prayer conventionally if he intends to remain in one place for the entire ten days. Therefore, if a person—for example—intends to remain for a period of ten days in Najaf and Kufa, or Tehran and Shemiran, given that people deem them to be two separate locations, he should offer his prayer as qasr.

1346. If a traveler who intends to remain in a location for ten days intends from the commencement of his stay, that he will travel to the outskirts of the location—to the extent of the authorized limit, but less than four farsakhs—for a period of time (outward and return) that would not nullify his stay of ten days in the common sense—such as a short trip of one or two hours—he should offer his prayer conventionally. However, if the trip is longer than this, then in the event that he remains there for a complete day or night, he should offer his prayer as qasr. Obligatory precaution dictates that in other than the aforementioned situations, a person should offer both the conventional and qasr prayer.

1347. A traveler who does not intend to remain in a location for ten days—for example, he stipulates the intention that he will stay there for ten days only if his friend arrives or if he locates a comfortable lodging—he should offer his prayer as qasr.

1348. If a person intends to remain in a location for ten days, and if he entertains the possibility that an obstacle preventing his stay there may arise, and it is a possibility a rational person would entertain, he should offer his prayer as qasr.

1349. If a traveler knows, for example, that there are ten or more days remaining until the end of the month, and he stipulates the intention of remaining in a location until the end of the month, he should offer his prayer conventionally. In fact, if he does not know how many days are remaining until the end of the month, but has the intention to remain there until the end of the month, then in the event that the last day of the month is known—for example it is known that Friday is the last

day—but the traveler does not know whether the first day of his intended stay is Thursday, causing the stay to be of nine days, or if it is Wednesday, causing it to be ten days, he should offer the conventional prayers if he later realizes that the first day of his stay was Wednesday. In other than this case, he should offer his prayer as qasr, even if the period between the day he intended to stay there and the end of the month was ten or more days.

1350. If a traveler forms the intention of remaining in a location for ten days, but prior to offering a four Rak'ah prayer, he abandons his intention to stay there, or becomes indecisive about it, he should offer his prayer as qasr. However, if he abandons his intention or becomes indecisive after offering a four Rak'ah prayer, he should offer his prayers conventionally for as long as he is there. The intended meaning of a four Rak'ah prayer in this article and the subsequent articles is a four Rak'ah adaa prayer.

1351. If a traveler forms the intention of remaining in a location for ten days, and observes a fast, but abandons his intention after Z'uhr, then in the event that he has offered a four Rak'ah prayer, he should observe his fasts for as long as he is in that location and offer his prayer conventionally. However, in the event he has not offered a four Rak'ah prayer, obligatory precaution dictates that he should complete that fast and offer its Qadha. He should also offer his prayer as qasr. He is also unable to fast in the subsequent days. If he abandons his intention of remaining there, after sunset, but prior to offering a four Rak'ah prayer, the fast of that day shall be deemed valid.

1352. If a traveler, who has made the intention to remain in a location for ten days, abandons his intention, and doubts—be it prior to abandoning his intention or after it—whether he has offered a four Rak'ah prayer prior to abandoning his intention or after it, he should offer his prayer as qasr.

1353. If a traveler engages in prayer with the intention of offering his prayer as qasr, and then decides in the midst of his prayer to remain there for ten days or more, he should offer that prayer conventionally.

1354. If a traveler intends to remain in a location for ten days, but abandons his intention while engaged in his first four

Rak'ah prayer, he should complete it as a two Rak'ah prayer, as long as he has not entered the third Rak'ah. He should from there on, offer his prayer as qasr. The same ruling applies for one who has entered the third Rak'ah, but has not proceeded to its Ruku, in which case, he should sit and complete his prayer as qasr. Obligatory precaution dictates that he should offer two sajdah al-Sahw for any additional Qira'ah or tasbeehaat. However, if he has proceeded to the Ruku, his prayer will be invalid and he should repeat it as qasr. He should continue to offer his prayer as qasr until he remains at that location.

1355. If a traveler, who intends to remain in a location for ten days, remains there for longer than it, he should offer his prayer conventionally for as long as he stays there, and it is not necessary for him to form another intention to remain there for ten days.

1356. If a traveler makes the intention to remain in a location for ten days, he should observe the obligatory fasts. He may also observe recommended fasts, and the nafila of Z'uhr, A'sr and I'sha prayers.

1357. If a traveler who intends to remain in a location for ten days, decides to travel to another location that is less than four farsakhs in distance, and return to the initial location and remain there for ten days or less, he should offer his prayer conventionally from the moment he departs until the time he returns, and also after his return, if he travels after offering a four Rak'ah prayer, or after having remained there for ten days, even if he has not offered a single conventional prayer during that period. However, if his return to the initial location is only a transit for his actual journey, and his journey is of a shar'i distance, he should offer his prayer as qasr upon his return.

1358. If a traveler makes the intention of remaining in a location for ten days, and after offering a four Rak'ah prayer, he intends to travel to another location that is less than eight farsakhs away and remain there for ten days, he should offer his prayer conventionally during his journey and in the new location. However, if it is located at eight farsakhs or more, he should offer his prayer as qasr during his journey. He should also offer his prayer as qasr in the new location, should he not intend to remain there for ten days.

1359. If a traveler makes the intention of remaining in a location for ten days, and after offering a four Rak'ah prayer decides to travel to another location which is at a distance of less than four farsakhs, he should offer his prayer conventionally from the commencement of his journey until his return and during his stay after his return if he entertains a doubt regarding his return to the initial location, or if he is entirely inattentive regarding his return there, or if he intends to return, but is unsure whether he will remain there for ten days or not, or if he is entirely inattentive of whether he will remain there for ten days or not, or journey from that location or not.

1360. If a person makes the intention to remain in a location for ten days, under the impression that his friends intend to remain there for ten days, and he realizes that they do not intend to remain there for ten days after he has already offered a four Rak'ah prayer, he should offer his prayer conventionally for as long as he is there, even if he abandons his intention of remaining there.

1361. If a traveler coincidentally remains in a location for thirty days, and he remains in doubt regarding his stay throughout the thirty days, he should offer his prayer conventionally after the thirty days, though it be a small period of time.

1362. If a traveler intends to remain in a location for nine days or less, and if after remaining there for nine days or less, he intends to remain there for another nine days or less, and repeats this up until thirty days, he should offer his prayer conventionally on the thirty first day.

1363. A traveler is obligated to offer his prayer conventionally after thirty days when he has remained in one location for the thirty days. Therefore, if he remained in one location for a portion of the time, and another for the rest, he should offer his prayer as qasr.

Miscellaneous Matters Regarding the Traveler's Prayer

1364. A traveler has the option of offering his prayer conventionally or offering it as qasr in the following places:

1. The old Mecca (which extends from Aqaba until Zi al-Tuwa)

2. Medina of the Prophet's (Peace be upon him and his progeny) time

3. Kufa

4. The shrine of Imam al-Husain (Peace be upon him) It is better however, to offer the prayers conventionally. The precautionary measure is that one should not offer his prayer conventionally outside masjid al-Haraam, masjid al-Nabawi—including the extension of these two mosques which were developed after the time of the Imams—and masjid al-Kufa, and places which are beyond the area surrounding the tomb of Imam Husain (Peace be upon him).

1365. If a person knows he is a traveler and that he should offer his prayer as qasr, and he deliberately offers his prayer conventionally in places other than the four locations elaborated in the aforementioned article, his prayer will be invalid. However, if he forgets, and offers a conventional prayer, he should repeat it if he realizes within its prescribed time. If he realizes after its prescribed time has elapsed, he is not obligated to offer its Qadha.

1366. If a person knows he is a traveler and that he should offer his prayer as qasr, and he inadvertently offers his prayer conventionally, his prayer will be deemed invalid if he realizes within its prescribed time. However, if he realizes after it, he is not obligated to offer its Qadha.

1367. If a traveler does not know that he has to offer his prayer as qasr, and therefore offers his prayer conventionally, his prayer shall be deemed valid.

1368. If a traveler knows that he should offer his prayer as qasr, but is unaware of some of its conditions—for example, he does not know that one must offer his prayer as qasr on a journey of eight farsakhs—and thus offers a conventional prayer, he should repeat it if he realizes within its prescribed time. If

he realizes it in its prescribed time, but does not repeat it within its time, he should offer its Qadha. However, if he realizes after its prescribed time has elapsed, there is no Qadha for it.

1369. If a traveler who knows that he should offer his prayer as qasr, offers a conventional prayer under the impression that his journey is less than eight farsakhs, he should repeat the prayer as qasr prayer if he realizes within its prescribed time. If he does not repeat it within its prescribed time, he should offer its Qadha. However, if he realizes after its prescribed time has elapsed, he is not obligated to offer its Qadha.

1370. If a person forgets that he is a traveler, and offers his prayer conventionally, he should repeat the prayer if he realizes within its prescribed time. If he does not repeat it within its prescribed time, he should offer its Qadha. However, if he realizes after its prescribed time has elapsed, he is not obligated to offer its Qadha.

1371. If a person who is required to offer his prayer conventionally, offers his prayer as qasr, his prayer will be invalid. However, if a traveler intends to remain in a location for ten days, but due to his ignorance of its ruling, he offers his prayer as qasr, obligatory precaution dictates that he should repeat the prayer conventionally.

1372. If a person engages in a four Rak'ah prayer, and in the midst of his prayer he recollects that he is a traveler, or realizes that his journey is eight farsakhs, he should complete it as a two Rak'ah prayer as long as he has not proceeded to the Ruku of the third Rak'ah. If he has recited the Qira'ah or the tasbeehaat, obligatory precaution dictates that he should offer two sajdah al-Sahw. However, if he has proceeded to the Ruku of the third Rak'ah, his prayer will be invalid, and should repeat it as the qasr prayer even if the time remaining suffices only for one Rak'ah. If the time remaining is insufficient even for one Rak'ah, he should offer its Qadha as qasr.

1373. If a traveler does not know of some of the conditions of the traveler's prayer—for example, he does not know that if his outward journey is four farsakh and his return is four farsakh, he should offer his prayer as qasr—and he engages in prayer with the intention of performing a four Rak'ah prayer, in the event he realizes the ruling prior to the third Ruku, he should complete it as two Rak'ah. If he has recited an additional

Qira'ah or tasbeehaat, obligatory precaution dictates that he should offer two sajdah al-Sahw. However, if he realizes during the Ruku, his prayer will be invalid, and he should repeat it as qasr, even if the remaining time suffices one Rak'ah. If the time remaining is insufficient even for one Rak'ah, he should offer its Qadha.

1374. If a traveler who should offer his prayer conventionally, begins his prayer with the intention of performing a two Rak'ah prayer due to his ignorance of the ruling, and then realizes the ruling during prayer, he should complete it as a four Rak'ah prayer.

1375. If a traveler who has not offered his prayer, reaches his hometown, or a location where he intends to remain for ten days, within its prescribed time, he should offer his prayer conventionally. Similarly, if a person who is not a traveler has not offered his prayer in its prime time, and then departs for a journey, he should offer his prayer as qasr during the journey.

1376. If the Z'uhr, A'sr, or I'sha prayer of traveler who is required to offer his prayer as qasr, becomes Qadha, he should offer a two Rak'ah Qadha, even if he offers its Qadha while not on a journey. Similarly, if one of the aforementioned prayers of a person who is not a traveler becomes Qadha, he should offer a four Rak'ah Qadha, even if he offers it on a journey.

1377. If it recommended for a person to say the following thirty times after every prayer: ?

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 ? ?? ?????? ? ?????? ? ????? ?? ?

Subhaanallahi wal-hamdu lillaahi wa laa ilaaha ill'Allahu wal-laahu Akbar This recommendation is strongly emphasized after the Ta'qibaat of the qasr prayer.

Chapter 48

The Qadha Prayer

1378. If a person does not offer an obligatory prayer within its prescribed time, he is obligated to offer its Qadha, regardless of whether he slept throughout its time, or failed to offer it due to intoxication or an unconscious state of mind, that was brought about by his own volition. There is no Qadha for the prayers that were not offered due to Haydh or Nifas, whether it be the daily prayers or other prayers. However, obligatory precaution dictates that the Qadha of the prayer for signs for earthquakes, lightning and thunder should be offered without stipulating the intention of adaa or Qadha.

1379. If a person realizes that the prayer he offered was invalid after its prescribed time has elapsed, he should offer its Qadha.

1380. A person who has not discharged a Qadha prayer should not be negligent in offering it. However, it is not obligatory for him to offer it immediately.

1381. There is no problem if a person who has not discharged his Qadha prayer, offers a recommended prayer.

1382. If a person entertains the possibility that he has not discharged his Qadha prayer, or that the prayers he offered were invalid, recommended precaution dictates that he offer their Qadha.

1383. It is not necessary to observe sequential order for discharging the Qadha of the daily obligatory prayers, except for prayers which have a sequence when offered on time, such as the Z'uhr and the A'sr, or the Maghrib and the I'sha. Recommended precaution dictates that one should also observe the sequence in other than these prayers.

1384. If a person intends to offer the Qadha of several prayers, other than the daily obligatory prayers, such as the prayer for signs, or if he intends to offer the Qadha of one of the daily obligatory prayers, along with several prayers, other than the daily obligatory prayers, it is not necessary for him to observe their sequential order.

1385. If a person forgets the sequential order of his Qadha prayers, recommended precaution dictates that he should offer them in a manner that he attains certainty that he has offered them in the sequential order that they became Qadha. For example, if he is obligated to offer the Qadha of a Z'uhr and a Maghrib prayer, but does not know which one was rendered Qadha first, he should first offer the Qadha of Maghrib, then Z'uhr, and then Maghrib again. He may also first offer the Qadha of Z'uhr, and then Maghrib, and then Z'uhr again, until he attains certainty that he has offered the prayer that was rendered Qadha first before the other Qadha prayer.

1386. If the Z'uhr prayer of one day, and the A'sr prayer of another day, or two Z'uhr prayers, or two A'sr prayers were rendered Qadha, but a person does not know which of them became Qadha first, to attain the sequential order, it is sufficient for him to offer two four Rak'ah prayers, with the intention that the first is the Qadha of the first day, and the second is the Qadha of the second day.

1387. If a Z'uhr prayer and an I'sha prayer, or an A'sr prayer and an I'sha prayer were rendered Qadha, but it is not known which of the two became Qadha first, recommended precaution dictates that he should offer them in such a manner that the sequential order is observed. To attain certainty that the sequential order has been observed—for example if one Z'uhr and one I'sha prayer has become Qadha, and he does not know which was first—he may first offer Z'uhr, then I'sha and then offer the Z'uhr prayer again. He may also offer I'sha, then Z'uhr and then offer the I'sha prayer again.

1388. If a person knows that he has not offered one four Rak'ah prayer, but does not know whether it was the Z'uhr or A'sr prayer, it is sufficient for him to offer one four Rak'ah prayer with the intention of offering the Qadha of the prayer that he did not offer. The same will apply if he does not know whether the prayer he failed to offer was the Z'uhr or the I'sha

prayer. In this case, he may opt to offer it aloud or in a low voice.

1389. If five prayers of a person were rendered Qadha in succession, and he does not know which one of them was first, then if he offers nine prayers, it will ensure that the sequential order has been observed. For example, he begins with Fajr, and then offers Z'uhr, A'sr, Maghrib and I'sha and then repeats Fajr, Z'uhr, A'sr, and Maghrib. If six prayers were rendered Qadha in succession, and he does not know which of them was first, he should offer ten Qadha prayers to ensure the sequential order is observed. In this manner, for every additional Qadha prayer, one prayer should be added to the aforementioned method—in the event the prayers were rendered Qadha in succession—to ensure the sequential order has been observed.

1390. If a person knows that one from each of the five daily prayers from each day was rendered Qadha, but does not know their sequential order, it is better that he offer the Qadha for the prayers of five complete days. If six prayers were rendered Qadha from six days, he should offer the Qadha for the prayers of six complete days. In this manner, for every additional Qadhaprayer, he should offer the Qadha of another complete day. In this manner, one can be certain that the sequential order of the Qadha has been observed. For example, if he had rendered seven prayers Qadha from seven days, he should offer the Qadha of seven complete days. In the event the prayers rendered Qadha were not on a journey, or they were on a journey, but the ruling of conventional prayers applies to them, it is sufficient to offer one two Rak'ah prayer, one three Rak'ah, and a four Rak'ah prayer, undetermined between Z'uhr, A'sr and I'sha. However, if they were rendered Qadha on a journey, it is sufficient to offer one two Rak'ah prayer, undetermined between Fajr, Z'uhr, A'sr and I'sha, along with a three Rak'ah prayer.

1391. If a person has rendered for example, several Fajr prayers, or several Z'uhr prayers Qadha, but does not know their number, or has forgotten—for example, if he does not know whether they were three, four or five—it is sufficient for him to offer the lesser number. However, recommended precaution dictates that he should offer the number of prayers

that grants him certitude that all of them have been offered, particularly if he was certain of a number, but had later forgotten it.

1392. If a person has not discharged one prayer from the preceding days, recommended precaution dictates that - if possible - he should offer it first, and then engage in the prayers of that day. Similarly, if he does not have any Qadha prayers from the preceding days, but has one or more from the current day, it is recommended that—if possible— he offers the Qadha prior to offering the prayers of that day. However, if the prime time of the daily obligatory prayers of that day will expire if he engages in offering the Qadha prayer, it is better to offer the prayers of that day first.

1393. If while engaged in prayer, a person recollects that he has one or more Qadha prayers from that very day, or only one Qadha prayer from the preceding days, then if it is possible to change his intention to the Qadha prayer, and there is ample time as well, recommended precaution dictates that he make the intention of the Qadha prayer. For example, if prior to proceeding to the third Ruku of a Z'uhr prayer, he recollects that he has not offered the Fajr prayer of that day, he should change his intention to the Fajr prayer and complete it as a two Rak'ah prayer and then offer Z'uhr, so long as the time remaining for Z'uhr is not constricted. However, if the time remaining is constricted, or he is not able to change the intention to the Qadha prayer—for example he recollects after he has proceeded to the Ruku of the third Rak'ah that he did not offer the Fajr prayer—he should not change his intention to the Fajr prayer because doing so would lead to an additional Ruku, which is a pillar of prayer.

1394. If a person has several Qadha prayers from the preceding days, and has one or more Qadhaprayers from that very day, it is recommended that he offer the Qadha of that day before the adaaprayers of the day, if he does not have sufficient time to offer them all, or does not wish to offer them all that day. Recommended precaution dictates that after offering the Qadha prayers of the preceding day, he should repeat the Qadha prayers of that day.

1395. The Qadha prayers of a person may not be offered by another while he is alive, even if he is unable to offer them himself.

1396. Qadha prayers may be offered in congregation, regardless of whether the prayer of the Imam is adaa or Qadha. It is not necessary for them to offer the same prayer. For example, there is no problem if one offers the Qadha of Fajr with an Imam who is offering Z'uhr or A'sr in congregation.

1397. It is recommended to habituate a discerning child—a child who is able to discern good and evil—to prayers and other acts of worship. In fact, it is recommended to urge him to offer the Qadha prayers.

The Qadha Prayers of a Father which are Obligatory on the Eldest Son

1398. If a father had not discharged his Qadha prayers, and was able to offer their Qadha, and based on obligatory precaution, even if he had failed to discharge them out of disobedience, or did not offer them correctly, it is obligatory on the eldest son to offer them after his demise, or hire someone for it. The Qadha of prayers of the mother are not obligatory on him, although it is more precautionary to do so.

1399. If the eldest son doubts whether his father had Qadha prayers so not, nothing is obligatory on him.1400. If the eldest son knows his father had Qadha prayers, but doubts whether he had offered them or not, obligatory precaution dictates that he should offer their Qadha.

1401. If it is unknown which son is the eldest, the Qadha prayers is not obligatory on either of the sons. However, recommended precaution dictates that they should offer it as a kifaiyobligation, or divide them amongst themselves, or cast a lot.1402. If a deceased person has made a will that a person should be hired to offer his Qadhaprayers, the eldest son will be relieved from his duty after the person hired has offered them correctly.

1403. If the eldest intends to offer the Qadha prayers of his mother or father, he should act in accordance to his own duty. For example, he should offer the Qadha of his mother for Fajr, Maghrib and I'sha aloud.

1404. If a person has Qadha prayers, and intends to discharge the Qadha prayers of his father and mother, he may offer any of them first.

1405. If the eldest son is not Baligh or is insane at the time of his father's death, he should offer the Qadha of his father's prayers after becoming Baligh or sane.1406. If the eldest son dies prior to discharging the Qadha prayers of the father, nothing is obligatory on the second son.

Chapter 49

Congregational Prayer

1407. It is recommended that the obligatory prayers, the daily prayers in particular, be offered in congregation. It is more advocated in the Fajr and I'sha prayer, for the neighbours of a mosque, and anyone who hears the azan to attend the congregational prayer. According to certain traditions, it has similarly been advocated for the Maghrib prayer.

1408. The congregational prayer is greater in virtue than the individual prayer by twenty four degrees, and is equal to twenty five prayers. A narration to the following effect has been narrated from the messenger of Allah (Peace be upon him and his progeny): For a person who proceeds to a mosque, seeking to offer the congregational prayer, there are seventy thousand rewards for each step he takes, and a (spiritual) status similar to them. If he dies in this state, God delegates seventy thousand angels to proceed to his grave, give him glad tidings, be his companies in the loneliness of his grave, and seek forgiveness for him until the day he is resurrected.

1409. It is not permissible to neglect attending the congregational prayer out of indifference, and it is not beseeming that a person not attend it without justification.

1410. It is recommended to delay one's prayer in order to offer it in congregation. The delayed congregational prayer is better than the individual prayer offered in its earliest time so long as its prime time has not elapsed. The brief congregational prayer is greater in virtue than the prolonged individual prayer.

1411. When a congregational prayer is established, it is recommended that a person who has already offered his prayer individually, should repeat his prayer in congregation. If it

later transpires that his first prayer was invalid, his second prayer will be sufficient.

1412. It is not permissible for the Imam or the follower to repeat the prayer he has offered in congregation, in another congregation, unless he entertains the possibility of the first being invalid. However, it is recommended for him to repeat it in another congregation if he is the Imam in the second prayer, and there is a person amongst the followers who has not offered his obligatory prayer.

1413. If a person is affected by satanic whispers to such a degree that it renders his prayer invalid, and he is only relieved from the satanic whispers when he offers his prayer in congregation, he should offer it in congregation. Obligatory precaution dictates that he should similarly offer it in congregation even if it does not render his prayer invalid.

1414. If a father or mother commands their child to offer their prayer in congregation, it is forbidden to disobey them if disobedience causes distress to them.

1415. A recommended prayer cannot be offered in congregation, except the Istisqaa prayer that is offered for seeking rain, or a prayer that was previously obligatory, but is now recommended owing to a reason, such as the Eid al-Fitr and Eid al-Adha prayer that were obligatory in the presence of Infallible Imam (Peace be upon him), and are recommended during his occultation.

1416. If an Imam is offering a congregational prayer of one of the daily obligatory prayers, any of the daily obligatory prayers can be offered behind him.

1417. If the Imam of a congregation is offering a Qadha prayer, whether his own, or another's, one may follow him in congregation if there is certainty that its Adaa has not been offered. However, if he is offering the Qadha as a precautionary measure, it is not permissible to follow him in congregation, unless the prayer of the follower too is precautionary, and the source of their precaution is the same.

1418. If one does not know whether the prayer a person is offering is one of the daily obligatory prayers, or a recommended prayer, he cannot follow him in congregation.

1419. One of the conditions for the validity of the congregation is that there should not be a barrier between the Imam

and the follower, or between any follower and the follower who serves as a link between him and the Imam, to a degree that obstructs vision, such as a wall, a curtain or anything similar. Therefore, if during all the states of prayer, or some of them, there is a barrier between the Imam and the follower, or between any follower and the follower that serves as a link between him and the Imam, the congregation will be invalid. Women are excluded from this ruling as shall be elaborated later.

1420. If a person is standing on one of the two sides of the first row, and is unable to see the Imam due to the lengthiness of the row, he may follow the Imam in congregation. Similarly, if a person is standing on one of the two sides of another row, and is unable to see the row ahead, due to the lengthiness of the row, he may follow the Imam in congregation.

1421. If the rows of congregation reach the door of the mosque, the prayer of a person who is standing opposite the door, behind the row will be valid. The prayer of those who join the congregation behind him will similarly be valid. In fact, the prayers of those who are standing on either sides and have connection to the congregation are valid.

1422. If a person standing behind a pillar is not connected to the Imam by means of another follower on his left or right side, he cannot join the congregation.

1423. The place of the Imam should not be greater in height than that of the follower. However, if the difference is minimal, such as less than one hand span, there is no problem. There shall similarly be no problem if the Imam is at the higher part of a sloped land, the slope of which is minimal to the degree that it would be considered flat.

1424. There is no problem if the place of the follower is higher than that of the Imam. However, if the place of the follower is higher to the degree that it would be doubtful whether the term "congregation" holds true of it or not, one may not stipulate the intention of congregation.

1425. Obligatory precaution dictates that a congregation may not be followed, if a distance arises between two people standing in one row by means of a person whose prayer is invalid, or a discerning child for whom it is not known whether

his prayer is valid or not, and there is no other connection with the congregation.

1426. After the Imam has pronounced Takbeerat al-Ihram, and the people of the first row are ready for prayer and for pronouncing Takbeerat al-Ihram, the people in the latter rows may pronounce their Takbeerat al-Ihram. However, recommended precaution dictates that they should wait until the people in the rows in front, who are the means of their connection with the Imam have pronounced Takbeerat al-Ihram.

1427. If a person knows the prayer of one of the rows in front of him is invalid, he may not join the congregation in the rows behind it. However, if he does not know whether their prayer is valid or not, he may join the congregation.

1428. If a person knows the prayer of the Imam is invalid, for example, he knows the Imam does not have his Wudhu, he may not join the congregation, regardless of whether the Imam himself is aware of it or not.

1429. If after completing the prayer, a follower realizes that the Imam is not just, or is a Kafir, or that his prayer was invalid, for example, he realizes the Imam prayed without Wudhu, his prayer will be valid, so long as he has not performed an act that would invalidate an individual prayer even if the act was performed inadvertently, such as performing an additional Ruku.

1430. If a person doubts in the midst of his prayer whether he joined the congregation or not, he should complete it as an individual prayer unless he becomes satisfied by means of some clarifying indicators that he did in fact intend joining the congregation.

1431. There is no problem if a person switches from a congregational prayer to an individual prayer whilst reciting Tashahhud, and before the Imam recites the Salam, so long as he did not join the prayer with the intention of switching later on. The same applies if a person switches from congregational prayer to an individual prayer before reciting Tashahhud so long as he has a justifiable excuse. In other than the two aforementioned situations, it will be problematic, regardless of whether he joined the prayer with the intention of switching, or made the intention in the midst of his prayer. However, if a person performs all the acts required for the validity of an

individual prayer, his prayer will be valid. The same applies if he switches from congregation to an individual prayer after the place of the Qira'ah is passed, and he did not begin the prayer with the intention of (switching to) an individual prayer. His prayer will be valid even though he did not execute its Qira'ah.

1432. If a follower makes the intention to switch to an individual prayer prior to the completion of Surah al-Fatihah, and the second Surah, he should recite both Surah al-Fatihah and the second Surah himself, even if the Imam has recited a part of them. Obligatory precaution dictates that one should similarly recite them if he makes the intention to switch after the Imam has completed his recitation and prior to performing Ruku.

1433. If a person makes the intention to switch to an individual prayer in the midst of a congregational prayer, he may not change his intention back to congregational prayer. However, if a person wavers between switching to an individual prayer or not, his congregation shall be problematic even if he ultimately decides to complete the congregational prayer.

1434. If a person doubts whether he made the intention to switch to an individual prayer in the midst of his prayer or not, he should assume he had not made such an intention.

1435. If a person joins congregational prayer while the Imam is in Ruku, and he reaches the Imam's Ruku, his congregational prayer shall be valid even if the Imam has completed his Zikr. This will be considered as one Rak'ah. However, if a person bows the required degree for Ruku, but does not reach the Imam's Ruku, his prayer will be deemed invalid.

1436. If a person joins a congregational prayer while the Imam is in Ruku, and he bows the required degree for Ruku, but doubts whether he reached the Imam's Ruku or not, his prayer will be invalid.

1437. If a person joins a congregational prayer while the Imam is in Ruku, and the Imam raises his head from Ruku before he is able to bow the required degree for Ruku, he should follow the Imam to Sujood, and consider the subsequent Rak'ah of the Imam, as his first Rak'ah. Obligatory precaution dictates that after following the Imam to Sujood, he should stand and recite Takbeerat al-Ihram, with the intention of

qurbat mutlaqah, which is more general than the intention of Takbeerat al-Ihram and Zikr.

1438. If a person joins a congregational prayer from its commencement, or during the recitation of Surah al-Fatihah or the second Surah, and if while proceeding to Ruku, the Imam raises his head before he bows the required degree for Ruku, his prayer and congregation will be valid if the delay is justifiable.

1439. If a person arrives at a congregational prayer while the Imam has proceeded to the final Tashahhud, and he wishes to obtain the reward of the congregation, he should make the intention of joining the congregation, recite Takbeerat al-Ihram, and then sit down and recite the Tashahhud with the Imam. Based on obligatory precaution, he should recite it with the intention of qurbat mutlaqah, which is more general than the intention for an obligatory or recommended shahadah (In other words recite the tashahud with the Imam with an intention of qurbat mutlaqah and with intention of performing Wajib tashahud or Zikr). He should then remain in this position until the Imam recites the Salam of prayer, but he should not recite the Salam himself. After the Imam has completed his prayer, he should stand, and recite Surah al-Fatihah and the second Surah without making another intention, and without pronouncing Takbeerat al-Ihram again. He should then consider it as his first Rak'ah.

1440. A follower should not stand ahead of the Imam in congregational prayer. Obligatory precaution dictates that if there is only one follower, and he is a male, he should stand to the right of the Imam. It is not necessary for the follower to stand behind the Imam, except in the case the follower is taller than the Imam. In this case, obligatory precaution will dictate that he should stand in such a manner that he would not be ahead of the Imam during Ruku and Sujood. If there is more than one follower in the congregation, its ruling is elaborated in article 1488.

1441. If the Imam is a man and the follower is a woman, then there will be no problem if there is a curtain or something similar that separates the woman from the Imam, or between the woman and another male follower who is the link between her and the Imam.

1442. If a curtain or something similar to it intervenes between a follower and the Imam in the midst of prayer, or between him and another follower through whom he is linked to the Imam, then his congregational prayer will be deemed invalid and his prayer will become an individual prayer. He should therefore observe the obligations of individual prayers.

1443. The stronger view is that the distance between a follower's place of prostration and the feet of the Imam should not be greater than one large stride. The distance between a follower and another follower standing ahead of him, and is linking him to the Imam, should similarly not be greater than one large stride. However, the recommended precaution is that there should not be a gap between a follower's place of prostration and the feet of the follower standing ahead of him.

1444. If a person is connected to the Imam in congregational prayer via a person who has joined the congregation at his right or left, and has no connection with the Imam by means of the row ahead of him, obligatory precaution will dictate that the distance between him and the person to his right, or the one to his left—the person through whom he is connected to the Imam—should not be greater than one large stride.

1445. If a distance greater than one large stride occurs between a person and the Imam, or between him and another follower who is in the row ahead of him in the midst of prayer, his congregational prayer will be invalid and he should offer his prayer individually. Based on obligatory precaution, the same applies if a distance greater than one large stride occurs between him and the follower at his right or left side, by means of whom he is connected to the Imam.

1446. If the prayer of all the people who are praying in a row has come to an end, then if the distance between the people who are situated in the row behind them and the people who are situated in the row ahead of them is equal to or less than one large stride, and the people who are situated in the row that completed their prayers rise immediately to offer another prayer behind the Imam, the congregation of the row behind will be valid. However, if the distance is greater than one large stride, the congregational prayer of this row shall be invalid, and their prayer therefrom shall be individual.

1447. If a person joins congregational prayer in its second Rak'ah, it is not incumbent on him to recite Surah al-Fatihah and the second Surah. He should not proceed to Ruku before the Imam, and should not stand before the Tashahhud of the Imam. He may join the Imam in reciting Qunoot and Tashahhud. While the Imam is reciting Tashahhud, the obligatory precaution is that he should place his fingers on the ground and raise his knees, while the frontal parts of the soles of his feet are placed on the ground. He should then stand with the Imam, and recite Surah al-Fatihah and the second Surah. If there is insufficient time to recite the second Surah, he should complete Surah al-Fatihah and join the Imam in Ruku. If he is unable to join the Imam in Ruku, obligatory precaution dictates that he should make the intention to offer his prayer individually.

1448. If a person joins a four Rak'ah congregational prayer in its second Rak'ah, he should sit and recite the obligatory portions of Tashahhud after performing the two Sujood of his second Rak'ah, which would be the third Rak'ah of the Imam, and rise from it. In the event there is insufficient time to recite tasbeehaat al-arba'ah three times, he should recite it once, and join the Imam in Ruku. If he doesn't reach to the Imam's Ruku, obligatory precaution dictates that he should make the intention to offer his prayer individually.

1449. If the Imam is in his third or fourth Rak'ah, and a person who wishes to join the congregational prayer knows, or even entertains the possibility that if he joins and recites Surah al-Fatihah, he will not be able to join the Imam in Ruku, obligatory precaution dictates that he should wait until the Imam has proceeded to Ruku, and then join the congregation.

1450. If a person joins congregational prayer in the Qiyam (standing) of the third or fourth Rak'ah of the Imam, he should recite Surah al-Fatihah and the second Surah. If there is insufficient time for the second Surah, he should complete Surah al-Fatihah, and join the Imam in Ruku. If he is unable to join the Imam in Ruku, obligatory precaution dictates that he should make the intention to offer his prayer individually.

1451. If a person is certain that if he recites the second Surah, and Qunoot, he will not be able to join the Imam in Ruku, and he deliberately recites the second Surah or Qunoot and doesn't reach to the Imam in Ruku, his prayer will be

valid, and should act in accordance with the obligations of individual prayer.¹⁴⁵² If a person is satisfied that if he begins the second Surah, or complete it, he will be able to join the Imam in Ruku, obligatory precaution dictates that he should begin reciting the second Surah, or if he has already begun it, he should finish it. However, if it delays him and he realizes he will be unable to join the Imam in Ruku, he should not complete it.

1453. If a person is certain that he will be able to join the Imam in his Ruku if he recites the second Surah, but after completing the second Surah, he is unable to join his Ruku, his congregational prayer will be valid.

1454. If the Imam is in the state of Qiyam, and a person does not know which Rak'ah he is in, he may join the congregational prayer. However, obligatory precaution dictates that he should recite Surah al-Fatihah and the second Surah with an intention more general than the intention of it being a component of prayer or Qur'anic recitation, though he may come to realize that the Imam was in fact in the first or second Rak'ah.

1455. If a person joins congregational prayer under the impression that the Imam is in his first or second Rak'ah, and does not recite Surah al-Fatihah and the second Surah, and after Ruku, he realizes that the Imam was in his third or fourth Rak'ah, his prayer will be valid. However, if he realizes before Ruku, he should recite Surah al-Fatihah and the second Surah. If there is insufficient time, he should only recite Surah al-Fatihah, and join the Imam in Ruku. If there is insufficient time for Surah al-Fatihah, obligatory precaution dictates that he should make the intention to offer his prayer individually.

1456. If a person joins congregational prayer under the impression that the Imam is in his third or fourth Rak'ah, and recites Surah al-Fatihah and the second Surah, and before proceeding to Ruku, he realizes that the Imam was in his first or second Rak'ah, his prayer will be valid. However, if he realizes during the recitation of Surah al-Fatihah or the second Surah, he should discontinue his recitation.

1457. If a congregational prayer begins while a person is occupied with a recommended prayer, and he is unsure whether he will be able to join the congregation if he completes his recommended prayer, it is recommended for him to leave the

recommended prayer, and join the congregation. In fact, if he is unsure whether he will be able to join the first Rak'ah of the congregational prayer or not, it is recommended for him to act according to the aforementioned instructions.

1458. If a congregational prayer begins while a person is occupied with a three or four Rak'ah prayer, and has not proceeded to the third Ruku, and he is unsure whether he will be able to join the congregation if he completes his prayer, it is recommended for him to complete his prayer as a two Rak'ah prayer, with the intention of it being a recommended prayer and then join the congregational prayer.

1459. If the prayer of the Imam has come to an end, while the follower is still occupied with Tashahhud, or the first Salam, it is not necessary for him to complete his prayer with the intention of an individual prayer.

1460. If a person, who is one Rak'ah behind the Imam in congregational prayer, does not stipulate the intention of offering an individual prayer while the Imam has proceeded to the Tashahhud of the final Rak'ah, obligatory precaution dictates that he should place his fingers and the frontal part of the sole of his feet on the ground, raise his knees from the ground, wait for the Imam to recite his Salam and then stand to complete his prayer. There is no problem if he makes the intention of an individual prayer from thereon. However, if he had stipulated the intention of an individual prayer from the beginning, it is problematic.

Conditions of the Imam of Congregational Prayer

1461. The Imam of a congregational prayer should be Baligh, sane, a twelver Shi'a, just, of legitimate birth, and he should be able to recite the Qira'ah of prayer correctly if a follower has joined him in congregation in first or second Rak'ah and the recitation of the follower is correct, too. The same will apply based on obligatory precaution in other cases. If the follower is a male, the Imam too, must be a male. It is Makrooh for a woman to lead another woman in congregational prayer in other than the prayer for the dead. In the event there is nobody more meritorious to lead the prayer for the deceased than a woman, it is not Makrooh. There is no problem in a discerning child, who can discern good from evil, following another discerning child in congregational prayer. To accord it the effects accorded to a congregational prayer would not be devoid of good cause, albeit the more precautionary measure would be to avoid doing so.

1462. If a person knew an Imam to be just, but now doubts whether he is still just or not, he may pray behind him in congregation.

1463. A person who offers his prayer in a standing position cannot join congregational prayer behind a person who offers it sitting or lying down. A person who offers his prayer in sitting position cannot pray in congregation behind a person who offers it lying down.

1464. A person offering his prayer in a sitting position may follow another person offering it in a sitting position in congregational prayer. Similarly, a person offering his prayer lying down may follow another person who is offering it lying down. A person who offers his prayer in a sitting position may follow a person who offers it standing, in congregational prayer. However, a person who offers it lying down, should not follow a person who offers it sitting in congregational prayer.

1465. If the Imam offers his prayer with Najis clothing, or Tayammum, or the Wudhu of Jabeerah owing to a justified excuse, one may follow him in congregational prayer.

1466. If the Imam suffers from urinal or fecal incontinence, it is permissible to follow him in congregational prayer. Similarly,

a woman who is not Mustahadhah may follow a Mustahadhahin congregational prayer

1467. It is Makrooh to offer congregational prayer behind an Imam who has leprosy or vitiligo. To offer congregational prayer behind a person who has been punished by Islamic penal law (Hadd) is also impermissible.

Rules Pertaining to Congregational Prayers

1468. When a follower makes his intention for congregational prayer, he should specify the Imam he intends to follow in congregation; however, it is not necessary for him to know his name. For example, if he makes the intention that he is going to follow the present Imam in congregational prayer, his prayer will be valid.

1469. Other than Surah al-Fatihah and the second Surah, the follower must recite all the other components of prayer himself. However, if the first or second Rak'ah of the follower is the third or fourth Rak'ah of the Imam, he should recite Surah al-Fatihah and the second Surah as well.

1470. If a follower is able to hear the Imam reciting Surah al-Fatihah and the second Surah—even if he is unable to distinguish the words—in the first or second Rak'ah of the morning, Maghrib or I'sha prayers, he should not recite Surah al-Fatihah and the second Surah himself. However, if he is unable to hear the Imam reciting, it is recommended for him to recite them himself, without making the intention of his recitation being a component of his prayer. He should recite them in a low voice. There is no problem however, if he inadvertently recites it aloud.

1471. If a follower is only able to hear some of the Imam's recitation of Surah al-Fatihah or the second Surah, he may recite what he cannot hear. Recommended precaution however dictates, that he should not recite anything.

1472. If a follower inadvertently recites Surah al-Fatihah or the second Surah, or recites it under the impression that the sound he hears is not the Imam's recitation, and later realizes that it was in fact the Imam's recitation, his prayer will be valid.

1473. If a follower doubts whether he can hear the Imam's recitation or not, or if he can hear a sound, but is unable to determine whether it is the recitation of the Imam or not, he may recite Surah al-Fatihah and the second Surah.

1474. A follower should not recite Surah al-Fatihah or the second Surah in the first two Rak'ah of Z'uhr and A'sr prayers. It is recommended for him to recite Zikr in lieu of them.

1475. A follower should not recite Takbeerat al-Ihram before the Imam. In fact, obligatory precaution dictates that he should not recite it until the Imam has completed his Takbeerat alIhram.

1476. If a follower inadvertently recites Salam before the Imam, his prayer will be valid. In fact, his prayer will be valid even if he deliberately recites his Salam before the Imam, provided he did not intend to break away from the congregational prayer from the beginning.

1477. If a follower recites parts other than Takbeerat al-Ihram before the Imam, his prayer will be valid. However, if he hears them from the Imam, or knows when the Imam will recite them, recommended precaution dictates that he should not recite them before the Imam.

1478. Besides what is recited in prayer, in actions such as Ruku and Sujood, a follower should perform them along with the Imam, or shortly after him. If a person deliberately precedes the Imam, or delays it for a period after him, his congregational prayer will be invalid. However, if he had observed the obligations for an individual prayer, his prayer will be valid.

1479. If a follower inadvertently raises his head from Ruku prior to the Imam, he should return to Ruku if the Imam is still in Ruku, and rise from the Ruku with the Imam. The additional Rukuin such an event will not invalidate prayer. However, if he returns to Ruku and before he can reach the Ruku the Imam raises his head from it, his prayer will be invalid.

1480. If a follower mistakenly raises his head and observes that the Imam is still in Sujood, he should return to join the Imam in Sujood. The additional sujoods will not invalidate his prayer even if this occurs in both Sujood.

1481. If a follower mistakenly raises his head from Sujood before the Imam, he should return to join the Imam in Sujood. If while returning to join the Imam in Sujood, the Imam raises his head from it prior to him reaching the position of Sujood, his prayer will be valid. However, if this occurs in both Sujood, his prayer will be invalid.

1482. If a follower mistakenly raises his head from Ruku or Sujood before the Imam, and he does not return to join the Imam either inadvertently or under the impression that he will

not reach him, his congregation and prayer will be deemed valid.

1483. If a follower raises his head from Sujood, and observes that the Imam is in Sujood, and he returns to the Sujood under the impression that it is the first Sujood of the Imam and with the intention of prostrating with him, but after proceeding to Sujood, he realizes it was the second Sujood of the Imam, it will be considered his second Sujood. However, if under the impression that it is the second Sujood of the Imam, he returns to Sujood, and then realizes it was in fact the first Sujood of the Imam, he should complete that Sujood with the intention of completing Sujood with the Imam, and then perform the second Sujood with the Imam as well. Recommended precaution dictates that in both cases, one should repeat his prayer after completing it in congregation.

1484. If a follower inadvertently proceeds to Ruku before the Imam, and his position is such that if he raises his head from Ruku, he will reach a portion of the Imam's Qira'ah, his congregation and prayer shall be valid if he raises his head from Ruku, and proceeds to Ruku with the Imam. However, if he deliberately does not return, to claim the validity of his prayer is problematic.

1485 If a follower inadvertently proceeds to Ruku before the Imam, and his position is such that if he raises his head from Ruku, he will not be able to reach anything of the Imam's Qira'ah, his congregation and prayer shall be valid if he raises his head from Ruku and proceeds to Ruku with the Imam with the intention of following the Imam. However, if he remains in Ruku, waiting for the Imam to proceed to Ruku, his prayer will be valid; but his congregational prayer will be problematic.

1486. If a follower inadvertently proceeds to Sujood before the Imam, and he raises his head from Sujood and then returns to Sujood with the Imam with the intention of following the Imam, both his prayer and congregational prayer will be valid. However, if he remains in Sujood, waiting for the Imam to proceed to Sujood, his prayer will be valid; however, his congregational prayer will be problematic.

1487. If an Imam mistakenly engages in reciting Qunoot in a Rak'ah that does not have Qunoot, or mistakenly engages in reciting Tashahhud in a Rak'ah that does have Tashahhud, the

follower should not join the Imam in his inopportune Qunoot or Tashahhud. However, he should not proceed to Ruku before the Imam or stand up before the Imam. He should wait until the Imam has completed his Qunoot or Tashahhud, and then complete the remaining parts of prayer with him.

The Duties of the Imam and the Follower in Congregational Prayer

1488. Obligatory precaution dictates that if the follower is one male, he should stand to the right of the Imam, and if there is a male and one or more females, the male should stand to the right of the Imam, with the females standing behind the Imam. In the event that there is more than one male, and one or more females, the males should stand behind the Imam, whereas the females should stand behind the males. If there are one or more females in congregation, they should stand behind the Imam. If there is only one female, it is recommended that she stand behind the Imam to his right in a manner that her place of Sujood should be parallel to the knees or the feet of the Imam.

1489. If both the Imam and the follower are females, obligatory precaution dictates that they should stand adjacent to one another in a same line, and the Imam should not stand ahead of the followers.

Acts which are Recommended in Congregational Prayer

1490. It is recommended that the Imam stand at the center of the row, and that people of knowledge, excellence and piety stand in the first row.

1491. It is recommended that the rows of congregational prayer be orderly. There should not be a gap between the people standing in one row. Their shoulders should be adjacent to one another.

1492. It is recommended for the followers to stand up for prayer after ?????? ???? ?? (qad qÁmatisSalat) has been proclaimed.

1493. It is recommended that the Imam take the state of the followers who are weaker than others into consideration

during prayer. He should not lengthen his Qunoot, Ruku and Sujood, unless he is certain that all those who have joined the congregation are inclined towards it.

1494. It is recommended that the Imam recite Surah al-Fatihah, the second Surah and the Zikr which he recites aloud, in a manner that his voice can be heard by others. However, he should not raise his voice in an extremely loud manner.

1495. If during Ruku, the Imam realizes that somebody has just arrived, and wishes to join the congregational prayer, it is recommended that he prolong his Ruku two times the usual length and then raise his head, even if he realizes that another person has also arrived to join the congregation.

Acts which are Makrooh in Congregational Prayer

1496. It is Makrooh to stand alone if there is room in the rows of the congregation.

1497. It is Makrooh for a follower to recite the Zikr of prayer in a manner that his recitation is audible to the Imam.

1498. It is Makrooh for a traveler who offers his Z'uhr, A'sr and I'sha prayers as two Rak'ah, to follow an Imam who is not a traveler. It is also Makrooh for a person who is not a traveler to follow an Imam who is a traveler.

The Prayer for Signs (Salat al Ayat)

1499. The following four phenomena make the prayer for signs—details of which will be elaborated later—obligatory:

1. A solar eclipse.
2. A lunar eclipse, regardless of whether it is a partial or full eclipse, or whether one is frightened or not.
3. An earthquake, regardless of whether one is frightened or not.
4. Instances of lightening, thunder, black or red winds or other similar celestial phenomena, if a majority of people are frightened by them. However, with regards to terrestrial phenomena, such as the receding of sea water, or the breaking and falling of a mountain, by which the majority of people are frightened, recommended precaution dictates that one should offer the prayer of signs.

1500. If more than one of the events for which the prayer for signs becomes obligatory occurs simultaneously, one should recite a separate prayer for signs for each event. For example, if there is a solar eclipse and an earthquake, one should recite one prayer for the solar eclipse, and one for the earthquake.

1501. If a person has a number of Qadha prayers for signs that he is obligated to offer, it is not necessary for him to specify for which event he is offering the Qadha, regardless of whether all of his Qadha prayers are for one type of event, such as all of them being for solar eclipse, or whether they are for distinct events, such as one being for solar eclipse, and another being for lunar eclipse. However, recommended precaution dictates that he should specify which event he is offering the prayer for, though it be in an abstract manner. For example, he may make the intention of offering the Qadha for the first prayer of signs that became obligatory on him, or the second one to become obligatory on him.

1502. It is only obligatory for the people of the area in which the phenomena—for which the prayer for signs are obligatory—occurred to offer the prayer for signs. It is not obligatory on people in other areas to offer the prayer for signs which occurred elsewhere.

1503. The timeframe in which the prayer for signs must be offered in the event of a solar or lunar eclipse is from the moment the eclipse begins, until the time the disk of the sun or moon completely exits the eclipse. Recommended precaution dictates that one should not delay offering the prayer until the eclipse starts declining from the sun or the moon. In fact, it is recommended for one to offer his prayer from the moment the eclipse begins.

1504. If a person delays his prayer until the point when the eclipse begins to decline from the disk of the sun or moon, his prayer will be *adaa*. However, if he offers it after the entire disk has exited the eclipse, his prayer will be deemed *Qadha*.

1505. If the total time of a solar or lunar eclipse is sufficient for offering only one *Rak'ah* or less, the prayer for signs will be obligatory and *adaa*. One's prayer shall similarly be obligatory and *adaa* if the time of the eclipse is greater than this, but he delays it until its last moments, when the time is only sufficient for one *Rak'ah* or less.

1506. One should offer the prayer for signs in the event of an earthquake or an instance of lightening, thunder, or any similar phenomenon, as previously elaborated. One should not delay his prayer in such a manner that it would commonly be understood as being delayed. If one's prayer is delayed, he should offer it and obligatory precaution dictates he should not make the intention of *Qadha* or *adaa*.

1507. If a person is oblivious of a solar or lunar eclipse, and realizes it after it has come to an end, he should offer its *Qadha* if he discovers that it was a total eclipse. However, if he discovers that it was a partial eclipse, he will not be obligated to offer its *Qadha*.

1508. If a group of people testify that there is a solar or lunar eclipse, and a person does not attain certainty or confidence in their testimony, and there is nobody within the group whose testimony is canonically authoritative, owing to which one does not offer the prayer for signs, but later transpires that their testimony was correct, then in the event it was a total solar or lunar eclipse, he should offer the prayer for signs. However, if it was a partial eclipse, he will not be obligated to offer it. The same will apply if two persons—whose being just is not known—testify to it, or one person—whose being

trustworthy is unknown—testifies to it, and it later transpires that the two persons were in fact just, or the one person was trustworthy and there was no conjectural evidence contrary to his testimony.

1509. If a person becomes satisfied with the statement of those who declare that there is a solar or lunar eclipse based on scientific principles, he should offer the prayer for signs. The same will apply if such people declare that there shall be a solar or lunar eclipse at a particular time, and it shall remain for a particular duration, and one is satisfied with their statement, he should act according to his satisfaction.

1510. If a person realizes that the prayer for signs he offered was invalid, he should repeat it. If its time has lapsed, he should offer its Qadha.

1511. If the prayer for signs becomes obligatory on a person during the time for his daily prayers, he may offer any one of the two if there is ample time remaining for both. However, if the time remaining for one of the two is constricted, he should offer that prayer first. If the time for both of them is constricted, he should offer his daily prayer first.

1512. If while engaged in his daily prayer, a person realizes that the time of the prayer for signs is constricted, he should complete his daily prayer if the time for it is also constricted. However, if there is ample time remaining for the daily prayer, he should break away from his daily prayer, offer the prayer for signs, and then offer his daily prayer.

1513. If while engaged in the prayer for signs, a person realizes that the time for his daily prayer is constricted, he should leave the prayer for signs, and offer the daily prayer. Upon completing the daily prayer, prior to performing an act that would invalidate prayer, he should continue the remaining portion of the prayer for signs, from the place that he had left it.

1514. If there is a solar or lunar eclipse, and a woman is in the state of Haydh or Nifas, the prayer for signs will not be obligatory on her, and she will not be obligated to offer its Qadha. However in the case of those signs prayer adaa time of which is not restricted, such as an earthquake, or an instance of lightning or thunder, obligatory precaution dictates that she should offer it without stipulating the intention of Qadha or adaa after being purified.

The Method of Offering the Prayer for Signs

1515. The prayer for signs consists of two Rak'ah, and each Rak'ah consists of five Ruku. After one has made his intention, he should pronounce the Takbeerat al-Ihram, recite Surah al-Fatihah and a second Surah completely, and proceed to Ruku. He should then raise his head from Ruku and recite Surah al-Fatihah and a second Surah, then proceed to Ruku again. He should repeat this five times. After raising his head from the fifth Ruku, he should proceed to perform two Sujood, stand up, and repeat the aforementioned instructions in the second Rak'ah. He should then complete the second Rak'ah with Tashahhud and Salam.

1516. One may also offer the prayer for signs in the following manner: After one has made his intention, he should pronounce Takbeerat al-Ihram, and recite Surah al-Fatihah. He may then divide the verses of a second Surah into five parts, reciting one verse, more than one verse or less than it, and then proceed to Ruku. He should then raise his head from Ruku and without reciting Surah al-Fatihah again, recite the second part of the same Surah and then proceed to Ruku again. He should repeat this until he has completed five Ruku. He should complete the second Surah before proceeding to the fifth Ruku. For example, if he intends to recite Surah al-tawhid (Surah 112), he should recite (Bismillahir Rahmanir Raheem), and then proceed to Ruku. He should then raise his head from Ruku, recite (Qul hu'Allahu ahad), and then proceed to Ruku again. He should then rise again, and recite: (Allahus samad) and proceed to Ruku once again. Thereafter he should rise from Ruku and recite: (Lam valid wa lam yulad) and then bow again for Ruku. He should then rise from Ruku and recite: (Wa lam yakul lahu kufuwan ahad) and proceed to his fifth Ruku after raising his head from it, he should perform two Sujood. He should then perform the second Rak'ah like the first one, and after the two sujud he should recite the Tashahhud and then the Salam of prayers. He may also divide the Surah into less than five parts.

However, each time he completes the second Surah, before next Ruku he must recite Surah al-Fatihah and then recite a complete Surah or a part of it.

1517. There is no problem if a person recites Surah al-Fatihah and the second Surah five times in one Rak'ah, and Surah al-Fatihah once, and divides the second Surah into five parts in the other Rak'ah.

1518. The things which are obligatory or recommended in the five daily prayers are also obligatory or recommended in the prayer for signs. However, if the prayer for signs is offered in congregation, one should pronounce ??????(As-Salaat) three times with the intention of Rajaa' instead of azan and the iqamah.

1519. It is recommended to recite ????? ??? ??? ???(Same' Al-lahu Liman Hamidah) after the fifth and tenth Ruku of the prayer. It is similarly recommended to recite takbeer before and after every Ruku. However, reciting takbeer after the fifth and tenth Ruku is not recommended.

1520. It is recommended to recite Qunoot before the second, fourth, sixth, eighth, and tenth Ruku. It is also sufficient to recite it after the tenth Ruku.

1521. If a person doubts how many Rak'ah he has performed in the prayer for signs, and he is unable to resolve his doubt, his prayer will be deemed invalid.

1522. If a person doubts whether he is in the final Ruku of the first Rak'ah, or the first Ruku of the second Rak'ah, and he is unable to resolve his doubt, his prayer will be invalid. If doubts regarding the number of Ruku he has performed, he should assume the smaller number, except if he doubts whether he has performed four or five Ruku. In this case he should perform the Ruku regarding which he has doubted, if he entertained the doubt prior to bowing down for Sujood. If he entertained the doubt after bowing to proceed for Sujood, but before reaching Sujood itself, obligatory precaution dictates that he should return and perform the Ruku, complete his prayer and repeat it. However, if he entertained the doubt after reaching Sujood, he should dismiss his doubt.

1523. Each of the Ruku in the prayer for signs is a rukn. Therefore, if a person deliberately or inadvertently omits or adds to them, his prayer will be invalid.

The Prayer of Eid al-Fitr and Eid al-Adha

1524. The Eid al-Fitr and the Eid al-Adha prayers are obligatory while an Infallible Imam (Peace be upon him) is present, and should be offered in congregation. However, while the Imam (Peace be upon him) is in occultation, it is recommended to offer it. It can be offered in both congregation or individually. Obligatory precaution dictates that if it is offered in congregation, the number of people in the congregation should not be less than five.

1525. The time in which the Eid al-Fitr and Eid al-Adha prayers should be offered is from sunrise of the day of Eid, up till its noon.

1526. It is recommended for the Eid al-Adha prayer to be offered after light of the sun has covered the earth. As for Eid al-Fitr, it is recommended that one break his fast after the light of the sun has covered the earth, and as dictated by obligatory precaution, pay the Zakat of Fitr and then offer the Eid prayer.

1527. The Eid al-Fitr and Eid al-Adha prayers consist of two Rak'ah. After reciting Surah al-Fatihah and the second Surah in the first Rak'ah, one should recite five takbeers. Obligatory precaution dictates that after each takbeer, one should recite a Qunoot, and after the fifth Qunoot should pronounce one more takbeer. One should then proceed to Ruku, and perform two Sujood and then stand up. In the second Rak'ah, one should recite four takbeers, and after each takbeer, recite a Qunoot. After the fourth Qunoot, one should recite the fifth takbeer, proceed to Ruku, and then perform two Sujood. After the Sujood, one should recite Tashahhud, and complete his prayer with Salam.

1528. It is sufficient to recite any Zikr or supplication in the Qunoot of Eid al-Fitr and Eid al-Adha. However, it is recommended to recite the following supplication that Shaykh Tusi has cited in Misbah al-Mutahajjid:

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(Allahumma ahlal kibriyaa wal 'adhamati wa ahlal joodi wal jabarooti wa ahlal 'afwe war rahmati wa ahlal taqwa wal maghfira. As-aluka bi haqqi haadhil yaumil ladhi ja'altahu lil muslimeena 'eida, wa li Muhammadin sal'Allaahu alaihi wa aalihi wa sallam dhukhran wa wa mazeeda an tusallia 'ala Muhammadiw wa aali Muhammad wa an tudkhillani fi kulli khairin adkhalta feehi Muhammadaw wa aala Muhammad wa an tukhrijani min kulli soo-in akhrajta minhu Muhammadaw wa aala Muhammad, salawaatuka 'alaihi wa 'alaihim. Allahumma inni as-aluka khayra ma sa-alaka bihi 'ibaadukas salihoon, wa a'udhubika mimmas ta'aadha minhu 'ibadukas salihoon (al mukhlasoon, al mukhlisoon). Yet better than the aforementioned supplication is the following supplication mentioned with a reliable transmission in al-Tahzeeb by him:?)

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mubdil khafiyyaati mu'linus saraair. Allaahu Akbaru 'adheemul malakooti shadeedul jabarooti hayyun la yamootu da-imul la yazoolu idha Qadha amran fa innama yaqoolu lahu kun fayakoon. Allaahu Akbaru khasha'at lakal aswaatu wa 'anat lakal wujoohu wa haarat doonakal absaaru wa kallatil alsunu 'an 'adhamatika wan nawaasiya kulluha biyadika wa maqadeerul umoori kulluha ilaik. La yaqdhi feeha ghayruka wa laa yatimmu minha shayun doonak. Allaahu Akbaru ahaata bi kulli shay-in hifdhuka wa qahara kulla shay-in 'izzuka wa nafadha kulla shay-in amruka wa qaama kullu shay-in bika wa tawadha'a kullu shay-in li 'adhamatika wa dhalla kullu shay-in li 'izzatika was taslama kullu shay-in li qudratika wa khadha'a kullu shay-in li mulkika, Allaahu Akbar.

1529. Recommended precaution dictates that during the occultation of the Imam (Peace be upon him), two sermons should be recited in congregation after the Eid al-Fitr and Eid al-Adhaprayers. It is better that in the sermon of Eid al-Fitr prayers, the precepts pertaining to Zakat of Fitrah, and in the sermon of Eid al-Adha prayers, precepts pertaining to sacrifice be discussed.

1530. There is no specific Surah for Eid prayers. However, it is better that Surah al-A'la (Surah87) be recited in the first Rak'ah, and Surah al-Shams (Surah 91) be recited in the second Rak'ah. The most worthy however, is that Surah al-Shams be recited in the first Rak'ah, and Surah al-Ghashiyah (Surah 88) be recited in the second Rak'ah.

1531. It is recommended to offer Eid prayers in the desert. However, in Mecca, it is recommended to offer it in Masjid al-Haraam.

1532. It is recommended for both the Imam and the followers to perform Ghusl prior to offering the Eid prayers. It is also recommended for them to wear a white turban made of cotton, leaving one end of it over the chest, with the other end placed between the two shoulders. They should walk bare footed with dignity to the place of prayer.

1533. It is recommended to perform the Sujood of Eid prayers on the ground. It is recommended to raise the hands up to the ears while reciting the takbeers, and for the Imam to recite the Qira'ah aloud.

dictates that the prayer should be offered with the intention of Rajaa'.

1540. If a person forgets one Sujood from the last Rak'ah, or the Tashahhud, he should return and perform them so long as he has not performed an act that invalidates Eid prayers. Obligatory precaution dictates that if the Sujood is from the previous Rak'ah, he should offer its Qadha. In any case, if he has performed an act which would mandate him to perform sajdah al-Sahw in the daily prayers—though it be precautionary—obligatory precaution dictates that he perform two sajdah al-Sahw.

Hiring a Person to Offer Prayers

1541. After one's death, a person may be hired to offer the prayers or other acts of worship that the deceased did not offer during his lifetime. That is to say, one may establish a wage for the hired person for him to offer the missed acts of worship. If a person offers them without taking a wage, it will be valid.

1542. A person may also be hired to offer certain recommended acts of worship on behalf of a living person, such as the ziyarah of the Prophet's grave, or that of the Imams (Peace be upon them all). In such an event, his being hired would pertain to him offering that act on behalf of that person. He may also offer these acts free of charge, just as he may also offer any obligatory or recommended prayer and dedicate its reward to persons who are alive or have passed away.

1543. A person who has been hired to offer the Qadha prayers of a deceased should either be a Mujtahid with regards to the precepts of prayer, or he should perform it by means of doing the correct Taqleed of a Mujtahid, or act in accordance with precaution.

1544. A hired person should specify the deceased when making his intention to offer his Qadhaprayers. However, it is not necessary for him to know his name. If for example, he makes the intention to offer prayer on behalf of the person whom he has been hired to offer prayer for, it will suffice.

1545. The hired person should offer the act of worship with the intention of what the deceased had been charged with as his obligation. It will not suffice if he offers it and dedicates its reward to the deceased.

1546. One should hire a person whom he knows will perform the act of worship, or has canonically authoritative evidence that he will do so. Such evidence may include one's confidence (in him), or the testimony of two just persons, or that of one trustworthy person for whom no conjectural evidence exists contrary to his testimony.

1547. If it transpires that the person hired to offer the Qadha prayers for a deceased did not perform them, or he performed them incorrectly, another person should be hired to perform them.

1548. If a person doubts whether the hired person has performed the act he was hired to perform or not, then if the hired person is a reliable person and testifies that he has performed it, or two just persons testify, or one trustworthy person testifies and there is no conjectural evidence contrary to his testimony, it will suffice. If he doubts whether he performed the act correctly or not, he should assume he has done so correctly.

1549. A person who is exempt owing to a justified excuse—for example he offers his prayer sitting or with Tayammum—cannot be hired to offer the Qadha prayers of a deceased, even if the Qadha prayers of the deceased were rendered Qadha in the same manner.

1550. A man may be hired to offer the Qadha prayers of a woman and vice versa. The hired person should act according to his or her own obligation in reciting the prayer aloud or in a low voice.

1551. It is not necessary to observe the sequential order while offering the Qadha prayer of a deceased, though recommended precaution dictates that one should observe it, except in prayers whose adaa form has a sequential order. An example of this is the Z'uhr and A'sr prayers, or the Maghrib and I'sha prayers of a same day.

1552. If a person stipulates a condition with the hired person in respect to performing the act in a particular manner, the latter should execute it in the manner agreed upon, unless he is certain of its invalidity, in which case it is impermissible for him to be hired for it. However, if there is no condition stipulated, he should act according to his own obligation. Recommended precaution dictates that between his own duty and that of the deceased, he should act according to that which is more precautionary. For example, if obligation of the deceased is to recite tasbeehaat alarba'ah three times, and his obligation is to recite it once, he should recite it three times.

1553. If a person does not stipulate a condition with respect to the number of recommended components the hired person should perform in the prayer, he should perform the recommended components that are commonly performed.

1554. If a person hires a number of people to offer the Qadha prayers of a deceased, based on what was elaborated on in

article 1551, it is not necessary to specify a particular time for each one of them.

1555. If a person is hired, for example, to offer the Qadha prayers of a deceased within a period of one year, and he dies before the year comes to an end, another person should be hired for the Qadha prayers that one is certain were not offered by him. Obligatory precaution dictates that other person should also be hired for the number of prayers that one entertains a possibility that they were not offered by him.

1556. If one hires a person to offer the Qadha prayers of a deceased, and prior to completing the Qadha prayers, he passes away, while having taken the complete wages for all the prayers, then: If they had stipulated a condition that the hired person perform all the prayers himself, and he was capable of doing so, the contract to hire him will be valid. In this case, the one who hired him can reclaim the common wage for similar works for the remaining prayers. He may also choose to cancel the contract, subtract the common wage for similar works for the prayers that were offered, and reclaim the remaining amount. However, if he was not capable of doing so, the contract would be invalid in relation to the time of the deceased's death onwards. In this case, the hirer may reclaim the remaining specified (paid) wage, or cancel the contract in relation to the time before the deceased's death (backwards) and pay the common wage of such works for the offered prayers. But, if they had not stipulated a condition that the hired person should perform all the prayers himself, the heirs of that hired person must hire somebody, by his estate, to offer the remaining prayers. However, if he had left no property, nothing is obligatory on his heirs.

1557. If a person who is hired to offer the Qadha prayers of a deceased dies prior to completing performance of those prayers and while he himself had his own Qadha prayers to offer, after carrying out the instructions elaborated in the previous article, if there is a surplus remaining from his property, and he has made a will, and the wage for his Qadha prayers is greater than one third of his estate, and his heirs grant permission for it, one should hire a person to complete all of his Qadha prayers. However, if they do not grant permission, one

third of his property should be used to complete his Qadha prayers.

Chapter 50

The Precepts of Fasting

Fasting is defined as the act of abstaining from a few things (which will be elaborated later) from the azan of Fajr till Maghrib with the intention of attaining nearness to Allah (as elaborated in the section on Wudhu) and with sincerity. The time of Maghrib (in this article and the following articles) based on obligatory precaution, is defined as the time when the redness of the eastern sky, which appears after the setting of the sun, has passed overhead.

The Intention for Fasting

1558. It is not necessary for a person to pass the intention for fasting through his mind, or to say—for example—that he would be fasting the following day. In fact, it is sufficient for him to decide that with the intention of attaining nearness to Allah and with sincerity, he will abstain from things that will invalidate the fast from the azan of Fajr until Maghrib. In order to be certain that he has been fasting throughout this time, he should start abstaining a little before the azan of Fajr, and continue to refrain for some time after Maghrib, from the things which invalidate the fast.

1559. A person can, on every night of the month of Ramadhan, make the intention to fast on the following day. He can also make the intention on the first night of the holy month that he would be fasting throughout the month, and it is not necessary for him to renew his intention every night, for the continuity of this intention is sufficient.

1560. The time for making the intention of a fast of the month of Ramadhan on the first night is from the early part of the night until the azan of Fajr, and apart from the first night, the intention can also be made before the early part of the night. An example of this is a person who makes the intention during the preceding afternoon to fast the next day, with the intention of attaining proximity to Allah, and maintains this intention, even though he falls asleep until after the azan of Fajr on the next day.

1561. The time for making the intention for a recommended fast is from the early part of the night until the moment when there is just enough time to make an intention, before the disk of the sun disappears below the horizon. If until this time a person has not performed any action which invalidates the fast, and he makes the intention for the recommended fast, his fast is valid. If this time passes, the validity of his fast will be questionable.

1562. If a person goes to sleep before the azan of Fajr without making the intention to fast, and wakes up before Z'uhr (noon) and makes his intention to fast an obligatory date-specific fast, be it the fast of the month of Ramadhan or any

other fast, such as a vow to fast on a particular day, the validity of his fast will be questionable. However, if it is an obligatory fast that is not datespecific, his fast is valid. In the event that he wakes up after Z'uhr prayers, he cannot make the intention for an obligatory fast, even if it is not date-specific. However, in the case of the Qadha of a fast of the month of Ramadhan, the impermissibility (of making the intention) between Z'uhr and evening is based on obligatory precaution.

1563. If a person intends to fast other than the fast of the month of Ramadhan, he must specify that fast. For example, he must make the intention that he is observing a Qadha fast, or fasting to fulfill a vow, or fasting for a Kaffarah. However, in the month of Ramadhan it is not necessary for him to specify in his intention that he is going to observe the fast of the month of Ramadhan. In fact, if a person is not aware that it is the month of Ramadhan or has forgotten, and makes the intention for another fast, it will count as a fast of the month of Ramadhan.

1564. If a person is aware that it is the month of Ramadhan and intentionally makes the intention of observing a fast other than the fast of the month of Ramadhan, his fast will not count as a fast of the month of Ramadhan. In fact, on the basis of obligatory precaution, it will not even count as a fast for which he made the intention.

1565. If a person observes a fast with the intention of the first day of the month and later understands that it was the second or third of the month, his fast is still valid.

1566. If a person makes an intention before the azan of Fajr to observe a fast on that day and then becomes unconscious, and regains consciousness during the day, obligatory precaution dictates that he complete his fast on that day, and also observe its Qadha.

1567. If a person makes his intention before the azan of Fajr, then gets intoxicated, and regains his senses during the day, obligatory precaution dictates that he must complete the fast of that day and should also offer its Qadha.

1568. If a person makes his intention before the azan of Fajr, then goes to sleep and wakes up after Maghrib, his fast is in order.

1569. If a person does not know or forgets that it is the month of Ramadhan, and becomes aware of it prior to Z'uhr, then if he has performed an act that invalidates the fast, or if he becomes aware after Z'uhr that it is the month of Ramadhan, his fast is void. But, he should not perform any act which invalidates the fast until Maghrib, and should also observe its Qadha after the month of Ramadhan. The same will apply, based on obligatory precaution, if he becomes aware of it prior to Z'uhr and has not performed an act that would invalidate the fast.

1570. If a child becomes Baligh before the azan of Fajr in the month of Ramadhan, he must observe the fast of that day. If however he becomes Baligh after the azan of Fajr, the fast of that day is not obligatory on him. Recommended precaution dictates that if he becomes Baligh before Z'uhr and has made the intention to observe the fast, he should complete the fast of that day. In fact, even if he has not made the intention, and has not indulged in the acts that invalidate the fast, he should form his intention to fast and fast on that day.

1571. If a person has been hired to repay the fasts of a deceased, and he fasts a recommended fast, there is no harm in it. However, one who has to observe the Qadha of his own fasts of the month of Ramadhan, cannot fast a recommended fast. The same will apply, based on obligatory precaution, if he has to observe another obligatory fast. If he forgets about it and observes a recommended fast, then in the event that he recollects prior to Z'uhr, his recommended fast will be invalid. In this case he may change his intention to a non date-specific obligatory fast, as changing the intention to a date-specific obligatory fast is problematic. However, if he recollects after Z'uhr, he cannot change his intention to an obligatory fast, albeit one that is not date-specific. In the case of the fast of the Qadha of the month of Ramadhan, this ruling will be based on precaution from after mid-day until Maghrib. If however he recollects after Maghrib, his fast will be in order.

1572. If a specific fast other than the fast of the month of Ramadhan is obligatory on a person—for example, if one has made a Nazr (vow) to fast on a particular day—and he deliberately fails to make the intention to fast until the azan of Fajr, his fast will be void. The same will apply, based on precaution,

if he does not know that the fast of that day is obligatory on him, or forgets about it, but recollects before Z'uhr and has not performed any act which invalidates the fast.

1573. If a person deliberately fails to make his intention until close to the time of Z'uhr, for an obligatory fast which is not date-specific, like the fast for a Kaffarah, there is no harm in it. In fact, if he had decided before making his intention that he would not fast, or was undecided on whether to fast or not, but had not performed any act which invalidates the fast, and he forms his intention to fast prior to Z'uhr, his fast is in order.

1574. If a Kafir converts to Islam during the month of Ramadhan prior to the time of Z'uhr, his fast (for that day) will not be valid even if he had not committed any of the acts which invalidate a fast from the azan of Fajr to that time.

1575. If a person who is sick recovers from his sickness close to midday, be it before Z'uhr or after it, it will not make the fast of that day obligatory upon him even if he had not, to that point, committed an act that invalidates a fast.

1576. If a person doubts whether a particular day is the last day of Shaban or the first day of the month of Ramadhan, it will not be obligatory on him to fast that day. However, should he want to fast on that day, he will not be able to fast with the intention of the fast of the month of Ramadhan, nor with the intention that it be the fast of the month of Ramadhan should that day be the first day of Ramadhan, and a Qadha or similar fast should it not; rather, he should make the intention of fasting another obligatory fast, like a Qadha fast, or a recommended fast. Then, if he later comes to know that it was in fact the first of the month of Ramadhan, his fast will count as a fast of the month of Ramadhan. If he fasts with the intention of fulfilling that which he is charged with, and later comes to realize that it was indeed the first of the month of Ramadhan, it will suffice.

1577. On a day when a person is not certain whether it is the last day of Shaban or the first day of the month of Ramadhan, if he fasts with the intention of fasting a Qadha or similar fast, or fasting a recommended fast, and realizes during the day that it is the first of the month of Ramadhan, he should change his intention to the fast of the month of Ramadhan.

1578. If a person, in a specified obligatory fasting such as fasting of Ramadhan, reneges on his intention to abstain (from the acts that invalidate a fast) for the sake of God, or wavers in his decision to renege, or intends to commit an act from the acts that invalidate a fast, or wavers in doing so, his fast will be rendered invalid, even if reverts from the decision he made, seeks forgiveness for it, and does not commit an act which invalidates the fast.

1579. The precept elaborated in the previous article does not invalidate the obligatory fasts which are not day-specific—such as a fast of Kaffarah or a non-specific Nazr—as it does to obligatory fasts which are day-specific. Hence, if a person reverts to his original intention (to fast) prior to Z'uhr, his fast will be in order.

The Acts which Invalidate a Fast

1580. Committing any one of the following nine acts will invalidate a fast, albeit in some cases it is dictated by obligatory precaution:

1. Eating and drinking
 2. Engaging in sexual intercourse
 3. Masturbation, wherein a person stimulates himself or is stimulated by another person, through an act other than intercourse, causing semen to be ejaculated
 4. Ascribing lies to God, the prophet (Peace be upon him and his progeny) or the Infallible Imams (Peace be upon them all)
 5. Causing dust to reach the throat, based on obligatory precaution
 6. Immersing the entire head under water
 7. Remaining in the state of Janabah, Haydh or Nifas until the azan of Fajr
 8. Getting a liquid enema
 9. Vomiting
- The precepts related to these acts will be elaborated in the subsequent articles.

1. Eating and Drinking

1581. If a person who is fasting intentionally eats or drinks something, being well aware that he is fasting, his fast will be rendered void, regardless of whether it is something that is usually consumed, such as bread and water, or not usually consumed, such as sand and tree sap, and regardless of whether it is a significant amount or not. In fact, if a person expels a fluid from his mouth and then puts it back into his mouth, eventually swallowing it, his fast will be void, unless the fluid dissolves in his saliva in a manner that it is no longer considered to be external fluid.

1582. If a person realizes that it has dawned whilst he is eating, he must remove the morsel from his mouth. If he intentionally swallows it, it will void his fast, and in accordance with the instructions that will follow, the Kaffarah will also become obligatory on him.

1583. If a person who is fasting eats or drinks something inadvertently, his fast does not become void.

1584. There is no harm in infusing medicine into the body through injection, or anesthetizing a part of the body using the same process. The recommended precaution is that a person who is fasting should avoid injections which are given in lieu of food or water.

1585. If a person who is fasting, intentionally swallows the food that has remained between his teeth, well aware that he is fasting, his fast will be rendered void.

1586. A person who intends to fast does not have to floss his teeth prior to the azan of Fajr. However, if he is certain or satisfied that the food leftover between his teeth will be swallowed through the course of the day, yet fails to floss his teeth, and later a part of it is swallowed, his fast will be deemed void.

1587. Swallowing one's saliva does not invalidate the fast, even if its secretion is a result of imagining sweet or sour foods.

1588. There is no harm in swallowing one's nasal mucus or respiratory phlegm, as long as it has not entered the mouth. If it has, obligatory precaution dictates that one should not swallow it.

1589. If a person who is fasting experiences thirst to a degree that he fears for his life, it is obligatory on him to drink an amount of water that is just enough to save his life. His fast however will become void. Should this occur in the month of Ramadhan, he should avoid committing any of the acts that invalidate a fast for the rest of the day. Similarly, if he fears that by not drinking water, he will be afflicted with a significant harm, or doing so will entail a hardship that is conventionally not bearable, he may drink water in both these cases to the extent that the fear of the harm or hardship is lifted.

1590. Chewing food for a child or a bird, tasting the food or any similar act in which the food does not usually reach the throat, will not invalidate one's fast, even if the food accidentally reaches the throat. However, if a person knows in advance or attains satisfaction that it will reach his throat, it will invalidate his fast and he will have to perform its Qadha. In the event that it does in fact reach the throat, paying the Kaffarah will also become obligatory on him.

1591. A person cannot break his fast due to weakness. However, should the weakness be to such a degree that it

would be unbearable—in the common understanding—for the person, then there is no harm in breaking it.

2. Sexual Intercourse

1592. Intercourse renders a fast invalid, even if penetration be only to the point of circumcision, and even if it is not accompanied with ejaculation. As for intercourse with someone other than a woman, wherein ejaculation does not occur, this ruling is based on precaution.

1593. If the penetration does not reach the point of circumcision, and ejaculation does not occur either, the fast will not be invalidated.

1594. If a person engages in intercourse intentionally, and has the intention of penetrating past the point of circumcision, but later doubts whether he penetrated to the point of circumcision or not, his fast will nonetheless be invalid and he will have to fast its Qadha. Obligatory precaution dictates that the person should avoid the acts which invalidate his fast for the rest of the day. However, paying the Kaffarah is not obligatory on him.

1595. If a person forgets that he is fasting, and engages in intercourse, or is forced to have intercourse, his fast is not invalidated. However, if he remembers in the midst of intercourse, or regains his volition thereat, he should immediately come out of the state of intercourse. Should he fail to do so, his fast will be invalidated.

3. Masturbation

1596. If a person who is fasting engages in masturbation—meaning that he engages in an act other than intercourse which causes semen to be emitted from him—his fast will be rendered invalid.

1597. If semen is emitted from a person non-volitionally, his fast is not invalidated.

1598. If a person who is fasting knows that should he sleep, he will experience a nocturnal ejaculation, it is permitted for him to sleep. In the event that he does ejaculate, his fast will not become void. The recommended precaution is that he

should avoid going to sleep, especially in the case wherein the lack of sleep will not cause him any hardship.

1599. If a person who is fasting wakes up when ejaculation is taking place, he does not have to stop it.

1600. If a person who is fasting experiences a nocturnal ejaculation, he is permitted to urinate and perform Istibra, even if he knows that by doing so the semen that has remained within urethra may be emitted as well.

1601. If a person who is fasting experiences a nocturnal ejaculation, and knows that some seminal fluid has remained within the urethra, which will be emitted after he performs Ghusl if he does not urinate prior to performing Ghusl, then obligatory precaution will dictate that he urinate prior to performing Ghusl..

1602. If a person who knows that intentionally causing semen to be ejaculated invalidates one's fast, proceeds to—for example—engage in foreplay with his wife with the intention of ejaculating, his fast will be invalidated even if he does not eventually ejaculate. He will have to fast its Qadha, and based on obligatory precaution he should refrain from committing all the acts which invalidate a fast for the rest of the day.

1603. If a person who is fasting engages—for example—in foreplay with his wife, without the intention of ejaculating, his fast will be in order even if he accidentally ejaculates, as long as he was initially confident that he would not ejaculate. However, if he was not confident of it, and incidentally ejaculates, his fast will be rendered void.⁴ Ascribing Lies to God and the Prophet (pbhf)¹⁶⁰⁴. If a person who is fasting intentionally ascribes a false statement to God, the prophet (Peace be upon him and his progeny) or the Infallible Imams (Peace be upon them all), be it in writing, verbally or by mere gestures, his fast will be rendered void, even if he immediately confesses to lying or repents for his act. As for ascribing a lie to the rest of the prophets and their successors (may peace be upon our prophet, his progeny and upon them), it will also render the fast void based on obligatory precaution, unless the ascription reverts to God the Exalted, in which case his fast is invalid. The same will apply to ascribing false statements to Lady FatimahZahra (Peace be upon her), unless the ascription reverts to God the Exalted, or the prophet (Peace be upon him

and his progeny (, or the Imams (Peace be upon them all), in which case the fast is invalid.1605. If a person wishes to narrate a statement that he does not know to be true or false, and neither does he possess any evidence for its authenticity, obligatory precaution dictates that he should narrate it from the person who stated it, or for example, from the book in which the statement was written.1606. If a person ascribes a statement to God, the prophet (Peace be upon him and his progeny) or one of the Imams (Peace be upon them all), believing it to be true, but later finds out that it was false, his fast will not be invalidated.1607. If a person knows that ascribing a lie to God, the prophet (Peace be upon him and his progeny) or one of the Imams (Peace be upon them all) invalidates the fast, and goes on to ascribe a lie to them, but realizes later on that the statement was in fact true, his fast will be invalidated nonetheless. Obligatory precaution dictates that he should refrain from committing all the acts which invalidate a fast for the rest of the day.1608. If a person deliberately ascribes a lie which was concocted by another person to God, the prophet (Peace be upon him and his progeny) or one of the Imams (Peace be upon them all), his fast will be invalidated. However, if he narrates it as the words of the person who concocted the lie, his fast is not invalidated.1609. If a person who is fasting is queried whether the prophet (Peace be upon him and his progeny) or one of the Imams (Peace be upon them all) has related a particular matter, and instead of responding in the negative where he needs to do so, he responds affirmatively, or viceversa, his fast will be invalidated.1610. If a person relates a true statement from the words of God, the prophet (Peace be upon him and his progeny) or one of the Imams (Peace be upon them all), but later claims to have lied, his fast will be invalidated. The same will apply if he ascribes a lie to them the night before a fast, and then affirms his previous statement on the day of the fast.

5. Causing Thick Dust to Reach the Throat1611. Based on obligatory precaution, causing dust to reach the throat will invalidate one's fast, regardless of whether it is the dust from legally edible (halal) products such as flour, or legally inedible products such as sand.1612. If dust is whipped up by the wind, and a person does not take care despite being aware of it,

allowing the dust to reach his throat, his fast will be invalidated based on obligatory precaution.¹⁶¹³ Obligatory precaution dictates that person should not allow thick vapor, smoke from cigarettes and tobacco products, or similar items to reach his throat.¹⁶¹⁴ If a person does not observe care, and dust, smoke, thick vapor or anything similar enters the throat, it will not harm his fast as long as he was initially certain or satisfied that it would not enter his throat. However, if he had speculated that it would not reach his throat, based on recommended precaution he should fast its Qadha.¹⁶¹⁵ If a person forgets that he is fasting, and does not exercise care, allowing dust or something similar to reach his throat, or if it reaches his throat unwillingly, his fast is not invalidated.⁶

Immersing the Head under Water¹⁶¹⁶ If a person who is fasting intentionally immerses his entire head under water, his fast will be invalidated even if the rest of his body remains outside the water. However, if the entire body is immersed, but a part of the head remains outside, his fast will not be invalidated.¹⁶¹⁷ If a person immerses a part of his head under the water in an instance, and then immerses another part of his head in another instance, his fast will not be invalidated.¹⁶¹⁸ If a person doubts whether his entire head was immersed or not, his fast will remain in order. However, if he immerses his head under water with the intention of immersing his entire head, but later doubts whether he immersed it entirely or not, his fast will be invalidated. However he will not have to pay its Kaffarah.¹⁶¹⁹ If the entire head is immersed under water, but a part of the hair remains outside the water, the fast is invalidated.¹⁶²⁰

Immersing the head under a liquid other than water, such as milk or Mudhaaf water, does not invalidate the fast. Obligatory precaution dictates that one should avoid immersing his head under rose-water.¹⁶²¹ If a person involuntarily falls into the water, causing his entire head to be immersed, his fast will not be invalidated. The same will apply for someone who forgets that he is fasting, and immerses his head under water.¹⁶²² If a person feels that his head will not get immersed under water, and therefore jumps into the water, and his head does in fact get entirely immersed, it will not harm his fast.¹⁶²³ If a person forgets that he is fasting and immerses his head under water, but realizes that he is fasting whilst he is

under the water, he should immediately remove his head from the water. If he fails to do so, his fast will be invalidated. The same will apply to a person whose head is forcefully immersed under water, but then regains his volition whilst his head is in the water.¹⁶²⁴ If a person forgets that he is fasting, and immerses his head under the water with the intention of performing Ghusl, both his Ghusl and fast will be in order.¹⁶²⁵ If a person knows that he is fasting, and intentionally immerses his head under water with the intention of performing Ghusl, should his fast be the fast of the month of Ramadhan, both his fast and Ghusl will be void. The same will apply to the Qadha of the fast of the month of Ramadhan that a person is fasting for himself, if the aforementioned scenario occurs after midday, based on precaution. However, if the fast is a recommended one, or another obligatory fast—be it a date-specific fast, such as fasting to fulfill a vow to fast on a particular day, or a nonspecific fast, such as the fast of a Kaffarah—his Ghusl will be in order, but his fast will be voided.¹⁶²⁶ If a person immerses his head under water in order to save a drowning person, although saving the drowning person is obligatory, his fast will be invalidated nonetheless.⁷ Remaining in the State of Janabah, Haydh or Nifas until the Azan of Fajr¹⁶²⁷. If a person in the state of Janabah intentionally fails to perform Ghusl before the Fajr azan, or if his duty is to perform Tayammum, he intentionally fails to do so, his fast is invalid. The precepts for the Qadha of the fast of the month of Ramadhan will be elaborated later in this section.¹⁶²⁸ If a person intentionally fails to perform Ghusl before the Fajr azan in a fast other than the fast for the month of Ramadhan or its Qadha, such as the recommended fasts, and the obligatory fasts which are date-specific, his fast will still be in order. The recommended precaution in obligatory fasts is that one should not intentionally remain in the state of Janabah (until the Fajrazan).¹⁶²⁹ If a person is in Janabah during a night of the month of Ramadhan, and intentionally fails to perform Ghusl until the time becomes constrained, then obligatory precaution will dictate that he perform Tayammum, observe the fast of that day and then fast its Qadha as well.

1630. If in the month of Ramadhan a person in Janabah forgets to perform Ghusl, and recollects after one day, he will

have to fast the Qadha of that day's fast. If he recollects after a few days, he must fast the Qadha of the number of days that he is certain he was in the state of Janabah. Thus, if for example he is not sure whether he was in Janabah for three or four days, he must fast the Qadha of three days.¹⁶³¹ If a person does not have the time to perform Ghusl or Tayammum during one of the nights of the month of Ramadhan, but causes himself to enter the state of Janabah nonetheless, his fast will be invalid. He will have to fast its Qadha and pay its Kaffarah as well. However, if the duty of a person is to perform Ghusl, but possesses enough time to perform Tayammum only, should such a person cause himself to enter Janabah, based on obligatory precaution he will have to perform Tayammum, observe the fast for that day and then fast its Qadha as well.¹⁶³² If a person investigates to determine whether he possesses sufficient time or not, and thinks that he does have enough time to perform Ghusl, and therefore causes himself to enter Janabah, only to realize later on that his time is constrained and therefore performs Tayammum, his fast will be in order. If however he thinks that he possesses enough time without investigating, and causes himself to enter Janabah, realizing thereafter that his time is constrained and therefore fasts by performing Tayammum, obligatory precaution dictates that he fasts the Qadha of that day's fast.¹⁶³³ If a person is in Janabah during one of the nights of the month of Ramadhan, and knows that should he go to sleep, he will not be able to wake up before the Fajr azan, he should not sleep without performing Ghusl. Should he do so, and then not wake up until morning, his fast will be invalid and he will have to fast its Qadha and also pay its Kaffarah.¹⁶³⁴ If a person in Janabah wakes up during one of the nights of the month of Ramadhan, and is not convinced that he will be able to wake up for Ghusl before Fajr azan, the recommended precaution is that he should not go back to sleep without performing Ghusl.¹⁶³⁵ If a person is in Janabah during one of the nights of the month of Ramadhan, and is certain or satisfied that should he go to sleep, he will be able to wake up before the Fajr azan, then should such a person go to sleep with the intention of performing Ghusl after waking up, his fast will be in order even if he remains asleep until the Fajr azan.¹⁶³⁶ If a person is in Janabah during one of

the nights of the month of Ramadhan, and knows or speculates that should he go to sleep, he will be able to wake up before the Fajr azan, but is oblivious to the fact that he needs to perform Ghusl after waking up, then should such a person go to sleep and fail to wake up until the Fajr azan, obligatory precaution will dictate that he fasts the Qadha of that day's fast.1637. If a person who is in Janabah during one of the nights of the month of Ramadhan is certain or considers it probable that should he go to sleep, he will be able to wake up before the Fajrazan, then should such a person not wish to perform Ghusl after waking up, or be indecisive about it, and goes to sleep without waking up, his fast will be invalid for that day. It will be obligatory on him to fast its Qadha and pay its Kaffarah as well.

1638. If a person in Janabah goes to sleep on a night during the month of Ramadhan, and then wakes up after a while, and either knows or speculates that should he go back to sleep, he will be able to wake up before the azan of Fajr, and has the intention to perform Ghusl thereat, then should he go back to sleep, and not wake up prior to the azan of Fajr, he will have to fast the Qadha of that day's fast. If he wakes up after his second nap, and go back to sleep a third time, failing to wake up prior to the azan of Fajr, he will have to fast the Qadha of that day's fast. The recommended precaution is that he should pay the Kaffarah as well.

1639. The first sleep, given that a person experiences a nocturnal ejaculation, is the sleep that one enters after waking up. As for the sleep in which one experiences the nocturnal ejaculation, it does not count as the first sleep.

1640. If a person who is fasting experiences a nocturnal ejaculation during the day, it is not obligatory on him to perform the Ghusl immediately.

1641. If a person wakes up after the Fajr azan in the month of Ramadhan, and realizes that he experienced a nocturnal ejaculation, his fast will be in order even if he knows that he experienced it before the Fajr azan.

1642. If someone wishes to fast the Qadha of a fast of the month of Ramadhan, and remains in the state of Janabah until the Fajr azan, his fast will be void even if he did not do so intentionally.

1643. If a person wishes to fast the Qadha of the fast of the month of Ramadhan, and having woken up after the Fajr azan, realizes that he had a nocturnal ejaculation, and knows that it occurred prior to the Fajr azan, his fast will be void based on obligatory precaution. However, should the days remaining prior to the month of Ramadhan be limited for observing the Qadha fasts—for example, he has to fast five Qadha fasts, and he only has five days remaining until the advent of the holy month—then in such a case, obligatory precaution will dictate that he continue to fast on that day, and also fast another fast after the month of Ramadhan.

1644. Other than the qada fasts of Ramadhan, if a person wishes to offer an obligatory fast which like the fast of Kaffarah is not date-specific, and intentionally remains in the state of Janabah until the Fajr azan his fast will be in order. The recommended precaution is that apart from that day, he should also fast on another day.

1645. If a woman becomes purified from the state of Haydh or Nifas before the Fajr azan during the month of Ramadhan, and intentionally fails to perform Ghusl, or if her duty was to perform Tayammum, she intentionally fails to do so, then her fast will be void. If this occurs in a fast other than the fast of the month of Ramadhan, her fast will remain in order, although the recommended precaution is that she perform her Ghusl.

1646. If a woman becomes purified from the state of Haydh or Nifas before the Fajr azan during the month of Ramadhan, but does not have enough time to perform Ghusl, she should then perform Tayammum. Obligatory precaution dictates that she also remain awake until the Fajrazan. The same applies to a person in the state of Janabah, should his duty be to perform Tayammum.

1647. If a woman becomes purified from the state of Haydh or Nifas close to the Fajr azan during the month of Ramadhan, but does not have enough time to perform Ghusl or Tayammum, her fast will nonetheless be in order.

1648. If a woman becomes purified from the state of Haydh or Nifas after the Fajr azan, or observes the blood of Haydh or Nifas during the day, even if it be close to the time of Maghrib, her fast will be void.

1649. If a woman forgets to perform the Ghusl of Haydh or Nifas, and recollects after a day or after a few days, the fasts that she observed will still be in order. The recommended precaution is that she observe the Qadha of those fasts.

1650. If a woman is purified from Haydh or Nifas prior to the Fajr azan during the month of Ramadhan, and she negligently fails to perform her Ghusl prior to the azan time, her fast will be void. However, if she is not negligent of it—such as the case wherein she waits for the public bath to have a ladies only session—then even if she falls asleep thrice, eventually not succeeding to perform her Ghusl, her fast will be in order if she performs Tayammum. If she is not even able to perform Tayammum, then her fast is in order even if it is without performing it.

1651. If a woman who is in Istihadha Katheerah performs her Ghusl in accordance to the rulings that were elaborated in the section on the precepts of Istihadha, her fast will be valid. As for the case of Istihadha Mutawassitah, her fast will be valid even if she does not perform her Ghusl.

1652. A person who has touched a dead body—caused a part of his body to touch a part of the deceased's body—can fast without having performed the Ghusl for it. In fact, even if he were to touch a dead body whilst fasting, his fast will not be voided

8. Getting an Enema

1653. Getting an enema with a fluid will invalidate one's fast, even if a person is compelled to do so and even if it is for treatment purposes.

9. Vomiting

1654. Vomiting deliberately—even if it be out of compulsion due to a sickness or similar condition—will invalidate one's fast. However, there is no harm if a person vomits inadvertently or involuntarily.

1655. If a person consumes something at night, which he knows will cause him to vomit involuntarily the next day, it will not invalidate his fast. The recommended precaution is that

he fast the Qadha of that day's fast.1656. If a person who is fasting can avoid vomiting, he should do so if it does not entail any harm or hardship for him.

1657. If—for example—a fly enters the throat of a person who is fasting, and he is able to remove it without vomiting, he should do so and his fast will be valid. However, if this is not possible, and it is located such that swallowing it would be counted as eating, it should be removed even if it be by vomiting. In this case his fast will be void. However, if it does not amount to eating, he should not remove it, and his fast will be deemed valid.

1658. If a person inadvertently swallows something, and it passes his throat, but he remembers before it reaches his stomach, he will not have to take it out, and his fast will remain valid.

1659. If a person is certain that should he burp, something will be expelled from his throat, then obligatory precaution will dictate that he should avoid burping intentionally. However if he is not certain of it, there is no problem in doing so.

1660. If a person burps, causing something to enter his mouth, he should take it out of his mouth. If it is swallowed involuntarily, his fast will remain in order.

The Rules Pertaining to the Acts which Invalidate the Fast

1661. If a person intentionally and voluntarily commits an act which invalidates the fast, his fast will be invalidated. On the other hand, if it is not committed intentionally, it will not harm his fast. However, if a person in the state of Janabah goes to sleep, and based on the details that were elaborated in article 1636, does not perform his Ghusl prior to Fajr azan, his fast will be void.

1662. If a person who is fasting forgetfully commits an act which invalidates his fast, and then thinking that his fast is invalidated, intentionally commits another act that invalidates a fast, his fast will be void.

1663. If something is forced down the throat of a person who is fasting, it will not invalidate his fast. However, if he is duressed to break his fast, like if he is told that should he fail to eat, his family will be harmed or his property will be damaged, and he eats something to fend off the harm, his fast will as a result be invalidated.

1664. A person who is fasting should not venture into an area where he knows or is fairly satisfied that something will be forced down his throat, or he will be duressed to break his own fast. If he does so, and something is forced down his throat, or he is coerced to commit an act which invalidates his fast, his fast will as a result be invalidated. In fact, even if he makes a conscious decision to go but does not end up going to that place, his fast will nonetheless be invalidated.

Acts which are Makrooh for a Person who is Fasting

1665. A number of acts are Makrooh for one who is fasting. Some of these are:

1. Putting medicine in the eyes, or applying kohl, if its taste or smell reaches the throat
2. Performing any task that weakens the body, such as drawing blood or taking a shower
3. Snuffing (tobacco), if one does not know that it will reach the throat. In the event that he knows it will reach the throat, it is not permissible to snuff it
4. Smelling fragrant herbs
5. Sitting in water, for women
6. Using a suppository
7. Wetting the clothes that one is wearing
8. Getting a tooth pulled out, or any other task that causes bleeding in the mouth
9. Brushing the teeth with a wet stick
10. To put water or any other liquid in the mouth without a valid reason. It is also Makrooh for a man to kiss his wife without the intention of ejaculating, or to do anything that would sexually excite him. Of course, if he does it with the intention of ejaculating, his fast will be void.

Cases wherein the Qadha and Kaffarah are Obligatory

1666. If a person enters the state of Janabah during a night of the month of Ramadhan, and according to the details that were elaborated in article 1636, he wakes up and then goes to sleep again, not waking up until the Fajr azan, he will only have to fast the Qadha of that day. However, if a person intentionally commits another act which invalidates his fast, he will have to fast its Qadha and pay its Kaffarah if he knew that the act will invalidate his fast. The same will apply if he knew that the act is forbidden, but did not know that it invalidates a fast, such as ascribing a lie to God, the prophet or the Infallible Imams (Peace be upon them all).

1667. If a person commits an act that invalidates a fast, believing that it does not, due to his ignorance of its precepts, he will not have to pay the Kaffarah.

The Kaffarah of a Fast

1668. The Kaffarah of a fast of the month of Ramadhan is either:

1. to free a slave
2. to fast for two months, in accordance to the instructions that will be elaborated in the subsequent article.
3. to satiate sixty needy people. A person may also give each of them one Mudd (approximately 10 seers) of food, such as wheat, flour, bread, dates or anything similar. If none of the above is possible for a person, obligatory precaution dictates that he should combine both: giving alms (Sadaqa) to the extent that he can afford, and also seeking forgiveness from Allah. If he is unable to give anything to the poor as sadaqa, he should seek forgiveness, even if it be by saying astagfirullah once. The obligatory precaution is that whenever he is able to, he should pay the Kaffarah.

1669. If a person wishes to pay the Kaffarah for the fast of the month of Ramadhan by fasting for two months, he should fast the fasts of one month and one day (from the subsequent month) consecutively. There is no harm if the rest of the fasts are not observed consecutively.

1670. If a person wishes to pay the Kaffarah for the fast of the month of Ramadhan by fasting for two months, he should not start at a time wherein a day—such as Eid al-Adha—on which fasting is prohibited falls within one month and one day of his starting date.

1671. If a person who must fast consecutively (for a month and one day) fails to fast during one of the days without a valid excuse, he will have to start his fasts from the beginning. The same will apply for a person who starts at a time when he knows that he will come across a day when it is obligatory on him to fast, such as a day for which he has made a Nazr to fast on that particular day.

1672. If a person develops an unavoidable excuse between the days that he must fast consecutively, such as Haydh, Nifas, or an illness, he will not have to start the fasts from the beginning after the excuse has been removed; rather, he may complete the rest of the fasts after the excuse is removed.

1673. If a person invalidates his fast by committing a forbidden act, be it an act which is essentially forbidden such as drinking wine or adultery, or forbidden for a particular reason, such as intercourse with one's wife while she is in Haydh, the combined Kaffarah will become obligatory on him based on obligatory precaution. This means that he will have to free a slave, fast for two months and satiate sixty needy people, or provide each of them with one Mudd (750 grams) of food. If he is unable to perform all three, he should do the ones that he is able to, and based on obligatory precaution he should also seek forgiveness.

1674. If a person who is fasting intentionally ascribes a lie to God, the prophet (May Allah's Blessings be upon him and his progeny) or the Infallible Imams (Peace be upon them all), the combined Kaffarah—as elaborated in the previous article—will become obligatory on him based on precaution.

1675. If a person who is fasting masturbates or has intercourse multiple times during one day of the month of Ramadhan, precaution will dictate that he pay a Kaffarah for each time he engaged in these acts. If the masturbation or intercourse be a forbidden one, then for each time a combined Kaffarah will be obligatory on him based on obligatory precaution.

1676. If a person who is fasting invalidates his fast multiple times during one day of the month of Ramadhan, with an act other than masturbation or intercourse, then one Kaffarah will suffice in lieu of all of them.

1677. If a person who is fasting invalidates his fast with an act other than masturbation or intercourse, and then engages in intercourse or masturbation with his spouse, he will have to pay one Kaffarah for the original act and based on obligatory precaution another Kaffarah for intercourse or masturbation.

1678. If a person who is fasting invalidates his fast with a permissible act, other than intercourse and masturbation, such as drinking water, and then commits another act which is forbidden and invalidates a fast, other than intercourse and masturbation, such as consuming forbidden food, then only one Kaffarah will be sufficient for his case.

1679. If a person who is fasting burps, causing some food to enter his mouth, and then intentionally swallows it, his fast will be invalidated and based on obligatory precaution he will have

to pay its Kaffarah as well. The same will apply if the substance that enters his mouth no longer contains the form of a food. However, in the latter case the recommended precaution is that he pay the combined Kaffarah. If owing to a burp, a substance which is forbidden to consume, like blood, enters the mouth, and a person swallows it intentionally, his fast will be invalidated and he will have to fast its Qadha. Additionally, obligatory precaution dictates that he pay the combined Kaffarah.

1680. If a person makes a Nazr to fast on a particular day, and then intentionally invalidates his fast on that day, he will have to pay its Kaffarah. The Kaffarah for breaking a Nazr is the same as the Kaffarah for breaking an oath, which will be elaborated in article 2734.

1681. If a person breaks his fast relying on the word of a person who claims that the time of Maghrib has set in, but the word of that person is not canonically reliable, and he finds out later on that the time has not yet set in, or doubts whether it has or not, he will have to fast its Qadha and pay its Kaffarah as well.

1682. If a person who intentionally invalidates his fast, travels after Z'uhr, or travels before Z'uhr with the intention of escaping the Kaffarah, he will not be excused from it. The same will apply—based on the stronger view—if a journey comes up for him prior to Z'uhr.

1683. If a person intentionally invalidates his fast, and later develops a valid excuse such as Haydh, Nifas or an illness, the Kaffarah will nonetheless be obligatory on him based on obligatory precaution.

1684. If a person attains certainty or satisfaction that it is the first day of the month of Ramadhan, or a bayyinah (Shar'i witness: two just men, or one just man and two just women, or four just women) is established to that effect, and he intentionally invalidates his fast, but later finds out that it was the last day of Shaban, he will not have to pay its Kaffarah.

1685. If a person doubts whether it is the last of the month of Ramadhan, or the first of Shawwal, and he intentionally invalidates his fast, but later finds out that it was the first of Shawwal, he will not have to pay its Kaffarah.

1686. If a fasting person has intercourse in the month of Ramadhan with his wife who is fasting, and he compels her to it, he will have to pay his own Kaffarah and based on obligatory precaution, his wife's as well. However, if she willingly consents to it, then each of them will have to pay a Kaffarah.

1687. If a woman compels her husband to have intercourse with her, it will not be obligatory on her to pay his Kaffarah.

1688. If a person compels his wife to have intercourse with him, and during the act the wife consents to it, then in this case obligatory precaution will dictate that the man pay two Kaffarahs and the woman one.

1689. If a man has intercourse in the month of Ramadhan with his fasting wife who is sleeping, he will have to pay one Kaffarah. The fast of his wife will remain in order, and she won't have to pay a Kaffarah.

1690. If a man compels his wife to commit an act that invalidates the fast, other than intercourse, or a woman compels her husband to do so, neither of them will have to pay a Kaffarah.

1691. If a person does not fast owing to a journey or an illness, he cannot compel his fasting wife to have intercourse with him. However, if he does compel his wife to do so, he will not have to pay the Kaffarah.

1692. A person should not be negligent about paying his Kaffarah. However, it is also not necessary for him to pay it off immediately.

1693. If a Kaffarah becomes obligatory on a person, and a few years elapse without him paying it, no increase takes place on the Kaffarah.

1694. If a person has to satiate sixty needy persons to pay the Kaffarah of one fast, he can neither satiate one person twice or more, nor can he pay more than one Mudd to each of them, and count the extra towards his Kaffarah. He can however satiate a needy person along with his family—even if they include minors, but only if they are of an age whereby the concept of feeding them holds true in the common understanding—or he may also give one Mudd to the guardian (wali) of the minor to be given to the minor.

1695. If a person fasts the Qadha of the fast of the month of Ramadhan, and intentionally commits an act after Z'uhr that invalidates his fast, he should give one Mudd of food to

ten needy persons. If he cannot do so, he should fast for three days, and the more precautionous measure is that he fast them consecutively.

Cases wherein Only the Qadha of the Fast is Obligatory

1696. There are some cases wherein only the Qadha of the fast is obligatory, and not the Kaffarah. These are:

1. A person enters the state of Janabah during a night of the month of Ramadhan, and according to the details which were elaborated in article 1638, fails to wake up from his second or third sleep until the Fajr azan.

2. A person does not commit any act that invalidates his fast, however he either fails to make the intention to fast, or is ostentatious in his intention, or actually intends it not to be a fast, or intends to commit an act which invalidates the fast.

3. A person forgets to perform the Ghusl of Janabah during the month of Ramadhan, and in that state observes a fast for one day, or for a few days.

4. A person, without investigating personally whether it has dawned or not, commits an act which invalidates his fast, only to realize later on that it had in fact dawned. Similarly, if a person after investigating speculates that it has dawned, or doubts whether it has dawned or not, and then commits an act which invalidates his fast, only to realize later on that it had dawned, the Qadha of that day's fast will be obligatory on him.

5. Another person informs him that it has not dawned, and the subject commits an act which invalidates his fast, realizing later on that it had already dawned.

6. Another person states that it has dawned, and a person does not attain certainty in his statement, or thinks that he is joking, and commits an act that invalidates his fast, only to realize later on that it had already dawned.

7. A blind person, or persons similar to him, breaks his fast at the word of another person, but later realizes that it was not the time of Maghrib.

8. Despite clear skies, a person attains certainty that time of Maghrib has set in owing to the darkness in the sky, and breaks his fast only to realize later on that the time of Maghrib had not yet set in. However, if a person breaks his fast on a cloudy evening, thinking that it is the time of Maghrib, but later realizes that it was not, he will not have to fast its Qadha.

9. A person rinses his mouth with the intention of cooling himself, or for no good reason, and ends up swallowing the water involuntarily. However, if he had forgotten that he was fasting, and swallows the water, or rinses his mouth for the Wudhu of an obligatory prayer, and swallows it involuntarily, then the Qadha of that fast will not be obligatory on him.

10. A person breaks his fast owing to duress, an emergency, or Taqiyyah (dissimulation).

1697. If a person puts something other than water in his mouth or nose, and then swallows it involuntarily, no Qadha will be obligatory on him.

1698. It is Makrooh for a person who is fasting to do istinshaq (rinsing the nose) or rinsing the mouth frequently. If a person wishes to swallow his saliva after rinsing the mouth, it is better that he first spit out his saliva three times.

1699. If a person knows that should he rinse the mouth or perform istinshaq (rinsing the nose), water will enter his throat, be it involuntarily or out of forgetfulness, then such a person must avoid rinsing the mouth or doing istinshaq (rinsing the nose).

1700. If a person in Ramadhan attains certainty after investigating that it has not dawned, and commits an act that invalidates his fast, only to realize later on that it had already dawned, he will not have to fast its Qadha.

1701. If a person doubts whether the time for Maghrib has set in or not, he cannot break his fast. However, if he doubts whether it has dawned or not, he may commit an act which invalidates his fast, even before investigating.

The Rules of a Qadha Fast

1702. If an insane person regains his sanity, it will not be obligatory upon him to fast the Qadha of the fasts from the period that he was insane.1703. If a Kafir becomes a Muslim, it will not be obligatory upon him to fast the Qadha of the fasts from the period that he was a Kafir. However, if a Muslim becomes a Kafir, he will have to fast the Qadha of the fasts that he did not observe when he was a Kafir. These fasts will not be lifted from him—owing to his acceptance of Islam—even if he reverts to Islam.1704. If a person fails to fast due to being intoxicated, he will have to fast its Qadha, even if the intoxicating substance was consumed for treatment purposes.1705. If a person does not fast for a few days owing to a valid excuse, but later develops a doubt as to when his excuse came to an end, obligatory precaution will dictate that he fast the Qadha of the greater number of days that he feels were missed. For example, if a person who embarked on a journey prior to the month of Ramadhan cannot remember if he returned on the fifth or the sixth of the month, obligatory precaution dictates that he fast the Qadha of six days. However, if a person does not know when exactly he developed the excuse, he can fast the Qadha of the lesser number of days. For example, if a person embarked on a journey towards the end of the month of Ramadhan, and returned after the holy month, but does not remember whether he travelled on the 25th of the holy month or the 26th, he can fast the Qadha of the lesser amount, which is five days in this case (assuming a month of thirty days). The recommended precaution is that he fast the greater number of days.1706. If a person has to fast the Qadha of the fasts from a number of Ramadhans, there is no problem in beginning with the Qadha of any one of the years. However, if the time remaining for fasting the Qadha of the preceding Ramadhan is constrained—for example, he has to offer the Qadha of five fasts from the previous month of Ramadhan, and only five days remain to the next month of Ramadhan—then obligatory precaution dictates that he begin with the Qadha of the preceding month of Ramadhan.1707. If the Qadha of the fasts of a number of Ramadhans are obligatory upon a person, when fasting

the Qadha he does not have to specify the Qadha of which Ramadhan he is fulfilling, unless there is a difference between the two fasts with regard to their effect.¹⁷⁰⁸ When fasting the Qadha of the month of Ramadhan, a person may invalidate his fast prior to Z'uhr. However, if the remaining days are not sufficient for observing the qadhas, he may not invalidate his fast based on obligatory precaution ¹⁷⁰⁹. If a person is fasting the Qadha of a deceased person, the recommended precaution is that he should not invalidate his fast after Z'uhr.¹⁷¹⁰ If a person does not fast in the month of Ramadhan owing to a sickness, Haydh or Nifas, and then dies before the end of the month of Ramadhan, or after it but before regaining his ability to fast, then there is no Qadha for the fasts that he did not observe.¹⁷¹¹ If a person does not fast in the month of Ramadhan owing to a sickness, and that sickness persists until the subsequent month of Ramadhan, the Qadha of the fasts that he did not observe will not be obligatory on him. He will have to give one Mudd of staple food to a needy person for each day (that he did not fast). However if a person had failed to fast owing to any other excuse, such as travelling, and his excuse persists to the next month of Ramadhan, he will have to fast the Qadha of the fasts that he missed. The obligatory precaution is that he also give one Mudd of staple food to a needy person for each day (that he did not fast).¹⁷¹² If a person does not fast in the month of Ramadhan owing to an illness, and he is cured after the month of Ramadhan, but develops another excuse due to which he is unable to fast its Qadha until the next month of Ramadhan, he will nonetheless have to fast the Qadha of the missed fasts. Similarly, if a person develops an excuse other than sickness in the month of Ramadhan, and after the month of Ramadhan he is divested of his excuse, but is unable to fast until the next month of Ramadhan owing to an illness, he will have to observe the Qadha of the fasts that he missed. In both cases, the obligatory precaution is that he give one Mudd of food to a needy person for each day (that he missed).¹⁷¹³ If a person fails to fast in the month of Ramadhan owing to an excuse, and the excuse is removed after the month of Ramadhan, but he deliberately fails to observe the Qadha of the missed fasts until the next month of Ramadhan, he must observe the Qadha of the missed fasts, and

for each missed fast he must give one Mudd of food to a needy person.¹⁷¹⁴ If a person is negligent in observing the Qadha of a fast until the remaining days become constrained, and he develops an excuse during those days, he must offer its Qadha and give one Mudd of staple food to a needy person for each day. Similarly, if a person has the intention of observing the Qadha of his missed fasts after his excuse is removed, but before he is able to fast its Qadha, he develops an excuse once the time becomes constrained, he must observe the Qadha of those fasts, and based on obligatory precaution, he should also give one Mudd of food for each day.

1715. If the illness of a person persists for some years, after he recovers from his illness, he will have to fast the Qadha of the preceding month of Ramadhan. For each day from the previous years, he will have to give one Mudd of staple food to a needy person for each day.

1716. A person who must give one Mudd of staple food to a needy person for one day may also give the Kaffarah of several days to one needy person.

1717. If a person delays fasting the Qadha of the fast of the month of Ramadhan for a few years, he must observe its Qadha and must also give one Mudd of staple food to a needy person for each day, for failing to observe its Qadha in the first year. However, as for delaying its Qadha in the subsequent years, nothing extra will be obligatory on him.

1718. If a person deliberately fails to fast a fast of the month of Ramadhan, he must offer the Qadha of that fast and for each day he must free a slave, or feed sixty needy persons, or fast for two months. Should he fail to fast its Qadha before the next month of Ramadhan, then for each day he must give one Mudd of food to a needy person.

1719. If a person deliberately fails to observe the fast of the month of Ramadhan, and masturbates or engages in intercourse multiple times during the day, based on obligatory precaution his Kaffarah will also get multiplied equivalently. However, if he repetitively commits another act which invalidates the fast, such as eating food a number of times, then only one Kaffarah will suffice.

1720. After the death of a father, his eldest son must fast the Qadha of his fasts according to the details elaborated in article 1398.

1721. If a father fails to observe a fast other than the fast of the month of Ramadhan, such as the fast of a Nazr, then it will be obligatory on his eldest son to observe its Qadha. However, if he was hired to observe some fasts, and failed to do so, the eldest son will not have to observe its Qadha.

The Precepts Pertaining to a Traveler's Fast

1722. A traveler who has to offer two Rak'ah for every four Rak'ah prayer, should not fast. As for a traveler who offers his prayer in full, such as someone whose profession is travelling, or has embarked on a sinful journey, he must fast while travelling.

1723. There is not problem in travelling during the month of Ramadhan, albeit it is Makrooh, even if it is not for the purpose of avoiding the fasts, unless his journey is borne out of necessity, or—according to some narrations—is for going to Hajj or umrah.

1724. If a person is obligated to fast on a particular day, other than the fast of the month of Ramadhan, and if that obligation is borne out of a person's right over him, such as someone who has been hired to fast on a particular day, then he cannot travel on that day. The same will apply, based on obligatory precaution, to a date-specific obligatory fast other than the fast of a Nazr, such as the fast for the third day of I'tikaaf. However, if the fast has become obligatory on a particular day due to a Nazr, then the stronger opinion is that the person can travel on that day, and fast on a day other than that day.

1725. If a person makes a Nazr to fast without specifying its exact day, he cannot observe it while travelling. However, if he makes a Nazr to fast on a particular date while travelling, he will have to observe it while travelling. Similarly, if he makes a Nazr to fast on a particular day, be he traveling or not, then he must fast on that day even if he is traveling.

1726. A traveler can fast recommended fasts for three days in Madina, for seeking the fulfillment of his needs. The obligatory precaution in this case is that the three days should be Wednesday, Thursday and Friday.

1727. If a person does not know that the fast of a traveler is not valid, and fasts while travelling, but realizes during the day, his fast will be invalidated. However, if he does not find out until Maghrib, his fast will be in order.

1728. If a person forgets that he is a traveler or forgets that the fast of a traveller is not valid, and observes fast while journeying, his fast is invalid.

1729. If a person who is fasting embarks on a journey after Z'uhr, he must complete his fast. If he travels before Z'uhr, his fast will be invalidated the moment he reaches the limit of permissibility. Should he commit an act which invalidates the fast prior to reaching it, the Kaffarah will become obligatory on him.

1730. If a traveler reaches his hometown prior to Z'uhr in the month of Ramadhan, regardless of whether he was journeying before Fajr or he embarked on his journey whilst fasting, and has not committed any act which invalidates the fast, then he must observe the fast of that day. If he has committed such an act, the fast of that day will be void. The same will apply to a person who reaches a place where he intends to stay for ten days.

1731. If a traveler reaches his hometown after Z'uhr, or a place where he intends to reside for ten days, his fast for that day will not be valid.

1732. It is Makrooh for a traveler or one who is excused from fasting to engage in intercourse during days of the month of Ramadhan, eat more than his fill or completely quench his thirst.

People Who are Excused from Fasting

1733. A person who cannot fast due to old age, or because it entails hardship for him, is excused from fasting. In the latter case, he must give fidyah for each missed fast, which is one Mudd of staple food. The recommended precaution is that he give wheat in particular.

1734. If a person who did not fast due to old age, is able to fast after the month of Ramadhan, he will not have to observe the Qadha of the missed fasts.

1735. If a person is afflicted with an illness that makes him extremely thirsty, and he is unable to bear the thirst, or it entails hardship for him, then he is excused from fasting. However, in the latter case, he must give one Mudd of staple food to a needy person for each missed fast. The recommended precaution is that he avoid drinking more than what he is compelled to consume. If he develops the ability to fast after the month of Ramadhan, there is no Qadha for the missed fasts.

1736. If a pregnant woman is close to her delivery date, and fasting is harmful for her or her baby, her fast is not valid. In the latter case, she should give one Mudd of staple food to a needy person. The same applies to the first case as well, based on recommended precaution. She must also observe the Qadha of the fasts that she missed.

1737. If a woman is nursing a child, and her milk supply is less, regardless of whether she is the mother of the child or not, and regardless of whether she is being hired to give milk or not provided that fasting is harmful for the baby she is nursing or for herself, her fast is not valid. In the first case (harm to the baby), she must give one Mudd of staple food to a needy person, and similarly in the latter case, based on recommended precaution. She must also observe the Qadha of the fasts that she missed. The above ruling only applies in the case where the child cannot be milk-fed in any other manner. If it is possible, then it is obligatory for her to fast

Ways of Establishing the Beginning of the Lunar Month

1738. The first of the lunar month can be established in a few ways:

1. A person himself sights the crescent
2. A group of people whose word brings about certainty or satisfaction, state that they have sighted the crescent. The same applies to anything through which one attains certainty or satisfaction.
3. Two just persons state that they have sighted the crescent on the same night. However if the characteristics that they claim for the crescent contradict each other, the first of the month will not be established. The same will apply if their claim is not verifiable, such as a case wherein the skies are clear and a large number of observers—besides these two—attempt to sight the crescent, but despite all their efforts, they fail to do so.
4. Thirty days elapse after the beginning of the month of Shaban, which then heralds the beginning of the month of Ramadhan. Similarly, if thirty days pass after the beginning of the month of Ramadhan, it will herald the beginning of the month of Shawwal.

1739. It is problematic that the first of the month be proven through declaration of a Hakimshara'.

1740. The first of the month is not established by the calculations of the astronomers. However if a person attains certainty or satisfaction in their calculations, he will have to act according to it.

1741. The altitude of the moon, or the time it takes to set, is not proof that the previous night was the first night of the month. However, if the crescent is sighted before Z'uhr time, then that day will be considered the first of the month. And whether seeing a halo tablet around the moon proves that the previous night was the first eve of the month is problematic.

1742. If the first of the month of Ramadhan is not established for a person, and he does not fast on that day, only to realize later on that the previous night was in fact the first night of the month, he will have to observe the Qadha of that day.

1743. If the sighting of the moon is established in one city, it will also be established in the cities that share the majority of the night with it, regardless of whether they are near or distant, and regardless of whether they share a single horizon or not. However, if they do not share the majority of the night with it, it will be problematic to establish it in the other cities.

1744. The first of the month cannot be established by information sent over telegram, unless a person knows that the telegram was based on a canonical proof.

1745. A person must fast on the day on which he doubts whether it is the last of the month of Ramadhan or the first of Shawwal. However, should he realize prior to the time of Maghrib that it is the first of Shawwal, he must break his fast.

1746. If a prisoner has no means of establishing the beginning of the month of Ramadhan, he may act upon his conjecture regardless of how it is acquired. If even that is not possible, he should fast during any month that he conceives to be the month of Ramadhan, and his fasts will be valid. However, after the passage of eleven months from that month that he fasted, he must fast once again for another month. Should he later realize that the month that he selected was not the month of Ramadhan, then if the month of Ramadhan occurred prior to that month, his fasts will suffice. However, if it emerges that it occurred after it, he will have to observe their Qadha.

Fasts which are Forbidden or Makrooh

1747. The fast of the day of Eid al-Adha and Eid al-Fitr are forbidden. Similarly, if a person does not know whether it is the last day of Shaban or the first day of the month of Ramadhan, but fasts with the intention of the first day of the month of Ramadhan, it will be forbidden.

1748. If a woman violates the right of her husband by observing a recommended fast, then she must not fast. In fact, even if his rights are not infringed upon, the recommended precaution is that she should not fast without his permission.

1749. It is forbidden for children to fast if it hurts their parents.

1750. If a son or daughter observes a recommended fast without seeking his father's permission, and the father prohibits him from it during the day, he will have to break his fast if disobeying his father would hurt him. The same will apply if the mother prohibits him and disobeying her would hurt her.

1751. A person who knows that fasting is not harmful for him must fast, even if a doctor says that it is harmful for him. On the contrary, if a person is certain or has a reasonable doubt that it will cause a significant harm to him, or fears the harm—given that it is a fear that has basis amongst intelligent people—then he must not fast, even if a doctor says that it is not harmful for him. If he does fast, it will not be in order, unless the fast turns out not to be harmful for him and he had made the intention of attaining proximity to Allah. In this case, the fast will be valid.

1752. If a person considers it possible that fasting would entail a significant harm for him, and through that possibility, he develops a fear (for the harm), he must not fast if the possibility that he entertains is considered reasonable by intelligent people. Should he fast, it will not be valid, unless it turns out not to be harmful for him, and he had made the intention of attaining proximity.

1753. If a person believes that fasting will not cause him any significant harm, and having fasted, he realizes after Maghrib that it did in fact entail significant harm for him, he will have to observe its Qadha.

1754. Other than the aforementioned forbidden fasts, there are other fasts which are forbidden as well, and have been mentioned in more detailed texts.

1755. The fast of the day of Ashura is not permissible based on obligatory precaution. As for fasting on the day that a person doubts whether it is the day of 'Arafah or the day of Eid al-Adha, it is Makrooh to do so.

The Recommended Fasts

1756. Fasting on any day of the year—other than the fasts which are forbidden or Makrooh, as mentioned earlier—is recommended. In fact, the recommendation of fasting on certain days has been emphasized, of which some are listed below:

1. The first and last Thursday of the month, and the first Wednesday that occurs after the tenth of the month. If someone fails to fast on those days, it is recommended that he fast its Qadha. If he is completely unable to fast, it is recommended that he give one Mudd of staple food or 12.6 Nukhud of minted silver to a needy person.

2. The thirteenth, fourteenth and fifteenth of every month.

3. The entire month of Rajab and Shaban, or a part of the two months, even if it be for one day.

4. The day of id of Nowruz.

5. The fourth to the ninth of Shawwal.

6. The twenty fifth and the twenty ninth day of Dhu al-qa'dah.

7. The first to the ninth day (the day of 'Arafah) of Dhu al-Hijjah. However, if owing to weakened state, a person is unable to recite the supplications of the day of 'Arafah, then it will be Makrooh for him to fast on that day.

8. The felicitous day of Eid al-Ghadeer, the 18th of Dhu al-Hijjah.

9. The day of Mubahila, the 24th of Dhu al-Hijjah.

10. The first, third and seventh day of Muharram.

11. The day of the blessed birth of the holy prophet (May Allah's Blessings be upon him and his progeny), the 17th of Rabi al-Awwal

12. The 15th day of Jamadi al-Awwal.

13. The day of the mab'ath of the holy prophet (May Allah's Blessings be upon him and his progeny), the 27th of Rajab. If someone fasts a recommended fast, it is not obligatory upon him to complete it. In fact, if his brother in faith invites him to a meal, it is recommended that he accept his invitation, and break his fast during the day, even if it be after Z'uhr.

Cases where it is Recommended for a Person to Refrain from the Acts which Invalidate a Fast

1757. It is recommended for certain individuals to refrain from committing the acts which invalidate a fast during the month of Ramadhan, even though they are not fasting on that day. These are:

1. A traveler who commits an act which invalidates his fast while he is traveling, and then returns to his hometown before Z'uhr, or a place where he intends to reside for ten days.

2. A traveler who returns to his hometown after Z'uhr, or to a place where he intends to reside for ten days.

3. A patient who recovers from his illness after Z'uhr. The same applies to one who recovers before Z'uhr, but has already committed an act which invalidates his fast.

4. A woman who becomes purified from the blood of Haydh or Nifas during the day.

1758. It is recommended for a person who is fasting, to offer his Maghrib and I'sha prayers before breaking his fast. However, if somebody is waiting for him, or if he has a deep craving for food, to the extent that he cannot concentrate in his prayer, then it is better that he first break his fast. He should however offer the prayer in its prime time as much as is possible.

The Rules of I'tikaaf

I'tikaaf is an act of worship. The Shar'i I'tikaaf is comprised of a stay or residence in a mosque with the intention of attaining proximity (to Allah). The recommended precaution is that his stay should be coupled with intention of performing acts of worship, such as prayers. There is no particular time that has been prescribed for the I'tikaaf, and it is valid during any period when fasting is also valid.

1759. The following conditions are valid in I'tikaaf:

1. The one performing I'tikaaf should be a sane person. The I'tikaaf of a distinguishing child is also valid.

2. The intention of attaining proximity as it was detailed in the section on Wudhu.

3. Fasting. Therefore, a person whose fast is invalid, such as a traveler who does not intend to reside in a place for ten days, cannot perform I'tikaaf.

4. It should be held in Masjid al-Haraam, Masjid al-Nabawi, the Masjid of Kufa, the Masjid of Basra, or the central mosque of a city.

5. The permission of the one whose permission is legally valid. Therefore, the I'tikaaf of a wife without the permission of her husband, in the event that it violates his right, is not valid.

6. The stay should be for a period of three days, and the two nights that occur between the three days, inside the mosque that he is performing I'tikaaf. He may not leave the mosque, except for some necessary reasons. He may also leave the mosque to visit a sick person, to take part in a burial ceremony, or to perform the last rites for a deceased, such as the Ghusl, prayer and burial. In the cases where he is permitted to leave the mosque, he should not remain outside the mosque for a period that is more than the period required to perform that task. The obligatory precaution is that he should return to the mosque using the shortest possible route. He should also avoid sitting down outside the mosque, and in the event that he is compelled to do so, he should avoid sitting under a shade, if possible.

1760. Having started the I'tikaaf, a person may decide to return from it and void it as long as two days have not elapsed, in

the event that it is not a date-specific I'tikaaf, such as one undertaken to fulfill a Nazr to perform I'tikaaf on particular dates. However, if while forming his intention he stipulates that in the event that something comes up for him, he can choose to return from his I'tikaaf, he may return from it even if two days have passed.

1761. A person who is engaged in I'tikaaf must refrain from certain acts, committing which will void the I'tikaaf. However, the obligation to refrain from them—other than intercourse—in an I'tikaaf which is not a date-specific obligation, is based on obligatory precaution. These acts are:

1. Sexual intercourse, and obligatory precaution will dictate the same of masturbation, and coming in direct contact with a woman by touching or kissing her with desire.

2. Fragrant scents.

3. Buying or selling, which will invalidate the I'tikaaf, but the transaction itself will not be invalidated. Obligatory precaution dictates that one should avoid all forms of transactions, even if it is in the form of a settlement, mudharabah or lease. Should a person be urgently compelled to buy or sell something, and be unable to appoint an agent, it will then be permissible.

4. Engaging in debates with the intention of overcoming the adversary and showing off one's superiority, regardless of whether the debate pertains to a worldly matter, or a religious matter.

1762. If a person intentionally engages in sexual intercourse while performing I'tikaaf, be it during the day or during the night, a Kaffarah will become obligatory on him. The Kaffarah in this case is that he either free a slave, or fast consecutively for two months, or feed sixty needy persons. If a person commits any of the other acts that invalidate I'tikaaf, other than intercourse, no Kaffarah will be obligatory on him.

1763. If the person engaged in I'tikaaf inadvertently commits one of the acts which invalidate I'tikaaf, then to claim that it is still valid is problematic.

1764. If a person invalidates his I'tikaaf by committing one of the aforementioned acts, in the event that it is an obligatory non-specific I'tikaaf—such as a Nazr made to perform I'tikaaf without specifying a particular time—then he will have to perform it again. In the event that it is an obligatory date-

specific I'tikaaf —such as a Nazr made to perform I'tikaaf at a particular time—or a recommended I'tikaaf, wherein the act is committed after the passage of two days, he will have to offer its Qadha based on obligatory precaution. If he commits the act in a recommended I'tikaaf prior to the passage of two days, he will not have to observe its Qadha.

1765. Leaving one I'tikaaf for another is not permissible, be they both obligatory—such as one obligated by a vow and another by swearing to perform it—or both recommended, or one obligatory and one recommended. It will also not matter if one is for oneself and the other is by proxy or being hired to perform I'tikaaf, or both are being done by proxy.1766. If a person engaged in I'tikaaf sits on a usurped carpet, he will have committed a sin, but his I'tikaaf will not be invalidated. However, if another person precedes him in acquiring the spot, and the one performing I'tikaaf takes the spot without seeking the person's consent, his I'tikaaf in that spot will be invalid.

1767. If Ghusl becomes obligatory on the person who is engaged in I'tikaaf, he is not permitted to leave the mosque as long as he is not prohibited from performing Ghusl in the mosque, such as the Ghusl for touching a dead body. If he is, such as the Ghusl of Janabah which necessitates that a person remains inside the mosque in the state of Janabah, he will have to leave the mosque. If he fails to do so, his I'tikaaf will be rendered invalid.

Chapter 51

The Precepts of Khums

1768. It is obligatory to pay Khums on the following seven things:

1. The profits from one's earnings
 2. Minerals
 3. Treasure troves
 4. Wealth which is an amalgamation of legal and illegal gains
 5. Precious stones which are acquired by diving under the sea.
 6. The spoils of war
 7. The land which a Zimmi purchases from a Muslim
- The precepts regarding these seven things have been elaborated in the following articles.

1. The Profits from One's Earnings

1769. Whenever a person acquires wealth from commercial transactions, skilled trade or any other form of earning, even if it be the wages for performing the prayers or fasts of a deceased, then should it exceed his yearly expenses and that of his dependants ('iyal), he will have to pay its Khums (one fifth of it) according to the instructions which will be elaborated in later articles.

1770. If a person acquires wealth without earning it, like acquiring a gift, which is of significant amount and value in the eyes of the people, and it exceeds his yearly expenses, he will have to pay its Khums as well.

1771. Khums is not due on the wealth that a woman acquires as her mahr, nor the wealth that a man comes to possess from

a Khul'a divorce. Similarly, Khums is not due on that which a person comes to own through inheritance. However, if for example a person is related to another, but does not expect to inherit from him, he will have to pay Khums on that which he inherits from him should it exceed his yearly expenses.

1772. If the wealth of a person who prescribes to the precept of Khums is inherited by a person, and the inheritor knows that the person has not paid Khums on the wealth that is being inherited, he will have to pay Khums on it after seeking permission from the Hakim al-Shar'i. However, if the wealth that is being inherited is not liable for Khums, but the one being inherited owes an amount of Khums, then what he owes will be treated like the rest of his debts, and as long as those debts are not paid off, he will have no right to utilize the inheritance. Should the inheritor want to pay the owed Khums from the inheritance that he received, he will have to seek permissions from the Hakim al-Shar'i.

1773. If a person saves some extra money at the end of the year because being frugal in his spending, he will have to pay Khums on it.

1774. If a person's expenditures are covered by someone else, he will have to pay Khums on his entire earnings.

1775. If a person endowes a property to a particular person(s), like his sons, and the property is farmed or trees are planted on it, yielding produce that exceeds their yearly expenditure, they will have to pay Khums on it. The same will apply if they earn a profit from the property through a different scheme, such as renting it out, in which case they will have to pay Khums on the amount that exceeds their yearly expenditure.

1776. If the wealth acquired by a poor person from the dues of Khums or Zakat exceed his yearly expenditure, obligatory precaution will dictate that he pays Khums on it. Additionally, if the dues yield an additional profit for him, such as fruits from a tree which has been given to him as one's dues of Khums, and it exceeds his yearly expenditures, he will have to pay Khums on it. As for the money that is given to him in form of charity (sadaqah), he will have to pay Khums on it if it exceeds his yearly expenses.

1777. If a person purchases a commodity with the very money whose Khums has not been paid, informing the seller that he would be paying for the transaction with that very money, the transaction will be valid as long as the Hakim al-Shar'i allows using one-fifth of it in a transaction. The buyer will then have to submit one fifth of the commodity to the Hakim al-Shar'i. However if he does not allow to it, the transaction with respect to that amount is invalid. Therefore, if the money acquired by the seller is still available, the Hakim al-Shar'i will take one-fifth of that. However, if it is no longer available, he will demand an equivalent to that one-fifth from the seller or the buyer.

1778. If a person buys a commodity on credit, and then pays for it with money on which Khums has not been paid, the transaction will be valid. The buyer will however be in debt to the seller for one fifth of the payment. As for the amount that was paid, if it is still available, the Hakim al-Shar'i will take one fifth of it. If it is no longer available, he may demand its replacement from the buyer or the seller.

1779. If a person purchases a commodity on which Khums has not been paid, and should the Hakim al-Shar'i not permit the transaction of one fifth of it, one fifth of the transaction will be invalid, and the Hakim al-Shar'i may confiscate one fifth of it. In the event the Hakim al-Shar'i permits it, the transaction is valid and the purchaser should pay an equivalent to the one fifth of its payment to the Hakim al-Shar'i. If he has given it to the seller, he may repossess that amount.

1780. If a person gifts something of his wealth, whose Khums has not been paid to another individual, ownership over one fifth of that property will not materialize for the person receiving the gift.

1781. If a twelver Shi'a acquires some property from a disbeliever or someone who does not prescribe to the precepts of Khums, he will not be liable to pay its Khums.

1782. If a tradesman, merchant, artisan or someone with a similar profession, acquires profit from a transaction—which will be the beginning of their financial year—they will be liable to pay Khums on that which exceeds their yearly expenditure after one year has passed from the transaction. If a person is not a merchant by profession, but acquires some profit

incidentally, he should pay Khums on that which exceeds his yearly expenditure after a year passes from date he acquired the profit.

1783. A person has the option to pay Khums on the profit that exceeds his expenditure, either from the time he acquires the profit, or he may postpone the payment until the end of the financial year. Obligatory precaution dictates that the one should measure his financial year according to the lunar calendar.

1784. If a person has a fiscal year for paying his Khums, like a merchant or a trader, and he makes a profit but dies before the fiscal year comes to an end, the expenditure incurred up until the time of his death should be deducted from the profit, and Khums should be paid on the remaining sum.

1785. If the commodity a person purchases for trade appreciates in value during the year, and he does not sell it, then should the value of the commodity depreciate before his financial year comes to an end, he will not be liable to pay Khums on the value that had increased during the year.

1786. If the commodity that a person purchases for trade appreciates in value, and he does not sell it until after the completion of his financial year, in the hope that its value would further appreciate, then should the commodity decrease in value, he will not be liable to pay Khums for the increase in value so long as the period of time he kept the commodity is common between businessmen. However, if he kept it for a period more than that without a justifiable reason, obligatory precaution will dictate that he pay Khums on the increased value.

1787. If a person possesses non-trade property, which is not liable to Khums, and if he has inherited it, he will not be liable to pay Khums on the appreciated value, even if he sells it. The same will apply if he became its owner without an exchange, regardless of whether it was not liable for Khums from beginning, such as a needed place of residence that has been gifted to him and has been utilized as a part of his yearly expenditure, or it was liable for Khums and its Khums was paid from the property itself, such as a property that is owned by hiyazah (acquisition of unclaimed land), the Khums of which has been paid. However, if he comes to own it through an

exchange, and its value increases, he will not be liable to pay Khums on it as long as he does not sell it. Should he sell it, then if the non-trade property is not part of his expenditure, the appreciated value is liable to Khums. If it however is a part of his expenditure, the obligatory precaution will be that he pays Khums on the appreciated value. In both cases, if it is spent on his yearly expenditure, it will not be liable to Khums.

1788. If a person establishes a garden with the intention of selling it after it appreciates in value, he should pay Khums on its fruits, growth of the trees, and based on obligatory precaution, the increased value of the garden. If he intends to trade with the fruits (of the garden), he should pay Khums on the fruits and the growth of the trees. However, if he intends to make personal use of the fruits, he should only pay Khums on the fruits that exceed his yearly use.

1789. If a person plants a willow tree, plane tree or trees similar to them, he should pay Khumsevery year on their yearly growth if he has paid Khums on the trees themselves. The same will apply if for example, he makes use of the branches that are usually pruned on a yearly basis, and his profits from those branches or in addition to other profits exceed his yearly expenditure, in this case, he will have to pay Khums on it at the end of the year. However, in the event that he has not paid Khums on the tree, and it has grown, he will have to pay Khums on the tree itself, and the growth of the Khums, and the growth of his own share.

1790. If a person has numerous sources of income, for example, he receives rent from a property, trades merchandize, and cultivates land for agriculture, he should pay Khums of the acquired profit from all the sources of income that exceed his yearly expenditure. If he acquires profit from one of the sources, but incurs a loss from the others, the recommended precaution will be that he pay Khums on the profit he acquired.

1791. The business expenses incurred by a person, such as brokerage fees or shipping costs, are considered a part of the expenses incurred in order to gain a profit. He may deduct it from the acquired profit, and there shall be no Khums on that sum.

1792. A person will not be liable to pay Khums on what is utilized as a part of his yearly expenditure, such as the

expenses incurred for food, clothing, household furniture, household items, marriage of one's child, or dowry for one's daughter, ziyarah trips and any expenses similar to these, provided the expenses concur with his status.

1793. The expenses incurred for a Nazr or Kaffarah are a part of a person's yearly expenditure. The same applies to property that a person gifts to another, or gives as a prize, provided that the expenses concur with his status.

1794. If a person lives in a city where the daughter's dowry is collected over a number of years, then in the event that he is unable to procure it in any other manner, and failing to procure the dowry is incompatible with his status, he will not be liable to pay Khums on what he spends on his daughter's dowry if he buys it from the profits of that year and during the same year. However, if he purchases the dowry items the next year from the profit he acquired this year, he will have to pay Khums on it.

1795. The expenses incurred for Hajj or ziyarah are a part of a person's yearly expenditure that he has spent within that year. However, if his trip is prolonged to a part of the next year, he will be liable to pay Khums on the sum he spent from the profit acquired from the previous year.

1796. If a person acquires profit from an employment or a business, and he has other wealth which is not liable to Khums, he may deduct his yearly expenditure solely from the wealth he acquired that year.

1797. A person must give as Khums one fifth from the provisions that he buys for use during the year using profits of his earnings, if it remains at the end of the year. However, if he wishes to give its value, then if it has appreciated in value from the time that he bought it, he should pay its value at the end of the year.

1798. If a person purchases household items from his profits prior to paying Khums on it, he will not have to pay Khums on the items after he ceases to need them. The same will apply to women's jewelry, so long as the time for adorning herself with them has passed.

1799. If a person does not make a profit in a year, it will not be permissible for him to deduct the expenses incurred in that year from the profit acquired in the subsequent year.

1800. If a person does not make any profit in the beginning of a year, and uses a part of his capital to meet the expenses incurred at the time, then should he make a profit by the end of that year, he cannot not deduct the amount he used from his capital from the profit he acquired.

1801. If a person incurs a loss on a part of his capital in a business or similar scheme, he may deduct the loss from profit he acquired prior to incurring the loss.

1802. If a person suffers a loss on property other than his capital, he may not use the profit he acquires to compensate for the loss, unless he requires the property he has lost within the same year; in this case, he may use the profit acquired that year to compensate for it.

1803. If a person incurs a loan in the beginning of the year in order to meet his expenses, but acquires some profit prior to the end of the year, he cannot deduct the amount of the loan from the profit he has acquired, except in the event he took the loan after he acquired the profit. However, he may deduct the loan from the profits acquired during the year (not at its end).

1804. If a person is unable to procure a profit throughout a year, and incurs a loan in order to meet his expenses, he cannot deduct the amount of the loan from the profit he acquires in the subsequent years. However, he may repay the loan from that profit.

1805. If a person incurs a loan in order to increase his wealth, or purchase property that he does not require, he cannot deduct the amount of the loan from the profit he acquires. However, if the amount that he loans is lost, or the item that he buys with perishes, he may pay off the loan from the profits of that year.

1806. A person has the option to pay the Khums of an item from the item itself, or pay its value in the common currency. Obligatory precaution dictates that he should not pay the Khums of an item with another item without obtaining the permission of the Hakim al-Shar'i.

1807. If a person's wealth is subject to Khums, and a year has passed, he may not utilize that wealth until he pays its Khums, even if he intends to pay its Khums, unless he obtains the permission of the Hakim al-Shar'i. However, there is no

problem in exercising conventional disposal over one's share by selling it or making it a part of a compromise settlement.

1808. A person who owes Khums cannot take it into his zimmah, meaning he cannot deem himself indebted the Khums owners and he cannot utilize the wealth in the manner elaborated in the aforementioned article. If he utilizes the wealth, and he loses it, he will be liable to pay its Khums.

1809. If a person who has a debt of Khums makes a compromise settlement with the Hakim alShar'i and takes responsibility for it, he may then utilize the wealth. Furthermore, whatever profit he acquires from that after the settlement will belong to him.

1810. If a person who is in a partnership pays the Khums that is obligatory on him, but his partner fails to do so, then should his partner reinvest the wealth on which he owes Khums in the following year, neither of the two will be permitted to utilize that wealth. However, if the partner who has not paid Khums does not believe in the precept of Khums, it will be permissible for the other partner to utilize the wealth.

1811. If a non-Baligh child has some capital and he acquires some profit from it, he will be liable to pay its Khums. It will be obligatory on his guardian to disburse the Khums. If the guardian fails to do so, the child must do it when he becomes Baligh.

1812. If a person who has obtained wealth from somebody is certain that the person did not pay the Khums owed on it, it will not be permissible for him to utilize it unless that person does not believe in the precepts of Khums. The same will apply, based on obligatory precaution, if he doubts whether he has disbursed its Khums or not.

1813. If a person uses his income (profits of earnings) to purchase a real estate that is not considered a part of his yearly expenditure during his financial year, he should pay its Khums at the end of his financial year. In the event that he fails to pay its Khums and its value appreciates, he should pay Khums on the current value of the property. The same applies to items other than real estate, such as rugs or things similar.

1814. If a person buys - for example - some real estate using money whose Khums has not been paid, and the property appreciates in value, then if he had not intended to buy the property as an investment, to be sold once it appreciates in value,

such as buying it for the purpose of agriculture, given that he bought the property on credit and paid its price from the money whose Khums has not been paid, he must pay the Khums (one fifth) of the value that he bought it for. However if he gives the money whose Khums has not been paid, and says to the seller that he is buying the property with this money, then in the event that the Hakim al-Shar'ī permits the transaction of one fifth of it, the buyer must pay the Khums (one fifth) of the current value of the property.

1815. If a person who has not paid Khums from the day he became a duty-bound Muslim, purchases an item which he does not require, from the profits of his trade, and one year has passed from the time he acquired the profit, he should pay its Khums. However, if he purchases items he needs, such as household furniture, and they concur with his status, then if he knows that he purchased them during the year in which he acquired the profit, he will not have to pay Khums on them. If however he does not know whether he purchased them during the year, or after it, obligatory precaution will dictate that he comes to a settlement with the Hakim al-Shar'ī.

2. Minerals

1816. If a person extracts gold, silver, lead, copper, iron, petroleum, coal, turquoise, agate, alum, salt, or other minerals similar to these, he should pay its Khums if the quantity has reached the relevant Nisaab (limit point).

1817. The Nisaab for minerals is fifteen Mithqaal of conventional minted gold. That is to say, if the value of the minerals extracted from the mine reaches fifteen Mithqaal of minted gold, he should pay its Khums after deducting the expenses incurred. 1818. If the value of the extracted minerals is less than fifteen Mithqaal of minted gold, one will be liable to pay its Khums if the profits acquired from it, or the profits acquired from it and other sources combined exceed his yearly expenditure.

1819. The precepts of minerals do not apply to gypsum, lime, montmorillonite clay and red clay. If a person extracts any of these, he shall only be liable to pay its Khums if the profits

acquired from it, or the profits acquired from it and other things combined exceed his yearly expenditure.

1820. If a person acquires minerals he should pay its Khums regardless of whether the mineral was above the surface of earth or underground, and regardless of whether it is situated in a land that is owned or a land that has no owner.

1821. If a person is not certain whether the value of a mineral extracted from a mine is fifteen Mithqaal of minted gold or not, obligatory precaution will dictate that he should endeavor to determine its value by means of weight, or any other means possible. In the event he is unable to determine its value, he will not be liable to pay its Khums.

1822. If a group of people extract a mineral, the value of which is fifteen Mithqaal of minted gold, the obligatory precaution will be to pay its Khums after deducting the expenses incurred, even if the share of each person is less than fifteen Mithqaal of minted gold.

1823. If a person extracts a mineral from the property of another person without the owner's permission, whatever is extracted shall belong to the owner of the property. In the event the value of the extracted minerals reaches its Nisaab, the owner will be liable to pay the Khums for the all of the extracted minerals.

3. Treasure Trove

1824. If a person obtains property that is concealed in the earth, a tree, a mountain or a wall, and its condition is such that it would be considered a treasure trove in the common understanding of the people, then should its value reach its Nisaab, he will be liable to pay its Khums.

1825. If a person acquires a treasure trove from a property that does not have an owner, the treasure trove shall be his, and he will be liable to pay its Khums.

1826. If the acquired treasure is silver, its Nisaab shall be one hundred and five Mithqaal of minted silver. If the acquired treasure is gold, its Nisaab shall be fifteen Mithqaal of minted gold. Therefore, if the value of the treasure trove of gold or silver reaches their respective Nisaab, one will be liable to pay its Khums after deducting the expenses incurred in obtaining it.

Obligatory precaution dictates that if the treasure trove is neither of gold or silver, one should pay its Khums after deducting the expenses, even if it does not reach one of the two aforementioned Nisaab.

1827. If a person finds a treasure trove on a property that he purchased, the treasure trove shall belong to him and he will be liable to pay its Khums if he is certain it does not belong to the previous owner of the land. However, if he entertains the possibility that it may belong to one of the previous owners, the obligatory precaution will be to inform him. If one determines that it does not belong to the previous owner, he should inform the person who owned the property before the previous owner. Continuing in this manner, he should inform all persons who previously held ownership of the property. If one determines that it does not belong to any of them, it shall be his, and he will be liable to pay its Khums.

1828. If a person finds treasure placed in a number of containers buried in one location, and their combined value is one hundred and five Mithqaal of minted silver in the case of silver, or fifteen Mithqaal of minted gold in the case of gold, he will be liable to pay its Khums. However, if he finds them in a number of locations, he will be liable to pay Khums for each treasure trove that meets the condition of its Nisaab. The treasure trove that does not meet the condition of its Nisaab shall not be liable to Khums. However, in both of the aforementioned cases, if the treasure is other than silver or gold, the obligatory precaution will be to pay its Khums without taking the condition of Nisaab into consideration.

1829. If two persons find a treasure trove of gold or silver, and its value is one hundred and five Mithqaal of minted silver in the case of silver, or fifteen Mithqaal of minted gold in the case of gold, obligatory precaution dictates that they should pay its Khums even if the value for the share of each person is less than this amount. The same applies for a treasure trove that is not of gold or silver, even if it does not reach the value of Nisaab.

1830. If a person purchases an animal, and finds some property in its stomach, then if the animal was under the training of the seller, such as a fish that is farmed, or cattle that is fed in one's house or garden, it is obligatory on him to inform the

seller. If it is known that it is not the seller's property, it shall become the property of the buyer. If it exceeds his yearly expenditure, he should pay its Khums. If the animal was not bred by the seller, such as a fish that is caught from the sea, or an animal that is hunted in the desert, then should the buyer entertain a possibility—acceptable to rational people—that it belongs to the owner, the obligatory precaution will be to inform him. However, if it is known that it does not belong to the seller, it shall belong to the buyer. Therefore, if it exceeds his yearly expenditure, he will be liable to pay its Khums.

4. Wealth which is an Amalgamation of Legal and Illegal Gains

1831. If wealth that is gained in accordance with Shari'ahh becomes amalgamated with wealth that is illegally gained in a manner that one is unable to discern between the two, and neither the owner of the illegally gained wealth, nor its amount is known, then should a person not know whether the illegally gained amount is greater or lesser than Khums, he should pay Khums on the entire amount. Based on obligatory precaution, this Khums is to be utilized in a place which suites both Khums and Sadaqah, while intending fulfilment of his duty (an intention which includes both paying Khums and Sadaqah. After the Khums has been paid, the remaining wealth shall be deemed legal (Halal).

1832. If wealth that is legally gained becomes amalgamated with wealth that is illegally gained, and a person knows the amount that was acquired illegally but is unable to determine its owner after investigating, he should give the amount that was illegally acquired as Sadaqah on behalf of its owner. Obligatory precaution dictates that he should also obtain permission from the Hakim al-Shar'i.

1833. If wealth that is legally gained becomes amalgamated with wealth that is illegally gained, and a person is unable to determine the amount that was acquired illegally but knows its owner; should the amalgamation become a cause for (abstract) partnership—for example if oil acquired legally becomes amalgamated with oil that is acquired illegally—and they come to an agreement, the amount they agree upon shall therefrom be

specified. However, if they are unable to come to an agreement, he should give him the amount that he is certain that it belongs to him. If the amalgamation does not become the cause for (abstract) partnership—such as cases where the parts of the wealth are distinct from each other— in respect to quantity he should give him the amount that he is certain belongs to him. As for the specific properties of the items that are given, it should be determined by drawing lots. In both cases, the recommended precaution is that he should give him more than the probable amount.

1834. If a person pays the Khums of legally acquired wealth that is amalgamated with illegally acquired wealth, and later realizes that the illegally acquired wealth was more than the Khums, then should the difference be specifically known, he should give that amount as Sadaqah on behalf of the owner. Obligatory precaution dictates that he should seek the permission of the Hakim al-Shar'i prior to doing so. However, if the amount of difference is not specifically known, then after paying the first, he should act according to the instruction in article 1831 with respect to the remaining amount.

1835. If a person pays Khums of legally acquired wealth that is amalgamated with illegally acquired wealth, or gives the wealth of an unidentifiable person as Sadaqah on his behalf, then should he later locate the owner of the wealth, he will not be liable to pay anything to him.

1836. If wealth that is legally acquired becomes amalgamated with wealth that is illegally acquired, and the amount of the illegally acquired wealth is known, and a person is certain that the owner is one from a group of specified people, but is unable to determine which of them in particular; obligatory precaution dictates that should he be able, he should satisfy all of them. However, if this is not possible, he should determine the owner by means of a ballot.

5. Precious Stones which are Acquired by Diving Underwater

1837. If a person acquires a precious stone, such as a pearl or coral or similar precious stones by means of diving underwater, then regardless of whether it is mineral or organic, it will

be liable to Khums if its value exceeds eighteen Nukhud of minted gold. The expenditure for obtaining it should be deducted prior to determining the Khums. The stones will be liable to Khums regardless of whether they are extracted from a single dive or multiple dives in a manner that it is considered as one diving expedition in the common sense. It will also make no difference if the stones are of a single type or multiple types, and if one diver or—based on obligatory precaution—multiple divers have obtained it.

1838. If a person takes out gems from the sea by some other means without diving, on the basis of precaution, it is obligatory on him to pay Khums as mentioned in the previous article. However, if he obtains them from the surface of the water of the sea or from the seashore, he should pay Khums if his income from this source alone or in combination with other profits made by him, exceeds his expenses for one year.

1839. A person will be liable to pay Khums on the fish, or other sea creatures that he draws out from the sea, only if the profit acquired from the fish and sea creatures alone, or the profit acquired from them combined with the profit acquired from other trade exceed his yearly expenditure.

1840. If a person dives into the sea without intending to draw something out of it, and incidentally finds a precious stone, he will be liable to pay its Khums if he intends to own it. Based on obligatory precaution, the same will apply to the cases other than this.

1841. If a person dives into the sea and draws out a sea creature which happens to store a precious stone in its stomach, and its value is eighteen minted gold, then should that creature be like an oyster, which usually contains a pearl in its shell, he will be liable to pay its Khums. However, if that creature incidentally swallowed the precious stone, he will be liable for Khum only if the profit acquired from it alone, or the profit acquired from it combined with other trade exceed his yearly expenditure.

1842. If a person dives into a large river, and draws out a precious stone, he will be liable to pay its Khums if that river is known to produce precious stones.

1843. If a person dives under water and draws out an amount of ambergris, whose value is greater than or equal to

eighteen Nukhud of minted gold, he will be liable to pay its Khums. However, if he finds it on the surface of the sea, or beside the sea, the precaution is that he pays its Khums even if its value does not amount to eighteen Nukhud of minted gold.

1844. If a person's profession is to dive under water to draw out treasure or minerals, then should he pay the Khums of what he draws out, and some of the acquired profit exceed his yearly expenditure, it will not be necessary for him to pay its Khums again.

1845. If a child extracts minerals from a mine, or owns property that has been amalgamated with illegally acquired property, or finds a treasure trove, or draws out precious stones from the sea by means of diving underwater, his guardian will be liable to pay its Khums. In the event his guardian fails to pay its Khums, he will be liable to pay it once he has become Baligh.

6. Spoils of War

1846. If Muslims wage a war against the disbelievers with permission from the Imam (Peace be upon him), and they acquire some things (belonging to the enemy), this property is referred to as the spoils of war (the booty or ghanimah). As to movable items, after separating the expenses incurred for the protection and transportation of them, the amount the Imam spends according to his discretion, and the things from it that exclusively belong to the Imam (Peace be upon him), Khums should be paid on the remaining property. If the Muslims fight a war without the permission of the Imam (Peace be upon him) while he is present, and acquire spoils of war, the entire spoils shall thereof be the property of the Imam. However, if the Imam (Peace be upon him) is in occultation, the precaution is that they pay its Khums after deducting the expenses.

7. The Land which a Dhimmī Purchases from a Muslim

1847. If a Zimmi purchases land from a Muslim, he will be liable to pay Khums from the land itself, or from other wealth that he possesses, as elaborated in article 1806, regardless of whether the land is occupied with buildings or other structures

such as a house or a commercial establishment. The same will apply if the subject of a transaction is a house, a commercial establishment or the like. It is not necessary for the Zimmi to pay the Khums with the intention of attaining proximity. In fact, it is not necessary for the Hakim al-Shar'i, who receives the Khums from him to do so with the intention of attaining proximity to Allah.

1848. If a Zimmi purchases land from a Muslim and then sells it to another Muslim, he will not be exempt from the liability of Khums. The same applies if the Zimmi dies and a Muslim inherits the land from him.

1849. If at the time of purchase, a Zimmi stipulates that he will not pay the Khums (of the land he intends to purchase), or that the seller shall be liable to pay its Khums, his condition will be invalid, and the Zimmi himself will be liable to pay its Khums. However, if he stipulates a condition saying that the seller should pay the Khums of the land on his behalf, it will be obligatory on the seller to fulfill the condition. However, as long as the seller has not paid its Khums, the Zimmi will not be relieved of the obligation.

1850. If a Muslim makes a Zimmi the owner of a land by means of other than buying and selling, and obtains something in exchange for it, such as reaching a compromise settlement with him, the Zimmi should pay its Khums.

1851. If the Zimmi is a minor, and his guardian purchases land on his behalf, it will be liable to Khums.

The Disposal of Khums

1852. Khums should be divided into two halves. One part should be reserved for Sayyids, and should be given to the guardian of an indigent orphaned Sayyid so that he may use it to pay for his expenses, or it should be given to an indigent Sayyid, or a Sayyid traveller who has become indigent. The obligatory precaution is that one should give the portion allotted for Sayyids to them with the permission of a just Mujtahid. The second part belongs to the Imam (Peace be upon him), which during the occultation age should be given to a just Mujtahid who is aware of how it should be utilized, or be utilized in a cause that is authorized by the just Mujtahid. Obligatory precaution dictates that the just Mujtahid should be the most learned.

1853. An orphaned Sayyid to whom Khums is given should be indigent. However, one may give Khums to a Sayyid who has become needy while on a journey even if he is not considered indigent in his hometown.

1854. It is impermissible to give Khums to a Sayyid who has become needy while on a journey if his journey is a sinful one.

1855. It is permissible to give Khums to a Sayyid who is not considered just. However, one may not give it to a Sayyid who is not a twelver Shi'a

1856. If a Sayyid is sinful, and giving him Khums amounts to aiding him in committing sins, it is not permissible to give him Khums. Obligatory precaution dictates that Khums should not be given to a sinful Sayyid if he sins publicly, even if giving him Khums will not help him in committing sins.

1857. One may not give Khums to a person based on his claim of being Sayyid, unless two just persons testify to his being Sayyid, or if it is well known among the people that he is Sayyid, in a manner that a person is certain or confident that he is a Sayyid. It is not improbable that one may establish a person being Sayyid through the testimony of a trustworthy person, so long as there is no reasonable doubt that his word is inaccurate.

1858. It is permissible to give Khums to a person who is well known as a Sayyid in his hometown, even if a person is not

certain or satisfied that he is a Sayyid, as long as there is no strong reason to assume otherwise.

1859. If a person's wife is a Sayyidah, he may not give Khums to her to be used for her expenses. However, if she is obligated to pay for the expenses of other individuals, and she is unable to do so, one may give his Khums to her to be used for their expenses. The same applies with respect to giving Khums to her to be spent for her subsistence which is non-obligatory (on the husband), as long as it forms a part of her expenses.

1860. If the daily expenses of a Sayyid or a Sayyidah, who is not his wife, are obligatory on a person, he may not meet their obligatory daily expenses such as food, clothing and other similar expenses by means of Khums. However, there is no problem if a person gives them Khums in order for it to be spent for their subsistence which is non-obligatory (on him), as long as it forms a part of their expenses.

1861. It is permissible to give Khums to an indigent Sayyid whose daily expenditure is obligatory on another person and he (the latter) is unable to provide it, or he is able to provide it but does fail to do so.

1862. Obligatory precaution dictates that a person should not give an indigent Sayyid a sum of Khums that exceeds his yearly expenditure.

1863. If there is no Sayyid entitled to Khums in a person's city, and he is certain or confident that he will not find such a person in his city in the future either, or if preserving the Khums until a deserving person is found is not possible, he should take the Khums to another city in order to give it to a deserving person. He may deduct the expenditure of the trip from the Khums, although the obligatory precaution is that he should obtain permission from the Hakim al-Shar'if for deducting the traveling costs. If the Khums is lost or destroyed owing to his negligence, he will be responsible for it. However, if he was not negligent in preserving it, he shall not be held responsible for it.

1864. If there is no individual entitled to Khums in a person's city, he may take the Khums to another city even if he is certain or confident that he will find a deserving person in his city in the future, and preserving the Khums is possible. If the

Khums is lost or destroyed, and he was not negligent in preserving it, he shall not be held responsible for it. However, he should not deduct the traveling costs from the Khums.

1865. If there is an entitled to Khums in a person's city, he may take the Khums to another city in order to give it to a deserving person there so long as it is not deemed negligence in paying Khums. However, he should not deduct the traveling expenses from the Khums, and if the Khums is lost or destroyed, he shall be responsible for it, even if he was not negligent in preserving it.

1866. If a person takes Khums to another city with the permission of the Hakim al-Shar'i, he will not be responsible for it if it is lost or destroyed. The same will apply if he gives it to a person who is a representative of the Hakim al-Shar'i or has obtained permission from him, and he transfers the Khums from that city to another.

1867. As elaborated in article 1806, obligatory precaution dictates that it is not permissible to give Khums from a different commodity, with the exception of conventional money, unless permission is obtained from the Hakim al-Shar'i. In the event that it is permissible, such as a case where the Hakim al-Shar'i grants permission, it is not permissible to appraise the commodity for a value that is greater than its actual worth even if the person entitled to Khums accepts that value.

1868. If a person entitled to Khums owes a sum of money a creditor, the obligatory precaution is that the creditor cannot adjust his debt against Khums payable by him. However, there is no problem if he pays the Khums and then the recipient can use it to payback his debt. He may also acquire representation on behalf of the person entitled to Khums, collect it on his behalf, and receive it from himself as his debt.

1869. A person entitled to Khums cannot take the Khums and gift it to the person who paid it if gifting it will violate the right of the Imam (Peace be upon him) or Sayyids. There is no problem if it does not violate their rights. An example of this is a person who owes a great sum of Khums and has become indigent himself, and does not wish to remain indebted to those entitled to it. There will be no problem in this case if the person entitled to the Khums takes it from him and then gifts it back to him.

Chapter 52

The Precepts of Zakat

1870. Zakat is obligatory on nine things:

1. wheat
2. barley
3. dates
4. raisins
5. gold
6. silver
7. camels
8. cows

9. sheep If a person owns one of these nine items, given the conditions that will be elaborated later, he will have to spend the specified amount in the prescribed manner.

1871. The recommended precaution is that one should pay Zakat on Sult, which is a grain as soft as wheat, possessing the qualities of barley, and also A'las, which resembles wheat (*is the food of the people of San'a, Yemen*).

The Conditions for Zakat to become Obligatory

1872. Zakat becomes obligatory when one's property reaches the Nisaab (the minimum taxable limit), which will be elaborated later, and the owner is Baligh, sane, free, and has the right to dispose of it.

1873. If a person owns cows, sheep, camels, gold or silver for eleven months, he will have to pay its Zakat on the first of the twelfth month. However, he should consider the subsequent year to begin after the end of the twelfth month.

1874. If the owner of the cows, sheep, camels, gold or silver becomes Baligh during the year, such as a kid who becomes the owner of forty sheep on the first of Muḥarram, and becomes Baligh after two months, no Zakat will be obligatory on him upon the passage of eleven months after that first of Muḥarram; rather, Zakat will become obligatory on him upon the passage of eleven months after he became Baligh. The recommended precaution is that he should pay the Zakat upon the passage of eleven months after the first of Muḥarram, should it fulfill the other conditions of Zakat as well.

1875. Wheat and barley will be subject to Zakat when it is recognized as wheat or barley in the common understanding. Raisins are subject to Zakat when they are considered to be grapes, and dates are subject to Zakat when the Arabs call it tamr. The time for giving the Zakat of wheat or barley is when the grains are separated from the chaff. As for raisins and dates, it is when they become dry. Hence, if a person delays paying Zakat from that time, without having a legitimate excuse, and despite the presence of deserving recipients, he will be held responsible for any losses.

1876. If the owner of the wheat, barley, raisins or dates is Baligh, sane, free and able to dispose of them when these commodities become subject to Zakat—in the manner elaborated in the previous article—then he will have to pay their Zakat, even if he did not possess any of these conditions or some of them prior to it. However, if he lacks even one of the above-mentioned conditions, Zakat will not be obligatory on him.

1877. If the owner of the cows, sheep, camels, gold or silver is insane for the entire year, or a part of it, Zakat will not be obligatory on him.

1878. If the owner of the cows, sheep, camels, gold or silver is intoxicated or unconscious for a part of the year, he will not be exempted from paying Zakat. The same will apply if he is intoxicated or unconscious at the time when Zakat becomes obligatory on the wheat, barley, raisins or dates.

1879. The property that has been usurped from a person, and he does not have the ability to dispose of it, will not be subject to Zakat. However, if the usurped property is a crop of wheat or barley, or it includes grape vines or date palms, and remains in the possession of the usurper at the time when it is subject to Zakat, obligatory precaution dictates that whenever the property is returned to the owner, he should pay their Zakat.

1880. If a person borrows gold or silver, or any other item on which Zakat is obligatory, and it remains in his possession for a year, he will have to pay its Zakat, and no Zakat will be obligatory on the lender.

The Zakat of Wheat, Barley, Dates and Raisins

1881. The Zakat of wheat, barley, dates and raisins becomes obligatory when they reach their Nisaab, the minimum taxable limit. Their Nisaab is three hundred Saa', wherein every Saa' is equivalent to 614.25 conventional (seyrufi) Mithqaals, which is approximately 847 kilograms.

1882. If person or his dependants consume the wheat, barley, dates or grapes after they are subject to Zakat, or give them to a needy person without making the intention of giving Zakat, he will have to pay Zakat on the amount that was consumed.

1883. If the owner of the wheat, barley, dates or grapes dies after they become subject to Zakat, the Zakat will have to be paid from his property. However, if he dies before they become subject to Zakat, then each inheritor whose share reaches the Nisaab will have to pay the Zakat of his share.

1884. The person who is charged by the Hakim al-Shar'i to collect Zakat, may demand the Zakat at the time of harvesting when the wheat or barley grains are separated from the chaff, or the time when the fresh dates have dried, or the grapes have turned into raisins. If the owner fails to give it, and the commodity on which Zakat became obligatory gets destroyed, he will have to pay for its replacement.

1885. If dates or grapes become subject to Zakat after a person comes to own a date or grape tree, or wheat or barley become subject to it after he owns a crop of wheat or barley, he will have to pay its Zakat.

1886. If a person sells a crop of wheat or barley after they become subject to Zakat, or date and grape trees after they become subject to it, the seller will have to pay their Zakat.

1887. If a person buys the entire stock of wheat, barley, dates or grapes from someone, knowing that the seller has paid their Zakat, then no Zakat will be obligatory on him. However, if he knows that the seller has not paid it, then in the event that the seller pays it, the transaction will be in order. It will similarly be in order if the buyer pays its Zakat, and he may revert to the seller for it. In other than these two cases, if the Hakim al-Shar'i does not authorize the transaction for the

amount that was to be paid as Zakat, the transaction will be void for that amount, and the Hakim al-Shar'i may take the amount of the Zakat from the buyer. However, if he permits the transaction of the amount that was to be paid as Zakat, the transaction will be valid, and the buyer must give the value of the amount to the Hakim al-Shar'i. In the event that the buyer had paid the seller for that amount, he may claim it back from him. If the buyer doubts whether the Zakat was paid or not, it is problematic to claim that the property (in his possession) is in actuality not subject to Zakat.

1888. If the weight of wheat, barley, dates or raisins reaches the Nisaab while it is wet, but falls below the Nisaab after it dries, it will not be subject to Zakat. 1889. If the wheat, barley, dates or raisins are consumed before they dry, then given that their dry weight reaches the Nisaab, Zakat will be obligatory on it.

1890. Dates are of three kinds:

1. The kind that is dried. Its rulings have already been elaborated.

2. The kind that is eaten while it is in the Rutab stage.

3. The kind that is eaten in its un-ripened form (Khalaal stage) If the weight of the dried form of the second type reaches the Nisaab, it will be subject to Zakat based on obligatory precaution. As for the third kind, it is not subject to Zakat.

1891. The wheat, barley, dates or raisins whose Zakat has been paid, will not be subject to Zakat (again) even if they remain in the possession of the owner for a few years.

1892. If the wheat, barley, dates or grapes are watered with rain water, the water from a river, or the wetness in the earth, its Zakat will be 10%. If it is irrigated with buckets or similar methods, its Zakat will be 5%. 1893. If the wheat, barley, dates, or grapes are watered both with rain water (or similar sources) and buckets (or similar methods), then:

1. if it is watered in a manner that would commonly be viewed as being watered by buckets or similar methods, its Zakat will be 5%.

2. if it is watered in a manner that would commonly be viewed as being watered by rain or similar sources, its Zakat will be 10%.

3. if it is watered in a manner that would commonly be viewed as being watered using both ways, its Zakat will be 7.5%.

1894. If a person doubts and does not know whether the common understanding would view the land to be watered using both ways, or consider it to be watered with—for example—rain water only, then giving 7.5% will suffice.

1895. If a person doubts and does not know whether the common understanding would view the land to be watered using both ways, or consider it to be watered with buckets, then giving 5% will suffice. The same will apply if the third probability is added to it, in that the common understanding would view it as being watered by rain water.

1896. If the wheat, barley, dates or grapes are watered with rain water or similar sources, and do not develop a need to be watered by buckets or similar methods, but are watered with them nonetheless, and that does not lead to an increase in the crops, then its Zakat will be 10%. If it is watered by buckets or similar methods, and does not develop a need for rain water or similar sources, but is watered by them nonetheless, and that does not lead to an increase in the crops, then its Zakat will be 5%.

1897. If a field is watered with buckets or similar methods, and an adjacent land is farmed, which makes use of its wetness, thereby not needing any extra watering, then the Zakat of the land that was watered with buckets is 5%. As for the adjacent land, if it belongs to someone other than the owner of the first land, its Zakat will be 10%. The same will apply, based on obligatory precaution, if it belongs to the owner of the first land.

1898. One may not deduct the expenses incurred in the production of wheat, barley, dates or grapes, and then determine whether his crop reaches the Nisaab or not. Therefore, if any of them reaches the Nisaab before accounting for the expenses, its Zakat will have to be paid

1899. A person may not deduct the seeds that are used to farm the crop—regardless of whether he owns them or buys them—from the crops and then determine whether the crop reaches the Nisaab or not; rather, he must account for the Nisaab with respect to the entire crop.

1900. The portion that the government takes from one's actual property itself is not subject to Zakat. However, the remaining will be subject to it. For example, if one's crop is 850 kgs, and the government takes 50 kgs as taxes, then Zakat will only be obligatory on 800 kgs.

1901. Obligatory precaution dictates that one may not deduct the expenses that he incurs before the property is subject to Zakat, and then pay Zakat on the remaining property.

1902. One may seek permission from the Hakim al-Shar'i with respect to the expenses that he incurs after the property is subject to Zakat to deduct those expenses spent for Zakat.

1903. One may not pay Zakat before the crop is subject to it. However, once it is subject to Zakat, it is not necessary to wait until the wheat or barley is ready for harvesting and threshing, or the dates or grapes have dried; rather, the moment it becomes subject to Zakat, one may determine the value of the Zakat and give that amount with the intention of Zakat.

1904. Once the crop is subject to Zakat, one may give the crop of wheat or barley itself before it is harvested, or the dates or grapes itself before they are picked, to a deserving person, or the Hakim al-Shar'i or their representative, in the form of joint ownership, and thereafter they will share the expenses.

1905. In the event that the owner submits that crops itself, the dates or the grapes (themselves) to a deserving person, the Hakim al-Shar'i or their representatives, he may demand payment as rent for keeping them on his land until they are ready for harvesting or until they have dried up.

1906. If a person owns wheat, barley, dates or grapes in various cities, whose harvesting times differ from each other, and their crops or fruits are not acquired simultaneously, but are considered to be the harvest of one year, then if the crop or fruit that ripens first reaches the Nisaab, he will have to pay its Zakat the moment it ripens, and pay the Zakat of the remaining whenever they are acquired. However, if that which ripens first does not reach the Nisaab, he will have to wait until the rest of it ripens. Then, if the combined harvest reaches the Nisaab, it will be subject to Zakat, and if it does not, it will not be subject to it.

1907. If a date or grape tree bears fruit twice a year, and the sum of the produce reaches the Nisaab, obligatory precaution dictates that it be subject to Zakat.

1908. If a person possesses an amount of fresh dates or grapes whose dried form would reach the Nisaab, and he chooses to give—with the intention of Zakat—an amount of the fresh produce, whose dried form would be equal to the Zakat that is obligatory on him, there will be no problem in doing so.

1909. If the Zakat of dried dates or raisins is obligatory on a person, he may not give fresh dates or grapes with the intention of paying the Zakat that is obligatory on him. Similarly, if the Zakat of fresh dates or grapes is obligatory on a person, he may not give dried dates or raisins with the intention of paying the Zakat that is obligatory on him. In fact, obligatory precaution dictates that he may not even give the fresh form of the produce in place of its dried form, or vice-versa with the intention of paying its value.

1910. Should a person who is indebted, and who also possesses a property that is subject to Zakat, pass away, the Zakat of the property that is subject to it will have to be paid completely first, and then can his debt be paid off (from it).

1911. If a person who is in debt passes away, and he owns wheat, barley, dates or grapes, and before they become subject to Zakat, his inheritors pay off his debt from another property, then each inheritor whose share reaches the Nisaab will have to pay its Zakat. However, if they fail to pay off his debt before the property becomes subject to Zakat, then if the property of the deceased is just sufficient to pay off the debt, it will not be subject to Zakat. However, if the property of the deceased is more than his debts, they should first determine the proportion of the property that is subject to Zakat with respect to his entire property, which may be a half, a third, a quarter or similar proportion. Then, the amount (to pay off the debt) should be subtracted from the property subject to Zakat to that proportion, and the remaining should be passed on to the inheritors. Thereafter, the share of each inheritor whose share reaches the Nisaab will be subject to Zakat.

1912. If the wheat, barley, dates or raisins that are subject to Zakat, contain portions of good and portions of inferior quality,

the obligatory precaution is that one should not pay the Zakat of the good portions from the inferior one.

The Nisaab of Gold and Silver

1913. Gold has two Nisaabs: The first Nisaab is twenty Shar'i Mithqaals (each Mithqaal being equal to 18 Nukhud), each of which according to a great number of renowned scholars is equal to 0.75 conventional (seyrufi) Mithqaals. Therefore, if the gold reaches twenty Shar'i Mithqaals (fifteen conventional Mithqaals), and also possesses the other conditions which were mentioned earlier, a person will have to pay one-fortieth of it (nine Nukhud) as Zakat. If it does not reach this amount, no Zakat will be levied on it.

The second Nisaab is four Shar'i Mithqaals, which is equal to three conventional Mithqaals. That is, if three (conventional) Mithqaals are added to the fifteen Mithqaals, then a person will have to pay a Zakat of 2.5% on the entire eighteen Mithqaals. However, if less than three Mithqaals are added to it, he will only have to pay Zakat on the fifteen Mithqaals (which was the first nisab), and the balance will not be subject to it. The same will apply on every other addition. Therefore, if three Mithqaals are added, the Zakat of the entire sum will have to be paid. However, if less than three Mithqaals are added, the added amount will not be subject to Zakat.

1914. Silver has two Nisaabs: The first Nisaab is 105 conventional Mithqaals. Therefore, if the quantity of silver reaches this Nisaab, and also possesses the other conditions which were mentioned earlier, a person must give one-fortieth of it as Zakat, which amounts to two Mithqaals and 15 Nukhuds. If it does not reach this limit, it will not be subject to Zakat. The second Nisaab is twenty one (21) Mithqaals. That is, if twenty one Mithqaals are added to the 105 Mithqaals, a person will have to pay a Zakat of 2.5% on the entire 126 Mithqaals. If the added quantity is less than 21 Mithqaals, he will only have to pay Zakat on the 105 Mithqaals (which was the first Nisaab), and the balance will not be subject to it. The same will apply for every other addition. That is, if 21 Mithqaals are added, Zakat will have to be paid on the entire sum, and if less than that is added, then the added amount which is less than 21 Mithqaals will not be subject to any Zakat.

Thus, if a person pays one-fortieth of all the gold and silver that he owns, he will have paid the Zakat that is obligatory on him, and in some cases he will have paid more than the obligatory amount. For example, if someone owns 110 Mithqaals of silver, gives one-fortieth of it, he will have paid the Zakat that is obligatory on the 105 Mithqaals, and also on the 5 Mithqaals, which was not obligatory.

1915. If the gold or silver that a person owns has reached the Nisaab, he will have to pay its Zakat every year as long as it does not drop below the Nisaab, even if he has previously paid Zakat on it.

1916. The Zakat on gold and silver only becomes obligatory in the event that it is minted, and is prevalently used in transactions. In fact, even if the stamped effects have been effaced, Zakat will have to be paid on it.

1917. If the minted gold and silver which are used by women as ornaments, continue to be prevalently used in transactions, meaning that they are dealt with as gold or silver currencies, Zakat will be obligatory on them based on precaution. However, if they are not prevalently used in transactions, Zakat will not be obligatory.

1918. If a person owns both gold and silver, and neither of them reach their first Nisaab, such as a person possessing 104 Mithqaal of silver and 14 Mithqaal of gold, then Zakat will not be obligatory on him.

1919. As mentioned earlier, the Zakat of gold or silver will become obligatory in the event that a person maintains ownership of the taxable limit (Nisaab) for eleven months. If however within the eleven months, his gold or silver drops below the first Nisaab, Zakat will not be obligatory on him.

1920. If a person exchanges the gold or silver that he owns with some other gold or silver, or with something else, within the eleven months, or gets them melted, then Zakat will not be obligatory on him. However, if he does this to avoid paying Zakat, then the recommended precaution is that he should pay the Zakat.

1921. If a person melts the gold or silver currencies in the twelfth month, he will have to pay their Zakat. If its weight or value decreases owing to melting it, he will have to pay the Zakat that was obligatory on him prior to melting it.

1922. If a person owns gold or silver of varying qualities, he may pay the Zakat of the higher and inferior quality from their respective portions. However, it is better that he pays the Zakat of all of it from the gold or silver of higher quality. The obligatory precaution is that he should not pay the Zakat of all of it from the inferior portion.

1923. If gold or silver currencies are alloyed with other metals to an extent that is greater than normal, then if it is still considered to be gold or silver, and its pure form reaches the Nisaab, it will be subject to Zakat. The same will apply—based on obligatory precaution—if the alloy reaches the Nisaab, even though the pure form of it may not. However, if it is not considered as gold or silver currency, then the stronger view is that it is not subject to Zakat, even if its pure form reaches the Nisaab.

1924. If a person owns gold or silver which contains the usual ratio of alloys, he cannot give its Zakat with gold or silver which contains a ratio of alloys that is higher than normal. However, if he gives an amount that brings about certainty within him that the amount of pure gold or ratio within that alloy is equal to the Zakat that is obligatory on him, it will not be problematic. The same applies in the case that its value is equal to the Zakat that is obligatory on him, and he gives it with the intention of paying the price of the obligatory Zakat.

The Zakat of Camels, Cows and Sheep

1925. In addition to the previously mentioned conditions, the Zakat of camels, cows and sheep also contains two other conditions:

1. The animal should not have worked at all for the entire year. However, if during the entire year, the animal had worked for one or two days, the stronger view is that it will still be subject to Zakat.

2. The animal should have grazed in the wilderness for the entire year. Hence, if it is fed from mowed forage, or grazes on the crop that belongs to the owner or someone else, it will not be subject to Zakat. However, if during the entire year it is fed from the owner's forage for one or two days, then the stronger view is that it will be subject to Zakat.

1926. If a person rents or buys for his camels, cows or sheep a grazing field that no one has cultivated, obligatory precaution dictates that he gives their Zakat. However, if he pays taxes to be able to graze his animals on the field, he will have to pay their Zakat.

The Nisaab of Camels

1927. Camels have twelve Nisaab:

1. 5 camels. Their Zakat is one sheep. As long as the number of camels does not reach this amount, they will not be subject to Zakat.

2. 10 camels. Their Zakat is two sheep.

3. 15 camels. Their Zakat is three sheep.

4. 20 camels. Their Zakat is four sheep.

5. 25 camels. Their Zakat is five sheep.

6. 36 camels. Their Zakat is a camel that is in its second year of age.

7. 46 camels. Their Zakat is a camel that is in its third year.

8. 61 camels. Their Zakat is a camel that is in its fourth year.

9. 76 camels. Their Zakat is a camel that is in its fifth year.

10. 100 camels. Their Zakat is two camels that are in their third year.

11. 91 camels. Their Zakat is two camels that are in their fourth year.

12. 121 camels or more. The owner may calculate the Zakat based on groups of forty camels, and for every forty camels he must give one camel that is in its third year. He may also calculate the Zakat based on groups of fifty camels, and for every group of fifty camels he must give one camel that is in its fourth year. He may also calculate the Zakat based on groups of forty and fifty camels. However, in every case he must calculate the Zakat in a manner that there are no remainders, or if there are, they do not exceed nine camels. For example, if he owns 140 camels, for 100 of them he should give two camels which are in their fourth year, and for the remaining 40 he should give one camel that is in its third year. The camels that are given as Zakat must be female camels.

1928. Zakat is not obligatory on the camels that fall between two tax limits (Nisaabs). Therefore, if the number of camels that one owns surpasses the first Nisaab, but does not reach the second Nisaab, he will only have to pay the Zakat for five of them. The same applies for the other Nisaabs.

The Nisaab of Cows

1929. Cows have two Nisaabs:

The first Nisaab is thirty cows. When the number of cows reaches thirty, given that they possess the conditions mentioned earlier, the owner must give one calf—that is in its second year—as Zakat. The obligatory precaution is that the calf should be a male calf. The same applies in every case where one has to give a calf that is in its second year, except in that case when the number of cows totals 90, wherein obligatory precaution dictates that he gives three female calves that are in their second year.

The second Nisaab is forty cows. Their Zakat is one female calf that is in its third year. Zakat is not obligatory on the cows that fall between 30 and 40. For example, if a person owns 39 cows, he needs only pay that Zakat of thirty cows. The same applies if a person has more than 40 cows, wherein as long as they do not reach 60, he needs only pay Zakat of the 40 cows. Then, when the number of cows totals sixty, since it amounts

to twice the first Nisaab, he will have to give two calves which are in their second year. The same will continue to apply as more cows are added. He will have to calculate them based on groups of 30 cows, or groups of 40 cows, or groups of 30 and 40 cows, and pay their Zakat according to the preceding instructions. However, he must calculate them in a manner that there are no remainders, or if there are, they do not exceed nine cows. So for example, if he owns 70 cows, he must calculate their Zakat based on one group of 30 and one group of 40 cows. For the group of thirty, he must give the Zakat of 30 cows, and for the group of 40, the Zakat of 40 cows. He should calculate in this manner because if he bases his calculation on two groups of 30 cows, it will result in a remainder of 10 cows whose Zakat will not have been paid.

The Nisaab of Sheep

1930. Sheep have five Nisaabs:

1. 40 sheep. Their Zakat is one sheep. As long as the number of sheep does not total 40, Zakat will not be obligatory.

2. 121 sheep. Their Zakat is two sheep.

3. 201 sheep. Their Zakat is three sheep.

4. 301 sheep. Their Zakat is four sheep.

5. 400 or more sheep. In this case he will have to calculate their Zakat based on groups of 100 sheep, and for every 100 sheep he must give one sheep. It is not necessary to pay the Zakat from the sheep that are subject to Zakat; rather, if he pays it from another group of sheep, or pays their monetary value in accordance to the number of sheep, it will suffice.

1931. Sheep that fall between two Nisaab are not subject to Zakat. If the number of sheep that a person owns exceeds the first Nisaab, which is forty, he will only have to pay the Zakat of the 40 sheep as long as they do not reach the second Nisaab of 121 sheep. The remaining will not be subject to Zakat. The same ruling applies in the case of other Nisaabs.

1932. The Zakat of the camels, cows and sheep that reach the Nisaab is obligatory, regardless of whether they are male or female, and regardless of whether some are male and some female.

1933. In the issue of Zakat, cows and buffalos are counted as one species, just as Arabian camels and non-Arabian camels are counted as one species. Similarly, goats, ewes, and one year old lambs are not considered differently in the issue of Zakat.

1934. If a person gives a sheep as Zakat, precaution dictates that it should be at least in its second year, and if he gives a goat, precaution dictates that it should be at least in its third year.

1935. If the value of the sheep that one give as Zakat is slightly lower than rest of the sheep, it will not be problematic. However, it is better that he give the sheep whose value is higher than the rest of the sheep. The same applies in the case of camels and cows.

1936. If a number of people jointly own the animals, then every partner whose share reaches the first Nisaab will have to pay Zakat. As for a partner whose share does not make the first Nisaab, he will not have to pay Zakat.

1937. If a person owns camels, cows or sheep in different locations, and all together they reach the Nisaab, he must give their Zakat.

1938. If the camels, cows or sheep that a person owns are sick or have a defect, he will have to pay their Zakat nonetheless.

1939. If all the camels, cows or sheep that a person owns are sick, defective, or old, he may give their Zakat from them. However, if all of them are healthy, sound, and young, he cannot give their Zakat with those which are sick, defective or old. In fact, even if some are healthy and others sick, some sound and some defective, some young and others old, he must give their Zakat from those which are healthy, sound and young.

1940. If a person exchanges the camel, cow or sheep that he owns with something else prior to the completion of the eleventh month, or exchanges the taxable limit that he owns with a taxable limit of the same species, such as giving away 40 sheep and procuring another 40 in return, then Zakat will not be obligatory on him.

1941. If a person who must pay the Zakat of his camels, cows or sheep, pays their Zakat with some of his other property, he will have to continue paying their Zakat every year as long as

they do not fall below the Nisaab. If however he pays their Zakat from the (taxable) animals themselves, and they fall below the Nisaab, Zakat will not be obligatory on him. For example, if a person who owns 40 sheep, pays their Zakat from some of his other property, he will have to give one sheep every year (as Zakat) as long as the number of sheep he owns do not fall below 40. However, if he pays the Zakat from the 40 sheep, then Zakat will not be obligatory on him as long as they do not reach 40 sheep (again).

The Disposal of Zakat

1942. Zakat may be given to eight types of people:

1. A poor person (Faqeer), and he is defined as a person who does not possess his own expenses for one year and that of his dependants. Therefore, a person who owns a trade, property or capital with which he can pay for a year's expenses is not a poor person.

2. A needy person (Miskeen), and he is a person whose living conditions are worse than that of a poor person.

3. A person who has been appointed by the Imam (Peace be upon him) or his representative to collect and store Zakat, maintain its accounts, and deliver it to the Imam (Peace be upon him), his representative or the poor.

4. Muslims who have testified to the oneness of Allah and the prophethood of the holy prophet (May Allah's Blessings be upon him and his progeny), but do not have firm faith in Islam, with the purpose of strengthening their faith by giving Zakat to them. However, in the event that the poor are present in the area, and the matter revolves between giving it to a poor person or to such persons, then the obligatory precaution is that it should be given to the poor persons. This precaution should also be observed with respect to the seventh case.

5. To buy a Muslim slave who is undergoing hardship and to free him. Similarly, Zakat may be spent on buying a slave and freeing him, even though he may not be undergoing hardship, in the event that no Zakat deserving person can be located.

6. A debtor who is unable to repay his debt, given that he has not spent it in a sinful manner.

7. In the way of Allah, referring to acts of charity which can be performed with the intention of attaining proximity to Allah. Obligatory precaution dictates that they should be acts which are of benefit to the general public, such as constructing mosques, religious schools, hospitals, seniors housing and any similar projects.

8. A traveler who is stranded. The rulings pertaining to each of these cases will be elaborated in subsequent articles.

1943. The obligatory precaution is that a poor or needy person should not take more than his year's expenses and that of

his dependants from the Zakat. If he possesses some fund or owns some property, he should only take the balance of what he needs to meet one year's expenses for himself and his dependants.

1944. If a person possessed enough property that meets his year's expenses, and spent some of it, then doubted as to whether the remaining amount is sufficient to meet his year's expenses or not, he may not partake of Zakat.

1945. An artisan, an owner, or a businessman whose income is less than his year's expenses, may take Zakat to meet his shortfall, and it is not necessary for him to sell his tools or property, or utilize his capital to meet his expenses.

1946. If a poor person who does not have enough to pay for the year's expenses for himself and his dependants, owns a house in which he lives, or owns a means of transportation, he may still partake of Zakat if he is unable to lead his life without them, or is unable to upholding his dignity without them. The same applies to household furniture, dishes, summer and winter clothing, and other items which are necessary. Hence, if a poor person who does not possess these items develops a need for them, he may use Zakat to buy them.

1947. If it is not difficult for a poor person to learn a trade, he must learn it, and should not live his life off Zakat. However, he may partake of Zakat for as long as he is engaged in learning the trade.

1948. If a person who was previously poor, states that he is (currently) poor, and one doubts whether he is still afflicted with poverty or not, he may still give Zakat to him even if he does not attain satisfaction in his statement. As for a person for whom it is not known whether he was poor or not, and he states that he is poor, obligatory precaution dictates that one cannot give Zakat to him unless he attains certainty or satisfaction in his statement. 1949. If a person claims to be poor, but was not previously poor, one may not give Zakat to him if he does not attain satisfaction in his claim.

1950. If a person who must pay Zakat is owed by a poor person, he may count the amount that he is owed towards his Zakat. However, if he knows that the money that he is owed was spent in a sinful manner, he may not count it towards the Zakat that is given to repay a debt.

1951. If a poor person dies and his estate is insufficient for paying off his debts, one may count the amount that he is owed by the poor person towards his Zakat. However, if he knows that the money that he is owed was spent in a sinful manner, he may not count it towards the Zakat that is given to repay a debt. If the estate of a deceased person is equivalent to his debts, but the inheritors fail to pay off his debt, or one is unable to reclaim the debt for any other reason, based on obligatory precaution he should not count the amount that he is owed towards his Zakat.

1952. If one gives an item to a poor person with the intention of Zakat, he does not have to disclose to him that it is Zakat. In fact, if the poor person is embarrassed by it, it is recommended that he give it to him—with the intention of Zakat—without disclosing it.

1953. If a person gives Zakat to an individual thinking that he is poor, but later realizes that he was not poor, or owing to his ignorance of the ruling gives it to a person whom he knows is not poor, then given that the property continues to exist, he must retake it and give it to a deserving person. If he is unable to retake it, he should replace the Zakat from his own wealth. If it has ceased to exist, then if the recipient knew that it was being given as Zakat, a person may claim its replacement from the recipient and give it to a deserving person. However, if the recipient did not know it was Zakat, the giver cannot take anything from him. He will have to replace it from his own wealth and give it to a deserving person.

1954. If a person is indebted and is unable to repay his debt, he may partake of Zakat to pay off his debt, even if he possess enough income that meets his year's expenses, with the condition that the asset that he loaned was not spent in a sinful manner.

1955. If a person gives Zakat to a person who is indebted and unable to pay off his debt, but later realizes that the loan was spent in a sinful manner, then if the debtor is a poor person, the giver may count the Zakat that he paid as one that is given to the poor.

1956. A person may count the asset that he is owed by a person towards his Zakat, if the debtor is unable to pay off his debt, regardless of whether the debtor is poor or not. However,

if he is not poor, then in the event that he knows that the loaned asset was utilized in a sinful manner, the creditor may not count it towards his own Zakat.

1957. If a traveler runs out of his funds, or his means of transportation gets damaged, he may partake of Zakat given that his journey was not a sinful one, and he is unable to reach his destination by getting a loan or selling the items that he has, even though he may not be a poor person in his hometown. However, if he is able to procure the funds for his journey at another location by getting a loan or selling something that he has, then he may only partake of Zakat to the extent that is required to reach that location.

1958. If a traveler who is stranded in his journey, partakes of Zakat, and after reaching his destination realizes that an amount of the Zakat has remained, then in the event that he is not able to return it to the giver, or returning it entails a lot of hardship, he must give it to the Hakim alShar'i and inform him that it is a part of Zakat.

Qualifications of Those Who Deserve Zakat

1959. The person receiving Zakat has to be a twelver Shi'a. Therefore, if a person considers an individual to be a twelver Shi'a and gives his Zakat to him, and later finds out that he wasn't so, he will have to give the Zakat again.

1960. If a child or an insane person who is a twelver Shi'a happens to be poor, a person may give Zakat to his guardian with the intention that what he gives be the property of the child or the insane person. The guardian also should accept it with the same intention.

1961. If a person is unable to contact the guardian of the child or insane person, he may himself or through a trustworthy individual utilize the Zakat for the (benefit of the) child or the insane person. He must make the intention of giving Zakat at the moment that he is utilizing it for their benefit. In the event that he is able to contact their guardian, obligatory precaution dictates that he should utilize it for their benefit through the guardian himself or with his permission.

1962. One may give Zakat to a poor person who begs. However, one may not give it to a person who spends it in a sinful manner.

1963. Obligatory precaution dictates that one cannot give Zakat to a person who commits major sins publicly, does not offer his prayers, or consumes intoxicants.

1964. If a person is in debt and unable to repay it, the other may pay his debt with funds from Zakat, even if paying the debtor's expenses is obligatory on the giver.

1965. A person cannot pay for the expenses of those whose expenses are obligatory on him, such as his children, from Zakat. However, if he fails to pay for their expenses, others may give their Zakat to them. 1966. There is no problem in a person giving his Zakat to his son to pay for the expenses of his (son's) wife or servant.

1967. If a son requires religious texts or other academic texts, his father may buy them using funds from Zakat and put them in his access. However, if he wishes to buy it from the share that is meant to be spent in the way of Allah (7th group

under the ruling #1942), obligatory precaution dictates that a form of benefit to the general public should be associated to it.

1968. A father may give Zakat to his son who needs to get married for the purpose of getting married, and so can a son to his father.

1969. One cannot give Zakat to a woman whose husband pays for her expenses, or a woman whose husband does not pay for her expenses but can be compelled to do so.

1970. If a woman who is involved in a temporary marriage happens to be poor, her husband and other individuals may give their Zakat to her. However, if her husband stipulates within the marriage contract that he will provide for her expenses, or paying for her expenses becomes obligatory on him for any other reason, one cannot give Zakat to that woman as long as he provides for her expenses.

1971. A woman may give Zakat to her husband who is poor, even if the husband spends the Zakat to pay for the wife's expenses.

1972. A Sayyid may not take Zakat from a non-Sayyid. However, if the funds that he procures from Khums or other religious dues do not suffice for his expenses, and is compelled to take Zakat from a non-Sayyid, he may take an amount that is sufficient to meet his daily expenses.

1973. Zakat can be given to a person about whom it is not known whether he is a Sayyid or not.

The Intention of Zakat

1974. A person should give Zakat with the intention of attaining proximity—as elaborated in the section on Wudhu—and with sincerity. He must also clarify in his intention whether the Zakat he is giving is Zakatal-Maal (Zakat on property) or Zakat al-Fitrah.

1975. If the Zakat of numerous properties becomes obligatory on a person, obligatory precaution dictates that when giving Zakat he should clarify as to which property it pertains to, regardless of whether the item that he gives is in monetary form or of the same kind as one of the properties.

1976. If a person appoints an agent to give the Zakat levied on his property, then the agent should make the intention of giving Zakat on behalf of the owner when giving the Zakat to the poor person. Obligatory precaution dictates that the owner should also have the intention of paying his Zakat at that moment. If he charges the agent with delivering the Zakat that he gives him to a poor person, the owner must make his intention when the appointee gives the Zakat to the poor person. The recommended precaution is that he should make the intention when giving the Zakat to the appointee, and maintain that intention until the Zakat reaches the poor person.

1977. If a person gives Zakat to a poor person without having the intention of attaining proximity, but forms the intention before the property ceases to exist, it will be counted as Zakat.

Miscellaneous Rulings Pertaining to Zakat

1978. When the wheat or barley grains are being separated from the chaff, and when the dates or grapes are drying, a person must give their Zakat to the poor, or separate it from his own property. As for the Zakat of gold, silver, cows, sheep and camels, it should be given to the poor after the completion of the eleventh month, or separated from the owner's property. If one is waiting for a particular poor individual, or wishes to give it to a person who is distinguished from some aspect, he has the choice not to separate the Zakat, provided he writes it down and gets it recorded. The obligatory precaution is that he should not delay it for more than three months.

1979. Upon separating the Zakat, one does not have to give it away immediately. However, if he has access to a deserving recipient, the recommended precaution is that he should not delay in giving the Zakat.

1980. If a person who is able to deliver the Zakat to a deserving recipient, fails to do so and the Zakat gets destroyed due to his own negligence, he will have to replace it.

1981. If a person who is able to deliver the Zakat to a deserving recipient, fails to do so, but is not negligent in safeguarding it, and has a shar'i reason for not giving, such as waiting to give it to a better utilization, or a particular poor person, he will not be held accountable for it. In a case other than this, he will be held accountable for it.

1982. If a person separates the Zakat from the property itself, he can make use of the remaining property. However, if he puts aside the Zakat from some of his other property, he can make use of the entire property that was subject to Zakat.

1983. A person cannot take anything for himself from the property that he has put aside as Zakat, and replace it with something else.

1984. If the Zakat that has been put aside generates profit, such as a sheep—which has been put aside as Zakat—giving birth to a lamb, the profit will belong to the poor.

1985. If a deserving recipient appears at the time when one is putting some property away as Zakat, it is better that he

gives the Zakat to him, unless he has someone in mind, and giving it to that person is better for some reason.

1986. If a person transacts with the asset that has been put aside as Zakat without the permission of the Hakim al-Shar'i, and incurs a loss, then if the transaction was carried out on obligation, and he gave that property to fulfill his obligation, the owner will incur the loss and he is responsible for the Zakat. However, if the transaction was carried out with the Zakat property in particular, the transaction is void and cannot be made valid with permission from a Hakim al-Shar'i. If, on the other hand, he makes a profit, then in the event that the transaction was carried out on obligation, and he gave the property to fulfill his obligation, the profit belongs to himself and he is responsible for the Zakat. However, if he transacted with the Zakat in particular, and the Hakim al-Shar'i permits the transaction, he will have to give the profits to a Zakat-deserving person.

1987. If a person gives something to the poor as Zakat before it becomes obligatory on him, it will not count as Zakat. However, if the thing that he gave to the poor has not ceased to exist after Zakat becomes obligatory on him, and the recipient remains poor at that time, he may count the thing that he gave him towards his Zakat.

1988. If a poor person knows that Zakat has not become obligatory on the giver, yet takes something from him as Zakat, and it perishes whilst it is in his care, he will be held responsible for it. Hence, once the Zakat becomes obligatory on the giver, he may count the replacement of what he has given to him as Zakat if the poor person continues to be poor at the time.

1989. If a poor person does not know that Zakat has not become obligatory on the giver, and he takes something from him as Zakat, which then perishes in his care, he will not be held responsible for it. In this case the giver may not count the replacement of the given item towards his Zakat.

1990. It is recommended that the Zakat of cows, sheep and camels be given to the poor who are respectable. One should also give precedence in giving Zakat to his relatives and to people vested with knowledge and excellence over others. He'd better also give precedence to those who do not beg over those

who do. However, if giving Zakat to a poor person is better for another reason, then it is recommended that the Zakat be given to him.

1991. It is preferable to give Zakat openly, and the recommended charities secretly.

1992. If a person is unable to locate a deserving recipient in his town, and neither is he able to make use of it in the other manners that have been specified for it, then if he does not hold any hopes that a deserving recipient may be located later on, he must transport the Zakat to another town and utilize it in its prescribed manner. He may also obtain the shipping expenses from the Zakat itself. The obligatory precaution is that he should draw that money (for traveling expenses) with the permission of the Hakim al-Shar'i. Then if the Zakat perishes, given that he was not negligent in its care, he will not be held responsible for it.

1993. If a deserving recipient is present in one's town, he may still transport that Zakat to another town. However, in this case, he will have to pay the shipping expenses from his own wealth. In addition, if the Zakat perishes, he will be held responsible for it, unless he transports it with the permission of the Hakim al-Shar'i.

1994. The owner is liable for the cost of weighing or measuring the wheat, barley, raisins, or dates that he wishes to give as Zakat.

1995. If a person is liable to give 2 Mithqaals and 15 Nukhud of silver or more as Zakat, the recommended precaution is that he should not give less than 2 Mithqaals and 15 Nukhud to one poor person. Similarly, if he is liable to pay something other than silver, such as wheat or barley, and its value reaches 2 Mithqaals and 15 Nukhud, the recommended precaution is that he should not give less than it to one poor person.

1996. It is Makrooh for a person to request a deserving recipient to sell him the Zakat that he gave the recipient. However, if the deserving recipient wishes to sell the received item after determining its market price, the one who gave him the Zakat will have precedence in buying it over others.

1997. If a person doubts whether he gave the Zakat that was obligatory on him or not, and the property which was subject to it still exists, he will have to pay its Zakat, even though his

doubt may be with respect to previous years. However, if the property has perished, no Zakat will be obligatory on him, even if it be with regards to the present year.

1998. The poor cannot settle (as a settlement contract) on the Zakat for an amount that is less than the Zakat, or accept an item for Zakat at a value that is higher than its price, or take the Zakat from the owner and gift it back to him. However, if a person owes Zakat, and he has become poor and is no longer able to pay it, but wishes to repent (for not paying it), then a poor person may take the Zakat from him and gift it back to him.

1999. A group of scholars (may the Lord raise their station) have stated that a person may endow (Waqf) a land using the funds acquired from the Zakat, or buy a copy of the Qur'an, a religious text, or a book of prayers and dedicate it for public use (as Waqf), and he may also appoint himself or his children as trustees of the endowment. However, it is problematic to claim that the owner has authority over the endowment, or that he can appoint a trustee without the permission of the Hakim al-Shar'i.

2000. A person cannot buy property from his Zakat and endow it for his children or to those whose maintenance is obligatory on him, so that they may use the revenue generated from the property to pay for their expenses.

2001. A person may take Zakat from that share of it that is spent in the way of Allah (under category 7th of article 1942), to go for Hajj, ziyarah or a similar act of worship, even though he may not be poor, or be a poor person who has already acquired an amount of Zakat that is sufficient for his year's expenses. Obligatory precaution dictates that these acts, in addition to being acts of worship, should also possess a benefit to the public, such as venerating the sacraments and propagating the faith.

2002. If the owner appoints a poor person as his agent to pay the Zakat levied on his property, then if the poor person entertains the possibility that the owner intended that the person himself should not partake of it, he cannot take any of the Zakat for himself. However, if he acquires certainty or satisfaction that the owner had no such intention, he may also take from the Zakat for himself.

2003. If a poor person accepts camels, cows, sheep, gold or silver as Zakat, and the received goods come to possess the conditions—as elaborated earlier—that render Zakat obligatory, he will have to pay their Zakat.

2004. If two persons jointly own a property which is subject to Zakat, and one of them pays the Zakat of his share and then divides and distributes the property, then there is no problem if he makes use of his share, even if he knows that his partner has not paid the Zakat of his share.

2005. If a person owes Khums or Zakat, and a Kaffarah, Nazr or similar obligation is also incumbent upon him, and is additionally indebted, then should he be unable to pay all of them, he should pay the Khums or Zakat if the property that is subject to Khums or Zakat has not ceased to exist. If it has, obligatory precaution dictates that he proportionally distributes the wealth between paying off his debt, the Khums and the Zakat. He should also give precedence to paying off these dues over paying for a Kaffarah, or an amount that he made a Nazr to pay.

2006. If a person owes Khums or Zakat, has an obligation to perform Hajj (Hajj of Islam), and is additionally indebted, then if he dies leaving behind an estate that is not sufficient to fulfill all the obligations, his Khums or Zakat must be paid first, if the property that is subject to it has not ceased to exist. The rest of his property should be divided between performing Hajj (for him) and paying off his debts. If however that property has ceased to exist, then in the event that it is his first journey for Hajj, and he dies on the way prior to entering the state of Ihram, his property must be spent for his Hajj. Then if something remains, it should be proportionally distributed between Khums, Zakat and his debts. In a case other than this, Hajj will take precedence over Khums and Zakat. However, to claim that it will also take precedence over his debts is problematic.

2007. If a person is engaged in acquiring knowledge, and is also able to work for his living expenses should he not be learning, then should acquiring that knowledge be obligatory on him in particular (Wajib A'inee), or on the entire community (Wajib Kifaie) and no one else proceeds towards fulfilling it, one may give Zakat to him from the share for the poor, or the

share meant to be utilized in the way of Allah. However, in the latter case, the obligatory precaution is that his learning should entail a benefit for the public interest. If however acquiring that knowledge is recommended for him, it is not permissible to give Zakatto him from the share of the poor. However, it is permissible to grant it to him from the share utilized in the way of Allah, and obligatory precaution dictates that it have benefit for the general public. If however acquiring that knowledge is neither obligatory nor recommended, it is not permissible to give Zakat to him.

Zakat al-Fitrah

2008. If a person is Baligh and sane at the sunset of the evening preceding Eid al-Fitr, and is not poor, nor a slave, in the sense that he experiences the month of Ramadhan with these conditions, even if it be for a mere moment prior to sunset, he will have to pay one Saa'—approximately three kilograms—of wheat, barley, dates, raisins, rice or something similar, to a poor person, on behalf of himself and every person who is dependent on him. The obligatory precaution is that it should be an item that is commonly used as food in his locality. It will also suffice to give the monetary value of any one of these items. Obligatory precaution dictates that even a person who is unconscious at the sunset of the evening preceding Eid al-Fitr should pay the Fitrah.

2009. A person who does not possess an amount that covers his own yearly expenses, and that of his dependants, nor does he have a source of income whereby he can provide for his own and his dependants' yearly expenses, then such a person will be considered a poor person, and it will not be obligatory upon him to pay the Fitrah.

2010. A person must pay the Fitrah of those who are considered to be dependent on him at the sunset of the evening preceding Eid al-Fitr, regardless of whether they are young or old, Muslim or not, and regardless of whether paying their expenses is obligatory on him or not, be they in his city or in another city.

2011. If a person appoints his dependant who resides in another city to pay his (the dependant's) Fitrah from the person's property, and the person feels assured that he will pay the Fitrah, he will not have to pay the Fitrah of the dependant himself.

2012. The Fitrah of a guest who arrives prior to sunset on the evening preceding Eid al-Fitr, with the consent of the homeowner, and is considered to be dependent on him at the time of the obligation of Zakat al-Fitrah, will be obligatory on the homeowner.

2013. If a guest arrives prior to sunset on the evening preceding Eid al-Fitr, without the consent of the homeowner, and

stays with him for a period of time, then obligatory precaution dictates that both the guest himself and the homeowner should pay his Fitrah. A similar precaution should also be observed in the case of a person who has been compelled to pay for the expenses of another person.

2014. The Fitrah of a guest who arrives after sunset on the evening preceding Eid al-Fitr is not obligatory on the homeowner, even if the invitation was extended prior to sunset, and the guest breaks his fast at his home.

2015. If a person is insane at the sunset of the evening preceding Eid al-Fitr, then the Zakat of Fitrah will not be obligatory on him.

2016. If a child turns Baligh prior to sunset, or an insane person becomes sane, or a poor person becomes self-sufficient, he will have to pay Zakat al-Fitrah should he possess the conditions that make it obligatory.

2017. If Zakat al-Fitrah is not obligatory on a person at the time of sunset on the evening preceding Eid al-Fitr, but prior to the time of Z'uhr on the day of Eid he develops the conditions that make it obligatory, he should pay Zakat al-Fitrah based on recommended precaution. 2018. If a Kafir converts to Islam after sunset on the evening preceding Eid al-Fitr, the Fitrah will not be obligatory on him. However, if a Muslim who was not a Shi'a converts to Shi'ismafter sighting the crescent, he will have to pay Zakat al-Fitrah.

2019. If a person only possesses one Saa'—approximately three kilograms—of wheat or something similar, it is recommended that he pays Zakat al-Fitrah. Should he also have dependants, and wish to pay their Zakat al-Fitrah as well, he may give that amount of wheat to one of them with the intention of paying the Fitrah. The recipient may then give it to another member of dependants with a similar intention, and they may continue this process until it reaches the last member. It is better that the last member gives the item that he receives to someone who is not a member of those dependants. If one of the members is a minor, his guardian may take it for himself, and give that which he has taken for himself as Zakat for the minor. However, if he takes it for the minor, obligatory precaution dictates that he should not give it to anyone else.

2020. If a person is blessed with a child after sunset on the evening preceding Eid al-Fitr, or someone is counted as his dependent thereafter, it is not obligatory upon him to pay his Fitrah, although the recommended precaution is that a person should pay the Fitrah for those who become his dependents after sunset and prior to Z'uhr on the day of the Eid.

2021. If a person is dependent on someone, and later becomes dependent on someone else prior to sunset, his Fitrah will be obligatory on the one whose dependent he has become. For example, if a girl moves to her husband's house prior to sunset, her husband will have to pay her Fitrah.

2022. It is not obligatory for a person whose Fitrah is to be paid by someone else, to pay the Fitrah himself.

2023. If the Fitrah of a person is obligatory on someone else, and the latter does not pay it, the recommended precaution is that if the person fulfils the conditions that make Zakat al-Fitrah obligatory on him, he should pay the Fitrah himself.

2024. If a person whose Fitrah is obligatory on someone else, pays the Fitrah himself, it will not drop the obligation of the other person.

2025. If a woman whose husband does not provide for her expenses, is dependent on someone else, then her Fitrah will be obligatory on that person. If however, she is not dependent on someone else, and fulfils the conditions that make Zakat al-Fitrah obligatory, she will have to pay her own Fitrah.

2026. A person who is not a Sayyid cannot give his Fitrah to a Sayyid. In fact, even if a Sayyid is dependent on him, he cannot give that Sayyid's Fitrah to another Sayyid.

2027. The Fitrah of a child who is breast-fed by its mother or a wet nurse, is upon the person who pays for the expenses of the mother or the wet nurse. However, if the mother or the wet nurse pays for her expenses from the child's property, then the Fitrah of the child will not be obligatory on anyone.

2028. Even if a person pays for the expenses of his iyal (dependants) from illegally acquired wealth, he must pay their Zakat al-Fitrah from wealth that is legally acquired (Halal).

2029. If a person hires someone and stipulates that he will pay for his expenses, and he fulfils that condition, he will also have to pay the latter's Fitrah. However, if he stipulates that he will pay for a portion of his expenses, such as giving him

money to cover his expenses, and not as alimony—regardless of whether it is labeled as the wages of his labor or labeled otherwise—it will not be obligatory on him to pay his Fitrah.

2030. If a person passes away after sunset on the evening preceding Eid al-Fitr, his Fitrah and that of his dependants will have to be paid from his property. However, if he dies prior to sunset, it will not be obligatory to pay his Fitrah and that of his dependants from his property.

Disposal of Zakat al-Fitrah

2031. The renowned number of scholars have stated that Zakat al-Fitrah is to be disposed of in the same manner that one disposes of the Zakat on property. However, the obligatory precaution is that it should be given to the poor, and that they must be twelver Shi'a, unless a mu'min cannot be located. In this case, it can also be given to others, as long as they are not Nasibis (people who express hostility towards the ahl al-bayt).

2032. If the child of a twelver Shi'a is poor, in a manner that was described in article 1960 and article 1961, then the Zakat al-Fitrah may also be spent on him.

2033. It is not necessary for the poor recipient of Zakat al-Fitrah to be just. However, the obligatory precaution is that it should not be given to one who drinks, one who forsakes prayer, or one commits major sins publicly.

2034. The Fitrah should not be given to someone who spends it in a sinful manner.

2035. The obligatory precaution is that the poor recipient should not be given a Fitrah of less than one Saa' (approximately three kilograms). However, there is no problem in giving him more.

2036. If a person gives half a Saa' of a higher grade which costs double the price of its normal grade, such as a grade of wheat which costs double the price of its normal grade, it will not suffice. In fact, even if he gives it with the intention of paying the value of the Fitrah, it will not suffice.

2037. A person cannot give half a Saa' of one commodity, such as wheat, and half a Saa' from another commodity, such as barley. In fact, even if he gives it with the intention of paying the value of the Fitrah, it will not suffice.

2038. When giving Zakat al-Fitrah, it is recommended to give precedence to the poor amongst one's relatives, and then to neighbors who are poor. It is also recommended to give precedence to one who is distinguished in religion, perception and intelligence.

2039. If a person gives Zakat al-Fitrah to a person thinking that he is poor, but later finds out that he was not poor, then if the item that he gave has not ceased to exist, he should claim it back and give it to one who deserves it. If he is unable to claim it back, he should replace the Fitrah from his own wealth. If however, the item has ceased to exist, then in the event that the recipient of the Fitrah was aware that the item was given as Fitrah, he (the recipient) will have to pay for its replacement. However, if he was not aware of it, then paying for its replacement will not be obligatory on him, and it is the giver who will have to pay for its replacement.

2040. If a person claims to be poor, and one is aware that the person was previously poor, he may give his Fitrah to him. As for a person for whom it is not known if he was poor or not, but claims to be poor, obligatory precaution dictates that one cannot give him his Fitrah if he does not attain satisfaction in his claim. In fact, if he knows that the person was not previously poor, he cannot give him the Fitrah, unless he attains satisfaction in the person's claim.

Miscellaneous Rulings Pertaining to Zakat al-Fitrah

2041. Zakat al-Fitrah should be given with the intention of attaining proximity to Allah—as elaborated in the section on Wudhu—and with sincerity. While he is paying it, he should intend giving the Fitrah.

2042. If the Fitrah is paid prior to the month of Ramadhan, it will not be valid. However, it may be paid once the month of Ramadhan enters. The precaution however is that he should not give it in the month of Ramadhan. He may give it to a poor person prior to the month of Ramadhan as a loan, and once the Fitrah becomes obligatory, he may count his loan towards the Fitrah.

2043. The wheat or commodity that one gives as Fitrah, should not be mixed with sand or any other commodity. If it is

mixed with it, then there is no problem (in giving it) if the pure commodity (in the mixture) is one Saa'—approximately three kilograms—and there is no added effort or cost involved in separating it. The same will apply if the amount of the added substance is so insignificant, that it would be considered to be pure in the common understanding of the people.

2044. If the Fitrah is given from a defective commodity, it will not suffice based on obligatory precaution.

2045. A person who is paying Fitrah for a number of people does not have to give all the Fitrahs from one commodity. For example, if he gives the Fitrah of some from wheat and others from barley, it will suffice.

2046. A person who intends to pray the Eid prayers should pay the Fitrah prior to offering the prayer based on obligatory precaution. However, if he does not intend to pray the Eid prayers, he may delay paying the Fitrah until the time of Z'uhr.²⁰⁴⁷ If a person puts aside a part of his property with the intention of using it for Fitrah, but fails to give it to a deserving person prior to Z'uhr on the day of Eid, he should make the intention of giving Fitrah whenever he eventually gives it.

2048. If a person does not pay the Fitrah at the time when it is obligatory on him, nor does he put it aside, obligatory precaution dictates that he should give it with the intention of fulfilling that which the Holy Legislator has required of him.

2049. If a person has put aside some property as Fitrah, he may not utilize it for his personal use and put aside something else as Fitrah.

2050. If a person possesses some property, the value of which is greater than the Fitrah, then should he fail to give his Fitrah, it will be problematic for him to intend that a part of that property be counted as Fitrah, in a manner that the property would be inclusive of Fitrah and his personal property. However, there is no problem if he chooses to give all of it to a poor person.

2051. If the property that one sets aside as Fitrah ceases to exist, and he had delayed giving his Fitrah despite having access to poor persons, he will have to pay for its replacement. However, if he had no access to a poor person, and was not guilty of negligence in safeguarding it, he will not be responsible for the loss.

2052. If a deserving person is present in one's area, the obligatory precaution is that one should not send the Fitrah elsewhere. If he does so, and it perishes on the way, he will have to pay for its replacement.

The Precepts of Hajj

2053. The Hajj is a pilgrimage to the house of the Lord, and performing the rituals which have been prescribed. It becomes obligatory on an individual once in the lifetime to perform the Hajj if he meets the following criteria:

1. he is Baligh (of puberty)
2. he is sane
3. he is a free person.

4. he is not be compelled to commit a forbidden task on account of going for Hajj, avoiding which is more important than the Hajj. Similarly, he should not be compelled to abandon an obligatory act which is more important than the Hajj.

5. He should also be able to go for Hajj.

The ability is defined by the following factors:

a. He should possess the provisions and the vehicle for the journey, or the wealth required to procure it.

b. He should be healthy and (physically) capable of travelling to Makkah and performing the Hajj.

c. There should be no obstruction on the way. However, if the roads are closed, or if a person fears that his life or honor will be jeopardized in the journey to Makkah or whilst performing the rituals of Hajj, or that his property will be confiscated, then it is not obligatory upon him to perform the Hajj. However, if he is able to journey through another route, he must do so even if it is a longer route.

d. He should have sufficient time to fulfill the rituals of Hajj.

e. He should be able to meet the expenses of those whose maintenance is obligatory upon him, such as his wife and children. He should also be able to meet the expenses of those

whose maintenance is incumbent upon him in the common understanding, such as a servant whom he requires.

f. Upon returning, he should have a business, a farm, or an income from a property, or some means of earning his livelihood and that of his dependants in accordance to his status, so that he is not subject to a life of hardship.

2054. If a person is in need of owning a house, without which he would be subject to hardship and difficulty, then the Hajj will only become obligatory on him when he is able to procure the money for the house as well.

2055. If a woman who is able to go to Makkah, will not possess any wealth herself upon returning from Makkah, and neither will her husband pay for her living expenses, causing her to experience hardship and difficulty in her life, then it will not be obligatory on her to go for Hajj.

2056. If a person does not possess the provisions for the journey, nor a vehicle for transportation and another person offers to pay for his expenses and the expenses of his dependants during his journey for Hajj, then in the event that he is confident that the well-wisher will pay for his expenses, he will have to go for Hajj.

2057. If a person is gifted with the expenses for going to Makkah and returning from it, and also the expenses of his dependants whilst he is away on his journey to Makkah, and the well-wishers stipulate that he goes for Hajj, it is obligatory on him to accept it and go for Hajj. This is applicable even in the case where the individual would not have the wealth required to support his life upon returning from the journey, or a case where he has to pay off a debt. An exception is the case where the deadline for paying the debt has passed, and the creditor is demanding it, and the debtor would be able to pay off the debt if he were not to go for Hajj. Another exception is the case where the debt is to be paid off after a period of time, and the debtor knows that should he go for Hajj, he would not be able to pay off the debt when it will become due on him.

2058. If some well-wishers provide the travelling expenses of a person, and the expenses of his dependants for the period he is away for Hajj, and they ask him to go for Hajj, but they do not make it his property, then in the event that he is confident

that they will not take it back from him, it is obligatory upon him to go for Hajj.

2059. If some well-wishers provide a person with the amount that is sufficient for completing the Hajj, but stipulate that he serves one of the well-wishers during the journey to Makkah, it will not be obligatory on him to go for Hajj.

2060. If some people gift an amount of wealth to a person, rendering the Hajj obligatory on him, and he thus performs the Hajj, then he will not have to perform it again even if he later acquires the wealth by himself.

2061. If a person embarks on a business trip to—for example—Jeddah, and there he acquires an amount of wealth that enables him to make the journey to Makkah, and he possesses the conditions that are consequential in establishing his ability to go for Hajj, then he must go for Hajj. In the event that he goes for Hajj, it will not be obligatory upon him to go for Hajj again even if he acquires some wealth which enables him to go for Hajj from his hometown.

2062. If a person is hired to go for Hajj on behalf of another person, then in the event that he is unable to go himself, and wishes to hire another person on his behalf, he must seek the permission of the person who hired him.

2063. If a person becomes able to go for Hajj, but fails to do so, and then becomes poor, then he must perform the Hajj even if it entails difficulty. However, if he is unable to do so by any means, then in the event that someone hires him to go for Hajj, he must go for Hajj and perform the Hajj on behalf of the one who hired him. If possible, he should then remain in Makkah until the next year and perform the Hajj for himself. However, if it is possible for him to be hired for Hajj, and take payment for it in cash, and the person hiring him allows him to perform the Hajj on his behalf in the subsequent year, then he must perform his own Hajj in the current year, and perform Hajj on behalf of the one who hired him in the subsequent year.

2064. If a person goes for Hajj during the first year that he is able to do so, but does not reach the plains of 'ArafÁt and Mash'ar al-Haraam during the prescribed time, and he would not have been able to travel earlier and reach there in time, then if he is unable to go for Hajj in subsequent years, it will

not be obligatory on him. However, if he was able to travel earlier and reach at the prescribed time, or has been able to go for Hajj for many years but has failed to do so, then he must go for Hajj even if it entails difficulty.

2065. If a person does not go for Hajj during the first year that he is able to do so, and then owing to old age, illness or incapacitation is unable to perform the Hajj in later years, or it entails hardship and he despairs from being able to go for Hajj in subsequent years without bearing hardship, then he must immediately send another person on his behalf. In fact, if a person cannot perform Hajj in the first year that he acquires adequate wealth for performing the Hajj, owing to old age, illness or incapacitation, or because it entails hardship and he despairs from being able to perform the Hajj without hardship in subsequent years, the obligatory precaution is that he should send someone on his behalf to perform the Hajj. The recommended precaution is that if the person being represented is a man, he should select a person who has not been to Hajj before.

2066. The person who performs the Hajj on behalf of another, should also perform the Tawaf al-Nisa on his behalf as well. If he fails to do so, the hired person's wife becomes forbidden to him. 2067. If a person fails to perform Tawaf al-Nisa out of ignorance, or forgets to perform it, or performs it incorrectly, obligatory precaution dictates that he should perform it himself. In the event that he is unable to do so, or involves a lot of hardship for him, he may appoint a deputy (for this task). However, if he intentionally fails to do so, despite being aware of the rulings, he must return and perform it, unless he is unable to do so, or it entails hardship for him. In this case, he may appoint a deputy. "The detailed rulings of the Hajj are explained in the book *Manasik al-Hajj* (the rites of Hajj)."

2068. Enjoining good and forbidding evil, given the conditions that will be elaborated, is an obligation which is Kifaie, meaning that if a sufficient number of people carry out this responsibility, the remaining will be excused from it. If they fail to do so, all will have sinned.

2069. The obligation to enjoin good and forbid evil is contingent on some conditions:

1. The person enjoining good and forbidding evil should have knowledge of what is good and what is evil. Hence, one who is ignorant of what is good and evil, should not undertake the responsibility of enjoining others or forbidding them. In fact, the act of enjoining good and forbidding evil by an ignorant person is itself an evil that should be forbidden.

2. One should entertain the possibility that it will be effective. If however he knows that the person who is abstaining from what is right or committing what is wrong, will not pay heed to his advice, then it will not be obligatory upon him.

3. The person committing the sin or abstaining from goodness should not have ceased to abstain from goodness or committing of sin. However, if he has ceased, or there is a possibility that he may have ceased, it is not obligatory.

4. The person committing the sin or abstaining from goodness should not be excused in that case. An example of this is a person who does Taqleed of a Mujtahid who does not consider the act to be a sin or an obligation, even if it is a sin or an obligation according to the Taqleed of the one who wishes to enjoin good or prohibit evil.

5. If he does not know whether the act of enjoining or prohibiting will be effective, then it should not jeopardize—owing to the act of enjoining or prohibiting—the life, honor, or wealth of a Muslim.

However, if he knows that it will be effective, he will have to consider which of the two is more important. In the event that the act of enjoining good or forbidding evil is canonically more important, owing to the importance of performing the virtuous act or the abstaining from the evil one, he will not be relieved of the obligation to enjoin good and prohibit evil.

2070. Whenever the conditions for the obligation of enjoining good or prohibiting evil are established for a duty-bound Muslim, either with certainty or confidence, it becomes

obligatory on him to enjoin good and prohibit evil. However, if there is doubt with respect to even one of these conditions, it will not be obligatory on him.

2071. If the person who abstains from good or commits evil claims that he has a legal justification in committing or abstaining from the act, then it is not obligatory to enjoin him to perform the good or abstain from the evil.

2072. It is obligatory upon every Muslim to disassociate himself from those who innovate within the religion, and those who cause corruption within the religion or arouse skepticism with respect to the true beliefs. He must also warn others of their corruption.

2073. It is not permissible to probe and spy into another person's house with the intention of gathering information for the sake of enjoining good and forbidding evil

2074. In the event that enjoining good or forbidding evil entails hardship and difficulty for the one who is enjoining it or prohibiting it, to the extent that is it not considered tolerable in the common sense, it will no longer be obligatory, except in cases where it is of such importance within the sacred sharia that one is not excused from it due to hardship, such as protecting the religion or the lives of the Muslims.

2075. It is emphatically obligatory upon every duty-bound Muslim to enjoin his family towards goodness and prohibit them from committing evil in accordance to the following command of the Almighty Lord:

" ?????? ?????? ??? ?? ? ????? ? ?????? ? ????? ??? ?? ?? ?????????????????? ? ?????????????? ?? ?? ??? ??? ? ? ????? ? ? "

"O those who believe! Save yourselves and your families from the fire of hell, whose fuel is people and stones." (66:6)

He should enjoin them towards the practices that he enjoins upon himself, and prohibit them from those which he prohibits upon himself.

2076. It is obligatory upon every duty-bound Muslim to detest evil within his heart, even if he is unable to stop its practice. In the practice of enjoining good and forbidding evil, one should first try to compel another to perform good or abstain from evil by displaying his esoteric detest for it, even if it is by breaking social ties with the person who abstains from what is good or commits what is evil, and through his speech by

advising and counseling him, and informing him of the rewards of performing what is good and the divine punishment for committing evil.

However, if these two methods bear no results, and stopping the person is contingent on striking the person, then it should be in a manner that does not entail a diyah (blood money) or qiÒÁs (retribution), such as a case where it causes an injury. In the event that the injury is caused intentionally, the injured person may seek retribution, and if it is caused unintentionally, the injured person may claim the diyah.

2077. When enjoining good or forbidding evil, the duty of the one enjoining the good or forbidding the evil is to bear in mind the objectives of the Sacred Legislator of the sharia, which is to guide the one who is going astray and reform the one who is corrupted. This objective cannot be fulfilled unless he views the one who is afflicted with sins as a damaged part of his own body. He should then proceed to cure those who are afflicted with spiritual maladies in the same manner that he works on curing a part of his own body. The one who enjoins good and forbids evil should not be negligent of the fact that the records of the sinner may contain a good deed through which God may forgive him, and that his own record of deeds may contain a sin for which God may punish him.

2078. It is recommended to enjoin people towards recommended acts.

Conclusion

Every sin is a major violation, because the greatness, majesty and grandeur of the Lord is not limited by any boundaries, and therefore disobeying the Exalted Lord is a major violation, given that sinning against the Exalted Lord is a grave act. It has been narrated, "Do not consider the sin that you have committed, rather consider the one whom you have disobeyed." However, when sins are compared to each other, some of them are graver than others and their punishment is more severe. The punishment or the fire of hell has been explicitly or implicitly promised for some of these sins. These sins have also been termed as the major sins (kabĎrah) within the corpus of traditions from the Ahl al-Bayt (Peace be upon him).

22. TabdhDr: damaging a property or spending it for futile purposes.

23. Extravagance.

24. Consuming wine.

25. Practicing magic.

26. Oppressing.

27. Ghina (like Singing).

28. Upsetting one's parents and treating them unkindly.

29. Breaking off familial relations.

30. Homosexuality.

31. Adultery.

32. Accusing a married woman of adultery.

33. Pandering, be it for heterosexual or homosexual relationships.

34. Stealing.

35. Usury.

36. Consuming illegal profits, such as the profits from the sale of wine, the payment of a prostitute, and the bribe acquired by a judge for a court judgment.

37. Giving short measure.

38. Defrauding Muslims.

39. Confiscating the property of an orphan unlawfully.

40. Giving false testimony.

41. Concealing testimony.

42. Spreading indecency and sin amongst the believers.

43. Seditious.

44. Tale-telling that leads to disunity amongst the believers.

45. Verbally abusing a believer, insulting or humiliating him.

46. Slandering a believer.

47. Backbiting. This is defined as the act of relating a concealed and hidden defect of a believer in his absence, regardless of whether one conveys the defect through his speech or his actions. It will also make no difference if he did not have the intention of insulting or damaging his character. However, if a person reveals the defect of a believer with the intention of insulting him, he will have committed two sins. One who backbites must seek repentance (from the Lord), and obligatory precaution dictates that he should also seek forgiveness from the one who was backbitten, unless doing so would cause harm. Backbiting is permissible in the following cases:

1. One who commits sins openly and publicly, in which case it is permissible to backbite him with respect to that sin.
2. For an oppressed person to backbite an oppressor who has oppressed him, with respect to that act of oppression.
3. For the purpose of counselling, wherein the purpose of revealing the defect is to advise the one who is seeking counsel, and only to the extent that is required for him to be advised.
4. Backbiting one who innovates new practices within the religion, and one who causes people to go astray.
5. Backbiting for the purpose of revealing the corrupt of the witness, in the sense that if the person testifying is an immoral person, then to backbite him with the intent of revealing his immorality so that a person's right is not violated owing to his testimony, is permissible.
6. Backbiting a person for the purpose of defending his life, honor or property.
7. Backbiting a sinner with the intention of restraining him from committing the sin, in the event that it is not possible to restrain him using any other means.

The Precepts of Buying and Selling

2079. It behooves every businessman to learn the precepts that pertain to buying and selling. In fact, in the cases where he has certainty or satisfaction—be it in a specific or general manner—owing to his ignorance of the precepts, he will be exposing himself to abandoning an obligation or committing a prohibited act; it is necessary for him, therefore, to learn the precepts that pertain to that case. It has been narrated from Imam al-Sadiq (as), “One who wishes to engage in business should be educated in his religion, so that he is aware of what is permissible for him and what is prohibited. One who engages in business while being uneducated in his religion, is afflicted with dubious transactions.”

2080. If a person cannot determine whether a transaction is valid or void owing to his ignorance of its rulings, he may not sanction the transaction, nor make use of the property that he acquired from the transaction.

2081. A person who does not possess any property, whilst certain expenses are obligatory on him, such as caring for his wife and children, must earn his living. It is also recommended to earn for the purpose of being able to perform recommended works, such as providing a better means of livelihood for one’s family and helping the poor.

Recommended Acts

Whilst buying or selling, certain acts are recommended, of which some are listed below:

1. One should not discriminate between the buyers with respect to the price of the goods, unless it is based on faith, poverty or similar criteria which warrant preferential treatment.

2. One should not be adamant about the price, except in a case where he may be cheated were he not to do so.

3. A person should give a little more of what he is selling, and take a little less of what he is buying.

4. If the other party involved in the transaction regrets making the transaction, and requests to cancel it, one should accept his request.

The Transactions which are Makrooh

2082. Of the transactions which are Makrooh, the main ones are listed below:

1. Selling real estate, such as a land, house, garden or water, unless one buys another person's estate with the funds acquired from the transaction.

2. Butchery

3. Selling of shrouds

4. Entering into a transaction with people of low character

5. Transacting and displaying the goods for that purpose, between the [Azan] call for prayers of [Fajr] dawn and sunrise. 6. To undertake the profession of buying and selling wheat, barley or similar commodities.

7. To intervene in an ongoing transaction with the intent to buy the goods that another person wishes to buy.

Transactions Which are Prohibited and Invalid

2083. Some transactions are invalid but not forbidden, and some are forbidden but not invalid, and some are both: forbidden and invalid. Of these, the main ones are:

1. Some of the essentially Najis items, such as intoxicating drinks and pigs, the selling and buying of which is both forbidden and invalid. The same goes for Najis carcasses and non-hunting dogs, selling and buying of which is invalid, and based on obligatory precaution forbidden as well. In other than the aforementioned cases, in the event that it has a permissible benefit, one accepted by intelligent persons, such as animal waste which is used as fertilizers, or blood which is injected into sick patients, buying and selling of it is permissible and valid. The recommended precaution however is that it should be avoided.

2. Buying and selling usurped property, which is invalid without the permission of the owner. However, the act itself is not forbidden; rather, any corporeal use of the usurped property is forbidden.

3. Buying or selling things which are of no actual value in the eyes of the people, and buying or selling it would be considered absurd by them, such as animals which are considered to have no (monetary) value. Such a transaction is invalid, but not forbidden.

4. Transacting a thing which is usually utilized in a forbidden manner, such as media for gambling, which is both invalid and forbidden.

5. A transaction which involves interest is both invalid and forbidden.

6. Selling goods that are adulterated with something else, given that the other good is unknown, and the seller does not inform the buyer either, such as selling ghee which has been mixed with suet, or setting a price on an adulterated item. Such a transaction is invalid, and in some cases—as will be elaborated later—forbidden. The Holy Prophet (sawas) has made a statement to the following effect, “He is not of the Muslims, one who deceives the Muslims.” It has also been reported from him, “Whoever deceives his Muslim brother,

God withholds his blessings from the person's sustenance, constrains his livelihood, and abandons him to himself."

2084. There is no problem in selling a Tahir item which has become Najis, but is washable. However, if the buyer wishes to consume the item, or requires it for a task in which the apparent Taharah of the item is not sufficient, such as water for performing Wudhu or Ghusl, then the seller must inform him of it being Najis. The same will apply based on obligatory precaution to clothes, if the buyer wishes to offer prayers with genuinely Tahir clothes, even though the apparent Taharah of the body and the clothes will suffice for prayers in the case of one who is ignorant (of it being Najis).

2085. If a Tahir item which is not washable becomes Najis, but possesses a legally permissible benefit accepted by intelligent people, then there is no harm in buying or selling it. However, if the buyer needs it for a purpose like consuming it, or if its being Najis invalidates the buyer's act of worship which is conditional on it being Tahir, then it is obligatory on the seller to inform the buyer of it being Najis. An example of this would be a buyer wanting to burn Najis oil, but in the process making his food Najis, or rendering his body Najis whereby invalidating his Wudhu or Ghusl. Similarly, obligatory precaution dictates that the seller should inform the buyer in cases where even though the najisah of the body or the clothes does not invalidate one's Wudhu or Ghusl, but the buyer wishes to pray with a body or with clothes which are genuinely Tahir.

2086. Buying and selling Najis consumable medicines is not valid in the event that it does not possess a legally permissible benefit—other than its consumption—that is accepted by intelligent people. In the event that it does, it is valid. However, the seller must inform the buyer of it being Najis. If the medicine is not meant to be consumable, buying or selling it is permissible. However, the seller must inform the buyer in the manner outlined in the previous article.

2087. There is no problem in buying or selling oil that is imported from non-Muslim countries as long as one does not know it to be Najis. The same will apply if it is known to be Najis, but also possesses a legally permissible benefit accepted by intelligent people. In the latter case, the seller must inform the

buyer according to the details which were elaborated in article 2085. As for the oil that is derived from an animal after its death, even though one may entertain the possibility that it was slaughtered according to Islamic law, if it is acquired from the hands of a Kafir—in the event that it is not determined that the Kafir acquired it from a Muslim or a Muslim market—or imported it from non-Muslim countries, it is forbidden to consume it, and buying or selling it is invalid, and it will be considered Najis.

2088. If a fox or similar animal is slaughtered in a manner that has not been prescribed by the Shari'ah, or if it dies by itself, then buying or selling its skin will not be valid, and based on precaution forbidden as well.

2089. Buying or selling leather products which are imported from non-Muslim countries, or are acquired from the hands of a Kafir—in the event that it is not determined that the Kafir acquired it from a Muslim or a Muslim market—is not valid, even though one may entertain the possibility that it was slaughtered according to Islamic law. It is also not permissible to offer prayers in it.

2090. Buying or selling oil which is derived from an animal after its death is not valid, and consuming the oil is not permissible. It is also not valid to buy or sell leather products which are acquired from a Muslim, whom a person knows to have acquired it from a Kafir, and also knows that he has not bothered to investigate whether the leather was acquired from an animal slaughtered according to Islamic law, or not. It will not be permissible to offer prayers with such a product.

2091. A transaction that involves intoxicating drinks is both invalid and forbidden.

2092. The sale of a usurped property without the consent of the owner is void. The seller must also return to the buyer the money that he acquired from him.

2093. If a buyer intends to engage in a transaction, but also intends not to pay the price of the commodity that he is buying, the transaction will be valid and it is obligatory for him to pay its price to the seller.

2094. If a buyer purchases an item with an abstractly defined payment, and pays for it with wealth that was acquired illegally, the transaction will nonetheless be valid. However, as

long as he does not pay off the liability with wealth that is acquired legally, he will not be absolved of his responsibility (to pay the seller).

2095. The purchase and sale of instruments of entertainment, such as guitars and lutes is forbidden. This ruling, when applied to small guitars which are used as toys by children, is based on precaution. As for instruments which are dual-purpose, such as mp3 players and voice recorders, there is no harm in buying or selling such items as long as they are not meant to be used in a forbidden manner.

2096. If a thing which can be used in a legal manner, is sold to a person who uses it in an illegal manner for the express purpose that he use it in an illegal manner, then the transaction will be both invalid and forbidden. An example of this is selling grapes with the understanding that they will be made into wine. However, if he does not sell it with this intention, but is only aware that the buyer will make wine with it, there will be no problem in it.

2097. It is forbidden to make sculptures of living things, and so is—based on obligatory precaution—illustrating images of it. However, buying, selling and keeping it, is permissible, though better to avoid.

2098. Transactions carried out with items acquired through gambling, stealing, or void transactions, are uncommissioned. Their validity and sanctioning is contingent on the permission of the owner or his guardian. Any use of the item is forbidden, and the person who possesses it must return it to the owner or his guardian.

2099. If a person sells ghee that is mixed with suet, and the transaction is based on particularized goods, such as the case wherein the person states, “I am selling these three kilograms of ghee,” then such a transaction can take two forms:

1. The amount of suet mixed in the ghee is to an extent that it would still be deemed three kilograms of ghee in the common understanding, albeit an adulterated form of it. In this case the transaction will be valid, but the buyer will maintain the right to cancel it.

2. The amount of suet mixed in the ghee is to an extent that it is no longer deemed to be three kilograms of ghee in the common understanding; rather, they view it as a mixture of

ghee and suet. In this case, the transaction is invalid in proportion to the amount of fat in it. The money that the seller acquires for the suet in the mixture belongs to the buyer, and the suet belongs to the seller. In fact the buyer may also cancel the transaction with respect to the pure ghee within the mixture. If however the transaction is not based on particularized goods, rather the sale is based on three kilograms of ghee in an abstractly defined form, and later the seller delivers ghee mixed with suet, the buyer reserves the right to return the adulterated ghee and demand pure ghee.

2100. If an amount of a commodity that is sold based on weight or volume, is sold for a greater weight or volume of the same commodity, such as one kilogram of wheat sold for one and a half kilograms of the same, it is interest and therefore forbidden. The transaction is also void. The same will apply if one of them is faultless and the other is defective, or one of superior quality and the other inferior, or if they are subject to a difference in price. Should the sale and purchase be based on the difference in their amounts, it will still be interest and forbidden. The transaction will also be void. Therefore, if a person gives unbroken copper and acquires in return a greater amount of broken copper, or gives rice of superior quality and acquires in return a greater amount of inferior quality rice, or gives finished gold and acquires in return a greater amount of raw gold, it is interest and forbidden. The transaction is also void.

2101. If the additional asset acquired from the transaction is other than the commodity being sold, such as a the sale of one kg of wheat for one kg of wheat and two dollars, it will still be interest, and therefore forbidden. The transaction will also be void. In fact, even if the seller does not take any extra goods, but stipulates that the buyer should render some services to him, it will again be interest and therefore forbidden. The transaction will also be void.

2102. If one wishes to avoid interest based transactions in the sale and purchase of commodities that are measured by weight or volume, he must be careful to ensure that an excess or that which is subject to the rulings of an excess—as elaborated in the previous article—does not occur on either sides of the transaction. For example, one may sell one kg of wheat and

one handkerchief for one and a half kg of wheat in immediate payment, so that the extra half of a kg of wheat would be in lieu of the handkerchief. The same applies in a case where there is an excess on both sides, such as the sale of one kg of wheat and one handkerchief for 1.5 kg wheat and one handkerchief, by considering what was elaborated earlier.

2103. If a person sells a commodity that is sold in meters or yards, such as cloth, or a commodity that is sold per piece, such as eggs or walnuts, and takes more in return, there is no problem in it as long as the transaction is based on two particularized commodities. The same will apply if it is sold in an abstractly defined manner, and there is a distinction between the two, such as the sale—in an abstractly defined manner—of 10 large eggs for 11 medium eggs. However, if there is no distinction between the two, to claim the validity of the transaction is problematic. The same will also apply to the sale of currency notes—even though it is a countable item—in return for more, in the event that they are of the same currency, regardless of whether they are both particularized or abstractly defined. To claim the validity of such a transaction is also problematic.

2104. The goods that are sold by weight or volume in some cities, and by count in other cities, will—in each city—be subject to the ruling of the method that is conventional in that city, given the absence of an overriding tendency between the two methods. The same will apply if it is sold by weight or volume in most cities, and by count in some cities. In the latter case, the precaution is that the commodity should not be sold for something more than its value.

2105. If the commodity being sold is not the same as the item being received in lieu of it, there is no problem in taking more. Hence, if someone sells one kg of rice, and takes two kgs of wheat in return, the transaction will be valid.

2106. If the commodity being sold, and the one being received in return are both derived from the same origin, one should not take any excess in the transaction. Therefore, if a person sells one kg of cow's ghee and takes one and a half kg of cow's cheese in return, it will be interest, and hence forbidden. The transaction will also be void. The same applies if ripe fruits are bartered for unripe fruits of the same kind.

2107. In the rulings pertaining to interest based transactions, barley and wheat are considered to be of one species. Therefore, if—for example—a person gives one kg of wheat and takes in return one and a half kgs of barley, the transaction will be interest based, forbidden and void. Similarly, if a person takes 10 kgs of barley, in return for giving 10 kgs of wheat at the beginning of the harvest, then because he is acquiring the barley immediately and delivering the wheat after a while, it is as if he is acquiring something extra, and therefore the transaction is forbidden and void.

2108. A Muslim may take interest from a non-Muslim who is not under the protection of Islam. As for a non-Muslim who is under the protection of Islam, it is not permissible to carry out an interest based transaction with him. However, if the transaction has already been carried out, if taking interest is permissible in the non-Muslim's religion, he may take it. Additionally, a father and son, or a husband and his permanent wife may take interest from each other.

The Conditions of the Buyer and the Seller

2109. The following conditions have been stipulated for the buyer and the seller:

1. They should both be Baligh
2. They should both be sane
3. They should not be feeble-minded, in the sense that they should not be wasting their property on pointless ventures.
4. They should have the intention to buy and sell. Hence, if someone jokingly states, "I sold my property," a transaction will not be realized. In reality, the intention is not a condition for the validity of the transaction; rather, it is what forms the transaction.
5. No one should have wrongfully compelled them. If they are compelled, but later consent to it, the transaction will be sanctioned.
6. They should be the owners of the commodity and the thing being offered in return, or have the right of guardianship over the owners, or deputyship and permission from him. The detailed rulings pertaining to these conditions will be elaborated in subsequent articles.

2110. A transaction carried out with a non-Baligh child who acts independently in the transaction, is invalid with respect to his own wealth. If the transaction is carried out with his guardian, and the non-Baligh distinguishing child only articulates the formula for the transaction, it will be valid. If however the commodity or the money belongs to someone else, and the child sells the commodity as a deputy of the owner, or buys something with his money, the transaction will be valid, even though the distinguishing child may act independently in utilizing it. If the child is but a means for delivering the commodity and its payment to the parties involved in the transaction, there will be no problem in it, even if the child is not of distinguishing age. However, both the buyer and the seller should be certain or attain satisfaction that the child will deliver the commodity or the payment to its owner.

2111. If a person carries out a transaction with a child of distinguishing age, in cases where transactions involving such a child are not valid, and acquires commodities or money from

him, then in the event that it is the property of the child himself, the person should return it to his guardian. If however, it belongs to someone else, he should return it to its owner, or seek the owner's consent. In the event that he does not know who the owner is, nor does he possess any means of identifying him, he should give the thing he acquired from the child to the poor on behalf of the owner with the intention of *Radde Maza-lim* . Obligatory precaution dictates that he should seek the permission of the *Hakim al-Shar'i* before doing so

2112. If a person carries out a transaction with a child of distinguishing age, in cases where transactions involving such a child are not valid, and the money or the commodity that he gives to the child perishes, he may demand it from the child after he becomes *Baligh*. However, if the child is not of a distinguishing age, the person does not have the right to demand it from him.

2113. If a buyer or a seller is wrongfully compelled to carry out a transaction, but then willingly consents to it after the transaction, it will be valid. The recommended precaution however is that they should carry out the transaction again.

2114. If a person sells someone's property without his permission, the transaction will not be sanctioned for as long as the owner does not consent to its sale and permit it.

2115. A father or paternal grandfather of a child, and similarly the person designated to execute the father's or the paternal grandfather's will, who has been designated to be the child's caretaker, may sell the property belonging to the child. Obligatory precaution dictates that the transaction be to the benefit of the child. Similarly, a just *Mujtahid* may also sell the property of an orphan in the absence of his father, paternal grandfather and their executors, given that the sale is to the benefit of the orphan. He may also sell the property of an insane person or a person who is missing whenever the circumstances necessitate it.

2116. If a person usurps a property and then sells it, and thereafter the owner of the property consents to the transaction, the transaction will be sanctioned. The usurped item that the usurper gave to the buyer, and all the acquired benefits from the time of the transaction, will be the property of the buyer. On the other hand, the item that the buyer gave, and all

the benefits acquired from the time of the transaction will belong to the person whose property was usurped.

2117. If a person usurps an item and sells it, with the intention that the item acquired in return would become his property, then, should the owner of the usurped item consent to the transaction, it will be sanctioned. However, the item acquired in return will be the property of the owner and not the usurper.

Conditions Stipulated for the Commodity and Its Payment

2118. The commodity that is sold and the payment acquired in return must possess the following five conditions:

1. Its measure must be known either by weight, volume, count or any similar method of measurement.

2. The item should be deliverable. If the seller—for example—sells an item that he is unable to deliver, but the buyer is able to acquire it, it will suffice. Therefore, if—for example—someone sells a horse that has run away, and neither of the parties is able to capture it, the transaction will be void. However, if he sells a runaway horse along with something of value that is deliverable, the transaction will be valid even if the horse is not located. The more precautionary measure—in the case of things other than runaway slaves—is that the seller should sell a commodity of value, and stipulate within the transaction that should the runaway be located, it will be the property of the buyer.

3. The details of the commodity and the item acquired in return, which are responsible for the difference in its price, should be specified.

4. The ownership of the commodity should be unconditional. Hence, the sale of a property that has been dedicated (Waqf) is not permissible, except in the cases which will be mentioned later.

5. The commodity itself should be sold and not its benefits. Hence, if someone, for example, sells one year's worth of benefits acquired from a house, it will not be valid. However, there is no problem if the buyer offers the benefits to his property instead of money, such as the case wherein he buys a carpet from an individual and in return he gives him a year's worth of benefits to his house. The rulings pertaining to these conditions will be elaborated in subsequent articles.

2119. Precaution dictates that a commodity that is sold by weight or volume in a particular city, be bought by weight or volume in that city. However, he may buy the same commodity by mere observation in another city where it is sold by observation.

2120. A commodity that is transacted by weight, may also be transacted by volume, wherein—for example—a person who wishes to sell 10 kgs of wheat, may use a measuring cup that has the capacity for 1 kg of wheat, and measure 10 such cups.

2121. If even one of the conditions that were mentioned earlier is not present in a transaction, it will be void. However, if both owners consent to the use of their property by each other, then there is no objection to their use of each other's property in ways which are not contingent on ownership.

2122. The transaction of a thing which has been endowed is not valid. However, if it has been damaged to an extent that it is no longer usable for the purpose that it was endowed for, or is close to reaching such a stage, such as the carpet of a mosque, that is damaged to an extent that one cannot pray on it, then there is no problem in selling it. Wherever possible, its replacement should be put to use in the same mosque in a manner that is most congruous to the aims of the endower. The endowed property should be sold by its trustee, and any use of the property acquired in return should also be carried out by him. In the event that he is not available, it should be carried out with the permission of the Hakim al-Shar'i.

2123. Whenever a dispute arises between the beneficiaries of an endowment, to a degree that if the endowment is not sold, one would fear for the loss of the endowment or the loss of a life, then it may be sold. In such a case, in return for what is sold, a thing should be bought, and in accordance with the former endowment, the profits acquired from it should be spent on the affairs specified by the endower. In the event that this is not possible, it should be spent on affairs which are most congruous to the aims of the endower. The same will apply if the endower stipulates that if the general interest is upheld by selling it, that it be sold.

2124. There is no problem in selling or purchasing a property that has been rented out. However, the benefits of the property belong to the renter for the length of the rental period. In this case, if the buyer was not aware that the property has been rented out, or under the impression that the rental period is short, before he chooses to buy it, he can cancel the transaction upon finding out.

The Formal Expression (Seeghah) of a Transaction

2125. In a transaction, it is not necessary to utter its formal expression in Arabic. Therefore, if a seller for example says in English, "I have sold this property in return for this item," and the buyer responds by saying, "I have accepted," the transaction will be in order. However, the buyer and the seller must both have the intention of forming the transaction, in the sense that by uttering the above sentences, they wish to carry out a transaction.

2126. If the formal expression is not used in a transaction, but both the buyer and seller have the intention of carrying out a transaction through the act of giving and receiving, the transaction will be valid and both will become owners (of the items exchanged).

The Sale and Purchase of Fruits

2127. The sale of a fruit that has shed its flower and developed into a seed is valid, even before it is plucked. Similarly, there is no problem in the sale of unripe grapes whilst they are still on the vine. However, dates should not be sold before they turn red or yellow.

2128. The sale of one year's worth of fruits, before it becomes apparent, is not permissible without a supplement. However, the sale of two years' worth of fruits, and similarly the sale of one year's worth of fruits with a supplement, is permissible. Once the fruit becomes apparent (on the trees), but before it sheds its flower and forms into a seed, the recommended precaution is that a produce of the earth, such as vegetables, or any other property, should be sold along with it, or that more than one year's worth of fruits should be sold to the buyer.

2129. There is no problem in the sale of dates which have turned red or yellow while they are still on the tree. However, it is not permissible to exchange them for the dates of the same tree. Similarly, precaution dictates that it should not be exchanged for the dates of another tree either, be they specifically defined or abstractly. However, if someone owns a date-palm in the house of another person, then in the event that he estimates its quantity, and sells it to the owner of the house in return for dates, there will be no objection to it.

2130. It is permissible to sell cucumbers, egg-plants, and vegetables that are picked several times in a year, as long as they have become apparent and are visible, and as long as they specify the number of times the buyer will pick them in a year.

2131. If wheat or barley ears are sold after they form grains, for something other than wheat or barley, there is no problem in it. However, selling it for wheat or barley that is derived from the very same ear is not permissible. Obligatory precaution dictates that the same should apply to wheat or barley that is derived from another ear, be it specifically or abstractly defined.

Immediate and Deferred Payment (Naqd wa Nisyah)

2132. If a commodity is sold based on immediate payment, both the buyer and the seller can demand the commodity and its payment from each other and take possession of it. The delivery of property, be it transportable or not, is realized by removing all the obstacles that impede the other party from making use of it.

2133. In a sale of deferred payment, the period of deferment should be precisely defined. Therefore, if a person sells a commodity with the understanding that its payment would be deferred to the beginning of the harvest, the transaction is invalid because the period has not been precisely defined.

2134. If a commodity is sold on deferred payment, the seller may not demand its payment prior to the completion of the agreed period of deferment. If, however, the buyer passes away, and leaves behind an estate, the seller may demand the payment from the inheritors before the completion of the period. 2135. If a commodity is sold on deferred payment, the seller may demand its payment after the completion of the agreed period of deferment. However, if the buyer is unable to pay, the seller must give him respite, or he may cancel the transaction and reclaim possession of the commodity if it still exists.

2136. If a person sells a commodity on deferred payment to a person who is ignorant of its price, and fails to inform him of its price, the transaction will be invalid. However, if he offers the commodity on deferred payment for a higher price to a person who is aware of its price on immediate payment—for example, he may state that the commodity that he is selling on deferred payment will cost 10 cents more for every dollar of its sale on immediate payment—and the buyer accepts it, there will be no problem with the transaction.

2137. If a person who has sold a commodity on deferred payment, and has specified a period for its payment, requests the buyer after—for example—the passage of half the period of deferment to pay him a portion of the price immediately, and (in return) forgoes his claim to the rest of it, there will be no problem in it.

Advance Payment Transactions

2138. An advance payment transaction is one where the buyer buys an abstractly defined commodity by paying immediately, with the understanding that the commodity will be delivered at a later date. Such a transaction is the converse of a transaction of deferred payment. Hence if the buyer states, "I am giving you this money so that—for example—after six months I acquire the following commodity (which has been abstractly defined)," and the seller responds by saying, "I have accepted," or if the seller takes possession of the money, and states, "I have sold that commodity (which has been abstractly defined) and I will deliver it after six months," the transaction will be valid.

2139. If a person sells gold or silver, be it in the form of currency or not, by taking advance payment, and accepts in payment gold or silver, be it in the form of currency or not, the transaction will not be valid. However, if a person sells a commodity or currency which is not in the form of gold or silver, by taking advance payment, and accepts in payment a commodity, or accepts gold or silver, be it in the form of currency or not, the transaction will be valid.

The Conditions for an Advance Payment Transaction

2140. An advance payment transaction must fulfill the following seven conditions:

1. The details which determine the price of the commodity should be specified, and it will be sufficient to specify it to an extent that it would be accepted in the common understanding that its details have been made known. As for the commodities whose specifications and characteristics cannot be defined except by visual observation, such as precious stones and similar items, advance payment transactions are not valid in their case.

2. Before the buyer and the seller leave each other's presence, the buyer should pay the entire price to the seller, or be owed by the seller an amount that is equivalent to the price—and the amount is either owed immediately, or in the form of deferred payment whose period has come to an end—and thus offer to adjust the debt against the price, to which the seller accepts. However, if the buyer only pays a part of the price, the transaction will be valid with respect to that amount, and the seller reserves the right to cancel the transaction.

3. The period should be specified in a very precise manner. If for example he says, "I will deliver the commodity at the beginning of the harvest," the transaction will be invalid because the period has not been precisely defined.

4. The time specified for the delivery should be such that the seller would be able to deliver the commodity at that time.

5. A place for the delivery should be specified in the event that varying locations may cause difficulty in submitting the commodity or loss of property. However, if the delivery location is obvious due to certain qualifiers, it is not necessary to name the location.

6. The amount of the commodity should be specified by weight, volume, count or any such measurements. If the commodities that are usually sold by visual observation, are sold by taking advance payment, there is no problem in it. However, the difference within the commodity should be so insignificant,

that people would not pay attention to it, as is the case with certain kinds of eggs and walnuts.

7. If the commodity being sold is usually sold by weight or volume, what is acquired in return should not be of the same commodity. For example, wheat cannot be sold for wheat by taking advance payment.

The Precepts of Advance Payment Transactions

2141. A person may not sell a commodity acquired by offering advance payment, to a person other than its seller before the end of the stipulated period. In fact, obligatory precaution dictates that he cannot even sell it back to the seller in that period either. There is no problem in selling it once the period has expired, even if he has not acquired possession of it. In the event that he sells it to the seller in return for a payment that is of the same kind as the payment he made, he should not sell it for a price that is greater than his payment. As for a commodity that is sold by weight or volume, it is not permissible to sell it before acquiring possession of it. However, if it is not sold for a price that is greater than its price, there is no objection to it.

2142. In a transaction involving advance payment, if the seller delivers the transacted commodity on its due date, the buyer must accept it. If he delivers something that is better than what was agreed upon in the transaction, and it is considered to be of the same commodity, again, the buyer must accept it.

2143. If the commodity being delivered by the seller is of a lower quality than what was agreed upon in the transaction, the buyer can choose not to accept it.

2144. If the seller delivers a commodity that is different from the commodity agreed upon in the transaction, there is no objection to it if the buyer consents to it.

2145. If the commodity that was sold by advance payment becomes unobtainable during the period that it is due for delivery, and the seller is unable to make it available, the buyer can choose to wait until he makes it available, or he can choose to cancel the transaction and reclaim possession of the payment he made.

2146. If a person sells a commodity and agrees to deliver it after some time, and also agrees to collect its payment after a particular time, the transaction will not be valid.

The Sale of Gold and Silver for Gold and Silver

2147. If gold is sold for gold, or silver for silver, be they minted or not, in the event that the weight of one is more than the weight of the other, the transaction will be forbidden and invalid.

2148. If gold is sold for silver, or silver for gold, the transaction is valid, and it is not necessary for their weight to be the same.

2149. If gold or silver is sold for gold or silver, the buyer and the seller must give the commodity and its exchange to each other before they depart from each other's presence. If they fail to give any part of the items that were transacted, the transaction will be void.

2150. If the buyer or seller hands over all of what he agreed to give in the transaction, whilst the other party only hands over a part of what he agreed to give, and they depart from each other's presence, the transaction will be in order with respect to the amount that was handed over. However, the party that did not receive the entire property from the transaction reserves the right to cancel it.

2151. If gold ore from a mine is sold for pure gold, or silver ore is sold for pure silver, the transaction will be invalid, unless it is known that the weight of gold or silver in the ore is equivalent to the weight of the pure gold or silver. However, there is no problem in selling ores of gold for silver, or ores of silver for gold.

Cases Wherein an Individual may Cancel a Transaction

2152. The right of cancelling a transaction is known as Khiyaar (option). A buyer or seller reserves the right to cancel a transaction in one of the following eleven cases:

1. The buyer and seller have not departed from each other's presence, even though they may have concluded formal negotiations. This option is known as Khiyaar al-majlis, the option of a meeting.

2. One of the parties in the transaction has been cheated, be it in a sale or otherwise, and this option is known as Khiyaar al-Ghabn (Ghabn in a transaction occurs when the agreed price of a commodity is substantially different from its actual value, in a manner that it would not be disregarded in the common sense), the option of fraud.

3. The parties stipulate within the contract that one or both parties reserve the right to cancel the transaction within a certain period. This option is known as Khiyaar al-Shart, the option of condition.

4. One of the parties embellishes the merchandise to look better than what it truly is, and does it in a manner that causes the value of the merchandise to appreciate in the eyes of the people. This is known as Khiyaar al-Tadlis, the option of embellishment.

5. One of the parties within the transaction stipulates that the other party renders a service, and that condition is not fulfilled, or stipulates that the corporeal property, and not one that has been abstractly defined, possesses certain specifications, and it does not possess those specifications. In both these cases, the stipulator reserves the right to cancel the transaction. This is known as Khiyaar Takhalluf al-Shart, the option of a breach of condition.

6. There is a defect in the commodity or its payment, and this is known as Khiyaar al-A'yb, the option of defect.

7. It is later discovered that part of the commodity that was transacted belonged to a third party. In this case, if the owner does not consent to the transaction, the other party may cancel the transaction, or take back what he gave in return for that

amount, should he have already paid for it. This can take two forms: a. The amount (owned by the third party) is an abstract fraction of the whole. This is an instance of Khiyaar al-Shirkah, the option of partnership. b. The amount is a corporeally segmented portion of the whole. This is an instance of Khiyaar Taba'udhi al-Safaqah, the option of a segmented transaction.

8. The owner of the property described the specifications of the property that is corporeal and not abstractly defined, which the other has not seen, but later realizes that the property is not as it was described to be. In this case, the other party reserves the right to cancel the transaction, and this is known as Khiyaar al-Ru'yah, the option of physical observation.

9. The buyer fails to hand over the payment for the purchased commodity within three days, and no delay of payment has been stipulated within the contract. In this case, if the seller has not yet handed over the commodity, he reserves the right to cancel the transaction. However, if it is a commodity that would get spoiled if it stays for one day, like certain fruits, the seller reserves the right to cancel the transaction should the buyer fail to pay for it till nightfall, and has neither stipulated a delay of payment in the contract. This option is known as Khiyaar al-Ta'khir, the option of delay.

10. A person has bought an animal, in which case he reserves the right to cancel the transaction within three days. If in return for selling something, the seller acquires an animal, he too reserves the right to cancel the transaction within three days of the sale. This is known as Khiyaar al-Haywaan, the option of animals.

11. The seller is unable to hand over the commodity that he sold. For example, the horse that he sold runs away, in which case the buyer reserves the right to cancel the transaction, and this is known as [Khiyaar Ta'athuri al-Taslim] the option of annulling the contract due to being unable to receive the item, or one may call it: the option of difficulty in submission.

2153. If the buyer is ignorant of the price, or becomes heedless of it during the transaction and buys it for a price that is higher than its usual price, then given that he buys it for a substantially inflated price that people would take note of the difference and would not disregard it, he will reserve the right to

cancel the transaction. Similarly, if the seller is ignorant of the commodity's price, or becomes heedless of it during the transaction and sells it for a price that is lower than its usual price, then given that he sells it for a substantially deflated price that people would take note of the difference and would not disregard it, the seller will reserve the right to cancel the transaction.

2154. In a transaction involving a conditional sale, wherein—for example—a house valued at \$400,000 is sold for \$200,000 with the clause that should the seller return the money within the stipulated period, he will reserve the right to cancel the transaction, the transaction will be valid provided the buyer and the seller both have the intention of carrying out the transaction.

2155. In a transaction involving a conditional sale, even if the seller feels assured that should he fail to return the money within the stipulated period, the buyer will give his property back to him, the transaction will remain valid. However, if he fails to return the money within the stipulated period, the seller does not have the right to demand the property from the buyer. As such, if the buyer dies after the stipulated period elapses, the seller cannot demand the property back from his inheritors.

2156. If—for example—a person mixes high grade tea with low grade tea, and sells it under the label of high grade tea, and the buyer is not aware of it, he may cancel the transaction.

2157. If a transaction pertains to a corporeal property, and not one that is abstractly defined, and the buyer realizes that the property is defective, such as an animal which is blind in one eye, then given that the defect was present in the property before the transaction, which the buyer was unaware of, he may cancel the transaction and return the property to the seller. However, if returning it is not possible, such as a case wherein the property has undergone some change, or has been utilized in a manner that it cannot be returned, then the difference between the price of the defective property and a sound one should be determined, and in proportion to the difference between the two, he may take back a portion of the price that he paid to the seller. For example, if he realizes that the property that he bought for \$4 is defective, then given that

the value of a sound form of that property is \$8 and a defective one is \$6, then since the price of the defective property is $\frac{3}{4}$ th of the sound one, he may take back $\frac{1}{4}$ th of the price that he paid to the seller, which is \$1 in this case.

2158. If the seller comes to realize that there is a defect in the corporeal particularized item that he acquired in return for selling the commodity, then given that the defect was present in it before the transaction was carried out, which he was unaware of, he reserves the right to cancel the transaction and return it to its owner. If however he is unable to return it due to a change in it, or a utilization which renders it non-returnable, he may claim back the difference between a sound and defective form of the item in the manner that was described in the previous article.

2159. If a defect develops in the commodity after the transaction but before it is handed over, the buyer can cancel the transaction. Similarly, if a defect develops in the item that is given in return, after the transaction but before it is handed over, the seller can cancel the transaction. However, if they wish to take the difference in the price, it is not permissible.

2160. If a person realizes that an item has a defect after the transaction is carried out, he does not have to cancel the transaction immediately. He also reserves the right to cancel the transaction later on, although the more precautionary measure is that he should not delay in doing so.

2161. If at any time after the transaction a person comes to realize that the commodity has a defect, he can cancel the transaction even if the seller is not willing to accept it. The same applies to the rest of the Khiyaars.

2162. In the following four cases, a buyer cannot cancel a transaction due to a defect in the property, nor demand the difference in the price:

1. He is aware of the defect at the time of the transaction.
2. He is content with the defect in the property.
3. He states at the time of the transaction, "Even if the commodity has any defects, I will not return it, nor take the difference in the price."
4. The seller states at the time of the transaction, "I am selling this commodity with all the defects that it contains." However, if he specifies a particular defect, saying, "I am

selling the property which has this particular defect,” and later it is discovered that it has another defect, the buyer can return the commodity owing to the defect that was not specified by the seller. In the event that he is unable to return it, he can take the difference in the price.

2163. In the following cases, a person who is given a defective property cannot cancel the transaction owing to the defect, and may only claim the difference in the price:

1. In the event that the property itself has perished
2. In the event that he ceases to own it, as is the case when it is sold or gifted to someone else, or any similar transfer.
3. In the event that the property undergoes a change, such as a cloth which has been cut or dyed.
4. In the event that he has not ceased to own it, but has carried out a transaction involving that property, such as the case wherein he has rented it out or mortgaged it.
5. In the event that the commodity develops a defect after it is handed over. However, if the transacted item is a defective animal, and it develops another defect prior to the passage of three days, he may cancel the transaction even if he has taken possession of it, owing to the right of cancellation that stems from Khiyaar al-Haywaan, the option of animals. The same will apply if he reserves the right of cancellation due to a condition (within the contract).

2164. If a person owns a property that he himself has not seen, and its details have been described to him by another person, then should he describe the same details to a prospective buyer, and sell it to him, only to realize later on that it was in fact better than what he had described, he will reserve the right to cancel the transaction.

Miscellaneous Rulings Pertaining to Buying and Selling

2165. If the seller informs the buyer of the price of a commodity, he must also inform him of all the details that cause the commodity to appreciate or depreciate in value, even if he sells it to him for that price or less than it. For example, he must inform him if he has bought it on immediate or deferred payment. Therefore, if he fails to inform him of some of these details, and the buyer only comes to realize it later on, he can cancel the transaction.

2166. If a person gives a commodity to an individual, specifies its price, and says to him, "Sell this commodity for this price. Anything that you acquire above this asking price will be your wages for facilitating the sale," then anything that he acquires above the asking price will belong to the owner of the commodity. The rental agreement will be void, and the seller may—according to the opinion of a great number of scholars—claim an equivalent wage for the work from the owner. However, if the equivalent wage is far greater than what the seller had been pleased with, the obligatory precaution is that he should work out a compromise settlement with the owner with respect to the extra amount. However, if it is in the form of a *Ju'aalah*, whereby the owner states, "If you sell this commodity for a price that is higher than this price, let the extra belong to you," there is no problem in it.

2167. If a butcher sells the meat of a male animal, but instead delivers the meat of a female animal, he will have sinned. If he had specified the meat, saying that I am selling this meat that belongs to a male animal, the buyer will reserve the right to cancel the transaction. However, if he had not specified it, then in the event that the buyer is not pleased with the meat that he has received, the butcher must sell him the meat of a male animal.

2168. If a prospective buyer tells a draper that he wishes to purchase a cloth that is colorfast, but the seller sells him a cloth that loses its color, the buyer will reserve the right to cancel the transaction.

2169. Swearing while carrying out a transaction, if it be for something true, is Makrooh, and if it be for something false, it is forbidden.

Chapter 56

The Precepts of Partnership

2170. Partnership is defined as the ownership by two or more persons of a property—be it particularized or abstractly defined—as an abstract fraction of the whole, such as half, one-third etc. Partnership can be realized through various causes. It can be realized by a non-volitional cause, such as inheritance, or a volitional cause. The volitional cause may be a corporeal act, such as the case wherein two people take possession of a property together, or a contract, such as a case wherein two people who own two separate properties, exchange an abstractly defined fraction of their property—for example half of it—with each other through a sale or a compromise. Partnership can also be realized through the amalgamation of two properties, whereby they are no longer distinguishable from each other, be they both of the same kind or of different kinds. A contractual partnership—whose rulings are being discussed—is defined as a contract between two or more persons over an enterprise involving a commonly owned property, wherein the profits would belong to each of them, just as the losses would also be borne by each of them.

2171. If two or more persons become partners in the wages that they acquire from their work, such as a case wherein a few workers mutually agree to share any wages that they earn, their partnership will not be valid. However, if they come to a mutual compromise, such as exchanging half of one's wages for half of the other party's wages for a specified period, and the other party accepts, they become partners in their wages. If it is stipulated within a binding contract that each one of them will—for example—give half of his wages to the other, then even though they do not become partners, it is

obligatory upon each of them to act according to the stipulated clause. The same ruling will apply if the clause is stipulated within a non-binding contract, for as long as the contract has not been cancelled.

2172. If two people agree to become partners on the terms that each one of them would buy a commodity on his own behalf, and, himself, be responsible for paying its price, but that they would be partners in the use of the commodities that they have bought, then such a partnership is not valid. However, if each of them deputizes the other to buy on his behalf an abstractly defined fraction—such as half or one-third—of the abstractly defined commodity that the other person is buying, be it on immediate or deferred payment, and thereafter each partner buys the commodity for himself and also on behalf of his partner so that each is responsible for the amount owed, the partnership will be valid.

2173. The individuals who wish to become partners through a contractual partnership must both be sane and Baligh. They must also enter the partnership of their own intention and volition, and possess the right of disposal over their property. Therefore, if a feeble-minded person—defined as one who uses his property in futile ventures—enters into a partnership, it will not be valid, because he does not have the right of disposal over his own property.

2174. If the partners stipulate within the partnership contract that the one who does the work, or who works more than the others, or whose work is of greater value than that of the others, should enjoy a higher share of the profits, then they must give the stipulated amount to him. However, if they stipulate that the one who does not do any work, or who does not work more than the others, or whose work is not of greater value than that of the others, should enjoy a higher share of the profits, the condition will not be valid. Nevertheless, if they stipulate that the extra amount be placed in his possession, the condition will be valid and they must fulfill it.

2175. If it is agreed that all the profits should be given to one person, or that all the losses should be borne by one person, then such a clause is void and the validity of the contract is also questionable. However, if it is agreed that one would give the other from the property that is profited, or would place in

the other's possession an amount that is equivalent to the entire loss incurred by him, the contract will be valid and it will be mandatory to fulfill the condition.

2176. If it is not stipulated that one of the partners would take a higher cut of the profits, then if the capital invested by each partner is the same, they will enjoy the profits or bear the losses equally. However, if their invested capitals are not equal, then they will have to divide the profits or losses in proportion to their capital. For example, if two people form a partnership, and the capital invested by one is twice of that invested by the other, his share of the profits or losses will also be twice that of the other's, regardless of whether they both work equally, or one works less than the other, or one of them doesn't do any work at all.

2177. If it is stipulated within the partnership contract that the partners would carry out the sale or the purchase together, or each of them would individually carry out the transactions, or only one of them would carry out the transactions, then they must act according to the agreement.

2178. If the partners do not specify which one of them would carry out the sale or the purchase with the partnership assets, none of them can carry out a transaction without the consent of the others.

2179. The partner who has been vested with the right of discretion over the partnership assets must act in accordance with the partnership contract. For example, if it has been agreed with him that he would buy the commodities on deferred payment, or sell it on immediate payment, or that he would buy the commodity from a particular place, he must act in accordance with these conditions. However, if they do not place any conditions on him, he should carry out transactions with it in a normal manner. He should also not carry the shared property with himself on a journey, if it is not conventional to do so, or if it endangers the property.

2180. If the partner who carries out transactions with the partnership assets, carries out a sale or a purchase that is contrary to the agreement that was made with him, the transaction with respect to the share of the other partner will be uncommissioned. In the event that he does not consent to it, he may reclaim possession of his very property, or in the event

that it has perished, its replacement. The same will apply to the case wherein no agreement exists, but the partner carries out a transaction with the assets in a manner that is not normal.

2181. The partner who carries out the transactions with the partnership assets is not responsible for the loss of a part of the assets or its entirety, provided he has not been immoderate, nor been negligent in safeguarding it.

2182. If the partner who carries out transactions with the partnership assets claims that the assets have perished, and swears in the presence of a Hakim al-Shar'i, his word must be accepted.

2183. If all the partners in a partnership withdraw the discretion of disposal that they have granted to each other with respect to their property, none of them will have the right of disposal over the partnership property. In the event that one of them withdraws his consent, the rest of the partners will no longer be vested with the right of disposal. However, the one who withdraws his consent is permitted to exercise the right of disposal over the partnership property.

2184. Whenever a partner requests that the partnership assets be divided, the rest must accede to his request, even if a particular period has been fixed for the partnership, unless the act of division necessitates the supplementation of another property from other than the commonly shared property, also known as the remainder, or if the act of division entails a significant loss for the partners.

2185. If one of the partners passes away, becomes insane, or becomes unconscious, the remaining partners do not have the right of disposal over the remaining property. The same will apply if one of them becomes feeble-minded—defined as a person who wastes his property on futile ventures—or is interdicted from disposing his property by a Hakim al-Shar'i due to bankruptcy.

2186. If a partner buys something on deferred payment for himself, the profit or losses borne from it belong to him. However, if he buys it for the partnership, and the absolute nature of the partnership allows for transactions of deferred payment, the profit and losses will belong to the partnership. The same will apply if the partnership contract does not cover

transactions of deferred payment, but a partner buys it for the partnership nonetheless, and the other partners later consent to it.

2187. If a person carries out a transaction with partnership assets, but later realizes that the partnership was not valid, then if the situation is such that the permission to carry out the transaction is not contingent on the validity of the partnership—in the sense that had they known that the partnership is not valid, they would have nonetheless consented to the transaction—the transaction will be valid. In such a case, anything that is acquired from the transaction belongs to each and every one of them. If it is not such, then if those who had not consented to the right of others to dispose of their property, consent to the transaction, the transaction will once again be valid. In the event that they do not (consent to it), the transaction will be invalid. In any case, a number of the jurists (may the Lord raise their status) have stated that any partner who has worked for the partnership, without the intention of working for free, may claim wages for his efforts at the normal rate, in proportion to the shares of the other partners. However, what is apparent is that in the absence of their consent, he does not possess the right to claim any wages, and in the event that they do consent to it, to say that he reserves the right to claim wages is problematic. The more precautionary course of action is a compromise

The Precepts of Compromise Settlements (Sulh)

2188. A compromise settlement is defined as the agreement of one person with another to place a part of his property or the benefits acquired from it in the possession of the other or make its use legal for him, or to relinquish a claim or a right of his own. The other person in return also places a part of his property or the benefits acquired from it in the first person's possession, or makes its use legal for him, or relinquishes a claim or a right of his own. The validity of a compromise settlement, as defined above, is questionable in a case wherein nothing is ceded in return.

2189. The parties involved in an agreement to compromise must both be sane and Baligh. They must also have the intention to compromise, and must not have been wrongfully compelled to do so. If they had been compelled, but later consent to it, the compromised will be sanctioned. They must also not be feeble-minded, or interdicted from disposing their property by a Hakim alShar'i due to bankruptcy.

2190. It is not necessary for the formal expression of a compromise to be uttered in Arabic; rather, it is valid through the expression of any words that convey that they have compromised and reached an agreement with each other. Similarly, it is also realized through a mutual exchange; rather, through the act of giving from one party and the act of acceptance from another with the intention of compromising.

2191. If a person gives his sheep to a shepherd so that he may take care of them—for example—for a year, make use of their milk and give an amount of ghee in return, then if he agrees to give the sheep's milk in return for the shepherd's

labor and the ghee as a compromise settlement, there will be no problem in it. In fact, if he rents the sheep to the shepherd for a year so that he make use of their milk, and in return give him a specific amount of ghee that is manufactured from other than sheep's milk, there will be no problem in it either.

2192. If a person wishes to cede a claim or right of his own to another person in a compromise settlement, its validity will be contingent on the other person's acceptance. However, if he wishes to relinquish a claim or a right of his own, the acceptance of the other party is not necessary.

2193. If a debtor is aware of the amount he owes, whereas the creditor is not, then should the creditor settle the debt for an amount that is less than the actual amount, such as settling for \$1000 in a case where the actual debt is \$5000, the use of the balance will not become permissible for the debtor, unless he informs the creditor of the actual amount and satisfies him, or the situation should be such that, had the creditor known of the actual debt, he would have settled for the same amount nonetheless.

2194. If two people wish to reach a compromise by exchanging two things which are of the same kind, and both of whose weight is known, obligatory precaution will dictate that the weight of one should not be greater than the weight of the other. However, if their weights are unknown, then the compromise settlement will be valid even though they may entertain the possibility that the weight of one may be greater than the other.

2195. If two people are owed by one person, or by two persons, and they (the creditors) wish to arrive at a compromise settlement between themselves by ceding the debts to each other, then in the event that the debts are of the same kind, and their weights are the same, such as the case where both are owed 10 kgs of wheat, their compromise settlement will be valid. The same will hold in the case where the debts are not of the same kind, such as a case where one is owed 10 kgs of rice and the other is owed 12 kgs of wheat. However, if the items they are owed are of the same kind, and these are items which are usually measured by weight or volume, then in the event that their weights or volumes are not equal, their compromise settlement will be problematic.

2196. If a creditor is owed something that he can claim after a certain period, and he wishes to settle for a lower amount, with the intention of relinquishing his claim to a part of the debt, and claiming possession of the remaining debt immediately, it will not be problematic.

2197. If two people reach a compromise settlement with each other, they may cancel the settlement with each other's consent. Additionally, if the right of cancelling the settlement is stipulated within the settlement for both of them, or one of them, then the one(s) vested with this right may cancel the compromise settlement.

2198. As long as the buyer and the seller have not left each other's presence, each of them has the right to cancel the transaction. Similarly, if a buyer purchases an animal, he reserves the right to cancel the transaction before three days have passed. Likewise, if the buyer fails to make payment for the goods that he purchased, for three days, and does not take possession of the goods, the seller may cancel the transaction. However, the person who enters a compromise settlement does not have the right to cancel the settlement in these three cases. In the event that the other party involved in the settlement fails to deliver the property agreed within the compromise, for a period that exceeds conventional norms, one may cancel the compromise settlement. Similarly, he may also cancel it owing to the other options (Khiyaar) which were elaborated in the section on buying and selling.

2199. If the thing that one acquires from a compromise settlement is defective, one may cancel the settlement. However, if he wishes to take the difference between the price of the defective and non-defective item, it will be problematic.

2200. If a person concedes a part of his property to another person in a compromise settlement, and stipulates within the settlement that after his death, the property that he is conceding should—for example—be turned into an endowment, and the other person accepts the condition, then he must act according to it.

The Precepts of Renting

2201. The renter and the one renting out must both be sane and Baligh. They must also not be wrongfully compelled to the act of renting. If they are, but later consent to it, the rental agreement will be sanctioned. They must also have the right of disposal over their own property. Therefore, the act of renting or renting out by a feeble-minded person, or a bankrupt person who has been interdicted by the Hakim al-Shar'i from disposing his own property, is not sanctioned, unless it be with the permission of the guardian or the people who are owed. Of course, if a bankrupt person wishes to offer himself on hire for a job or a service, the act is sanctioned and does not require anyone's permission.

2202. A person may deputize for another party and rent out his property, or rent a property for him.

2203. If the guardian or the caretaker of a child rents out the child's property, or offers him on hire to another person, there will be no problem in it. Now if a part of the agreement includes a period wherein the child is Baligh, the child may cancel the remaining period within the agreement once he becomes Baligh. If, however, the reason for hiring him for the period that includes a period wherein he is Baligh is due to a reason, observing which is canonically obligatory, the agreement with respect to the period after he becomes Baligh is also sanctioned. The obligatory precaution is that it should be carried out with the permission of the Hakim al-Shar'i.

2204. It is not permissible to hire a minor child who has no guardian, without the permission of a just jurisprudent. As for someone who is unable to contact a just jurisprudent, he may seek the permission of several just believers and hire the child.

In the event that several just believers cannot be located, the permission of one just believer will also be adequate.

2205. It is not necessary that the renter or the one renting out to articulate the formal expression in Arabic; rather, if the owner says to someone, "I have rented my property to you," and he responds by saying, "I have accepted," the rental agreement will be valid. In fact, even if they do not articulate any words, and the owner places the property in the renter's possession with the intention of renting it out, and the one renting out also accepts with the intention of renting it, the rental agreement will be valid.

2206. If a person wishes to be hired for a particular job without articulating its formal expression, the act of hiring will be valid the moment he engages himself in that job.

2207. If a person who is unable to speak conveys through gestures that he has rented out a property, or has rented a property, the rental agreement will be valid.

2208. If a person rents an estate, and the owner stipulates that the benefits derived from it should be solely for the renter, and that the renter may not transfer it to anyone else, then he cannot sublet the estate to someone else. However, if he (only) stipulates that the renter himself enjoy the benefits from the estate, then the renter may sublet it to someone else provided that the renter himself enjoys its benefits.

An example of this is a case wherein the renter who has rented a house, rents it to a person and commits him through a condition or similar agreement to find a residence for the renter himself, and that person accommodates him in the very same house. Another example is that of a woman who rents a house, and then rents it out to her husband who accommodates her in the same house. In the event that the renter is permitted to sublet it to another person, and he wishes to rent out a house, a store, or a ship—and based on obligatory precaution, a room or a mill—for an amount that is higher than what he rented it for, then he should have done some work on it, such as renovating it or white-washing it, or he should rent it out for something other than what he rented it for, such as renting it out for wheat or some other commodity if he rented it with money.

2209. If a person who is hired to perform a task, stipulates that the task that he has been hired to perform be solely for the person who has hired him, and that he should not be transferred to someone else, then the hirer cannot hire him out to another person. However, if he (only) stipulates that the hirer himself make use of his labor, in the manner that was elaborated in the previous article, the hirer may hire him out to another person. In the event that one is permitted to do so, and wishes to hire him out for the same thing that he paid to hire him, he may not take more than what he paid. However, if he hires him for something else, he may take more than what he paid.

2210. If a person rents or hires something other than a house, a store, a ship, or a person, and based on obligatory precaution, a room or a mill, and the owner does not stipulate a clause that prohibits him from renting it out to someone else, there is no problem in subletting it even if it be for an amount that is higher than what he has rented it for.

2211. If a person leases a store for \$30,000 per year, and makes use of half of it himself, he may lease out the other half for \$30,000. However, if he wishes to rent out the other half for an amount that is higher than what he rented it for, for example \$40,000, he must do some work on it, such as renovating it, or rent it out for something other than what he rented it for.

The Conditions for the Property Being Rented

2212. The property being rented must fulfill the following conditions:

1. It should be specified. Hence, if a person says, "I have rented out one of my houses to you," it will not be valid.

2. The renter should see it, or the one renting out the property should describe its specifications in a manner that it becomes completely defined.

3. It should be deliverable. Hence, renting out a runaway horse is nugatory, unless the renter is capable of rounding it up.

4. The property should not be such that using it causes it to perish and get destroyed. Therefore, renting out bread, fruits or other consumable items, which cannot be used without causing them to perish, is not valid.

5. It should be possible to make use of the property that is being offered on rent. Therefore, renting out a land for the purpose of farming, given that rainwater does not suffice for that task, nor can the land be watered from any other sources, is not valid.

6. The property being rented should be owned by the lessor. If he rents out the property of another person, it will only be sanctioned if the owner permits it.

2213. There is no harm in renting out a tree for the purpose of benefiting from its fruits, even if it may not currently be bearing any fruits. The same applies to renting out an animal for its milk.

2214. A woman can be hired for the purpose of wet-nursing, and it is not necessary for her to seek her husband's consent. However, if the act of nursing infringes on his rights, she cannot be hired without the consent of her husband.

The Conditions of the Use for Which the Property is Rented

2215. The use for which the property is rented must fulfill the following four conditions:

1. It should be a legally permissible use. Therefore, renting out a store for the purpose of—for example—selling wine, or leasing out any mode of transportation for transporting wine, is not valid.

2. Paying for that use should not be considered an act of foolishness or unacceptable by intelligent persons. In addition, performing that task free of charge should not have been obligated by the Shari'ah. Therefore, to be hired for the purpose of—for example—preparing a corpse for burial is not permissible.

3. If the item being rented out is multi-purpose, the use that the renter makes of the item must be specified. For example, if an animal which can be used for riding and also for transporting goods is rented out, they must specify whether the renter may benefit from the animal by riding on it, or using it to transport goods, or all of its possible uses.

4. The period of use must be specified. If this period is not known, but specifying the task resolves the ambiguity, it will also suffice. For example, one may hire a tailor for a period of ten days, or form an agreement with him that he will stitch a particular dress in a particular fashion.

2216. If the beginning of the rental period is not specified, it will begin the moment the rental contract has been realized. 2217. If a house is rented out for a year (for example), and the beginning of the rental period is set to a month after the rental contract is signed, the rental agreement will be valid, even if the house is being rented by someone else at the time of signing the contract.

2218. If the rental period is not specified, and instead the lessor says, "Whenever you choose to reside in this house, its rent will be \$1000," the rental agreement will not be in order.

2219. If a person says to a renter, "I have rented out the house to you for \$1000 a month," or says to him, "I have rented out the house to you for a month for \$1000, and thereafter, for

as long as you reside in the house, the rent will be \$1000 a month," then if the beginning of the rental period is specified, or if the beginning is known, the rental agreement will be in order for the first month.

2220. If the accommodations in which travelers and pilgrims take residence, and the length of their stay is not known, is used on the basis of a rental agreement where it is agreed, for example, that the renter would pay \$50 a night, the rental agreement will not be in order with respect to the nights other than the first night, because the rental period has not been specified. In such a case, after the first night, the owner can ask them to vacate the premises whenever he wishes to do so. However there is no harm in using the premises after the first night with the permission of the owner.

Miscellaneous Rulings Pertaining to Renting

2221. The rent should be known. Hence, if it is amongst the things that are transacted based on weight, such as wheat, then its weight must be known. If it be amongst the things that are transacted by count, such as modern day currencies, its count must be known. If it be like horses and sheep, the lessor must see them for himself, or the lessee must describe their specifications to him.

2222. If a person leases out a piece of land, and sets its rent to be the produce of the very same land, or of another land, the produce of (both of) which is non-existent at the time of the rental contract, the rental agreement will not be valid. However, if the rent is existent at the time of the rental contract, or he rents it out for an abstractly defined rent, there will be no objection to it.

2223. A lessor may not demand the rent before handing over the leased item, unless he has stipulated the rent to be paid prior to handing over the leased item. Similarly, if a person has been hired to perform a particular task, he may not demand its payment prior to completing the task, unless he has stipulated the payment to be paid prior to performing the task, or if it is normal and conventional to do so, such as being hired to perform Qadha prayers, fasts or Hajj.

2224. Whenever a lessor hands over the leased item, the lessee must pay its rent, even if he does not accept possession of it, or does so, but does not use it to the end of the rental period.

2225. If a person is hired to perform a particular task on a particular day, and he shows up to perform that task on that day, the one who has hired him must pay him, even if he chooses not to give that task to him. For example, if a person hires a tailor to stitch a dress on a particular day, and on that day the tailor is prepared to perform that task, he must pay him for it, even if he does not give him the cloth to tailor the dress, and regardless of whether the tailor is unemployed, selfemployed, or employed by someone else.

2226. If after the end of the rental period, it becomes apparent that the rental agreement was not valid, the renter must

offer the lessor an equivalent rent. However, if the equivalent rent is greater than the rent agreed within the rental agreement, then in the event that the lessor was the owner of the property, or his deputy, obligatory precaution dictates that they should arrive at a compromise settlement with respect to the amount that exceeds the specified rent. Similarly, if upon the passage of a part of the rental period, it becomes apparent that the rental agreement was not valid, the same ruling will apply to the rent of the period that has elapsed.

2227. If the rented item perishes, the renter will not be held responsible for it as long as he was not negligent in safeguarding it, nor immoderate in using it. Similarly, if the cloth given to a tailor gets destroyed, the tailor will not be held responsible for it as long as he was not negligent in taking care of it, nor immoderate in its use.

2228. Whenever a craftsman damages or destroys the material that he takes, he will be held responsible for it.

2229. If a butcher slaughters an animal, in a manner that renders it harim, he will have to give its value to the owner, regardless of whether he has taken wages for slaughtering it, or has performed it free of charge. 2230. If a person rents an animal, and specifies the weight of the load he can place on it, then if he loads an amount that is greater than it, and the animal dies or develops a defect, he will be held responsible for it. Similarly, if he had not specified the load amount, but loaded an amount that is greater than what is normal, and the animal perishes or develops a defect, he will be held responsible for it. In both cases, he must pay the equivalent rent for the excess use of the animal.

2231. If a person rents out an animal for the purpose of carrying fragile items, and the animal slips or stampedes, causing the load to break, the owner will not be held responsible for it. However, if he (the owner of the animal) causes the animal to fall by beating it or doing something similar, whereby causing the goods to break, then given that the owner of the items had not permitted it, the owner of the animal will be responsible for it.

2232. If a person circumcises a baby with the permission of its guardian, and causes harm to the baby, or causes it to die, he will be held responsible if he cut more than the normal

amount. However, if he did not cut more than the normal amount, was skilled at circumcising, while not falling short in treating it, and the guardian did not charge him with the task of determining any possible complications, then in the case of causing harm, to claim that he is excusable is problematic, unless he had obtained a waiver from the guardian. As for the case of causing death, if he had not obtained a waiver from the guardian, he will be held responsible for it.

2233. If a doctor himself prescribes a medicine to a patient, and errs in treating him, whereby causing harm to the patient, or causing him to die, the doctor will be responsible for it. However, if he simply states, "This particular medicine is beneficial for this particular illness," leaving the patient to decide for himself, and consuming it causes harm to the patient, or causes him to die, the doctor will not be responsible for it.

2234. If a doctor states to a patient, "If you are harmed (by this medicine), I am not responsible for it," then in the event that he is a professional doctor, and exercises due care and precaution, but it causes harm to the patient, or causes him to die, the doctor will not be responsible for it, even though he may himself have given the medicine to the patient.

2235. A lessor and a lessee may cancel the lease agreement with each other's consent. Similarly, if they stipulate within the lease agreement that both of them, or one of them, has the right to cancel the lease, they may cancel the lease in accordance to their agreement.

2236. If the lessor or the lessee realizes after leasing that he has been cheated, he may cancel the lease. However, if they had stipulated within the lease agreement that even if one of them had been cheated, he does not reserve the right to cancel the lease, they cannot cancel the lease.

2237. If a person rents out an item, and it is usurped before he can hand it over, the lessee can cancel the lease, and claim back the payment that he had given to the lessor. He can also choose not to cancel the lease, and instead claim back the amount pertaining to the period wherein the leased item is in the possession of the usurper, from the usurper, based on the normal rent, which is the equivalent rent. Therefore, if he rents an animal for a month for \$100, and someone usurps it for 10

days, and the equivalent rent for 10 days is \$150 dollars, he may claim \$150 dollars from the usurper.

2238. If a lessee takes possession of the leased item, and then it is usurped by someone else, the lessee does not have the right to cancel the lease. He only reserves the right to claim the rent from the usurper according to its equivalent rent.

2239. If the lessor sells the land to the lessee before the completion of the rental period, the lease is not nullified. The lessee will have to pay the rent. The same applies if he sells it to someone else.

2240. If prior to the commencement of the rental period, the (rented) land gets destroyed to an extent that renders it entirely unusable, or renders it unusable for the purpose that it was rented for, the rental agreement will be void, and the tenant is refunded the amount that he had paid to the landlord. If the land is in a state that the tenant can only make minimal use of it, he reserves the right to cancel the lease.

2241. If a person leases a land, and after the passage of a part of the lease period, the land gets destroyed to an extent that renders it entirely unusable, or renders it unusable for the purpose that it was leased for, the lease for the remaining period is rendered void. The tenant may also cancel the lease for the preceding period, and pay the equivalent rent for that period.

2242. If a house that contains—for example—two rooms is rented out, and one of the rooms gets destroyed, then in the event that the features that were destroyed were not the subject of the rent, and the landlord immediately rebuilds the room, wherein none of its usability is lost, the rental agreement will not become void. Additionally, the tenant will not reserve any right to cancel the agreement. However, if the reconstruction period takes so long that a period of the tenant's use of the property is lost, the agreement becomes void for that period. Additionally, the tenant also reserves the right to cancel the rental agreement for the entire rental period, and pay the equivalent rent for the period that he had made use of the house.

2243. If the lessor or the lessee passes away, the lease agreement does not become void. However, if the house is not

the property of the lessor, such as the case wherein a person specifies in his will that as long as he (the lessor) is alive, all the benefits derived from the house belong to him, then in the event that he rents out the house and prior to the end of the lease agreement, passes away, the lease will become uncommissioned from the time that he passes away. If the current owner of the house accepts the lease for its remaining period, it will be sanctioned, and the rent for the period remaining after the death of the original lessor—in the event that the current owner accepts the lease—will belong to the current owner.

2244. If an employer deputizes a contractor to recruit workers for him, and the contractor pays the workers an amount that is less than what he receives from the employer, it is forbidden for him to partake of the difference, and he must return it to the employer. However, if he is hired to construct a building, and he reserves the right to construct it himself or to subcontract the task, then in the event that he constructs a part of it himself, and subcontracts the rest for an amount that is less than what he was hired for, it will be permissible for him to partake of the difference.

2245. If a person who dyes clothes agrees to—for example—dye a cloth indigo, and instead he dyes it another color, he will reserve no right to claim any payment.

The Precepts of Ju'aalah

2246. Ju'aalah is a contract wherein a person offers to give a specific amount in return for a task that is performed for him. For example, such a person may declare that whoever (or he may specify a particular person) locates his lost property, he will give him ten dollars, or—for example—he will give him half of the lost property. The one who makes such a declaration is known as the Jaa'il or the offeror, and the one who performs the task is known as the A'amil or the worker. There are various differences between a Ju'aalah contract and a contract to hire (Ijaarah). Amongst these differences is that upon the realization of a contract to hire, the hired person is responsible and must complete the specified task. In return, the one who has hired him owes him the wages. However, in a Ju'aalah, even though the worker may be a specific person, he has the right to abstain from performing the task, and in return the offeror does not owe him anything until he completes it. In addition, the validity of a contract to hire is dependent upon the other party's acceptance, whilst it is not so in a Ju'aalah.

2247. The offeror must be a sane and Baligh person, and should make the offer of his own volition and should not be wrongfully coerced into making the offer. He should also be permitted according to the Shari'ah to dispose of the property that belongs to him. Hence, the Ju'aalah formed by a feeble-minded person (a person who wastes his property on futile ventures) or a person who has been interdicted by the Hakim al-Shar'i from disposing of his wealth due to bankruptcy, is not valid.

2248. The task that the offeror requests to be performed for him should not be futile, prohibited, or an obligatory task

that—according to the Shari’ah—must be performed free of charge. Therefore, if a person declares that he will offer ten dollars to whoever wanders into a dark area in the middle of the night, or consumes wine, or offers his obligatory prayers, the Ju’aalah will not be in order.

2249. If a person specifies the property that he will be giving, such as stating that he will give this wheat to whoever locates his horse, it will not be necessary for him to specify the source of the wheat or its value. Similarly, if he does not specify the property, such as stating that he will give ten kilograms of wheat to whoever locates his horse, the Ju’aalah will nonetheless be valid. However, the highly emphasized precaution is that its characteristics should be specified completely.

2250. If the offeror does not specify a particular wage for the task, such as a case where he offers to give some money to whoever locates his child, and does not specify its amount, then if someone performs the task, the offeror must give him a wage that is equivalent to the value of his work in the eyes of the people.

2251. If a worker accomplishes the task prior to the formation of the contract, or does so after its formation with the intention of not taking any money, he reserves no right to claim any wages.

2252. The offeror may retract his offer before the worker has started to perform the task.

2253. If the offeror wishes to retract his offer after the worker has started to perform the task, it will be problematic.

2254. The worker can choose to leave the task unaccomplished. However, if doing so inflicts a loss on the offeror, he must complete it. For example, if the offeror states that he will grant a particular amount to whoever operates on his eyes, and a surgeon starts operating on his eyes, then if the conditions are such that should the surgeon leave the operation uncompleted, it would lead to the offeror having a defective eye, he must complete operating on his eye. In such a case, should the surgeon leave the operation uncompleted, not only will he reserve no right over the offeror, he will also bear the responsibility for the damage and the defect.

2255. If the worker leaves the task incomplete, and the task is of a nature that it contains no benefit for the offeror until it

is completed, such as locating a horse, the worker cannot claim any wages. The same will apply if the offeror offers the wages for completing the task, such as a case wherein he states that he will offer ten dollars to whoever stitches his clothes. However, if what he intends is to give an amount of money proportional to the amount of work that is completed, he must give the worker the wages for the amount of work that he has completed. However, the precaution in this case is that they should satisfy each other through a compromise settlement.

The Precepts of Muzara'ah (Crop Share Lease Agreement)

2256. Muzara'ah is contract wherein the owner (of a land) or someone who is vested with the powers of an owner, such as the guardian, the owner of its benefits, or a person who has a right over a piece of land, such as owing to the right of stone fencing, forms a contract with a farmer by placing the land at his disposal, so that the farmer may cultivate the land and give a part of the produce to the owner or the acting owner.²²⁵⁷ In a Muzara'ah, the following issues are consequential in its validity:

1. An offer by the owner and acceptance by the farmer. For example the owner may say to the farmer, "I have placed the land at your disposal," and the farmer may respond by saying, "I have accepted," or the owner places the land at the disposal of the farmer with the intention of cultivation, without uttering a word, and the farmer takes possession of the land. It is also permissible for the farmer to make the offer and for the owner to accept it.

2. The owner of the land and the farmer should both be sane and Baligh. In addition, no one should have wrongfully coerced either of them to enter into the Muzara'ah contract. The owner should also not be interdicted by the Shari'ah from disposing of his property, and this includes people who are feeble-minded and those who have been prohibited by the Hakim al-Shar'i from disposing of their property due to bankruptcy. The same will apply to a bankrupt farmer, in the event that the act of farming by the farmer necessitates his disposal of his property. It is also not permissible to make a Muzara'ah contract

with a feeble-minded person without the consent of his guardian.

3. The produce from the land should be distributed between the two. Hence if they stipulate that the entire produce would belong to one of them, or the produce which is harvested first or last belongs to one of them, the Muzara'ah will be void.

4. The share of each party should be an abstract fraction of the whole, such as a half or a third. Hence if the owner says to the farmer, "farm this land and in return give me whatever you wish," or if a specific amount is fixed for the owner or the farmer, such as ten kilograms, the Muzara'ah will be void.

5. They should also specify the period for which the land will be at the disposal of the farmer, and it should be a period wherein it would be possible to harvest the crop. In fact, if they set a particular date as the beginning of the period and the day of harvest as its last day, it will also suffice.

6. The land should be cultivable. The Muzara'ah will also be in order if the land is not cultivable, but can be prepared for cultivation.

7. If they both intend for a particular crop to be cultivated, they should specify the crop that the farmer must cultivate. However, if a particular crop is not under consideration, or if the crop that they intend to be cultivated is known, it will not be necessary to specify it.

8. The owner should specify the land in a manner that the subject of the transaction should not be ambiguous. It is also apparent that specifying it in an abstract manner in a specific area is also sufficient, even though the pieces of land may be different from each other.

9. The expenses that each of them must incur should be specified. However if the expenses that each of them must incur is known, it will not be necessary to specify it.

2258. If the owner forms an agreement with the farmer that the amount that is spent on recovering and restoring the land, and the amount that is given as taxes would be deducted, and the remaining would be shared between them, their agreement will be in order. Similarly if the owner stipulates that a part of the harvest should be appropriated to him, and they know that after removing this part from the whole, there will be something leftover, the Muzara'ah will be in order.

2259. If the period of the Muzara'ah comes to an end, and no harvest is acquired within the period, then should the owner be content—either from acquiring rent or otherwise—to allow the crops to remain on his land, and the farmer too be content with it, it will not be problematic. However, if the owner is not pleased with it, then in the event that he does not incur any losses from the presence of the crops on his land, nor does he lose out on a significant profit, and the farmer too is not guilty of negligence in failing to reap the harvest, then the owner cannot force the farmer to remove the crop; rather, he must wait until the crop is harvested and the farmer is not forced to incur a loss. The farmer in return must pay the equivalent rent of the land to the owner for the duration that exceeds the Muzara'ah period.

2260. If the land becomes uncultivable due to certain circumstances, such as a case wherein the water supply is cut off from the land, the Muzara'ah will become void. If the farmer fails to farm the land without a valid excuse, then if the land was at his disposal, and the owner had no discretion over it, the farmer will have to pay the equivalent rent to the owner.

2261. If the owner and the farmer have articulated the formal expression of the Muzara'ah, neither of them can nullify the agreement without the consent of the other party. Similarly, if the owner places the land at a person's disposal with the intention of Muzara'ah, and the latter accepts possession of it, neither of them will be able to nullify the Muzara'ah without the other party's consent. However if they stipulate a condition within the Muzara'ah that permits one or both of them to unilaterally nullify the agreement, they may nullify the agreement in accordance with the condition that was stipulated.

2262. If the owner or the farmer passes away after signing a Muzara'ah contract, the Muzara'ah will not be nullified, and their heirs will take their place. However if the farmer passes away, and they had stipulated within the agreement that the farmer himself would farm the land, the Muzara'ah will be nullified. In this case if the crops have become visible, the share of the farmers should be given to his heirs. They will also inherit all the other rights that were reserved for the farmer. As for the presence of the crops on the land until they are harvested, its ruling is the same as elaborated in article 2259.

2263. Having farmed the land, if the parties realize that the Muzara'ah was void, then if the seeds belonged to the owner, the harvest will also belong to him. He in turn will have to pay the farmer his wages, and all the expenses that he incurred, and also pay him rent for the use of the animals and equipment that belonged to him. However, if the seeds belonged to the farmer, the crops will also belong to him. He in turn will have to pay rent to the owner for using the land, and remunerate him for all the expenses that he incurred, and also pay him rent for any (of his) equipment used to farm the crops. In both cases, if the sum of the equivalent rent and the expenses is greater than the amount that was agreed upon in the agreement, to claim rights over the excess amount is problematic. The precaution is that they reach a settlement compromise.

2264. If the seeds belong to the farmer, and after farming the land the parties realize that the Muzara'ah was void, then if the owner and the farmer are both content with letting the crops remain on the land, be it with remuneration or otherwise, it will not be problematic. However, if the owner is not pleased with it, its ruling will be the same as elaborated in article 2259.

2265. If the roots of the crop remain in the ground after they are harvested and after the completion of the Muzara'ah period, and they yield crops once again in the following year, and the owner or the farmer had not stipulated joint ownership with respect to the roots, then in such an event even though there is a case to be made for the ownership of the land owner with respect to the harvest of the second year, however the precaution is that in the event that the farmer is the owner of the seeds, they should reach a compromise settlement between themselves.

Chapter 61

The Precepts of Mudharibah

A Mudharibah is a contract wherein a person provides a capital to another person so that he may invest it in a commercial enterprise, and the profits derived from the investment are distributed between the two parties as an abstractly defined fraction, such as a half or a third. The one who owns the capital is known as the owner, and the one who invests it in a commercial enterprise is known as the worker. An “offer” and an “acceptance” is consequential in the realization of such a contract, be it verbally expressed or by actions, such as a case wherein the owner gives the capital to the worker with the intention of Mudharibah, and the worker expresses his acceptance by taking possession of it.

2266. The following conditions are consequential in the validity of a Mudharibah:

1. Both the owner and the worker should be Baligh, sane and free to act. The owner should not be restrained from disposing of his property due to being feeble-minded or being bankrupt. It is also not permissible to carry out a Mudharibah with a feeble-minded worker without the consent of his guardian.

2. The share of the owner and the worker from the profit should be specified, such a half, a third, a quarter or any similar fraction.

3. The profits should be shared between the owner and the worker. Hence if they stipulate that a portion of the profits should go to an individual who has not done anything for the partnership, the Mudharibah will be void.

4. The worker should have the capacity to invest it in a commercial enterprise, even if it be by enlisting the help of others.

2267. According to the stronger view, the condition that the capital be gold or silver which has been minted into currency, is not consequential in the validity of the Mudharibah; rather, it is permissible with all forms of capital which are exclusively used as capital, such as various kinds of currency notes. However, it is not permissible to carry out a Mudharibah with a capital that is the liability of another individual, such as capital that one is owed by another individual. It is also problematic to carry out a Mudharibah using commodities or benefits such as the right to reside in a house.

2268. The condition that the capital be at the disposal of the worker is not a consequential condition for the validity of the Mudharibah; rather, if it remains at the disposal of the owner whilst the worker only carries out the transactions, the Mudharibah will remain in order.

2269. Should the Mudharibah be in order, the owner and the worker will share the profits. However, if the *mudharibah* is nullified because it lacks the conditions which are consequential for its validity, all the profit will belong to the owner. He in turn will have to remunerate the worker with an equivalent wage. In the event that the equivalent wage is more than the share promised to the worker in the Mudharibah contract, the obligatory precaution is that the worker and the owner should reach a compromise settlement over the difference.

2270. In a Mudharibah, any loss or damage incurred will be sustained by the owner, and if it is stipulated that the loss be sustained by the worker or by both of them, such a condition will be invalid. However, if it is stipulated that the worker will remunerate the owner for any losses incurred in the transactions, and give him the money from his own property, the condition will be valid.

2271. Mudharibah is one of the non-binding contracts, and both the owner and the worker have the right to cancel it at any time, be it prior to starting the work (the investment) or after it, and be it prior to acquiring a profit or after it.

2272. The worker may not mix the capital that he acquired from the owner with his own property or someone else's property without the permission of the owner, even though such an act does not invalidate the Mudharibah. However if he mixes the capital and it perishes, he will be held responsible for it.

2273. The worker must observe the conditions that the owner stipulates in the sale and purchase of commodities, such as stipulating that the worker buy a particular commodity, or sell it at a particular price. Otherwise, the transaction will be officious and will be contingent on the consent of the owner.

2274. If the owner does not limit and condition the transactions that the worker may carry out with the owner's capital, the worker may carry out the transactions in any manner that he feels is in their best interest.

2275. If the worker travels with the permission of the owner, and it has not been stipulated that the travel expenses will be incurred by the worker, then the travelling expenses and the business expenses can be withdrawn from the capital. In the event that he works for more than one owner, he should distribute the expenses between them in proportion to the work he does for them.

2276. If the enterprise is profitable, then the amount that the worker withdraws from the capital to cover operating costs and travel expenses, should be deducted from the profit and added to the capital. The remaining profit should then be distributed according to the terms agreed within the contract.

2277. In a Mudharibah, the condition that the owner be a single person and the worker also be a single person is not a consequential condition for its validity; rather, it can be between multiple owners and a single worker, or between a single owner and multiple workers, regardless of whether an equal share is fixed for the workers in the Mudharibah contract or variable shares are fixed between them.

2278. If two people jointly provide the capital for a Mudharibah and the worker is a single person, and they stipulate that—for example—half of the profit be appropriated for the worker, and the other half be distributed between the owners in an unequal manner, in that the share of one owner be greater than the other, even though they had provided the capital equally, or they stipulate that the remaining half be equally distributed between the two even though the capital provided by one is greater than the other, the Mudharibah (in both the cases) will be void, unless the extra profit is appropriated for one of them in return for a service that he performs for the business, in which case it will be valid.

2279. If the owner or the worker passes away, the Mudharibah will be void.

2280. The worker may not form a Mudharibah contract with another person using the capital he acquires from the owner without the permission of the owner, or consign the task of investing the capital to another individual, or hire another individual to invest the capital. If he does so without the permission of the owner, and the owner also does not consent to it, then if the wealth is lost, the worker will be held responsible for it. There is no problem however in hiring someone to perform the preliminaries of the transaction, or deputizing someone to carry it out.

2281. The owner and the worker can stipulate on each other any condition that is permissible within the Shari'ah. For example, one may stipulate that the other pay a certain amount, or perform a particular task. In return it is obligatory for the other party to fulfill the condition, even though the worker may not have invested the capital or performed any work, or may have but fails to acquire any profit from it.

2282. Whenever the enterprise yields a profit, the worker owns the portion that has been appropriated for him in the contract, even if the profit has not been divided. However, all losses and damages must be redeemed. In addition, whenever a profit is obtained, if the owner does not approve of dividing it, the worker has no right to compel him to it. However, if the worker does not approve to dividing it, the owner may compel him to accept its division.

2283. If the profit is divided, and thereafter the capital incurs a loss, and subsequently a profit is acquired which is not less than the loss, then the loss will be redeemed by the profit. However, if the profit is less than the loss, the worker will have to redeem the loss through the profit that was divided. Then if the loss is less than the (net) profit, the remaining balance will belong to him. However, if the loss is more than the (net) profit, the worker will not be held responsible for the amount (of the loss) that exceeds the profit.

2284. As long as the Mudharibah contract has not been terminated, any losses incurred on the capital will be redeemed by the profits acquired from the work, regardless of whether the loss is incurred before the profit is acquired or after it. If

the loss is incurred prior to commencing the work, then if a portion of the capital is lost, that loss is redeemed by the profit. However, if the entire capital is lost without anyone causing it to be lost, then the Mudharibah will be nullified. If on the other hand someone causes the capital to be lost, and he replaces the lost amount, the Mudharibah will not be nullified.

2285. If the work stipulates that the losses incurred on the capital would not be redeemed by the profit, the condition will be valid and it will not be deducted from the worker's portion.

2286. The owner and the worker—as elaborated earlier—may cancel the Mudharibah contract at any time, even if it be after the work has commenced and before a profit is acquired. However, if the worker travels with the permission of the owner and has spent some of the capital on his travel expenses, and thereafter wishes to cancel the Mudharibah, the obligatory precaution (in this case) is that he should satisfy the owner.

2287. If the Mudharibah is cancelled after a profit is acquired, the profit should be divided between the owner and the worker according to the terms of the contract. In the event that one party does not agree to divide the profit, the other party has the right to force him to divide it.

2288. If the Mudharibah is cancelled, and a part of the capital or its entirety has been loaned, the worker must reclaim it from the debtor and return it to the owner.

2289. If the Mudharibah capital lies with the worker and he passes away, then if the capital itself is known, it returns to the owner. If it is not known, it should be determined by drawing lots, or else the owner may reach a compromise settlement with his heirs.

The Precepts of Musaaqaat and Mughaarasah

2290. If a person forms an agreement with another individual to place some fruit trees—the fruits of which either belong to him, or the rights over them belong to him—at his disposal for a specific period of time, so that he may nurture and water them, and in return acquire an agreed abstractly defined portion of the fruits for himself, then such a contract will be known as a Musaaqaat.

2291. Musaaqaat is not valid in trees which do not yield fruits, such as willow trees and plane trees. It is also problematic in trees like the henna tree whose leaves are (commonly) used.

2292. It is not necessary to utter the formal expression of the Musaaqaat. In fact, if the owner of the trees places them in a worker's possession, and he in turn accepts possession with the same intention, the agreement will be valid.

2293. Both the owner and the individual who takes care of the trees should be sane and Baligh, and no one should have wrongfully forced them into the agreement. In addition, the owner should not be an individual who has been prohibited from disposing of his property by the Shari'ah, such as a feeble-minded person (one who spends his money in futile ventures), or a person who has been prohibited by the Hakim al-Shar'i from disposing of his property due to bankruptcy. The same conditions will also apply to the worker in the event that the work requires him to dispose of some of his own wealth. It is also not permissible to engage in a Musaaqaat with a feeble-minded person without the permission of his guardian.

2294. The period of the Musaaqaat should be known, and it must not be less than the period required for the fruits to ripen. If they choose to determine it by setting a particular day as the first day, and the day when the fruits of that year are harvested as the last day, it will be valid.

2295. The share of each party should be an abstractly defined fraction of the produce. Hence if they agree that—for example—100 kgs of the fruit would belong to the owner and the rest would belong to the worker, then such an agreement will not be valid.

2296. The Musaaqaat contract should be signed before the fruits become apparent on the trees, or if it is signed after they do so, it should be prior to their ripening, provided that a task such as watering the trees is required for caring for the trees and increasing the produce. In a case other than this, even though there may be a need for harvesting the fruits and caring for them, the agreement will not be valid. In fact, if there is no need to water the trees to increase the quantity or quality of the produce, then even though it may be a task that is required for nurturing the trees, the validity of such an agreement will be problematic.

2297. It is problematic to claim the validity of a Musaaqaat agreement with respect to fruits which grow on vines, such as watermelons and cucumbers.

2298. If a tree that is watered with rainwater or the wetness from the earth, and does not require any extra watering, requires other kind of care for increasing the quality or quantity of its fruits, such as digging and fertilizing, then a Musaaqaat agreement with respect to it is valid.

2299. The parties that have signed a Musaaqaat contract with each other may cancel it with the approval of the other party. Additionally, if they have stipulated within the contract that one or both of them reserves the right to cancel the agreement, then there is no problem in cancelling it according to the stipulated condition. If a particular condition is stipulated within the Musaaqaat contract, and the condition is not fulfilled, the party that was going to benefit from the condition may cancel the agreement. He may also choose—as is the case in all other conditions—to force the other party to fulfill the condition by reverting to a Hakim al-Shar‘i.

2300. If the owner passes away the Musaaqaat contract will not be voided, and instead his heirs will take his place.

2301. If the person who has been tasked with caring for the trees passes away, and it has not been stipulated within the contract that the person himself care for the trees, then his heirs will take his place. If the heirs do not perform the task themselves, nor hire someone to do it, the Hakim al-Shar'i may hire someone using the deceased's estate, and divide the produce between the owner and the heirs. However, if they had stipulated that the deceased person himself care for the trees, the contract will be voided upon his death.

2302. If it is stipulated that the entire produce belongs to the owner, the Musaaqaat will be void and the fruits will belong to the owner. In addition, the person who is working (on the trees) cannot claim any wages. However, if the contract is invalidated due to another reason, the owner must pay the standard wage to the person who cared for the trees for watering them and performing other tasks. In the event that the standard wage is higher than the amount agreed within the contract, to claim that the owner is obliged to pay the extra amount is problematic. The more precautionary measure is to reach a compromise settlement.

2303. If a person places a piece of land at the disposal of another person, so that he may cultivate the land, and the resulting produce would then be owned by both of them, then such a transaction—known as Mughaarasah—is void. Hence, if the trees belonged to the owner of the land, they shall continue to belong to him even after they are cultivated. He in return must pay wages to the person who cultivated them, unless the wages are more than what was specified for the worker. In this case, it is problematic to claim that giving the extra amount is mandatory, whilst precaution lies in reaching a compromise settlement. However, if the trees belonged to the person who cultivated them, they will continue to belong to him after they are cultivated. He may also choose to excavate them. However, he must fill the holes that appear in the ground on account of excavating the trees. He must also pay rent to the owner of the land for the period starting from the day he planted the trees, unless the rent is greater than the amount that was apportioned for the owner from the cultivation of the trees. In this

case, to claim that it is mandatory to give the extra amount is problematic, whilst precaution lies in reaching a compromise settlement. The owner can also compel him to excavate the trees, and if doing so causes a defect to appear on the trees, the owner will not be responsible for it. However, if the owner himself excavates the trees, and a defect appears on the trees, he must pay for the difference in their prices to the owner of the trees. The owner of the trees cannot compel the owner of the land to let the trees remain on the land, be it through a rental agreement or otherwise. Similarly, the owner of the land cannot compel the owner of the trees to leave the trees on the land, be it through a rental agreement or otherwise.

Individuals Who have been Interdicted from Disposing of Their Property

2304. A child who has not become Baligh cannot—according to the Shari’ah—dispose of his property. He cannot exercise discretion over his own liabilities either, by incurring a loan, becoming a guarantor, or any similar liability. The same applies to his ability to exercise any financial discretion over himself, by offering himself for hire, or becoming a worker in a Mudharibah, a Muzara’ah or any similar contract. As for his will with respect to his own property, its ruling will be elaborated in article 2761. The signs of becoming Baligh are one of three phenomena:

1. The growth of thick hair below the navel and above the genitalia, in boys.
2. Ejaculation
3. The completion of fifteen lunar years in boys, and nine lunar years in girls, and observing the blood of Haydh in the case of a girl for whom it is not known whether she has completed nine lunar years or not.

2305. The growth of thick facial hair, thick hair under the lower lip, on the chest and under the armpits, the deepening of one’s voice and other similar characteristics are not signs of becoming Baligh, unless one develops certainty or satisfaction of becoming Baligh through these signs.

2306. A person who is insane does not have the right of discretion over his property or his own liability, nor can he exercise any financial discretion over himself. As for a feeble-minded person (one who wastes his property on futile ventures), he too does not have the right of discretion over his property or his own liability, by incurring a loan, becoming a guarantor or any such liabilities, without the permission or

consent of his guardian. He may neither exercise any financial discretion over himself without the permission or consent of his guardian, such as offering himself for hire, or becoming a worker in a Mudharibah, a Muzara'ah or any similar contract. A person who is bankrupt—defined as someone who has been interdicted by the ruling of a Hakim al-Shar'i from disposing of his property—cannot dispose of his property without the permission or consent of his creditors.

2307. If a person suffers from fits of temporary insanity, any discretion he exercises over his property during moments of insanity is not valid.

2308. A person may use any amount of his wealth during a terminal illness for himself, his family, guests and anything that would not be considered extravagant. In fact, if he chooses to gift his wealth to someone, or sell his property for less than its value, his disposal of the property will be valid even if it constitutes more than one-third of his property, even if his heirs do not consent to it.

Chapter 64

The Precepts of Deputyship

Deputyship is defined as the act of delegating a task to someone else, in matters wherein one possesses the right of discretion, and personal involvement is not a consequential in its validity, such as delegating the task of selling one's house to another person, or marrying him to a woman. Hence, since a feeble-minded person has no right of discretion over his own property, he may not deputize someone to sell it for him without the permission of his guardian. Similarly, a person who has been interdicted by a Hakim al-Shar'i from disposing of his property owing to bankruptcy, may not deputize someone to dispose of his property without the permission or consent of his creditors.

2309. The act of deputyship does not require the utterance of a formal expression. Therefore if a person conveys to another that he has deputized him, and the other person also conveys that he has accepted it, such as a person giving his property to another to sell it for him, and the other also accepts possession of it, the deputyship will be in order.

2310. If a person deputizes someone who is in another city, and sends him a letter of deputyship, and the latter accepts, the deputyship will be in order even if the letter of deputyship reaches him after a while.

2311. The deputy and the one who appoints him, must both be sane, and must enter the relationship intentionally and out of their own volition, and should not be wrongfully compelled to do so. Additionally, being Baligh is also a consequential condition in the one who appoints a deputy. However, a child who is not yet Baligh may appoint a deputy in matters

which he is permitted to carry out himself, such as a ten year old child who has the right to make a will.

2312. A person may not appoint a deputy to perform a task that he is not capable of performing, or is prohibited by the Shari'ah from performing it. For example, since a person who is in the state of Ihram in Hajj is not permitted to pronounce the formal expressions of a marriage contract, he cannot become a deputy to pronounce the formal expression for someone else.

2313. If a person deputizes someone to perform all of his tasks, it will be in order. However, if he appoints him to perform one of his tasks, but fails to specify that task, the deputyship will be void, unless he leaves it at the discretion of the deputy to specify the task. For example, he may say to him, "I appoint you as my deputy to sell my house or rent it out, whichever ever you of the two you wish to do."

2314. If a person deposes his deputy, once the news reaches the deputy, he may not perform the task that he was deputized for. However, if he performs it before the news reaches him, it will be in order.

2315. The deputy may abdicate the deputyship, even if the one who appointed him is absent.

2316. A deputy may not appoint a deputy to perform the task that he was appointed to perform. However, if the one who appointed him permits him to appoint a deputy, he may act in the manner that he instructs him. Therefore, if he states, "Appoint a deputy for me," he must appoint a deputy for him, and cannot appoint a deputy on his own behalf.

2317. If a deputy appoints a deputy for the one who appointed him (the first deputy), he cannot depose him. If the first deputy passes away, or is deposed by the one who appointed him, the second deputyship will not be voided. 2318. If a deputy appoints a deputy on his own behalf with permission from the one who appointed him, the one who appointed the first deputy and the first deputy himself may both depose of the second deputy. However, if the first deputy dies or is deposed, the second deputyship will be voided.

2319. If a person appoints a group of deputies to perform a task, and permits each of them to act solitarily, any one of them can perform that task. In the event that one of them

passes away, the deputyship of the others is not voided. However, if he fails to specify whether they must perform it together or may perform it solitarily, or if he specifies that they must perform it together, they may not perform it solitarily. In the event that one of them passes away, the deputyship of the others is voided.

2320. If the deputy or the one who appointed him passes away, the deputyship is voided. Similarly, if the item which one was deputized to dispose of, perishes, such as the sheep that one was appointed to sell dies, the deputyship will be voided. Should one of them become insane or lose consciousness, it is problematic to claim that the deputyship is voided in a manner that the deputy would not be able to perform the task even after the individual regains consciousness or regains his sanity, and would need to be deputized anew.

2321. If a person appoints a deputy and agrees to remunerate him, he must remunerate him according to the agreement upon the completion of the task.

2322. If the deputy is not negligent in safeguarding the property that has been placed in his possession, and does not dispose of it in a manner other than what he was charged with, and incidentally the property perishes, he will not be responsible for its replacement.

2323. If a deputy is negligent in safeguarding the property that was placed in his possession, or disposes of it in a manner other than what he was charged with, and the property perishes, he will be responsible for it. For example, if he was charged with selling a piece of clothing, and instead chooses to wear it, whereby ruining it, he must provide its replacement.

2324. If the deputy exercises discretion over the property in a manner that he was not authorized to do, such as wearing a piece of clothing that he was deputized to sell, and thereafter he exercises the authorized discretion over it, it will be valid.

Chapter 65

The Precepts of Loaning

Giving a loan to a Muslim, especially a Mu'min, is one of the recommended acts. Not only has the Glorious Qur'an enjoined this act, it has in fact deemed the act of giving a loan to a mu'min as giving a loan to God. It has also promised forgiveness to those who give loans. The prophetic traditions have also enjoined it, for it has been narrated from the noble prophet (sawas) that whoever grants a loan to his Muslim brother, then reserved for him are good deeds the weight of the mountain of Uhud, of the mountains of Radhwa and Tur Seena'. He also added that if the creditor observes leniency in demanding the loan, he will traverse the Siraat like a bolt of lightning, without being subject to any accounting or punishment. However, if a Muslim complains of his needs to a person, and the latter fails to grant him a loan, God, the Exalted and Sublime, will make paradise forbidden on him. It has also been reported from Imam al-Sadiq (as) that giving a loan is dearer to him than giving the same amount in charity.

2325. It is not necessary to utter a formal expression when giving a loan; rather, if one gives a thing to a person with the intention of giving a loan, and the latter accepts it with same intention, it will be valid.

2326. In the event that a specific period is not stipulated within the loan, whenever the debtor chooses to repay his debt, the creditor must accept it. The same applies if a period is specified, and the debtor chooses to repay the loan after the period has elapsed.

2327. If a specific period is stipulated within the loan agreement, the creditor cannot claim the loan prior to the end of this

period. However, if no period is specified, the creditor can claim the loan whenever he wishes to do so.

2328. If the creditor claims—in the event that he has the right to do so—his loan, then should the debtor be able to repay his debt, he must pay it off immediately. If he delays in doing so, he will have sinned.

2329. If the debtor does not own anything besides a house that is befitting of his status, and he resides therein, and some household furniture and other things which are necessities, a creditor cannot claim his loan from him; rather he must wait until the debtor is able to pay the loan.

2330. If a person who is in debt and is unable to pay off his debt, is able to work, and it does not entail any difficulty or hardship for him, it is obligatory for him to work and pay off his loan.

2331. If a person has no way of contacting his creditor, and holds no hopes of being able to do so, he must give the debt to the poor as charity on behalf of the creditor. The obligatory precaution is that he should seek the consent of the Hakim al-Shar‘i in this case. In the event that his creditor is not a Sayyid, the recommended precaution is that he should not give the debt to a needy Sayyid.

2332. If the estate left behind by a deceased does not exceed the cost of his shroud, burial and debts, then his estate should be spent on these items, and his heirs will not inherit anything.

2333. If a person borrows an amount of gold or silver, and its value depreciates, then should he return the same amount, it will suffice. On the other hand, should its value appreciate, he must return the amount that he borrowed. In both cases, there is no harm if the debtor and the creditor are both satisfied with a different amount.

2334. If the borrowed property has not perished, and the owner claims it, the recommended precaution is that the debtor should return the same property to him.

2335. If the creditor stipulates that he should be given an amount that is greater than what he loaned, it will be considered interest and therefore forbidden. An example of this is a case wherein one loans 10kgs of wheat and stipulates that he claim 11kgs of it, or loans 10 eggs with the condition of

claiming 11 eggs. In fact, even if he stipulates that the debtor render a service to him, or return the loan along with an amount of another commodity, it too will be considered interest and therefore forbidden. An example of this is a person who loans \$5 and stipulates that it be returned to him along with a lighter. In fact, if he stipulates that the item being loaned should be returned in a particular manner, such as loaning an amount of raw gold and stipulating that a finished form of it be returned to him, it too will be considered interest and therefore forbidden. However, if the debtor himself returns the loaned item with an extra amount, without such a thing being stipulated, there is no problem in it. On the contrary, it is recommended.

2336. Giving interest is—like accepting interest—forbidden. The stronger view is that the one who accepts interest becomes the owner of the interest received, although the more precautionary stance is that he should avoid disposing it.

2337. If a person acquires wheat or anything similar through an interest based loan, and cultivates it, the stronger view is that he becomes the owner of the produce that is acquired from it. The more precautionary measure however is that one should avoid disposing it.

2338. If a person buys a piece of clothing and pays for it using property that was acquired through an interest based loan, or pays for it using legal property that is mixed with such property, there is no problem in wearing it and offering prayers in it. The same will apply if he states to the seller, “I am buying this piece of clothing with this property,” although the more precautionary measure is that he avoid using it.

2339. If a person loans an amount of money to someone, so that someone on his behalf may retrieve a lesser amount from the latter in another city, it will not be problematic. This is called *ʔarf al-bariʔah*.

2340. If a person loans an amount of money to someone, with the arrangement that he be repaid a greater amount a few days later in another city, it will be considered interest and therefore forbidden. An example of this is a person who loans \$990 to someone, with the arrangement that he be repaid \$1000 ten days later in another city. However, if the party that

is taking the extra amount, gives something in return or renders a service in return, there is no problem in doing so.

2341. If someone is owed a commodity other than gold or silver, and a commodity that is not transacted by weight or volume, he may sell it to the debtor or to another individual for less than its value, and take its payment immediately. However, if the loan is of currency bills, then selling it for an amount that is less than its value, given that the payment is of the same kind as the bill, is problematic. However if it is not of the same kind, such as selling Euros for dollars, it is not problematic.

Similarly, a person may deduct an amount from the debt that he is owed by a debtor, and take the remaining amount immediately.

Chapter 66

The Precepts of Hawalah (Transfer of Liabilities)

2342. If a person refers his creditor to a third party for the money that he owes him, and the creditor accepts to do so, then if the Hawalah (transfer of liabilities) is realized with the conditions that will be elaborated later, the person being referred to will become indebted to the creditor. Thereafter, the creditor will not be able to claim his debts from the original debtor.

2343. The debtor and the creditor must both be sane and Ba-ligh. They should also not be wrongfully compelled to it, nor be feeble-minded—defined as someone who wastes his wealth on futile ventures—unless it is carried out by the permission or the consent of the guardian. However if the transfer of liabilities is to a person who is not indebted to the one who is transferring the liability, then in the case that the latter is a feeble-minded person, it will not be problematic. Additionally, both the debtor and the creditor should not be interdicted by the Hakim al-Shar'i from disposing of their property due to bankruptcy. However, if the transfer of liabilities is to a person who is not indebted to the one who is transferring the liability, and the latter is bankrupt, it will not be problematic.

2344. The validity of a transfer of liabilities to a person who is not indebted is contingent on his acceptance. Similarly, if a person wishes to transfer the liability of a particular commodity to a person who owes him a different commodity, such as transferring the liability of wheat to person who owes barley, it will not be valid unless the latter accepts it.

2345. At the time of transferring a liability, a person must be indebted. Hence, if he wishes to obtain a loan from someone,

as long as he has not obtained the loan, he may not refer him to another person for the sum that he later wishes to loan from him.

2346. The person transferring the liability and the creditor must both know the amount and type of the liability being transferred. Therefore, if someone owes an individual ten kgs of wheat and ten dollars, and asks him to claim either of the two from another individual, without specifying which one, the transfer will not be valid.

2347. If the debt has actually been specified, however the debtor and the creditor are not aware of its amount or type while transferring the liability, the transfer will be valid. For example, if the debt has been recorded in a document, and the liability is transferred before referring to the document, and thereafter they refer to the document and inform the creditor of the amount of the debt, the transfer will be valid.

2348. The creditor reserves the right to refuse the transfer of liabilities, even if the person it is being transferred to is not poor, and neither is he negligent in paying the liability.

2349. If a person who is not indebted to the one transferring his own liabilities, accepts the liability to be transferred to him, he may not claim the amount of the liability from the latter prior to paying it. If the creditor settles his debt for a lesser amount, the person who accepted the liability cannot claim an amount greater than it from the person who transferred the liability.

2350. Once a transfer of liability has been realized, the person transferring the liability and the transferee cannot cancel the transfer. The creditor may also not cancel the transfer if the transferee is not poor at the time of the transfer, even if he becomes poor thereafter. The same will apply if he is poor at the time of the transfer and the creditor is aware of it. However, if he does not know that he is poor, but later realizes that the transferee has become rich, the creditor will still reserve the right to cancel the transfer and claim the debt from the (original) debtor.

2351. If the debtor, creditor and transferee—in the event that his acceptance is a consequential condition in the transfer of liabilities, such as a person who is not indebted to the debtor—or one of them reserves the right to cancel the transfer of

liabilities, he may cancel the transfer according to the clause agreed within the contract.

2352. If the person who transferred his liability pays the creditor himself, then in the event that he has paid it at the request of the transferee who was indebted to him, he may claim the item that he paid from the transferee. However, if he paid it without a request from the transferee, or the transferee was not indebted to him, he may not demand the paid item from the transferee.

Chapter 67

The Precepts of Mortgaging

2353. Mortgaging is defined as the act of placing a part of one's property as a safety deposit, by a person who is under a financial obligation to another individual, so that in the event that he fails to pay off his obligation, the latter may claim his rights from that property. For example, a debtor may place a part of his property as a safety deposit, so that in the event that he fails to pay off the debt, the creditor may claim the debt from that deposit.

2354. Uttering a formal expression is not necessary in a mortgage. In fact, the mere act of placing a property in the possession of the creditor with the intention of a safety deposit, and the acceptance by the creditor with the same intention, will be sufficient for the mortgage to be in order.

2355. The mortgager and the mortgagee must both be sane and Baligh, and should not have been wrongfully compelled to it. In addition, the mortgager must not be bankrupt, nor feeble-minded, unless consent or permission is acquired from the creditors of the bankrupt individual, or the guardian of the feeble-minded person. The definition for persons who are feeble-minded and persons who are bankrupt was elaborated in article 2306.

2356. A person may only mortgage the property that he is permitted to dispose of by the Shari'ah. However, if he mortgages another person's property upon acquiring his permission or consent, it will be in order.2357. One should be able to recover his debt from the mortgaged item even if it is not owned (by the mortgager), such as a land that is the subject of one's right of fencing. Therefore, if a person mortgages wine or any similar item, the mortgage will be void.

2358. The profits derived from the mortgaged item belong to its owner. The term owner—as it pertains to these articles—is a term more general than one who possesses rights over it.

2359. The mortgagee may not dispose of the mortgage without its owner's permission. Similarly, the owner of the mortgage may not dispose of it in a manner that would violate the right of the mortgagee, without his permission.

2360. A group of jurists (may the Lord raise their status) have stated that if the creditor sells the mortgaged item with the permission of the debtor, then the payment acquired in its sale will also—like the original property—be considered as the mortgage. The same will apply (according to the jurists) if the creditor sells it without the permission of the debtor, but the latter consents to it later on. However, such a view is problematic, unless it is stipulated with a contract, even if it be the within the same sale, that the debtor will place the received payment as mortgage. In this case, it becomes obligatory on him to fulfill the condition. The same will apply if it is stipulated that the payment would be mortgaged, in which case the payment is automatically mortgaged by virtue of the condition.

2361. When the moment of repaying the debt arrives, and the creditor demands it, but the debtor fails to pay it, then in the event that the creditor is deputized to sell and claim his debt, he may sell the mortgaged item and recover his debt. In the event that he is not deputized as such, he should seek the permission of the debtor. In the event that he is unable to contact him, he should seek permission from the Hakim. In the event that this is not possible either, he should seek permission from just individuals amongst the believers. In any case, should he acquire more than his debt (from the sale), he must return the extra to the debtor.

2362. If the debtor possesses nothing but a house that is suitable for his status, and he resides therein, and some household furniture and other basic necessities, the creditor cannot demand his debt from the debtor. However, the creditor may sell a mortgaged item, even if it be a house and household furniture, and recover his debt through their sale.

Chapter 68

The Precepts of Sureties

2363. If a person wishes to become a surety to pay off the debts of another, then his act of becoming a surety will only be valid if he conveys by means of any words—even if they are not in Arabic—or actions that he has undertaken the surety of paying the debt, and the creditor accepts it. The consent of the debtor is not necessary in this case.

2364. The surety and the creditor must both be sane and Baligh, and should not have been wrongfully compelled to it. They should also not be bankrupt or feeble-minded, unless it is carried out with the permission or consent of the guardian of the feeble-minded individual, or the creditors of the bankrupt person. These conditions are not consequential in the debtor. Therefore if a person becomes a surety to pay off the debt of a child, an insane or feeble-minded person, or a bankrupt individual, his act will be in order.

2365. If a person stipulates a condition for becoming a surety, such as stating that he will become a surety if the debtor fails to pay off the debt, to claim the validity of the surety will be problematic.2366. The person whom an individual wishes to stand surety for must himself be in debt. Hence, if a person wishes to acquire a loan from someone, one cannot stand surety for him until he acquires the loan.

2367. A person can only stand surety if the creditor, debtor and type of the commodity are in reality specified. Therefore, if two individuals are owed by a person, and a fourth individual states that he will stand surety for the debt owed to one of them, his act of becoming a surety will not be in order, for he has failed to specify whose debt he will be paying. Similarly, if a creditor is owed by two persons, and a fourth individual

states that he will stand surety for the debt owed by one of them, his act of becoming a surety will be void, for he too has failed to specify whose debt he will be paying. In a similar manner, if a person is owed ten kgs of wheat and ten dollars from a person, and a fourth individual states that he will stand surety for one of the two items being owed, without specifying whether he is standing surety for the wheat or the money, it will not be in order.

2368. If the creditor gifts the debt to the surety, the surety cannot claim anything from the debtor. Similarly, if the creditor gifts him a part of the loan, he cannot claim that amount from the debtor.

2369. If a person stands surety to pay off an individual's loan, he cannot revert from being a surety.

2370. The surety and the debtor—based on obligatory precaution—cannot stipulate a condition which permits them to cancel the role of the surety whenever they wish.

2371. If the surety able to pay the debt owed to a creditor at the time of becoming a surety, the creditor cannot remove him from being a surety should he become poor later on, and seek to recover the debt from the original debtor. The same will apply if he is unable to pay the debt at the time of becoming a surety, but the creditor is aware of this and consents to his becoming a surety nonetheless.

2372. If the surety is unable to pay the debt owed to the creditor at the time of becoming a surety, but the creditor is unaware at the time and realizes it later on, he may remove him from being a surety. However, if the surety acquires the ability to pay the debt before the creditor realizes (that he was unable to pay the debt), and the creditor nonetheless wishes to remove him from being a surety, such a move will be problematic.

2373. If a person stands surety to pay off the debt of an individual without the individual's consent, he cannot claim anything from him.

2374. If a person stands surety to pay off the debt of an individual with his consent, he may claim the surety amount from the individual after he has paid it. However, if he pays the creditor with a commodity other than the commodity that was owed, the surety cannot claim from the (original) debtor the

commodity that he paid. For example, if the debtor owes ten kgs of wheat, and instead the surety pays ten kgs of rice, the surety cannot claim rice from the debtor. However, if the debtor himself consents to paying rice, there is no problem in it.

Chapter 69

The Precepts of Kifaalah

2375. Kifaalah is defined as the act of offering a guarantee by an individual to a creditor, that whenever the creditor seeks the debtor, the individual will submit the debtor to him. An individual who offers such a guarantee is known as a Kafeel (a guarantor).

2376. A Kifaalah will only be in order if the guarantor conveys by means of any words—even if they are not in Arabic—or actions that he is offering to guarantee (the creditor) that whenever ‘you wish to summon your debtor, I will present him to you,’ and the creditor or his guardian accepts.

2377. The guarantor must be a sane and Baligh person. He must not be feeble-minded, or bankrupt in the event that it necessitates that he stand surety for a property, unless it is carried out with the permission of the guardian of the feeble-minded person or the creditors of the bankrupt individual. The guarantor should also not be wrongfully compelled to the act of Kifaalah, and should be capable of summoning the debtor.

2378. One of the following five occurrences can void the Kifaalah:

1. The guarantor submits the debtor to the creditor, or the debtor submits himself, or another individual submits him and the creditor accepts it.

2. The debt owed to the creditor is paid.

3. The creditor forgives the debt, or transfers it to another party through a sale, a settlement compromise, a transfer of liabilities or any similar agreement.
4. The debtor dies.
5. The creditor frees the guarantor from the Kifaalah.

2379. If a person forcefully or deceitfully frees a debtor from the hands of a creditor, then given that the creditor is no

longer able to get hold of the debtor, the person who freed the debtor will have to submit him to the creditor. If he fails to do so, he will have to pay his debts.

Chapter 70

The Precepts of Deposits

2380. If a person gives his property to another person, saying, "Let it be deposited with you," and the latter accepts, or without uttering a word, conveys to him that he wishes to place it with him for safe-keeping, and the latter accepts it with the intention of safe-keeping, then they must act in accordance to the precepts of deposits, which will be elaborated in subsequent articles.

2381. The depositor and the safe-keeper must both be sane. Therefore, if a person places a deposit in the trust of an insane person, or if such a person places a deposit in someone's trust, it will not be valid. The depositor must also be Baligh. It is permissible for a distinguishing child to place another person's property in the trust of a third party with the owner's permission. As for placing a deposit in the trust of a distinguishing child, it will not be problematic as long as the child is capable of safeguarding it, and safeguards it, and it does not necessitate disposing of his property. The condition that the depositor not be feeble-minded or bankrupt is also consequential, unless it be with the permission or consent of the feeble-minded individual's guardian, or the creditors of the bankrupt individual. However, there is no objection in placing a deposit in the trust of a feeble-minded person or a bankrupt individual, as long as it does not necessitate their disposal of their own property. In the event that it does, it will not be problematic as long as it is carried out with the permission or consent of the guardian or the creditors.

2382. If a person accepts a deposit from a child without the permission of its owner, he must return it to its owner. If the deposited item belongs to the child himself, and his guardian

has not permitted the item to be deposited, he will have to return it to the guardian. In the event that he is negligent in delivering the property to them and it perishes, he must provide its replacement. The same will apply if the depositor is an insane person.

2383. A person who is not capable of safekeeping a deposit should not accept it, if the depositor is not aware of his incapability.

2384. If a person conveys to the property owner that he is not willing to safe-keep the property, but the owner nonetheless places it with him and leaves, upon which the property perishes, the individual who did not accept to keep the deposit will not be held responsible for it. The recommended precaution however is that he should safeguard it if possible.

2385. The depositor may retrieve the deposit whenever he wishes to do so. Similarly, the safekeep may also return it to its owner whenever he wishes to do so.

2386. If a person absolves himself from safekeeping the deposit, and cancels the deposit agreement, he must return the property to the owner, or the deputy of the owner, or his guardian as soon as he can, or he should inform them that he is no longer willing to safeguard it. If he fails to return the property to them, and also fails to inform them, without a justified excuse, and the property perishes, he will have to provide its replacement.

2387. A person who accepts a deposit should prepare a suitable place for safeguarding it, if he does not have such a place. He should also safeguard it in a manner that it would not be said that he has been negligent in safeguarding it. Thus, if he places it in an unsuitable area, and it perishes, he will have to provide its replacement.

2388. If the person accepting the deposit goes beyond the normal bounds, such as riding a horse that has been placed in his trust, or is negligent in safeguarding it, such as placing it in an area where he is not confident that a third party may become aware of it and steal it, then he will be held accountable for it. In the event that it perishes, he will have to provide its replacement, and given that the item is fungible he will have to provide its like, and if not, then its value. In other than the two cases above, he will not be held responsible for it.

2389. If the owner specifies a particular area for the safe-keeping of the property, and informs the safe-keeper that he should keep the property in that area, and (informs him that) even if he entertains the possibility that it might get destroyed, he is not allowed to transport it to a different location, then it will not be permissible for him to move it to a different location. In the event that he does, he will be held responsible for it.

2390. If the owner of the property specifies a location for its safe-keeping, and the one who has accepted the deposit knows that the particular location is not of significance to the owner, rather it was simply one of the locations for its safe-keeping, he may transport the property to a different location, where it would be safer than the specified location, or equal in safety to it. In the event that the property perishes in the (new) location, he will not be held responsible for it.

2391. If the owner of the property becomes insane, the person who accepted the deposit must immediately return it to his guardian, or inform his guardian of it. If he fails to return the property to his guardian, and also fails to inform him of it, without a justified excuse, and the property perishes, he will have to provide its replacement.

2392. If the owner of the property passes away, the person who accepted the deposit must immediately return it to his heirs, or inform them of it. In the event that he fails to return the property to his heirs, and also fails to inform them of it, without an excuse that is authorized by the Shari'ah, and the property perishes, he will have to provide its replacement. However if he chooses not to handover the property, or desists from informing the heirs, in order to determine whether the person claiming to be the heir is speaking the truth or not, or whether the deceased has other heirs or not, and the property perishes, he will not be accountable for it.

2393. If the owner of the property passes away, and leaves behind a number of heirs, the safekeeper should hand over the property to all of them. He may also hand over the property to an individual who has been assigned by the heirs to collect their properties. Therefore, if he hands over the property to one heir without the consent of the rest, he will be responsible

for their shares. If the deceased had appointed an executor, his consent is also consequential.

2394. *If the person who has accepted the deposit dies or becomes insane his heir or guardian should inform the owner of the property or give the property to him as early as possible.*

2395. Whenever the safe-keeper realizes that he is nearing his own death, then if he is confident that the deposit will be delivered to its owner, such as the case wherein his heir is a trustworthy person, and is aware of the deposit, and is also confident that the owner would consent to the deposit remaining with the heirs, then it will not be mandatory for him to return the deposit to its owner, the guardian of the owner, or his deputy, or mention it in his will. The more precautionary measure is that he should return the deposit to the owner, his guardian or deputy, and if this is not possible, he should hand it over to the Hakim al-Shar'i. In other than the aforementioned case, he should return the right to its owner, his deputy or his guardian by whatever means possible. However, if it is not possible, he should state it in his will and get someone to witness it. He should inform the witness and his executor of the name of the owner, the nature of the commodity, its specifications and the place where it is located.

2396. If the safe-keeper realizes that he is nearing his own death, but fails to act upon the precepts elaborated in the previous article, then if the deposit perishes, he will have to provide its replacement, even if he has not been negligent in safeguarding it and he recovers from his sickness. The same will apply if he later regrets it, and ensures that it is stated in his will, even if the property perishes after he states it in his will

Chapter 71

The Precepts of Gratuitous Loans

2397. A gratuitous loan is realized when a person gives his property to another to use it, without demanding anything in return.²

398. Uttering a formal expression is not necessary for (the validity of) gratuitous loans; rather if a person gives a piece of clothing to another with the intention of giving him a gratuitous loan, and the latter accepts it with the same intention, it will be valid.

2399. Loaning a usurped item, or an item which belongs to the loaner, but its usufruct is the right or property of another, such as a property that has been rented out, is only valid if the owner of the usurped item, or the one who owns or has rights to the usufruct of the property, consents to the loan.

2400. If the usufruct of a property belongs to a person, such as a case where he has rented it, he may loan it to someone who is trustworthy, or loan it with the permission of the owner. However, if it is stipulated within the rental contract that the renter himself make use of it, he may not loan it to someone else.

2401. If a child or an insane person loans out his own property, it will not be valid. Similarly, it will not be valid if a feeble-minded person or bankrupt individual loans out his own property, unless it be with the consent or permission of the guardian of the feeble-minded individual, or the creditors of the bankrupt person. If the guardian sees it expedient to loan out the property of a person whom he has guardianship over, it will not be problematic for him to do so.

2402. If a person is not negligent in safeguarding the loaned property, nor is he immoderate in using it, but the property

incidentally perishes, he will not be held responsible for it. However, if it was stipulated that in the event that the property perishes, the person acquiring the loan would be responsible for it, or if the loaned item was gold or silver, the person loaning it will have to replace it.

2403. If a person loans gold or silver, and stipulates that in the event that it perishes, he will not be responsible for it, then if it perishes, he will not be responsible for it.

2404. If the lender passes away, the person who acquired the loan will have to act according to the precepts elaborated in article 2392.

2405. If the lender becomes such that he is not permitted by the Shari'ah to dispose of his property, such as a person who has turned insane, the duty of the person who acquired the loan will be the same as what was elaborated in article 2391.

2406. A gratuitous loan is a non-binding contract, and therefore the lender and the one acquiring the loan may cancel the loan at any time they wish to do so. Hence, the lender may reclaim that loaned property, except in the case of a land which was loaned out for the purpose of burying a dead body. In this case, once a body has been buried there, he is not permitted to reclaim the land by exhuming the grave.

2407. Loaning out an item which serves no legally permissible use, such as the instruments of vanity and gambling, is not valid. The same applies to loaning out gold or silver dishes for the purpose of consuming food or drinks from them. In fact, based on obligatory precaution the same applies to the rest of its uses, even if it be for decorative purposes.

2408. Loaning a sheep for the use of its milk or wool, or loaning a male animal to impregnate a female animal, is valid.

2409. If a person returns the loaned item to its owner, or the deputy or guardian of the owner, and then the item perishes, the one who acquired the loan will not be responsible for it. However, if he transfers the property to another location without the permission of its owner, or the deputy or guardian of the owner, he will be responsible for it, even if the owner would usually take the loaned item to that location, such as tying a horse in a stable where the owner would usually hold it. In the event that it perishes, he will have to replace it.

2410. If a person loans out an impure (Najis) item for a use in which its Taharah is a condition, such as loaning out a Najis dish for the purpose of consuming food from it, he must inform the loaner of it being Najis. However, if he lends out a Najis garment for the purpose of offering prayers in it, he does not have to inform the loaner of it being Najis, unless the loaner wishes to offer his prayer in a genuinely Tahir garment. In this case, the obligatory precaution is that he should inform the loaner of it being Najis.

2411. A person may not loan or rent out a loaned item without the consent of its owner.

2412. If a person loans out a loaned item with the consent of its owner, then if the original loaner passes away or turns insane, the second act of loaning will not be invalidated.

2413. If a person knows that the loaned item is usurped, he must return it to its owner, and he may not return it to the lender.

2414. If a person accepts the loan of a property that he knows to be usurped, and makes use of it, and it perishes in his possession, the owner may demand restitution for the item and its use from the one who accepted the loan, or from the usurper. If the owner acquires it from the one who accepted the loan, the latter may not demand any compensation from the lender.

2415. If the person who accepts the loan does not know that the property is usurped, and it perishes in his possession, then if the owner acquires its restitution from him, he too may demand compensation from the lender. However, if the loaned item is gold or silver, or if the lender stipulates that in the event that the item perishes, the one accepting the loan will replace it, then the latter may not demand any compensation from the lender for the restitution that he pays to the owner.

Chapter 72

The Precepts of Gifting

Gifting is the act of transferring the ownership of a property (itself) for free, meaning that no payment is acquired in return for the property. The item gifted must be the property itself—even if it be as an abstractly defined fraction of it—and not its usufruct. It may also be corporeal, or be abstractly owed in the event that it is gifted to someone other than the one who owes it. If however it is gifted to the one who owes the property (itself), he will be freed from the debt, and the one who gifts it will not be able to reclaim it.

2416. In the act of gifting, an offer and an acceptance is consequential, be it verbal, such as stating, “I have gifted this book to you,” and in return the person who has been gifted with the book, states, “I have accepted,” or be it by the act itself, such as the act of giving the book to another party with the intention of gifting it, and the other party also takes it with the intention of accepting it.

2417. The conditions that the giver be sane, Baligh and intending (the act of gifting), are consequential. The giver should also not be compelled to the act of gifting, and should not be interdicted from disposing of his property owing to feeble-mindedness or bankruptcy. He should also be the owner of the property that he is gifting, or have authority over it. Otherwise, the act of gifting will be uncommissioned, and its validity will be contingent on the permission of a person whose permission is consequential.

2418. In the act of gifting, taking possession of the property is consequential. Therefore, if a person gifts a property to another, the act of gifting will not be realized until he places it in his possession. The recipient should also take possession of the

property with the permission of the giver. However, if the gifted item is in the possession of the recipient, it will suffice. The condition of granting possession in non-transportable items, such as land and houses, is realized by the act of removing any obstructions from its use, and placing it in the possession of the recipient. In transportable items, it is realized by giving it to the other party, and the latter accepting it from him.

2419. If a property is gifted to a person who is not Baligh or is insane, the acceptance of their guardians, and their (the guardians) acquiring possession over it, is consequential. If the guardian gifts it to them, but it continues to remain in his possession, the presence of the property in the possession of the guardian will suffice in lieu of granting possession.

2420. If a person gifts a property to one of his own relatives, upon granting him possession of it, he cannot return to him and seek to reclaim it. The same will apply in the event that the giver makes a condition on the recipient, and the condition is fulfilled, or the recipient gives something to the giver in return for the gift. In cases other than the ones listed above, as long as the gifted property itself remains, the giver may reclaim the gifted property. However, if it has perished, or has been transferred to someone else, or a transformation has occurred in the property itself—for example, if the gift was a piece of cloth, and the recipient dyes it—he cannot reclaim it.

2421. A husband and wife are not subject to the rulings of relatives with respect to the binding nature of gifts.

2422. If a person gifts a property to someone, and simultaneously stipulates that the recipient give him something, or perform a task—which is legal—for him, then the person who is subject to fulfill the condition, must fulfill it. The giver may also reclaim the gift before the condition is fulfilled. Similarly if the person who is subject to fulfill the condition fails to do so, or is unable to fulfill it, the giver may reclaim the gift.

2423. If the giver or the recipient of the gift passes away prior to the acquisition of the gift, the act of gifting will be invalidated.

2424. If the giver of the gift passes away after its acquisition, his heirs may not reclaim the gift. Similarly, if the recipient passes away, the giver cannot reclaim it.

2425. Just as the gift may be reclaimed by a verbal utterance—for example the giver may state, “I withdraw my offer to gift you,”—it may also be reclaimed by an act, such as acquiring possession of it from the recipient with the intention of reclaiming it, or placing it at the disposal of a third party with the intention of reclaiming the gift. For a reclamation to be realized, the knowledge of the recipient is not consequential.

2426. If the gifted property generates a detached or a detachable increase in the property of the recipient, such as a sheep giving birth to a lamb, or a tree bearing fruits, it will belong to the recipient. If the giver reclaims gifts such as sheep or trees, he cannot take back the lamb or the fruits from the recipient.

Chapter 73

The Precepts of Marriage

By means of a marriage contract, a man and woman become legal for each other. Such contracts are of two types: temporary and permanent. A permanent contract is one wherein no specific period is stipulated for the marriage. A woman who is married in such a contract is known as a Da'imah (permanent wife). A temporary contract is one wherein a specific period is stipulated for the marriage, such as forming a contract with a woman for a period of one hour, one day, one month, one year or more. The obligatory precaution is that the period of such a marriage should not exceed the lifespan of the husband and wife, or one of them. A woman who is married in such a contract is known as a Mut'ah (temporary wife).

The Precepts of the Marriage Contract

2427. In a marriage, be it temporary or permanent, a formal expression must be pronounced. The mere consent of the man and the woman will not suffice. The formal expression may be pronounced by the man and the woman themselves, or they may deputize a third party to pronounce it on their behalf.

2428. The deputy does not have to be a man. A woman may also be a deputy on behalf of a party to pronounce the formal expression of the marriage.

2429. As long as the man and woman are not certain or confident that their deputy has pronounced the formal expression, they may not sanction the consequences and precepts of the marriage. Merely speculating that the deputy has pronounced the formal expression will not suffice. If the deputy states that he has pronounced it, then in the event that he is trustworthy and one does not entertain a doubt that is contrary to his claims, it will suffice. The same applies if one acquires confidence in his statement. In other than the two aforementioned cases, it is problematic to rely solely on the statement of the deputy.

2430. If a woman deputizes someone to marry her to a man for ten days, but does not specify a start date for the ten day period, the deputy can marry her to the man for ten days commencing from whenever he wishes. However if it is known that the woman has intended a particular date or time, the deputy must pronounce the formal expression according to her intention.

2431. A (single) person may be deputized on behalf of both parties to pronounce the formal expression of the marriage contract, be it a temporary one or a permanent one. In fact, a man may be deputized by a woman to marry her to himself, both in a temporary marriage or a permanent one. The recommended precaution however is that the formal expression should be pronounced by two individuals, especially in the event that a person is deputized to marry someone to himself.

Instructions for Pronouncing the Formal Expressions

The recommended precaution is that the words pronounced by the man should be consistent with the words pronounced by the woman. For example, if the woman employs the term *nikah*, the man should respond with *nikah*, even though there is no objection to saying *katana* or *katana*.

Instructions for Pronouncing a Temporary Marriage

2433. If the man and woman themselves wish to pronounce the formal expression of a temporary marriage, then having specified the period and the mahr, if the woman states:

Ya ahu nikahunni bi-mahrin kamilin wa-ala al-aydini wa-ala al-aydini
*bi-*mal* al-aydini wa-ala al-aydini wa-ala al-aydini*

And thereafter, without disturbing the consecutiveness in the common sense, the man responds by saying:

Ya ahu nikahunni

The marriage will be in order. If however, they deputize another person, and the woman's deputy commences by addressing the man's deputy, stating:

Ya ahu nikahunni bi-mahrin kamilin wa-ala al-aydini
*bi-*mal* al-aydini wa-ala al-aydini wa-ala al-aydini*

And thereafter, without disturbing the consecutiveness in the common sense, the man's deputy states:

Ya ahu nikahunni

The marriage will be in order.

The Conditions of a Marriage Contract

2434. A marriage contract must fulfill the following conditions:

1. Obligatory precaution dictates that it should be pronounced in correct Arabic. If the man himself or the woman herself is unable to pronounce the formal expression in Arabic, they may also pronounce it in a language other than Arabic. They must select the expressions that will convey the meaning of *أنا أتزوجك* and *أقبلك*. The recommended precaution however is that they deputize—if possible—a person who is able to pronounce it in correct Arabic.

2. The man, woman or their deputy should have a formative intention, meaning that if the man and the woman pronounce the formal expressions themselves, then the woman should have the intention of becoming his wife by pronouncing *أنا أتزوجك* and *أقبلك*, and the man should have the intention of accepting her as his wife by pronouncing *أقبلك* and *أقبلك*. If their deputy pronounces the formal expressions, he should have the intention of making them husband and wife by pronouncing *أنا أتزوجك* and *أقبلك*.

3. The person pronouncing the formal expression must be sane. As for one who is not Baligh, but able to form the contract, in the event that he pronounces the formal expression for himself without the permission or consent of his guardian, it will not be valid. However, if he does so with the permission and consent of his guardian, there will be no objection to it. In the event that he pronounces the formal expression as the deputy of a third party, the (marriage) contract will be valid.

4. If the deputy of the man and woman, or their guardians, pronounce the formal expressions, they should specify the husband and wife whilst pronouncing the contract. For example, they may pronounce their names or point towards them. Therefore, if a person who has many daughters says to a man, *أنا أتزوجك* meaning I wed to thee one of my daughters, and he responds by saying *أقبلك*, meaning I have accepted, the (marriage) contract will be void because they failed to specify a particular daughter while pronouncing the contract.

5. The man and the woman should both consent to the marriage. However, if the woman consents with apparent aversion, but it is known that she has consented to it in her heart, the (marriage) contract will be valid.

2435. If even a word is wrongly pronounced in the (marriage) contract, in a manner that changes its meaning, the contract will be void.

2436. If a person is not familiar with Arabic grammar, recites the formal expressions correctly, and knows the meaning of each word in the formal expression, and intends the meaning of each word when pronouncing it, he may pronounce the (marriage) contract.

2437. If a woman is wedded to a man without their consent, and thereafter the man and the woman consent to the marriage contract, it will be valid.

2438. If the man and the woman, or one of them, is compelled to the marriage, then in the event that they themselves had pronounced the marriage contract, and after pronouncing it they consent to it, it will be valid. In the event that someone else had pronounced it, then if they consent to it, it will be valid. For example, they may state, "we consent to that marriage contract."

2439. The father or paternal grandfather may solemnize the marriage of their child (grandchild) who is not Baligh, or who is insane and turned Baligh in the state of insanity. Once the child becomes Baligh or the insane individual regains sanity, then if the marriage that was solemnized for them was not to their detriment, they cannot cancel it. However if it was (to their detriment), they may ratify it or reject it. However, in the case that a non-Baligh girl and boy are married to each other by their respective parents, and upon turning Baligh they do not consent to it, the precaution with respect to carrying out a divorce or a new marriage contract should not be abandoned.

2440. If a girl who has reached the age of Bulugh (the age of being Baligh) and is mature, in that she is able to determine her best interest, wishes to get married, and she is a virgin, obligatory precaution dictates that she acquire the consent of her father or grandfather. The permission of her mother or brother is not necessary.

2441. If a girl is not a virgin, or if she is a virgin but seeking the consent of her father or paternal grandfather is not possible, or entails a lot of hardship and she needs to get married, then the consent of her father or paternal grandfather will not be mandatory.

2442. If a father or paternal grandfather marries his non-Baligh son (grandson) to a girl, the son will have to pay for the expenses of his wife once he becomes Baligh. As for the expenses before he turns Baligh, in the event that the wife avails herself, and the son is able to derive pleasure, obligatory precaution dictates that he ascertain that he is free of any financial obligation to her by reaching a compromise settlement or otherwise.

2443. If a father or paternal grandfather marries his son (grandson) to a girl, then in the event that the son owned some property at the time of the marriage contract, he will be responsible to pay for the mahr of his wife. However if he did not own any property at the time of the marriage contract, then his father or grandfather will have to pay for the mahr of the wife.

Defects that Warrant Annuling the Marriage Contract

2444. If a man realizes after the solemnization of the marriage contract that his wife has one of the following seven defects, he may annul the marriage contract:

1. Insanity
2. Leprosy
3. Leucoderma
4. Blindness

5. She is crippled or has a lax body, unless her laxity is in a manner that it is not deemed to be a defect in the common sense.

6. Ifdha', meaning that her urinary passage and her uterus have become one, or her uterus and anal passageway have become one.

7. Presence of flesh or bone in her uterus that obstructs sexual intercourse.

2445. If a woman realizes that her husband had been insane prior to the marriage contract, or did not possess the male organ, or it gets severed after the marriage contract but before consummation, she may annul the marriage contract. The same will apply if she realizes that he has a dysfunction whereby he is unable to engage in sexual relations, even if the dysfunction develops after the marriage contract and prior to consummation. However if the husband is unable to engage in sexual relations, the wife must refer him to the Hakim al-Shar'i who will grant him one year's respite. Thereafter, if the husband is unable to have sexual relations with that woman or any other woman, the woman may annul the marriage contract. In the event that the man turns insane after the marriage contract, be it prior to the consummation or after it, the woman—based on obligatory precaution—may not separate from her husband without a divorce. If the male organ gets severed after consummation, or a dysfunction incapacitates him from engaging in sexual intercourse after consummation, the wife cannot annul the marriage contract.

2446. If a woman realizes after the marriage contract that the testicles of her husband have been removed, then in the

event that he has embellished himself and cheated her, she may annul the marriage contract. In the event that he has not embellished himself, if she wishes to annul the marriage contract, she should not abandon the precaution of getting a divorce.

2447. If a woman annuls the marriage contract owing to the man's inability to engage in sexual intercourse, the man will have to pay half of the mahr to her. However, if owing to any of the other aforementioned defects, the man or the woman annul the contract, then in the event that they have not consumed the marriage, he will be under no obligation to pay her anything. If however they have consummated the marriage, he must pay her the entire mahr, unless the woman had embellished herself, in which case he will be under no obligation to pay her anything.

The Women that a Man Cannot Marry

2448. It is forbidden for a man to marry women who are Mahram to him, such as his mother, sister, daughter, paternal aunt, maternal aunt, his nieces and his mother in-law.

2449. If a person marries a woman, then even though they may not have consummated the marriage, her mother, her maternal grandmother, her paternal grandmother, and every generation upwards, will become Mahram to him.

2450. If a person marries a woman and consummates the marriage with her, then her daughters, granddaughters, and every generation downwards will become Mahram to him, regardless of whether they are present at the time of the marriage contract or are born thereafter.

2451. If a person has not consummated his marriage with a woman, he may not marry her daughter as long as the woman is married to him.

2452. The paternal and maternal aunts of a person, and the paternal and maternal aunts of his father, and the aunts of his paternal grandfather or paternal grandmother are Mahram to him. Similarly, the paternal and maternal aunt of one's mother, and the paternal and maternal aunt of his maternal grandmother or maternal grandfather are Mahram to him.

2453. The father and grandfather of one's husband, and every generation upwards, and her son, grandsons—through the son or daughter—and every generation downwards are all Mahram to her, regardless of whether they are present at the time of the marriage contract or are born thereafter.

2454. If a person marries a woman in a temporary or permanent marriage, he may not marry her sister as long as she is married to him.

2455. If a person grants his wife—in the manner that will be explained in the section on divorce—a revocable divorce, he may not marry her sister during the I'ddah period. Obligatory precaution dictates that the same should apply to him whilst she is undergoing the I'ddah of a temporary wife. However, he can marry her sister whilst she is undergoing the I'ddah of an irrevocable divorce.

2456. A person may not marry his wife's niece without her consent. However, if he forms a marriage contract with his wife's niece without her consent, but thereafter his wife consents to it, there will be no objection to it.

2457. If a woman realizes that her husband has married her niece, and she maintains silence, then in the event that her silence does not convey her consent, and she does not grant her consent thereafter, their marriage will be annulled.

2458. If a person who wishes to marry the daughter of his maternal aunt, commits adultery with her mother before marrying the daughter, he cannot marry the daughter anymore. Based on obligatory precaution, the daughter of a paternal aunt will also be subject to the same precept.

2459. If a person marries the daughter of his paternal or maternal aunt, and after consummating his marriage, he commits adultery with her mother, it will not annul their marriage. However if he commits adultery with her mother prior to the consummation of their marriage, the obligatory precaution is that he separate from his wife by divorcing her.

2460. If a person commits adultery with a woman other than his maternal or paternal aunt, the recommended precaution is that he avoids marrying her daughter. If he marries a woman, and prior to consummating their marriage, he commits adultery with her mother, the obligatory precaution is that he separates from her by divorcing her. However, if he first consummates their marriage, and then commits adultery with her mother, he does not have to separate from her.

2461. A Muslim woman cannot marry a Kafir man, nor may a Muslim man marry a Kafirwoman other than a woman from the Ahl al-Kitab. There is no objection in contracting a temporary marriage with a woman from the Ahl al-Kitab, and recommended precaution dictates that he avoids contracting a permanent marriage with her. He cannot however marry a woman from the Ahl al-Kitab in a temporary or permanent marriage without the consent of his Muslim wife. As for some of the sects, such as the Khawarij, the Ghulaat and the Nawasib, that consider themselves to be Muslims, but are subject to the rulings of Kafirs, a Muslim man or woman cannot marry them in a temporary or permanent marriage.

2462. If a person commits adultery with a woman who is undergoing the I'ddah of a revocable divorce, based on obligatory precaution she becomes forbidden to him. However, if a person commits adultery with a woman who is undergoing the I'ddah of a temporary divorce or an irrevocable divorce, or the I'ddah of her husband's death, he may later marry her. The definitions for revocable and irrevocable divorces, the I'ddah of a temporary divorce or the I'ddah of a husband's death will be elaborated in the section on divorce.

2463. If a person commits adultery with an unmarried woman who is not undergoing an I'ddah, he may later marry her. The obligatory precaution is that he avoids marrying a woman who publicly offers to commit adultery, unless it is known that she has repented. The obligatory precaution in this case is that he waits until she observes Haydh, and then he should marry her. If another man wishes to marry her, observing this precaution is recommended.

2464. If a man marries a woman who is undergoing the I'ddah of her marriage to another man, then in the event that both or one of them was aware that her I'ddah has not terminated, and that marrying a woman who is in her I'ddah is forbidden, the woman will forever be forbidden for him (to marry), even if they had not consummated their marriage.

2465. If a person marries a woman who is undergoing the I'ddah of her marriage to another man, and he consummates the marriage with her, then that woman will forever be forbidden for him (to marry), even if he was not aware that she was in her I'ddah, or did not know that it is forbidden to marry a woman in her I'ddah period.

2466. If a person knows that a woman is married, and that marrying her is forbidden, but he marries her nonetheless, he will have to separate from her and she will forever be forbidden for him (to marry). The same applies if he does not know that she is married, but consummates the marriage with her.

2467. If a married woman commits adultery, she does not become forbidden on her husband. In the event that she does not repent, and persists in committing adultery, it is better for her husband to divorce her. In either case, he will have to give her the mahr.

2468. If a woman who is divorced, marries again after a period of time, but then doubts whether the I'ddah of her first husband had expired when she contracted the marriage with her second husband, or not, then in the event that whilst she entertains this doubt she also entertains that possibility that she was not oblivious of her I'ddah while contracting the marriage, her marriage contract with the second husband will be in order. Otherwise, the marriage contract will be problematic. The same applies to a woman who was involved in a temporary marriage, and her husband gifts her the remaining period, or the marriage period comes to an end.

2469. The mother, sister and daughter of a boy who has been sodomized are forbidden (in marriage) for the one who sodomized him, given that the latter is Baligh. The same applies based on obligatory precaution to his grandmother and his daughter's daughter. In the event that the one who sodomizes is Baligh, or the one who is sodomized is not Baligh, if a marriage is contracted, obligatory precaution dictates that the woman separate from the man through a divorce. The same applies if a marriage is contracted with his grandmother or the daughter of his daughter. If he doubts whether penetration occurred or not, they will not be forbidden for him to marry.

2470. If a person marries the mother or sister of a boy, and after marrying her he sodomizes the boy, they do not become forbidden for him, although the recommended precaution is that he separate from his wife through a divorce, especially if she is the sister of the boy. In the event that the one who sodomized the boy divorces his wife, the obligatory precaution is that he does not marry her again.

2471. If a person marries a woman whilst he is in the state of Ihram, the marriage contract will not be valid. In the event that he knew that marrying a woman in the state of Ihram is forbidden, that woman will forever be forbidden for him (to marry).

2472. If a woman who is in the state of Ihram marries a man who is not in the state of Ihram, the marriage contract will not be valid. In the event that she knew that contracting a marriage in the state of Ihram is forbidden, based on obligatory precaution that man will forever be forbidden for her (to marry).

2473. If a man does not perform Tawaf al-Nisa, which is one of rituals of Hajj and umrah almufridah, his wife and other women who had become forbidden for him (to marry) owing to the state of Ihram, will not become lawful for him. If a woman does not perform Tawaf al-Nisa, the man will not become lawful for her. However, if they perform it later on, they become lawful to each other.

2474. It is forbidden for a man to engage in intercourse with a girl he has married until she becomes Baligh. However, if he engages in intercourse with her before she completes nine years, it will not be forbidden for him to have intercourse with her after she completes nine years, even if the intercourse had resulted in Ifdha' (which was explained in article 2444).

2475. A free woman (one who is not a slave) who has been divorced three times by her husband, becomes forbidden for her husband (to marry). However if she marries another man with the conditions that will be elaborated in the section on divorce, her first husband may marry her again after the second husband divorces her or after he passes away, and she completes her I'ddah.

The Precepts of Permanent Marriages

2476. A woman who is involved in a permanent marriage cannot leave the house without the permission of her husband. She must also make herself available for every legal pleasure that he desires. She should also not stop him from engaging in intercourse with her without a legal excuse. If she performs these duties, it will be obligatory on her husband to provide her with food, clothing, housing and the rest of her needs, according to what is commonly acceptable. If he does not provide these to her, regardless of whether he is able to do so or not, he will be indebted to his wife.

2477. If a woman does not obey her husband in the duties that were mentioned in the previous article, she will have sinned. She will also have no right to claim food, clothing, housing and the rest of her needs from him. However, her mahr does not get voided.

2478. A man has no right to force his wife to perform housework for him.

2479. If the travelling expenses of a woman are more than her expenses in her own land, the extra is not the responsibility of her husband, unless it is a journey whose expenses are considered her financial right in the common sense. An example of this would be a woman who is sick, and her treatment is contingent on the journey. In this case, paying for the expenses of the journey—to the extent that is common—will be obligatory on her husband. The same will apply if the husband wishes to take her on a journey.

2480. If paying for a woman's expenses is the obligation of her husband, and he fails to pay for her expenses, then after she has demanded it from him, and he has refused to pay, she may appropriate her expenses from his property without his consent. Obligatory precaution dictates that if possible, she should seek the permission of the Hakim al-Shar'i. If she is unable to withdraw her expenses from his property, and she is also unable to compel him through the Hakim al-Shar'i or his deputy, then if she has no option but to work for her livelihood, she will not have to obey her husband during the periods that she is working to acquire her livelihood.

2481. Obligatory precaution dictates that a man should stay with his permanent wife for one night in every four nights. However, if he has two wives, and he stays with one of them for a night, it is obligatory that he also stay with the other wife during one of the four nights.

2482. A man cannot refrain from having intercourse for more than four months with a young permanent wife. The same applies, based on obligatory precaution, to a wife who is not young, except in the following cases: a. the wife consents to it; b. it entails harm or hardship for the husband, in the event that it does not conflict with the harm or hardship caused to the wife; c. the woman is recalcitrant; d. it is stipulated within the marriage contract that the discretion of engaging in intercourse lies with the husband.

2483. If the parties fail to specify the mahr in a permanent marriage contract, the contract will be valid. In the event that the man has intercourse with the woman, he must pay her the mahr that women like her commonly receive. However, if the mahr is not specified in a temporary marriage, the marriage contract will be void.

2484. If a payment period is not specified for the mahr whilst pronouncing the marriage, the wife may refuse to have intercourse with her husband prior to receiving the mahr, regardless of whether he is able to pay it or not. However, if she consents to having intercourse before he pays her the mahr, and the man has intercourse with her, then she will not be able to refuse him from having intercourse again without a legal excuse.

The Precepts of Temporary Marriages

2485. It is valid to marry a woman in a temporary marriage, even if it is not for the purpose of acquiring pleasure.

2486. The obligatory precaution is that a husband should not avoid intercourse for more than four months with his temporary wife, unless she consents to it.

2487. If a woman who is involved in a temporary marriage stipulates in the marriage contract that her husband should not have intercourse with her, the contract and the condition will both be valid. In this case, the husband will only be permitted to acquire other forms of pleasure from her. However, if she later consents to having intercourse, her husband may have intercourse with her.

2488. A temporary wife does not reserve the right to claim spousal support for her expenses, even if she becomes pregnant, unless she stipulates it within the marriage contract or any other binding contract. The same will apply if she stipulates it within a non-binding contract, for as long as it is valid.

2489. A temporary wife is not entitled to share the conjugal bed of her husband, nor does she inherit from her husband, nor does he inherit from her, unless inheritance is stipulated. In this case, whoever stipulates the condition inherits from the other partner.

2490. A woman who has been contracted in a temporary marriage is not entitled to the conjugal bed of her husband, nor any financial support, even if she was not aware of this precept. Her ignorance of the precept does not grant her a right over her husband.

2491. A woman with whom temporary marriage is contracted may leave the house without the permission of her husband. However, if the act of leaving the house violates a right of her husband, it is forbidden for her to leave the house.

2492. If a woman deputizes a man to marry her to himself for a specified time and a specified amount, and the man marries her to himself in a permanent marriage, or marries her for a period or an amount that is other than the specified one then, upon realizing this, if the woman consents to it, the marriage contract will be valid, and if she does not, it will be void.

2493. If a father or a paternal grandfather marries his son, who is able to derive sexual pleasure, to a woman for a short period of time, such as one hour, for the purpose of making her Mahram to himself, the marriage contract will be valid. The father or the paternal grandfather—by taking the son's best interests into account—may then gift that period to the woman. They may also marry a non-Baligh daughter, from whom one is able to derive sexual pleasure, to an individual for the aforementioned period, with the purpose of making him Mahram. In both cases, the validity of the marriage contract is contingent on there being no harm or detriment for the minor.

2494. If the father or paternal grandfather of a child, who resides in a different place, and it is not known whether she is alive or not, marries her to a boy, then if it is possible to derive sexual pleasure from during the marriage period, the girl will apparently become Mahram. However, if it is later realized that the daughter was in fact dead at the time of the marriage contract, the contract itself will be void and the persons who had apparently become Mahram to each other will become non-Mahram (to each other).

2495. If a man gifts the period of the temporary marriage to his wife, then in the event that he had engaged in intercourse with her, he will have to give all of what he had agreed to give her. However, if he did not have intercourse with her, he will have to give half of it. The recommended precaution in this case is that he gives all of it.

2496. If a man had contracted a temporary marriage with a woman, and the period of their marriage had come to an end, or he had gifted the remaining period to her, but her I'ddah period has not yet ended, he may contract a permanent or temporary marriage with her.

The Precepts of Looking at Non-Mahrams

2497. It is forbidden for a man to look at the hair or body of a non-Mahram woman, be it with the intention of deriving pleasure or not, and be it accompanied with the fear of being lured into a sin or not. As for looking at her face and hands, if it is accompanied with the intention of deriving pleasure or the fear of committing a sin, it too is forbidden. The recommended precaution is that a man avoid looking at the face and hands of a woman, even if it is not accompanied with the intention of deriving pleasure or the fear of committing a sin. Similarly, it is forbidden for a woman to look at the body of a man, except for the areas which are not usually covered in the practice of the religiously abiding people, such as the head, the face, the neck, the hands and the legs. In this case, it is permitted for a woman to look at the aforementioned places if it is not accompanied with the intention of deriving pleasure or the fear of being lured into a sin.

2498. Women who are not affected by calls to -cover themselves in the presence of a nonMahram, be they Muslims or not, one may look at the parts of their bodies which they customarily do not have a habit of covering, provided that it is not accompanied with the intention of deriving pleasure or the fear of being lured into a sin.

2499. A woman must cover her hair and body from a non-Mahram man. She should also cover her face and hands in the event that she has the intention of displaying them, and a man looks at them with the intention of deriving pleasure. The obligatory precaution is that she should also cover them in the event that a man looks at them with the intention of deriving pleasure, even though she may not have the intention of displaying them. It is not obligatory to cover one's head and hair from a non-Baligh child, except in the event that it arouses his passion, in which case the obligatory precaution is to cover them.

2500. It is forbidden to look at the private parts of another person, even the private parts of a discerning child, who can discern good from bad, even if it be from behind a glass window, or in a mirror, still water or anything similar. A husband

and wife may look at the entire body of each other. As for looking at the private parts of a Kafir, it is forbidden based on obligatory precaution.

2501. A man and woman who are Mahram to each other may look at each other's entire body, except for the private parts, if they do not have the intention of deriving pleasure.

2502. It is forbidden for a man to look at the body of another man, or a woman at the body of another woman, if it is accompanied with the intention of deriving pleasure.

2503. Obligatory precaution dictates that it is not permissible to look at the photo of a nonMahram woman whom one recognizes, and she is a woman who heeds the calls to refrain from displaying herself to non-Mahram men.

2504. If a woman wishes to give an enema to another woman, or a man other than her husband, or wash his/her private parts, she should wear something on her hands so that her hands do not come in direct contact with his/her private parts. The same applies if a man wishes to give an enema to another man, or a woman other than his wife, or wishes to wash his/her private parts.

2505. If a woman is compelled to refer to a non-Mahram man for treatment, and the man is compelled to look at her and touch her body for treatment purposes, it is permissible. However, if he is able to treat her by simply looking at her, and not touching her body, he must not touch her body. Similarly, if he is able to treat her by touching her, he should avoid looking at her. In all cases, if he is able to treat her by putting on a pair of gloves, he should not treat her with his bare hands.

2506. If a person is compelled to refer to another individual for treatment, and that person is also compelled to look at his private parts while treating him, obligatory precaution dictates that he look at his private parts through a mirror. However, if there is no other way to treat the person without (directly) looking at his private parts, or if using a mirror entails hardship, it will not be problematic (to look directly at the private parts).

Miscellaneous Precepts of Marriage

2507. If a person falls into sin on account of not having a wife, it is obligatory on him to get married.

2508. If the husband stipulates within the marriage contract that his wife be a virgin, but after the marriage he realizes that she has lost her virginity before the marriage, or (comes to know) by the confession of the woman herself, or a proof authorized by the Shari'ah, then even though the husband's right to the option of annulment is not without just cause, the obligatory precaution is that in the event he annuls the marriage, he should also divorce her. The man may also reclaim a portion of the mahr by considering the ratio of the difference between the mahr of a virgin and a non-virgin, regardless of whether he chooses to annul the marriage or continue the marriage.

2509. It is forbidden for a man and a woman to remain in a secluded area where no one else—not even a discerning child—is present, in the event that the possibility of being lured into a forbidden act exists.

2510. If a man specifies the woman's mahr within the marriage contract, but does not have the intention of giving it, then given that the woman's consent to the marriage is not contingent on the man's intention of giving the mahr, the marriage contract will be valid. However, the man must give the mahr.

2511. A Muslim who rejects Islam and becomes a Kafir, is known as a Murtadd (apostate). The definition of a Kafir was given in article 107. Apostates are of two types:

1. Fitri: a Fitri apostate is an individual who is born of a mother or father who is a Muslim, and after becoming Baligh and reaching mental maturity, he rejects Islam of his own volition.

2. Milli: a Milli apostate is an individual who is born of a mother and father who are Kafir, and after converting to Islam, he rejects it.

2512. If a woman becomes an apostate after marriage, then in the event that her husband has not consummated the marriage with her, the marriage is annulled and she will not have to observe an I'ddah. The same will apply if he has consummated the marriage, but she has not completed nine years of

age, or she is a Ya'isah (The term Ya'isah was defined in article 441). However, if she has completed nine years of age, and she is not a Ya'isah, she will have to observe an I'ddah as it will be explained in the precepts of divorce. If she remains an apostate until the end of the I'ddahperiod, the marriage contract will be void. However, if she reverts to Islam within the I'ddahperiod, it will (still) be problematic to claim the continuation of the marriage. Obligatory precaution dictates that should the husband wish to remain with her, he should marry her again, and should he wish to separate from her, he should divorce her.

2513. If a man born to a Muslim, even if it be only one of his parents, becomes an apostate, his wife becomes unlawful to him. She must observe the I'ddah of a woman whose husband has died, which will be elaborated in the precepts of divorce.

2514. If a man who was born to a mother and a father who were not Muslim, becomes a Muslim, but after his marriage he rejects Islam, then in the event that he has not consummated his marriage, or if his wife has not completed nine years of age, or if she is a Ya'isah, the marriage contract will be void and the woman will not have to observe an I'ddah. However, if he becomes an apostate after consummating the marriage, and his wife has completed nine years of age, and she is not a Ya'isah, the woman will have to observe the I'ddah of a divorce, as it will be elaborated in the precepts of divorce. In this case, if the man does not revert to Islam prior to the completion of the I'ddah, the marriage contract will be void, and if he does revert to Islam before the completion of the I'ddah, to claim the continuation of the marriage contract is problematic. The obligatory precaution is that if the man wishes to remain with the woman, he should marry her again, and if he wishes to separate from her, he should divorce her.

2515. If a woman stipulates within the marriage contract that the man should not take her out of the city, and the man accepts the condition, he must not take her out of the city without her consent.

2516. If a woman has a daughter from her previous husband, her subsequent husband may marry his son—who was not born to the same woman—to that daughter. If a man marries his son to a girl, he may also marry the mother of the girl.

2517. If a woman becomes pregnant through adultery, then in the event that the woman, the man or both of them are Muslims, it is not permissible for the woman to abort the child. Based on obligatory precaution, the same applies in the case where none of them are Muslims.

2518. If a person commits adultery with a woman who is not married, and neither is she observing the I'ddah of a man, then in the event that he marries her after she undergoes Istibra(as elaborated in article 2463), and a child is born to them, then if they do not know if he was conceived of a lawful drop of seminal fluid, or an unlawful one, the child is without objection a legitimate child. However, if he marries her before she undergoes Istibra, and engages in intercourse with her, it will be objectionable.

2519. If a man does not know that woman is in an I'ddah, and he marries her, then in the event that the woman does not know it either, and a child is born to them, he will be a legitimate child, and he will be considered the child of both of them, according to the Shari'ah. However, if the woman knew that she was in an I'ddah, the child will be the child of the father according to the Shari'ah. If a woman was certain that she was in her I'ddah, but doubts whether she has completed it or not, she will be subject to the rulings of a woman who knows that she is in her I'ddah. In all cases, their marriage contract is void, and they are unlawful to each other.

2520. If a woman claims to be a Ya'isah, one should not take her word. However, if she claims that she is not married, her word is to be accepted.

2521. If a woman claims that she is not married, and subsequently a man marries her, but later on someone claims that the woman did in fact have a husband, then in the event that the person's claim is not established according to the Shari'ah, his claim should not be accepted.

2522. A father cannot separate a son or daughter from his/her mother before he/she completes two years of age. The obligatory precaution is that a daughter should not be separated from her mother until she completes seven years in age.

2523. If a marriage proposal is received from a person who has the desired religiosity and conduct, it is recommended that

a person hasten in giving his Baligh daughter to him in marriage.

2524. If a woman settles her mahr with her husband in return for him not marrying another woman, she can no longer claim her mahr and it is obligatory on him that he not marry another woman.

2525. If a person is born out of wedlock, gets married and has children, they will be legitimate children.

2526. If a person has intercourse with his wife in the month of Ramadhan, or when she is in the state of Haydh, he will have committed a sin. However, if a child is born to them, he will be a legitimate child.

2527. If, due to the disappearance of her husband, a woman is convinced that—for example—he died on a journey, then, following the completion of her I'ddah period as defined in the precepts of divorce, she marries another man, yet, subsequently, her original husband returns, she will still be considered his lawful wife, and she will have to separate herself from her second 'husband'. However, if they had already engaged in sexual intercourse, she should observe I'ddah after which she would return to her previous husband. The second husband will also have to return her dowry although he will not have to pay for her expenses during her waiting period (I'ddah).

The Precepts of Nursing (Suckling a Child)

2528. If a woman suckles a child with the conditions which will be mentioned in rule 2538, that child becomes Mahram to the following persons:

1. The woman herself and she is known as his nursing mother.

2. Her husband who is the cause of the milk, and he is called the nursing father.

3. The father and mother of the woman and all parental generations upwards, even if they are nursing mothers and fathers.

4. The children who were born to the woman, and those that are born later.

5. The offspring of the woman's children and all the generations downwards, regardless of whether they are born of her children, or her children have suckled them.

6. The sisters and brothers of that woman even if they are nursing sisters and brothers, meaning that they have become sisters and brothers due to nursing from the same woman.

7. The paternal uncles and the paternal aunts of that woman even though they maybe uncles and aunts due to nursing.

8. The maternal uncles and the maternal aunts of that woman even though they may be uncles and aunts due to nursing.

9. The descendants of the husband of that woman who is the cause of the milk, however much lower they may go in his line of descendants, even though they may be his nursing children.

10. The father and mother of the woman's husband, and all the generations upwards, even though they may be his nursing parents.

11. The sisters and brothers of the woman's husband (who is the cause of the milk), even though they may be his nursing sisters and brothers.

12. The paternal uncle and the paternal aunt and the maternal uncle and maternal aunty of her husband (who is the cause of the milk), and all generations upwards, even though they may be his nursing uncles and aunts. They are some other people who become Mahram to the person on account of suckling milk, and their details will be elaborated in subsequent articles.

2529. If a woman suckles a child with the conditions which will be mentioned in article 2538, the father of that child cannot marry the biological daughters of that woman. It is permissible for him to marry her nursing daughters, although the recommended precaution is that he should not marry them. Moreover, he also cannot marry the biological and nursing daughters of her husband. In both cases, if any one of them is his wife at present his marriage becomes void.

2530. If a woman suckles a child with the conditions mentioned in rule 2538, the husband of that woman, who is the cause of the milk, does not become Mahram to the sisters of that child. The recommended precaution is that he should not marry them. Furthermore, the relatives of the husband do not become Mahram to the sister and brother of that child.

2531. If a woman suckles a child, she will not become Mahram to the brothers of that child. Moreover, the relatives of the woman will not become Mahram to the sisters and brothers of the nursed child.

2532. If a person marries a woman who has suckled a girl fully, and if he has had intercourse with the woman, he can no longer marry that girl.

2533. If a person marries a girl, he cannot marry the woman who has fully suckled the girl.

2534. A man cannot marry a girl who has been fully suckled by his mother or grandmother. Moreover, if his father's wife nurses a girl from the milk that is of his father, he cannot marry the nursed girl. If a person forms a marriage contract with a suckling girl, and thereafter, his mother or his grandmother suckles the girl, the marriage contract will be void. The

same will apply if his father's wife suckles her from the milk that is of his father.

2535. A man cannot marry a girl who has been suckled fully by his sister, or his brother's wife from the milk that is of his brother. The same will apply if the girl is suckled by the man's niece or the granddaughter of his sister or the granddaughter of his brother.

2536. If a woman suckles her granddaughter fully, the daughter will become forbidden for her own husband. The same will apply if she suckles the child of her daughter's husband from another woman. However if a woman suckles the child of her own son, the wife of her son who is the mother of this child, does not become forbidden for her husband.

2537. If the step-mother of a girl suckles the child of the girl's husband, with the milk that belongs to the girl's father, the girl becomes haram for her husband regardless of whether the child is the offspring of that particular girl or of some other woman.

Conditions of Suckling that Cause Mahramiyyah

2538. There are eight conditions for which suckling a child causes Mahram relationships:

1. The child suckles the milk of a woman who is alive. If he suckles the milk from the breasts of a dead woman, it has no consequences.

2. The milk of the woman should be from a legitimate relationship and not due to an unlawful act. Hence if the milk caused by adultery is breastfed to another child, the latter will not become Mahram to anyone.

3. The child sucks the milk directly from the breasts of the woman. Hence, if the milk is poured into the child's mouth, it will have no consequences.

4. The milk should be pure and should not be mixed with anything else.

5. The milk belongs to one husband only. Hence, if a nursing mother is divorced, and marries another man and gets pregnant and the milk belonging to the first husband still remains in her body until she delivers her baby, and for example, before giving birth she nurses the child eight times with the milk from the first husband, and she nurses the same child seven times with the milk from the second husband after giving birth, this child will not be Mahram to anyone.

6. The child does not vomit the milk. If he does, then obligatory precaution dictates that the persons who are to become Mahram to the child on account of suckling milk, should not marry him, nor should they look at him in a manner that Mahrams are allowed to look at each other.

7. The child should suck milk for fifteen times, or for one day and one night (according to the next rule) to his fill, or he should suck so much milk that it can be said that the milk has made his bones stronger and caused flesh to grow in his body. If he nurses ten times, the recommended precaution is that those who become Mahram to him due to suckling milk should not get married to him, and should not look at him as Mahrams are allowed to look at each other.

8. The child has not completed two years in age. If he is nursed after he completes two years, he will not become

Mahram to anyone. In fact, if for example, before he turns two, he is nursed eight times and after he turns two, he is nursed seven more times, he will not become Mahram to anyone. If, however, more than two years have passed since a woman gave birth and she still carries some milk, then if she nurses this milk to a child, this child becomes Mahram to those who were mentioned above.

2539. The child should not consume food or the milk of another woman during the period of one day and one night. However, if he consumes a little bit of food, such that common sense does not consider him to have eaten within that period, it will not be problematic. He must also have sucked the milk of one woman for fifteen times, and should not have consumed milk from another woman between the fifteen sucklings. He should also consume the milk to his fill during each of the times, without any pauses. However, if he takes a breath whilst suckling, or pauses for a short period, such that common sense considers it as one suckling from the time he started to suckle to the time he is full, it will not be problematic.

2540. If a woman suckles a child from the milk of her husband, and later marries another person, and then suckles a child from the milk of her second husband, the two children will not become Mahram to each other. It is however better that they not get married to each other, and they cannot look at each other as Mahrams are allowed to do.

2541. If a woman suckles multiple children with the milk from one husband, all of them become Mahram to one another, to the husband and to the woman who suckled them.

2542. If a person has multiple wives, and all of them suckle a child with the previously mentioned conditions, then all of the children become Mahram to one another, and to the man and to all the women.

2543. If a person has two wet-nurses, and one of them suckles a child—for example—eight times, and the other suckles them seven times, the child will not become Mahram to anyone.

2544. If a woman fully nurses a boy and a girl from the milk of one husband, then the brothers and sisters of the boy will not become Mahram to the brothers and sisters of the girl.

2545. A man may not marry the women who have become his wife's nieces due to nursing, without the permission of his wife. Similarly, if a man sodomizes a boy, he cannot marry the nursing daughter, sister and mother of that boy. The same applies based on obligatory precaution with respect to the boy's grandmother and his grand daughter. The same will also apply based on obligatory precaution in the event that the sodomizer is not Baligh, or the sodomized person is Baligh.

2546. A woman who has nursed a man's brother does not become Mahram to him, although the recommended precaution is that she should not get married to him.

2547. A man cannot marry two sisters, even if they are nursing sisters, meaning that they are sisters to each other due to nursing. In the event that he marries two sisters, and later realizes that they are sisters, then in the event that the marriage contracts were pronounced at the same time, he is free to choose whomever he wants. If they were not pronounced at the same time, the marriage contract of the first will be valid and the contract of the second is void.

2548. If a woman nurses the following people with the milk from her husband, her husband does not become forbidden to her, although it is better that they practice precaution in these cases:

1. Her own brothers and sisters
2. Her paternal and maternal aunts and uncles
3. The children of her paternal uncles and aunts
4. The children of her brothers
5. The brothers or sisters of her husband
6. The children of her sisters or the children of her husband's sisters
7. The paternal and maternal uncles and aunts of her husband
8. The grandchildren of her husband's other wives.

2549. If a woman suckles the daughter of a man's paternal or maternal aunt, they do not become Mahram to him. The recommended precaution is that he should avoid marrying her.

2550. If a man has two wives, and one of them suckles the children of the other wife's paternal uncle, then the wife whose paternal uncle's child suckled the milk does not become forbidden as regards her own husband.

The Ettiquettes of Suckling a Child

2551. The best person to suckle a child is the child's mother. It is better for the child's mother not to ask for any wages from her husband for suckling the child, although it is good that he pays her for suckling the child. In the event that the mother demands more payment for suckling the child than a wet-nurse, her husband can take the child from her and give it to a wet-nurse to be suckled.

2552. It is recommended that the wet-nurse who is chosen to suckle a child should have the following qualities: be a twelver Shi'a, sane, chaste, fair-looking. It is Makrooh to choose a wet-nurse who is unintelligent, bad-looking, ill-mannered, or of illegitimate birth. It is also Makrooh to choose a wet-nurse who has given birth to an illegitimate child.

Miscellaneous Precepts of Suckling a Child

2553. The recommended precaution is that a woman should not suckle every child, because it is possible that she may forget exactly who she has suckled, and later two persons who are Mahram to each other, may contract marriage.

2554. It is good for those who by means of suckling have developed a familial relationship to one another to respect one another. However they will not inherit from one another and will not share the family rights that a man shares with his family.

2555. It is recommended to nurse a child for two complete years.

2556. If, due to suckling, the rights of a husband are not violated in any way, his wife can suckle another child without his permission. However, it is not permissible to suckle a child who will become forbidden to her husband due to suckling. A great number of renowned scholars (may the Lord elevate their status) have stated, "if a man contracts marriage with a girl who is being suckled, his wife should not suckle this girl at all, because if she suckles the girl, the wife will become the mother-in-law of the husband, and therefore becomes haram for him." This ruling however is problematic. However the girl with whom the man contracted married becomes forbidden for him, regardless of whether the milk belonged to the husband, or it belonged to someone other than her husband but the marriage has been consummated.

2557. A group of the jurists (may the Lord raise their status) have stated, "if someone wants his brother's wife to become Mahram to him, he must contract temporary marriage for—for example—two days with a girl who is being suckled, and for those two days, given the conditions of rule no. 2537, his brother's wife should suckle this girl, because the woman becomes the nursing mother of his wife." However this ruling is problematic.

2558. If prior to contracting marriage with a woman, a man says, "due to suckling, this woman is forbidden for me", or for example he says, "her mother has suckled me," and if it is possible for his statement to be true, he cannot marry this woman.

If he says this after the marriage, and the woman also accepts his statement, the marriage is void. Thus if a man has not yet consummated his marriage with her, or has done so but at the time of intercourse the woman knew that she was forbidden for him, she is not entitled to any mahr. However if she realizes after consummating the marriage with him that she was forbidden for him, the husband should pay her the mahr according to the usual amount that is given to women like her.

2559. If before the marriage, a woman claims to be forbidden for the man due to suckling, then, if it is possible to verify her statement, she cannot marry that man. If, however she claims this after the marriage, it is similar to the case where the man states after marriage that the woman is forbidden for him, and the precept for such a case has been elaborated in the previous article.

2560. Suckling a child which becomes the cause of becoming Mahram to a child, can be proven through the following two ways:

1. One attains confidence or certainty.
2. The testimony of two just men, or one man and two women, or four just women. It is also necessary for each one of them to describe the circumstances under which the child was suckled. For example they must say, "We have seen so and so child suckling milk from the breasts of so and so woman for twenty four hours and it had not consumed anything else during this period." Similarly, they should also address all the other conditions which have been mentioned in article 2538.

2561. If one doubts whether or not a child has suckled the required quantity of milk which causes him to become Mahram, or he speculates that the child may have suckled that amount or not, the child does not become Mahram to anyone. However, it is better to practice precaution.

The Precepts of Divorce

2562. A man who divorces his wife must be Baligh, and even though the validity of a divorce given by a ten year old child is not without merit, one should practice precaution in this case. He must also be sane, and divorce his wife of his own volition. If he is forced to divorce his wife, the divorce will be void. He should also have the intention of divorcing his wife. Hence, if he utters the formal expressions of divorce in jest, it will not be valid.

2563. The wife should be pure from the blood of Haydh and Nifas at the time of the divorce. Her husband should not have engaged in intercourse with her during that period of purity. These two conditions will be elaborated in subsequent articles.

2564. The divorce of a woman who is in the state of Haydh or Nifas is only valid in the following three cases:

1. Her husband has not consummated the marriage with her.

2. She is known to be pregnant. If she is not known to be pregnant, and her husband divorces her whilst she is in the state of Haydh, but later finds out that she was in fact pregnant, the obligatory precaution is that he should divorce her again.

3. The man is unable to determine whether his wife is pure from the blood of Haydh or Nifas, owing to his absence or some other reason.

2565. If a person knows his wife to be pure from the blood of Haydh and Nifas, and therefore divorces her, but later realizes that she was in the state of Haydh or Nifas at the time of the divorce, the divorce will not be valid. If however he knows her to be in the state of Haydh or Nifas, but divorces her

nonetheless, and later finds out that she was not in the state of Haydh or Nifas, the divorce will be valid.

2566. If a person knows that his wife is in the state of Haydh or Nifas, and then he goes away from her, for example owing to a journey, but wishes to divorce her, and is unable to acquire information about her state, then he should wait until he acquires certainty or confidence that she is pure (from Haydh or Nifas), and then he may divorce her.

2567. If a person who is not present wishes to divorce his wife, then if he is able to know whether his wife is in the state of Haydh or Nifas or neither of them, then he should find out using any means possible such that he acquires certainty or confidence. However, if after one month of being away from her, he is unable to determine her state, he may divorce her.

2568. If a person engages in intercourse with his wife who is pure from the blood of Haydh or Nifas, and then wishes to divorce her, he must wait until she observes the blood of Haydh once again, and is purified from it. However, if a girl who has not completed nine lunar years, or a woman who is pregnant, is divorced after intercourse, there will be no problem (in the validity of the divorce). The same will apply if she is a Ya'isah, the definition of which was elaborated in article 441.

2569. If a person engages in intercourse with his wife who is pure from the state of Haydh and Nifas, and then divorces her during the period of purity, but later finds out that she was pregnant at the time of the divorce, the obligatory precaution is that he should divorce her again.

2570. If a person engages in intercourse with his wife who is pure from the state of Haydh and Nifas, and then goes away from her, for example owing to a journey, then if he wishes to divorce her on the journey, and is unable to obtain any information about her state, he will have to wait for one month.

2571. If a man wishes to divorce his wife who does not menstruate, be it from birth or be it owing to another reason, then from the day he had intercourse with her, he should refrain from having intercourse with her for three months, and then he may divorce her.

2572. The divorce must be pronounced using the correct Arabic formal expressions, employing the word Taaliq, and two just persons should hear it. If the husband himself wishes to

pronounce the formal expressions of divorce, and the name of his wife—for example—is Fatimah, he must say:

?? ??????? ? ??? ? ? ?
? ? ? ? ?

My wife Fatimah is released. If he wishes to deputize someone else, the deputy must say:

?? ??????? ? ??? ? ? ? ? ??????? ? ? ? ? ?

The wife of the person whom I represent, Fatimah, is released. In the event that the wife has been specified, it will not be necessary to mention her name.

2573. A lady who has been contracted in a temporary marriage, for one month or one year (as an example), is not subject to divorce. She is released when the marriage period comes to an end, or the man gifts the remaining period to her, by—for example—stating, “I have gifted the marriage period to you,” It is not necessary to have witnesses, nor is it necessary for the wife to be pure from Haydh or Nifas.

The 'Iddah of a Divorce

2574. A girl who has not completed nine lunar years, and a Ya'isah do not have to observe an I'ddah. This means that even if their husbands may have engaged in intercourse with them, they can marry immediately after being divorced.

2575. A woman who has completed nine lunar years, and is not a Ya'isah, if her husband has intercourse with her, she will have to observe the period of I'ddah. A free woman (One who is not a slave) who observes Haydh and her Haydh is direct and normal, in that she is not of those ladies who—for example—observe Haydh once every three or four months, then the period of her I'ddah is that she should wait—after her husband has divorced her in a period of purity wherein he has not had intercourse with her, and after the divorce she had been pure from Haydheven if it be for a mere moment—until she observes the blood of Haydh once again. Then, the moment she observes the blood of Haydh for the third time, her period of I'ddah comes to an end. She will then be able to marry again. However, if her husband divorces her prior to consummating their marriage, she has no I'ddah to observe. She can marry immediately after her divorce.

2576. If a woman does not observe Haydh, and she is of the age wherein women observe Haydh, then if her husband divorces her after consummating their marriage, then she must observe an I'ddah of three months after the divorce.

2577. If a woman whose I'ddah is of three months, is divorced at the beginning of the month, then she must observe an I'ddah for three lunar months, which is from the moment that the crescent was sighted until three months later. If however she is divorced in between the month, she should observe her I'ddah for the rest of the month, followed by two more months, and then she should observe the remainder of the first month in the fourth month. The obligatory precaution in this case is that the remainder of the first month along with the period within the fourth month should amount to 30 days. For example, if she was divorced at the sunset of the 20th day of the month, and that month contained 29 days, then she should observe her I'ddah for the remaining nine days in

the first month, followed by another two months, and then another 20 days in the fourth month, and based on obligatory precaution 21 days in the fourth month.

2578. If a pregnant woman is divorced, and her child is not conceived out of wedlock, then her I'ddah will end when the child is born or is miscarried. Therefore, if for example, her child is born an hour after her divorce, her I'ddah will have ended (upon the birth of her child).

2579. If a woman who has completed nine lunar years, and is not a Ya'isah, is married in a temporary marriage, for example for a month or a year, then if her husband consummates the marriage with her and the period of the temporary marriage comes to an end, or the husband gifts it to her, then she will have to observe an I'ddah. Hence, if she observes Haydh, then she will have to observe an I'ddah for two complete periods of Haydh, and she will be unable to marry during this period. If she does not observe Haydh, she should observe an I'ddah for 45 days. In the event that she is pregnant, then her I'ddah will end when her child is born or miscarried. The recommended precaution is that she should observe an I'ddah for the greater period between 45 days and the birth of her child.

2580. The I'ddah of a divorce begins from the moment that the formal expressions are completely pronounced, regardless of whether the wife knows that she has been divorced or not. Therefore, if she finds out that she has been divorced after her I'ddah comes to an end, she does not have to observe another I'ddah.

The 'Iddah of a Woman whose Husband has Passed Away

2581. If a woman whose husband has passed away is not pregnant, she should observe an I'ddah for four months and ten days. That is, she should avoid marrying another man during that period, regardless of whether her husband had consummated their marriage or not, she is a minor or not, a Ya'isah or not, her marriage is a permanent one or a temporary one. If however she is pregnant, she should observe her I'ddah until she gives birth to the child. However, if she gives birth before the passage of four months and ten days, then she must wait until fourth months and ten days have passed after the death of her husband. This I'ddah is known as the I'ddah of a widow.

2582. It is prohibited for a free woman who is observing the I'ddah of a widow to adorn her body or her clothes, such as applying kohl, using fragrances, and wearing colorful clothes. This precept is lifted from a minor and an insane person. It has also not been substantiated that their guardian must prohibit them from adorning themselves. As for a lady who has been contracted in a temporary marriage for a period of two days or less, she is not prohibited from adorning herself.

2583. If a woman attains certainty that her husband has passed away, and after the culmination of the I'ddah of a widow, she marries again only to find out later on that her husband died later (than she thought), she must separate from the second husband. In the event that she is pregnant, then obligatory precaution dictates that she should observe the I'ddah for the second husband until she gives birth to the child, which is the I'ddah for a divorce. However, if she is not pregnant, she should observe the I'ddah of a widow for her first husband, and for the second husband, she should observe the I'ddah of one who had intercourse under doubtful circumstances, which is the same as the I'ddah of a divorce.

2584. The I'ddah of a widow begins the moment the wife becomes aware of her husband's death.

2585. If a woman states that her I'ddah period has come to an end, her word is to be accepted, with the condition that a

sufficient amount of time should have elapsed from the time of the divorce or the death of her husband, that it would be possible for her I'ddah to have culminated.

Revocable and Irrevocable Divorces

2586. An irrevocable divorce is one wherein the husband does not reserve the right to return to his wife after the divorce, or in other words be married to her without a new marriage contract. These are of five types:

a. the divorce of a girl who has not completed nine lunar years.

b. the divorce of a woman who is a Ya'isah.

c. the divorce of a woman whose marriage has not been consummated by her husband.

d. the third divorce of a woman who has been divorced three times.

e. the divorce of Khul'a and Mubaraat. The precepts of these types will be elaborated later. Besides these five, all other divorces are revocable, in the sense that as long as the wife is in her period of I'ddah, her husband can return to her.

2587. A person who has granted a revocable divorce to his wife is prohibited from expelling his wife from the house in which she resided during the divorce. However, in certain cases, such as foul-mouthedness and adultery, there is no problem in expelling her from the house. In addition, it is prohibited for the wife to leave the house without the consent of her husband for a nonessential task.

The Precepts of Revoking the Divorce

2588. In a revocable divorce, a man may return to his wife in two ways:

a. He utters a statement by which he intends to re-establish a spousal relationship with her, and it should not merely be a declaration of re-establishing the spousal relationship.

b. He performs an action with the intention of re-establishing a spousal relationship, by which it is understood that he wishes to do so, such as touching or kissing her. A return is also established through consummation even if he does not have the intention of returning to her.

2589. It is not necessary for a person to have a witness for his return, however it is better to do so. He also does not have to inform the wife; rather, even if he returns to her without anyone's knowledge, his return will be valid. If he claims that he has returned to her, and she is still within the I'ddah period (when he makes the claim), he does not have to substantiate his claim. However, if he claims it after the I'ddah has culminated, he will have to substantiate it.

2590. If a person who has granted his wife a revocable divorce, takes some property from her and reaches a compromise with her that he would not return to her, it is obligatory upon him to act according to the terms of the compromise. However, if he does return to her nonetheless, his return will be valid.

2591. If a person divorces a free-woman twice, and returns to her after each divorce, or divorces her twice and after each divorce marries her again, or returns to her after one divorce and marries her after the other, then that woman becomes unlawful for him after the third divorce. However, if she marries another person after the third divorce, she becomes lawful for the first husband (to marry) given certain conditions:

1. The marriage to the second husband is a permanent marriage. However if it is a time specific marriage, such as one month or one year, then the first husband will not be able to marry her after she separates from the latter.

2. The second husband engages in vaginal intercourse with her in a manner that both of them take pleasure from the act.

3. The second husband divorces her or he passes away.
4. The I'ddah of divorce or the I'ddah of a widow with respect to the second husband should come to an end.
5. Based on obligatory precaution, the second husband should be Baligh.

The Khul'a Divorce

2592. The divorce of a wife who has an aversion to her husband and there is a fear that she may not fulfill her husband's obligatory rights, and may commit a forbidden act, and therefore gifts her mahr or some other property to him so that he divorces her is known as a Khul'a divorce.

2593. If the husband himself wishes to pronounce the formal expression of a Khul'a divorce, then if—for example—the name of his wife is Fatimah, then he may pronounce after the property has been gifted: ?

?????? ? ?? ?? ? ? ??? ?? ??? ? ? ????? ? ??? ?? ? ? ? ?? ? ?

I have divorced my wife Fatimah in return for what she has gifted to me. Recommended precaution dictates that after pronouncing the statement that comprises the Khul'a, he should also state:

? ?? ?????? ?

She is a divorcee. In the case that the wife is specified, it is not necessary to mention her name.

2594. If the wife deputizes someone to gift her mahr to her husband, and the husband deputizes the same person to divorce his wife, then if for example the name of the husband is Muhammad and the wife is Fatimah, then the deputy should pronounce the formal expression of the divorce in the following manner:

? ?? ??? ? ? ?????? ? ?? ? ? ? ??? ?? ? ?? ?? ? ? ? ??? ? ????? ?
??? ? ?????? ?????? ? ??? ?? ??? ? ????? ? ?? ?

Thereafter, based on precaution, the deputy should pronounce the following statement without disturbing the consecutiveness in the common sense:

? ? ?? ? ? ???????? ? ?? ? ? ? ?????? ? ?? ?? ? ? ??? ?? ???

If the wife deputizes someone to gift something other than her mahr to her husband so that he divorces her, then instead of saying

"???? ? ???",

the deputy should mention that property. For example, if it is 100 dollars, he should state:

???????? ?? ? ? ? ??????? ?

The Mubaraat Divorce

2595. If both the husband and wife have an aversion to each other, and the wife gives some property to her husband so that he divorces her, it is known as a Mubaraat divorce.

2596. If the husband wishes to pronounce the formal expressions of a Mubaraat, then given that his wife’s name is Fatima, he should state: ?

?? ???? ?? ? ? ? ?? ? ? ? ??????? ? ?? ????????? ? ? ?????? ? ?? ?? ? ???

I and my wife Fatima have separated from each other in return for what she gifted (me). Therefore she is released. If he deputizes another person, the deputy should state:

?? ?? ? ?????? ? ??? ?? ? ? ??????? ? ?? ? ? ? ??????? ? ?? ????????? ? ? ??????? ?

He may also state:

? ?? ????????? ? ? ?????? ? ?? ?? ? ?????? ? ??? ? ?? ? ? ? ?? ? ? ? ????????? ?? ? ? ????????? ?? ? ? ?? ?

In the above expression, the obligation to include the statement ?? ????????? ? is based on obligatory precaution. There is no problem if he states ?????? ? ?? ?? ? ? in lieu of ? ?????? ? ????

2597. The formal expression of the khul’ or Mubaraat divorce must be pronounced in correct Arabic. However, if the wife wishes to gift her property to her husband and hence states in English, “I have gifted the following property to you so that you may divorce me,” there will be no problem in it. If the husband is unable to divorce her by pronouncing the formal expressions in Arabic, then obligatory precaution dictates that he deputize a person for this task. If however he is also unable to deputize someone, then if he grants her a Khul’a or Mubaraat divorce by pronouncing the formal expressions using words which are synonymous to the Arabic statement, it will be valid.

2598. If during the I’ddah of a Khul’a or Mubaraat divorce, the wife declines to gift the property to her husband, the husband may return to her, and without a new marriage he may re-establish a spousal relationship with her.

2599. The property which the husband acquires in a Mubaraat divorce should not be greater than the mahr.

However in a Khul'a divorce, there is no problem if it is greater than the [mahr] dowr.

Miscellaneous Precepts of Divorce

2600. If a person has intercourse with a non-Mahram lady, thinking that she is his wife, the lady must observe an [I'ddah] waiting period, regardless of whether she knows that he is not her husband, or thinks that he is her husband.

2601. If a person commits adultery with a woman who is not his wife, she does not have to observe an I'ddah, regardless of whether she knows that he is not her husband, or thinks that he is her husband.

2602. If a man deceives a woman to divorce her husband and marry him instead, then the divorce and the marriage will be valid. However, both of them will have committed a grave sin.

2603. If a woman stipulates within the marriage contract that if her husband travels or fails to pay her expenses for six months, as an example, then she reserves the right to divorce him, then such a condition will not be valid. However, if she stipulates that whenever the man travels or fails to pay her expenses for six months, as an example, she would become his deputy in divorcing herself, and the divorce is conditional and not the deputyship, so the condition will be valid. In the event that the condition is realized, and she divorces herself, the divorce will be valid.

2604. If a lady's husband disappears and she wishes to marry another man, she must refer her case to a just Mujtahid and act according to his instructions.

2605. The father and paternal grandfather of a man who is permanently insane, may divorce his wife on his behalf given that it is in their best interests.

2606. The father or paternal grandfather of a minor cannot divorce his permanent wife. However, if the father or the paternal grandfather of a minor marries him to a girl in temporary marriage, they may gift the remaining period of the marriage to the girl if it is in the best interests of the minor, even if a part of the period falls within a time when the boy would be Baligh. An example of this would be a father who marries his fourteen year old son to a girl for a period of two years.

2607. If a person establishes two people to be just in the manner prescribed by the Shari'ah, and he divorces his wife in

their presence, another man may marry that lady to himself or to another person even if he has not established the witnesses to be just. The recommended precaution in this case is that he should avoid marrying the lady to himself or marrying her to someone else.

2608. If a person divorces his wife without her knowledge, but pays for her expenses in the same manner as he used to when she was his wife, and then—for example—mentions to her after a year that he had divorced her a year ago, and he proves it according to the Shari'ah, then he may take the things that he had given her during the period when her expenses were not incumbent upon him, given that she has not used it. However, if she has used it already, he cannot reclaim it.

Chapter 76

The Precepts of Usurpation

Usurpation is defined as the act of acquiring control over the property or right of another individual by coercion. It is one of the major sins, and the one who perpetrates it will be subject to a painful punishment on the Day of Judgment. It has been narrated from the Holy Prophet (sawas), that “whoever usurps (even) one yard of land from another, on the Day of Judgment seven layers of that land will be shackled around his neck.”

2609. If a person does not allow people to make use of a mosque, a school, a bridge, or any construction that has been dedicated for public use, he will have usurped their right. The same applies if a person reserves an area of the mosque for himself, and does not allow others to make use of it.

2610. The item that a person places in the possession of his creditor as mortgage must remain in the latter’s possession, so that he may be able to claim the debt from it in the event that the person fails to pay it. Hence, if he takes the item back before paying off the debt, he will have usurped the creditor’s right.

2611. If the mortgaged item is usurped by a third party, both the owner of the property and the creditor may demand it from the usurper. Should they be successful in reclaiming the item, it will retain the status of a mortgaged item. However, if the thing perishes and they acquire a replacement for it, the replacement—like the original item—will also retain the status of a mortgaged item.

2612. If a person usurps an item, he must return it to its owner. If the item perishes, he must give its replacement to the owner.

2613. If a benefit (or profit) is acquired from the usurped item, it will belong to the owner. For example, if a usurped sheep gives birth to a lamb, it will belong to the owner. Similarly, if a person usurps a house, he will have to pay its rent even if he does not reside in it.

2614. If a person usurps a property from a minor or an insane individual that belongs to them, he will have to return the property to their guardian. In the event that the property perishes, he will have to give its replacement.

2615. If two people usurp a property together, then if each of them has authority over half the property, they will each be held responsible for half of it. However, if each of them has authority over the entire property, they will both be held responsible for the entire property.

2616. If a person mixes the usurped item with something else, such as mixing usurped wheat with barley, then if separating the two items is possible, he will have to separate them even if it requires some effort, and return the usurped item to its owner.

2617. If a person usurps an item which has been crafted, such as gold which has been crafted into earrings, and he damages it, he must return the material to the owner along with the craft and its attributes. If the value of the material after the damage is different from the value of the material prior to the damage, he will also have to pay for the difference in value. However, if he states that he will repair it to its previous state, the owner does not have to accept his offer. Similarly, the owner cannot force him to repair it to its previous state.

2618. If a person changes the usurped item in a manner that it causes its value to appreciate, such as crafting gold into earrings then, if the owner of the item demands the usurped item to be in its original form, the usurper has to return it in its original form. He may not claim any wages for his efforts either. Similarly, a person may not revert an item to its original form without the permission of its owner. If however he reverts it to its original form without the permission of the owner, then it is problematic to hold him accountable for the value of its attributes. The more precautionary measure in this case is a compromise.

2619. If a person changes the usurped item in a manner that its value appreciates, but the owner demands that the item be returned to its original state, it is obligatory upon the person to return it to its original state. In the event that its value depreciates from the original item owing to the changes, he will also have to pay the difference to the owner.

2620. If someone cultivates land that is usurped, or plants a tree on that land, the cultivation, the tree and the fruits belong to him. However, if the owner of the land does not allow the cultivation or the trees to remain on his land, the usurper must remove the cultivation and the trees immediately, even if he incurs loss in doing so. He must also pay the rent to the owner for the period wherein the cultivation or the trees were on that land. Indeed, he must pay the rent for the period prior to it, wherein he had usurped the land. He must also repair any damages that may have occurred on the land, such as filling the holes caused by the removal of his trees. If, owing to the damages, the value of the land depreciates from its original value, he must also pay for the difference in value. He also cannot force the owner of the land to sell the land to him, or rent it out to him. Similarly, the owner of the land cannot force the person to sell the trees or the cultivation to him.

2621. If the owner of the land allows the trees and the cultivation to remain on his land, then the usurper does not have to remove the trees and cultivation from the land. He must however pay the rent for the period starting from when he usurped the land to the time when the owner consented to it.

2622. If the usurped item gets destroyed, and the item is non-fungible in the sense that the features of individual items of the same type, such as animals, commonly differ from each other in value, and demand in the view of rational people then the usurper must pay its value. In the event that the market value of an item varied from the time it was usurped to the time of payment, the obligatory precaution is that the usurper should pay the highest value it acquired from the time it was usurped to the time it perished. The recommended precaution is that he should pay the highest value from the time it was usurped to the time of paying its value.

2623. If the usurped item gets destroyed, and the item is fungible, in the sense that the features of the individual items of

the same type do not commonly differ from each other in value or demand in the eyes of rational people, then the usurper must replace it with an item of the same type and class. For example, if a person usurps an amount of winter wheat, he cannot replace it with spring wheat. Similarly, if the winter wheat was of a high grade, he cannot replace it with winter wheat of a lower grade.

2624. If a person usurps a thing like a sheep, and it perishes, then in the event that the market value of the sheep has not changed, but it had gained weight while it was in his possession, he should pay the value of a fat sheep.

2625. If the usurped item is usurped by another party and thereafter it perishes, the owner may demand its replacement from either of the two usurpers. He may also demand a part of the replacement from each of them. In the event that he demands the replacement from the first usurper, the first usurper may demand it from the second usurper. However, if the owner demands the replacement from the second usurper, the second usurper may not demand it from the first.

2626. If one of the conditions of a valid transaction is lacking from a transaction, such as a case wherein an item whose quantity must be known is sold without knowledge of its quantity, then the transaction is invalid. However, if the buyer and seller grant permission to each other to exercise discretion over each other's property, there will be no problem in it. If they do not permit so, then they will have to return the item that they have acquired from each other. In the event that the property of each person perishes in the possession of the other, they will each have to supply a replacement, regardless of whether they knew the transaction to be invalid or not. Therefore, if the property is fungible, they will have to replace it with a similar kind, and if it is non-fungible, they will have to pay the value it had on the day it perished. In this case, the more precautionary measure is to pay the highest value acquired by the property from the time the property was acquired to the time it perished. An even more precautionary measure is to pay the highest value acquired by the property from the time it was acquired to the time of payment.

2627. If a person takes a property from a seller to observe it or to hold it in his possession, with the intention that he would

buy it if he likes it, and the property perishes in his possession, then to claim that the potential buyer is responsible for its replacement is problematic, and the more precautionary measure is a compromise.

The Precepts of the Property that is Found by a Person

2628. If a person locates a lost property other than an animal, which does not possess any identifying features which can be used to locate its owner, albeit one amongst a specific group of people, and its value is less than one dirham (12.6 Nukhud of minted silver), he may appropriate it for himself. In this case, it is not mandatory to search for its owner. However, the recommended precaution is that he should give it in charity to the poor on behalf of its owner.

2629. If a person locates a property that contains identifying features and its value is less than one dirham, then given that its owner is known, or one amongst a specific group of people, he may not appropriate it as long as he is uncertain of the owner's consent. However, if the owner is completely unknown, he may appropriate it for himself. Obligatory precaution dictates that whenever the owner is identified, he should return it to him if it has not perished, and in the event that it has, he should give its replacement.

2630. When a person locates a property that contains identifying features which can be used to identify its owner, then regardless of whether the owner is a Muslim or a Kafir whose property is protected, if the value of item is one dirham or more, it should be announced in a public area from the day it was found for a period of one year.

2631. If a person does not wish to make the announcement himself, he may request another person whom he trusts to make the announcement on his behalf.

2632. If the announcement is made for an entire year, and the owner is not located, then given that it was located in an

area outside the sacred precinct of Makkah, he may safeguard it for its owner, with the intention of returning it to him when he is located. He may also choose to give it in charity to the poor on behalf of the owner, or appropriate it for himself. However, whenever the owner is located, he reserves the right to claim it. If however the item is located within the sacred precincts of Makkah, he must give it to the poor on behalf of its owner.

2633. If the announcement is made for an entire year, and the owner is not located, then if the finder safeguards the property for its owner, but if it perishes nonetheless, given that he was not negligent in guarding it, nor did he supersede his jurisdiction, he will not be held accountable for it. However, if he had appropriated it for himself, and it perished, then in the event that the owner comes forward and claims it, he will be accountable for it. If he had given it in charity, the owner may choose to consent to the act of charity, or claim a replacement for the item, in which case the reward for the act of charity will belong to the one who gave the charity.

2634. If one who locates a property fails to announce it in the prescribed manner then, in addition to having sinned, he is not excused of his responsibility, and must announce it in the prescribed manner.

2635. If an insane individual or a non-Baligh child locates an item that must be announced, his guardian may announce it in the prescribed manner. However, if he takes possession of it from the finder, announcing it becomes obligatory on him. After the passage of one year, he may choose to safeguard it for its owner, or appropriate it for the minor or the insane individual, or give it in charity to the poor on behalf of the owner. If the owner subsequently comes forward and does not consent to the act of charity, obligatory precaution dictates that the guardian should pay for its replacement from his own wealth.

2636. If a person loses hope in finding the owner during the year in which he is obligated to make the announcement, it is problematic to claim that he may appropriate it for himself. He may chose to give it in charity on behalf of the owner, and based on obligatory precaution he should seek the permission of the Hakim al-Shar'i.

2637. If the item perishes during the year that he is obligated to make the announcement, then given that he was negligent in guarding it or superseded his jurisdiction, he will be held accountable for it. However, if he was not negligent, nor excessive, he will not be accountable for it.

2638. If a person locates an item that is valued at one dirham or more, and it is not possible to describe it, such as a case where the item contains identifying features, but is located in an area where it is known that the owner cannot be located by announcing it, or it does not contain any identifying features, then the finder can choose to give it in charity to the poor on behalf of the owner from the first day that he locates it. Obligatory precaution dictates that he should seek the permission of the Hakim al-Shar'i.

2639. If a person locates a property, and thinking that it belongs to him, he appropriates it for himself, but realizes later on that it did not belong to him, then the precepts of lost items that we elaborated in previous articles will be applicable to it.

2640. It is not necessary to mention the nature of the located item when making the announcement; rather, it is sufficient to announce that an item has been located, unless it is a case where the announcement would be futile without mentioning the nature of the located item, in the sense that it would not capture the attention of the person who has lost it.

2641. If a person locates an item, and another individual claims it to be his, and provides some of its identifying features, then the finder may only give it to him if he is confident that it belongs to him. In this case, it is not necessary for the claimant to describe the features that an owner would not commonly notice.

2642. If the located item is valued at one dirham or more, and the finder fails to announce it, and he places it in a mosque or some other location, where it perishes or another person takes it, then the finder will be held accountable for it.

2643. If a person locates an item which is perishable in less than a year, such as fruits and vegetables, obligatory precaution dictates that he should take care of it for the period that it does not incur any damage. If the owner is not located within that period, he should seek permission from the Hakim al-Shar'i or his deputy, and in the absence of these two

individuals from the just individuals among the believers, if possible, to appraise and sell the located item. He may also choose to appropriate it for himself, but hold on to its payment. Obligatory precaution dictates that he should announce it for a period of one year from the day it is located. In the event that the owner is not identified, he should act in the manner prescribed in article 2632.

2644. If a person carries the located item with himself whilst performing Wudhu or offering his prayers, and has the intention of locating its owner and returning it to him, there is no problem in it. If he does not have such an intention, then exercising any discretion over it, including carrying it with himself is prohibited. However, the mere act of carrying it with himself does not void his prayers or his Wudhu.

2645. If someone takes an individual's shoes, and places another pair of shoes in its place, then if he knows or acquires confidence from the circumstances that the pair belongs to the person who took his shoes, and consents that his shoes be taken in lieu of the shoes that he took, then the individual may take those shoes in lieu of his own. The same will apply if he knows that the person has taken his shoes wrongfully and illegally. However, in this case, the value of the shoes should not be more than the value of his own shoes. If it is, then the laws of items whose owner is unknown will be applicable to the difference in value. In other than these two cases, the laws of items whose owner is unknown will be applicable to the shoes.

2646. If the owner of the items that a person possesses is unknown, albeit as an individual amongst a specific group of people, and the term "lost item" does not hold true of it, it is mandatory upon him to locate the owner of the items until he loses hope in finding him. After losing hope in locating the owner, he may give it in charity to the poor. Obligatory precaution dictates that this should be conducted with permission from the Hakim al-Shar'i. If the owner comes forth after that, he will not be held accountable for the item.

The Precepts of Slaughtering and Hunting Animals

2647. If an animal whose meat is lawful to consume, be it wild or domesticated, is made lawful either by slaughtering or other methods, the details of which will be mentioned later, then its meat is lawful to consume after it dies, and its body is also Tahir, except in the following cases:

a. A quadruped that is lawful to consume, but has been defiled by a Baligh person. The same will apply to its offspring. The same will also apply based on obligatory precaution if the person is not Baligh.

b. An animal that is habituated to eating human waste, if it has not been subject to Istibra in the manner specified by the Shari'ah.

c. A kid (young goat) whose bones have been formed by consuming the milk of a pig. The same will apply to its offspring. Obligatory precaution also dictates that the same will apply to a suckling lamb.

d. A kid or a lamb that has consumed the milk of a pig, but its bones have not formed from it, in the event that it has not been subjected to Istibra in the manner elaborated within the Shari'ah.

2648. If a wild animal that is lawful to consume, such as a deer, partridge or mountain goat, is hunted in the manner that will be elaborated, it becomes Tahir and lawful to consume. The same will apply to a domesticated animal that is lawful to consume, if it becomes a wild animal, such as a domesticated cow or camel that has fled and turned wild. However, a lawful domesticated animal such as a sheep or a chicken, or a lawful

wild animal that has been domesticated through training, does not become Tahir or lawful to consume by hunting it.

2649. A lawful wild animal will only become Tahir and lawful to consume by hunting it if it is able to flee or fly away. Therefore, a baby deer which cannot flee, or a baby partridge which cannot fly away, does not become Tahir and lawful to consume by hunting it. If a person kills a deer and its baby that is unable to flee using one arrow, the deer will be lawful to consume whilst its baby will not be lawful.

2650. If a lawful animal whose has gushing blood, such as a fish, dies in a manner other than the one specified in the Shari'ah for making it lawful to consume, then it will be Tahir, but consuming it will not be lawful.

2651. An unlawful animal that does not have gushing blood, such as a snake, does not become lawful by slaughtering it. However, its carcass, be it from slaughtering or otherwise, is Tahir.

2652. A dog or a pig will not become Tahir by slaughtering or hunting it. In addition, it is forbidden to consume their meat. If an unlawful animal such as a wolf or a tiger that is carnivorous, is slaughtered in the manner that will be elaborated, or hunted by an arrow or similar weapon, it will become Tahir. However, it will not be lawful to consume its meat. In the event that it is hunted by a hunting dog, it is problematic to claim that it becomes Tahir.

2653. If an elephant, bear or a monkey is slaughtered in the manner that will be elaborated, or hunted by an arrow or similar weapon, it will be Tahir. However, the small burrowing animals such as mice, who possess gushing blood, but do not have a usable hide, will not become Tahir by slaughtering or hunting them. However, if they possess a usable hide, it is problematic to claim that they become Tahir.

2654. If a dead baby is delivered or taken out from the womb of a live animal, it is forbidden to consume its meat.

Instructions for Slaughtering an Animal

2655. The method of slaughtering an animal is that the esophagus which is the food pipe, and the trachea which is the airway, and the two veins which are next to the trachea (commonly known as the four arteries), should be severed completely from below the laryngeal prominence (the protrusion below the throat). It will not be sufficient to simply cause an incision in them.

2656. If a person cuts some of the four arteries, then waits for the animal to die, and thereafter severs the remaining arteries, that animal will not become Tahir or lawful to consume. The same will apply based on obligatory precaution if the four pathways are all slaughtered prior to its death, but they are not severed in the normal consecutive manner.

2657. If a wolf tears apart a section of a sheep's neck, but leaves the four pathways intact, or tears apart another part of the sheep's body, then in the event that the sheep is still alive, and it is slaughtered in the manner that will be elaborated, it becomes Tahir and lawful to consume. However, if the wolf tears apart the neck in a manner that the four pathways that are in the neck, and which must be severed, are completely destroyed, then that sheep will become unlawful. However, if it tears apart some of the pathways in a manner that it would be possible to sever it a little above or a little below, then it is problematic to claim that the animal is lawful to consume.

The Conditions for Slaughtering an Animal

2658. The following are the conditions for slaughtering an animal:

1. The person slaughtering the animal must be a Muslim, whether it is a man or a woman. The child of a Muslim who is of distinguishing age, in that he can distinguish good from evil, can also slaughter the animal. However, if a Kafir, a Nasibi, a Khariji or a Ghali who is considered a Kafir, such as those who believe in the divinity of Imam 'Ali (as), slaughters an animal, it will not become lawful for consumption.

2. They should slaughter the animal with a tool made of iron. However, if an iron-tool is not available, the animal can be slaughtered using a sharp tool that is able to sever its four pathways, such as a piece of glass or a rock. Obligatory precaution dictates that the situation be such that if the animal is not slaughtered it would die, or another reason necessitates slaughtering the animal.

3. Whilst slaughtering the animal, the front of the animal should face the Qiblah. If someone knows that the animal should be slaughtered facing the Qiblah, and he intentionally fails to make it face the Qiblah, that animal will be unlawful to consume. However, if he forgets about it, or does not know about the precept, or mistakes the direction of the Qiblah, or does not know the direction of the Qiblah, or is unable to make the animal face the Qiblah, but is forced to slaughter the animal, then there is no problem in it.

4. When the person wants to slaughter the animal, or places the knife on its throat with the intention of slaughtering it, he should pronounce the name of God. The mere pronouncement of Bismillah or Allahu Akbar or any similar invocation will suffice. In fact, saying Allah by itself is also sufficient. However, if he invokes the name of God without the intention of slaughtering the animal, the animal will not be Tahir and neither will its meat be lawful for consumption. Nevertheless, if he forgets to invoke the name of God, there will be no harm in it. The recommended precaution is that whenever he recollects, he should invoke the name of God.

5. The animal should show some movement after being slaughtered, even if it be moving its eyes or tail, or striking its feet against the ground. This ruling applies in the case where there is doubt as to whether the animal is alive or not whilst being slaughtered. Otherwise, there is no need for it. It is also obligatory that a usual amount of blood that is normal and common for that type of animal should drain out of the body.

6. The obligatory precaution is that the head of an animal, other than birds, should not be separated from the body before the spirit has left its body. In fact, this act is also problematic in the case of birds. However, if the head is separated accidentally or owing to the sharpness of the knife, it will not be problematic. The obligatory precaution is that the spinal marrow which extends from the cervical vertebrae to the tail of the animal, and is commonly known as the [nikih in Arabic] marriage, should not be cut intentionally.

7. The obligatory precaution is that the animal be slaughtered from the front of the neck and not the nape of the neck. Similarly, based on obligatory precaution, it is not permissible to insert the knife under the pathways, and then cut them towards the front.

The Instructions for Killing a Camel

2659. If a person wishes to kill a camel in a manner that it would be Tahir and lawful to consume after its death, then he should thrust a knife or any other cutting tool made of iron in the hollow area between the neck and the chest of the camel. He should also observe the aforementioned conditions for slaughtering animals.

2660. When a person wishes to thrust the knife into the camel's neck, it is better for the camel to be standing. However, there is no problem if the knife is thrust into the hollow area of the camel whilst it is seated with its knees on the ground, or if it is sleeping on its side, and the front of its body is facing the Qiblah.

2661. If instead of thrusting the knife into the hollow area of a camel's neck, a person chooses to sever its head, or he chooses to thrust a knife—as prescribed for a camel—into the neck of a sheep, a cow or similar animal, then their meat will be unlawful to consume and their bodies will be Najis. However if he severs the four pathways of a camel, and whilst it is alive, he thrusts a knife into the hollow area in its neck in the manner elaborated above, its meat will be lawful to consume and its body will be Tahir. Similarly, if a knife is thrust into the neck of a sheep, a cow or similar animal, and whilst it is still alive, it is slaughtered, it becomes lawful and Tahir.

2662. If an animal becomes unruly, and it cannot be slaughtered in the manner prescribed by the Shari'ah, or—for example—falls into a well, and it is possible that it may die in the well, and killing it according to the Shari'ah is not possible, then if it is struck by a sword, a spear, an arrow or any similar weapon on any part of its body, and it dies on account of that injury, it becomes lawful to consume. It is not necessary for it to face the Qiblah. However, it should possess the other conditions mentioned above for slaughtering animals.

The Acts Which are Recommended whilst Slaughtering Animals

2663. A few acts are recommended whilst slaughtering an animal:

1. Whilst slaughtering an animal, both its hands and one of its legs should be tied together. The other leg should be left free. As for a cow, all its hands and legs should be tied, but its tail should be left free. Whilst killing a sitting camel, its hands should be tied together from the end of the hands to the knees or to the area below the armpits. Its legs should be left free. It is recommended that a chicken be let free after severing its head so that it may flap its plumage.

2. The person slaughtering the animal should face the Qiblah.

3. Before slaughtering the animal, water should be placed in front of it.

4. They should slaughter the animal in a manner that would minimize its suffering. For example, the knife should be well sharpened, and it should be slaughtered swiftly

The Acts which are Makrooh whilst Slaughtering an Animal

2664. A few acts are Makrooh to perform whilst slaughtering an animal:

1. According to a great number of renowned scholars, to remove the hide of an animal before the spirit leaves its body. The obligatory precaution is to refrain from doing this.

2. To slaughter an animal in an area where a similar animal is present. For example, to slaughter a sheep or a camel in an area where another sheep or camel can see it.

3. To slaughter an animal at night, unless one fears that it will die. The same applies to slaughtering before the time of Z'uhr on Friday. However, in the case of necessity, there is no problem in doing so.

4. A man who raised the quadruped slaughters it himself.

The Precepts of Hunting with Weapons

2665. If a wild animal whose meat is lawful to consume is hunted with a weapon, its meat is lawful to consume and its body is Tahir given the following five conditions:

1. The hunting weapon should be incisive like a sword or a knife, or sharp like an arrow or a spear. If an animal is hunted using a trap, a piece of wood or a stone, its carcass is not Tahir and its meat is unlawful to consume. If an animal is hunted with a gun, then if the bullet is sharp such that it penetrates the animal's body and creates a tear, it will be Tahir and lawful for consumption. However, if the bullet is not sharp, and it penetrates the animal's body with pressure, and kills it, or burns the body of the animal on account of its heat, and the animal dies on account of the burning, then to claim that it is Tahir and Halal is problematic.

2. The individual hunting the animal should be a Muslim, or the child of a Muslim who is capable of discerning good from evil. Hence, if a Kafir, a Nasibi, a Khariji or a Ghali who is considered a Kafir, like the one's who prescribe to the divinity of Imam 'Ali(a'), hunts an animal, then the hunted animal will not be lawful to consume.

3. The weapon should be used or fired with the intention of hunting an animal. Therefore, if for example a person aims at a particular place, and incidentally kills an animal, the carcass of that animal will not be Tahir, nor will its meat be permissible to consume.

4. Whilst using the weapon, the individual should invoke the name of God. If he intentionally fails to invoke the name of God, the prey does not become lawful for consumption. However, if he forgets to do so, there is no harm in it.

5. He reaches the animal after it has died, or if it is alive, there is insufficient time to slaughter it. However, if there is sufficient time to slaughter it, and he fails to do so, the animal will be unlawful for consumption. 2666. If two people hunt one animal, and one intends to hunt it and the other does not, or if one is a Muslim and the other is not, or one of them invokes the name of God and the other intentionally fails to do so, the animal will not be lawful for consumption.

2667. If the animal falls into a body of water after it is hit by—for example—a bullet, and the person knows that the animal died on account of being hit by the bullet and falling into the water, the animal is not lawful for consumption. In fact, if he does not know whether the animal died solely on account of the bullet or otherwise, it is not lawful for consumption.

2668. If a person hunts an animal with a dog or a weapon that is usurped, the hunted animal will be lawful to consume, and it will belong to him. However, in addition to the fact that he has committed a sin, he also has to pay the wages for using the weapon or the dog to its owner.

2669. If a person chops an animal into two parts using a sword or any other permissible hunting weapon, with the conditions that were elaborated in article 2665, and its head and neck remain in one of the parts, and he reaches the animal after it has died, then both the parts will be lawful for consumption. The same will apply if the animal is alive, but there is insufficient time to slaughter it. However, if there is sufficient time to slaughter it, and it is possible that it may live for some time, then the part which does not contain the head and the neck is unlawful for consumption. As for the part which contains the head and the neck, if it is slaughtered in the manner prescribed by the Shari'ah, it will be lawful, and if not it will be unlawful for consumption.

2670. If an animal is chopped into two parts using a piece of wood, a stone or any other tool that is not authorized for hunting by the Shari'ah, the part which does not contain the head and the neck is not lawful for consumption. As for the part which contains the head and the neck, if it is alive and it is possible that it may live for a period of time, then if it is slaughtered in a manner prescribed by the Shari'ah, it is lawful for consumption, and if not, then even that part is unlawful.

2671. If an animal is hunted or slaughtered, and a live offspring is taken out of its womb, then if the offspring is slaughtered according to the Shari'ah, it is lawful to consume, and if not, it is unlawful.

2672. If an animal is hunted or slaughtered, and a dead offspring is removed from its womb, then if the baby animal is fully developed, and hair or wool has grown on its body, and it has died on account of the hunting or the slaughtering of its

mother, and its removal from the womb of its mother has not been delayed more than what is common, it will be Tahir and lawful for consumption.

Hunting with a Hunting Dog

2673. If a hunting dog hunts a wild animal that is lawful to consume, then there are six conditions for that animal to be Tahir and lawful for consumption. These are:

1. The dog should be trained in a manner that whenever it is sent to hunt, it should go, and whenever it is restrained, it should stop. In addition, based on obligatory precaution, it should have a habit of not eating the prey until its owner reaches it. However, if it has the habit of consuming the blood of the prey, or rarely eats from the prey, there is no problem in it.

2. It should be directed (to hunt the animal). Hence, if the dog hunts the animal of his own accord, and preys on it, it is forbidden to consume that animal. In fact, if it goes hunting of its own accord, and then its owner hollers at it so that it hastens towards the prey, based on obligatory precaution one should refrain from eating the prey even if the dog hastens to the animal on account of its master's voice.

3. The person who sends the dog should be a Muslim, or the child of a Muslim who is able to discern between good and evil. Hence, if a Kafir, a Nasibi, a Khariji or a Ghali who is considered a Kafir sends the hunting dog, the prey hunted by the dog will be unlawful for consumption.

4. The person should invoke the name of God when sending the dog. If he intentionally fails to invoke the name of God, the prey will be unlawful. However, if he forgets, there is no problem in it.

5. The prey should die on account of the wound it incurs from the teeth of the dog. Hence, if the dog suffocates the prey, or if the prey dies on account of running or being exhausted, it will not be lawful for consumption.

6. The person who has sent the dog should reach the prey after it has died, or if it is alive, there should not be sufficient time to slaughter it, given that he has not been negligent in the delay. Therefore, if he reaches the animal whilst there is adequate time to slaughter it, and he fails to do so, it will not be lawful for consumption.

2674. If the person who sent the dog reaches the prey whilst there is adequate time to slaughter it, however owing to the process of retrieving the knife or similar action which does not entail any negligence, time passes and the animal dies, it will be lawful for consumption. However, if he does not have a tool in his possession by which he can slaughter the animal, and the animal dies, it will not be lawful. However, if he unleashes the dog during this time so that it may kill the animal, it will be lawful for consumption.

2675. If a person unleashes multiple hunting dogs to hunt an animal, then if all of them possess the conditions elaborated in article 2673, the prey will be lawful for consumption. However, if even one of them is devoid of those conditions, the prey will be unlawful for consumption.

2676. If a person sends a dog to hunt a particular animal, and the dog hunts another animal, then the hunted prey will be Tahir and lawful for consumption. Similarly, if the dog hunts that animal along with another animal, both of them will be Tahir and lawful.

2677. If a number of people send the dog for hunting, and one of them is a Kafir or is subject to the rules of a Kafir, the prey will be unlawful for consumption. Similarly, if some of them intentionally fail to invoke the name of God, or if one of the dogs that has been unleashed has not been trained in the manner described in article 2673, the prey will be unlawful for consumption.

2678. If a hawk or any animal other than a hunting dog, hunts an animal, the prey will not be lawful for consumption. However, if they reach the animal whilst it is alive, and they slaughter it in a manner that has been prescribed by the Shari'ah, it will be lawful.

Fishing

2679. If a fish with scales is acquired from the water alive, and it dies outside the water, it is Tahir and lawful to consume. However, if it dies in the water, it is Tahir, but consuming it is forbidden, unless it dies in the fishing nets which are in the water, in which case it is lawful for consumption. As for fish without scales, they are unlawful for consumption even if they are acquired from the water alive, and they die outside the water.

2680. If a fish springs out of the water, or a wave throws it out, or the water recedes and the fish remains on dry land, then if a person acquires it with his hands or anything else before it dies, it is lawful to consume after it dies.

2681. The fisherman does not have to be a Muslim, nor does he have to invoke the name of God. However, a Muslim should have witnessed it as it was being acquired, or acquire certainty through some means, or possess a proof authorized by the Shari'ah that it was acquired from the water alive, or it died in the water inside the fishing nets.

2682. If it is not known whether a dead fish was acquired from the water alive or dead, it is lawful for consumption if it is in the hands of a Muslim. However, if it is in the hands of a Kafir who has not acquired it from a Muslim, it is not lawful to consume even if he says that it was acquired alive, unless a proof or a trustworthy person that one does not entertain a conjecture that is contrary to his claim, says that it was acquired from the water alive.

2683. It is permissible to eat a live fish, although the precaution is that one should avoid doing so.

2684. If a fish is roasted alive, or it is killed outside the water before it dies (naturally), it is permissible to consume it. However, the recommended precaution is that one should avoid eating it.

2685. If a fish is cut into two parts outside the water, and one part falls into the water whilst the fish is alive, then based on obligatory precaution, it is not permissible to eat the part that has remained outside the water.

Hunting Locust

2686. If a locust is acquired alive using one's hands or any other tool, it is lawful to eat it after it dies. It is not mandatory that the person who acquires it be a Muslim, nor is mandatory for him to invoke the name of God. However, if a dead locust is found in the hands of a Kafir who has not acquired it from a Muslim, and it is not known whether he acquired it alive or dead, it is unlawful for consumption even if he claims that he acquired it alive, unless a proof or a trustworthy person that one does not entertain a conjecture that is contrary to his claim, says that it was acquired alive.

2687. It is forbidden to eat a locust which has not developed wings and is unable to fly.

Chapter 79

The Precepts of Consumable Items

2688. It is lawful to consume chickens, pigeons and various types of sparrows. Nightingales, starlings and larks are also considered types of sparrows. Bats, peacocks, and various types of crows, and birds like owls, eagles and hawks, which have talons, or flap their wings lesser than gliding whilst flying, are all unlawful for consumption. The same applies to every bird that does not possess a crop, a gizzard and a spur behind its feet, unless it is known that it flaps its wings more than it glides, in which case it is lawful for consumption. It is Makrooh to kill and consume the meat of a swallow or a hoopoe.

2689. If a part which possesses life, such as meat or fat, is severed from an animal that is alive, it is Najis and unlawful for consumption.

2690. Some of the parts of lawful animals are unlawful for consumption. They are:

1. Blood
2. Excrement
3. Penis
4. Vagina
5. Uterus
6. Glands
7. Testicles
8. Penial gland
9. Spinal marrow
10. Gallbladder
11. Spleen
12. Urinary bladder

13. Eyeballs Obligatory precaution dictates that one should also avoid consuming the two yellow nerves which run parallel on each side of the spinal cord. This precaution is highly emphasized in the case of the tallow nerves. In the case of birds, their blood and excrement is undoubtedly unlawful to consume. As for the rest of the aforementioned parts, whichever are present in birds, the obligatory precaution is to avoid consuming them.

2691. It is unlawful to drink the urine of an unlawful animal. The same applies to lawful animals as well. It is also not permissible to consume other filthy things which are abhorred by human nature. However, there is no problem in drinking the urine of camels, cows and sheep in the event that one needs them for medicinal purposes.

2692. It is prohibited to consume clay. The same will apply to other parts of the earth, such as soil, pebbles and stones. There is no harm in eating Daghistani or Armenian clay if one's treatment is limited to it. There is also no harm in consuming the earth from the grave of Imam al-Husain (as) for medicinal purposes, given that it does not exceed the size of an average chickpea. It is better to dissolve the earth in a quantity of water, for example, such that it becomes completely diluted in it, and then drink from that water.

2693. It is not prohibited to swallow mucus or phlegm. Similarly, it is not prohibited to swallow food particles which are stuck to the teeth, and are removed upon cleaning the teeth, as long as it is not abhorrent to human nature.

2694. It is prohibited to eat or drink anything that would cause a person to die, or would inflict significant harm to him.

2695. It is Makrooh to eat the meat of a horse, a mule or a donkey. If someone defiles such an animal, the animal itself, its offspring and its milk become unlawful to consume. Their urine and dung becomes Najis. Such an animal should be taken out of the city and sold elsewhere. It is incumbent upon the one who defiled it to pay its value to its owner. If a person defiles a lawful animal, such as a cow or a sheep, their urine and dung become Najis. It is also prohibited to eat their meat and drink from their milk. The same applies to their offspring. Such an animal should be killed and burnt immediately. The person who defiled the animal will have to pay its value to its owner.

2696. If a kid (baby goat) suckles milk from a pig, to the extent that it develops its bones, then the kid and its offspring are unlawful to consume. The same will apply to a suckling lamb based on obligatory precaution. In the event that it suckles milk to a lesser extent, obligatory precaution dictates that the animal becomes lawful for consumption after it has undergone the process of Istibra. The process of Istibra for such animals is that they should suckle milk for seven days from the udders of a goat or a sheep. If they do not need to suckle milk, they should eat grass for seven days. As for an animal that is habituated to consuming human waste, its meat is also unlawful to consume. However, if it undergoes the process of Istibra, it becomes lawful. The process of Istibra for such animals was elaborated in article 266.

2697. It is prohibited to consume wine and other intoxicants. There are numerous hadith which condemn their consumption. The purport of some of these hadith is as follows: God has not been disobeyed through an act that is more severe than consuming intoxicating drinks. Once Imam Ja'far al-Sadiq (as) was asked, "Which is worse, consuming wine or leaving prayers?" He (as) said, "Consuming wine, for it places the drinker in a state wherein he does not know his Lord." It has been narrated from the Holy Prophet (sawas) that wine is the root of every sin. In fact, in some hadith, consuming of wine is considered to be more severe than adultery and stealing. The Lord has forbidden the consumption of wine because it is the source of all abomination, and the root of all evil. A person who consumes wine loses his intellect, and hence fails to know his Lord. He commits every sin, violates every sanctity, severs every familial relationship, and commits every indecent act.

2698. It is forbidden to sit at a table where wine is being served, if a person is considered as one of them. It is also forbidden to eat something from that table.

2699. It is obligatory upon every Muslim to give bread and water to another Muslim who is at the verge of death on account of hunger or thirst, and to save him from dying.

The Recommended and Makrooh Acts of Eating and Drinking

Some of the hadith which have been employed to deduce the subsequent precepts are not at the point of conveying legal commendation or legal undesirability; rather, they are conveying the benefits and losses which are consequential to these precepts.

2700. The following acts are recommended upon eating food:

1. To wash both the hands prior to eating food.
2. To wash both hands after eating, and to dry them with a piece of cloth.
3. The host should start eating the food before all the other people, and he should stop after everyone else. Prior to eating, the host should wash his hands first, and then the person to his right, and this process should continue until it reaches the person who is seated to the left of the host. After eating, the person who is seated to the left of the host should wash his hands, and this process should continue until it culminates with the host himself.
4. To say Bismillah at the beginning of the meal. However, if there are a variety of dishes on the table, it is recommended to say Bismillah prior to eating each of the dishes.
5. To eat with the right hand.
6. To eat using three or more fingers, and to avoid eating with two fingers.
7. If a few people are seated at a table, each of them should partake of the food that is in front of him.
8. To eat small morsels.
9. To sit for a prolonged period at the table, and to prolong the meal.
10. To chew the food properly.
11. To praise the Lord of the universe after consuming the meal.
12. To lick one's fingers.
13. To clean one's teeth after consuming the meal. However, one should avoid cleaning his teeth using a twig from a

pomegranate tree or a sweet basil plant, a reed or the leaves of a date palm.

14. To collect and eat the particles which have fallen off the table. However, if one is having a meal in the wilderness, it is recommended to leave the food particles for the birds and animals.

15. To have a meal during the early part of the day and the early part of the night, and to avoid having a meal during the day and during the night.

16. To lie on one's back after consuming the meal, and to place the right foot over the left foot.

17. To eat salt at the beginning of the meal and the end of the meal.

18. To wash fruits before consuming them.

2701. The following few acts are Makrooh upon having a meal:

1. To eat whilst travelling.

2. To eat to one's full.

3. To look at the faces of other people whilst having a meal.

4. To eat hot food.

5. To blow at something that one is eating or drinking.

6. To wait for another dish after the bread has been placed on the table.

7. To cut the bread with a knife.

8. To place the bread under one's plate.

9. To clean the meat off a bone in a manner that nothing remains on it.

10. To peel the skin of a fruit.

11. To throw away a fruit before it is fully eaten.

2702. The following acts are recommended whilst drinking water:

1. To drink water by sipping it.

2. To drink during the day whilst standing.

3. To say Bismillah prior to drinking the water, and to say AlHamdolillah after drinking it.

4. To drink the water in three breaths.

5. To drink water with desire.

6. To remember Imam al-Husain (as) and his household after drinking the water, and to curse his killers.

2703. It is reprehensible to drink a lot of water, or to drink it after consuming a fatty meal, or to drink it at night whilst standing. It is also reprehensible to drink water with the left hand, or from the broken side of the vessel, or from the side of its handle

Chapter 80

The Precepts of Vows and Promises

2704. A vow is defined as an undertaking on the part of a person to perform a good deed, or refrain from a deed which is reprehensible.

2705. The formal expression of the vow should be pronounced. However, it is not mandatory to pronounce it in Arabic. Hence, if he states, "Should the sick person get cured, it is incumbent upon me to give ten dollars to a poor person for the sake of Allah," his vow will be valid.

2706. The person making the vow must be Baligh and sane, and must make the vow of his own intention and volition. Therefore, a vow that is made out of anger or under compulsion is not valid.

2707. If a bankrupt individual or a feeble-minded person makes a vow to give some property to a poor person, it will not be valid.

2708. If a husband prevents his wife from making a vow, the wife cannot make the vow if fulfilling it would violate the rights of her husband; rather, without the consent of her husband, her vow is void. It is problematic to claim the validity of a wife's vow with respect to her own wealth, unless it is with respect to performing Hajj, giving Zakat, being kind to her parents, or establishing family ties.

2709. If a wife makes a vow with the consent of her husband, he cannot cancel her vow, or prevent her from fulfilling it.

2710. If a child makes a vow with the consent of his father, or without his consent, he must fulfill the vow. However, if the father or mother prevent him from fulfilling his vow, his vow will be rendered void.

2711. A person may only vow to perform a task that he is able to perform. Therefore, if a person who is unable to walk to Karbala makes a vow to do so, his vow will not be valid.

2712. If a person vows to perform a forbidden or Makrooh act, or to refrain from performing an obligatory or recommended act, his vow will not be valid.

2713. If a person vows to perform or refrain from a permissible act, then in the event that performing the task and refraining from it is equivalent from all aspects, his vow will not be valid. If however, performing the task is better from one aspect, and a person vows to perform it for that particular reason, such as intending to eat something that would give him the strength to worship God, his vow will be valid. Similarly, if refraining from it is better from one aspect, and a person intends to refrain from it for that very reason, such as vowing to refrain from tobacco products because they are harmful, his vow will be valid.

2714. If a person vows to offer prayers in an area which in and of itself does not increase the reward for praying there, such as vowing to offer prayers in a room, then in the event that offering prayers in that location is better from some aspect, such as the solitude offered in that location enhances his ability to focus in his prayer, his vow with respect to this reason is valid.

2715. If a person vows to perform a task, he must fulfill it in the manner that he vowed to perform it. Thus, if he vows to give charity on the first day of the month, or fast on that day, but he fasts before or after that day, it will not be adequate for fulfilling his vow. Similarly, if he vows to give charity once a sick person regains his health, but gives it before the sick person regains his health, it will not suffice.

2716. If a person vows to fast, but does not specify when and for how long, then should he fast for one day, it will suffice. Similarly, if he vows to offer a prayer, but does not specify its features, nor how many prayers, then should he recite a single two Rak'ah prayer, it too will suffice. If he vows to give charity, but does not specify its commodity, nor its quantity, then should he give something that would be deemed an act of charity, he will have fulfilled his vow. If however, he vows to perform a task for the sake of God, then, in the event he offers

one prayer, fasts for a single day, or gives something in charity, he will have fulfilled his vow.

2717. If a person vows to fast on a particular day, then he must fast on that very day. If he intentionally fails to fast on that day, then in addition to observing its Qadha, he must also pay its Kaffarah. The Kaffarah in this case will be the Kaffarah for breaking an oath, which will be elaborated in article 2734. He may however choose to travel on that day, and not observe the fast. Should he already be on a journey, it will not be mandatory for him to make the intention of residing in a place, and then observing the fast. In the event that he does not fast owing to sickness or a journey, it will be mandatory for him to observe its Qadha. The same will apply—based on obligatory precaution—should a woman fail to fast owing to the state of Haydh. In all cases however, he or she will not have pay the Kaffarah.

2718. If a person volitionally fails to fulfill his vow, he must pay its Kaffarah.

2719. If a person vows to refrain from a particular act for a specific period of time, he may commit the act after the passage of the period. If he commits the act prior to the completion of that period owing to forgetfulness or compulsion, nothing will become obligatory on him. However, he will have to continue refraining from that act until the passage of that period. Hence, if he commits the act again prior to the completion of that period without a justified excuse, he will have to pay its Kaffarah.

2720. If a person vows to refrain from an act, but does not specify a time span for it, then if he commits the act out of forgetfulness, compulsion or lack of awareness, no Kaffarah will be obligatory on him. However, from then onwards, whenever he commits the act volitionally, he will have to pay its Kaffarah.

2721. If a person vows to fast every week on a particular day, such as Friday, then should Eid alFitr or Eid al-Adha fall on one of the Fridays, or should a valid excuse such sickness or traveling occur on that day, he should not fast on that day, but he should observe its Qadha. The same will apply—based on obligatory precaution—if a woman fails to fast on that day owing to the state of Haydh.

2722. If a person vows to give a particular amount in charity, but passes away before he is able to give the charity, it will not be mandatory for that amount to be given in charity from his estate. The recommended precaution however is that his Balaigh heirs should give that amount on behalf of the deceased from their own share (of the inheritance).

2723. If a person vows to give charity to a particular poor individual, he may not then give it to another poor person. Should that poor person pass away, the recommended precaution is that he should give it to his heirs.

2724. If a person vows to visit the shrine of a particular Imam, such as visiting Imam Husain(as), but then visits the shrine of another Imam, it will not suffice. Should he be unable to visit that particular Imam owing to a valid excuse, he will not be subject to any (additional) obligation.

2725. If a person vows to visit a shrine, but has not vowed to perform the Ghusl for that visitation, nor to offer its prayers, it will not be mandatory for him to perform them.

2726. If a person vows to give something to the shrines of the Imams or the offspring of the Imams, but has not intended it to be used in any particular manner, then the amount should be used for constructing, illuminating and carpeting the shrine, or any similar use.

2727. If a person has vowed to give something to the Imam (as) himself, then if he has intended for it to be used in a particular manner, he must use it in that manner. However, if he has not intended any particular use, then he should use it in a manner that would be related to the Imam (as), such as giving it to his poor visitors, or use it for the shrine of that Imam in terms of constructing it or any similar use. He may also in this case use it in a manner that would result in honoring and exalting the Imam, and the recommended precaution is that he should also intend the reward of that act as a gift to that Imam (as). The same will apply if a person vows to give something to an offspring of an Imam.

2728. If a sheep that one has vowed to give in charity, or to offer to one of the Imams (as), gives milk before it is given to fulfill the vow, or gives birth prior to it, it (the milk or the lamb) will belong to the person who made the vow. However,

the wool of the sheep, and the weight that it gains, are part of the vow.

2729. If a person vows that should a sick person regain his health, or a traveler return safely from his journey, he will perform a particular task, but later realizes that the sick person had regained his health before he made the vow, or the traveler had returned prior to it, he will not have to fulfill the vow.

2730. If a mother or father vows to marry his/her daughter to a Sayyid, once the daughter becomes Baligh, the right to choose will be hers, and their vow will not be consequential.

2731. If a person pledges to God that should he achieve a legal need of his own, he will perform a good deed, then once his need is granted, he must perform that deed. Similarly, if he makes a pledge to perform a deed without having any particular need, that deed becomes obligatory on him. The same will apply in both cases—based on obligatory precaution—if the pledged deed is canonically neutral (Mubah).

2732. Just as in a vow, a formal expression must also be pronounced for a pledge. The pledge should also not be with respect to an act that is not preferred. However, to claim that a preferred act is consequential—as a great number of renowned scholars have stated—is problematic.

2733. If a person does not act in accordance to his pledge, his must pay a Kaffarah. That is, he must free a slave, or satiate sixty poor people, or fast for two consecutive months.

Chapter 81

The Precepts of Taking an Oath

2734. If a person takes an oath to perform an act or refrain from one, such as taking an oath to fast or to stop smoking, then if he intentionally acts contrary to it, he will have to pay a Kaffarah. That is, he will either have to free a slave, or satiate ten poor people, or clothe them. If he is unable to do any of these, he must fast for three consecutive days.

2735. The act of taking an oath must fulfill the following conditions:

1. The person taking the oath must be Baligh and sane, and should take the oath consciously and volitionally. Therefore, the act of taking an oath by a minor, an insane person, an intoxicated person, or a person who has been compelled is not valid. The same will apply if a person unconsciously takes an oath in a moment of anger. The oath taken by a bankrupt or feebleminded person is not valid in the event that it necessitates the disposal of their property.

2. The act for which one takes an oath should not be a Mak-rooh or a forbidden act. Similarly, the act that one takes an oath to refrain from should not be an obligatory or recommended act. To claim the obligation of an act which is the subject of an oath to perform or refrain from a canonically neutral act which does not possess any worldly or religious benefit is problematic.

3. A person should take the oath by one of the names of the Lord that is exclusively reserved for His Holy Essence, such as God or Allah. Similarly, if a person takes an oath by a name that is also used to refer to someone other than God, but it is so frequently used to refer to God that whenever it is

employed, the Holy Essence of the Lord is evoked in the mind, such as taking an oath by the name the Creator or the Sustainer, it too will be valid. In fact, if he takes an oath using a name that is used to refer to God and someone other than Him, but intends to refer to God, obligatory precaution dictates that he act according to that oath.

4. He should pronounce the oath verbally. Hence, if he writes it down or intends it in his heart, it will not be valid. However, if a person who is unable to speak takes an oath by hand signing, it will be valid.

5. He should be capable of fulfilling the oath. If he is able to perform it upon taking the oath, but is rendered incapable later on, his oath will be void from the moment he became incapable of fulfilling it. The same applies if fulfilling the oath, vow or pledge entails such hardship, that it is not possible to bear it.

2736. If a father prevents his son from taking an oath, or a husband prevents his wife from taking an oath, their oaths will not be valid.

2737. If a son takes an oath without the permission of his father, or a wife without the permission of her husband, the father or the husband can cancel their oath. In fact, the apparent precept is that their oath without the permission of the father or the husband is not valid.

2738. If a person fails to fulfill his oath owing to compulsion or forgetfulness, no Kaffarah will be due on him. The same applies if a person is compelled to not fulfill his oath. The oath by a person who suffers from uncertainty.

2739. A person who takes an oath that his words are true, then if his words are indeed true, the act of taking the oath is Makrooh. However, if his words are false, it is forbidden, and amounts to one of the major sins. However, if he takes a false oath to save himself or another Muslim from an oppressor, it is not problematic; rather, at times it becomes obligatory to do so. However, if he is able to express it ambiguously (While taking the oath, he should intend it in such a manner, that it does not amount to a lie), the obligatory precaution is that he should do so. For example, if an oppressor wishes to torment an individual, and asks a person if he has seen the individual, and he

had seen him an hour ago, he should say that I have not seen him, and he should intend that he had not seen him since five minutes ago.

The Precepts of Dedications (Waqf)

2740. If a person dedicates an item, neither he nor others may gift or sell the item, nor can anyone inherit it. However in some cases, which have been mentioned in articles 2122 and 2123, there is no problem in selling it.

2741. It is not necessary for the formal expression of dedication to be pronounced in Arabic; rather, if he—for example—states, “I have dedicated my house,” it will suffice. Similarly, a dedication can also be realized by an act. For example, a person may place a carpet in a mosque with the intention of dedicating it to the mosque, or construct a structure with the intention of making it a mosque. In the case of public dedications, such as mosques, schools or objects which are dedicated for use by the poor or the Sayyids, the acceptance by another party is not consequential to the validity of the dedication. In fact, even in the case of specific dedications, such as dedications for one’s children, the stronger view is that an acceptance is not consequential, although it is more precautionous.

2742. If a person specifies a property for dedication, but regrets his intention before forming the dedication, or passes away before doing so, the dedication is not realized.

2743. If a person dedicates a property then, from the moment of forming the dedication, he must dedicate it forever. If—for example—he states that the property should be dedicated after his death, the dedication will not be valid since it was not a dedication from the moment he pronounced the formal expression to the time of his death. Similarly, if he states that it should be dedicated for a period of ten days, or states that it should be dedicated for ten years followed by five

years of not being dedicated, and then dedicated once again, the dedication (in both the examples) will not be valid.

2744. A specific dedication is only valid in the case where the dedicated property is placed at the discretion of the individual for whom it has been dedicated, his deputy or his guardian. However, if someone dedicates a property for his minor children, and acquires and claims possession of it on their behalf, it will be valid.

2745. In the case of public dedications, such as mosques, schools and similar structures, acquisition by another party is not consequential to its validity, although it is more precautionous. The acquisition is realized in the case of a mosque, for example, by someone praying in it, and in the case of a cemetery, by burying someone in it.

2746. The person who dedicates the property should be Baligh. The validity of a dedication by a discerning child, who has been granted permission from his guardian, in the event that there is a benefit in it, is not farfetched. He must also be sane and have the intention of dedicating it. He must also not be compelled to it, and should be able to dispose of his property according to the Shari'ah. Therefore, if a feeble-minded person, or a person who has been interdicted by the Hakim al-Shar'i from the disposing of his property, dedicates a property, it will not be sanctioned, unless the guardian or the creditors permit it.

2747. If a property is dedicated to a child that is still in the womb of its mother, to claim its validity is problematic. However, if a thing is dedicated for persons who are currently present, and after them for those who will later be born into this world, the dedication will be valid even if the latter are not yet in the wombs of their mothers. For example, a person may dedicate something for his children, and after them for his grandchildren, so that every generation would make use of it after the previous generation.

2748. If a person dedicates something to himself, such as dedicating a store to himself so that its profits would be used to maintain his grave after his death, it is not valid. However, if he dedicates a property for the poor, and later he himself becomes poor, he may partake from the profits of the dedication.

2749. If a person appoints a care-taker for the thing that he has dedicated, the authority over the dedication will rest with the one that the dedicator has appointed. However, if he does not appoint anyone, then if he has dedicated it for specific individuals, such as his children, and they are Baligh, the authority will lie with them. However, if they are not Baligh, the authority will belong to their guardian. However, with respect to the uses that pertain to the interests of the dedication and the interests of subsequent generations, the permission of the Hakim al-Shar‘i is consequential in its validity.

2750. If a person dedicates a property for the poor or the Sayyids, or dedicates it with the intention that its profits would be used for charitable causes, then in the event that he does appoint a care-taker for the property, the authority over it will lie with the Hakim al-Shar‘i.

2751. If a person dedicates a property for specific individuals, such as his own children, so that each generation would make use of it after the previous one, then if the care-taker rents it out, and dies thereafter, the rent will not be rendered void (upon his death). However, if it has no care-taker, and a generation for which the property was dedicated, rent it out, and then pass away within the rental period, if the subsequent generation does not ratify the agreement, it will be rendered void. In the event that the renter has paid the rent for the entire rental period, he may claim the rent for the period commencing with the death to the end of the rental period from their property.

2752. If the dedicated property gets destroyed, it does not cease to be a dedication, unless the referent of the dedication is a subject that upon its dissolution, there remains no referent for the dedication. For example, a person dedicates a house for the use of its residents, for as long as the house retains its structure. In this case, upon its dissolution, the subject of the dedication becomes void and returns to the dedicator, or, in his absence, to his heirs.

2753. If a part of a property has been dedicated in an abstractly defined manner, and a part of it has not been dedicated, then the care-taker—given that it has one—and the owner of the undedicated part may partition the property under the supervision of experts. In the event that it does not have a

specific caretaker, the Hakim al-Shar'ī and the owner will proceed to partition it.

2754. If the caretaker of a dedication makes fraudulent use of the dedication, the Hakim al-Shar'ī may supplement him with a trustworthy individual to prevent any fraudulent use of the dedication. In the event that it is not possible, he may appoint a trustworthy caretaker in place of the original caretaker.

2755. A carpet that has been dedicated for a religious hall may not be taken to a mosque to be used for prayers, even if the mosque is situated close to the religious hall.

2756. If a property is dedicated for the reconstruction of a mosque, but the mosque does not require any reconstruction, and neither is it expected that it will, in a manner that retaining the profits of that property for the reconstruction would not be deemed sensible by rational persons, then to claim the validity of such a dedication is problematic.

2757. If a person dedicates a property so that its profits are used for the reconstruction of a mosque, and to be given to the Imam of the congregation and the individual who proclaims the Azan at the mosque, then, if they know or are confident of how much he has apportioned for each of these uses, they must utilize it in the same manner. However, if they do not know or are not confident of it, then they must first reconstruct the mosque. If something remains thereafter, the obligatory precaution is that the Imam of the congregation and the one who proclaims the Azan should reach a compromise settlement over its distribution.

The Precepts of the Last Will

2758. The last will is a request by a person for certain tasks to be performed for him after his death, or a statement that after his death part of his property becomes the property of someone else, or that ownership of his property be granted to someone else, or that it be dedicated or used for charitable and good causes. It (the last will) is also inclusive of his request to appoint someone as the caretaker of his children and those dependant on him. The one to whom the will is proclaimed is called a Wasi (executor).

2759. If a person, who is unable to speak, conveys his intentions by hand signing, he may make a will for any task. In fact, even if a person who is able to speak, conveys his will by hand signing in a manner that conveys his intention, it too will be valid.

2760. If a written statement is located with the signature or stamp of the deceased, then in the event that it conveys his intention, and it is known that it was written to convey his last will, they must act according to its dictates.

2761. The person making the will must be sane, and must not have been compelled to it. The last will of a ten year old child, given that he is a discerning child, and his will is acceptable by rational people, is sanctioned with respect to one-third of his wealth for his relatives and for charitable causes. Obligatory precaution dictates that one should act according to the last will of a seven year old discerning boy, with respect to a small amount of his wealth in a use that is appropriate. The last will of a feeble-minded person in cases which necessitate the disposal of his wealth is not sanctioned.

2762. If a person injures himself with the intention of committing suicide, or consumes poison for the same reason, causing him to die, his last will with respect to his wealth is not valid. However, if the last will is made before such an act, it will be valid.

2763. If a person makes a will that something from his wealth should be given to another individual then, in the event that the latter accepts it, even though the acceptance may occur during the lifetime of the person making the will, the individual will become the owner of the item upon his death. In fact, the apparent view is that the latter's acceptance is not consequential...

2764. Whenever a person notices the signs of approaching death in himself, he must act according to article 2395 with respect people's trusts. If he is indebted to someone, and the due date for repaying the debt has arrived, and the creditor demands it, he must pay him. If however he is unable to pay him, or the due date has not yet arrived, or the creditor is not demanding it, then the debtor must be confident that the debt will be paid for, even if he has to mention it in his will and obtain someone to witness it.

2765. If a person notices the signs of approaching death in himself, but is indebted Khums, Zakator Radde Mazalim, and is unable to pay it off immediately, then, in the event that he owns some property himself, or entertains the possibility that someone else may pay for it, he must mention it in his will. The same will apply if Hajj is obligatory on him.

2766. If a person notices the signs of approaching death in himself, and knows that he owes some Qadha prayers and fasts, he must mention it in his will. For example, he may mention that his wealth be used to hire someone to perform them. If he does not own any wealth, but entertains the possibility that someone may perform it free of charge, again it will be necessary for him to mention it in his will. If however, the Qadha of his prayers or fasts are obligatory on his eldest son, in the manner elaborated in article 1398, he must inform his son of it.

2767. If a person notices the signs of approaching death in himself, and has deposited some property with someone, or has concealed it in an area which his heirs are unaware of, then in the event that their unawareness will result in a violation of

their rights, he must inform them of it. It is not mandatory that he appoint a caretaker for his minor children. However in the event that their property will perish in the absence of a caretaker, or they themselves will be ruined, he must appoint a trustworthy caretaker for them.

2768. The executor must be sane, and the more precautionous view is that he should also be Baligh. However, there is no problem if he (a non-Baligh) is supplemented to a Baligh executor, so that he may assist him upon becoming Baligh. The executor of a Muslim must be a Muslim in the event that it results in giving him authority over another Muslim, such as granting him an authority over his minor children. The executor must also be trustworthy in matters that do not pertain to the testator, such as fulfilling the obligatory dues, disposing of the property of minors, and any similar matter. However, in matters that pertain to the testator himself, other than the obligatory duties, such as the case where the testator makes a will that one-third of his estate should be used in charitable causes, it is not mandatory for the executor to be trustworthy.

2769. If a person appoints a number of executors for himself, and has specified that each of them may independently act upon his will, it will not be necessary for them to seek each other's consent in executing the will. However, if he has not consented to it, regardless of whether he has stated that they should jointly execute the will, or has not stated so, they should execute the will in consultation with each other. Hence if they are not willing to jointly execute the will without an excuse validated by the Shari'ah, the Hakim al-Shar'i may compel them to do so. However, if they fail to comply, or have an excuse that is validated by the Shari'ah, the Hakim al-Shar'i may appoint another person in place of one of them.

2770. If a person reverts from his will, it becomes void; for example, if he initially states that one-third of his property should be given to someone, but later states that it should not be given to him. If he makes a change to his will, the initial will becomes void, and his second will should be acted upon. For example, if a person appoints a caretaker for his children, but later appoints someone else instead of him.

2771. If a person does something that conveys that he has reverted from his initial will, or is contradictory to his will, it will become void.

2772. If a person specifies in his will that a particular thing be given to someone, but later specifies that half of it be given to someone else, then the item must be split into two halves, and each person should be given one of the halves.

2773. If a person gifts a part of his wealth to someone during the period of his terminal illness, and also makes a will that after his death, a part of his wealth should also be given to someone else, then the wealth that he gifted should be withdrawn from his entire estate, as elaborated in article 2308. However, the property that was mentioned in his will should be withdrawn from one-third of his estate.

2774. If a person specifies in his will that a third of his property should not be sold, and all profits accrued from it should be used for a specific purpose, the will should be executed according to his request.

2775. If a person states during his terminal illness that he is indebted to someone, and he is accused of stating so to inflict a loss on his heirs, then the specified amount should be given from one-third of his wealth. However, if he is not accused of it, his confession will be sanctioned, and the amount should be paid from his original estate.

2776. The beneficiary of a will does not need to be existent at the time of making the will. Hence, if a person specifies in a will that an item be given to a child that may possibly be born to a particular wife, then if the child is born after the death of the testator, the item must be given to him. If however he is not born, then if it is determined through the will of the deceased or by means of other qualifiers that the testator wished for the property to be used for another purpose in the event that the child is not born, then it should be executed according to his will. If this cannot be determined, the will is rendered void, and the property will be inherited by his heirs. If a person specifies in his will that a part of his wealth be given to a particular person, then if the beneficiary is alive at the time of the testator's death, it will be valid. If, however, he is not alive, it will be invalid. In this case, the wealth marked for the beneficiary will be inherited by the heirs of the testator.

2777. If a person comes to know that someone has appointed him as his executor (for a task other than his last rituals, the precepts of which were elaborated in article 555), then if he informs that testator that he is unwilling to execute his will, then he will not have to execute his will after his death. However, if he does not realize before the death of the testator that he has been appointed as his executor, or realizes so but fails to inform him that he is unwilling to execute his will, then if it does not entail hardship, the appointed person should execute his will. If the executor comes to realize this responsibility whilst the testator is alive, but at a time that the testator is unable to appoint another executor due to the severity of his illness or for any other reason, then obligatory precaution dictates that he accept the will.

2778. If the testator passes away, the executor cannot appoint another person to execute the will and excuse himself from it. However, if he knows that the testator did not intend that the executor himself perform the task, rather that the task be performed, then the executor may deputize another person on his behalf.

2779. If a person jointly appoints two individuals as his executors, then in the event that one of them passes away or becomes insane, the Hakim al-Shar'i will appoint another person in his place. In the event that both of them pass away or become insane, the Hakim al-Shar'i will appoint two people in their place. However, if one person is able to execute the will, it will not be mandatory to appoint two executors. The same will apply if one or both of them become Kafir, in the event that the will entails guardianship, such as the administration of minor children.

2780. If the executor cannot carry out the will of the deceased by himself, or by enrolling the help of others, the Hakim al-Shar'i will appoint another person to assist him.

2781. If a portion of the deceased's estate perishes in the possession of the executor, then in the event that he was negligent in safeguarding it, such as storing it in an unsafe area, or superseded his jurisdiction, such as a case where the testator specifies that a particular amount be given to the poor people in a particular city, and the executor transports it to a different city and the property perishes in the journey, the executor will

be held responsible for it. However, if he has not been negligent, nor has he superseded his jurisdiction, he will not be held responsible.

2782. If a person appoints an executor, and states that should the executor pass away, another person would take his place, then after the first executor passes away, the second executor will have to perform the tasks of the deceased.

2783. The Hajj that is obligatory on a deceased person owing to his ability to perform it, and the debts and religious dues which—like Khums, Zakat and liabilities—are obligatory for him to pay, should be withdrawn from his entire estate even if he has not made a will to its effect. However if he has made a will that it should be withdrawn from one third of his estate, they should act according to his instructions. If one-third of the estate does not suffice, they should withdraw it from his entire estate.

2784. If the estate of the deceased exceeds the amount required to pay for his debts, obligatory Hajj and other obligatory religious dues like the Khums, Zakat and liabilities, then if he has made a will that one-third of his estate be spent for a particular purpose, they should act according to his instructions. If he has not made a will, the remaining amount will belong to his heirs.

2785. If the amount specified in the will is more than one-third of the deceased's estate, then his will with respect to the amount that exceeds the one-third will only be valid if his heirs consent to it by speech or conduct. Their tacit approval will not suffice. It will also suffice if they consent to it some time after his death. In the event that some of the heirs consent to it whilst others do not, it will only be binding with respect to the shares of those who have consented to it.

2786. If the dispensation specified by the deceased exceeds one-third of his property, and his heirs consent to it prior to his death, they cannot withdraw their consent after his death.

2787. If a person specifies in his will that a third of his estate be used to pay his Khums, Zakat and other debts, and used to hire someone to perform his prayers and fasts, and also used for other recommended acts such as feeding the poor, then the debts should first be paid and someone should be hired to perform the prayers and fasts. If anything remains thereafter,

it should be used for the recommended acts specified by the deceased. If one-third of his estate is only adequate to pay for his debts, and the heirs do not consent to anything more than that, then the third will be divided between his debts, prayers and fasts.

2788. If a person specifies in his will that his debts should be paid off, that a person should be hired to perform his prayers and fasts, and some recommended tasks should also be performed on his behalf, then if he has not specified that they should be paid from one-third of his estate, then his debts must be paid from his entire estate. If anything remains, then one-third of it should be spent on the prayers, the fasts and the recommended acts that he had specified. If one-third of the remaining wealth is not sufficient, then if his heirs consent to it, they should act according to his will. If however they do not consent to it, then they should pay for the prayers and the fasts from one-third of the remainder, and if something remains thereafter, it should be used for the recommended acts that were specified by the deceased.

2789. If a person claims that the deceased had willed that a particular amount be given to him, then the claimed amount should be given to him in the following cases: a. two just men verify his claim. b. he takes an oath, and one just man verifies his claim. c. one just man, and two just women testify to his claim. d. four just women testify to his claim. However, if only one just woman testifies to his claim, then only a fourth of his claim should be given to him. If two just women do so, then half of it should be given to him, and in the case of three just women, three-fourths of it be given to him. In the event that two men from the Ahl al-Kitab who are considered to be just in their religion, verify his claims, and given that the deceased was compelled to make the will and no just men or women were present at the time, then the claimed item should be given to him.

2790. If a person claims to be the executor of the deceased in disposing of his estate, his claim should only be accepted if two just men testify to its effect.

2791. A great number of renowned scholars have stated that if a person wills that a particular property be given to an individual, and the latter passes away before he can accept or

reject the will, then his heirs can accept the property as long as they have not rejected the will. However, it is not implausible that if the beneficiary dies after the testator, his heirs will inherit the property. This ruling applies in the case where the testator does not retract his will. If he does, they will have no right over the property.

The Precepts of Inheritance

2792. The following three categories will inherit from a deceased owing to being a relative to the deceased:

1. The mother, father and the children of the deceased. If no children are present, his grandchildren regardless of their generation will inherit from him, and among them the generation that is closest to the deceased. As long as one person from this category is present, the second category will not inherit from the deceased.

2. The grandfather, grandmother, sister and brother. In the absence of a brother or sister, their children will inherit from the deceased, and amongst them the ones who are closest to the deceased. As long as one person from this category is present, the third category will not inherit from the deceased.

3. The paternal uncle and aunts, and the maternal uncle and aunts. As long as one of the paternal uncle and aunts, or the maternal uncles and aunts are alive, none of their children will inherit from the deceased. However, if the only heirs of the deceased are the paternal step uncle and the son of a paternal uncle, then the inheritance will go to the son of the paternal uncle and not the paternal step uncle. In a case other than this, especially when two maternal uncles or aunts are also present with them, the obligatory precaution is that they should reach a settlement compromise.

2793. In the absence of the paternal uncles and aunts of the deceased, and his maternal uncles and aunts, and in the absence of their children, including any successive generations, the paternal uncles and aunts of his parents, and their maternal uncles and aunts will inherit from him. If they are not

present either, their children will inherit from him. If they are not present either, the paternal uncles and aunts of the grandmother and grandfather, and their maternal uncles and aunts will inherit from him. If they too are not present, their children will inherit from him.

2794. A husband and wife inherit from each other, in a manner that will be elaborated in later articles.

The Inheritance of the First Category

2795. If the heir of the deceased is one person in the first category, such as a father, mother, son or daughter, all of the deceased's estate will go to him. However, if there are a few sons or a few daughters, the estate will be divided equally between them. However, if there are sons and daughters, then the estate will be divided in a manner that each son will receive twice the amount given to each daughter.

2796. If the only heirs of the deceased are his mother and father, the estate will be divided into three parts: two parts for the father, and one part for the mother. However, if the deceased has two brothers, or four sisters, or one brother and two sisters, all of whom are free Muslims, and they are all paternal (meaning that they share the same father with the deceased, regardless of whether they share the same mother or not), and they are not in the wombs of their mothers, then even though they will not inherit anything from the deceased given the presence of the mother and father, however with their presence, the mother will inherit one-sixth of the estate and the rest will go to the father.

2797. If the only heirs of the deceased are his mother, father and one daughter, then given that the deceased does not have two brothers, or four sisters, or one brother and two paternal sisters (in the manner described in the previous article), the estate will be divided into five parts, from which the mother and father will inherit two parts and the daughter will inherit three parts. However, if he does have two brothers, or four sisters, or one brother and two paternal sisters (in the manner described in the previous article), then the estate will be divided into six parts, of which the mother and father will inherit two parts, and the daughter will inherit three parts. The remaining one part will be divided into four parts, one of which will be inherited by the father, and the other three by the daughter. In effect, the estate will be divided into twenty four parts, of which fifteen parts will go to the daughter, five parts to the father and four parts to the mother. The strongly emphasized precaution in this case is that with consent from the daughter and father, the estate should be divided into five parts.

2798. If the only heirs of a deceased are his father, mother and one son, they will divide the estate into six parts, of which the mother and father will each take one part, and the son will take four parts. However, if he has a few sons, or a few daughters, they will divide the four parts equally between themselves. If however he has both daughters and sons, then the four parts will be divided in a manner that each son will take twice the amount of each daughter.

2799. If the only heirs of the deceased are his mother or father, and one or more sons, then the estate will be divided into six parts, of which the mother or father will take one part, and the son will take five parts. If he has a few sons, the five parts will be divided equally amongst them.

2800. If the only heirs of the deceased are his mother or father, a son and a daughter, then the estate will be divided into six parts, of which the mother or father will take one part. The remaining five parts will be divided amongst the son and daughter in a manner that the son will inherit twice the amount of the daughter.

2801. If the only heirs of the deceased are his mother or father, and one daughter, the estate will be divided into four parts, of which the mother or father will inherit one part, and the remaining will be inherited by the daughter.

2802. If the only heirs of the deceased are his mother or father, and a few daughters, the estate will be divided into five parts, of which the mother or father will inherit one part. The remaining four parts will be equally divided amongst the daughters.

2803. If the deceased does not have children (who are alive), his grandchild from his son will inherit the share of the deceased son, even if she is a daughter. Similarly, his grandchild through his daughter will inherit the share of the deceased daughter, even if he is a son. For example, if the deceased had a grandson through his daughter, and a granddaughter through his son, the estate will be divided into three parts, of which one part will be given to the son of his daughter, and the other two parts to the daughter of his son.

The Inheritance of the Second Category

2804. The second category of people who inherit due to being a relative of the deceased are the grandfather, the grandmother, and the brother and sister of the deceased. If the deceased's brothers or sisters are not alive, their children and grandchildren from any generation will inherit from him.

2805. If the only heir of the deceased is one brother or one sister, he or she will inherit the entire estate. If he has more than one full brother, or more than one full sister, the estate will be divided equally amongst them. However, if he has both full brothers and full sisters, then each brother will inherit twice the inheritance of each sister. For example, if he has two full brothers and one full sister then the estate will be divided into five parts, of which each brother will inherit two parts, and the sister will inherit one part.

2806. If the deceased has full brothers and sisters, then his step brothers and sisters who do not share the same mother will not inherit from him. However, if he has no full brothers or sisters, then if he has only one step brother or sisters who share the same father, he or she will inherit the entire estate. If he has a few step brothers or a few step sisters who all share the same father, then the estate will be equally divided amongst them. If however he has some step brothers and some step sisters who all share the same father, then each brother will inherit twice the inheritance of each sister.

2807. If the heir of the deceased is one step brother or step sister who shares the same mother with him, then he or she will inherit the entire estate. If however he has a few step brothers, or a few step sisters, or a few step brothers and sisters, all of whom share the same mother with him, then the estate will be equally divided amongst them.

2808. If the deceased has full brothers and sisters, step brothers and sisters who share the same father with him, and a step brother or sister who share the same mother with him, then the step brothers and sisters who share the same father with him will not inherit from him. The estate will then be divided into six parts, of which the step brother or sister who share the same mother with him will inherit one part. The rest

will go to the full brothers and sisters, where each brother will inherit twice the inheritance of each sister.

2809. If the deceased has full brothers and sisters, and step brothers and sisters who share the same father with him, and a few step brothers and sisters who share the same mother with him, then the step brothers and sisters who share the same father will not inherit from him. The estate will then be divided into three parts, of which the step brothers and sisters who share the same mother with him will inherit one part, which will be equally divided amongst them. The remaining will go to the full brothers and sisters, where each brother will inherit twice the inheritance of each sister.

2810. If the only heirs of a deceased are step brothers and sisters who share the same father with him, and one step brother or step sister who shares the same mother with him, then the estate will be divided into six parts, of which the step brother or sister who shares the same mother will inherit one part. The remaining will go to the step brothers and sisters who share the same father with him, wherein each brother will inherit twice the inheritance of each sister.

2811. If the only heirs of a deceased are his step brothers and sisters who share the same father, and a few step brothers and sisters who share the same mother, then his estate should be divided into three parts, of which the step brothers and sisters who share the same mother with him will inherit one part, which they will equally share amongst themselves. The remaining will go to the step brothers and sisters who share the same father, wherein each brother will inherit twice the inheritance of the sisters.

2812. If the only heirs of a deceased are his brothers, sisters and wife, then his wife will inherit according to the structure that will be elaborated in later articles. The brothers and sisters will inherit their share as elaborated in the previous article. Similarly, if a woman passes away, and her only heirs are her brothers, sisters and husband, then the husband will inherit half of her estate, and her brothers and sisters will inherit their share as elaborated in the previous article. However, although the husband or wife inherit from the deceased, nothing will be decreased from the share of the step brothers and sisters who share the same mother with the deceased; rather,

there will be a reduction in the inheritance of the full brothers and sisters, or the step brothers and sisters who share the same father with the deceased. For example, if the heirs of the deceased are her husband, her step brothers and sisters who share the same mother with her, and her full brothers and sisters, then half of the estate will go to the husband. Thereafter, one-third of the original estate will be inherited by the step brothers and sisters who share the same mother with her. That which remains will belong to the full brothers and sisters. So if for example, his entire estate is \$6000, then \$3000 will go to her husband, and \$2000 to the step brothers and sisters who share the same mother with her, and \$1000 to her full brothers and sisters.

2813. If a deceased has no brothers or sisters, then their share of the inheritance goes to their children. The share of the children of the step brothers or sisters who share the same mother with him, will be divided equally amongst them. However, the share of the children of the full brothers and sisters, or children of the step brothers and sisters who share the same mother with him, will be divided in a manner that each son receives twice the inheritance of each daughter, although the more precautionary course of action is to reach a compromise settlement.

2814. If the only heir of a deceased is one grandfather, or one grandmother, be they paternal or maternal, then he or she will inherit the entire estate. Given the presence of the deceased's grandfather, his great grandfather will not inherit from him. If the only heirs of the deceased are his paternal grandfather and grandmother, the estate will be divided into three parts, of which the grandfather will inherit two parts, and the grandmother one part. However, if the heirs are his maternal grandfather and grandmother, then they will divide the estate equally amongst themselves.

2815. If the only heirs of the deceased is one paternal grandfather or grandmother, and one maternal grandfather or grandmother, then the estate will be divided into three parts, of which the paternal grandparent will inherit two parts and the maternal grandparent will inherit one part.

2816. If the heirs of a deceased are his paternal and maternal grandparents, then the estate will be divided into three

parts, of which the maternal grandparents will inherit one part, which they will equally share amongst themselves. The other two parts will be given to the paternal grandparents, of which the grandfather will inherit twice the inheritance of the grandmother.

2817. If the only heirs of a deceased are his wife and his paternal and maternal grandparents, then his wife will inherit according to the precepts that will be elaborated in later articles. One third of the original estate will go to the maternal grandparents, who will divide it equally amongst themselves. The remaining will go to the paternal grandparents, of which the grandfather will inherit twice the inheritance of the grandmother. If the heirs of a deceased are her husband and grandparents, then her husband will inherit half of her estate. As for her grandparents, they will inherit according to the precepts that were elaborated in the previous article.

2818. In the event that the brothers and sisters are joint heirs with the grandparent or grandparents, it can take the following few forms:

1. The grandfather or grandmother, brothers or sisters are all from the mother's side. In this case, the estate will be divided equally between them, even if they differ from each other in gender.

2. All of them are from the father's side. In this case, the estate will be distributed equally between them assuming that all of them are male, or all of them are female. If they differ in gender, then every male will inherit twice the inheritance of a female.

3. The grandfather or grandmother is from the father's side and the brothers and sisters are from the mother's side. The ruling for this case is the same as the previous case. It was also clarified in article 2809 that if the brothers and sisters who only share the same father with the deceased combine with his brothers and sisters who share the same father and mother, then only those who only share the same father will not inherit from him.

4. Some of the grandfathers or grandmothers are paternal and some are maternal, regardless of whether all are male, all are female or they differ in gender, and the brothers and sisters are also similar. In this case, the maternal relatives, which

includes the brothers, sisters, grandfathers and grandmothers will receive one-third of the estate, and it will be distributed equally amongst them, even if they differ in gender. The paternal relatives will receive two-thirds of the estate, wherein every male will receive twice the inheritance of a female. However, if they do not differ in gender, in that all are male or all are female, then it will be distributed equally amongst them.

5. The paternal grandmother or grandfather is present along with a maternal brother or sister. In this case, the brother or sister, given that there is only one of them, will inherit one-sixth of the estate. However, if they are more than one, they will inherit one-third of the estate equally amongst themselves. The grandfather or grandmother will inherit the remaining estate. In the event that both the grandmother and grandfather are present, the grandfather will inherit twice the amount inherited by the grandmother.

6. The maternal grandmother or grandfather is present along with a paternal brother. In this case, the grandmother or grandfather will inherit one-third even if there is only one of them, and the other two-thirds are for the brother, even if there he is the only one. However, if the maternal grandmother or grandfather is present along with a paternal sister, the sister will inherit half the estate if she is alone. If, however there are many sisters, they will inherit two-thirds of the estate. In both cases, the grandfather or grandmother will only inherit one-third of the estate. Hence, if there is only one sister, one-sixth of the estate is left over after the obligatory distribution. The stronger view is that it returns to the sister, although the more precautionous view is to reach a compromise.

7. Some of the grandmothers and grandfathers are paternal and some are maternal, and paternal brothers or sisters are present with them, be it a single sibling or multiple siblings. In this case, the maternal grandfather or grandmother will inherit one-third of the estate, and if they are more than one, they will divide it equally amongst themselves even if they are of different genders. The paternal grandfather or grandmother, and the paternal brothers or sisters will inherit the remaining two-thirds of the estate. If they are of differing genders, the male members will inherit twice the inheritance of the female

members, and if they are of the same gender, they will inherit an equal portion. If maternal brothers or sisters are present with the grandfathers or grandmothers, then the maternal grandparents and the maternal brothers and sisters will inherit one-third of the estate, which will be divided equally amongst them, even if they are of differing genders. The paternal grandfather or grandmother will inherit two-thirds of the estate. In the case where they are of differing genders, the male-members will inherit twice the inheritance of the female members, and if they are of the same gender, the inheritance will be divided equally amongst them.

8. Some of the brothers and sisters are paternal and some of them are maternal, and a paternal grandfather or grandmother is present with them. In this case, the maternal brother or sister will inherit one-sixth of the estate if he/she is alone, or one-third of it if they are more than one. In the latter case, it will be divided equally amongst them. The paternal brothers and sisters, and the paternal grandparent(s) will inherit the remaining estate. The estate will be divided equally amongst themselves if they do not differ from each other in gender, and if they do, then the male relatives will inherit twice the amount of the female relatives. If the maternal grandparents are present with the brothers and sisters, then the maternal grandparents and the maternal brothers and sisters will inherit one-third of the estate, which will be distributed equally amongst them. The paternal brothers and sisters will inherit the remaining two-thirds. If they are all of the same gender, it will be distributed equally amongst them, and if they are of differing genders, the brothers will inherit twice the inheritance of the sisters.

2819. In the event that the deceased is survived by a brother or sister, the children of his brother or sister will not inherit from him. However, this precept does not apply in the case where the inheritance of his brother's or sister's children does not conflict with the inheritance of his brother or sister. For example, if a deceased leaves behind a paternal brother and a maternal grandfather, then the paternal brother will inherit two-thirds and the maternal grandfather will inherit one-third. In this case, if the deceased is also survived by the son of his

maternal brother, then the brother's child will share the one-third with the maternal grandfather.

The Inheritance of the Third Category

2820. The third category consists of the paternal uncle and aunt, and the maternal uncle and aunt, and their children, in the manner that was presented earlier, in the sense that they will only inherit if the deceased is not survived by anyone from the first or second category.

2821. If the deceased is survived by only one paternal uncle or aunt, regardless of whether he/she shares the same mother and father with the father of the deceased, or only shares the same father, or only the same mother, he/she will inherit all of the estate. However, if he is survived by several paternal uncles or several paternal aunts, and all of them share the same mother and father, or share the same father, then the estate will be divided equally amongst them. If, however, both the paternal uncles and aunts are present, and all of them share the same mother and father, or they all share the same father, then the uncles will inherit twice the inheritance of the aunts. For example, if the deceased is survived by two paternal uncles and one paternal aunt, then the estate will be divided into five parts. One part will be given to the aunt, and the uncles will divide the remaining four parts equally amongst themselves.

2822. If the deceased is survived by some of his paternal uncles or aunts who share the same mother (with his father), the estate will be divided equally amongst them. However, if he is survived by both his paternal uncles and aunts who share the same mother, then obligatory precaution dictates that they should reach a compromise in distributing the inheritance.

2823. If the heirs of a deceased are his paternal uncles and aunts, and some of them share the same father and mother (with his father), whilst others share the same father only, and yet others share the same mother only, then the uncles and aunts who share the same father only will not inherit anything. Therefore, if the deceased is survived by one paternal uncle or aunt who shares the same mother, the estate—according to a great number of renowned scholars—will be divided into six parts, one of which will go to the paternal uncle or aunt who shares the same mother, and the remaining will go to the

paternal uncle or aunt who shares the same father and mother. In the event that such an uncle or aunt is not present, it will go to the paternal uncle or aunt who shares the same father. However, the obligatory precaution is that the paternal uncle or aunt who shares the same father and mother or the same father, should reach a compromise with the paternal uncle or aunt who shares the same mother in one part of the five parts. If, however, the deceased is survived by a paternal uncle and a paternal aunt who share the same mother, they should divide the estate into three parts. Two parts of it should be given to the paternal uncle or aunt who share the same father and mother, and in the event of their absence, it should be given to the paternal uncle and aunt who share the same father. The other part should be given to the paternal uncle and aunt who share the same mother. The paternal uncle who shares the same father and mother, or shares the same father, will inherit twice the inheritance of the maternal aunt who shares the same father and mother, or shares the same father. In the case of paternal uncles and aunts who share the same mother, the obligatory precaution is that they reach a compromise settlement.

2824. If the deceased is survived by only one maternal uncle or one maternal aunt, he/she will inherit the entire estate. However, if both the maternal uncle and maternal aunt are present, and both share the same mother and father, or share the same mother, or share the same father, then according to a great number of renowned scholars, the estate will be distributed equally amongst them. However, the obligatory precaution is that the maternal uncle and aunt should reach a compromise in the distribution of the estate.

2825. If the deceased is survived by only one maternal uncle or aunt who shares the same mother, and a maternal uncle or aunt who shares the same mother and father, and in the absence of an uncle or aunt who shares the same mother and father, he is survived by a maternal uncle or aunt who share the same father only, then a great number of renowned scholars have stated that the estate should be divided into six parts, of which one part should be given to the maternal uncle or aunt who shares the same mother, and the remaining parts should be given to the maternal uncle or aunt who share the

same mother and father, or the same father. They also mention that, in the event that both the maternal uncle and the maternal aunt who share the same mother are present, the estate should be divided into three parts, of which one part will go to the maternal uncle and aunt who share the same mother, and two parts will go the maternal uncle or aunt who share the same mother and father, or the same father. However, the obligatory precaution in both cases is that the uncles and aunts who share the same mother should reach a compromise settlement with those who share the same father. Similarly, the maternal uncles and aunts should also reach a compromise settlement amongst themselves.

2826. If the deceased is survived by one or more maternal uncles, or one or more maternal aunts, or maternal uncles and aunts and one or more paternal uncles, or one or more paternal aunts, or maternal uncles and aunts, then the estate will be divided into three parts. One part will belong to the maternal uncle or aunt, or both of them, and the remaining two parts will belong to the paternal uncle or aunt, or both of them.

2827. If the deceased is survived by one maternal uncle or aunt, and one paternal uncle and aunt then, if the paternal uncle and aunt share the same mother and father, or the same father, the estate will be divided into three parts. The maternal uncle or aunt will inherit one of the parts, and of the remaining part, two parts of it will belong to the paternal uncle and one part of it will belong to the paternal aunt. Hence, the estate will effectively be divided into nine parts, of which three parts will go to the maternal uncle or aunt, and four parts of it will go to the paternal uncle and two parts to the paternal aunt.

2828. If the deceased is survived by one maternal uncle or maternal aunt, and one paternal uncle or aunt who shares the same mother (with his father), and a paternal uncle and aunt who share the same mother and father, or the same father only, the estate should be divided into three parts. One part will belong to the maternal uncle or aunt, and the remaining two parts, according to a great number of renowned scholars, will be divided into six parts. One of these six parts will belong to the paternal uncle or aunt who shares the same mother, and the remaining will belong to the paternal uncle and aunt who share the same mother and father, or the same father only.

In the latter case, the paternal uncle will inherit twice the inheritance of the paternal aunt. Hence, if the estate is divided into nine parts, three parts will belong to the maternal uncle or aunt, and one part will belong to the paternal uncle or aunt who shares the same mother, and five parts will belong to the paternal uncle and aunt who share the same mother and father, or share the same father only. However, the obligatory precaution is that the paternal uncle and aunt who share the same father should work out a compromise with the paternal uncle or aunt who shares the same mother, with respect to one part of the five parts.

2829. If the deceased is survived by a number of maternal uncles and aunts, all of whom share the same father and mother (with his father), or the same father only, or the same mother only, and is also survived by some paternal uncles and aunts, the estate will be divided into three parts. Two parts will belong to the paternal uncles and aunts. In the event that they share the same mother and father, or the same father only, the paternal uncles will inherit twice the inheritance of the paternal aunts. However, if they share the same mother only, then obligatory precaution dictates that they work out a compromise. The remaining one part of the three parts will belong to the maternal uncles and aunts, and obligatory precaution dictates that they work out a compromise.

2830. If the deceased is survived by a number of maternal uncles or aunts who share the same mother only (with his father), and a number of maternal uncles and aunts who share the same mother and father, or the same father only (in the event that the ones who share the same mother and father are not present), and is also survived by his paternal uncles and aunts, the estate should be divided into three parts. Two parts will belong to the paternal uncle and aunt, and they will distribute it amongst themselves in the manner explained in the previous article. The remaining part will also be distributed in the manner elaborated previously.

2831. If the deceased is not survived by any paternal uncles or aunts, and neither by any maternal uncles or aunts, then the shares of the paternal uncles and aunts will go to their children, and the shares of the maternal uncles and aunts will go to their children.

2832. If the deceased is survived by the paternal uncles and aunts, and the maternal uncles and aunts of his father, and the paternal uncles and aunts and the maternal uncles and aunts of his mother, the estate will be divided into three parts. According to a number of renowned scholars, one part will be distributed equally between the paternal uncles and aunts, and the maternal uncles and aunts of his mother. The other two parts will be divided into three parts, of which the maternal uncle and aunt of his father will divide one part of it equally amongst themselves, and the other two parts will belong to the paternal uncle and aunt of his father, wherein the uncle will inherit twice the inheritance of the aunt. However, the obligatory precaution is that the paternal uncles and aunts, and the maternal uncles and aunts of his mother, should work out a compromise with respect to the distribution of one third of the entire estate. Similarly, the maternal uncle and aunt of the father should work out a compromise between themselves with respect to the distribution of one third of the two thirds. As for the paternal uncle and aunt of his father, they should act in the manner prescribed in article 2823.

The Inheritance of a Wife and Husband

2833. If a wife passes away, and does not leave behind any children, then her husband will inherit half of her estate, and the other half will be inherited by the other heirs. However, if she leaves behind children that she conceived with that husband or another husband, then her husband will inherit a quarter of her estate, and the other heirs will inherit the rest of it.

2834. If a man passes away and does not leave behind any children, then his wife will inherit a quarter of her wealth, and the other heirs will inherit the rest of it. However, if he leaves behind children whom he conceived with that wife or another wife, then his wife will inherit one-eighth of his wealth, whilst the other heirs will inherit the rest. The wife will not inherit from the land of a house, nor from a garden, a farm or any other lands.

She will not inherit the land itself, nor its value. However, she will inherit from the things situated in the space occupied by the land, such as buildings and trees. If the rest of the heirs wish to give her the value of the building or the trees, she will have to accept it. The same ruling applies to trees, cultivation and buildings that are situated on a garden, a farm or any other piece of land.

2835. If a woman wishes to exercise discretion over things which she does not inherit, such as the land of a house, she must seek permission from the rest of the heirs. Similarly, the other heirs cannot exercise discretion over the wife's portion—without her permission—of the things situated over the land, such as buildings and trees, if they have not given it or its value to her.

2836. If they wish to appraise the value of the buildings, trees and similar structures, with the purpose of giving the portion of the wife from that value, then they should appraise it by assuming how much it would be worth if it were to remain on the land until it perished without being leased. They should then give the wife her share on the basis of such an appraisal.

2837. The path wherein the water of a canal flows and any similar thing is subject to the rules of lands. The brick work

and other material that has been used to construct it will be subject to the rules of buildings.

2838. If the deceased leaves behind more than one wife, and, if he does not leave behind any children, one-fourth of the estate will be distributed equally between his wives. If he is survived by his children, then one-eighth of the estate will be shared equally between his wives. It will not matter if he had consummated his marriage with some of them and not with others. However, if he marries a woman in the period of illness which was the cause of his demise, and does not consummate the marriage with her, then that woman will not inherit from him, nor will she reserve the right to demand her mahr.

2839. If a woman marries a man during the period of her illness which results in her demise, then her husband will inherit from her even if he has not consummated his marriage with her.

2840. If a woman is divorced by a revocable divorce, in the manner that was elaborated in the section on divorce, and she passes away during the period of her I'ddah, her husband will inherit from her. Similarly, if the husband passes away during that period, his wife will inherit from him. However, if one of them passes away after the completion of the I'ddah, or after an irrevocable divorce, the other partner will not inherit from him/her.

2841. If a husband divorces his wife while he is ill, but passes away prior to the passage of twelve lunar months, then his wife will inherit from him given the following three conditions:

a. If she has not married another husband during this period, and in the event that she has married another husband, the obligatory precaution is that they should reach a compromise.

b. She should not have paid a sum to her husband to divorce her, because she did not feel inclined to him. In fact, even if she does not give anything to her husband, but the divorce is granted upon the request of the wife, then it is problematic to claim that she can inherit from him.

c. The husband should die in the period of illness during which he divorced his wife, either owing to that illness or another cause. Hence, if he recovers from that illness and passes away owing to another reason, his wife will not inherit from him.

2842. The clothes that a man buys to clothe his wife will be counted as part of his estate after he dies, even if his wife had worn those clothes.

Miscellaneous Precepts Pertaining to Inheritance

2843. If a father passes away, his Qur'an, his ring and the clothes that he was wearing will belong to his eldest son. If he owns more than one item of the three mentioned items, such as two Qur'ans or two rings, the obligatory precaution is that the eldest son should reach a compromise with the other heirs. Similarly, the obligatory precaution is that they should reach a compromise with respect to the books, the saddles of a camel, riding camels and weapons other than a sword.

2844. If the deceased is survived by more than one eldest child, such as a case where two sons are born to him at the same time from two different wives, then they should equally divide between themselves the items mentioned in the previous article.

2845. If the deceased has a debt, and his debt is equal to or more than his estate, then the items mentioned earlier which were the properties of the eldest son, should be given towards paying off the debt. However, if his debt is less than his estate, then a proportional amount should be given from the items which are given to the eldest son, to pay off his debt. For example, if the entire estate of the deceased amounts to sixty dollars, of which twenty dollars include the things that are given to the eldest son, and he has incurred a debt of thirty dollars, then the eldest son must give ten dollars from those items to pay off the debt of the deceased.

2846. A Muslim may inherit from a Kafir, however a Kafir does not inherit from a Muslim, even if he be the father or son of the Muslim.

2847. If a person intentionally kills one of his relatives without a valid reason, he will not inherit from him. However, if he kills him by mistake, such as a case where he throws a stone into the air and it falls on the other person, killing him, then he will inherit from him. However, it is problematic to claim that he also inherits of the blood money acquired from the death.

2848. At the time of disbursing the inheritance, for a child that is still in the womb of its mother, and would inherit if it is born alive, one should set aside one share given that one does

not consider it probable that the mother is carrying more than one child. Precaution dictates that the share of one boy should be set aside. The remaining shares should be disbursed to the other heirs. However, if they entertain a rational probability that the mother is carrying more than one child, then they should set aside the shares of the probable number of children, and the remaining should be disbursed to the other heirs. If, however, one attains trust and confidence that the rights of the probable number of children will not be lost, they may disburse amongst themselves the amount that exceeds the share of one child.

Chapter 85

Addenda

Includes chapters of precepts on miscellaneous topics.

Bank Related Issues

Banks are of two types: Islamic and non-Islamic. Islamic banks are of three types: privately owned banks, government owned banks, and banks that are co-owned by private individuals and the government. The more apparent opinion is that legal transactions carried out with government banks are permissible. The same applies to banks which are co-owned by private individuals and the government. The more precautionous stance however is that a person should seek permission from the Hakim al-Shar'i for acquiring money from these two types of banks and for spending it.

2849. Taking a loan from an Islamic bank, or giving a loan to an Islamic bank, wherein a profit or a benefit has been stipulated is considered to be interest-based and hence forbidden. However, there are some ways to avoid being afflicted with interest-based transactions. For example, the borrower may buy an item from the bank or its representative for a specific proportion that is greater than the market-value, such as ten or twenty percent over the market-value, and then stipulate that the bank should loan him the originally desired amount for a specific period. Similarly, he may choose to sell an item to the bank or its representative for a specific proportion that is below the market-value, and stipulate that the bank should loan him the originally desired amount for a specific period. He may also employ the same method when giving a loan to a bank. For example, the bank may buy an item from him for a value

that is above its market-value, or sell him an item below its market-value, and stipulate that the person loan a particular sum for a specific period to the bank. This result can also be realized by renting, reaching a compromise or gifting with the condition of loaning.

2850. It was elaborated in the previous article that the ruling of giving a loan to the bank is similar to the ruling of taking a loan from the bank. Hence, if a condition of profit or benefit is stipulated within the loan agreement, it will be interest-based and hence forbidden. It will make no difference whether the money is deposited in a savings account or a checking account. However if the condition of a profit is not stipulated, and a person does not consider himself as a creditor, it will be permissible for him to deposit the money in that bank, even if the bank pays interest to him.

2851. There is no objection in taking money from non-Islamic banks whose reserves are supplied by Kafirs, regardless of whether it is a government owned bank or a privately owned bank. There is also no objection in depositing money in such banks and acquiring interest from them. A person may also take the sum of the interest with the intention of restitution.

Letters of Credit for Trade

1. Letters of credit for import: A party wishing to import goods from a foreign country must—according to trade agreements—obtain a letter of credit in the importer’s country. By issuing a letter of credit, the issuing bank agrees—either through correspondence or by engaging the seller’s representative in the importer’s country—to pay the seller the amount agreed upon by both parties owing to the proforma invoice that was issued by the seller—containing a complete description of the goods, both in terms of quality and quantity—through a bank in the seller’s country, after the completion of the transaction. The bank also charges the importer a fee, which is a percentage of the entire value of the requested goods, such as 10 or 20 percent. The bank then informs the seller of the completion of the transaction, so that the seller may submit the shipping documents to the bank and acquire the payment for the goods. Upon acquiring the shipping documents which are in accordance with the description of the goods agreed upon at the time of issuing the letter of credit, the bank transfers the entire payment to the seller.

2. Letters of credit for export: If a party wishes to export a product to a foreign country, the importing party needs to—according to trade agreements—obtain a letter of credit from a bank in his country. Thereafter, when the aforementioned steps—outlined for issuing a letter of credit for import purposes—have been executed, the bank establishes a link with the exporter, and ensures that the product is delivered to the buyer and the payment is delivered to the seller. Therefore the process for issuing a letter of credit for importing and exporting purposes is the same.

Sometimes the exporter, its representative or deputy presents documents describing the type, quality, quantity and other specifications of the goods to the bank without a prior agreement with an importer, and deputizes the bank to present those documents to potential buyers. Thereafter, should a buyer accept to buy the goods at the specified price, he will request for a letter of credit. The bank then goes through the

process of ensuring the delivery of the product to the buyer and the payment to the seller as elaborated above.

2852. Issuing a letter of credit for a buyer, and accepting a letter of credit by a bank, and carrying out the terms and conditions of the letter of credit, are all permissible.

2853. It is permissible for the bank to acquire a payment for issuing a letter of credit and carrying out the terms and conditions of the letter of credit. The matter of issuing a letter of credit and taking payment for it can—from the view of the Shari’ah—occur as an instance of various headings, of which three are mentioned below:

1. It can be an instance of hiring, wherein the applicant hires the issuing bank to issue a letter of credit, and considers the sum paid to the bank—which is a specific percentage of the value of the imported goods, as agreed upon by the bank and the applicant—as hiring wages.

2. It can also be an instance of *Ju’aalah*, wherein the applicant comes to an agreement with the bank that, should the bank issue a letter of credit to him, he will pay a specific amount to the bank. Hence, once the bank has issued the letter of credit, it reserves the right to acquire that sum from the applicant.

3. It can also be an instance of a sale, wherein the bank pays the requested amount to the seller in the seller’s local currency according to the foreign exchange rate. In return the issuing bank acquires payment for it from the applicant and the buyer in their local currency. It then sells the foreign currency that it bought on behalf of the importer, along with the profit (to the importer), and since the trade of money for money involves two different currencies, there is no problem in it.

Storage of Goods by the Bank

Sometimes the bank stores the imported goods on behalf of the importer. Once an agreement has been concluded between the importer and the exporter, the payment has been made to the seller, and the goods and documents have arrived in the importing country, and the bank informs the buyer that the shipment of goods has arrived, but the buyer delays in collecting the shipment, the bank stores the goods on behalf of the buyer. In return, the bank charges storage fees to the buyer.

Sometimes the bank stores the goods on behalf of the exporter. The exporter may ship the goods and documents to the bank, without any prior agreement with a buyer, so that the bank may offer the goods to the businesses within a country. However, a buyer for the goods cannot be found, and the bank stores the goods for the exporter. In return, the bank charges storage fees to the exporter.

2854. In both the aforementioned cases, wherein the bank stores the goods for the importer or the exporter, given that the storage fees are according to a condition stipulated within the agreement, even if it be unwritten, as in it is understood by both sides and neither of them are oblivious to it, which is usually understood in such transactions, then it is permissible to acquire payment for storing the goods. The same will apply if the goods are stored at the request of the importer or the exporter.

In cases other than these, the bank does not reserve any right to acquire any payment for storing the goods.

In the event that the bank ships the goods and transfers the documents according to an agreement between the exporter and the importer, and the bank informs the importer that the documents have arrived, but the importer fails to take possession of them, then it is permissible for the bank in order to reclaim its right, which is the amount that was paid to the seller, to sell the goods to another party, which is based on the discretion that the importer grants to the bank in such cases.

Surety Bonds

Sometimes an individual agrees to undertake a project for the government or a private individual in his capacity as a contractor, such as constructing a school, a hospital, a street or any similar project. The contractee (obligee) may request for a surety bond for a particular amount from the contractor (principal) in order to be confident that the contractor will complete the task according to agreement. In the event that the contractor fails to complete the project or fails to complete it according to the terms of the agreement, the contractee may recover any potential losses owing to the breach of contract through the surety bond, and acquire the specified amount. In such a case, a contractor applies for a surety bond for an amount specified by the contractee, and in return the bank issues the surety bond after acquiring the necessary guarantees. The bank also charges a fee for issuing the surety bond that is proportional to the amount that it guarantees on behalf of the contractor.

2855. A security agreement (surety bond) is realized through any means that signifies it, be it verbal, such as an offer and an acceptance, or non-verbal. It will also make no difference if the issuing bank guarantees the contractee that the contractor will pay the secured amount (payment bond), or guarantees that the contractor will act according to the terms and conditions of the agreement (performance bond), and in the event that he fails to do so, he will pay the secured amount.

2856. It is mandatory upon the contractor to fulfill the stipulated condition of paying the amount of the bond in the event of a breach of contract, given that the condition is stipulated within the contract. In the event that he fails to pay the bond amount, the employer may refer to the issuing bank. Since the surety bond was issued at the behest of the contractor, he guarantees the bank to pay the amount. The contractor must pay whatever the bank pays, and the bank reserves the right to demand the payment from him and acquire it from him.

2857. The specified fee or premium that the banks demands from the contractor in return for issuing a surety bond is legal, and the transaction of the bank with the contractor can be

legalized through many ways. One of these ways is that it takes the form of a hiring contract, wherein the contractor hires the issuing bank for a specific wage to perform the aforementioned task. It can also take the form of a Ju'aalah, wherein the contractor pays the wages as a Ju'l in return for the aforementioned task.

Selling Shares

Sometimes a corporation employs a bank as a broker for selling its shares and bonds. Upon receiving an agreed and specified fee, the bank proceeds to sell the shares and bonds in its capacity as a broker.

2858. Such agreements with a bank are legal. It may take the form of a hiring contract, wherein the corporation pays the fee to the bank in return for hiring the bank for brokering its shares or bonds. It may also take the form of a Ju'aalah, wherein the corporation agrees to pay the specified amount to the bank should it perform the aforementioned task for the corporation. In both cases, the bank reserves the right to acquire the specified fee upon performing the aforementioned task.

2859. Buying and selling the shares of a corporation that does not engage in illegal transactions, such as interest-based transactions, is permissible. However buying and selling the shares of a corporation that engages in illegal transactions, the profits of which constitute the capital of the corporation, is not permissible. In cases other than this, it is permissible to buy and sell their shares, however one must refrain from their illegal income.

International and Local Money Transfers

Money transfers are of various types:

1. The client (The term client in this article denotes an individual who holds an account at the bank or an individual who refers to the bank for a service) who has deposited money with the bank, requests the bank to issue a banker's cheque or a money order written out to a participating bank, which may be located within or outside the country. He may also request the bank to transfer an amount to another branch of the bank in a different city or country, and the client would acquire that amount in that location. In this case, the bank has the right to collect a fee for performing these tasks. The act of collecting a fee can be legalized by noting that since the bank is not obligated by the Shari'ah to pay the deposited amount to the client in a different city or country, and reserves the right to abstain from paying the client in a place other than the place where the money was deposited, it may collect a fee from the client for relinquishing this right and paying the amount to him in another city or country.

2. The client has not deposited any money with the bank. However, the bank issues a cheque or a money order so that a participating bank may give a loan to its client within the country or outside the country. The bank may also want the manager of another branch (of the same bank) to give this client a loan. This act is an act wherein the issuing bank deputizes its counterpart or the manager of another branch to give a loan to its client, or deputizes the client to acquire the money and possesses it as a loan. The bank may therefore collect a fee from the client for the act of deputizing. In the event that the aforementioned sum is paid in a foreign country in a foreign currency, and the client loans the amount from the bank in the manner that was mentioned above, the bank reserves the right to demand the debt in the foreign currency. It may choose to relinquish its right in return for a specific fee. It may also choose to exchange the foreign currency for the local currency for a specific return.

3. A client deposits a sum of money with the bank so that he may acquire an equivalent amount within the country or in a

foreign country. For example, he deposits an amount with the bank in Najaf, so that he may withdraw it in Baghdad, Syria, Lebanon or any other foreign country. In turn the bank charges a fee for rendering this service. This service offered by the bank, and acquiring a fee for it is permissible. The reason for the permissibility of this act is that the forbidden interest in a loan is the extra amount that the creditor takes from the debtor. However, if the debtor takes an extra amount from the creditor, it is entirely permissible. In the event that the two sums are of two different currencies, such as the Canadian dollar and the British pound, the bank may sell the foreign currency for a higher amount of the local currency.

4. A client acquires some money from the bank in one location, and thereafter without any compulsion or request from the bank, the client requests to pay that amount to the bank at another location. The bank in turn charges a fee for accepting this request. In this case, it will be permissible to acquire this fee in one of two ways:

I. If the two sums are of two different currencies, such as a person who acquires Canadian dollars from the bank, and in return the bank accepts the amount in another currency, then in effect the bank is exchanging the non-Canadian currency along with the fee, for the sum that it gave to the client.

II. Since the bank is not obligated by the Shari'ah to accept the given amount at another location, and has the right to reject the request of the client, it may choose to charge the client a fee for relinquishing its right.

2860. The various forms of money transfers by the bank, and the corresponding jurisprudential designations that were applied to it, are also applicable in the case of individuals. An example of this is a case wherein an individual loans an amount of money in a particular location to another individual, so that he may acquire the sum or its equivalent at another location, along with an additional amount. Another example is if he takes an amount at a location from an individual, and returns its equivalent along with a little extra in another city or another country.

2861. In the case of money transfers, it makes no difference if the one transferring the money has a sum deposited with the

individual or the bank which will transfer the money for him, or not. In both cases, the transfer of money is valid.

Bank Prizes

Sometimes a bank will offer a prize for the purpose of encouraging people to open an account with them, or to encourage clients to deposit more of their money with the bank. The winners for these prizes are selected by a draw.

2862. Bank prizes are of two types:

a. The bank is not obligated by a condition to hold a draw, rather the draw simply acts as an incentive. In this case it is permissible to hold a draw, and the person who wins the draw is permitted to take the prize, even though the more precautionous measure in the case of banks which are owned by the government or a group of people, is that the individual should take the prize with permission from the Hakim al-Shar'i.

b. The bank is obligated by a condition to hold a draw, and the bank holds the draw in order to honor the condition. In this case, it is not permissible to hold the draw, and similarly, it is not permissible for the person who won the draw to take the prize.

Bill of Exchange

One of the services that a bank may provide to its clients is the realization of a bill of exchange in the following manner: prior to the due date, the bank informs the drawer of the presence of the bill at the bank, along with its number, amount and due date, so that the drawer may prepare the funds to honor the bill of exchange. Once the bank acquires the funds, it deposits the amount in the account of the drawee, or pays it to him in cash. It also charges a fee for rendering this service.

One of the other services offered by a bank is cashing the checks presented by its client to the bank. The bank may charge a fee for rendering this service.

2863. Processing bills of exchange and charging a fee for it can take certain forms:

1. The drawer has deposited money with the bank, and there is a condition within the bill of exchange that the payee should take the bill of exchange to the drawee bank on its due date, and the bank will withdraw the amount written in the bill of exchange from the drawer's account and pay it in cash to the payee, or deposit it in his account. This can be viewed as the process wherein the drawer refers his creditor to the bank, and since he has money deposited with the bank, and the bank is indebted to him, the transfer of liabilities is valid, and does not require an acceptance (from the bank). In this case, it is not permissible for the bank to charge a fee for paying its debt.

2. The drawer transfers the liability of the amount mentioned in the bill of exchange to the bank, without having deposited an amount in the bank, or without the bank being indebted to him. This is a case of a transfer of liabilities to a debt-free person, one who is not indebted to the drawer, and is permissible. The bank in turn accepts the transfer of liabilities and pays the amount. It also charges a fee to the drawer for accepting the transfer of liabilities, and acquiring this fee is permissible.

3. The payee presents the bill of exchange to the bank to claim the amount, without any transfer of liabilities by the drawer. This service can be rendered as an instance of a service that is a subject of a *Ju'aalah*, and to acquire a fee as a *Ju'l* (the

item given in exchange for the service in a Ju'aalah agreement) is permissible, given that the bank intervenes in acquiring the actual debt only. However, if it also determines a profit and a proportional interest for the debt, its intervention is not permissible.

Foreign Exchange

2864. It is permissible to buy and sell foreign currencies, such as dollars and euros, for an amount that is more, less or equivalent to the amount for which it is purchased. It also makes no difference if the transaction is paid for immediately or at a later date.

Checking Accounts

2865. If a person has a checking account with a bank, and has deposited an amount in that account, he reserves the right to withdraw any amount that he wishes from the account which does not exceed his balance.

However, sometimes a bank allows a client to withdraw a particular amount, without having a sufficient balance in his account, based on the trust that it has in the client. This is known as an overdraft. The bank in turn takes a profit for loaning that amount. However, such an act of loaning and acquiring of profits is not permissible.

The Sale and Purchase of Bills of Exchange

The economic value of a commodity is determined by two factors:

1. The commodity offers a particular benefit, making it coveted by rational people, such as things which are edible, consumable or wearable.

2. A body that is vested with the authority, sets a value for the property, such as currencies and stamps which are valued by the government.

2866. Buying and selling is different from loaning, both in terms of the subject and also the precepts. In terms of the subject, buying and selling is the act of exchanging a corporeal property for another in its attribution, be it an attribution of ownership or proprietorship. Loaning is the act of giving ownership of a corporeal entity to the party that is acquiring the loan, in return for a substitute if the item is fungible, and for its value if it is not fungible. In terms of their precepts, the following are some areas where they differ:

1. Interest in sales differs from interest in loans. In a loan, any additional amount that is stipulated is interest and forbidden. However, in a sale, it is only forbidden if the item that is sold and the item acquired in return are both of the same type, and they are sold by weight or volume. In this case, any extra amount is interest and it is forbidden. Hence, if they are not of the same type, or they are not sold by weight or volume, it is not forbidden to take an extra amount, such as the case in commodities which are sold by count.

2. If a sale involves interest, it will invalidate the sale, and an exchange of ownership will not be realized. However, in the case of a loan, stipulating interest will not invalidate the loan. The debtor will become the owner of the loaned item. However, the creditor will not become the owner of the stipulated excess.

2867. All paper money, such as Iraqi dinars, American dollars or Iranian tumans, have economic value, because their respective governments have set a value for their paper money,

which is accepted and common in all countries. It is for this reason that it has economic value, and they may cancel its economic value and validity at any time. It is obvious that such money is not sold by weight or volume, and hence some of the jurists (may the Lord raise their status) have said, "It is permissible to exchange this money for more or less of the same kind. It is also permissible to give this money in cash for a debt being owed, for less than it or more than it." However, to exchange something that has an arbitrary economic value, and is purchased and sold by count, for something more or less of the same kind is problematic. In the event that the owner of the greater amount reaches a compromise settlement with the owner of the lesser amount, in that the owner of the greater amount would gift it to him, and he too would gift the lesser amount to him, then it will not be problematic. For example, the owner of nine hundred dollars would state to the owner of a thousand dollars, "I compromise with you that you would gift a thousand dollars to me and in return I would gift nine hundred dollars to you."

2868. Bills of exchange which are common amongst businessmen and people, and are used to carry out transactions, are not like currency notes which have an arbitrary economic value; rather, they are certificates of a loan that is liable on the payer and the signatory of the bill. Hence, when a buyer gives a bill of exchange to the seller, he has in fact not paid the price of the purchased commodity. Therefore, if the bill of exchange gets lost or burnt whilst it is in the possession of the seller, nothing will be lost of his property, and neither will the responsibility of the buyer be lifted. However, if he pays for the price of the commodity with paper money, and then the money gets lost, it will be deducted from the property of the seller and he will incur the loss.2869. Bills of exchange are of two kinds:

1. A bill of exchange which is reflective of a real loan, meaning that the signatory in reality owes the amount mentioned in the bill to the payee, and the bill is a record of that loan.

2. A bill that is not reflective of a real loan; rather, it is only imaginary. In the first kind, wherein the payee is in fact owed a time-specific loan, selling the bill for an amount that is more or less is not problematic, given that there is a difference (in the two), such as dollars for pounds, and given that it is not the

price of a credit based transaction. However, if there is no difference, such as selling dollars for dollars, then it is problematic. However, if the transaction is carried out in the form of a compromise settlement as elaborated in article 2867, it will not be problematic.

In the second type, where the bill is imaginary, the payee cannot sell it to another person, since he is not owed anything by the signatory of the bill; rather, the bill of exchange was issued so that the payee would be able to make use of it. The manner of using it according to the Shari'ahis in the following manner: The payer deputizes the payee to sell the amount mentioned in the bill—such as 50 Saudi riyals which are worth 11,000 Iranian tumans—on his behalf to the bank for another kind of currency for a lesser value, such as 10,000 tumans, and also deputizes him to then sell the 10,000 tumans on the behalf of the payer to himself for the price of 50 Saudi riyals. In this manner, the payee becomes indebted to the payer in the amount that the payer has become indebted to the bank, which is 50 riyals.

Another manner would be a case where the bank loans the amount of the bill to the payee, and in return the payee pays an amount to the bank as documentation fees, without it being stipulated by the bank. However, if it is stipulated as a condition, even if it be non-explicitly understood, it will be considered an interest-based loan.

There is no problem for the payer to demand the amount of the bill from the payee, and acquire it from him, because the payee has transferred his debt to the bank in its entire amount from the bank to the payer.

Working in a Bank

Working in a bank can involve two types of work:

1. Work that is related to interest-based transactions. It is not permissible to work in such positions. A person who is employed in such a position cannot take any wages for the work.
2. Work that is not related to interest-based transactions. It is permissible to work in such positions and also to take wages for the work.

Chapter 86

The Precepts of Insurance

An insurance is a contractual agreement between the insurer and the insured person in that the insured person will pay an amount to the insurer, regardless of whether the amount paid is a corporeal property, a benefit or a service, and regardless of whether it is paid altogether or in installments, and in return the insurer will pay for the losses that are incurred by the insured person or a third party in the manner that is defined in the contractual agreement.

2870. Insurances are of various types and kinds, such as life insurance, health insurance and property insurance. Since their precepts are the same, there is no need to elaborate upon them.

2871. An insurance is a contract, and is therefore realized upon an offer and an acceptance. For example, the insurer may state, "I undertake the liability of paying for a particular loss of life or property in return for receiving a particular amount," and the one wishing to be insured responds by stating, "I accept," or for example, the individual wishing to insure himself states, "I undertake to pay a particular amount in return for coverage on a particular loss," and the insurer accepts. This contract, like all other contracts, can be materialized by words or actions. All the other general conditions of contracts are consequential in this contract, such as being Baligh and sane, having the intention and not being compelled nor interdicted, be it due to having a feeble mind or due to bankruptcy. It is also consequential that the insured item, such as life or property, and the potential dangers for which the life or property is being insured against should be specified. Similarly, the payments should also be specified, and if it is paid in

installments, the monthly or yearly installments should be specified. The start and end dates of the insurance policy should also be specified.

2872. All forms of insurance policies can be considered as an undertaking by the insurance provider to cover the losses and the insured individual to pay a particular sum (for the insurance). The more precautionary measure is that the insured individual settles the particular amount with the insurance provider with the condition that the insurance provider covers any potential losses. In this case it becomes obligatory upon the insurance provider to cover the losses. Similarly in the event that the payment by the insured individual is in the form of a corporeal item, he may consider the insurance policy as a gift with the condition that the insurance provider covers any potential losses. In this case it will be obligatory upon the insurance provider to fulfill the condition.

2873. In the event that the insurance policy takes the form of a settlement compromise with the condition of bearing the losses, or a gift with the same condition, and the insurance provider fails to indemnify the insured individual in the event of a loss suffered by him, and hence fails to act upon the condition, the insured individual may employ the option of a breached contract and cancel the settlement compromise or the gift. He may then reclaim the installments that have already been paid.

2874. In the event that the insured party fails to pay the insurance installments according to the agreement, it will not be obligatory upon the insurance provider to cover any losses. In addition the insured party does not reserve the right to reclaim the insurance installments that have already been paid.

2875. A particular duration, such as one year or two years, is not consequential in the validity of an insurance policy, rather, it will be subject to the agreement between the two parties.

2876. If a company is formed by an investment from a number of individuals, and each of the partners or one of them stipulates to the other partners within the partnership agreement that should he incur a loss of life or property owing to an incident, the type of which is specified within the agreement, the company will have to indemnify the individual from its future profits for the losses suffered in the incident. In the event of an

incident, it will be obligatory for the company to act according to the condition for as long as the partnership contract is valid.

Chapter 87

The Precepts of Key Money

One of the common transactions is the payment of key money. The right of key money is that the lessee reserves the right to clear and sublease the leased item itself to another party, or that the owner does not have the right to increase the rent or to take the rented item itself from the lessee.

2877. The validity of such a transaction is contingent upon substantiating a right for the lessee. Such a right is not substantiated by merely renting a place of residence or a place of work, even if it is leased for a long period, nor is it substantiated by the type of work or business or the character of the lessee, which may cause an increase in the value or the demand of the leased area.

This is regardless of whether the common understanding or the governmental laws consider the lessee to reserve a right. It will not be consequential in this case. Hence, upon the completion of the lease period, it is forbidden upon the lessee to exercise any discretion over the leased item itself, and any control that he exercises over the item itself or its profits will be considered a discretion of hostility and liability. In addition, renting out the property itself will be uncommissioned, and will be void without the consent of the owner. It is possible to substantiate a right according to the Shari'ah by stipulating a legal conditional. For example, they may stipulate within the lease agreement—regardless of whether the lessor receives payment for the condition or not—that upon the completion of the lease period, the lessor will lease the area to the lessee or a person appointed by the lessee for the same amount. The same will apply to every lessee who has been appointed by the previous lessee. In this case, owing to the rights afforded by these

conditions, the lessee can choose to take the key money and vacate the place, and the lessor, owing to his duty to fulfill the condition (stipulated in the lease), does not have the right to refuse to lease the property to the principal lessee, or someone appointed by him, or any lessee appointed by the previous lessee.

2878. If it has been stipulated within the lease agreement that the lessee may retain the leased area for as long as he likes by renewing the lease for the same amount, then he may acquire key money in return for vacating the place, even though the lessor is not mandated to lease the place to the one who pays the key money.

Precepts of the Principle of Ilzaam

2879. According to the rulings of non-Shi'a scholars, except for a few of them, the presence of a witness is a condition for the validity of a marriage. The Hanafis, Shafi'is and Hanbalis consider it to be necessary at the time of pronouncing the formal expressions of marriage. As for the Malikis, they expand the time frame to the moment before consummation. This condition however is not consequential in the view of the Shi'i scholars. Hence if a non-Shi'a individual who follows the view of the majority of scholars from amongst them, contracts a marriage without the presence of a witness, the marriage will be void in accordance to his own denomination, and the woman will not become his wife. In this case, a Shi'a man may—according to the principle of Ilzaam—marry that woman.

2880. According to the rulings of non-Shi'a scholars, it is not permissible for a person to marry a lady and her paternal aunt, or a lady and her maternal aunt, and may only marry one of them. Hence if the marriages are contracted simultaneously, both the marriages will be void. If they are not contracted simultaneously, then the second one will be void. However, according to Shi'a scholars, it is permissible to marry both at one time with the permission of the paternal and maternal aunt, respectively. Hence, if the follower of the non-Shi'a denomination simultaneously marries a lady and her paternal aunt, or marries a lady and her maternal aunt, the marriage contract with both of them is void according to his own denomination. A follower of the Shi'a denomination may marry either one of them based on the principle of Ilzaam. However, if the marriage is not contracted simultaneously, a follower of the Shi'a denomination may marry the second lady.

2881. According to non-Shi'a denominations, in the divorce of a Ya'isah or a non-Baligh girl, who has consummated her marriage, it is mandatory upon the divorced lady to observe the I'ddah. It should be noted that some of the non-Shi'a denominations have made some distinctions in the case of a non-Baligh girl. However, in accordance to the Shi'a denomination, it is not necessary for a Ya'isah or a non-Baligh girl to observe an I'ddah. Therefore, according to non-Shi'a denominations, they are obligated to observe the rules of I'ddah. However, if a Ya'isah or a non-Baligh girl converts to Shi'ism, it will not be obligatory on her to observe the I'ddah. In the event that her divorce is revocable, it is permissible for her to demand her nafaqah (financial support) for the period of her I'ddah from her ex-husband who is not a Shi'a. It is also permissible for her to marry another person during that period. Similarly, if a non-Shi'a individual converts to Shi'ism, he may marry the sister of his divorced wife who is a Ya'isah or a non-Baligh girl, even though she may still be in the period of her I'ddah in accordance to non-Shi'a denominations. It will not be necessary for him to observe the precepts of I'ddah in this case.

2882. If a person who belongs to a non-Shi'a denomination divorces his wife without the presence of two just witnesses, or divorces a part of his wife's body, such as her finger, then such a divorce will be valid according to his denomination. However, according to the Shi'a denomination, such a divorce is not valid. Therefore, a Shi'a individual may marry the divorced lady upon the completion of her I'ddah in accordance with the principle of Ilzaam.

2883. If a non-Shi'a individual divorces his wife who is in the state of Haydh, or divorces her during the period of purity from Haydh wherein he has had intercourse with her, then such a divorce will be valid according to his denomination. However, according to the Shi'a denomination, such a divorce is not valid. Therefore, in accordance with the principle of Ilzaam, he may marry the woman upon the completion of her I'ddah.

2884. According to the Hanafi denomination, and some other non-Shi'a jurists, if a person divorces his wife under duress or compulsion, the divorce will nonetheless be valid. However, according to the Shi'a denomination, such a divorce is

not valid. Therefore, in accordance with the principle of *Ilzaam*, a Shi'a individual may marry a lady who has been divorced by her husband who was acting under duress or compulsion, in the event that she follows the Hanafi denomination or those who share the same views as them (in this issue).

2885. If a non-Shi'a individual takes an oath not to perform a particular task, and should he do so, his wife would be divorced, and then goes on to perform that task, his wife will be divorced according to his denomination. However, according to the Shi'a denomination, an oath cannot effect a divorce. However, in accordance with the principle of *Ilzaam*, it is permissible for a Shi'a individual to marry the lady upon the completion of her *I'ddah*. Similarly, according to non-Shi'a denominations, it is permissible to divorce a lady in writing. However, according to the Shi'a denomination, a divorce cannot be realized in writing. However, in accordance with the principle of *Ilzaam*, a Shi'a individual may marry a lady who has been divorced in writing upon the completion of her *I'ddah*.

2886. According to the legal ruling issued by Abu Hanifah, as narrated by Ibn Qudamah, if a person buys an item without seeing it, based on the description given by the seller, and later sees it, he reserves the option of observation, even if the item matches the description of the seller. However, according to the Shi'a denomination, he does not reserve the option of observation in this case. Therefore, if a Shi'a buys an item from a follower of the Hanafi denomination based on the description provided by the seller, and later sees it, the Shi'a will reserve the right of observation in accordance to the principle of *Ilzaam*.

2887. In the Hanafi and Shafi'i denominations, as narrated by Ibn Qudamah in the text *alMughniyy*, if a person sustains a loss in a transaction, he does not reserve the option of *Ghabn*. Therefore if a Shi'a buys an item from a person of the Hanafi or Shafi'i denomination, and it transpires that the seller has sustained a loss, then in accordance with the principle of *Ilzaam*, the Shi'a may nonetheless compel the seller to honor the transaction.

2888. In the Hanafi denomination, the validity of a transaction of *Salam*—the sale of an abstract commodity delivered at a future date in exchange for advance payment—is only valid if

the commodity is corporeally present at the time of contract. However, according to the Shi'a denomination, this condition is not consequential in the validity of the transaction. Therefore, if a Shi'a carries out a transaction of Salam with a Hanafi individual, and the commodity is not corporeally present, then in accordance with the principle of Ilzaam, he may compel the Hanafi seller to void the transaction. The same applies if the buyer was a Hanafi at the time of contract, but converted to Shi'ism later on.

2889. If a non-Shi'a individual passes away, and he leaves behind a non-Shi'a daughter, and he also has a brother, then if his brother is a Shi'a, or converts to Shi'ism after the death of his brother, then in accordance with the principle of Ilzaam, he may take the remainder from the estate of the deceased by Ta'sib, even though Ta'sib is not valid according to the Shi'a denomination. Similarly if a non-shi'a individual passes away and leaves behind a non-shi'a sister, and also a paternal uncle who shares the same mother and father, then if the paternal uncle is a shi'a or converts to Shi'ism after the death of his nephew, then in accordance with the principle of Ilzaam, he may claim the amount that is accorded to him by Ta'sib. The same ruling applies in all the other cases of Ta'sib.

2890. According to non-shi'a denominations, the wife of the deceased inherits from his entire estate, including cash, commodities, lands, gardens and other items. However, according to the shi'a denomination, a wife does not inherit the land, neither the corporeal land nor its value. However, if the deceased in a non-shi'a individual and his wife is a shi'a, then in accordance with the principle of Ilzaam, the shi'a lady will inherit the land. The above was merely a section of the rulings that fall under the principle of Ilzaam. Other cases such as the last will of a person for his inheritors, pronouncing the formal expressions of marriage in the state of Ihram, a neighbour's right to pre-empt a sale, the option of a condition, and the option of Tasriyah are all subject to the principle of Ilzaam.

The Precepts of Dissecting a Body (Post-mortem)

2891. It is not permissible to dissect the dead body of a Muslim, and the one who dissects the body of a Muslim post-mortem will have to pay an amount equal to the blood money of a Muslim fetus, the details of which have been mentioned in the texts on blood money.

2892. It is permissible to dissect the body of a Kafir who is not a dhimmi. As for a dhimmi, it is problematic to claim that it is permissible to dissect his body and that the one who dissects it is not liable to pay the blood money of a Muslim fetus, unless it is permissible according to his faith. In such a case, there is no problem in doing so. In the event that one doubts whether a person is a Muslim or not, or a dhimmi or not, it is permissible to dissect his body.

2893. If the life of a Muslim depends on dissecting a dead body, and it is not possible to dissect the body of a non-Muslim or one whose being a Muslim is in doubt, whilst there is no other way to keep the Muslim alive, then it is permissible to dissect the body of a Muslim. In this case the blood money of a Muslim fetus—as elaborated in the texts on blood money—will be due on the one who dissects him.

2894. It is not permissible to amputate a part from the body parts of a Muslim's dead body, such as his eyes or similar parts, with the intention of attaching it to the body of a living person. The one who amputates the part will have to pay the blood money of that part, which is equal to the blood money for the body part of a Muslim fetus. However, if the life of a Muslim depends on amputating a part from the body of a dead Muslim and attaching it to the living one, then it will be

permissible to sever that part. However, the one who amputates it will nonetheless have to pay the blood money. After it is attached and becomes a part of a living person's body, it will be subject to the precepts of a living body. If a person states in his will that after his death, a part from the parts of his body should be amputated and attached to another person, then to claim the validity of such a will is problematic.

2895. If a person consents to the act of amputating—whilst he is alive—a part from the parts of his body, and attaching it to another person, then if that part is an essential part of his body, severing which would endanger his life, or inflict him with a defect or a deficiency, then it is not permissible to amputate that part. However, if amputating that part does not inflict harm or a defect on him, such as removing a part of his skin, or the flesh on his thigh where it usually regenerates, then it is permissible to cut that part with his consent. He may also choose to acquire payment for relinquishing his right over it.

2896. It is permissible to donate blood to patients who are in need of blood. There is also no harm in acquiring payment for giving blood. In any case, the act of giving blood should not endanger the life of the donor.

2897. It is permissible to sever a part from the body parts of a dead Kafir whose dissection is permissible, with the intention of attaching it to the body of a Muslim. The same applies to severing a part from the body parts of a person whose being a Muslim or a dhimmi is in doubt. Once it becomes a part of a Muslim's body, it is subject to the rules of a Muslim's body. The same applies to attaching a part that belongs to an essentially Najis animal to the body of a Muslim. Once it becomes a part of the Muslim's body, it is subject to the rules of a Muslim's body.

Chapter 90

The Precepts of Artificial Insemination

2898. It is not permissible to inseminate a woman with the sperm from a stranger, regardless of whether the act of insemination is carried out by a stranger or the husband of the woman. Although the act of insemination in such a case is forbidden, it does not amount to adultery. In the event that a woman who is artificially inseminated becomes pregnant, the child she bears is the son of the sperm donor. As such, all the rules of children will apply to him. Similarly, the mother who bears a child from artificial insemination also becomes the mother of the child, and all the rules of children apply to her as well.

2899. It is permissible to acquire sperm from a man and to grow it in an artificial womb with the intention of conceiving a child, unless it is contingent on performing a forbidden act, in which case, performing the act is forbidden. In the event that a child is conceived in this manner, and the ovum of a woman is not used in the process, then the child will belong to the sperm donor and the precepts of father and son will be applicable between the two. However, he will not have a mother. In the event that the ovum of a woman is also used, that woman will be his mother.

2900. It is permissible for a husband to artificially inseminate his wife with his own sperm. If it is carried out by someone other than the husband, then in the event that it entails a forbidden act, then it will be forbidden to perform that act. A child that is born through the process of artificial insemination is subject to the rules of a child.

Chapter 91

The Precepts of Roads Constructed by the Government

2901. It is permissible to walk on roads which are constructed on the houses and properties which belong to people, and have been forcibly destroyed by the government and a road has been constructed in their place. However, it is not permissible to exercise discretion over the interests of the property without the consent of its owner.

2902. Mosques which lie in the path of a road, and become a part of the road, obligatory precaution dictates that the precepts of mosques should be observed with respect to them. However, in the event that it becomes Najis, it will not be obligatory to make it Tahir. As for the Waqf properties which lie in the path of a road, they do not cease to be Waqf, and it is not permissible to exercise any discretion with respect to them without the permission of its particular care-taker, or the Hakim al-Shar'i or his deputy.

2903. It is permissible to cross or pass by a land that is given in Waqf for the general public, such as mosques which lie in the path of a road. As for properties that are given in Waqf for particular individuals, such as properties which have been given in Waqf for one's children or for schools, it is problematic to do so.

2904. If the area of a mosque which remains after a road has been constructed over it is large enough to accommodate for prayers and other acts of worship, the precepts of a mosque will be applicable to the remaining area. Any form of usage that conflicts with its being a mosque in the general understanding of observant Muslims is not permissible.

2905. If a graveyard that lies in the path of a road, becomes a part of that road, and its land is the property of a private individual, its precepts are the same as the precepts or private properties, the details of which were elaborated in the first article (in this section). However, if it is a Waqf, then its precepts have been elaborated in the second and third article, unless crossing or passing by the land amounts to violating the sanctity and honor of Muslims who have been buried in the graveyard. In this case it will be forbidden to cross that land. However, if it is not a private property, nor has it been given in Waqf, then it is permissible to exercise discretion over it as long as it does not amount to violating the sanctity of the dead. In the first case, it is not permissible to exercise discretion over the interests of the remaining property without the permission of its owner. In the second case, it requires the permission of the particular care-taker, and in the event that he is not available, it requires the permission of the Hakim al-Shar'i or his deputy. In the last case, permission is not required for exercising any discretion over it.

Miscellaneous Precepts Pertaining to Praying and Fasting

2906. If a person who is fasting travels by air after sunset to an area where the sun has yet to set, then upon reaching the place, it will not be obligatory on him to avoid the things which break a fast until the sun sets, regardless of whether he had broken his fast at the point of departure or not.

2907. If a duty-bound Muslim offers the Fajr prayers in his place of residence, and then travels to a place where the time for Fajr has not yet set in, the obligatory precaution is that he should offer his Fajr prayers again. The same will apply if he offers the Z'uhr and A'sr prayers and then travels to an area where the time for Z'uhr has yet to set it, or offers his Maghrib prayers and then travels to a place where the sun has yet to set.

2908. If the time for a prayer elapses in a person's place of residence, and he fails to offer it, such as a case where the sun rises and a person has failed to offer the Fajr prayers, or the sun sets and he has failed to offer the Z'uhr and A'sr prayers, and then travels to a place where the sun has yet to rise or it has yet to set, then obligatory precaution dictates that he should offer the missed prayers with the intention of offering that which is due on him, which is more general than the intention of Adaa or Qadha.

2909. If a person travels by air and wishes to offer his prayers in the airplane, then if he is able to offer the prayer facing the Qiblah along with all its conditions, his prayers will be valid. However, if he is unable to offer his prayer towards the Qiblah, but the time for the prayer is such that he will be able to offer it towards the Qiblah (in its time) after disembarking

the aircraft, then it is not valid to offer the prayer in the aircraft. However, if the time for prayer is limited, and by the time he disembarks, its time will have elapsed, then it will be obligatory on him to offer the prayer in the airplane towards the direction that he knows to be the Qiblah. However, if he does not know the direction of the Qiblah, then he should offer it towards the direction that he thinks is the Qiblah. However, if he has no idea as to the direction of the Qiblah, he may offer the prayer in any direction he wishes to do so, even though the recommended precaution is that he should offer it in all four directions. However, if he is completely unable to offer his prayers towards the Qiblah, then this condition is not applicable to him.

2910. If a person boards an aircraft whose speed matches the rotational speed of the earth, and he travels in a westward direction, and travels around the earth for a period of time, then obligatory precaution will dictate that he should offer the five daily prayers every twenty four hours, and then he should also offer the Qadha of those prayers and the Qadha of his fasts. However, if the speed of the aircraft is twice the rotational speed of the earth, then it is obligatory upon him to offer the Fajr prayer at the rise of Fajr, and the Z'uhr and A'sr prayer at midday, and the Maghrib and I'sha prayer at the time of sunset. However, if his speed is so excessive, that he completes an entire trip around the earth every—for example—three hours, then obligatory precaution dictates that he should offer the prayers at the rise of Fajr, at midday and also at sunset, and in every twenty four hour interval he should offer the five daily prayers once again. If the aircraft travels in an eastward direction, then in the event that his speed matches the rotational speed of the earth, or is less than that, it will be obligatory on him to offer the prayers at the rise of Fajr, at midday and at sunset. However, if the speed of the plane is greater than the rotational speed of the earth, to the extent that he completes an entire trip around the earth every—for example—three hours, then he should observe the aforementioned precaution.

2911. If the duty of a person is to fast whilst traveling, such as a person whose job is to travel, and upon the break of Fajr and having made his intention to fast, he travels to an area

where it is not yet the time for Fajr, it is permissible for him to perform the acts which break a fast.

2912. If a person travels after the time of Z'uhr in the month of Ramadhan and reaches a place where the time of Z'uhr has yet to enter, it is obligatory upon him to avoid the acts which will invalidate a fast, and he will have to complete the fast of that day.

2913. If we assume that a duty-bound Muslim is located in a place where the day is six months long, and the night is also six months long, but is able to migrate to an area where he can offer his prayers and fasts at the times prescribed by the Shari'ah, then it is obligatory upon him to migrate. If however he is unable to migrate, then obligatory precaution dictates that he should offer the five daily prayers in every twenty-four hour cycle, and also offer their Qadha. He will also have to offer the Qadha of his fasts.

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