

Islamic Jurisprudence

AL - 'IZZIYAH
FOR THE
ENGLISH AUDIENCE

المَقْدِمَةُ الْعَرَبِيَّةُ

Translation with notes by

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DEDICATION

This work is written in honour of our great
teacher and erudite scholar

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PREFACE

Alḥamdulillāhi Ladhī bi 'idhnihi tatimu 's ṣāliḥāt

All praise is due to Almighty Allah for making it possible for us to write this book.

This work *Al'Izziyyah for the English Audience* is part of a design to make some of the Arabic books written by traditional authors on Islamic Jurisprudence available to numerous Muslims who desire to know more about Islam especially *Fiqh* but are handicapped due to the fact that the books are written in Arabic which they do not understand. The situation should not be allowed to remain unchanged.

Attempts have been made earlier by Dr. Y. A. Quadri in this direction by writing both *Islamic Acts of Worship According to Al'Ashmāwī* and *Al'Akhḍarī's compendium on Islamic Acts of Worship*. Another scholar in person of Alhaji Bello Muḥammad Daura had translated *Ar-Risālah* into English language while Mallam I.O.Oloyede is currently working on *Mukhtasar Khalīl*.

With these books available in English language, it is hoped that many people will find a tremendous fulfilment of their desire to quench their thirst for Islamic Jurisprudence — *Fiqh*.

We must not fail to acknowledge the inspiration given to us by Professor I.A.B. Balogun, former Head, Department of Religions, University of Ilorin to whom this work is dedicated. Also, we express our appreciation to our colleague Dr. Z. I. Osehi for his usual useful advice and invaluable suggestions.

Y. A. Quadri
I. O. Oloyede

AL-‘IZZIYYAH

1. The first step is to identify the problem. In this case, the problem is that the system is not working properly.

INTRODUCTION

In the Name of Allah the Beneficent the Merciful

Praise is due to Allah the Lord of the worlds. I bear witness that there is no God but Allah alone. He has no Associate. I also bear witness that Muhammad is His servant and messenger. Blessing and peace of Allah be upon him, the generality of prophets and messengers; the household of each of them and on all those who follow them in righteousness till the Day of Resurrection.

The devotee (of Allah) who is in need of the benevolence of Allah, the most Exalted, Abū 'L-Ḥasan 'Alī, Al-Mālikī, 'Ash-shādhilī, May Allah forgive him, his parents, his teachers, his brothers and the entirety of the people who tread on the prophet Muhammad's path until eternity, says: This is a presentation of issues of worship and other matters, according to the school of Imām Mālik b. Anas — May Allah the Most Exalted have mercy on him. It is hoped that the youths and their ilks will benefit from it. God willing, I have extracted it from my book entitled 'Umdat al-Salīk 'ala madhhabī 'l — 'Imām Mālik fī 'l — 'Ibādāt wa ghayri dhālika. I name it (this book) al-Muqaddimat 'l — 'izzīyat lil-jama' at 'l — 'azhariyyah. It consists of eleven chapters.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ. وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ ﷺ وَعَلَىٰ آلِهِ
الْأَنْبِيَاءِ وَالْمُرْسَلِينَ، وَآلِ كُلِّ النَّبِيِّينَ لَهُمْ بِأَحْسَنِ الْأَحْكامِ
الَّذِينَ.

﴿أَمَّا بَعْدُ﴾ :

فَقُولُ الْعَبْدُ الْفَقِيرُ إِلَى اللَّهِ تَعَالَى أَبُو الْحَسَنِ عَلِيُّ الْمَالِكِيِّ
الشَّاذِلِيُّ غَفَرَ اللَّهُ لَهُ وَلِوَالِدَيْهِ وَمَشَائِخِهِ وَإِخْوَانِهِ وَسَائِرِ أَهْلِ الْبَيْتِ
الْمُحَمَّدِيِّينَ : هَذِهِ مُقَدِّمَةٌ فِي مَسَائِلٍ مِنَ الْعِبَادَاتِ وَغَيْرِ ذَلِكَ عَلَى
مَذْهَبِ الْإِمَامِ مَالِكِ بْنِ أَنَسٍ رَحِمَهُ اللَّهُ تَعَالَى
لِيَنْفَعَ بِهَا الْوُلَدَاءُ وَنَحْوُهُمْ إِنْ شَاءَ اللَّهُ تَعَالَى لِكُفَيْتِهَا مِنْ
كِتَابِي الْمُسَمَّى بِمُقَدِّمَةِ السَّالِكِ عَلَى مَذْهَبِ الْإِمَامِ مَالِكِ بْنِ
الْعِبَادَاتِ وَغَيْرِ ذَلِكَ، وَسَمَّيْتُهَا ﴿بِالْمُقَدِّمَةِ﴾ لِأَنَّهَا مُقَدِّمَةٌ
الْأَزْمَرِيَّةُ عَلَى أَحَدِ عَشَرَ بَابًا

CHAPTER ONE

PURIFICATION

Allah the Most Exalted said: "And We have sent down purewater from the sky" (Qur'an 25:48). Pure water is that which is in itself clean and can also cleanse other things; such as river-water, well-water, and rain-water², provided none of its three qualities — colour, taste and odour — has been changed by what is normally extraneous to it, such as milk, honey, urine or excreta. If any of its qualities is changed by anything including those mentioned, it is not valid for ablution, ritual bath, or cleansing from filth (i.e. after visiting the toilet).

Water which is changed by a clean material remains clean but not pure; it can be used for general purposes but it is not to be used for religious acts. Pure water that is polluted by filth is filthy; it is neither used for general purposes nor for religious acts. If water is changed by its habitat; such as sand, salt or lime; or by what procreates in the water such as watermoss; or that which had stayed in the water for a long period, then such is not harmful; it is for both general and religious uses. When filth falls into a small quantity of water — such as the water in a container meant for ablution or for ritual bath — but the filth does not effect any change in the water, then cleansing or purification with the water is proper but using it is objectionable if another pure water can be found.

Water which had been used for ablution or ritual bath is pure, but it is objectionable to use it for purification, if another pure water is available. Concerning its uses for other things such as using it for cooling one self in bath³, and *Jumu'ah* — bath,⁴ there are two views. One objects to it while the other does not.

الباب الأول في الطهارة

قَالَ اللَّهُ تَعَالَى : وَأَنْزَلْنَا مِنَ السَّمَاءِ مَاءً طَهُورًا الْمَاءُ الطَّاهِرُ الْمَاءُ الَّذِي فِيهِ لَمْ يَتَغَيَّرْ شَيْءٌ مِنْ أَوْصَافِهِ الثَّلَاثَةِ : وَالْوُضُوءُ بِالْمَاءِ الطَّاهِرِ يَنْفَعُ عَنْهُ غَالِيًا كَاللَّبَنِ وَالْمَسْلُ وَالْيَوْلُ وَالْمَذْرُوءُ فَإِنْ تَغَيَّرَ شَيْءٌ مِنْ أَوْصَافِهِ الثَّلَاثَةِ بِمَا ذَكَرْنَا وَخَوَافُهَا فَلَا يَصْلُحُ الْوُضُوءُ مِنْهُ وَلَا الْمَسْلُ وَلَا الْإِسْتِنْجَاءُ ، وَالتَّغْيِيرُ بِالطَّاهِرِ طَاهِرٌ غَيْرُ طَهُورٍ يُسْتَعْمَلُ فِيهِ الْعَادَاتُ وَلَا يُسْتَعْمَلُ فِي الْيَبَادَاتِ ، وَالتَّغْيِيرُ بِالنَّجِسِ نَجِسٌ لَا يُسْتَعْمَلُ فِي شَيْءٍ مِنَ الْعَادَاتِ ، وَلَا فِي شَيْءٍ مِنَ الْيَبَادَاتِ ، وَإِذَا تَغَيَّرَ بِنَاءٍ مِنْ قَرَارِهِ كَالْتَرَابِ وَالْمِلْحِ وَالتُّورْقِ إِذَا بَيَّنَّا تَوَلَّدَ مِنْهُ كَالطُّخْبِ أَوْ بِطُولِ الْمَكْتِ فَإِنَّهُ لَا يَصْرُ وَيُسْتَعْمَلُ فِي الْيَبَادَاتِ وَالْعَادَاتِ ، وَإِذَا وَقَعَ فِي الْمَاءِ الْقَلِيلُ كَأَنَّهُ الْوُضُوءُ لِلْمَتَوَضِّعِ فَإِنَّهُ يَنْفَعُ بِالْمُسْتَعْمَلِ نَجَاسَةً وَلَمْ تَعْمُرْ فَإِنَّهُ يَصِحُّ التَّطَهُّرُ بِهِ ، لَكِنْ يَكْرَهُ إِذَا وَجَلَ فِيهِ وَالْمَاءُ الْمُسْتَعْمَلُ فِي الْوُضُوءِ وَالْمَسْلُ طَهُورٌ يَكْرَهُ التَّطَهُّرُ بِهِ بِمَجْرُوعٍ وَجُودِ غَيْرِهِ ، وَفِي الْمُسْتَعْمَلِ فِي غَيْرِهِ كَالْمُسْتَعْمَلِ فِي الشَّرْبِ وَغَسْلِ الْجُمُعَةِ قَوْلَانِ بِالْكَرَاهَةِ وَعَدَمِهَا .

THE PURE BODIES

Every living being either human or others, is clean. Also clean is its sweat, saliva, mucus, tears and egg which is not addle. That is the egg which has changed and become rotten. The milk of a living human being is clean. Likewise is the milk of the living animal lawful for consumption such as cow, sheep and camel. So also are urine and excreta of an animal whose flesh is lawful provided the animal does not feed on filth. The (lawfulness or unlawfulness of) milk of others will be decided in accordance with the status of the flesh of the animal. So whatever animal whose meat is an unlawful food, its milk will be filthy, such include horses, mule or ass. Whatever the consumption of its flesh is objectionable such as beasts of prey, its milk is also objectionable. The dead body of that without any flowing-blood, such as flies, ants and worms; is clean.

THE IMPURE BODIES

The corpse of any human being other than that of a prophet is filthy. Also filthy is the carcass of whatever has flowing — blood such as that of louse, according to popular view, and such as fleas, according to the view of Ibn al-Qassar. Also filthy is what is extracted from a living or dead⁵ animal among those things which are sustained by life — such as horn, bone, nails and skin. Also impure are the milk of a dead body, and milk of an animal whose flesh is forbidden such as a pig and a she-ass. The urine and excrement of *Jalalah* are impure. *Jalalah* is every animal that feeds on filth. Also impure are the urine and excreta of a human being other than the excrements of prophets; the urine and excreta of an animal whose flesh is forbidden or that whose consumption is objectionable; such as lion

﴿فَضْلُ﴾ الطَّهَارَةِ

كُلُّ حَيٍّ فَهُوَ طَاهِرٌ آدَمِيًّا أَوْ غَيْرَهُ ، وَكَذَلِكَ عَرَقُهُ وَلَعَابُهُ وَمَخَاطُهُ وَدَمْعُهُ وَبَيْضُهُ غَيْرَ الْمَذَرِ بِالدَّالِ الْمُفْجَعَةِ وَهُوَ الْمُتَغَيَّرُ الْمُنْتِنُ ، وَلَكِنَّ الْآدَمِيَّ فِي حَالِ حَيَاتِهِ طَاهِرٌ ، وَلَكِنْ مَتَابَعِ الْأَكْلِ طَاهِرٌ كَالْبَقَرِ وَالْغَنَمِ وَالْإِبِلِ ، وَكَذَلِكَ الْبَوْلُ وَرُجِيْعُهُ مَا لَمْ يَتَغَيَّرْ يَنْجَسُ ، وَلَكِنْ غَيْرُهَا تَابِعٌ لِلْحَيْثُ فَمَا حَرَّمَ أَكْلُ الْخَيْلِ فَلَبَّ تَجَسُّنُ كَالْخَيْلِ وَالْبَعَالِ وَالْحَمِيرِ ، وَمَا كَرِهَ أَكْلُ لَحْمِ كَالسَّحَابِ فَلَبَّ مَكْرُوهٌ وَمَيْتَةٌ مَا لَا نَفْسَ لَهَا مِثْلُهَا كَالذَّبَابِ وَالنَّحْلِ وَالِدُودِ طَاهِرَةٌ

THE PURE BODIES

﴿فَضْلُ﴾ نَجَسَةِ

مَيْتَةُ الْآدَمِيِّ غَيْرِ الْأَنْبِيَاءِ نَجِسَةٌ ، وَكَذَلِكَ مَيْتَةُ الْبَهِيمَةِ كَالْغَنَمِ وَالْإِبِلِ وَالْخَيْلِ وَالْبَعَالِ وَالْحَمِيرِ ، وَكَذَلِكَ عَرَقُهُ وَلَعَابُهُ وَمَخَاطُهُ وَدَمْعُهُ وَبَيْضُهُ غَيْرَ الْمَذَرِ بِالدَّالِ الْمُفْجَعَةِ وَهُوَ الْمُتَغَيَّرُ الْمُنْتِنُ ، وَلَكِنَّ الْآدَمِيَّ فِي حَالِ حَيَاتِهِ طَاهِرٌ ، وَلَكِنْ مَتَابَعِ الْأَكْلِ طَاهِرٌ كَالْبَقَرِ وَالْغَنَمِ وَالْإِبِلِ ، وَكَذَلِكَ الْبَوْلُ وَرُجِيْعُهُ مَا لَمْ يَتَغَيَّرْ يَنْجَسُ ، وَلَكِنْ غَيْرُهَا تَابِعٌ لِلْحَيْثُ فَمَا حَرَّمَ أَكْلُ الْخَيْلِ فَلَبَّ تَجَسُّنُ كَالْخَيْلِ وَالْبَعَالِ وَالْحَمِيرِ ، وَمَا كَرِهَ أَكْلُ لَحْمِ كَالسَّحَابِ فَلَبَّ مَكْرُوهٌ وَمَيْتَةٌ مَا لَا نَفْسَ لَهَا مِثْلُهَا كَالذَّبَابِ وَالنَّحْلِ وَالِدُودِ طَاهِرَةٌ

and wolf. Also filthy are bloody pus, white-pus, and flowing blood of a human being and other beings, vomit that has changed from the normal state of the food, and intoxicants such as liquor.

Also filthy are:

- (i) *Al-maniyyu* (sperm): It is a thick white liquid from a man and its coming out is by gushing. It smells like pollen or very similar to the smell of dough. When it is dry, the smell is similar to that of an egg. From a female it is a light and yellowish water.
 - (ii) *Al-Wadyu* (Semenal urine): It is a thick white liquid that comes out mostly after urine.
 - (iii) *Al-Madhiyyu* (Semenal fluid): It is a light liquid which comes out during sexual enjoyment, either with the erection i.e. rising of the penis during romance or recollection (of sexual romance or cohabitation) i.e. thinking about it.
- The ashes and smoke of a filthy thing are filthy.

REMOVAL OF FILTH

It is compulsory to remove filth from the garment, body and place of worship of a worshipper. These are what come in contact with parts of his body. It is compulsory provided he remembers (during or before the worship) and he is capable of its removal with pure water. If he removes it with something other than pure water and he thereafter offers his ritual prayer, the ritual prayer is invalid.

If filth falls on a worshipper while he is performing a ritual prayer, the prayer becomes invalid. The same (invalidity) applies if one remembers while on a ritual prayer, that either his garment, body, or place of worship contains filth.

When a place is filthy, and a worshipper places on it a clean and thick cover, the prayer on such a cover is gen-

والذئب ، والفئح والصديد والدَّم المسفوح من آدمي أو غيره ،
والقيء المتغير عن حالة الطعام ، والسُّكَّر كالبخَر ، والمني ، وهو
من الرجل ماء أبيض نخين يمتلئة أي غليظ يتدفق في خروج
رائحته كرائحة الطلع بالعين أو الحاء المهملتين ، وقريب من رائحة
العجين ، وإذا يسر كان كرائحة البيض ، ومن المراهي ماء أصفر
رقيق ، والفؤدى يذال مهبله ، وقوي الباء وهما الشَّديد
والتحفيف وهو ماء أبيض نخين يخرج غالباً عقب التَّوَلَّى والتَّوَلَّى
بكثر الذَّالِ الْمُتَّجِمَةِ ماء أبيض رقيق يخرج بعد اللذة بالأنماط
أي قيام الذكر عند الملاعبة أو التذكُّر بفتح التاء أي التفكير وربما
النَّجَسِ ودُخانُه نَجَسٌ .

﴿فصل﴾ إزالة النجاسة
تَجِبُ إِزَالَةُ النَّجَاسَةِ عَنْ ثَوْبِ الْمُصَلِّي وَبَدَنِهِ وَمَكَانِهِ ، وَهُوَ كَمَا
نَسَأَهُ أَغْضَاؤُهُ إِذَا كَانَ ذَاكِرًا لَهَا قَادِرًا عَلَى إِزَالَتِهَا بِالنَّارِ أَوْ الْمَاءِ الطَّيِّبِ
فَلَوْ أزالَهَا بِغَيْرِهِ وَصَلَّى لَمْ تَصِحَّ الصَّلَاةُ ، وَإِذَا سَقَطَ عَلَى الثَّوْبِ
وَهُوَ فِي الصَّلَاةِ نَجَاسَةٌ بَطَلَتْ صَلَاتُهُ وَكَذَا إِذَا ذَكَرَ الْمَوْتَ فِي الصَّلَاةِ
أَنْ يَتَوَبَّهَ أَوْ يَدْفَنَ أَوْ مَكَانِهِ نَجَاسَةٌ وَإِذَا كَانَ الْمَكَانُ النَجَسَ وَجَعَلَ

rally accepted for both the sick and healthy, according to Ibn Yunus⁶

PARDONABLE FILTH

Overlook is a little quantity of blood in all cases. Be it menstrual blood, post-natal blood or blood from a dead body. (It is overlooked) when the worshipper discovers it on his body, garment or place of worship either during ritual prayer or outside (before or after) it.

Also pardonable is a little bloody or white pus. Little is what is not up to a *dirham*. What is meant by a *dirham* is of mule's fore-arm. Also over-looked is the stain from the spot of a boil if it is not pressed; or stains of blood of fleas or rain-mud, even if it contains excreta. It is, however, not overlooked if the filth is more than the mud or if the filth is distinct from the mud.

OBLIGATORY ASPECTS OF ABLUTION

The obligatory aspects of ablution are seven:

- (i) *Intention*: It is the intention within the mind. One offers the intention in one's mind while washing the face. The intention can be (a) "For making obligatory ablution" (b) "removal of (minor) filth" or (c) "For making lawful what has been made unlawful by the discharge of impurity."
- (ii) *Washing the whole face*: Its length is from the beginning of where hair normally grows up to the end of the chin, while its breadth is whatever falls between the two ears. He specially washes the linings on his fore-head i.e. the wrinkles on the fore-head. So also are the tips of the lips and the tip between the two nostrils. It is compulsory to wipe a light beard and wash a long thick beard.

عَلَيْهِ سَائِرًا طَاهِرًا كَيْفًا بِمُتْلَقٍ أَيْ نَحِيْفًا جَارَتْ الصَّلَاةُ عَلَيْهِ مُتْلَقًا ، أَغْنَى لِلْمَرِيضِ وَالصَّحِيحِ عَلَى مَا رَجَّحَهُ ابْنُ يُونُسَ .
﴿فَضْلٌ﴾

يُعْفَى عَنْ بَسِيرِ الدَّمِّ مُتْلَقًا أَغْنَى سَائِرًا كَانَ فِي جِهَةِ الدَّمِّ أَوْ مَيِّتَةً رَأَتْ فِي الصَّلَاةِ أَوْ خَارِجَهَا مِنْ جَسَدِهِ أَوْ خَرَجَ وَبَسِيرِ الْقَيْحِ وَالصَّدِيدِ ، وَالْيَسِيرُ مَا دُونَ الدَّرَمِ وَالدَّرَمُ الْبَرَزِيقُ الْبَطْنِيُّ أَيْ الدَّائِرَةُ الَّتِي تَكُونُ بِيَاطِنِ الْبَرَاغِ مِنَ الْبَطْنِ وَفِيهِ الرِّجْلُ إِذَا لَمْ يَنْكُ أَي لَمْ يُغْصَرْ ، وَعَنْ دَمِ الْبَرَاغِ وَطَبِخِ الْبَطْنِ ، وَإِنْ كَانَتْ الْعُدَّةُ فِيهِ إِلَّا أَنْ تَكُونَ النِّجَاحُ وَهِيَ الْإِصْبَعُ الْوَسْطَى قَائِمَةً .

﴿فَضْلٌ﴾ فَرَائِضُ الْوُضُوءِ
فَرَائِضُ الْوُضُوءِ سَبْعَةٌ : الْأَوَّلُ الشَّوْكَ وَالْقَلْبُ وَالْقَلْبُ يَقْلِبُهُ عِنْدَ غَسْلِ وَجْهِهِ فَرَضُ الْوُضُوءِ أَوْ رَفْعُ الْحَدَثِ أَوْ اسْتِئْثَانُهُ مَا كَانَ الْحَدَثُ مَا بَعْدَ الْثَانِيَةِ غَسْلُ جَمِيعِ الْوَجْهِ وَحَدُّهُ طَوْلًا مِنْ مَتَابِ شَعْرِ الرَّأْسِ الْمُتَعَادِ إِلَى آخِرِ اللَّاقِ وَغَرَضُهُ مَا تَوَلَّى الْأَذُنَ وَيَتَفَقَّدُ فِي غَسْلِهِ مَسَارِيرَ جَبْهَتِهِ وَهِيَ التَّكَائِيسُ الَّتِي تَكُونُ عَلَى الْجَبْهِ وَظَاهِرَ الشَّفَتَيْنِ وَمَا بَيْنَ الشَّخْرَيْنِ ، وَبِحَبِّ تَخْلِيلِ شَعْرِ اللَّحْيَةِ الْخَفِيفَةِ وَغَسْلُ مَا طَالَ مِنَ اللَّحْيَةِ الْكَثِيفَةِ .

(iii) Washing the hands up to, and including, the elbows. It is compulsory to rub in-between the fingers of the two hands.

(iv) Wiping of the whole head. Starting from the beginning of the fore-head up to the end of the skull.

Whoever performs ablution and thereafter cuts his nails or shaves his head, needs not rewash or rewipe the places. Opinions differ if one shaves one's beard after ablution. Some scholars opine that one should rewash its place, while others say he need not.

(v) The washing of the two feet up to and including the ankles. These are the two protruding bones at the edges of the shins. It is recommended that the toes be rubbed through.

(vi) Proper rubbing. It is passing the palms over the relevant part of the body with water. It is not a condition that the rubbing should be done simultaneously with the pouring of water on the part of the body.

(vii) *Continuity*: It is to perform the whole ablution quickly at one stretch without an extraneous interruption while one remembers that one is in ablution and one is capable of performing it at once.

SUNNAH ASPECTS OF ABLUTION

The *Sunnah*⁷ aspects of ablution are eight:

- (i) The washing of the two hands before dipping them into the container. The washing should be with the intention of worship. Each of the hands is separately washed thrice.
- (ii) Rinsing of the mouth. That is putting water into the mouth. Then it is stirred and then spit out.

الثالثة غسل اليدين مع

البرقعتين ويجب تخليل أصابعهما، الرابعة مسح جميع الرأس، وأوله من مبدأ الوجه، وآخره منتهى الجمجمة، ولا يشرط أن يمسح الظفر أو حلق رأسه فإنه لا يبعد غسل موضع الظفر إلا مسح الرأس، واختلف إذا حلق لحيته بعد الوضوء، فيقول يمسح غسل موضعها وقيل لا يبعد، الخامسة غسل الرجلين من الكعبين ومما العظمان الثتان في طرفي الساقين، ولا يشرط تخليل أصابعهما، السادسة ذلك وهو إمراؤ اليد على المضرب مع الماء ولا يشرط مقارنة للصب، السابعة الموالاة وهو أن يقول الوضوء كله في قور واحد من غير تفريق متفاحش مع الذكر والقدرة، وسنته ثمانية:

الأولى غسل اليدين قبل إدخالهما في الإناء، وثنوي غسلهما التبع، ويغسل كل واحد على حدة، فلا تارة الثانية المضمضة وهي إدخال الماء في الفم ثم يخفضه ويحلقه الثالثة

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(iii) *Sniffing*. That is, allowing water into the nostrils.

(iv) *Exhaling*. It is the blowing out of water from the nostril while one places the left thumb and index fingers on the nose. One who is not fasting should be thorough in his rinsing and sniffing. It is preferred that the rinsing should be with three (fresh) handfuls and then the sniffing with three separate handfuls of water.

(v) Wiping of the ears. Both their outer and inner surfaces. (This is done) by putting the index fingers into the earcavities while the thumbs are placed behind the ears.

(vi) Renewal of water for the wiping of the ears ⁸

(vii) The return of the hands from the occiput to the forehead when wiping the head.

(viii) Arranging the obligatory aspects of the ablution in sequence.

NOTE:

Whoever omits any obligatory part of ablution will re-do it and he shall repay the ritual prayer (which he might have performed on the basis of the incomplete ablution). Whoever omits a *Sunnah* aspect of ablution needs not repay the ritual prayer; he would re-do the *Sunnah* only for the subsequent ritual prayers.

VIRTUOUS ACTS OF ABLUTION

Virtuous acts of ablution are eleven:

- (i) Mentioning the name of Allah at the inception of the ablution by saying: "In the name of Allah". If it is forgotten at the beginning, and it is remembered during the performance of the ablution, one will say it then.

الْإِسْتِشْقُ وَهُوَ جَذْبُ الْمَاءِ بِنَفْسِهِ لِدَاخِلِ أَنْفِهِ الرَّابِعَةُ الْإِسْتِثْقَارُ
وَهُوَ دَفْعُ الْمَاءِ مِنَ الْأَنْفِ بِنَفْسِهِ مَعَ جَعْلِ السَّابِقَةِ وَالْإِبْهَامِ مِنَ الْيَمَنِ
الْيَسْرَى عَلَى أَنْفِهِ ، وَيُبَالِغُ غَيْرَ الصَّائِمِ فِي الْمَضْمَضَةِ وَالْإِسْتِشْقِ
وَالْأَفْضَلُ أَنْ يَتَمَضَضَ ثَلَاثَ عَرَفَاتٍ ثُمَّ يَسْتَنْشِقُ ثَلَاثَ عَرَفَاتٍ
الْخَامِسَةُ مَسْحُ الْأُذُنَيْنِ ظَاهِرٍ مِمَّا وَبَاطِنُهُمَا بِأَنْ يُدْخِلَ سَائِبَتَهُ فِي
صِمَاحِهِ وَيَجْعَلَ إِبْهَامَهُ عَلَى ظَاهِرِ مِمَّا السَّادِسَةُ تَجْلِيدُ الْمَاءِ
لِمَسْحِ الْأُذُنَيْنِ السَّابِقَةِ رَدُّ الْيَدَيْنِ فِي مَسْحِ الرَّأْسِ الثَّامِنَةُ تَرْجِيبُ
فَرَائِضِهِ .

﴿تَنْبِيْهُ﴾

مَنْ تَرَكَ فَرَضًا مِنْ فَرَائِضِ الْوُضُوءِ فَلَا يَنْتَهِى رِيَاءً بِهِ لَمْ يَبْغِدِ
الصَّلَاةَ ، وَمَنْ تَرَكَ سُنَّةً فَإِنَّهُ لَا يُبْعِدُ الصَّلَاةَ وَيَفْعَلُ تِلْكَ السَّنَةَ لَمَّا
يُسْتَقْبَلُ مِنَ الصَّلَوَاتِ

[وَفَضَائِلُهُ] إِحْدَى عَشْرَةَ . الْأُولَى : التَّنْبِيْهُ فِي
اِبْتِدَاءِ الْوُضُوءِ بِأَنْ يَقُولَ : بِسْمِ اللَّهِ إِذَا نَسِيَهَا فِي اِبْتِدَائِهِ ثُمَّ
تَذَكَّرَهَا فِي آخِرَتِهِ أَمَى بِهَا .

- (ii) Prayer at the completion of the ablution by saying while raising one's index finger towards the sky: "I bear witness that there is no God but Allah alone, He has no associate and I bear witness that Muhammad is His servant and Messenger. Oh God, make me one of the repentants and make me one of the pure ones".
- (iii) One should not talk during one's ablution.
- (vi) Minimizing the quantity of water to be used. This has no specific limit. It is like the case in ritual bath, but with due cognisance of the requirements of each of them.
- (v) Brushing the teeth with wet or dry stick, but the fresh one is preferred for a non-fasting person. If one does not find a stick, the fingers or any coarse object is used. The right hand is used for brushing. It is done before the ablution and the mouth is rinsed after the brushing. When there is a long period between an ablution and its use for the ritual prayer one brushes the teeth. If it is time for another ritual prayer while one is still with a valid ablution, one still brushes the teeth for the second ritual prayer.
- (vi) That one performs the ablution in a clean place.
- (vii) That the water container is placed on one's right-hand side if it is (wide) opened.
- (viii) That one washes the right parts before the left.
- (ix) That one starts (the wiping of the head) from the forehead.
- (x) Arranging the *Sunnah* aspects together such as rinsing of mouth and sniffing water into the nostrils.

الثَّانِيَةُ الدُّعَاءُ بَعْدَ الْفَرَاغِ مِنْهُ بِأَنْ يَقُولَ وَهُوَ رَافِعٌ إِصْبَهُ إِلَى السَّمَاءِ : أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ ، اللَّهُمَّ اجْعَلْنِي مِنَ التَّوَّابِينَ وَاجْعَلْنِي مِنَ الْمُتَطَهِّرِينَ .
الثَّالِثَةُ أَنْ لَا يَتَكَلَّمَ فِي الْوُضُوءِ الرَّابِعَةُ غَلَّةُ الْمَاءِ بِالْأَمْرِ حَدِّ كَالْفُضْلِ مَعَ إِحْكَامِهَا بِكَسْرِ الهمزة الناقصة والثاني انتقاء الماء العذبة السَّوَالُكُ بِعُودٍ رَطْبٍ أَوْ بَابِسٍ وَالْأَخْضَرُ أَفْضَلُ لِلْفَقِيرِ الْعَالِمِ فَإِنْ لَمْ يَجِدْ عُودًا فَبِأَضْبَعِهِ أَوْ بِشَيْءٍ خَشِينٍ وَبَسْتَاكَ

بِالْيَمْنِ وَيَكُونُ قَبْلَ الْوُضُوءِ وَيَتَمَضَّضُ بَعْدَهُ ، وَإِذَا بَعْدَ مَا بَيْنَ الْوُضُوءِ وَالصَّلَاةِ اسْتَاكَ ، وَإِنْ خَضِرَتْ صَلَاةٌ أُخْرَى رُفِعَ عَلَى طَهَارَةِ اسْتَاكَ لِلثَّانِيَةِ . السَّادِسَةُ أَنْ يَتَوَضَّأَ فِي مَكَانٍ طَاهِرٍ لِلثَّانِيَةِ أَنْ يَكُونَ الْإِنَاءُ عَنْ يَمِينِهِ إِنْ كَانَ مَقْرُونًا ، وَالثَّانِيَةُ أَنْ يَقْلَمَ خَيْلَ الْمَيَامِينِ عَلَى الْمَيَاسِرِ . الثَّامِنَةُ أَنْ يَبْدَأَ بِمَقْدَمِ الرَّابِعَةِ الثَّانِيَةِ إِنْ يَرْتَبِ الْمَسْنُونُ مَعَ الْمَسْنُونِ كَالْمَضْمُونِ ، وَالْإِسْتِغْنَاءُ بِالْعَفَافَةِ

- (xi) Washing the parts thrice with the exception of the head and the ears. It is not recommended that the wiping of each of the latter should be repeated.

NOTE:

Washing in excess of thrice is not in conformity with the law.⁹ There are two popular views on whether such excess is only reprehensible or forbidden. Excess is not recommended. Excess is to exceed the limit of what is compulsory to be washed such as the face and the hands up to, and including the elbows. Wiping the neck is not recommended. It is not bad to wipe the parts with handkerchief.

CLEANSING FROM DISCHARGED FILTH

*Istinjā'u*¹⁰ is compulsory. It is the washing with water of the outlet of discharged filth. Such cleansing is done in respect of everything that consciously comes out of the two outlets except (the blow of) wind.

Its description is as follows:

One shall begin with the washing of one's left hand before its contact with the filth; then the washing of the source of excreta. One pours water into the hand using it to wash the spot. One relaxes the body a bit. The rubbing is thoroughly done until the place is clean. Then one rubs the hand over sand or similar materials.¹¹

Istibrā'u is compulsory. It is to completely free the two outlets of filth that comes out through them. As for urine, it is done by a male putting his penis between his thumb and his index finger; the two fingers are tightly passed over the penis from its stalk up to the penis-cap, then it is shaken. This is done thrice. The rubbing off and the shake are gently done. The washing of the whole penis is compulsory once sperm is discharged. There are two views on the necessity or otherwise of giving intention for the cleansing.

عَشْرَةً أَنْ يُكَرَّرَ الْمَغْسُولُ ثَلَاثًا بِخِلَافِ الْمَسْحِ وَهُوَ الرَّأْسُ
وَالْأَذْنَانِ فَإِنَّهُ لَا يُسْتَحَبُّ تَكَرُّارُ مَسْحِهِ

﴿تَنْبِيْهُ﴾

الرِّبَاةُ عَلَى الثَّلَاثَةِ غَيْرَ مَشْرُوعَةٍ ، وَاخْتِلَافٌ هَلْ تُكَرَّرُ أَوْ تُسَمَّى
قَوْلَانِ مَشْهُورَانِ ، وَلَا يُسْتَحَبُّ إِطْلَالُ الْفَرْجِ بِهَيِّئِ الزَّيَادَةِ عَلَى مَا
وَجَبَ غَسْلُهُ مِنَ الرَّجْلِ وَالْيَدَيْنِ مَعَ الْبُرْثَقَيْنِ وَلَا مَسْحُ الرَّقَبَةِ وَلَا
بَأْسُ بِمَسْحِ الْأَغْضَاءِ بِالْمِنْدِيلِ

﴿فَضْلٌ﴾ الْإِسْتِنْجَاءُ

الْإِسْتِنْجَاءُ وَاجِبٌ ، وَهُوَ غَسْلُ مَوْضِعِ الْعَذَّةِ بِالمَاءِ ،
وَيُسْتَنْجَى مِنْ كُلِّ مَا يَخْرُجُ مِنَ الْمَخْرَجَيْنِ بِمُتَابَعَةِ الرِّيحِ
وَصِفَتُهُ أَنْ يَبْدَأَ بِغَسْلِ يَدَيْهِ الْيُسْرَى قَبْلَ مِلَاقَاتِهَا الْأُخْرَى ثُمَّ يَغْسِلُ
مَحَلَّ الْبَوْلِ ، ثُمَّ يَنْقِلُ إِلَى مَحَلِّ الْمَلِيطِ ، وَيَسْفِطُ الْمَاءَ عَلَى يَدَيْهِ
غَاسِلًا بِهَا الْمَحَلَّ وَيُسْتَرْخِي قَلِيلًا ، وَيَجِدُّ الْعَرْكَ حَتَّى يَنْقُيَ
الْمَحَلَّ ، ثُمَّ يَغْسِلُ يَدَهُ تَعَدُّ ذَلِكَ بِالرَّابِعِ وَنَحْوِهِ وَالْإِسْتِبرَاءُ وَاجِبٌ
وَهُوَ اسْتِفْرَاجُ مَا فِي الْمَخْرَجَيْنِ مِنَ الْأَذَى ، وَاجِبٌ مِنَ الْبَوْلِ أَنْ
يَجْعَلَ ذَكَرَهُ بَيْنَ أَصْبَعَيْ السَّبَابَةِ وَالْإِصْبَاعِ وَيَسْرُكُهُمَا مِنْ أَهْلِهِ إِلَى
بُسْرَتِهِ وَيَبْتَرُهُ بِفَعْلٍ ذَلِكَ ثَلَاثَ مَرَّاتٍ يَغْفِي عَنْ ذَلِكَ الْوَسْطَى وَالشَّرَّ ،
وَيَجِبُ غَسْلُ الذَّكَرِ كُلِّهِ لَخُرُوجِ الْمَذْيِ ، وَاجِبٌ مِنَ الْمَلِيطِ الْغَسْلُ
غَسْلُهُ قَوْلَانِ

TOILET ETIQUETTES

The etiquettes of easing oneself are fourteen:

- (i) Remembrance of Allah while one intends entrance into, and before one gets to the lavatory. One says: "In the name of Allah. Oh Allah, I seek refuge in you from filth and impurity."
After the exit from it one says:
"I seek Your forgiveness, all praise is due to Allah who has taken filth off from me and has overlooked my sins." It is not proper for one to enter the lavatory with anything that contains the name of the Almighty Allah, such as a ring and a coin. It is also not proper to cleanse with any material containing the name of the Almighty Allah.
- (ii) To enter first with his left leg and come out first with his right leg.
- (iii) To stoop¹² while discharging the filth.
- (iv) To continue to cover one's nudity until one gets very close to the ground.
- (v) To rest on the left leg.
- (vi) To put a jar one's thighs.
- (vii) To avoid a very hard surface.
- (viii) To avoid stagnant water.
- (ix) To cover one's head
- (x) Not to talk,¹³ except for necessity such as fear of losing life or property.
- (xi) To avoid the direction of the wind, a burrow¹⁴ and the three places where one can be cursed. These are the sitting spot of the people and their paths.¹⁵
- (xii) To veil oneself from the sight of people.
- (xiii) To go far from where one can hear the talk of others if it is in an open space or bush.
- (xiv) Not to face or turn directly one's back towards the *Qiblah*,¹⁶ if it is in a jungle and there is no barrier but if there is a veil there are two opposing views on its prohibition. The preferred view is prohibition.¹⁷
Concerning its taking place in a house, it is allowed whether

فصل في آداب قضاء الحاجة
آداب قضاء الحاجة أربعة عشر
الأول ذكر الله عند
 إرادة الدخول قبل الوصول إلى موضع الأذى فيقول: بسم الله
 اللهم إني أعوذ بك من القسوة والخبثات ويقول بعد الخروج
 منه: غفر الله لي ولجميع المسلمين الأذى وكما في قوله
 يجوز دخول الخلافة لمن لم يذكر الله تعالى كالخاتم أو الدزهم
 ولا يجوز الاستنجاء بشيء من ذلك ولا ذكر الله تعالى، الثالث أن يقدم
 رجله اليسرى في الدخول واليسرى في الخروج
 الثالث أن يغطي بوجاهته وعن يمينه اليسرى
 حتى يذنو من الأرض واليمين على رجله اليسرى
 السادس إلى الرابع عشر فإن لم يجد ماءً غسل يديه
 المتوضع الصلب والماء الدائم في ذلك الموضع أو في غيره
 لهم كخوف قوت نفس أو مال أو أن ينفي عن الرجل في السفر
 واللا من الثلاث وهي المواضع الجلوس والناسي وهو ما
 وأن يستتر من أعين الناس وأن يبعد عن الناس
 مسامعهم إذا كان في القضاء وأن لا يستقبل القبلة إلا مستحشراً إذا
 كان في القضاء ولم يكن فيه سائر فإن كان فيه سائر ففيه
 قولان: المختار منهما المنع، وأما فعله في القبلة فيسرى مطلقاً

or not there is a barrier and irrespective of whether or not it is difficult (to turn away from the *Qiblah*).

VITIATIONS OF ABLUTION

Acts that vitiate ablution are four:

- (i) Apostasy. It is denunciation of Islam by a Muslim.
- (ii) Doubt as to the subsistence of valid purity or on the existence of discharge of filth; or as to which of the two precedes the other (i.e. purification and discharge of impurity), provided the person is not habitually in doubt (in such matters).
- (iii) Discharge of filth: It is what comes out from the two outlets in a good state of health and consciously.
- (iv) The causes, and these are three:
 - (a) Touching of one, from whose touching one normally derives sexual pleasure, such as one's wife¹⁸ — or maid.¹⁹ If one intended, with the touching, to derive sexual pleasure whether or not one derived it. So also if one derived sexual pleasure without intending it. The exception is mouth-kissing which vitiates ablution in all cases. The issue of sexual pleasure does not matter in the case of mouth-kissing.

Our statement that "touching of one from whose touching one normally derives sexual pleasure" is to exempt those from whose touching one does not normally derive any sexual pleasure, and in which case, does not vitiate it. Such as touching of a minor female that does not generate attraction; or touching a close relation who is within the prohibited degrees, such as mother, daughter or sister.²⁰

- (b) Touching one's penis with bare inner part or sides of the palm, or with either inside or side of fingers without any barrier. It is same whether it is done

أَغْنِي سَوَاءَ كَانَ مَتْنُكَ سَائِرَ أَمْ لَا كَانَ مَتْنُكَ مَشَقَّةً أَمْ لَا لَا يَجُوزُ
 نَوَاقِصُ الرُّضُوءِ أَرْبَعَةٌ مِنَ الْأَوَّلِ الرِّفْقُ فِي رِيءِ الْمُسْلِمِ
 الثَّانِي الشَّكُّ فِي وَجُودِ الطَّهَارَةِ أَوْ فِي الْحَدِيثِ أَوْ فِي السَّابِقِ لِلشَّكِّ
 مَا لَمْ يَسْتَكْبِهُ الشَّكُّ. الثَّلَاثُ الْحَدِيثُ وَفَوْقَهُ مَا خَرَجَ مِنْ أَحَدٍ
 السَّيْلَيْنِ عَلَى وَجْهِ الصَّحَّةِ وَالِإِخْتِادِ الرَّائِعِ الْأَسْبَابُ أَوْ هِيَ ثَلَاثَةٌ
 الْأَوَّلُ لَمَسُ مَنْ تَوَجَّدَ لِلذَّلَّةِ بِلَمْسِهِ فَمِنْ الْعَادَةِ كَالزَّوْجَةِ وَالْأُمِّ
 فَصَدَّ الذَّلَّةَ وَجَاحَتَا أَوْ لَا أَوْ وَجَدَهَا مِنْ غَيْرِ فَصَدَّ إِلَّا الْقَبْلَةَ فِي الْقَمَرِ
 فَإِنَّهَا تَنْقُضُ مُطْلَقًا فَلَا تَرَاهِي فِيهَا الذَّلَّةَ، وَقَوْلُنَا لَمَسُ مَنْ تَوَجَّدَ
 الذَّلَّةَ بِلَمْسِهِ عَادَةً اخْتِرَازًا مِنْ لَا تَوَجَّدَ الذَّلَّةَ بِلَمْسِهِ عَادَةً فَإِنَّهَا لَا
 تَنْقُضُ كَالصَّغِيرَةِ الَّتِي لَا تُشْتَهَى، وَالْمَحْرَمَةِ كَالْأُمِّ وَالْأَبْتِ
 وَالْأَخْتِ. الثَّانِي مَسُّ ذَكَرٍ نَفْسِهِ الْمُتَمِّلِ بِبَاطِنِ يَدِهِ أَوْ كَفِّهِ أَوْ
 بِبَاطِنِ الْأَصْبَعِ أَوْ بِجَنِّهَا مِنْ غَيْرِ حَائِلٍ حَتَّى أَوْ شَيْئًا تَلْبَسُ أَمْ
 لَامَسَهُ مِنَ الْكُمَرَةِ أَوْ غَيْرِهَا وَلَا يَنْقُضُ بِلَمْسِهِ مِنْ تَوَقُّفٍ بِحَائِلٍ وَكَوْنِ

intentionally or unconsciously; whether or not one derives sexual pleasure from it, and whether it is the gland of the penis or any part of it that is touched. Touching through a veil, no matter how thin does not vitiate ablution. Ablution is not vitiated by laughter during a ritual prayer.

According to the Maliki school of law, ablution is not vitiated by a woman's touch of her private part. It is however the opinion of some scholars that it vitiates it in all circumstances, while others say that it only vitiates ablution if she holds it or if the finger sinks into the private part, i.e. if she puts her hand in between the lips of the private part. Touching the outer surface of the private part does not vitiate ablution, just as touching the buttocks or the testicles. It is not vitiated with the erection of the penis which is not accompanied with sexual pleasure, or with sexual pleasure which is as a result of looking provided sperm is not discharged. So also is sexual thought accompanied with sexual pleasure in the heart, without the erection of the penis.

Two Sub-issues

One: Serious stomach-rumbling necessiates new ablution.

Two: It is said in the book — *Al-mudawwanah*²¹:-

If one worships while one is suppressing the discharge of filth one would ever repay the worship. Other scholars opine that if the suppression prevents one from completing obligatory acts one must repay it; if it prevents one from completing the *Sunnah* acts one would repay the ritual prayer if within the specified period only; and if it prevents one from the completion of optional acts, one need not repay.

- (c) **Loss of reason**, through fainting, madness or drunkenness. **Drunkenness** is same whether it is by unlawful or lawful means. It may also be from sleep if it is deep **irrespective of whether it is long or short**. The contrast is

كَانَ خَفِيفًا وَلَا بِالْقَهْمَةِ فِي الصَّلَاةِ ، وَلَا بِمَسِّ امْرَأَةٍ فَرْجَهَا عَلَى
الْمَذْعَبِ ، وَقِيلَ يَنْقُضُ مُطْلَقًا ، وَقِيلَ يَنْقُضُ إِنْ قُبِضَ عَلَيْهِ أَوْ
الطَّلَقُ أَيِ أَذْخَلَتْ يَدَهَا بَيْنَ شَفْرَيْهَا ، وَلَا يَنْقُضُ إِنْ مَسَّتْ
ظَاهِرَهُ وَلَا بِمَسِّ الدُّبُرِ وَلَا الْأَنْثَيْنِ وَلَا بِالْإِنْعَاطِ مِنْ غَيْرِ اللَّذَّةِ وَلَا
بِاللَّذَّةِ بِالنَّظَرِ مِنْ غَيْرِ مَذَى وَلَا بِالتَّفَكُّرِ مَعَ اللَّذَّةِ فِي قَلْبِهِ مِنْ غَيْرِ
إِنْعَاطٍ

[فَرَعَانِ : الْأَوَّلُ] الْفَرْقَةُ الشَّدِيدَةُ يُوجِبُ الرَّجْعَ الْوَلَدِيَّ
قَالَ فِي الْكِتَابِ إِنْ صَلَّى وَهُوَ يَدْفَعُ الْحَدَثَ أَعَادَ أَتَانَهُ وَقَالَ
الْأَشْبَاخُ إِنْ مَنَعَهُ ذَلِكَ مِنْ تَمَامِ الْفَرَاغِ أَعَادَ أَتَانَهُ
تَمَامَ السَّنَنِ أَعَادَ فِي الْوَقْتِ وَإِنْ مَنَعَهُ مِنْ تَمَامِ الْعَلَّةِ
فَلَا إِعَادَةَ عَلَيْهِ الثَّالِثُ زَوَالُ الْعَقْلِ بِالْإِسْمَارِ أَوْ
السُّكْرِ كَانَ السُّكْرُ حَرَامًا أَوْ حَلَالًا أَوْ يَنُومُ إِنْ نَقَلَ وَطَأَ أَوْ قَرَأَ

Prayer, circumambulation (of the Ka'bah), prostration when reading the Qur'ān, prostration of rectification, touching the Qur'ān with a bare hand or with a stick, and carrying it with its chart or with strap are prohibited for one with impurity.

It is permissible for a teacher and learners who are without ablution to touch the slate.²² So also is touching of a portion of the Qur'ān by a learner, even if the learner is mature. It is objectionable for minors to touch a complete Qur'ān without ablution.

Incidents which necessitate a ritual bath are four. Emission of the flowing of menstrual blood; post-natal blood; death; and sexual impurity. The latter is of two kinds. Discharge of sperm which is accompanied with sexual pleasure which is normally experienced by man and woman either asleep or awake. Awake is the opposite of sleeping. Ritual bath is also necessary for the discharge of sperm which is not accompanied by sexual pleasure. Such a person cohabits and derives pleasure from it but sperm is not discharged, then sperm comes out thereafter, but before one performs a ritual bath. The second is the enclosure of the cap of the penis of a mature male — i.e. the foreskin of the penis — or in the case of a penis that has been circumcised, dipping of the size of a penis-cap into the private part of a human being or animal, whether or not the being is female or male; living or dead even if sperm is not discharged.

[illegible]

except one or few verses for the purpose of seeking refuge with Allah, seeking protection and maintaining justice. It also prevents entry into the mosque or staying in it.

A ritual bath for the removal of sexual impurity is made up of compulsory, *Sunnah* and virtuous acts.

The compulsory acts are five:

- (i) Intention of removal of great impurity,
- (ii) Passing water over the surface of all parts of the body
- (iii) Proper rubbing.
- (iv) Making water penetrate the hair.
- (v) Doing it at a stretch; without any break.

The *Sunnah* acts are four:

- (i) Starting with the washing of the two hands before dipping them into the vessel,
- (ii) Wiping the cavity of the ears,
- (iii) Rinsing of the mouth,
- (iv) Sniffing water into the nostrils.

The virtuous acts are seven:

- (i) Mentioning Allah's name.
- (ii) Starting by removing filth from the body.
- (iii) Complete ablution — each part washed or wiped once with the intention of the removal of sexual impurity from each of the parts.
- (iv) Pouring water on the head thrice.
- (v) Pouring water on the right half of the body before the left half.
- (vi) Starting from the upper parts before the lower parts.
- (vii) Minimising water within the limit of the requirement of bath i.e. doing it properly.

EMERGENCY PURIFICATION

Emergency purification is sand purification which is made up of wiping the face and the two hands (including arms).

Its principal necessity is non-availability of water or what can be so regarded such as if the available water is not sufficient or the availability of water on which one

وَجَعَلَ التَّوَهُُّدَ وَالرُّمَى وَالْأَسْجِدَ لَا يَدْخُلُونَ الْمَسْجِدَ وَالْمَسْجِدَ وَالْمَسْجِدَ

وَالْفُسْلُ مِنَ الْجَنَابَةِ وَتَشْتَدُّ عَلَى مَنْ فِيهِ مِنْ أَهْلِ الْبَيْتِ وَتَضَاهِي مِنْ عِلْمِهَا

فَرَأَيْتُمْ هَؤُلَاءِ الَّذِينَ أُوتُوا الْكِتَابَ يَكْفُرُونَ بِمَا فِي الْكِتَابِ الَّذِي كَانُوا يَعْلَمُونَ

بِالنَّارِ وَالَّذِينَ كَانُوا يُشْرِكُونَ بِاللَّهِ قَدْ كَفَرُوا رَبَّهُمْ أُولَئِكَ هُمُ الْكَافِرُونَ

بِغُسْلِ الْيَدَيْنِ الْأُولَى وَالْأُخْرَى وَالْأُخْرَى وَالْأُخْرَى وَالْأُخْرَى وَالْأُخْرَى

وَالْمَصْبُوحَةُ أَوْ الْأَسْتِغْثَارُ أَوْ الْأَسْتِغْثَارُ أَوْ الْأَسْتِغْثَارُ أَوْ الْأَسْتِغْثَارُ

مَا عَلَى بَيْتِهِ مِنَ الْأَذَى ثُمَّ الْغُسْلُ الْكُلِّيُّ ثُمَّ الْغُسْلُ الْكُلِّيُّ ثُمَّ الْغُسْلُ الْكُلِّيُّ

الْجَنَابَةِ عَنْ ذَلِكَ الْأَعْيُنُ وَالْأَعْيُنُ وَالْأَعْيُنُ وَالْأَعْيُنُ وَالْأَعْيُنُ

إِضَافَةُ الْمَاءِ عَلَى شِقْقِ الْأَمْرِ وَالْأَمْرِ وَالْأَمْرِ وَالْأَمْرِ وَالْأَمْرِ

الْأَسْفَلِ وَتَقْلِيلُ الْمَاءِ مِنْهُ وَتَقْلِيلُ الْمَاءِ مِنْهُ وَتَقْلِيلُ الْمَاءِ مِنْهُ

إِنْقَائِهِ وَتَقْلِيلُ الْمَاءِ مِنْهُ وَتَقْلِيلُ الْمَاءِ مِنْهُ وَتَقْلِيلُ الْمَاءِ مِنْهُ

وَقَوْلُهُ «تَيْمُمٌ» وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ

وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ وَتَيْمُمٌ

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afraid that its use can cause loss of life, loss of a valuable thing, deterioration in sickness, delay in healing or causing sickness.

It is recommended that once it is necessitated by sickness or journeying, an emergency purification should be performed by one in the state of minor and major impurity at every ritual prayer. A healthy resident (not a traveler) can use it for funeral prayer, only if he had been specially chosen to perform the prayer and for other obligatory worship except *Jumu'ah* prayer if one is afraid that the time for the prayer will expire if water were to be used. Worship (based on such emergency purification) shall not be repaid. The exceptions (in which *Tayammum* may not be used) are funeral worship in which the person is not specifically chosen; ²³ *Jumu'ah* worship even if one is afraid of expiration of the specified time, all supererogatory ritual prayers both those based on *Sunnah* and the virtuous ones.

Emergency purification is voided by the things that vitiate ablution and the availability of water before the commencement of the ritual prayer, except when one fears the expiration of the time by the use of the water. If one finds water, while one is already within a ritual prayer, the prayer is not vitiated by the availability of water.

Emergency purification is done with pure earth. This can be sand, stone, pebbles and all other components of the earth provided they are still with their natural qualities i.e. that human activity has not changed them through such as burning, etc. Sand is preferred to other materials. Emergency purification cannot be performed on precious mineral such as gold and silver. It cannot be performed on wool, carpet or mat even if dust is on them.

A sick person who does not find someone to bring sand to him is allowed to perform emergency purification on wall made of raw brick or stones except those made from quick-lime. Whoever performs emergency purification unknowingly on a filthy place, the ritual prayer (based on the purification) can only be repaid if he recovers

أَوْ زِيَادَةَ مَرَضٍ أَوْ تَأَخُّراً بَرَهُ أَوْ جَدُّهُ مَرَضٌ عَظِيمٌ أَوْ رِيَاحٌ تَهْبِطُ
مِنَ الْحَدَثِ الْأَصْغَرِ وَالْأَكْبَرِ إِذَا دُرِجَتْ فِيهِ التُّرَابُ مِنَ الْمَسَافِرِ
لِكُلِّ صَلَاةٍ وَالْمُصَلِّعِ الْخَاضِعِ بِالصَّلَاةِ الْحَاضِرِ إِذَا رَجَعَتْ
وَلَفَرَضٍ غَيْرِ الْجُمُعَةِ وَبِشَرْطِ أَنْ لَا يَخْشَى عَظِيمُ الْمَرَضِ أَوْ
بِاسْتِعْمَالِ الْمَاءِ وَلَا يَمُوتُ بِخِلَافَةِ الْحَاضِرِ بِأَدَاءِ الْقَوْمِ وَفَرَضِ
الْجُمُعَةِ وَلَوْ خَشِيَ فَوَاتَهُ أَوْ مَاتَ الْوَفْدُ أَوْ كُنْتُهَا وَكُنْتُهَا وَكُنْتُهَا
الْتِمَامُ بِمَا يَبْطُلُ بِهِ الْوُضُوءُ وَبِوُجُودِ الْخَاضِعِ بِالصَّلَاةِ وَالْإِيمَانِ بِخُشْيِ
قَوَاتِ الْوَقْتِ بِاسْتِعْمَالِهِ وَإِذَا رَأَى الْمَاءَ وَمَرَّ فِي الصَّلَاةِ لَمْ يَبْطُلْ
صَلَاتُهُ وَبَيَّيْنُ بِالْمُعِيدِ الطَّيِّبِ مِنَ التُّرَابِ وَالْحَجَرِ وَالْعَرِيقِ وَجَمِيعِ
أَجْزَاءِ الْأَرْضِ مَا دَامَتْ عَلَى مَقَامِهِ لَمْ يَفْرُغْ مِنْهُ إِلَّا بِمَنْعِ
وَنَحْوِهِ، وَالتُّرَابُ أَفْضَلُ مِنْ غَيْرِهِ وَلَا يَبْطُلُ بِمَنْعِ الْيَسِيرِ
كَالدَّمْعِ وَالْفُضَّةِ وَلَا عَلَى لَبْدٍ وَلَا بِسَائِلٍ وَلَا حَصْبٍ إِنْ كَانَ فِيهَا
غُبَارٌ، وَتَجُوزُ لِلْمَرِيضِ إِذَا لَمْ يَكُنْ فِيهَا شَيْءٌ يَنْجُسُ إِلَّا أَنْ يَبْطُلَ
بِالْجِدَارِ السَّيْنِيِّ بِالطُّونِ أَوْ بِالْحِجَارَةِ إِذَا كَانَتْ خَشْيَةَ مَسْرُوكَةٍ
بِالْحَجَرِ وَمَنْ تَيَمَّمَ عَلَى مَوْضِعٍ نَجَسٍ وَلَمْ يَعْلَمْ بِنَجَاسَتِهِ أَقَادَ لِي

lects and could do it within the specified period. Sand which had been used for emergency purification is not disallowed for another emergency purification. Emergency purification is not sound if done before the prescribed time of the worship.

The description of emergency purification is to give intention of making ritual prayer permissible and if one has discharged major impurity one would also make intention against major impurity. Then one says: "In the name of Allah," then, one uses the earth by striking one's hands against it once. If any particle sticks to the hands, one will shake the hands gently. Then one wipes, with the two palms, one's face and beard. One starts from the uppermost till one completes the wiping of the whole face. Then one strikes the earth with one's hands for the second time for wiping the two hands and the arms. One wipes the back surface of the right hand with the left palm up to, and including the elbow and then wipes the inner surface up to the finger tips. Then one wipes the left hand and arm up to, and including, the elbow and then wipes the inner surface up to the tips of the fingers.

It is obligatory to wipe through the fingers and remove the ring. It is not proper not to remove the ring. The second striking is a *Sunnah* act; so also is the wiping up to the elbow. If one limits the striking to once for the wiping of the face and the two hands the purification is valid. If he limits the wiping of the hands to only up to the wrists, and offers the ritual prayer with it, the prayer will be repaid only within the prescribed period.²⁴

WIPING OF THE WOUND

If there is wound on any of the parts required to be washed in ablution or any part of the body, and one is afraid that its washing could cause loss of life, loss of a valuable, deterioration in sickness, delay in healing or sickness, one would wipe over the wound. If one is not able to wipe it, one would wipe over the splint, i.e. the medici-

الوقت ولا يكره. اللهم بتراب يمسح به مرة أخرى، ولا يصح التيمم قبل دخول الوقت، وصفته أن يتوي استياحة الصلاة ويتوي من الحدث الأكبر إن كان محدثاً حدثاً أكبر ثم يقول بسم الله ويستعمل الصعيد يضرب عليه يديه خفيفاً ضربه واحدة فإن تعلّق بهما شيء نفّسهما نفصاً خفيفاً، ويمسح بهما وجهه ورجليه ويبدأ من أعلاه إلى أن يستوفيه، ثم يضرب الأرض يديه، ثم يمسح ظاهر يده اليمنى بيده اليسرى حتى يستهي إلى المرفق، ثم يمسح باطنها إلى آخر الأصابع، ثم يمسح ظاهر اليسرى بيده اليمنى إلى المرفق، ثم يمسح باطنها إلى آخر الأصابع، ثم يمسح باطنها إلى آخر الأصابع وترغ الخاتم، فإن لم يترغ الخاتم، فالضربة الثانية سنة، وكذا المسح إلى المرفقين، ولو اقتصر على واحدة للوجه واليدين أجزاءه، ولو اقتصر على مسح يديه إلى المرفقين وصلى أعاد في الوقت.

﴿فصل في المسح على الجرح﴾

إذا كان في أعضائه الوضوء أو غيرها جرح لم يمسح عليه بالماء فوات نفسه أو فوات منفعة أو زيادة مرض أو تأخر برؤه أو حُلوث مَرَضٍ فإنه يمسح عليه فإن لم يستطع المسح عليه مسح

nal material that is placed on the wound. If one is not able to wipe the splint, then one wipes over the bandage, even if the bandage is wider than the size of the wound. The same applies to phlebotomy or turban the removal of which generates fear.

The said wiping is based on the condition that either a greater part of the body is free from the wound or that the greater part is affected but washing the unaffected parts would not adversely affect the wounded parts.

If washing the unaffected parts is harmful or that the unaffected part is so small such as that the free part is not more than the (size of) hand or leg, the unaffected parts would not be washed and the wound would not be wiped rather the next option is emergency purification.

If wiping a wound is difficult such as in the case when it is not possible to place anything on it, and it is not also possible to touch it with water, and in the case where the affected parts are the parts to be wiped in emergency purification and therefore it is not also possible to wipe it with sand, then one would leave it with neither wiping nor washing and one would only wash the other unaffected parts. In the case that the parts to be wiped in emergency purification are free from the wound, then one would wash the parts of ablution that are unaffected and then supplement with emergency purification, (and if the parts to be wiped in emergency purification are affected, then in addition to the parts washed) one also wipes in emergency purification the affected parts, according to one of the four views.²⁵

If one had wiped a splint and thereafter removed it for dressing or any other reason, or if the splint falls off, the said wiping over it becomes invalid. If it is replaced on the wound, there is no doubt as to the necessity of a second (fresh) wiping.

عَلَى الْجَبِيْرَةِ وَهِيَ الدَّوَاءُ الَّذِي يُجْعَلُ عَلَيْهِ فَإِنْ لَمْ يَسْتَطِيعِ الْمَسْحَ
عَلَيْهَا مَسَحَ عَلَى الْعَصَايَةِ وَلَوْ عَلَى الزَّائِلِ خِصْرَ الْمَقَابِلِ لِلْجَرْحِ
كَقَصْدِ وَعِيَامَةٍ خِيفَ بَرُوحِهَا وَاسْتَرْطَفَ فِي الْمَسْحِ الْمَذْكُورِ أَنْ
يَكُونَ جُلُّ جَسَدِهِ مَسْحُومًا أَوْ لَمْ يَكُنْ إِلَّا يَسْتَوْفِي الْأَوَّلَ
الصَّحِيحَ، فَإِنْ كَانَ يَنْصَرُّ وَيَسْلُ الْمَسْحُ أَوْ كَانَ الْمَسْحُ عَلَى
جِدَا كَانَ لَمْ يَتَيَّ إِلَّا بَدَأَ أَوْ رَكِبَ فَإِنَّ الْأَوَّلَ الْمَسْحُ
عَلَى الْجَرْحِ بَلْ يَسْتَوْفِي إِلَى الْمَسْحِ وَإِنْ لَمْ يَكُنْ يَسْتَطِيعُ
يَعِثُ لَا يُمَكِّنُ وَضْعَ شَيْءٍ عَلَيْهِ وَلَا يَمَسُّهُ بِالشَّوَارِبِ كَانَ عَلَى
مَوْضِعِ التَّيْمُمِ وَلَا يُمَكِّنُ مَسْحُ الْبَقَاةِ الْوَالِدَةِ بِشَيْءٍ
غَسَلَ وَعَسَلَ أَمَا سِوَاهُ، وَإِنْ لَمْ يَكُنْ يَسْتَطِيعُ الْمَسْحَ وَلَا يَسْلُ
الصَّحِيحَ وَيَتَيَّمُ عَلَى الْجَرْحِ عَلَى أَحَدِ الْأَوَّلَيْنِ الْمَذْكُورَيْنِ
مَسَحَ عَلَى الْجَبِيْرَةِ ثُمَّ نَزَعَهَا الدَّوَاءَ أَوْ غَيْرَهُ وَوَضَعَهُ عَلَى
الْمَسْحِ عَلَيْهَا، وَإِذَا رَدَّهَا فَلَا يُلْزَمُ فِي الْمَسْحِ بِالشَّوَارِبِ

WIPING OVER HALF-BOOT

Wiping over half-boot in purification has eight conditions.

- (i) The boot must be made of leather, if made of other items such as rag even if sewn in the pattern of half-boot, wiping over it is not allowed, except it is a *Jawrab*. *Jawrab* is what is made of linen or similar material in the shape of half-boot, and its top and bottom are covered by sewn leather.
 - (ii) It should be pure. One would not wipe over impure ones such as the skin of pig, or the skin of an animal whose flesh is otherwise lawful (for consumption) but which was not slaughtered, or of a slaughtered but unlawful animal; even if the skin is tanned.
 - (iii) It should be sewn. One would not wipe over the half boot if only tied up or in any similar manner.
 - (iv) It should cover the parts that are necessary to be washed in ablution. Not if it covers less. In which case, it is not to be wiped, so also is if it has a big tear that is up to a third of the size of the foot.
 - (v) That walking with it is possible. A wide one with which walking is not possible will not be wiped.
 - (vi) To be worn in a state of purity. It is not to be wiped if at the time of wearing it one is in a state of impurity.
- It is also conditional that:
- (a) the purification should have been made with water. If one is purified through emergency purification and then wears it, one would not wipe over it.
 - (b) the purification should have been completed before wearing it. If one washes one foot and

فصل في المسح على النعلين

لِلْمَسْحِ عَلَيْهِ ثَمَانِيَةُ شُرُوطٍ : الْأَوَّلُ أَنْ يَكُونَ جِلْدًا ، فَلَا يَمْسَحُ عَلَى غَيْرِهِ كَالْخِرْقِ وَنَحْوِهَا إِذَا صُنِعَتْ عَلَى هَيْئَةِ الْخُفِّ إِلَّا الْجَوْرَبَ وَهُوَ مَا كَانَ عَلَى شَكْلِ الْخُفِّ مِنَ الْكُثَانِ وَنَحْوِهِ مِنْ قُرُونِهِ وَمِنْ نَحْوِهِ جِلْدُ مَخْرُورٍ ، الثَّانِي أَنْ يَكُونَ طَاهِرًا فَلَا يَمْسَحُ عَلَى النَجَسِ كَجِلْدِ الْخَيْزِرِ وَجِلْدِ الْمَأْكُولِ غَيْرِ الْمَذَكِيِّ أَوْ الْمَذَكِيِّ غَيْرِ الْمَأْكُولِ وَإِنْ دُبِغَ ، الثَّالِثُ أَنْ يَكُونَ مَخْرُورًا ، فَلَا يَمْسَحُ عَلَيْهِ إِذَا كَانَ مَرْبُوطًا أَوْ نَحْوَهُ ، الرَّابِعُ أَنْ يَكُونَ سَائِرًا لِمَحَلِّ الْقَرَضِ لَا مَا نَقَصَ فَلَا يَصِحُّ الْمَسْحُ عَلَيْهِ وَكَذَا إِنْ كَانَ فِيهِ خَرَقٌ كَبِيرٌ قَدْ ثَلَثَ الْقَدَمَ ، الْخَامِسُ أَنْ يُمَكِّنَ تَتَابُعَ الْمَشْيِ فِيهِ فَالْوَأَسِ الَّذِي يُمَكِّنُ أَنْ يَتَابَعَ الْمَشْيُ فِيهِ لَا يَمْسَحُ عَلَيْهِ ، السَّادِسُ أَنْ يَلْبَسَهُ عَلَى طَهَارَةٍ فَلَا يَمْسَحُ عَلَيْهِ إِذَا لَبَسَهُ وَهُوَ مُخْدِتٌ ، وَبَشَرَطُ فِي هَذِهِ الطَّهَارَةِ أَنْ تَكُونَ مَائِيَّةً فَلَوْ تَيَمَّمَ ثُمَّ لَبَسَهُ لَمْ يَمْسَحْ عَلَيْهِ ، وَأَنْ تَكُونَ كَامِلَةً فَلَوْ خَلَّ إِحْدَى رِجْلَيْهِ ، وَأَذْنَعَلَهَا فِي الْخُفِّ قَبْلَ أَنْ

puts it into the half-boot before washing the second one or in similar fashions, one is not allowed to wipe over it.

(vii) that one should not wear it out of disobedience. Same as for a person in a state of ritual consecration for pilgrimage, who is not compelled to wear it by necessity. To wear it one should also not be on an illegal journey such as a rebel or a fleeing slave, none of whom is allowed to wipe over his worn half-boot.

(viii) That one does not wear it for luxury. One who wears it for sleep or similar purposes would not wipe over it.

NOTE:

If all these conditions are met, wiping is allowed. There is no time limit to the wiping.²⁶ putting it off is not necessary except one becomes infected by great impurity or the boot is widely torn, or one removes the boot from the toes or greater part of the toes, up to the trunk of the half-boot.

The recommended description of the wiping is to place one's right hand fingers on the toes from the bottom surface of the half boot and one continues the wiping with the two palms up to the ankle. Then, according to one of the two views, the left foot is done in the same way.²⁷

MENSTRUAL BLOOD

Menstrual blood is the blood that comes out from the genital organ of a person that can normally be pregnant. Its duration is fifteen days or less, even it could be for an hour; provided the blood is not necessitated by birth sickness. Its minimum duration, like the maximum duration of purity, is not fixed. The minimum period of purification from menstrual blood is fifteen days. The maximum period for menstruation differs with differences in women involved. If she is a beginner, the maximum period, if

الأخرى وتَعْبَرُ ذَلِكَ لَا يَنْسَحُ عَلَيْهِ ، السَّابِعُ أَنْ لَا يَكُونَ حَاصِبًا
بِلَبْسِهِ كَالْمُحْرَمِ غَيْرِ الْمُضْطَرِّ لِلْبَيْسِ أَوْ يَسْتَعْرِضُ كَالنَّاقِ
وَالْآبِقِ فَلَا يَنْسَحُ وَاحِدٌ مِنْهُمَا ، الثَّامِنُ أَنْ لَا يَكُونَ مَتَرَفَهَا بِلَبْسِهِ
فَمَنْ لَبَسَهُ لِنَوْمٍ أَوْ نَحْوِهِ لَا يَنْسَحُ عَلَيْهِ .

تَنْبِيْهُ

إِذَا اجْتَمَعَتْ هَذِهِ الشُّرُوطُ جَازَ الْمَسْحُ وَلَا يَتَوَقَّتُ يَوْفَ وَلَا يَلْزَمُهُ
نَزْعُهُ إِلَّا أَنْ تَحْصُلَ لَهُ جَنَابَةٌ أَوْ يَحْصُلَ فِيهِ خَرَقٌ كَبِيرٌ أَوْ يَتَرَعَّ
قَدَمُهُ أَوْ أَكْثَرَهَا إِلَى سَاقِ خُفِّهِ ، وَصِفَةُ الْمَسْحِ الْمُسْتَحَبَّةُ أَنْ يَنْسَحَ
أَصَابِعَ يَدِهِ الْيُمْنَى عَلَى أَطْرَافِ أَصَابِعِ رِجْلِهِ مِنْ ظَاهِرِ قَدَمِهِ
الْيُمْنَى ، وَيَضَعُ يَدَهُ الْبُسْرَى مِنْ تَحْتِ أَطْرَافِ أَصَابِعِهِ مِنْ بَاطِنِ
خُفِّهِ ، وَيُبْرِئُهَا إِلَى الْكَمْتَيْنِ ، وَيَعْمَلُ بِالْبُسْرَى كَذَلِكَ عَلَى أَحَدِ
الْقَوْلَيْنِ .

فَضْلُ الْحَيْضِ

الْحَيْضُ هُوَ الدَّمُ الدَّخَالُجُ بِنَفْسِهِ مِنْ قَبْلِ مَنْ تَحْمِلُ عَادَةً فِي
مُدَّةٍ خَمْسَةِ عَشَرَ يَوْمًا فَدَوْنَهَا إِلَى سَاعَةٍ مِنْ غَيْرِ وِلَادَةٍ وَلَا مَرَضٍ
فَأَقَلُّهُ لَا حَدَّ لَهُ كَأَكْثَرِ الطَّهْرِ ، وَأَمَّا أَقَلُّ الطَّهْرِ فَخَمْسَةُ عَشَرَ يَوْمًا ،
وَأَمَّا أَكْثَرُ الْحَيْضِ فَيَخْتَلِفُ بِاخْتِلَافِ الْحَيْضِ ، فَإِنْ كَانَتْ مُبْتَدَأَةً

blood persists, is fifteen days. If she is an experienced woman, it is either that her duration is irregular or regular. If it is not irregular, the maximum would be an addition of three days over and above her normal duration, subject to the maximum period of fifteen days. If her duration is irregular, then she adds to her maximum duration,²⁸ in the same manner.²⁹ During the days of *Istizhār*,³⁰ she is a menstruating person. If it continues after the end of fifteen days, she is legally pure, for the purposes of ritual prayer, fasting, non repayment of the ritual prayer performed, and meeting with her spouse.³¹

SYMPTOMS OF TERMINATION OF MENSES

Freedom from menses has two symptoms:

Dryness — It is for a woman to put a cloth into her organ and brings it out dry, without any blood stain. The other is white gypsum — it is white light water, which comes at the end of menstrual discharge; it is like the water from gypsum i.e. quicklime. This gypsum is a more reliable symptom for an experienced woman even if she first discovers dryness, she still looks out for the gypsum up to the end of the prescribed period.³² A beginner would not expect the gypsum if dryness is first discovered.

A woman looks out for freedom from menstruation at the time of going to bed at night, and at the time of *Subh* ritual prayer. Menses prevents ritual prayer, fasting, divorce, touching the Qur'ān, reading the Qur'ān, entry into the mosque and real sexual cohabitation during the menses or after it but before (she performs) ritual water purification.

فَأَكْثَرُهُ فِي حَقِّهَا إِذَا تَمَادَتْ بِهَا الْحَيْضَةُ خَمْسَةَ عَشَرَ يَوْمًا ، وَإِنْ كَانَتْ مُتَعَادَةً قَابِلًا أَنْ تَخْتَلِفَ عَادَتُهَا أَمْ لَا فَإِنْ لَمْ تَخْتَلِفِ اسْتَظْهَرَتْ عَلَى عَادَتِهَا بِثَلَاثَةِ أَيَّامٍ مَا لَمْ تُجَاوِزْ خَمْسَةَ عَشَرَ يَوْمًا ، وَإِنْ اخْتَلَفَتْ اسْتَظْهَرَتْ عَلَى أَكْثَرِ عَادَتِهَا كَذَلِكَ وَهِيَ فِي أَيَّامِ الْإِسْظَهَارِ حَائِضٌ فَإِنْ تَمَادَى بِهَا إِلَى تَمَامِ خَمْسَةَ عَشَرَ يَوْمًا فَحُكْمُهَا حُكْمُ الطَّاهِرِ فِي تَوْجِيهِ الصَّلَاةِ وَالصَّوْمِ وَعَدَمِ الْقَضَاءِ وَاتِّبَانِ الزَّوْجِ .

﴿فصل﴾ لِلطَّهْرِ عَلَامَتَانِ :

وَالطَّهْرُ عَلَامَتَانِ : الْجُفُوفُ وَهُوَ أَنْ تُدْخِلَ الْمَرْأَةُ خِرْقَةً فِي فَرْجِهَا فَتُخْرِجَ حَافَةً لَيْسَ عَلَيْهَا شَيْءٌ مِنَ الدَّمِ ، وَالْقَصَّةُ الْيَبْصَاءُ وَهِيَ مَاءٌ أبيضٌ رقيقٌ يَأْتِي فِي آخِرِ الْحَيْضِ كَمَا الْقَصَّةُ وَهِيَ الْجِيرُ وَالْقَصَّةُ أَيْ بَلَغَ لِلْمُتَعَادَةِ ، فَإِذَا رَأَتْ الْجُفُوفَ أَوَّلًا انتظرتِ الْقَصَّةَ لِآخِرِ الزَّمَنِ الْمُخْتَارِ ، وَأَمَّا الْمُبْتَدَأَةُ فَلَا تَنْتَظِرُ الْقَصَّةَ إِذَا رَأَتْ الْجُفُوفَ أَوَّلًا ، وَعَلَى الْمَرْأَةِ أَنْ تَنْتَظِرَ طَهْرَهَا عِنْدَ النَّوْمِ وَعِنْدَ صَلَاةِ الصُّبْحِ وَيَمْنَعُ الْحَيْضُ الصَّلَاةَ وَالصَّوْمَ وَالطَّلَاقَ ، وَمَسَّ الْمُصْحَفِ ، وَقِرَاءَةَ الْقُرْآنِ ، وَدُخُولَ الْمَسْجِدِ ، وَالْوُطْءَ فِي الْفَرْجِ زَمَنَ الْحَيْضِ وَبَعْدَهُ قَبْلَ طَهْرِهَا بِالنَّوْمِ .

POST NATAL HAEMORRHAGE³³

Post-natal haemorrhage is blood that comes out from the genital organ (of a female) as a result of child-birth. Its duration is not more than sixty days. If the flowing continues beyond sixty days the excess is discountenanced.

The legal position on post natal haemorrhage, concerning its prohibition and necessitating ritual bath is completely identical with menstrual blood in all shades. God knows best.

﴿فصل في النفاس﴾

النفاس هو الدم الخارج من القبل بسبب الولادة غير زائد على ستين يوماً فإذا زاد على ستين يوماً فلا تستظهر، وحكم دم النفاس فيما يمنعه وفي إفصائه الغسل حكم دم الحيض مطلقاً، والله أعلم.

CHAPTER TWO

RITUAL PRAYER (AŞ-ŞALĀT)

It is one of the five pillars on which Islam is built. They are: Testimony that there is none worthy of worship except Allah and that Muhammad is His servant and messenger; observance of ritual prayer; payment of *Zakat*;³⁴ Fasting in the month of Ramaḍān;³⁵ pilgrimage³⁶ to the sacred house of Allah by whoever is capable of it.

Aş-şalāt is the most important pillar after the two statements of testimony³⁷, whoever observes ritual prayer has observed the religion (Islam) and whoever neglects it has neglected the religion.

Five conditions make the performance of ritual prayer obligatory: Islam; maturity; consciousness; freedom from the blood of menstruation and child-birth and; the maturity of the time of prayer.³⁸ The obligation comes into effect at the beginning of the time, though the span of the time is expansive.³⁹

Whoever denies its being obligatory or that of any of its obligatory rites or any of the five pillars of Islam is an unbeliever an apostate — who is expected to repent within three days, failure of which he is to be killed.⁴⁰

Whoever affirms its being obligatory but refuses to observe it would be given respite until the time when it is about the time sufficient for observance of a full *rak'ah* to the expiration of the time of excuse;⁴¹ if then he does not perform the prayer, he would be killed by a sharp sword and his funeral ritual prayer (*Ṣalātu 'l-janāzah*) shall be performed by people who are socially and morally lowly. He would, however, be buried in the Muslim cemetery. His grave shall not be obliterated⁴² One who misses his ritual prayer shall not be killed. A child shall be advised to observe his ritual prayer as soon as he is seven years old and shall be moderately⁴³ beaten, if he does not, after he has reached the age of ten.

الباب الثاني في الصلاة

وَمِنْ أَحَدِ أَرْكَانِ الْإِسْلَامِ الْخَمْسِ الَّتِي يُبَيِّ عَلَيْهَا شَهَادَةُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ ، وَأَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ ، وَإِقَامِ الصَّلَاةِ ، وَإِيتَاءِ الزَّكَاةِ ، وَصَوْمِ رَمَضَانَ ، وَحَجِّ بَيْتِ اللَّهِ الْحَرَامِ لِمَنْ اسْتَطَاعَ إِلَيْهِ سَبِيلًا ، وَالصَّلَاةُ أَعْظَمُهَا بَعْدَ الشَّهَادَتَيْنِ مَنْ أَقَامَهَا فَقَدْ أَقَامَ الدِّينَ وَمَنْ تَرَكَهَا فَقَدْ تَرَكَ الدِّينَ ، وَلَوْ جُوبِهَا خَمْسَةُ شُرُوطٍ: الْإِسْلَامُ وَالْبُلُوغُ وَالْعَقْلُ وَارْتِفَاعُ دَمِ الْحَبْصِ وَالنَّفَاسِ وَحُضُورُ وَقْتِ الصَّلَاةِ ، وَنَجِبُ بِأَوَّلِ الْوَقْتِ وَجُوبًا مُوسَعًا فَمَنْ جَحَدَ وَجُوبَهَا أَوْ شَبَّهَا مِنْ وَاجِبَاتِهَا أَوْ شَبَّهَا مِنْ أَرْكَانِ الْإِسْلَامِ الْخَمْسَةِ فَهُوَ كَافِرٌ مُرْتَدٌّ يُسْتَأْبُ ثَلَاثَةٌ

أَيَّامٍ فَإِنْ تَابَ وَإِلَّا قُتِلَ ، وَمَنْ أَقَرَّ بِوَجُوبِهَا وَامْتَنَعَ مِنْ فِعْلِهَا أَنْتَظَرَ إِلَى أَنْ يَتَقَى مِنْ وَقْتِهَا الصَّرُورِيِّ مِقْدَارَ رَكْعَةٍ كَامِلَةٍ . فَإِنْ لَمْ يَصَلِّ قُتِلَ بِالسَّيْفِ حَدًّا وَيُصَلِّي عَلَيْهِ غَيْرُ أَهْلِ الْفَضْلِ وَالصَّلَاحِ وَيُنْفَنُ فِي مَقَابِرِ الْمُسْلِمِينَ ، وَلَا يُطَمَسُ قَبْرُهُ وَلَا يُقْتَلُ بِالْفَاتِنَةِ وَيَوْمَرُ الصَّبِيُّ بِهَا لِسَعِ سِنِينَ ، وَيُضْرَبُ عَلَى تَرْكِهَا ضَرْبًا غَيْرَ مُبْرَحٍ إِذَا بَلَغَ عَشْرَ سِنِينَ .

OBLIGATORY RITUAL PRAYERS

The obligatory ritual prayers are five: Early afternoon prayer⁴⁴, late afternoon prayer⁴⁵, sun-set prayer⁴⁶, night and early morning ritual prayers⁴⁷. Each of these ritual prayers has two periods: Prime-period and excused period. Prime period for early afternoon ritual prayer is from the time when the sun reaches the meridian⁴⁸, up till the time when the shadow is as long as its object; and that is the beginning of the prime-period for late afternoon ritual prayer and its end is when the sun becomes pale⁴⁹.

The period of sun-set ritual prayer is when the disc⁵⁰ of the sun disappears. It is a very short period. The duration of the period is from when it is time till the end of the time sufficient for the performance of the prayer after necessary pre-requisites (such as purification) might have been met. For night prayer, it is from the time of the disappearance of the evening glow up till the end of the first third of the night. The time for early morning prayer is from dawn up till the break of the dawn.

The excuse period for the early morning prayer is from the break of the dawn till when sun rises. The period for early afternoon prayer is from the prime - period of late afternoon prayer till when the disc of the sun disappears, while the time for the late afternoon prayer is from when the sun turns pale till it sets. The period of sun-set prayer is from when the prayer is normally said till dawn. As for night prayer, the period is from the end of the first third of the night till dawn.

NOTE:

Whoever delays the observance of a prayer up till the period of excuse without any excuse has committed sin. The excuses are: menstruation, child-birth, disbelief, under-age, madness, fainting, sleep and forgetfulness.

﴿فَضْلُ الصَّلَاةِ الْمَفْرُوضَةِ﴾

الصَّلَاةُ الْمَفْرُوضَةُ خَمْسَةٌ: الظُّهْرُ، وَالْعَصْرُ، وَالْمَغْرِبُ، وَالْعِشَاءُ، وَالصُّبْحُ، وَلِكُلِّ وَاحِدَةٍ مِنْهَا وَقْتَانِ اخْتِيَارِيٌّ وَضَرُورِيٌّ فَلَا اخْتِيَارِيٍّ لِلظُّهْرِ مِنْ زَوَالِ الشَّمْسِ لِأَخِيرِ الْقَامَةِ، وَفَوَّ أَوَّلُ وَقْتِ الْعَصْرِ، وَآخِرُهُ إِلَى اضْغِرَارِ الشَّمْسِ، وَلِلْمَغْرِبِ بِغُرُوبِ قُرْصِ الشَّمْسِ وَهُوَ مُصَيِّقٌ غَيْرُ مُتَدَيِّقٍ يُقَدَّرُ بِغَيْبِهَا بَعْدَ تَحْصِيلِ شُرُوطِهَا، وَلِلْعِشَاءِ مِنْ غَيْبَةِ الشَّفَقِ الْأَخْمَرِ إِلَى ثُلْثِ اللَّيْلِ الْأَوَّلِ، وَلِلصُّبْحِ مِنْ طُلُوعِ الْفَجْرِ الصَّادِقِ لِلِاسْتِفَارِ الْأَعْلَى، وَالضَّرُورِيُّ لِلصُّبْحِ مِنَ الْإِسْفَارِ الْأَعْلَى إِلَى طُلُوعِ الشَّمْسِ، وَلِلظُّهْرِ مِنْ أَوَّلِ وَقْتِ الْعَصْرِ الْمُخْتَارِ إِلَى غُرُوبِ قُرْصِ الشَّمْسِ، وَلِلْعَصْرِ مِنَ الْإِضْغِرَارِ إِلَى وَقْتِ الْغُرُوبِ، وَلِلْمَغْرِبِ مِنَ الْفَرَاغِ مِنْهَا إِلَى طُلُوعِ الْفَجْرِ، وَلِلْعِشَاءِ مِنْ آخِرِ ثُلْثِ اللَّيْلِ الْأَوَّلِ إِلَى طُلُوعِ الْفَجْرِ.

﴿تَبَيُّهُ﴾

مَنْ أَخَّرَ الصَّلَاةَ إِلَى الْوَقْتِ الضَّرُورِيِّ مِنْ غَيْرِ عَذْرِ أَيْمٍ، وَالْعَذْرُ: الْحَيْضُ، وَالنَّمَاسُ، وَالْكَفَرُ وَالْعَبَا، وَالْجُنُونُ، وَالْإِهْمَاءُ، وَالنُّوْمُ، وَالنَّسْيَانُ.

REPAYMENT OF RITUAL PRAYERS

It is compulsory for a mature person to repay chronologically whatever obligatory ritual prayers he missed without any time limit. It is compulsory to observe in sequence two related prayers when they are to be observed together. If a worshipper misplaced the performance, he must repay the second prayer.⁵¹

It is also compulsory that the missed prayers have to be repaid before the performance of a current prayer even if the period of the current prayer is very tight, provided the missed prayers are not more than five prayers. If they are more than five prayers — according to one of the two famous views — or more than four, according to the other view, the current ritual prayer shall be observed first, when the remaining period for the current prayer is very tight.

One who remembers a missed ritual prayer while he is on a current one, would have to arrange them chronologically. If one is a lone worshipper one would break the prayer provided a *rak'ah* has not been completed by the placing of one's hands on the knees. If it has been completed, one should add one *rak'ah* to it before terminating it on the second *rak'ah*.

If he is the Imam he would still break it without continuity by a deputy, and the break consequently affects the prayers of his followers (congregation). If he who remembers a missed prayer is a follower, he would continue the prayer with the Imam. After the prayer, he would observe what he had forgotten and thereafter within the prescribed time repay what he had observed with the Imam.⁵² If the prayer to be repay is a *Jumu'ah* prayer, one would repay it as *Zuhr*.

NOTE:

It shall later in this work be noted that, according to *Ibnu 'I-Qasim*,⁵³ a *rak'ah* is completed when the head is raised from the *ruku'*, except in certain cases which are mentioned in details.

﴿فصل في القضاء﴾

يَجِبُ عَلَى الْمُكَلَّفِ قَضَاءُ مَا فَاتَهُ مِنَ الصَّلَوَاتِ الْمَفْرُوضَةِ مُرْتَبَةً فِي أَيِّ وَقْتٍ كَانَ ، وَيَجِبُ تَرْتِيبُ الْحَاضِرَتَيْنِ الْمُشْتَرَكَتَيْنِ فِي الْوَقْتِ فَإِنْ خَالَفَ أَعَادَ الثَّانِيَةَ أَبَدًا ، وَيَجِبُ تَقْدِيمُ الْقَوَائِدِ عَلَى الْحَاضِرَةِ .

وَبِنْ خَرَجَ وَقْتُ الْحَاضِرَةِ مَا لَمْ تَزِدْ عَلَى خَمْسِ صَلَوَاتٍ ، فَإِنْ زَادَتْ عَلَيْهَا عَلَى أَحَدِ الْقَوَائِدِ الْمَشْهُورَيْنِ أَوْ عَلَى الْأَرْبَعِ عَلَى الْمَشْهُورِ الْآخَرِ قُدِّمَتِ الْحَاضِرَةُ إِذَا ضَاقَ وَقْتُهَا ، وَمَنْ ذَكَرَ قَائِمَةً فِي وَقْتٍ يَجِبُ

تَرْتِيبُهَا مَعَهَا فَإِنْ كَانَ فَذَا قَطَعَ مَا لَمْ يَغْفِدْ رُكْعَةً يَوْضَعُ يَدَيْهِ عَلَى رُكْبَتَيْهِ فَإِنْ عَقَدَهَا خَصَمَ إِلَيْهَا أُخْرَى وَخَرَجَ عَنْ شَفْعٍ ، وَإِنْ كَانَ إِمَامًا قَطَعَ وَلَا يَسْتَخْلِفُ وَيَسْرِي ذَلِكَ لِصَلَاةِ الْمُتَمُومِينَ وَإِنْ كَانَ مُتَمُومًا تَمَادَى مَعَ إِمَامِهِ ، فَإِذَا فَرَغَ صَلَّى مَا نَسِيَ ثُمَّ يَعِيدُ مَا صَلَّى مَعَ الْإِمَامِ فِي الْوَقْتِ فَإِذَا كَانَتْ جُمُعَةً صَلَّاهَا ظَهْرًا .

﴿تَبَيَّنَ﴾

سَيَأْتِي أَنَّ عَقْدَ الرُّكْعَةِ عِنْدَ ابْنِ الْقَاسِمِ يَرْفَعُ الرَّأْسَ مِنَ الرُّكُوعِ إِلَّا فِي مَسَائِلَ مَذْكُورَةٍ فِي الْمُطْلُوعَاتِ .

PERIODS WHEN OPTIONAL PRAYERS ARE NOT TO BE OBSERVED.

It is prohibited for a bona-fide worshipper⁵⁴ to observe supererogatory ritual prayer (*Nāfilah*) when the sun is rising or setting; during the Friday sermon; at a time of a current obligatory ritual prayer is almost out; or after the lapse of the time of an obligatory ritual prayer for one who is still owing the particular or earlier obligatory ritual prayer.

It is objectionable to observe the supererogatory ritual prayers right from immediately after the appearance of the true-dawn till when the sun is about the size of a normal spear; after the observance of *Asr* prayer up till when the *maghrib* is observed; when the *adhan* (call to prayer) of *Jumu'ah* prayer is made, for one who had hitherto been seated;⁵⁵ or after *Jumu'ah* prayer in the same venue of the *Jumu'ah* prayer. It is not objectionable to observe supererogatory ritual prayer at the period immediately before the sun reaches the meridian.

AL-*'ADHĀN* (CALL TO PRAYER)

Al-'Adhān is a *Sunnah*⁵⁶ act in places where people normally gather such as *Jumu'ah* mosques and other area mosques.⁵⁷ It is a notification that it is time for an obligatory ritual prayer. It is said in certain formulae:

Allah is the Greatest (2ce)

I testify that there is no deity worthy of worship except Allah (2ce)

I testify that Muhammad is the Messenger of Allah (2ce)

(The volume of the voice would be raised higher on each occasion of repeating each of the two testimonies)

Come to worship (2ce)

Come to success (2ce)

Allah is the Greatest (2ce)

There is none worthy of worship except Allah.⁵⁸

﴿فَصَلِّ﴾

يَحْرُمُ عَلَيْهِ صَلَاةُ النَّفْلِ عِنْدَ طُلُوعِ الشَّمْسِ وَعِنْدَ غُرُوبِهَا وَعِنْدَ خُطْبَةِ الْجُمُعَةِ وَعِنْدَ ضَبْحِ الْوَقْتِ ، أَوْ بَعْدَ خُرُوجِهِ لِمَنْ عَلَيْهِ فَرَضٌ ، وَيُكْرَهُ بَعْدَ طُلُوعِ الْفَجْرِ إِلَى أَنْ تَرْتَفِعَ الشَّمْسُ قَبْلَ رُفْعِ وَبَعْدَ فَرَضِ الْعَصْرِ إِلَى أَنْ تُصَلِّيَ الْمَغْرِبُ وَعِنْدَ أَذَانِ الْجُمُعَةِ لِلجَالِسِ وَبَعْدَ فَرَضِ الْجُمُعَةِ فِي مُصَلَّاهَا وَلَا نُكْرَهُ عِنْدَ وَقْتِ الْإِسْتِوَاءِ .

﴿فَصَلِّ﴾ الْأَذَانُ

الْأَذَانُ سُنَّةٌ فِي الْمَوَاضِعِ الَّتِي جَرَتْ الْعَادَةُ أَنْ يَجْتَمِعَ النَّاسُ بِهَا كَالْجَوَامِعِ وَالْمَسَاجِدِ وَهُوَ الْإِعْلَامُ بِدُخُولِ وَقْتِ الصَّلَاةِ الْمَقْرُوضَةِ بِالْأَلْفَافِ الْمَشْرُوعَةِ ، وَهُوَ اللَّهُ أَكْبَرُ ، اللَّهُ أَكْبَرُ ، أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ ، أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ ، أَشْهَدُ أَنْ مُحَمَّدًا رَسُولُ اللَّهِ ، أَشْهَدُ أَنْ مُحَمَّدًا رَسُولُ اللَّهِ ، ثُمَّ يُرْجَعُ الشَّهَادَتَيْنِ بِإِرْفَاعٍ مِنْ صَوْتِهِ أَوَّلًا ، ثُمَّ يَقُولُ : حَيَّ عَلَى الصَّلَاةِ ، حَيَّ عَلَى الصَّلَاةِ ، حَيَّ عَلَى الْفَلَاحِ ، حَيَّ عَلَى الْفَلَاحِ ، اللَّهُ أَكْبَرُ ، اللَّهُ أَكْبَرُ ، لَا إِلَهَ إِلَّا

In the *'adhan* for *Subh* prayer, after "come to success," "Worship is better than sleep" (2ce) is added. It is not proper to make a call for any of the five daily prayers, *Jumu'ah* inclusive, before it is time for the prayer. The only exception is *Subh* prayer. It is desirable to make its call during the last sixth of the night before the *fajr* appears, then its second call is made when its time is up. On the basis of the *hadith* from Abi Sa'id, it is recommended that a lone-worshipper who is on a journey could make a call to prayer.

NOTE:

The caller should avoid elongation of "Ba" in "Ak-bar";⁵⁹ and "a" in any of "Ash-hadu" and "Allāhu,"⁶⁰ pausing immediately after "Ash-hadu an Lā ilāha",⁶¹ the omission of the assimilation of "Dan" into "ra" in "Muhammada-rasūlu"; putting "a" after "I" in "rasūlu";⁶² abandoning the pronouncement of "l" in "Hayya 'ala s-salāt"⁶³ and not pronouncing "hi" in "Hayya 'ala l-Falāhi".

The *'adhān* should flow freely without any excessive elongation or undue stretch. The pausing points should be made continually, hence it should not be punctuated by unduly long silence or (any other) talk, not even the saying of *as-salāmu 'alaykum*,⁶⁴ nor response to such greeting nor any other utterance.

It is meritorious for one who listens to the call to chorus the formulae up till the end of the statement of the two testimonies⁶⁵ without any recession even if one is on a supererogatory prayer.

There are two categories of conditions for a caller: His *prima-facie* conditions⁶⁶ (or conditions for validity) and the conditions for the perfection. *Prima-facie* conditions are that he must be a Muslim male, mature and sane. The conditions for perfection are that he must be a just person, knowledgeable about time, with sonorous voice, in a pure state, standing, facing the *Qiblah* except if people

الله، وَيَزِيدُ فِي أَذَانِ الصُّبْحِ بَعْدَ قَوْلِهِ حَيَّ عَلَى الْفَلَاحِ ، الصَّلَاةُ خَيْرٌ مِنَ النَّوْمِ مَرَّتَيْنِ ، وَلَا يَجُوزُ أَنْ يُؤْذَنَ لِصَلَاةٍ مِنَ الصَّلَوَاتِ الْخَمْسِ حَتَّى الْجُمُعَةِ قَبْلَ وَقْتِهَا إِلَّا صَلَاةُ الصُّبْحِ فَإِنَّهُ يُسْتَحَبُّ أَنْ يُؤْذَنَ لَهَا فِي السُّدُسِ الْآخِرِ مِنَ اللَّيْلِ قَبْلَ طُلُوعِ الْفَجْرِ ، ثُمَّ يُؤْذَنُ لَهَا ثَانِيًا عِنْدَ دُخُولِ الْوَقْتِ ، وَيُسْتَحَبُّ لِلْمُتَفَرِّدِ إِذَا كَانَ مُسَافِرًا أَنْ يُؤْذَنَ لِحَدِيثِ أَبِي سَعِيدٍ .

﴿تَبِيَّةٌ﴾

وَلِيَحْذَرَ الْمُؤْذَنُ مِنْ مَدِّ بَاءِ أَكْبَرُ وَأَشْهَدُ وَالْجَلَالَةِ ، وَمِنْ الْوَقْفِ عَلَى لَا إِلَهَ وَمِنْ تَرْكِ إِذْغَامِ الدَّالِّ فِي الرَّاءِ مِنْ مُحَمَّدًا رَسُولُ اللَّهِ وَمِنْ فَتْحِ اللَّامِ مِنْ رَسُولُ اللَّهِ ، وَمِنْ تَرْكِ التَّنْقِيطِ بِالنَّهَاءِ مِنْ حَيَّ عَلَى الصَّلَاةِ وَمِنْ تَرْكِ الْحَاجِ مِنْ حَيَّ عَلَى الْفَلَاحِ وَيَكُونُ الْأَذَانُ مُتْرَكًا مِنْ غَيْرِ مَدٍّ مُقْرَظٍ وَلَا تَمْطِيطٍ مُؤَفَّقًا غَيْرَ مُعَرَّبٍ مُتَوَالِيًا يَحِثُّ لَا يَتَخَلَّلُهُ سَكُوتٌ كَثِيرٌ وَلَا كَلَامٌ سِوَاهُ كَانَ سَلَامًا أَوْ رَدًّا أَوْ غَيْرُهُمَا ، وَيُسْتَحَبُّ لِمَنْ سَمِعَهُ أَنْ يَحْكِيَهُ إِلَى آخِرِ الشَّهَادَتَيْنِ مِنْ غَيْرِ تَرْجِيعٍ وَلَوْ كَانَ فِي صَلَاةٍ نَافِلَةٍ ، وَيُسْتَرْطُ فِي الْمُؤْذَنِ شُرُوطٌ صِحَّةٌ وَشُرُوطٌ كِبَالٌ ، فَشُرُوطُ الصَّحَّةِ أَنْ يَكُونَ مُسْلِمًا ذَكَرًا بَالِغًا عَاقِلًا ، وَشُرُوطُ الْكِبَالِ أَنْ يَكُونَ عَدْلًا عَارِفًا

would not hear the call unless the opposite is done (not facing the *Qibla*), and that he must not have observed the prayer to which he is calling the people.

AL-'IQĀMAH

* *Al-'Iqamah* is *sunnah*, it is a more emphatic *sunnah* than the *'adhān* (call to prayer) because of its direct link with the actual ritual prayer. If there is a lapse of time between it and the prayer the *'Iqamah* becomes void and it is started all over. Ibn Kinanah⁶⁷ said that the prayer of whoever deliberately avoids it, is void.⁶⁸ To be on the safe side one should ensure that it (the *'Iqamah*) is said. This is in connection with male but as for the female its recital, is only a meritorious act which should be recited silently, and it does not harm, if she does not recite it.

Its formulae is:

Allah is the Greatest (2ce)

I bear witness that there is no deity worthy of worship except Allah.

I bear witness that Muhammad is the Messenger of Allah

Come to worship

Come to success

Prayer has started.

Allah is the Greatest (2ce)

There is no deity worthy of worship except Allah.⁶⁹

What we have said⁷⁰ as regards the fact that the statements of the *'Iqamah* are said only once—except for the *takbīr* which is said twice—is the popular opinion among jurists. If any of the component, except the *takbīr*, is repeated, the *'Iqamah* is not proper. The reciter neither talks while reciting the *'Iqamah* nor responds to the greetings offered to him.

A worshipper reserves the right to stand up for the prayer either during or at the completion of the *'Iqamah*.

بِالْأَوْقَاتِ صَبَاتًا مُتَطَهِّرًا قَائِمًا مُسْتَقْبِلَ الْقِبْلَةِ إِلَّا لِمَنْعٍ ، وَأَنْ لَا يَكُونَ قَدْ صَلَّى تِلْكَ السَّلَاةَ الَّتِي أُذِّنَ لَهَا .

﴿فَضْلُ﴾ الْإِقَامَةِ

الْإِقَامَةُ سُنَّةٌ : أَوْ كَذَلِكَ مِنَ الْأَذَانِ لِإِنصَالِهَا بِالصَّلَاةِ وَإِنْ تَرَخَى مَا بَيْنَهُمَا بَطَلَتِ الْإِقَامَةُ وَاسْتَوْنَفَتْ ، وَقَالَ ابْنُ كِنَانَةَ مَنْ تَرَكَهَا عَمْدًا بَطَلَتْ صَلَاتُهُ فَلَا اخْتِيَاظُ أَنْ يُحْتَرَسَ عَلَى الْإِثْنَانِ بِهَا وَلَا يُسَاهَلُ فِي ذَلِكَ وَهَذَا فِي حَقِّ الرَّجُلِ ، وَأَمَّا الْمَرْأَةُ فَلَا إِقَامَةَ فِيهَا حَقًّا مُسْتَحَبَّةٌ سِرًّا وَإِنْ لَمْ تُقِمْ فَلَا إِثْمَ عَلَيْهَا

وَلَقَطْنَاهَا : اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ ، أَشْهَدُ أَنْ مُحَمَّدًا رَسُولُ اللَّهِ ، حَيٌّ عَلَى الصَّلَاةِ حَيٌّ عَلَى الْفَلَاحِ ، قَدْ قَامَتِ الصَّلَاةُ ، اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ ، لَا إِلَهَ إِلَّا اللَّهُ ، وَمَا ذَكَرْنَاهُ مِنْ إِفْرَادِ الْإِقَامَةِ مَا عَدَا التَّكْبِيرَ فَإِنَّهُ مُتَنَبِّئٌ هُوَ الْمَشْهُورُ ، فَإِنْ شُفِعَ غَيْرُ التَّكْبِيرِ لَا تُجْزِئُهُ الْإِقَامَةُ وَلَا يَتَكَلَّمُ فِي الْإِقَامَةِ وَلَا يَرُدُّ عَلَى مَنْ يُسَلِّمُ عَلَيْهِ وَالْمُصَلِّي مُخَيَّرٌ بَيْنَ أَنْ يَقُومَ لِلصَّلَاةِ حَالَ الْإِقَامَةِ أَوْ بَعْدَهَا

CONDITIONS OF AŞ-SALĀT

The conditions of *ṣalāt* are four:

- (i) Removal of scum⁷¹ from the cloth, body and the place of the worshipper both at the commencement (of the ritual prayer) and continually during the ritual prayer.
- (ii) The removal of ritual impurity (excrement) at the commencement and continually in every prayer whether it requires bending and prostration or not.⁷²
- (iii) Coverage of nudity with a thick material. The nudity of a male is from his navel to his knees while that of a free female, in the presence of a stranger,⁷³ is her whole body save the face and the hands.
- (iv) Facing the *Qiblah* except during a close combat in a battle, or for a rider (on a mount) in a voluntary prayer, while he is on a lawful journey; the type that allows the shortening of prayer. Whoever performs ritual prayer, not facing the *qiblah* forgetfully, and does not realise until he finishes the ritual prayer, must repay the ritual prayer. Opinions differ on this.⁷⁴ The same rule applies if it is done out of ignorance or deliberately.

OBLIGATORY ACTS OF RITUAL PRAYER

Obligatory acts of ritual prayer are fourteen:

- (i) The initial *takbir* (Allah is the Greatest) by every worshipper. Its form is "*Allāhu Akbar*" – without emphasising the '*ba*'⁷⁵ it is not proper for a person who could use Arabic properly to use any other form. As regards one who could not pronounce it well in Arabic, an opinion is that he should start the worship with intention, not saying the *takbir* in any language other than Arabic; while another is that he starts the worship saying the *takbir* in his own language.
- (ii) Intention, that is that he should determine within his mind that he is starting a definite prayer. The deter-

﴿فَضْلُ﴾ شَرَائِطُ الصَّلَاةِ

شَرَائِطُ الصَّلَاةِ أَرْبَعَةٌ: طَهَارَةُ الْحَبَثِ عَنِ التُّرَابِ وَالْبَدَنِ وَالْمَكَانِ ابْتِدَاءً وَدَوَامًا وَطَهَارَةُ الْحَدَثِ ابْتِدَاءً وَدَوَامًا فِي كُلِّ صَلَاةٍ ذَاتِ رُكُوعٍ وَسُجُودٍ وَغَيْرِهَا، وَسِتْرُ الْعَوْرَةِ بِكَيْفِهِ بِمُتَلَتِّهِ أَيْ غَلِظِهِ، وَعَوْرَةُ الرَّجُلِ مِنْ سُرَّتِهِ إِلَى رُكْبَتَيْهِ، وَعَوْرَةُ الْمَرْأَةِ الْحُرَّةِ مَعَ أَجْنَبِيٍّ جَمِيعُ بَدَنِهَا إِلَّا الْوَجْهَ وَالْكَفَيْنِ، وَاسْتِغْبَالُ الْقِبْلَةِ إِلَّا فِي الْقِتَالِ حَالَةَ الْإِلْتِحَامِ، وَفِي النِّافِلَةِ فِي السَّعْرِ الْمُسْحِ لِلْقَصْرِ لِلرَّاكِبِ وَمَنْ صَلَّى إِلَى غَيْرِ الْقِبْلَةِ نَاسِيًا فَلَمْ يَعْلَمْ حَتَّى فَرَغَ مِنْ صَلَاتِهِ أَعَادَ أَبَدًا وَجَاءَ فِي ذَلِكَ خِلَافٌ وَكَذَبًا إِنْ كَانَ جَاهِلًا أَوْ عَامِدًا.

﴿فَضْلُ﴾ فَرَائِضُ الصَّلَاةِ

فَرَائِضُ الصَّلَاةِ أَرْبَعَةٌ عَشْرٌ: الْأَوَّلَى تَكْبِيرَةُ الْإِحْرَامِ لِكُلِّ مُصَلٍّ وَلَفْظُهَا اللَّهُ أَكْبَرُ مِنْ غَيْرِ إِشْبَاعِ الْبَاءِ وَلَا يُجْزَى غَيْرُهَا إِنْ كَانَ يُخْسِنُ الْعَرَبِيَّةَ. أَمَّا مَنْ لَا يُخْسِنُهَا فَقِيلَ يَدْخُلُ بِالنِّبَةِ دُونَ الْعَجَمِيَّةِ وَقِيلَ يَدْخُلُ بِلُغَتِهِ. الثَّانِيَةُ النَّبَةُ بِأَنْ يَقْصِدَ بِقَلْبِهِ الدُّخُولَ فِي الصَّلَاةِ الْمُعَيَّنَةِ وَيَكُونُ قَصْدُهُ مُقَارَنًا لِلْفِطْرِ التَّكْبِيرِ، وَلَا يَلْزِمُهُ التَّعَرُّضُ فِي

- mination should accompany the saying of the *takbīr*. It is not necessary to mention, in the intention, the number of *rak'ah* of the prayer.
- (iii) Recitation of *Sūratu 'l-Fātihah* (the Opening Chapter of the Qur'an)⁷⁶ for the Imām and a lone-worshipper.
- (iv) Standing for the commencement and recital of *Fātihah*.
- (v) The bowing. It is done perfectly by making the back and the neck be at the same straight level; straightening the knees and placing the two hands on both knees. A male keeps his upper arms away from his sides, he does not raise or lower his head rather he straightens his back.
- (vi) Prostration. It is done by resting his forehead, nose, knees and his toes on the ground.⁷⁷
- (vii) Rising from the bowing (*rukū'*)
- (viii) Rising from the prostration.
If a worshipper omits the rising he would have to reperform it.⁷⁸
- (ix) Sitting for the *taslīm*⁷⁹ and its duration is the time sufficient for settling down on the posture and for uttering the salutation.
- (x) Terminal *taslīm*. And its formula is *As-salām 'alay-kum* and any other formula is not proper for its purpose. The Imām and the lone-worshipper is not expected to do more, but the follower of an Imām⁸⁰ would direct the *taslīm* towards his right side, then toward his front intending it as a response to the (*taslīm* offered by the) Imām; and he then directs another *taslīm* to his left side if there is a worshipper there; as a response to the *taslīm* of the person on his left. It is preferred that the *taslīm* of response should be said with the same formula for the *taslīm* of disengagement. It is not required of a worshipper to give special intention of termination of the worship, for his *taslīm*. In contrast to that is the opinion

نَحْمَدُ لِعَدَدِ الرُّكْعَاتِ. الثَّالِثَةُ قِرَاءَةُ الْفَاتِحَةِ عَلَى الْإِمَامِ وَالْقَدْ بِذَلِكَ مُعْجَمَةٌ: أَيْ الْمُنْفَرِدِ. الرَّابِعَةُ الْقِيَامُ لِلَاخِرَامِ وَلِقِرَاءَةِ الْفَاتِحَةِ الْخَامِسَةُ الرُّكُوعُ وَأَكْمَلُهُ أَنْ يَنْحَنِي بِحَيْثُ يَسْتَوِي ظَهْرُهُ وَعُنُقُهُ، وَيَنْصَبُ رُكْبَتَيْهِ، وَيَضَعُ كَفَيْهِ عَلَيْهِمَا، وَيَجَافِي الرَّجُلُ مِرْقَتَيْهِ عَنْ جَنْبَيْهِ وَلَا يُنْكَسُ رَأْسُهُ بَلْ يَكُونُ ظَهْرُهُ مُسْتَوِيًا. السَّادِسَةُ السُّجُودُ وَصِفَتُهُ أَنْ يُمَكِّنَ جَبْهَتَهُ وَأَنْفَهُ مِنَ الْأَرْضِ، وَالرُّكْبَتَيْنِ وَأَصَابِعَ الْقَدَمَيْنِ. السَّابِعَةُ وَالثَّامِنَةُ الرَّفْعُ مِنَ الرُّكُوعِ وَالسُّجُودِ هَذَانِ نَرْكُهُ وَحَبَّتِ الْإِعَادَةُ. التَّاسِعَةُ الْجُلُوسُ لِلْسَّلَامِ قَدَرًا مَا يَتَنَدَّلُ فِيهِ وَيُسَلِّمُ. الْعَاشِرَةُ تَسْلِيمَةُ التَّحْلِيلِ وَهِيَ السَّلَامُ عَلَيْكُمْ وَلَا يُجْزَى غَيْرُهَا وَلَيْسَ عَلَى الْإِمَامِ وَالْقَدْ غَيْرُهَا، وَأَمَّا الْمَأْمُومُ فَيُسَلِّمُهَا عَنْ يَمِينِهِ، ثُمَّ يُسَلِّمُ قِبَالَ وَجْهِهِ يَقْصِدُ بِهَا الرَّدَّ عَلَى الْإِمَامِ، ثُمَّ يُسَلِّمُ عَلَى يَسَارِهِ إِنْ كَانَ عَلَيْهِ أَحَدٌ يَقْصِدُ بِهَا الرَّدَّ عَلَيْهِ، وَالْأَفْضَلُ فِي تَسْلِيمَةِ الرَّدِّ أَنْ تَكُونَ بِلَفْظِ تَسْلِيمَةِ التَّحْلِيلِ وَلَا يُشْتَرَطُ أَنْ يَنْوِيَ بِسَلَامِهِ الْخُرُوجَ مِنَ الصَّلَاةِ عَلَى أَحَدِ الْقَوْلَيْنِ الْمَشْهُورَيْنِ، وَمُقَابِلُهُ لَا بُدَّ مِنْ ذَلِكَ وَعَلَيْهِ يَقْصِدُ الْإِمَامُ بِسَلَامِهِ الْخُرُوجَ مِنَ الصَّلَاةِ وَالسَّلَامَ عَلَى الْمَلَائِكَةِ وَالْمُقْتَدِينَ بِهِ وَيَقْصِدُ الْقَدْ السَّلَامَ عَلَى الْمَلَائِكَةِ. الْحَادِيَةَ عَشْرَةَ الْإِعْتِدَالُ فِي الْفَصْلِ بَيْنَ الْأَرْكَانِ، الثَّانِيَةِ

that he has to make the intention. To this, (school of thought) the Imām has to intend, with his *taslīm*, the disengagement from the worship, the extension of greetings (*taslīm*) to the angel and to his followers. The lone-worshipper has to intend, by his *taslīm*, extension of *taslīm* to the angel.

- (xi) Clear and distinct demarcation in the postures in between the principal postures.
- (xii) Calming down (not to be in a hurry) in all the principal acts of the worship, be it its standing up, its bending down or its prostration, as well as in the rising from each of them and the rising in – between the twin-prostrations. The difference between *at-tuma 'ninah* (calming down) and *al-'iṭidāl* (be erect or straight) is that the latter is applicable to the standing posture such as to be straight and parallel while the former is to make the affected parts of the body settle down.
- (xiii) Sequences of the acts, this is that the ritual commencement should precede the recitation, the recitation before the bending (*rukū'*) the *rukū'* before the prostration (*sujūd*) and the *sujūd* before the *taslīm*.
- (xiv) Continuity. For its is obligatory that the component acts of the worship and its principal postures should follow one another without any interruption.

SUNNAH ACTS OF RITUAL PRAYER

The *sunnah* acts of ritual prayer are eighteen:

- (i) Recitation of a Qur'anic chapter or what stands in for it⁸¹ after the recitation of *Sūratu 'l-Fātiḥah*, during the *Ṣubḥ*, the *Jumu'ah* Friday; and the first two *rak'ahs* of other daily obligatory ritual prayers.⁸²
- (ii) Standing up for the recitation.

عَشْرَةُ الطَّمَانِينَةِ فِي أَرْكَانِ الصَّلَاةِ كُلِّهَا قِيَامُهَا وَرُكُوعُهَا وَسُجُودُهَا ،
وَالرَّفْعُ مِنْهَا وَبَيْنَ السَّجْدَتَيْنِ ، وَالْفَرْقُ بَيْنَهَا وَبَيْنَ الْإِعْتِدَالِ أَنَّ
الْإِعْتِدَالَ فِي الْقِيَامِ مَثَلًا انْتِصَابُ الْقَامَةِ وَالطَّمَانِينَةُ اسْتِفْرَارُ
الْأَغْضَاءِ ، الثَّلَاثَةُ عَشْرَةُ تَرْتِيبُ الْأَدَاءِ وَهُوَ أَنْ يَكُونَ الْإِحْرَامُ قَبْلَ
الْقِرَاءَةِ وَالْقِرَاءَةُ قَبْلَ الرُّكُوعِ وَالرُّكُوعُ قَبْلَ السُّجُودِ وَالسُّجُودُ قَبْلَ
السَّلَامِ ، الرَّابِعَةُ عَشْرَةُ الْمَوَالَاةُ : فَيَجِبُ إِبْقَاعُ أَجْزَاءِ الصَّلَاةِ
وَأَرْكَانِهَا بِحَيْثُ يَلِي بَعْضُهَا بَعْضًا مِنْ غَيْرِ تَقْوِيَةٍ .

﴿فَضْلُ سُنَنِ الصَّلَاةِ﴾

وَسُنَنِ الصَّلَاةِ ثَمَانِيَةَ عَشَرَ الْأُولَى قِرَاءَةُ سُورَةٍ ، أَوْ مَا يَقُومُ
مَقَامَهَا بَعْدَ الْفَاتِحَةِ فِي الصُّبْحِ وَالْجُمُعَةِ وَالْأُولَيَيْنِ مِنْ

- (iii) Reading aloud in the first two *rak'ahs* of *Magrib* and '*Ishā*' prayers and the whole of *Ṣubh*, *Shaf'* and *witr*; *Jumu'ah*; the two '*id* prayers; midnight supererogatory prayers and the special prayer against draught.
- (iv) Silent recitation in all others. Silence is the one that no ear can grasp while loudness is the contrast.

NOTE:

There is no harm if the worshipper reads a verse or two verses silently where they are supposed to be loudly recited or recite loudly in place of being silently recited, whether it is deliberate or out of forgetfulness; but if he recites more than two verses and he remembers before placing his hands on his knees, he would re-recite the *Fātiḥah* and the chapter but if he remembers only when he had placed his hands on his knees, he would not go back to it because, according to 'Ibnu 'l-Qāsim, *rak'ah* is completed by raising of head from the *rukū'* except in certain cases one of which is this, wherein a *rak'ah* is completed by placing the hands on the knees. As to the question of when the worshipper deliberately abandons reciting loudly where it is necessary, some scholars said he would seek forgiveness from Allah the Most High, and there is no penalty for it, while others opined that his *salat* becomes void because this is belittling of prophetic practices and it is just like neglecting an obligatory act.

- (v) All *takbīr* except the *takbīr* of ritual commencement, are *sunnah* acts.
- (vi) The first major sitting of a prayer that requires two major sitting.
- (vii) The first *At-tashahud* (testimony)
- (viii) The second *at-tashahud*.
- (ix) The articulation of the prescribed formulae thus: "All greetings are for Allah, good deeds are for Allah, Allah the most decent blessings are for Allah; Peace, mercy and benevolence of Allah be on you, oh

غَيْرِهِمَا مِنْ فَرَائِضِ الْأَعْيَانِ ، الثَّانِيَةِ الْقِيَامُ لِفَلِكٍ ، الثَّالِثَةِ الْجَهْرُ فِي الْأَوَّلَيْنِ مِنَ الْمَغْرِبِ وَالْعِشَاءِ وَجُمْلَةِ الصُّبْحِ وَالشُّعْرِ وَالْوُتْرِ وَالْوُتْرِ وَالْجُمُعَةِ وَالْعِيدَيْنِ وَتَوَافِلِ اللَّيْلِ وَالْإِسْتِسْقَاءِ ، الرَّابِعَةِ الْإِسْرَارُ فِيمَا عَدَا ذَلِكَ ، وَالسَّرُّ مَا لَا يُسْمَعُ بِأُذُنٍ ، وَالْجَهْرُ ضِدُّهُ .

﴿تَبْيِيحٌ﴾

لَوْ قَرَأَ سِرًّا فِي مَحَلِّ الْجَهْرِ أَوْ جَهْرًا فِي مَحَلِّ السَّرِّ عَمْدًا أَوْ سَهْوًا الْآيَةَ وَالْآيَتَيْنِ لَا شَيْءَ عَلَيْهِ ، أَمَّا إِذَا قَرَأَ أَكْثَرَ مِنْ آيَتَيْنِ وَتَذَكَّرَ قَبْلَ وَضْعِ يَدَيْهِ عَلَى رُكْبَتَيْهِ أَعَادَ أَمَّ الْقُرْآنِ وَالسُّورَةَ ، وَإِنْ تَذَكَّرَ بَعْدَ وَضْعِ يَدَيْهِ عَلَى رُكْبَتَيْهِ لَا يَرْجِعُ ، لِأَنَّ عَقْدَ الرُّكْعَةِ عِنْدَ ابْنِ الْقَاسِمِ يَرْفَعُ الرَّأْسَ مِنَ الرُّكُوعِ إِلَّا فِي مَسَائِلَ مِنْهَا هَذِهِ فَإِنْ عَقَدَهَا يَوْضَعُ يَدَيْهِ عَلَى رُكْبَتَيْهِ ، قَالَ بَعْضُهُمْ لَوْ تَرَكَ الْجَهْرَ عَامِدًا فَقِيلَ يَسْتَغْفِرُ اللَّهُ تَعَالَى وَلَا شَيْءَ عَلَيْهِ وَقِيلَ تَبْطُلُ صَلَاتُهُ لِأَنَّ هَذَا مِنَ التَّهَافُوتِ بِالسَّنَنِ ، كَمَا بَتَّهَاوُنُ بِالْفَرِيقَةِ ، الْخَامِسَةِ كُلُّ تَكْبِيرٍ سَنَةٌ مَا عَدَا تَكْبِيرَةَ الْإِحْرَامِ ، السَّادِسَةُ إِلَى التَّاسِعَةِ : الْجُلُوسُ الْأَوَّلُ فِيمَا فِيهِ جُلُوسَانِ ، وَالتَّشَهُدُ الْأَوَّلُ وَالثَّانِي بِاللَّفْظِ الْوَارِدِ فِيهِ ، وَهُوَ : التَّحِيَّاتُ لِلَّهِ ، الزَّكَايَاتُ لِلَّهِ الطَّيِّبَاتُ الصَّلَوَاتُ

prophet. May peace be upon us, too, and upon all the righteous servants of Allah. I bear witness that there is no diety worthy of worship except Allah. He is alone and has no partner. I also bear witness that Muhammad is His servant and Messenger"

- (x) Invoking blessing on the prophet (blessing and peace of Allah be upon him) in the last *tashahud*. The formulae is⁸³ Allah, bless Muhammad and his family, as you have blessed Ibrahim and his family. And give benediction to Muhammad and his family as you have given benediction to Ibrahim and his family amongst the inhabitants of the world. You are indeed praise-worthy and glorious."
- (xi) The statement "Allah hears whoever praises Him"⁸⁴ made by the Imam and the lone-worshipper.
- (xii) Response to salutation from the Imam.
- (xiii) Response to the salutation from the worshipper on one's left side.
- (xiv) Saying loudly only the terminal salutations.⁸⁵
- (xv) Listening to the Imam when he recites loudly.
- (xvi) The screen⁸⁶ for the Imam and lone-worshipper. One who passes in front of a worshipper has committed a sin, if he has an alternative route.
- (xvii) Sitting a bit in excess of what is the bare necessity for the utterance of *taslim*.
- (xviii) A bit of increase over and above what is barely required for calmness.

DESIRABLE ACTS IN RITUAL PRAYERS

The desirable acts in ritual prayers are more than thirty.

- (i) The recitation of the one who follows an Imam when he (Imam) recites silently.
- (ii) Raising the two hands parallel to the shoulders at the commencement of the prayer when the *takbir* of commencement alone is uttered.
- (iii) Lengthy recitation during *Subh* and *Zuhr*, but longer

لله، السَّلامُ عَلَيْكَ أَيُّهَا النَّبِيُّ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ السَّلامُ عَلَيْنَا وَعَلَى عِبَادِ اللَّهِ الصَّالِحِينَ، أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ، الْعَاشِرَةُ: الصَّلَاةُ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي التَّشَهُّدِ الْأَخِيرِ، وَهِيَ: اللَّهُمَّ صَلِّ عَلَى مُحَمَّدٍ، وَعَلَى آلِ مُحَمَّدٍ، كَمَا صَلَّيْتَ عَلَى إِبْرَاهِيمَ، وَعَلَى آلِ إِبْرَاهِيمَ، وَبَارِكْ عَلَى مُحَمَّدٍ، وَعَلَى آلِ مُحَمَّدٍ، كَمَا بَارَكْتَ عَلَى إِبْرَاهِيمَ وَعَلَى آلِ إِبْرَاهِيمَ فِي الْعَالَمِينَ إِنَّكَ حَمِيدٌ مَجِيدٌ، الْحَادِيَةَ عَشْرَةَ قَوْلُ سَمِعَ اللَّهُ لِمَنْ حَمِدَهُ لِلْإِمَامِ وَالْقَدْ، الثَّانِيَةَ عَشْرَةَ وَالثَّلَاثَةَ عَشْرَةَ الرُّدُّ عَلَى الْإِمَامِ وَالرُّدُّ عَلَى مَنْ عَلَى يَسَارِهِ، الرَّابِعَةَ عَشْرَةَ: الْجَهْرُ بِتَسْلِيمَةِ التَّحْلِيلِ فَقَطْ، الْخَامِسَةَ عَشْرَةَ الْإِنْصَاتُ لِلْإِمَامِ فِيمَا يَجْهَرُ فِيهِ، السَّادِسَةَ عَشْرَةَ السُّتْرَةُ لِلْإِمَامِ وَالْقَدْ. وَبِأَيْتُمُ الْمَارِّينَ بِدِي الْمُصَلِّي إِذَا كَانَ لَهُ مَسَدُوحَةٌ، السَّابِعَةَ عَشْرَةَ. الرَّائِدُ عَلَى مَا يَسَعُ السَّلامُ مِنَ الْجُلُوسِ الثَّانِي، الثَّامِنَةَ عَشْرَةَ الرَّائِدُ عَلَى مِقْدَارِ الطَّمَأْنِينَةِ.

﴿فَضْلُ مُسْتَحَبَّاتِ الصَّلَاةِ﴾

وَمُسْتَحَبَّاتُ الصَّلَاةِ تَزِيدُ عَلَى ثَلَاثِينَ فَصِيلَةً. الْأُولَى قِرَاءَةُ الْمَأْمُومِ مَعَ الْإِمَامِ فِي السُّرُيَّةِ،

in the case of *Ṣubh*.

- (iv) Short recitations during 'Aṣr and Maghrib prayers.
- (v) Moderate recital during the 'Ishā'
- (vi) Making the length of the second *rak'ah* shorter than the first *rak'ah*.
- (vii) Making the first sitting shorter than the second sitting.
- (viii) The statement "Oh Allah all praise is due to You", when the Imam says "Allah hears him who praises Him", and for the lone-worshipper after he himself might have said the former formula.
- (ix) Glorification of Allah during bowing (*rukū'*) and prostration (*Sujūd*).
- (x) Saying of "*Amin*" silently after the end of *sūratu l-fātiḥah*, (with moderate enlongation of 'A' in "*Amin*") It is a name of Allah, the Most High, and the "nun" is in the nominative because it is preceded by an assumed article of invocation. The implied statement is "Oh you '*Amin*' accept our supplication". A worshipper behind an Imam would not say '*Amin*' in any worship wherein the recitation is not audible, except if the said follower is able to hear the recitation.
- (xi) Recitation of *al-qunūt*⁸⁷ during the *subh* prayer alone, after the recitation of the second *rak'ah*, before the *rukū'* and silently. The formulae is: "Oh Allah, we seek your assistance and forgiveness. We believe in You and rely on You. We attach to You all good things. We thank You and do not disbelieve You. We submit to You, we repudiate and abandon whoever disbelieves in You. Oh Allah, it is You we worship, to you we offer canonical worship and before you we prostrate, To you we hasten and we long for your Mercy and fearful of Your severe punishment. Surely your punishment is upon the unbelievers."
- (xii) The supplication after the second *tashahhud*.
- (xiii) That the two hands should precede the knees when moving towards prostration.

الثَّانِيَةُ : رَفَعَ الْيَدَيْنِ عِنْدَ الشُّرُوعِ فِي تَكْبِيرَةِ الْإِحْرَامِ فَقَطُّ بِحَاذِي
بِهِمَا مِنْكَبَيْهِ قَائِمَتَيْنِ ، وَتَطْوِيلُ الْقِرَاءَةِ فِي الصُّبْحِ وَالظُّهْرِ ، لَكِنْ
فِي الصُّبْحِ أَطْوَلُ ، وَتَقْصِيرُهَا فِي الْعَصْرِ وَالْمَغْرِبِ ، وَتَوْسُطُهَا فِي
الْعِشَاءِ ، وَتَقْصِيرُ الرُّكْعَةِ الثَّانِيَةِ عَنِ الْأُولَى وَتَقْصِيرُ الْجُلُوسِ الْأَوَّلِ
عَنِ الثَّانِي ، وَقَوْلُ رَبَّنَا وَلَكَ الْحَمْدُ لِلْمَأْمُومِ عِنْدَ قَوْلِ الْإِمَامِ سَمِعَ
اللَّهُ لِمَنْ حَمِدَهُ ، وَلَلْفَتْحُ بَعْدَمَا يَقُولُهَا ، التَّسْبِيحُ فِي الرُّكُوعِ
وَالسُّجُودِ ، وَالتَّائِمِينَ سِرًّا ، وَهُوَ قَوْلُ آمِينَ ، بَعْدَ الْفَرَاغِ مِنَ الْقَائِمَةِ
بِالْمَدِّ مَعَ التَّخْفِيفِ اسْمُ اللَّهِ تَعَالَى وَنُونُهُ مَضْمُومَةٌ عَلَى النَّدَاءِ ،
التَّقْدِيرُ يَا آمِينَ اسْتَجِبْ دُعَاءَنَا ، وَلَا يُؤْمِنُ الْمَأْمُومُ خَلْفَ الْإِمَامِ فِي
الْجَهْرِ إِلَّا إِذَا سَمِعَ قِرَاءَتَهُ ، وَالْقُنُوتُ فِي الصُّبْحِ فَقَطُّ بَعْدَ
الْفَرَاغِ مِنَ الْقِرَاءَةِ فِي الرُّكْعَةِ الثَّانِيَةِ قَبْلَ الرُّكُوعِ سِرًّا ، وَلَفْظُهُ
وَهُوَ اللَّهُمَّ إِنَّا نَسْتَعِينُكَ وَنَسْتَغْفِرُكَ وَنُؤْمِنُ بِكَ وَنَتَوَكَّلُ عَلَيْكَ
وَنَقْنِي عَلَيْكَ الْخَيْرَ كُلَّهُ نَشْكُرُكَ وَلَا نَكْفُرُكَ وَنَخْتَعُ لَكَ وَنَخْلَعُ
وَنَتَرَكُ مَنْ يَكْفُرُكَ اللَّهُمَّ إِيَّاكَ نَعْبُدُ وَلَكَ نُصَلِّي وَنَسْجُدُ وَإِلَيْكَ نَسْعَى
وَنَخْشَدُ نَرْجُو رَحْمَتَكَ
وَنَخَافُ عَذَابَكَ الْجِدِّ إِنَّ عَذَابَكَ بِالْكَافِرِينَ مُلْحِقٌ وَالْدُّعَاءُ
بَعْدَ الشَّهَادَةِ الثَّانِيَةِ ، وَتَقْدِيمُ بَلَدِهِ حِينَ يَهْوِي بِهِمَا لِلْسُّجُودِ

- (xiv) Making the lifting of the two knees precede the lifting of the two hands when rising from the prostration.
- (xv) Folding of the little finger, the ring-finger and the mid-finger of the right hand and leaving unfolded the index-finger and the thumb during the two *tashahhud*.
- (xvi) Continuous side-ways movement of the index finger, symbolising with it the expulsion of satan, while the left hand is stretched.
- (xvii) Placing the two hands on the knees during the bowing.
- (xviii) Placing the two hands parallel or close to the two ears during prostration.
- (xix) For a male worshipper to leave a gap between his knees, his elbows, upper arms (from the sides) and thighs during the prostration.
- (xx) Saying of *Allāhu Akbar* at the commencement of every component act of the prayer except during the standing up from the sitting after second *rak'ah* in which case, one is expected to say *Allāhu Akbar* only after one must have stood up straight and erect.
- (xxi) Sitting on the hip during the two sittings, and in the sittings in-between the two prostrations. This is done by planting the left hip on the ground, bringing out completely the two legs from the right side, putting the right foot on a vertical position and with the inner part of the right big toe placed on the ground while the left leg is placed in a horizontal position.
- (xxii) Placing the two hands on the thighs.
- (xxiii) Turning of every worshipper towards the right while pronouncing the obligatory *taslim*. This is done by pointing, with the head, towards the front while turning the face slightly towards the right side where-by it is possible to see (from the right side) only a side of one's face.
- (xxiv) Gazing straight at the point on which the head rests during prostration. While in the standing posture, he should direct his gaze at the point whereon he will prostrate.

عَلَى رُكْبَتَيْهِ وَتَقْدِيمُ رُكْبَتَيْهِ عَلَى يَدَيْهِ عِنْدَ الْقِيَامِ ، وَعَقْدُ الْخَنَصِرِ
وَالْبَنْصَرِ وَالْوَسْطَى مِنَ الْيَدِ الْيُمْنَى مَادًّا السَّبَابَةَ وَالْإِبْهَامَ مِنْهَا فِي
التَّسْلِيمِ وَيُحْرِّكُ السَّبَابَةَ وَيَعْتَقِدُ بِالْإِشَارَةِ بِهَا أَنَّهَا مِطْرَدَةٌ
لِلشَّيْطَانِ وَيَسْطُ الْبَسْرَى ، وَوَضْعُ الْيَدَيْنِ عَلَى الرُّكْبَتَيْنِ فِي الرُّكُوعِ ،
وَوَضْعُهُمَا حَذْوِ أُذُنَيْهِ أَوْ قُرْبَهُمَا فِي السُّجُودِ ، وَمُجَافَاةُ الرَّجُلِ فِي
السُّجُودِ بَيْنَ رُكْبَتَيْهِ وَبَيْنَ مِرْقَعَيْهِ وَجَنْبَيْهِ وَبَيْنَ فَخْذَيْهِ ، وَالتَّكْبِيرُ
عِنْدَ الشَّرُوعِ فِي أَفْعَالِ الصَّلَاةِ إِلَّا فِي تَكْبِيرَةِ الْقِيَامِ مِنَ التَّنَبُّهِ فَإِنَّهُ
يُكَبِّرُهَا بَعْدَ مَا يَسْتَوِي قَائِمًا ، وَالتَّوَرُّكُ فِي الْجُلُوسِ ، وَبَيْنَ
السُّجُودَيْنِ وَهُوَ أَنْ يُفْضِيَ بِوَرِكَهِ الْأَيْسَرِ إِلَى الْأَرْضِ ، وَيُخْرِجَ
رِجْلَيْهِ جَمِيعًا مِنْ جَانِبِهِ الْأَيْمَنِ ، وَيَنْصِبَ قَدَمَهُ الْيُمْنَى ، وَبَاطِنُ
إِبْهَامِ الْيُمْنَى إِلَى الْأَرْضِ ، وَيُثْنِي الْبَسْرَى ، وَيَضَعُ كَفَيْهِ عَلَى
فَخْذَيْهِ ، وَالتَّيَامُنُ بِالسَّلَامِ الْمَقْرُوضِ لِكُلِّ مُصَلٍّ ، وَهُوَ أَنْ يُشِيرَ
بِرَأْسِهِ قِبَالَ وَجْهِهِ وَيَتَيَمَّنَ بِهَا قَلِيلًا ، بِحَيْثُ تُرَى صَفْحَةُ وَجْهِهِ

- (xxv) Touching directly with the head and the palms, the ground or what grows from it,
 (xxvi) Walking to the worship with dignified bearing and calm.
 (xxvii) Straightness of the rows.
 (xxviii) Leaving out the saying of *Bismillāhir-Rahmānir-Rahīm* (In the name of Allah the Beneficent The Merciful) during obligatory ritual prayer.
 (xxix) Chanting, after the *taslim* of disengagement from the prayer, certain specified formular of Allah's remembrance, such as recital of the following: the verse of the throne⁸ *tasbīh*, (expression of Glorification of Allah 33 times, *Tahmīd* (expression of Gratitude to Allah) 33 times, *takbīr* (expression of the greatness of Allah) 33 times and making it complete 100 (33 x 3 = 99) with the statement "There is no deity worthy of worship except Allah, He is alone, there is no partner for Him, to Him belongs sovereignty and praise and He is capable of all things."

DETESTABLE ACTS

It is detested to offer supplication after the *takbīr* of commencement of worship; during the *rukūʿ* (bowing) or during the first *tashahhud* so also is the saying of *taʿawwudh*, i.e., *'aūdhu billāhi minna sh-shayṭānir raḥīm* (I seek refuge from Allah against satan, the accursed) and the saying of *basmalah*, i.e., *Bismillāhir Rahmānir Rahīm* (In the name of Allah the Beneficent the Merciful), at the commencement of an obligatory (ritual prayer). Others are prostration on a carpet, scalf, similar items or tip of a dress; looking here and there without necessity, crasping or cracking the fingers and playing with one's ring or beard. So also are closing of eyes, raising one face towards the sky, putting the two feet together, the placing of hand on the waist; thinking and ruminating over worldly matters; carrying something on one's sleeve or in the mouth, worshipping on a path of people who will pass in one's front, and killing of fleas and lice in the mosque.

وَالنَّظَرُ إِلَى مَوْضِعِ السُّجُودِ فِي قِيَامِهِ وَمُبَاشَرَةُ الْأَرْضِ أَوْ مَا تَنْبَتُ بِالْوَجْهِ وَالْكَفَّيْنِ وَالْمَشْيُ إِلَى الصَّلَاةِ بِوَقَارٍ وَسَكِينَةٍ ، وَاعْتِدَالُ الصُّفُوفِ وَتَرْكُ التَّسْبِيحِ فِي الْفَرِيضَةِ وَالذِّكْرُ بَعْدَ السَّلَامِ مِنَ الصَّلَاةِ بِالْأَذْكَارِ الْوَارِدَةِ كَقِرَاءَةِ آيَةِ الْكُرْسِيِّ ، وَالتَّسْبِيحِ ثَلَاثًا وَثَلَاثِينَ ، وَالتَّحْمِيدِ ثَلَاثًا وَثَلَاثِينَ وَالتَّكْبِيرِ ثَلَاثًا وَثَلَاثِينَ ، وَخَتَمِ الْمِائَةِ بِإِلَهِ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ ، لَهُ الْمُلْكُ وَلَهُ الْحَمْدُ وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ .

﴿فَضْلٌ﴾

بُكَرَةُ الدُّعَاءِ بَعْدَ تَكْبِيرَةِ الْإِحْرَامِ ، وَفِي الرُّكُوعِ وَفِي الشَّهَادَةِ الْأُولَى ، وَالتَّعَوُّدُ وَالْبَسْمَلَةُ فِي الْفَرِيضَةِ ، وَالسُّجُودُ عَلَى الْبِطَاطِ وَالْمِنْثِيلِ وَنَحْوِهِ وَعَلَى طَرَفِ الْكُمِّ وَالْإِلْيَافَاتِ لِغَيْرِ ضَرُورَةٍ وَتَشْيِيقُ الْأَصَابِعِ وَفَرَمَقَتُهَا وَالْعَبْتُ بِخَاتَمِهِ أَوْ بِلِحْتِهِ وَتَغْيِيزُ بَصَرِهِ وَرَفْعُهُ إِلَى السَّمَاءِ ، وَصَمُّ الْقَلَمَيْنِ ، وَوَضْعُ الْيَدِ عَلَى الْخَاصِرَةِ ، وَتَحْدِيثُ النَّفْسِ بِأُمُورِ الدُّنْيَا ، وَحَمْلُ شَيْءٍ بِكُمِّ أَوْ فَمٍ ، وَالصَّلَاةُ بِطَرِيقِ مَنْ يَمُرُّ بَيْنَ يَدَيْهِ ، وَقَتْلُ الْبَرْخُوثِ وَالْقَمَلَةِ فِي الْمَسْجِدِ .

VITIATION OF RITUAL PRAYERS

Ritual prayer is vitiated by leaving out any of its conditions while the worshipper is capable of doing it. Other vitiators of *aṣ-ṣalāt* include: leaving the *takbīr* of commencement of worship, intention or any similar principal elements of worship and deliberate abandonment of a *sunndh* act. Others are talking for any purpose other than the rectification of the prayer; lot of work, not belonging to the prayer, such as long walking, not a short walk such as a walk to put a screen to bridge a gap or a signal. Scratching of the body is also exempted.

Eating and drinking absolutely vitiate ritual prayer.⁸⁹ Extra elements of ritual prayer (such as *rukū'* and *sujūd*) vitiate ritual prayer if the excess is done deliberately or out of ignorance. In the case of forgetfulness, the ritual prayer is vitiated only if the increase is relatively substantial, such as an increase of two *rak'ahs* for *Ṣubḥ* and four *rak'ah* for each of *Zuhr*, *'Aṣr* and *'Ishā'*.

When a person offers a complete ritual prayer in perfect conformity with the rules of the prayer but he cannot distinguish which of the component acts of the ritual prayer are obligatory, *Sunnah* or merely desirable acts, it is opined in certain legal circles that the prayer of such ignorant person is void but the soundest opinion is that the prayer is valid on the condition that the ignorant worshipper had learnt the procedure from a learned scholar.

PROSTRATION FOR OVERSIGHT

Sujud for oversight is a *sunnah* act for the rectification of omission of any component-act that is emphatic *sunnah*. The emphatic *sunnah* are eight:

- (i) Recitation of other than *Suratu 'I-Fātihah*.
- (ii) Loud recitation
- (iii) Silent recitation
- (iv) Saying of any *takbīr* other than the *takbīr* of commencement

﴿فَضْلُ مَبْطِلِ الصَّلَاةِ﴾

تَبْطُلُ الصَّلَاةُ بِتَرْكِ شَرْطٍ مِنْ شُرَاطِهَا مَعَ الْقُدُورَةِ عَلَيْهِ وَحَرَكِ
كَبِيرَةِ الْإِحْرَامِ أَوْ التَّيَّةِ أَوْ غَيْرِهِمَا مِنْ أَرْكَانِهَا ، وَبِتَرْكِ سُنَّةٍ وَاحِدَةٍ
عَمْدًا عَلَى أَحَدِ الْقَوْلَيْنِ وَبِالْكَلَامِ لِغَيْرِ إِصْلَاحِهَا ، وَبِالْفِعْلِ الْكَثِيرِ
مِنْ غَيْرِ جِنْسِ الصَّلَاةِ ، كَالْمَشْيِ الْكَثِيرِ بِخِلَافِ الْقَلِيلِ جِدًّا ،
كَالْمَشْيِ لِسُنَّةٍ أَوْ فُرْجَةٍ وَالْعَمَزَةِ وَحَكِّ الْجَسَدِ ، وَالْأَكْلُ وَالشُّرْبُ
مَبْطُلٌ مُطْلَقًا وَبِزِيَادَةِ فِعْلٍ مِنْ جِنْسِ الصَّلَاةِ عَمْدًا أَوْ جَهْلًا مُطْلَقًا
وَسَهْوًا إِنْ كَثُرَ ، وَهُوَ رَكْعَتَانِ فِي الصُّبْحِ وَأَرْبَعُ رَكْعَاتٍ فِي الظُّهْرِ
وَالْعَصْرِ وَالْعِشَاءِ ، وَمَنْ صَلَّى صَلَاةً نَامَةً أَتَى عَلَى نِظَامِهَا وَهُوَ لَا
يَعْرِفُ الْفَرَضَ مِنَ السُّنَّةِ وَلَا السُّنَّةَ مِنَ الْمُسْتَحَبِّ ، فَقِيلَ إِنَّ صَلَاتَهُ
بَاطِلَةٌ وَالصَّحِيحُ أَنَّهَا صَحِيحَةٌ إِنْ أَخَذَ وَضَعَهَا عَنْ عِلْمٍ .

﴿فَضْلُ سُجُودِ السَّهْوِ﴾

سُجُودُ السَّهْوِ سُنَّةٌ لِكُلِّ سُنَّةٍ مُؤَكَّدَةٍ مِنْ سُنَنِ الصَّلَاةِ وَهِيَ
ثَمَانِيَةٌ : قِرَاءَةُ مَا سِوَى أُمِّ الْقُرْآنِ وَالْجَهْرُ وَالْإِسْرَارُ وَالتَّكْبِيرُ سِوَى

- (v) *Tahmīd*
- (vi) The first *Tashahhud*
- (vii) The sitting for the first *tashahhud*
- (viii) The last *tashahhud*.

No prostration for rectification is required for the omission of any *sunnah* act which is not an emphatic *sunnah*, nor for any supererogatory act such as *al-qunūt* (pledge of submission) in *Ṣubḥ* prayer. If a prostration for rectification is made on account of any of the two the prayer becomes void. Prostration for rectification is not applicable to the omission of an obligatory act such as the *takbīr* of commencement or extra utterances such as which does not normally vitiate prayer, such as a short talk done out of forgetfulness or an extra act which does not vitiate prayer such as forgetful increase of a *rak'ah* in a four *rak'ah* prayer or a little turn away from the ritual prayer out of forgetfulness.

The point of the *sujūd* for oversight differs. If it is only for the rectification of an undue increase, the worshipper would prostrate after *taslīm*.⁹⁰ If it is on account of omission or a combination of addition and omission, then he would prostrate before *taslīm*.^{90a}

It is done as follows: Two *sujūd* which are accompanied with *takbīr*. He repeats the *tashahhud* in the case of *Qablī*, then he pronounces the *taslīm*. If a follower-worshipper forgets anything in his prayer behind an *Imām*, the latter legally relieves him of the burden. Conversely, the prostration for oversight by the *Imām* compels the follower to make the prostration, though the follower might not have omitted anything. This would be so, even if he had not yet come into the congregation by the time the omission or commission was made.

تَكْبِيرَةُ الْإِحْرَامِ وَالتَّحْنِيدُ وَالتَّشَهُدُ الْأَوَّلُ وَالْجُلُوسُ الْأَوَّلُ لَهُ ،
وَالْتَّشَهُدُ الْآخِرُ ، وَلَا سُجُودَ لِتَرْكِ سُنَّةٍ

غَيْرِ مُؤَكَّدَةٍ كَتَكْبِيرَةٍ وَاحِدَةٍ غَيْرِ تَكْبِيرَةِ الْإِحْرَامِ وَلَا لِتَرْكِ فَضِيلَةٍ
كَالْقُنُوتِ فِي الصُّبْحِ ، فَإِنْ سَجَدَ لَهَا بَطَلَتْ صَلَاتُهُ ، وَلَا لِفَرِيضَةٍ
كَتَكْبِيرَةِ الْإِحْرَامِ ، أَوْ لِزِيَادَةِ قَوْلٍ غَيْرِ مُبْطِلٍ لِلصَّلَاةِ كَالْكَلَامِ
الْقَلِيلِ سَهْوًا أَوْ فِعْلٍ غَيْرِ مُبْطِلٍ ، كَزِيَادَةِ رَكْعَةٍ فِي الرَّبَاعِيَّةِ
سَهْوًا وَالْانْصِرَافِ الْقَرِيبِ مِنَ الصَّلَاةِ سَهْوًا ، وَمَحَلُّ سُجُودِ
السُّهُوِ مُخْتَلِفٌ فَالزِّيَادَةُ فَقَطْ يَسْجُدُ لَهَا بَعْدَ السَّلَامِ وَالتَّقْصُ
فَقَطْ أَوْ التَّقْصُ وَالزِّيَادَةُ يَسْجُدُ لَهَا قَبْلَ السَّلَامِ ، وَصِفَتُهُ سَجْدَتَانِ
يُكَبِّرُ لَهَا فِي أَوَّلِهِمَا وَالرُّفْعَ مِنْهُمَا وَيُعِيدُ لِلتَّشَهُدِ فِي الْقَلِيلِ ثُمَّ
يُسَلِّمُ ، فَإِنْ سَهَا الْمَأْمُومُ خَلْفَ الْإِمَامِ فَإِنَّ الْإِمَامَ بِحِمْلِهِ عَنْهُ وَيَلْزَمُ
الْمَأْمُومَ سَهْوُ الْإِمَامِ ، وَإِنْ لَمْ يَسْهَ مَعَهُ ، وَلَا حَضَرَ سَهْوُهُ .

CONGREGATIONAL RITUAL PRAYER

Congregational prayer is an emphatic *sunnah*, one does not acquire its merit except by catching up with at least a *rak'ah*, with its two *sujud*. Whoever attains a *rak'ah* should not repeat the same ritual prayer in another congregation. A congregation is made up of two or more persons. Anyone who offers his prayer alone, or one who does not meet up to a full *rak'ah* behind the Imām, may re-offer the prayer in a congregation, or with another person as a follower-worshipper, with the intention of leaving for Allah the matter of which of the two prayers is chosen, provided the concerned prayer is not *Magrib* prayer, or 'Ishā' when the *witr* had already been observed. Whoever is in a mosque when a particular ritual prayer is about to be said congregationally shall not commence that or similar ritual prayer separately, be the ritual prayer obligatory or optional.

REQUIREMENTS OF IMAMSHIP

- The requirements for being an Imām are nine:
- I Purification. The Imamship of a person who leads the prayer while he was conscious of the fact that he was in a state of impurity, is not valid.
 - II That he is not at the same time a follower-worshipper. The worship of a person becomes void if he erroneously offers his prayer following a person who had met and performed a portion of the prayer behind an Imam or a person who himself is a follower-worshipper, but mistaken for an Imām.
 - III Islam
 - IV Masculinity. The Imamship of a female is not in any-way valid.⁹¹
 - V Maturity. The Imamship of a minor in an obligatory ritual prayer is not valid except for his group of minors.
 - VI Sanity. The Imamship of an insane or a drunkard is not valid.

﴿فَضْلُ صَلَاةِ الْجَمَاعَةِ﴾

صَلَاةُ الْجَمَاعَةِ سُنَّةٌ مُؤَكَّدَةٌ وَلَا يَحْصُلُ فَضْلُهَا إِلَّا بِإِدْرَاكِ رَكْعَةٍ بِسَجْدَتَيْهَا فَمَنْ أَدْرَكَهَا لَيْسَ لَهُ أَنْ يُعِيدَهَا فِي جَمَاعَةٍ أُخْرَى ، وَالْجَمَاعَةُ اثْنَانِ فَصَاعِدًا ، وَمَنْ صَلَّى وَخَذَهُ أَوْلَمَ يُدْرِكُ مَعَ الْإِمَامِ رَكْعَةً كَامِلَةً فَإِنْ لَهُ أَنْ يُعِيدَهَا فِي جَمَاعَةٍ ، أَوْ مَعَ وَاحِدٍ مَأْمُومًا نَاقِيًا بِذَلِكَ التَّقْرِيبِ إِنْ كَانَتْ تِلْكَ الصَّلَاةُ غَيْرَ الْمَغْرِبِ . وَكَذَا الْعِشَاءُ بَعْدَ وَتْرِ صَحِيحٍ ، وَمَنْ أَقْبَمَتْ عَلَيْهِ تِلْكَ الصَّلَاةُ وَهُوَ فِي الْمَسْجِدِ فَإِنَّهُ لَا يَتَدَأُ بِتِلْكَ الصَّلَاةِ وَلَا غَيْرَهَا فَرَضًا أَوْ نَفْلًا .

﴿فَضْلُ شُرُوطِ الْإِمَامَةِ﴾

شُرُوطُ الْإِمَامَةِ سِتَّةٌ . الْأَوَّلُ الطَّهَارَةُ فَلَا تَصِحُّ إِمَامَةٌ مَنْ صَلَّى مُخَذَّيًا مُتَعَمِّدًا ثَلَاثِي أَنْ لَا يَكُونَ مَأْمُومًا ، فَمَنْ اقْتَدَى بِمُسْبِقٍ أَوْ بِمَأْمُومٍ ظَنَّهُ إِمَامًا بَطَلَتْ صَلَاتُهُ الثَّالِثُ الْإِسْلَامُ ، الرَّابِعُ الذُّكُورَةُ فَلَا تَصِحُّ إِمَامَةُ الْمَرْأَةِ مُطْلَقًا ، الْخَامِسُ الْبُلُوغُ فَلَا تَصِحُّ إِمَامَةُ غَيْرِ الْبَالِغِ فِي الْفَرَضِ إِلَّا لِيُثْلِيَ السَّادِسُ الْعَقْلُ فَلَا تَصِحُّ إِمَامَةُ الْمَجْنُونِ

- VII Freedom — This is a condition in *Jumu'ah* prayer.
- VIII Freedom from viciousness. The Imamship of an adulterer or a consumer of liquor is not valid.
- IX Capability of performing the basic elements of the prayer. The Imamship of a person who is incapable of bowing, for instance, is not valid except when all the followers too are similarly incapable. Similarly the Imamship of a person who is not conversant with the principles governing prayer, is not valid, except for people of his category. There are different opinions on the validity or otherwise of the Imamship of one who cannot distinguish "ḡād" (ظ) from "Zā" (ض) as well as the Imamship of one who has grammatical lacunae.⁹³ A prayer behind a person who belongs to another school of law, such as a follower of Maliki school behind a follower of Shafi' school, is valid.

CONDITIONS FOR THE VALIDITY OF THE RITUAL PRAYER OF ONE WHO WORSHIPS BEHIND AN IMAM

- The conditions governing the validity of the ritual prayer by one who worships behind the Imām are five:
- I Followership. That he makes the intention that he is a follower of the Imām and that his own prayer is in accordance with that of the Imām. Thus if he follows the Imām without the intention of following the Imām his prayer is void.
 - II A person who owes an obligatory ritual prayer shall not seek to accomplish it with a congregation, (or an Imām) that is performing an optional prayer.
 - III That the obligatory prayer of the two (that of the Imām and the follower) be identical; either in the case of the *Zuhr* and *ʿAsr* prayers or any other similar obligatory prayer. *Zuhr* prayer should not be performed behind the Imām who is performing *ʿAsr* or vice versa.

وَلَا السُّكْرَانُ السَّابِعُ الْحُرِّيَّةُ وَهِيَ شَرْطٌ فِي الْجُمُعَةِ الثَّانِي
السَّلَامَةُ مِنَ الْفِسْقِ بِالْجَارِحَةِ فَلَا تَصِحُّ إِمَامَةُ الرَّائِي وَشَارِبِ
الْخَمْرِ. الثَّاسِعُ الْقُدْرَةُ عَلَى الْأَرْكَانِ فَلَا تَصِحُّ إِمَامَةُ الْعَاجِزِ عَنِ
الرُّكُوعِ مَثَلًا إِلَّا أَنْ يَكُونَ الْمُأْمُومُ أَيْضًا عَاجِزًا عَنْهُ ، وَكَذَلِكَ الْعَاجِزُ
عَنِ أَحْكَامِ الصَّلَاةِ فَلَا تَصِحُّ إِمَامَتُهُ إِلَّا لِمِثْلِهِ ، وَاخْتَلَفَ مَلَّ تَصِحُّ
إِمَامَتُهُ مَنْ لَمْ يُمَيِّزْ بَيْنَ الضَّادِ وَالظَّاءِ وَإِمَامَةُ اللَّاحِزِ ، وَتَصِحُّ الصَّلَاةُ
خَلْفَ الْمُخَالِفِ فِي الْفُرُوعِ الظَّنِّيَّةِ كَالْمَالِكِيِّ خَلْفَ الشَّافِعِيِّ .

﴿فَضْلُهُ﴾ شُرُوطُ صِحَّةِ صَلَاةِ الْمُأْمُومِ .

شُرُوطُ صِحَّةِ صَلَاةِ الْمُأْمُومِ خَمْسَةٌ ، الْأَوَّلُ : الْإِقْدَاءُ وَهُوَ أَنْ
يُبَيِّنَ أَنَّهُ مُأْمُومٌ بِالْإِمَامِ ، وَأَنَّ صَلَاتَهُ تَابِعَةٌ لِصَلَاتِهِ فَإِنْ تَابَعَهُ مِنْ
غَيْرِ نِيَّةٍ بَطَلَتْ صَلَاتُهُ ، الثَّانِي أَنْ لَا يَأْتِمُ مَقَرَّضٌ يَسْتَفْلِرُ ، الثَّالِثُ
أَنْ يَتَّحِدَ الْفَرَضَانِ فِي ظَهْرِيَّةٍ أَوْ غَيْرِهَا فَلَا يُصَلِّي ظَهْرًا خَلْفَ عَصَرٍ
وَلَا الْمَكْسَرِ .

IV That there should be uniformity in its being offered at the right time or compensatorily.⁹⁴ A *Zuhr* prayer, for instance, cannot be performed by someone who is compensating for it behind a person who is performing it within schedule, or vice versa.

V Succession in the commencement and pronunciation of terminal *taslīm*, i.e. if a worshipper commences the prayer or pronounces the *taslīm* before or at the same time as the *Imām* does; in each case, his prayer is vitiated. As for one who precedes the *Imām* in doing other acts, his prayer is not voided on that account. However such is improper. It is reprehensible to do the acts simultaneously with the *Imām*.

DESIRABLE ELEMENTS OF CONGREGATIONAL PRAYER

It is preferred that a single person performing ritual prayer with an *Imām* should stand to the right of the *Imām*; but two or more followers should stay behind the *Imām*. The prayer of a follower-worshipper who stays in front of the *Imām*, is valid, though the act is reprehensible if it is not out of necessity.⁹⁵ The prayer of a follower-worshipper who stays alone behind the row is valid; it is however reprehensible to divide the rows without any excuse. It is permissible for the one being led in ritual prayer to be on a higher plane than that of the *Imām*, except if is purposely done out of pride, in which case his prayer becomes void. It is not proper for the *Imām* to worship on a place higher than the place of his congregation except in a ship.⁹⁶ If the difference is minimal such as a span of the hand, and it is not out of pride, then the prayer is valid. However, if the difference is more than a span of a hand, the prayer of both the *Imām* and the led becomes void.

الرَّابِعُ : أَنْ يَتَّحِدَا فِي الْأَدَاءِ وَالْقَضَاءِ فَلَا يُصَلِّي ظَهْرًا قَضَاءً خَلْفَ مَنْ يُصَلِّيهِ أَدَاءً وَلَا الْعَكْسَ . الْخَامِسُ : الْمَتَابَعَةُ فِي الْإِحْرَامِ وَالسَّلَامِ فَلَوْ أَحْرَمَ أَوْ سَلَّمَ قَبْلَ الْإِمَامِ أَوْ سَاوَاهُ فِيهِمَا بَطَلَتْ صَلَاتُهُ ، وَأَمَّا غَيْرُهُمَا فَالسَّبْقُ فِيهِ غَيْرُ مُبْطِلٍ لَكِنَّهُ حَرَامٌ وَالْمُسَاوَاةُ فِيهِ مَكْرُوهٌ

﴿فَضْلٌ﴾

الْأَفْضَلُ أَنْ يَبِفَ الرَّجُلُ الْوَاحِدُ عَنْ يَمِينِ الْإِمَامِ ، وَالْإِثْنَانِ فَصَاعِدًا خَلْفَهُ ، وَتَصِيحُ صَلَاةِ الْمَأْمُومِ إِذَا تَقَدَّمَ عَلَى الْإِمَامِ لَكِنَّهُ يُكْرَهُ إِذَا كَانَ لِغَيْرِ ضَرُورَةٍ ، وَتَجُوزُ الصَّلَاةُ مُتَفَرِّدًا خَلْفَ الصَّفِّ وَتُكْرَهُ تَفْرِيقُ الصُّفُوفِ مِنْ غَيْرِ ضَرُورَةٍ ، وَتَجُوزُ أَنْ يُصَلِّيَ الْمَأْمُومُ فِي مَكَانٍ أَعْلَى مِنْ مَكَانِ الْإِمَامِ إِلَّا أَنْ يَقْصِدَ بِذَلِكَ الْكَثِيرَ فَتَكُونُ صَلَاتُهُ بَاطِلَةً ، وَلَا يَجُوزُ أَنْ يُصَلِّيَ الْإِمَامُ فِي مَكَانٍ أَرْفَعَ مِنْهُ عَلَيْهِ أَصْحَابُهُ ، إِنْ كَانَ فِي غَيْرِ سَفِينَةٍ فَإِنْ كَانَ بَسِيرًا كَالشَّيْرِ وَلَمْ يَقْصِدْ بِهِ الْكَثِيرَ فَإِنَّ الصَّلَاةَ صَحِيحَةٌ ، وَإِنْ كَانَ أَكْثَرَ مِنْ ذَلِكَ بَطَلَتْ عَلَيْهِ وَعَلَيْهِمْ .

OBLIGATION OF FRIDAY WORSHIP

Friday prayer is an individual obligation. For a person coming from a far, it is compulsory to start moving towards it, (the mosque) before the call is made, at a time sufficient for its attainment. (i.e. meet the prayer). As for the one in the neighbourhood of the mosque, it is obligatory for him to start the movement as soon as the sun passes the meridian, it is believed, elsewhere, that it is as soon as the call is made. The conditions for its becoming obligatory are seven;

- (i) Liability. It is not obligatory on a minor, an insane or similar persons.
- (ii) Freedom. It is not obligatory on a slave or partially freed slave; though it is recommended for the latter. It is also recommended that the young ones should attend it.
- (iii) Masculinity. It is not obligatory on a female.
- (iv) Residence. It is not obligatory on a traveller except if he intends to spend up to four days in the place.
- (v) To be held in a place where people normally dwell.
- (vi) Vicinity. The prospective worshipper should; at the time of the ritual prayer, be in a place not more than three miles (4.8 kilometre) away from the mosque.⁹⁷ This is the extent to which a high voice may be able to reach if the wind is silent and there is quietness while the caller has a sonorous voice. The three-mile distance would normally be from the minaret. Others opined that it should be from the outskirts of the town. A mile, according to popular opinion, as shall be seen later, is made up of a thousand cubits. The fixation of the mentioned distance is applicable only to one who is outside the town where the Friday prayer is to be held; but as regards he who is within the town, the attendance and performance of *Jumu'ah* are obligatory on him, even if he is six miles or more, away from the mosque.

﴿فَضْلُ الْجُمُعَةِ﴾

الْجُمُعَةُ فَرَضٌ عَيْنٌ ، وَالسَّغْيُ إِلَيْهَا وَاجِبٌ عَلَى الْبَعِيدِ قَبْلَ
النِّدَاءِ بِمِقْدَارِ مَا يَذْكُرُ وَعَلَى الْقَرِيبِ بِزَوَالِ الشَّمْسِ ، وَقِيلَ
بِالْأَذَانِ ، وَلَوْ جُوبَهَا سَبْعَةُ شُرُوطٍ :

الْأَوَّلُ التَّكْلِيفُ ، فَلَا تَجِبُ عَلَى صَبِيٍّ ، وَلَا مَجْنُونٍ
وَنَحْوِهِمَا ، الثَّانِي الْحُرِّيَّةُ فَلَا تَجِبُ عَلَى عَبْدٍ وَلَا مَنْ فِيهِ شَائِبَةٌ
حُرِّيَّةٌ ، وَلَكِنْ يُسْتَحَبُّ لَهُ وَلِلصَّبِيِّ حُضُورُهُمَا ، الثَّلَاثُ الذُّكُورَةُ
فَلَا تَجِبُ عَلَى امْرَأَةٍ ، الرَّابِعُ الْإِقَامَةُ ، فَلَا تَجِبُ عَلَى مُسَافِرٍ إِلَّا
أَنْ يَنْوِيَ إِقَامَةً أَرْبَعَةَ أَيَّامٍ ، الْخَامِسُ الْإِسْطِطَانُ بِمَوْضِعٍ يُسْتَوَظَنُ
فِيهِ ، السَّادِسُ الْقُرْبُ بِحَيْثُ لَا يَكُونُ مِنْهَا فِي وَقْتِهَا عَلَى أَكْثَرِ مِنْ
ثَلَاثَةِ أَمْيَالٍ وَهُوَ الْقَدَرُ الَّذِي يَلْتَمِسُهُ الصَّوْتُ الرَّفِيعُ إِذَا كَانَتْ الرِّيحُ
سَاكِتَةً ، وَالْأَصْوَاتُ هَادِئَةً ، وَالْمَوْذُنُ صَبِيحًا ، وَبَدَأُ الْأَمْيَالِ ثَلَاثَةٌ
مِنْ الْمَنَارِ ، وَقِيلَ مِنْ طَرَفِ الْبَلَدِ ، وَالْمِيلُ عَلَى الْمَشْهُورِ كَمَا سَبَّاهِي
أَلْقَا فِرَاعَ ، وَالتَّخْلِيدُ بِالسَّاقَةِ الْمَذْكُورَةِ إِنَّمَا هُوَ فِي حَقِّ الْخَارِجِ
عَنِ بَلَدِ الْجُمُعَةِ ، وَأَمَّا مَنْ هُوَ فِيهَا فَتَجِبُ عَلَيْهِ ، وَلَوْ كَانَ مِنَ
الْمَسْجِدِ عَلَى مِثْلِ أَمْيَالٍ .

- (vii) Sound health. It is not obligatory on a sick person, but if he recovers before the Friday prayer is held, it becomes mandatory on him.

ESSENTIAL CONDITIONS FOR THE VALIDITY OF A FRIDAY RITUAL PRAYER

The holding of Friday ritual prayer has four essential conditions. They are:

- (i) A resident Imam. It is not valid, if done individually or if led by a traveller—Imām.
- (ii) The congregation. It has no fixed number of members but it is not proper for three, four or similar number of people; rather it has to be with a number that is sufficient to make an independent and self reliant village. The issue of number is necessary only for the commencement and not the continuity of the service. If some of those being led in prayer abandon the Imam, and only about twelve followers remain up to the time of the utterance of *taslim* by the Imam the prayer is valid, but if not up to that, it is not valid.
- (iii) The central mosque. It is not valid in any other place, not even on the roof-terrace of the mosque, nor inside the dome. It is valid, for other than the Imam, in a place that amounts to the central mosque, such as its surrounding, its attached passages once the lines are not disjointed, and the mosque is crowded.
- (iv) Sermon before the worship. The sermon is not properly delivered except with the arrival of a congregation that is large enough to constitute a Friday congregational prayer.

DESIRABLE PRACTICES CONNECTED WITH FRIDAY PRAYER

The following are desirable for Friday prayer:
Dorning in beautiful clothes;

السَّابِعُ الصَّحَّةُ فَلَا تَجِبُ عَلَى مَرِيضٍ ، وَإِنْ صَحَّ قَبْلَ أَنْ تَقَامَ لَزِمَتْهُ .

وَلَا دَائِمًا أَرْبَعَةٌ شُرُوطٌ :

الْأَوَّلُ الْإِمَامُ الْمُقِيمُ فَلَا تَصِحُّ إِذَا كَانَ لَا إِمَامَ مُسَافِرٍ ، الثَّانِي الْجَمَاعَةُ وَهِيَ غَيْرُ مَحْذُودَةٍ بِعَدَدٍ مُخْصُوصٍ وَلَكِنْ لَا تَجْزِي مِنْهَا ثَلَاثَةٌ ، وَلَا الْأَرْبَعَةُ ، وَمَا فِي مَعْنَى ذَلِكَ بَلْ لَا بُدَّ أَنْ يَكُونُوا عِدَّةً تَقْرَأُ بِهِمْ قُرْآنَهُ مُسْتَفِينِينَ عَنْ غَيْرِهِمْ آمِنِينَ عَلَى أَنْفُسِهِمْ ، وَهَذَا لِمَنْدُ شَرْطٍ فِي الْإِسْتِثْنَاءِ لَا فِي التَّوَامِ ، فَإِنْ انْفَضُّوا مِنْ خَلْفِ الْإِمَامِ وَبَقِيَ مِنْهُمْ اثْنَا عَشَرَ لِصَلَاةٍ صَحَّتْ وَالْأَوَّلُ الثَّالِثُ الْجَمَاعَةُ فَلَا تَصِحُّ فِي غَيْرِهِ وَلَا عَلَى سَطْحٍ وَلَا فِي بَيْتٍ قَنَاقِيلِهِ وَفِي مَعْنَى الْجَمَاعَةِ فِي حَرْفٍ غَيْرِهِ رِحَابُهُ وَالطَّرِيقُ الْمُتَعِلَّةُ بِهِ إِذَا اتَّصَلَتْ الْمُصَوِّفُ وَمَسَاقِ السَّجْدِ الرَّابِعُ الْخُطْبَةُ قَبْلَ الصَّلَاةِ ، وَلَا تَصِحُّ الْخُطْبَةُ إِلَّا بِحُضُورِ الْجَمَاعَةِ الَّتِي تَتَعَدُّ بِهِمُ الْحُجَّةُ وَيُسْتَحَبُّ

Clipping of the moustache;
 Paring of the nails,
 Cleaning the teeth;
 Applying scent and similar desirable acts.⁹⁸

MISCELLANEOUS PROVISIONS ON FRIDAY PRAYER

Obligation of Friday prayer is removed by any of the following; illness that prevents its attendance, or which makes its attendance very difficult; taking care of a sick close relation or fear of a persecutor who may harm one's wealth or one's person; fear of fire, a thief or of being arrested by one's creditor while one is sincerely incapable of payment; much mud, heavy rain fall, the eating of garlic⁹⁹ and (exposure) of nudity.¹⁰⁰

PRAYER WHILE ON A JOURNEY

(Shortening of) ritual prayer while on a journey is a prophetic practice. It has a cause, conditions and circumstances. Its cause is every long journey that is up to four *barīds*.¹⁰¹ A *barīd* is four parasangs. A parasang is three miles.¹⁰² A mile is a thousand cubits.¹⁰³ The span of the journey on which prayer could be shortened is thus sixteen parasangs and this amounts to forty-eight miles.¹⁰⁴

Its conditions are four:

- (i) The distance to be taken into account should be one way only.¹⁰⁵ Thus the return journey would not be taken into account in calculating the said forty-eight miles, rather the return journey is regarded as a separate one.
- (ii) Determination, right from the beginning of the journey, to make such a long distance uninterrupted.
- (iii) Commencement of the journey. A resident, at the commencement of a journey, would begin to shorten his prayer after passing the suburb villages adjacent to the town. A rural dweller would commence the shortening when he passes his way stations that is, the

فَرْيَئَةُ بِأَخْصَرِ الثَّيَابِ، وَتَقْصُرُ الثَّيَابَ، وَتَغْلِيظُ الْأَطْفَالِ،
 وَالْمَوْلُوكَ، وَتَسْأَلُ الطَّيِّبَ، وَتَحْتَرِ ذَلِكَ،
 وَتَسْتَقْبِلُ فَرَضَ الْجُمُعَةِ بِمَرَضٍ يَتَعَلَّقُ مَعَهُ الْإِيمَانُ أَوْ لَا بِقَدِيرٍ إِلَّا
 بِتَشَقُّقٍ شَدِيدَةٍ وَبِتَمَرِضٍ قَرِيبٍ وَيَخَوْفٍ ظَالِمٍ يُؤْذِيهِ فِي مَالِهِ أَوْ
 نَفْسِهِ أَوْ خَوْفٍ نَارٍ أَوْ سَارِقٍ أَوْ حَسْبِ الْغُرْمَاءِ لَهُ وَهُوَ مُغِيرٌ
 وَبِالْوَحْلِ الْكَثِيرِ وَالْمَطَرِ الشَّدِيدِ وَأَكْلِ الثُّومِ وَالْعُرْيِ.

﴿فَصْلٌ﴾ صَلَاةُ السَّفَرِ

صَلَاةُ السَّفَرِ سُنَّةٌ وَلَهَا سَبَبٌ وَشَرَائِطُ وَمَحَلٌّ فَأَمَّا سَبَبُهَا فَكُلُّ
 سَفَرٍ طَوِيلٍ وَهُوَ أَرْبَعَةُ بُرُودٍ، وَالْبُرْدُ أَرْبَعَةُ فَرَاسِخٍ وَالْفَرَاسُخُ ثَلَاثَةُ
 أَمْيَالٍ، وَالْمِيلُ أَلْفَا ذِرَاعٍ فَهِيَ سِتَّةٌ عَشَرَ فَرَاسُخًا فَهِيَ ثَمَانِيَةٌ
 وَأَرْبَعُونَ مِيلًا وَأَمَّا شَرَائِطُهَا فَأَرْبَعَةٌ: الْأَوَّلُ أَنْ يَكُونَ السَّفَرُ وَجْهًا
 وَاحِدًا ذَهَابًا فَقَطْ، فَلَا يُحْسَبُ مَعَ ذَلِكَ الرَّجُوعُ بَلْ يُعْتَبَرُ الرَّجُوعُ
 وَحْدَهُ الثَّانِي الْعَزْمُ عَلَى قَطْعِ الْمَسَافَةِ الْمُتَقَدِّمَةِ مِنْ أَوَّلِهِ مِنْ هَجْرِ
 تَرْدُدٍ دَفْعَةً وَاحِدَةً، الثَّالِثُ الشُّرُوعُ فِيهِ فَالْحَضَرِيُّ يَقْصُرُ إِذَا عَلَى
 الْبَسَاتِينَ الْمَنْسُوبَةَ إِلَى تِلْكَ الْبَلَدِ الْمَعْمُورَةِ بِعِمَارَتِهَا، وَالْعَمُودِيِّ وَهُوَ
 سَاكِنُ الْبَادِيَةِ يَقْصُرُ إِذَا جَاوَزَ حِجَّتَهُ وَهِيَ الْيَتُّ الَّتِي يَنْصِبُهَا لِأَهْلِ

houses where he seeks shelter. One who resides on a mountain or hamlet where there are neither buildings nor villages, would start the shortening as soon as he departs his house. The terminal point for the shortening of prayer on the return journey is the starting point for the commencement of the shortening on the way out.

(iv) Lawfulness of the journey.

One who travels for pleasure such as hunting without a necessity, or one whose journey is sinful, such as a fleeing slave or a person who unlawfully disobeyed his parents cannot shorten his prayer.

The appropriate situation is any prayer with four *rak'ahs* which falls due during the journey. *Subh* or *Maghrib* prayers cannot be shortened. An appropriate prayer that is due during the journey may be shortened whether it was performed during the journey or repaid when one had arrived, just as any prayer that is due while one is still at home, shall be fully performed, whether it is performed while still at home or repaid during the journey. Shortening shall cease after a stay of four full days in a place. ¹⁰⁶

USEFUL HINT

It is valid for a traveller to perform his prayer being led (in a congregational prayer) by a resident or vice versa, it is, however, reprehensible. The reprehension is more emphatic in the case of traveller being led by a resident. If the traveller however worships behind the resident, it is mandatory on him to follow the Imam throughout. He would not repeat the prayer. If a resident prays behind a traveller, each of them would conform to the appropriate practice of his own situation; thus the traveller would perform what is obligatory on him (i.e. 2 *rak'ahs*) when he utters *taslim* at the completion of the two *rak'ahs*, the resident would perform what remains to be performed, of his own prayer.

إِنَّمَا وَمَا كُنَّ الْجِبَلِ أَوْ قَرْبَيْهِ لَا بِنَاءَ فِيهَا وَلَا بَسَاتِينَ بِمَقْصُرٍ إِذَا انْفَصَلَ عَنْ مَسَرِّحِهِ ، وَمُنْتَهَى الْقَصْرِ فِي الدُّخُولِ هُوَ مُبْدَأُ الْقَصْرِ فِي الْخُرُوجِ ، الرَّابِعُ إِبَاحَةُ

السَّفَرِ فَالْمُسَافِرُ لِلَّهِو كَالصَّيِّدِ مِنْ غَيْرِ حَاجَةٍ ، وَالْمَاصِي بِسَفَرِهِ كَالْآبِي وَالْعَاقِ لَا يَمْضُرُونَ . وَأَمَّا مَحَلُّهُ فَكُلُّ صَلَاةٍ رُبَاعِيَةٍ أُذِرَكَ وَقْتُهَا فِي السَّفَرِ فَلَا يَمْضُرُ الصُّبْحُ وَلَا الْمَغْرِبُ ، وَيَمْضُرُ فَائِتَةُ السَّفَرِ مَوَاءَ قَضَائِهَا فِي السَّفَرِ أَوْ فِي الْحَضَرِ كَمَا يُنَمُّ الْحَضَرِيَّةُ الَّتِي نَزَّهَتْ فِي فَيْتِهِ فِي الْحَضَرِ وَالسَّفَرِ وَيَقْطَعُ الْقَضَرِيَّةُ إِقَامَةَ أَرْبَعَةٍ أَيَّامٍ صِحَاحٍ بِمَوْضِعٍ .

﴿فَالْيَدَةُ﴾

اِقْتِدَاءُ الْمُسَافِرِ بِالْمُقِيمِ وَبِالْعَكْسِ صَحِيحٌ لَكِنَّهُ يُكْرَهُ وَتَأْكُدُ الْكِرَاهَةَ فِي اِقْتِدَاءِ الْمُسَافِرِ بِالْمُقِيمِ فَإِنْ اِقْتَدَى بِهِ لَزِمَهُ اتِّبَاعُهُ وَلَا إِعَادَةُ عَلَيْهِ ، وَإِنْ اِقْتَدَى الْمُقِيمُ بِهِ فَكُلُّ عَلَى سُنَّتِهِ فَيَصَلِّي الْمُسَافِرُ فَرَضَهُ ، فَإِذَا سَلَّمَ مِنْ رَكْعَتَيْنِ أَتَى الْمُقِيمُ بِمَا بَقِيَ مِنْ صَلَاتِهِ .

COMBINED PRAYERS

Combination of two close prayers is a concession, if it is on land and not on sea. When the sun passes the meridian and a traveller is at a place of watering or he is still on his mount (animal or vehicle) and he intends to alight from his mount after sunset, he would have to literally combine two prayers. The early afternoon prayer *az-Zuhr*, would be performed at the end of its prime-time and the late afternoon prayer *al-'Asr*, at the beginning of its prime time. The same applies to a situation when the traveller would alight after the sun has turned pale but before sun-set.

Sun-set (*Al-Maghrib*) and night prayer (*al-'Ishā'*) may be combined on account of rain alone, or rain which is accompanied by darkness and mud and not when the rain is accompanied by only darkness. There are two different famous opinions on whether or not the two prayers could be combined on account of mud alone. The combination is done by making a call for sun-set prayer in the minaret at the beginning of its prescribed time; thereafter the performance of the prayer is delayed a bit, then the call for night prayer is made inside the mosque in a low voice, then the night prayer is performed before the disappearance of the twilight, then the worshippers disperse. The *witr* cannot be performed until after the disappearance of the twilight.

EMPHATIC TRADITIONS IN RITUAL PRAYER

The prayers that are emphatic prophetic traditions are four:

- (i) The most emphatic one is *witr* prayer. It is made up of only one *rak'ah*. Its prime-time falls due after the performance of the obligatory night prayer. It is preceded by *shaf'* which is demarcated from it by the utterance of "*Assalam 'alaykum*." It is recommended that on the first *rak'ah* of *shaf'* (after the recitation of *Sūratu 'l-Fatihah*), *Sabbih Ima Rabbika* ¹⁰⁷ be

﴿فَضْلُ الْجَمْعِ بَيْنَ الصَّلَاتَيْنِ﴾

وَصِفَةُ الْجَمْعِ بَيْنَ الصَّلَاتَيْنِ الْمُشْتَرَكَيْنِ فِي الْوَقْتِ رُخْصَةٌ إِذَا كَانَ فِي الْبَرِّ دُونَ الْبَحْرِ فَإِذَا زَالَتْ الشَّمْسُ عَلَى الْمُسَافِرِ وَهُوَ فِي الْمَنْهَلِ أَوْ وَهُوَ رَاكِبٌ وَتَوَى التَّرْوَلَ بَعْدَ الْغُرُوبِ جَمَعَ بَيْنَ الصَّلَاتَيْنِ جَمْعًا صُورِيًّا يُوقَعُ الظُّهْرُ فِي آخِرِ وَقْتِهَا وَالْعَصْرُ فِي أَوَّلِ وَقْتِهَا وَكَذَا إِذَا تَوَى التَّرْوَلَ بَعْدَ الْإِصْفَرَارِ وَقَبْلَ الْغُرُوبِ وَيَجْمَعُ بَيْنَ الْمَغْرِبِ وَالْعِشَاءِ لِأَمَلٍ وَخَدَةٍ، أَوْ مَعَ الظُّلُمَةِ وَالطُّبَنِ لَا مَعَ الظُّلُمَةِ وَخَدَةٍ وَفِي جَمْعِهِ لِلطُّبَنِ وَخَدَةٍ قَوْلَانِ مَشْهُورَانِ، وَصِفَةُ الْجَمْعِ لِذَلِكَ أَنْ يُؤَذِّنَ الْمَغْرِبَ عَلَى الْمَنَارِ أَوَّلَ وَقْتِهَا وَيُؤَخَّرَ صَلَاتُهَا قَلِيلًا ثُمَّ يُؤَذِّنُ الْعِشَاءَ فِي مَحَلِّ الْمَسْجِدِ إِذَا تَأَنَّنَا مُنْخَفِضًا. ثُمَّ يُصَلُّونَهَا قَبْلَ مَغِيبِ الشَّامِ ثُمَّ يَنْصَرِفُونَ، وَلَا يُصَلُّونَ الْوَيْتَرَ إِلَّا بَعْدَ مَغِيبِ الشُّفَى

﴿فَضْلُ السُّنَنِ الْمُؤَكَّدَةِ﴾

السُّنَنِ الْمُؤَكَّدَةِ مِنَ الصَّلَوَاتِ أَرْبَعَةٌ، الْأُولَى : وَهِيَ أَوْكَدُهَا الْوَيْتَرُ، وَثَانِي رَكْعَةٌ وَاحِدَةٌ، وَثَلَاثُ وَقْتِهَا الْإِخْتِيَارِيُّ بِالْفَرَاغِ مِنْ صَلَاةِ الْعِشَاءِ الْأَخِيرَةِ وَيَكُونُ مَسْبُوقًا بِشَفْعٍ مُتَفَصِّلٍ عَنْهَا بِسَلَامٍ، وَيُسْتَنْبَأُ أَنْ يُقْرَأَ فِي الرُّكْعَةِ الْأُولَى مِنَ الشُّعْرِ بَعْدَ الْفَاتِحَةِ بِسُجْدِ

recited, and recite on the second *rak'ah* (after the recitation of *Sūratu 'l-Fātiḥah*) "*Qul—Yā Ayyuha 'l-Kāfirūna*".¹⁰⁸ And the *witr* prayer is to include *Qul huwa Allāhu Ahad* and *al-mu 'awwidhatayn*,¹⁰⁹

Whoever forgets to perform *witr* or sleeps off only to wake up when the period before sun-rise is only sufficient for the performance of about one or two *rak'ahs* would abandon the *witr* and perform the *Subḥ*¹¹⁰ prayer. If the duration before sun-rise is sufficient for the performance of three *rak'ahs* or four, he would perform the *witr* and then the *Subḥ*. If the time is sufficient for five *rak'ahs*, he would perform *shaf'*; *witr* and the *Subḥ* prayer but leave out the day-break prayer.¹¹¹ If it is sufficient for seven *rak'ahs*, he would perform *shaf'*, *witr*, day-break (*fajr*) prayers and then the *Subḥ* prayer.

- (ii) The prayers of the two festivals ('Id). The 'Id prayer is an emphatic tradition for one on whom *Jumu'ah* is due. It is a meritorious act for a slave, a traveller or a woman. It is two *rak'ahs*; with neither call to prayer nor '*Iqāmah*' (commencement of prayer formula). In the first *rak'ah*, *takbīr* of commencement shall be done six times apart from the initial one. For the second *rak'ah*, there are five *takbīra* apart from the one with which one comes up to the standing posture. It is not recommended that one should raise one's hands while uttering the *takbīr* except for the initial one for commencement. If the worshipper forgets the *takbīr* he would return to perform it, provided he had not placed his hands on his knees for bowing, and he would thereafter prostrate after the utterance of the terminal *taslīm*, (*Ba'dī*). It is desirable that the *takbīr* be made aloud. It is desirable to use scent. And any one who is capable of doing so, should wear new garments, while the return trip from the prayer-ground should be through a route other than the one through which one goes to the prayer-ground. Also desired are that one should take break-fast before

اسْمَ رَبِّكَ الْأَعْلَى ، وَفِي الرُّكْعَةِ الثَّانِيَةِ بَعْدَ الْفَاتِحَةِ يَقُولُ يَا أَيُّهَا
الْكَافِرُونَ ، وَفِي رُكْعَةِ الْوُتْرِ يَقُولُ هُوَ اللَّهُ أَحَدٌ وَالْمُعَوِّذَتَيْنِ ، وَمَنْ
نَسِيَ الْوُتْرَ أَوْ نَامَ عَنْهُ ثُمَّ اسْتَيْقَظَ وَقَدْ بَقِيَ لِطُلُوعِ الشَّمْسِ مِقْدَارُ
رُكْعَةٍ أَوْ رُكْعَتَيْنِ فَإِنَّهُ يَتْرُكُ الْوُتْرَ وَيُصَلِّي الصُّبْحَ ، وَإِنْ أَمْسَعَ الْوَقْتُ
لِثَلَاثِ رُكْعَاتٍ أَوْ أَرْبَعٍ فَإِنَّهُ يُصَلِّي الْوُتْرَ ثُمَّ الصُّبْحَ ، وَإِنْ أَمْسَعَ
لِخَمْسِ رُكْعَاتٍ صَلَّى الشُّفْعَ وَالْوُتْرَ وَالصُّبْحَ وَتَرَكَ الْفَجْرَ ، وَإِنْ
أَمْسَعَ لِسِتِّ رُكْعَاتٍ صَلَّى الشُّفْعَ وَالْوُتْرَ وَالْفَجْرَ وَالصُّبْحَ . الثَّانِيَةَ صَلَاةُ
الْعِيدَيْنِ ، وَهِيَ سُنَّةٌ مُرَكَّدَةٌ فِي حَقِّ مَنْ تَلَزَمَهُ الْجُمُعَةُ ، مُسْتَحَبَّةٌ
فِي حَقِّ الْعَبْدِ وَالْمُسَافِرِ وَالْمَرْأَةِ ، وَصِفَتُهَا رُكْعَتَانِ بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ
يُكَبِّرُ فِي الْأُولَى بَعْدَ تَكْبِيرَةِ الْإِحْرَامِ سِتَّ تَكْبِيرَاتٍ ، وَفِي الثَّانِيَةِ
خَمْسَ تَكْبِيرَاتٍ بَعْدَ تَكْبِيرَةِ الْقِيَامِ ، وَلَا يُسْتَحَبُّ رَفْعُ الْيَدَيْنِ فِي
شَيْءٍ مِنَ التَّكْبِيرِ سِوَى تَكْبِيرَةِ الْإِحْرَامِ ، وَإِنْ نَسِيَ التَّكْبِيرَ رَجَعَ إِلَيْهِ
مَا لَمْ يَصْعَ يَدَيْهِ عَلَى رُكْبَتَيْهِ وَسَجَدَ بَعْدَ السَّلَامِ ، وَيُسْتَحَبُّ الْجَهْرُ
بِالتَّكْبِيرِ ، وَالتَّطْيِبُ وَالتَّرْتِيبُ بِالنِّيَابِ الْجَدِيدَةِ لِمَنْ يَقْدِرُ عَلَيْهَا
وَالرُّجُوعُ مِنْ طَرِيقٍ غَيْرِ الَّتِي جَاءَ مِنْهَا ، وَالْفِطْرُ قَبْلَ الرُّوَاغِ إِلَى

going to the prayer ground for the 'idu' l-Fitr ¹¹² and to delay break-fast till after the prayer in the case of 'Idu' l-Kabir. ¹¹³ It is desired as well that Glorification of God should be consistently made at the end of each of the fifteen obligatory prayers coming immediately after the 'Idu' l-Kabir prayer. The first is the early afternoon prayer (*az-Zuhr*) on the day of the slaughtering and the last is the *Subh* prayer of the fourth day after the 'Id day. The formula ¹¹⁴ could be:

Allah is the Greatest, Allah is the Greatest,
Allah is the Greatest.

There is no deity worthy of worship except Allah.

And Allah is the Greatest, Allah is the Greatest,
Allah is the Greatest.

And all praise is due to Allah.

- (iii) The prayer on occasion of the eclipse of the sun. It is a prophetic tradition for every one who is with legal discretion (i.e. matured, sane and conscious), male or female. It is desirable to perform it in a mosque congregationally. (without *'Adhān* or *'Iqamah*). Its time is as soon as it is time when *Nāfilah* is normally allowed up till when the eclipse disappears. Its performance is made up of two *rak'ahs*; each *rak'ah* with two bows (*rukū'*). It is with neither *'Adhān* nor *'Iqamah*.

During the first standing ¹¹⁵ of the first *rak'ah*, the worshipper recites after *Suratu 'l-Fātiḥah*; *Sūratul 'l-Baqarah*; ¹¹⁶ and during the second standing of the first *rak'ah*, after *sūratul 'l-Fātiḥah*, he recites *Sūratul Al-'Imran*. ¹¹⁷ During the first standing of the second *rak'ah*, after the recital of *Sūratul 'l-Fātiḥah*, he recites *Sūratul N-Nisā'i*, ¹¹⁸ and in the second standing of the second *rak'ah*, after the recital of *Sūratul 'l-Fātiḥah*, he recites *Suratu 'l-Mā'idah*. ¹¹⁹

The prayer on occasion of the eclipse of the moon is a prophetic tradition. It is performed as other supererogatory prayers, in two *rak'ahs*, with one bowing, one stan-

المُصَلَّى فِي عِيدِ الْفِطْرِ وَتَأْخِيرُهُ فِي عِيدِ النَّحْرِ وَالتَّكْبِيرُ فِيهِ عِبَادَةٌ
خَمْسَ عَشْرَةَ فَرِيضَةً. أَوَّلُهَا ظَهْرُ يَوْمِ النَّحْرِ وَآخِرُهَا صُبْحُ الْيَوْمِ
الرَّابِعِ مِنْهُ. وَصِفَةُ التَّكْبِيرِ: اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ لَا إِلَهَ إِلَّا
اللَّهُ، وَاللَّهُ أَكْبَرُ

اللَّهُ أَكْبَرُ وَلِلَّهِ الْحَمْدُ. الثَّالِثَةُ: صَلَاةُ كُصُوفِ الشَّمْسِ وَفِي
سَنَةٍ فِي حَقِّ كُلِّ مُكْتَلِفٍ ذَكَرًا أَوْ أُنْثَى، وَبُسْتَحَبُّ إِيقَاعِهَا فِي
الْمَسْجِدِ وَالْجَمْعُ لَهَا وَوَقْتُهَا مِنْ حِلِّ النَّاطِلَةِ لِلزَّوَالِ، وَصِفَتُهَا
رَكْعَتَانِ فِي كُلِّ رَكْعَةٍ رُكُوعَانِ بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ وَيَقْرَأُ فِي الْقِيَامِ
الْأَوَّلِ مِنَ الرُّكْعَةِ الْأُولَى بَعْدَ الْفَاتِحَةِ الْبَقْرَةَ وَفِي الْقِيَامِ الثَّانِي
مِنْهَا بَعْدَ الْفَاتِحَةِ آلَ عِمْرَانَ، وَفِي الْقِيَامِ الْأَوَّلِ مِنَ الرُّكْعَةِ
الثَّانِيَةِ بَعْدَ الْفَاتِحَةِ النَّسَاءَ وَفِي الْقِيَامِ الثَّانِي بَعْدَ الْفَاتِحَةِ الْمَائِدَةَ
وَصَلَاةُ كُصُوفِ الْقَمَرِ سَنَةٌ وَصِفَتُهَا كَسَائِرِ النَّوَائِلِ رَكْعَتَانِ بِرُكُوعٍ

ding in each *rak'ah*, and the recital in the two *rak'ah* are made aloud and it is not done congregationally.

- (iv) The ritual prayer for seeking rain. It is for seeking good harvest or water for drinking by animals, human beings and for such other purposes. It is performed, like other supererogatory prayers, in two *rak'ahs* and with loud recital in the two *rak'ahs*.

FAJR (DAY-BREAK) PRAYER

The two *rak'ah* day-break-prayer is meritorious and it requires a definite explicit intention. Its time is at the appearance of the morning twilight. Whoever enters the mosque while the Imam is performing the *Subh* prayer shall abandon day-break (*Fajr*) prayer and join the Imam in the *Subh* prayer. If the prayer is commenced while he is in the court-yard of the mosque, he would perform the Day-break prayer, provided he does not entertain the fear of missing a *rak'ah*, if he entertains it, he would join the Imam in the performance of the *Subh* prayer. It is desirable to read only *Sūratu 'l-Fātiḥah* in the two *rak'ahs*.

SUPEREROGATORY RITUAL PRAYER

Meritorious prayers are;

- (i) *Ṣalaṭu ḡ-Ḍuhā*— Forenoon ritual prayer consists of a maximum of eight *rak'ahs*.
- (ii) Mosque — salutation — prayer is of two *rak'ahs*. It is performed before a worshipper sits down. Sitting down without its performance does not absolve one of its performance.
- (iii) *Tarāwīḥ* prayer during the nights of Ramaḍān. It is made up of twenty - three *rak'ahs* inclusive of the *shaf'* and *witr*.

وَاحِدٍ وَقِيَامٍ وَاحِدٍ وَالْقِرَاءَةُ فِيهِمَا جَهْرًا وَلَا يُجْمَعُ لَهَا، الرَّابِعَةُ صَلَاةُ الْإِسْتِسْقَاءِ وَتَكُونُ لِأَجْلِ إِصْلَاحِ الزَّرْعِ، أَوْ لِشُرْبِ حَيَوَانَ آدَمِيٍّ، أَوْ غَيْرِهِ، وَصِفَتُهَا كَسَائِرِ التَّوَاتِلِ رَكْعَتَانِ بَجَهْرٍ فِيهِمَا بِالْقِرَاءَةِ.

﴿فَضْلٌ﴾ رَكْعَتَا الْفَجْرِ رَكْعَتَا الْفَجْرِ رَغِيَّةٌ تَقْتَفِرُ إِلَى نِيَّةِ تَخْصُّصِهَا، وَوَقْتُهَا بَعْدَ طُلُوعِ الْفَجْرِ، وَمَنْ دَخَلَ الْمَسْجِدَ فَوَجَدَ الْإِمَامَ يُصَلِّي الصُّبْحَ تَرَكَهُمَا وَدَخَلَ مَعَهُ، وَإِنْ أُقِيمَتْ عَلَيْهِ الصَّلَاةُ وَمَوْخَارِجَ الْمَسْجِدِ فَإِنَّهُ يَرَكْعُهُمَا مَا لَمْ يَخَفْ فَوَاتَ رَكْعَةً فَإِنْ خَافَ ذَلِكَ دَخَلَ مَعَ الْإِمَامِ وَيُسَنَّبُ أَنْ يَقْرَأَ فِيهِمَا بِأَمِّ الْقُرْآنِ فَقَطْ.

﴿فَضْلٌ﴾ صَلَاةُ الصُّبْحِ مُسْتَحَبَّةٌ، وَأَكْثَرُهَا ثَمَانُ رَكْعَاتٍ، وَنَتِجَةُ الْمَسْجِدِ وَهِيَ رَكْعَتَانِ قَبْلَ أَنْ يَجْلِسَ، وَلَا تَقْرَأُ بِالْجُلُوسِ وَقِيَامُ ثَمَانٍ وَمَوْخَارِجَ ثَلَاثٍ وَعِشْرُونَ رَكْعَةً بِالشُّفْعِ وَالْوَتْرِ، وَالصَّلَاةُ قَبْلَ

- (iv) The supererogatory prayers before and after early afternoon prayer (*Zuhr*), before late afternoon prayer (*Asr*) and after sun-set (*Maghrib*) prayer and *'Ishā'*. There is no specification of number as regards these, rather the worshipper performs as many as he is able.
- (v) Prostration during the recitation of the Qur'an by the reciter ¹²⁰ and one who is listening to the recitation intentionally, provided the reciter is fit to be an Imam (spiritual leader in prayer) by being a male, matured, and with valid ablution; and not one whose purpose is to make people (appreciate) and note the excellence of his mode or manner of recitation. There are eleven prostration points in the Qur'an, excluding those in *Sūratu 'N-Najm*, *Sūratu 'l-Inshiqāq*, *Sūratu 'l qalam* and the second prostration in *Sūratu 'L-hajj*. ¹²¹

FUNERAL RITUAL PRAYER

Funeral ritual prayer is a collective obligation. ¹²² It is said by some scholars that it is a prophetic tradition. Its principles are five;

- (i) Intention
- (ii) Standing
- (iii) *Takbīr*. They are four. If the Imām makes the fifth, the prayer is not vitiated on account of that; but those praying behind him shall not say the fifth with him; rather they would pronounce the *taslīm*. They need not wait for the Imām (in the pronouncement of the terminal *Assalām 'Alaykum*). It is desirable to raise the hands only in the first *takbīr* and to start the ritual prayer with "All praise is due to Allah".
- (iv) Offering supplication for the dead, immediately after every *takbīr*, in any possible form of supplication. No specific formulae is required, for the said supplication.

الظُهِرِ وَبَعْدَهُ وَقَبْلَ الْعَصْرِ وَبَعْدَ الْمَغْرِبِ وَالْعِشَاءِ وَلَيْسَ فِي ذَلِكَ تَحْدِيدٌ ، بَلْ يُصَلِّي مَا تيسَّرَ لَهُ ، وَسَجْدَةُ التَّلَاوَةِ لِلْقَارِئِ ، وَقَاصِدِ الْإِسْتِمَاعِ ، إِنْ كَانَ الْقَارِئُ صَالِحًا لِلْإِمَامَةِ بِأَنْ كَانَ ذَكَرًا بَالِغًا مُتَوَضِّعًا غَيْرَ قَاصِدٍ إِسْمَاعِ النَّاسِ حُسْنَ قِرَاءَتِهِ وَعِدَّةُ السَّجَدَاتِ الَّتِي يُسْجَدُ لَهَا إِحْدَى عَشْرَةَ سَجْدَةً وَهِيَ مَا عَدَا الَّتِي فِي النُّجْمِ وَالْإِنْشِقَاقِ وَالْقَلَمِ وَثَانِيَةِ الْحَجِّ .

﴿أَفْضَلُ﴾ صَلَاةُ الْجَنَازَةِ

صَلَاةُ الْجَنَازَةِ فَرَضٌ كِفَايَةٌ وَقِيلَ سُنَّةٌ ، وَأَرْكَانُهَا خَمْسَةٌ : الْأَوَّلُ النِّيَّةُ ، الثَّانِي الْقِيَامُ ، الثَّلَاثُ التَّكْبِيرُ وَهُوَ أَرْبَعُ تَكْبِيرَاتٍ ، وَإِذَا زَادَ الْإِمَامُ خَامِسَةً لَمْ تَبْطُلْ صَلَاتُهُ ، وَلَا يَنْبَغُ مَنْ خَلْفَهُ أَنْ يُسَلِّمَ ، وَلَا يَسْتَظِرُّوهُ ، وَيُسْتَحَبُّ رَفْعُ الْيَدَيْنِ فِي التَّكْبِيرِ وَالْأَوَّلِ فَقَطْ ، وَالْإِبْتِدَاءُ بِالْحَمْدِ لِلَّهِ ، الرَّابِعُ الدُّعَاءُ لِلْمَيِّتِ بِأَنْزِلَ كُلُّ تَكْبِيرَةٍ بِأَيِّ دُعَاءٍ تيسَّرَ وَلَا يُسْتَحَبُّ دُعَاءُ مَخْصُوصٌ ،

- (v) *As-salām*. The Imam is required to pronounce "*Assa-lām 'alaykum*" once, turning his face slightly to right and loud enough for him and those behind him to hear. The follower-worshipper would pronounce the *Taslim* audibly enough for himself alone to hear. He does not make response of *Taslim* to the Imam.

CHAPTER THREE

AZ-ZAKAH

Zakah (Due) is a term used for a specific rate taken at a specified time from a specific amount at a specific level, and expended on specific areas.

It is obligatory on every free Muslim, male or female, young or old, sane or insane.

The *niṣāb*¹²³ of gold¹²⁴ is 20 *dinars*¹²⁵ while that of currency is 200 *dirhams*.¹²⁶ The payable due in each case is 2½% once it has been fully possessed by the payer for one full year.

ZAKAH ON LIVE-STOCK

Under this category are camels, cows, sheep and goats be they fattened or left to go out for grazing, whether engaged or idle.

Zakah is not due on animals such as horses, mule, donkeys as well as on slaves. Gazelle and sheep in the throes of giving birth are also excluded.

الْخَامِسُ السَّلَامُ وَيُسَلِّمُ الْإِمَامُ وَاحِدَةً عَنْ يَمِينِهِ يُسَمِعُ نَفْسَهُ وَمَنْ يَلِيهِ ، وَيُسَلِّمُ الْمَأْمُومُ وَاحِدَةً يُسَمِعُ نَفْسَهُ فَقَطْ ، وَلَا يَرُدُّ عَلَى الْإِمَامِ .

الباب الثالث في الزكاة وهي عبارة عن مالٍ مخصوص

يُؤْخَذُ مِنْ مَالٍ مَخْصُوصٍ إِذَا بَلَغَ قَدْرًا مَخْصُوصًا فِي زَمَنٍ مَخْصُوصٍ يُصْرَفُ فِي جِهَاتٍ مَخْصُوصَةٍ . نَجِبُ عَلَى الْحُرِّ الْمُسْلِمِ ذَكَرًا كَانَ أَوْ أُنْثَى صَغِيرًا أَوْ كَبِيرًا عَاقِلًا أَوْ غَيْرَهُ ، فَنِصَابُ الذَّهَبِ عِشْرُونَ دِينَارًا ، وَنِصَابُ الْوَرَقِ مِائَتَا دِرْهَمٍ ، وَالْوَاجِبُ فِي ذَلِكَ رُبْعُ الْعُشْرِ إِذَا بَلَغَ حَوْلًا كَامِلًا ، وَكَانَ مِلْكًا كَامِلًا

لِصَلِّ فِي زَكَاةِ النَّمْلِ

وَهِيَ الْأَيْلُ وَالْبَقَرُ وَالْغَنَمُ مَطْلُوفَةٌ أَوْ سَائِبَةٌ عَامِلَةٌ أَوْ مُهْمَلَةٌ ، وَلَا نَجِبُ فِي غَيْرِهَا

- The conditions which make *Zakah* mandatory are:
- (i) Attainment of a minimum assessable amount or number
 - (ii) Full ownership
 - (iii) Being in one's possession for a whole year as at the time when the collector, if there is one, arrives. ¹²⁷

THE ZAKAH ON CAMEL

On every five camels a young sheep is due. This is one in its 2nd year. It is to be a young sheep if sheep are as common as or more than goats in the locality but if goats are more common than sheep then a young goat shall be. This is what should be given out up to (and including when) the number of the camels reaches nine.

When the number reaches ten, and up to fourteen, then two sheep shall be issued. When the number reaches fifteen three sheep shall fall due up to when the number reaches nineteen. When the number is between twenty and twenty-four, the two inclusive, then the due shall be four sheep. When the number reaches between 25 and 35, then the due from it is a young she-camel, it is a she-camel in its second year, if the payer does not have such a she-camel, then a he-camel, that is in its 3rd year. When the number is between 36 and 45, a weaned she-camel ¹²⁸ is due. When the number reaches between 46 and 60 a mature (capable of bearing pregnancy and male-crossing) she-camel is due. It is the one in its fourth year. When the number reaches between 61 and 75 then the due is a she-camel that is in its fifth year. Between 76 and 90, two young she-camels are due. ¹²⁹ From 91 to 120, then two mature she-camels are due.

If the number exceeds 120 the assessment changes. ¹³⁰ On every 40 a young weaned she camel is due and for every fifty, a mature she-camel.

مِنَ الْخَيْلِ وَالْبِغَالِ وَالْحَمِيرِ وَالرَّقِيقِ ، وَلَا فِي الْبُتُولِ مِنَ الطَّيْرِ
وَالْقَتَمِ ، وَشُرُوطُ وَجُوبِهَا أَنْ تَكُونَ نِصَابًا كَامِلًا مِلْكًا كَامِلًا
حَوْلًا كَامِلًا مَعَ مَجِيءِ السَّاعِي إِنْ كَانَ ، أَمَّا الْإِبِلُ فَفِي كُلِّ
خَمْسٍ شَاةٌ جَذَعَةٌ وَهِيَ مَا أَوْفَتْ سَنَةً وَدَخَلَتْ فِي الثَّانِيَةِ مِنْ
الضَّأْنِ إِنْ كَانَ فِي الْبَلَدِ الضَّأْنُ وَالْمَعْرُ سَوَاءً أَوِ الضَّأْنُ أَغْلَبَ ، أَمَّا
إِذَا كَانَ الْمَعْرُ أَغْلَبَ فَالشَّاةُ مِنْهُ إِلَى نِسْعٍ ، فَإِذَا بَلَغَتْ عَشْرًا فَفِيهَا
شَاتَانِ إِلَى أَرْبَعَةِ عَشْرٍ فَإِذَا بَلَغَتْ خَمْسَةَ عَشْرٍ فَفِيهَا ثَلَاثُ شِيَاءٍ إِلَى
نِسْعَةٍ عَشْرٍ فَإِذَا بَلَغَتْ عِشْرِينَ فَفِيهَا أَرْبَعُ شِيَاءٍ إِلَى أَرْبَعٍ وَعِشْرِينَ
فَإِذَا بَلَغَتْ خَمْسًا وَعِشْرِينَ إِلَى خَمْسٍ وَثَلَاثِينَ فَفِيهَا بِنْتُ مَخَاضٍ
وَهِيَ الَّتِي دَخَلَتْ فِي السَّنَةِ الثَّانِيَةِ فَإِنْ لَمْ تَكُنْ لَهُ فَابْنُ لَبُونٍ وَهُوَ
مَا دَخَلَ فِي السَّنَةِ الثَّالِثَةِ فَإِذَا بَلَغَتْ سِتًّا وَثَلَاثِينَ إِلَى خَمْسٍ وَأَرْبَعِينَ
فَفِيهَا بِنْتُ لَبُونٍ فَإِذَا بَلَغَتْ سِتًّا وَأَرْبَعِينَ إِلَى سِتِّينَ فَفِيهَا حِقَّةٌ وَهِيَ
الَّتِي دَخَلَتْ فِي الرَّابِعَةِ فَإِذَا بَلَغَتْ إِحْدَى وَسِتِّينَ إِلَى خَمْسٍ وَسَبْعِينَ
فَفِيهَا جَذَعَةٌ وَهِيَ الَّتِي دَخَلَتْ فِي الْخَامِسَةِ ، فَإِذَا بَلَغَتْ سِتًّا وَسَبْعِينَ
إِلَى ثَمَانِينَ فَفِيهَا بِنْتُ لَبُونٍ فَإِذَا بَلَغَتْ إِحْدَى وَثَمَانِينَ إِلَى عِشْرِينَ
وَمِائَةٍ فَفِيهَا حِقَّتَانِ فَإِذَا زَادَتْ عَلَى ذَلِكَ تَغَيَّرَ الْوَاجِبُ ، فَفِي كُلِّ
أَرْبَعِينَ

CATTLE

For every 30 heads of cattle a he-calf or she-calf (which has attained two years) is due. Due on every 40 heads of cattle is a three-year old calf. Only its female shall be taken. That is, a three-year-old. Thereafter up to 120, the due on every 30 heads of cattle is 2 years old calf and from every 40, a mature 3-year-old calf. The collector may choose whether to take a 3-three-year-old mature calves or 4-two-year old calves on 120 heads of cattle.¹³¹

ZAKAH ON GOATS AND SHEEP

On 40 sheep or goats, the due is a young ram or sheep. It may be sheep or he-goat. It must have been a year old. Out of 121 goats, the due will be 2 sheep.¹³² On 201, three sheep are due.¹³³ On 400, 4 sheep are due.¹³⁴ Beyond 400, on every 100 sheep or goats, one sheep is due.

NOTE:

It is not proper to select as *Zakah* the choicest of the flock or herd, such as the specially fattened, the stallion or the most milky one. In the same vein, it is improper to select the worst or of least value of them such as an infant lamb, he-goat, old goat or an handicap-animal.

ZAKAH ON FARM-PRODUCE

It is (applicable only to) the farm produce which is a staple food. Thus, *Zakah* is due on wheat, barley, rice, and similar items. It is also due on pulse or legumes such as lentils, peas, beans, chick-pea, dates, raisins and olive. *Zakah* is not to be taken from canes, reeds, herbs, fig and fruits such as pomegranate.

The *Nisab* of farm produce is 5 *Wasqs* (loads).¹³⁵ These five *wasqs* are 1,600 Baghdadian *rattl*.¹³⁶ Every *rattl* is 128 Makkan *Dirham*. This (a *dirham*) is about 55 grains of medium size barley. The said weights would be after the

بُنْتُ لَبُونٍ ، وَفِي كُلِّ خَمْسِينَ حِقَّةً ، وَأَمَّا الْبَقَرُ فَفِي كُلِّ ثَلَاثِينَ مِنْهَا تَبِيعٌ جَذَعٌ أَوْ حَذَعَةٌ وَهُوَ مَا أُوفِيَ سَتَيْنِ ، وَفِي أَرْبَعِينَ مِئْتَةً لَا تُؤْخَذُ إِلَّا أَتْنَى ، وَهِيَ الْمُؤَفَّةُ ثَلَاثَ سِنِينَ ثُمَّ فِي السِّنِّ تَبِيعَانِ ثُمَّ فِي كُلِّ ثَلَاثِينَ تَبِيعٌ ، وَفِي كُلِّ أَرْبَعِينَ مِئْتَةٌ إِلَى عِشْرِينَ وَمِائَةٌ فَيُخْبِرُ السَّاعِي فِي أَخَذِ ثَلَاثِ مِئَاتٍ أَوْ أَرْبَعَةٍ أَتْبَعَةً ، وَأَمَّا النَّمُ فَفِي أَرْبَعِينَ مِنْهَا شَاةٌ جَذَعٌ أَوْ جَذَعَةٌ مِنَ الضَّأْنِ أَوْ الْمَعَزِ وَهُوَ مَا أُوفِيَ سَنَةً وَفِي مِائَةٍ وَاحِدَى وَعِشْرِينَ شَاتَانِ وَفِي مِائَتَيْنِ وَشَاةٌ ثَلَاثُ شِيَاهٍ ، وَفِي أَرْبَعِمِائَةٍ أَرْبَعُ شِيَاهٍ ثُمَّ فِي كُلِّ مِائَةٍ شَاةٌ .

﴿تَبِيعَةٌ﴾

لَا تُؤْخَذُ كَرَائِمُ الْأَمْوَالِ كَالْأَكُولَةِ وَالْفَحْلِ وَذَاتِ اللَّبَنِ وَلَا شِرَارُهَا كَالشُّحْلَةِ وَالنَّبَسِ وَالْعَجُوزِ وَالْعَوْرَاءِ .

فصل في زكاة الحرث

وَهُوَ الْمُقَاتَاتُ الْمُتَّخَذُ لِلْعَيْشِ غَالِيًا ، فَتَجِبُ الزَّكَاةُ فِي الْحِنْطَةِ وَالشَّعِيرِ وَالْأَرْزِ وَنَحْوِهَا ، وَفِي الْقَطَانِ كَالْعَدَسِ وَالْبَيْلَةِ وَالْفُولِ وَالْجُمْعِ ، وَفِي التَّمْرِ وَالزَّيْبِ وَالزَّيْتُونِ ، وَلَا تَجِبُ فِي الْقَهْصِ وَالْبُقُولِ وَالتَّمْرِ ، وَالْفَوَاكِهِ كَالرُّمَانِ ، وَنَصَابُ الْحَرْثِ خَمْسَةُ أَوْسُقٍ وَهِيَ أَلْفُ رِطْلٍ وَسِتِّينَ رِطْلًا بِالْبَغْدَادِيِّ كُلُّ رِطْلٍ مِائَةُ دِرْهَمٍ وَثَمَانِيَةٌ وَعِشْرُونَ دِرْهَمًا بِالدَّرْهَمِ الْمَكِّيِّ وَهُوَ خَمْسُونَ وَخُمُسًا حَبَّةً

removal of the low-quality grains and after its dryness. The due to be taken from farm produce is one tenth, if it is watered without any serious effort, such as if watered by rain. But if irrigated through equipments such as machinery, then the due is a twentieth $\frac{1}{20}$.¹³⁷

EXPLANATION OF THOSE TO WHOM ZAKAH CAN BE GIVEN

It is paid to any of the 8 categories of people mentioned in the statement of Allah:

"Alms are for the poor and the pauper. . ." (Q 9:60)

- (i) The poor is he whose possession is insufficient for his livelihood. If he, too, possesses minimum assessable amount (*nisab*) but which is not sufficient for his up-keep and that of his family, he too, should accept Zakah.
- (ii) The pauper, is more needy than the poor. He is the one who has absolute nothing. It is a condition for him and the poor that each of them should be a muslim and free from bondage of slavery.¹³⁸
- (iii) The one engaged for the activities of Zakah, such as the collector, even if he is rich.
- (iv) Those whose hearts are being drawn (to Islam). These are unbelievers (Zakah is not to be given to Muslims alone). They are given to attract them to Islam.
- (v) The slave. He is a muslim slave. He is bought and manumitted and such a slave shall be under the tutelage of Muslims for a period.
- (vi) A debtor. He is one who is indebted, not on account of insolence or viciousness and he does not possess the means of settlement or whose possession is barely what he needs to settle his debt.
- (vii) The cause of Allah. What is meant by this is, Jihad other than pilgrimage. So part of Zakah could be given out to a warrior (in the cause of Allah), whether he is rich or poor, to be expended on his war.
- (viii) The way-farer. This is a stranger-traveller. He is given on three conditions: That his journey is not criminally

مِنَ الشَّعِيرِ الْمُتَوَسِّطِ وَإِنَّمَا تُعْتَبَرُ الْأَوْسُقُ بَعْدَ وَضْعِ مَا فِيهَا مِنَ الْحَشَفِ وَالرُّطُوبَاتِ ، وَالْمُخْرَجُ مِنَ زَكَاةِ الْحَرْثِ الْعَشْرُ فِيمَا سَقِيَ مِنْ غَيْرِ مَشَقَّةٍ كَمَا السَّمَاءُ وَنِصْفُ الْعَشْرِ فِيمَا سَقِيَ بِأَلَةٍ كَالدَّوَالِبِ .

فصل في بيان من تصرف له الزكاة

تُدْفَعُ لِأَحَدِ الْأَصْنَافِ الثَّمَانِيَةِ الْمَذْكُورِينَ فِي قَوْلِهِ تَعَالَى :
 إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ الْآيَةِ ، الْأَوَّلُ الْفَقِيرُ وَهُوَ الَّذِي يَمْلِكُ الشَّيْءَ الْبَسِيرَ الَّذِي لَا يَكْفِيهِ لِعَيْشِهِ وَإِنْ كَانَ يَمْلِكُ نَيْصَابًا لَا يَقُومُ بِهِ وَلَا بِعِيَالِهِ فَإِنَّ لَهُ أَنْ يَأْخُذَ الزَّكَاةَ ، الثَّانِي الْمِسْكِينُ وَهُوَ أَخْرَجَ مِنَ الْفَقِيرِ وَهُوَ الَّذِي لَا شَيْءَ لَهُ جُمْلَةً ، وَيُشْتَرِطُ فِيهِ وَفِي الْفَقِيرِ الْإِسْلَامُ وَالْحُرِّيَّةُ ، الثَّالِثُ الْعَامِلُ عَلَى الزَّكَاةِ كَالسَّاعِي وَإِنْ كَانَ غَنِيًّا ، الرَّابِعُ الْمُؤَلَّفَةُ قُلُوبُهُمْ وَهُمْ قَوْمٌ كَفَّارٌ يُعْطَوْنَ نَزْغِيًّا فِي الْإِسْلَامِ ، الْخَامِسُ الرِّقَابُ وَهُوَ الرِّقِيُّ الْمُؤْمِنُ يُشْتَرَى وَيُعْتَقُ وَوَلَاؤُهُ لِلْمُسْلِمِينَ ، السَّادِسُ الْعَارِمُ وَهُوَ مَنْ اسْتَدَانَ فِي غَيْرِ سَفَعٍ وَلَا فَسَادٍ وَلَا يَجِدُ وِفَاءً أَوْ يَكُونُ مَعَهُ مَالٌ يَأْزَاؤُهُ دَيْنُهُ ، السَّابِعُ سَبِيلُ اللَّهِ وَالْمُرَادُ بِهِ الْجِهَادُ دُونَ الْحَجِّ فَيُدْفَعُ لِلْغَارِي غَنِيًّا كَانَ أَوْ فَقِيرًا مِنَ الصَّدَقَةِ مَا يُنْفِقُهُ فِي غَزْوِهِ ، الثَّامِنُ ابْنُ السَّبِيلِ ، وَهُوَ الْمُسَافِرُ

motivated; he is poor at the point in which he is, though he may be rich at his town and that he does not find a person to lend him money. (That is if he is rich at home but if not, he is entitled). A person who claims that he is a way-farer shall be believed (for this purpose).

MISCELLANEOUS PROVISION

It is proper to make use of gold in the payment of Zakah on currency and vice-versa.

It is mandatory to have special intention for the Zakah; and to distribute the due within the place at which the Zakah is collected. It is not proper to distribute it elsewhere unless there is another place where the poor face more hardship than those of the place of collection, even then, part of the due will still have to be expended in the place of collection; though greater part of it would be passed to those elsewhere whose poverty is more severe.

SETTING ASIDE OF ZAKAH

When a payer sets aside the Zakah due at the completion of year, but the due got lost, he would not be liable. ¹³⁹ If, however, it is removed after the completion of a year, then he is responsible for the replacement of the loss due. If it is set aside, but before it is removed, the principal wealth got lost, he would have to pay it to those entitled to it.

Anyone who dies before the payment of his Zakah, or anyone who gives a testament to the effect that Zakah is due on his property, shall have the due taken from his principal asset. It is desirable that voluntary alms (not Zakah) be given in secrecy, and that be expended preferably on close ones and neighbours. ¹⁴⁰ It is a strong practice of the prophet that it is given in the month of Ramadan.

ALMS OF BREAKING THE FAST OF RAMADĀN

Zakāṭu 'I-Fitr ¹⁴¹ is obligatory. The prophet (S.A.W) declared it to be so. According to one of the two popular

الْغَرِيبُ يُعْطَى بِثَلَاثَةِ شُرُوطٍ ، أَنْ لَا يَكُونَ سَقَرَهُ فِي مَنَاصِبِهِ وَأَنْ يَكُونَ فَقِيرًا بِالْمَوْضِعِ الَّذِي هُوَ بِهِ وَإِنْ كَانَ غَنِيًّا بِلَدِّهِ وَأَنْ لَا يَجِدَ مَنْ يُسَلِّفُهُ وَيُصَدِّقُ إِذَا ادَّعَى أَنَّهُ ابْنُ سَبِيلٍ .

﴿فَضْلٌ﴾

يَجُوزُ إِخْرَاجُ الذَّمَبِ عَنِ الْوَرِقِ ، وَالْوَرِقِ عَنِ الذَّمَبِ . وَتَجِبُ نِيَّةُ الزَّكَاةِ وَتَفْرِقَتُهَا بِالْمَوْضِعِ الَّذِي وَجِبَتْ فِيهِ وَلَا يَجُوزُ نَقْلُهَا عَنْهُ إِلَّا أَنْ يَكُونَ مَوْضِعُ آخَرِهِ فَقَرَاءً أَشَدَّ إِعْدَامًا ، فَإِنَّهُ يُعْطَى مِنْهَا فِي مَوْضِعِ الْوُجُوبِ ، وَيُنْقَلُ أَكْثَرُهَا لِلْأَعْدَمِ .

﴿فَضْلٌ﴾

إِذَا عَزَلَ الزَّكَاةَ عِنْدَ الْحَوْلِ فَصَاعَتْ لَمْ يَضْمَنْ وَإِنْ عَزَلَهَا بَعْدَ الْحَوْلِ ضَمِنَ . وَإِنْ عَزَلَهَا ثُمَّ ضَاعَ أَصْلُهَا قَبْلَ إِخْرَاجِهَا فَإِنَّهُ يَنْخَصُهَا لِأَرْبَابِهَا ، وَمَنْ مَاتَ قَبْلَ إِخْرَاجِ الزَّكَاةِ أَوْ أَوْصَى بِهَا فَإِنَّهَا تُؤْخَذُ مِنْ رَأْسِ مَالِهِ ، وَيُسْتَحَبُّ فِي صَدَقَةِ التَّطَوُّعِ السَّرِّ وَصَرَفُهَا لِلْأَقَارِبِ وَالْجِيرَانِ وَتَنَافُذُ فِي شَهْرِ رَمَضَانَ .

﴿فَضْلٌ﴾ صَدَقَةُ الْفِطْرِ

صَدَقَةُ الْفِطْرِ وَاجِبَةٌ فَرَضَهَا رَسُولُ اللَّهِ ﷺ . تَجِبُ بِأَوَّلِ لَيْلَةِ

views, it is to be paid on the eve of the Ramadān festival. The other view is that it is to be given when the morning-twilight appears on the festival day.

The implication of the difference between the two views becomes obvious in the case of he who (between sunset and day-break) dies; gives birth, accepts Islam or in similar circumstances.

It is proper to set it aside, two or three days to the festival. Its obligation does not lapse by the passage of its time of payment. It is not to be given to any other than a poor Muslim who is a freeborn. The rate is one sa'¹⁴² of the common food item used in the locality.

It is to be paid by every responsible; free and capable muslim for himself and on behalf of his muslim dependants who are his relations such as children, or those under him such as slaves and similar others, such as wife and her domestic servant, even if the wife is rich. We have deliberately qualifies "Muslim, capable responsible and free" to exclude unbeliever, slave, incapable person, for whom it is not obligatory.

An incapable person is he who does not have up to a Sa' in excess of his sustenance for one day and he finds no one to lend him.¹⁴³

عِيدِ الْفِطْرِ عَلَى أَحَدِ الْقَوْلَيْنِ الْمَشْهُورَيْنِ وَالْآخِرُ تَجِبُ بِطُلُوعِ
فَجْرِ يَوْمِ الْعِيدِ وَقَائِدَةُ الْخِلَافِ تَظْهَرُ فِيمَنْ مَاتَ أَوْ وُلِدَ أَوْ أَسْلَمَ
أَوْ نَحُو ذَلِكَ ، وَيَحُوزُ إِخْرَاجُهَا قَبْلَ يَوْمِ الْعِيدِ بِالْيَوْمَيْنِ وَالثَلَاثَةِ
وَلَا تَنْقُطُ بِمُضِيِّ زَمَنِهَا وَلَا تُدْفَعُ إِلَّا لِفَقِيرٍ حُرٍّ مُسْلِمٍ ، وَهِيَ
صَاعٌ مِنْ غَالِبِ قُوْتِ أَهْلِ الْبَلَدِ عَلَى الْمُسْلِمِ الْحُرِّ الْمُكَلَّفِ
الْمُوسِرِ عَنْ نَفْسِهِ وَعَمَّنْ تَلَزَمَتْ نَفَقَتُهُ مِنَ الْمُسْلِمِينَ خَاصَّةً بِالْقَرَابَةِ
كَالْأَوْلَادِ ، وَبِالرُّقْ كَالْعَبِيدِ وَبِغَيْرِهِمَا كَالزَّوْجَةِ وَخَادِمِهَا وَإِنْ
كَانَتْ مَلِيَّةً ، وَقَوْلُنَا عَلَى الْمُسْلِمِ النِّخَاحُ اخْتِرَازٌ مِنَ الْكَافِرِ وَالرَّقِيقِ
وَالْمُغْسِرِ ، فَإِنَّهَا لَا تَجِبُ عَلَيْهِمْ ، وَالْمُغْسِرُ هُوَ الَّذِي لَا يَفْضُلُ لَهُ
عَنْ قُوْتِ يَوْمِهِ صَاعٌ ، وَلَا يَجِدُ مَنْ يُسَلِّفُهُ إِيَّاهُ .

CHAPTER FOUR FASTING

Fast is restraint from the passions of the stomach and the sex-organ for a full day, with the intention of drawing close to the Almighty Allah at times other than the period of menstruation, post-natal bleeding, and the festival days.

Fast has three principles:

- (i) Restraint from vitiators of fasts such as sexual cohabitation, discharge of sperm, semen or (deliberate) vomit. Others are making food, drink or similar things get to the throat through the mouth, nose, ears or eyes.
- (ii) Intention. A fast, whether obligatory or supererogatory, is not valid without intention. It is a condition that the intention must be specific. For example, to give intention for "the obligatory fast of Ramaḍān." The intention should be made before the day-break. Intention made in the afternoon of the fast is not proper. It must be decisive. Intention on probability is void. The intention of one who, on the eve of the day of doubt¹⁴⁴ intends to fast if the day is the day of Ramaḍān fast is not valid.
- (iii) The period of fast. This is from the appearance of the actual morning-twilight until sunset in the days other than the days of menstruation, post natal bleeding, post-Ramaḍān Festival, Festival of Sacrifice, and the two days following the Festival of Sacrifice, for some one who is not on *tamattu*¹⁴⁵ *hajj*.

OTHER PROVISIONS

It is desirable to break the fast in earnest (at sunset); to take the pre-dawn meal late (just before dawn); curb the tongue from delirious or indecent talk; avoid cleansing the teeth with fresh chewing-stick; and to avoid excessive rinsing of the mouth, or nose.

Also desirable are fasting on the 'Arafat day for a non-pilgrim; fasting on the 9th and 10th of Muharram; three days

الباب الرابع في الصوم

وَمَوَ الْإِنْسَانُ عَنْ شَهْوَتَيْ الْبَطْنِ وَالْفَرْجِ يَوْمًا كَامِلًا مَبْنِيَّةً التَّقَرُّبِ إِلَى اللَّهِ تَعَالَى فِي غَيْرِ زَمَنِ الْحَيْضِ وَالنَّفَاسِ وَأَيَّامِ الْأَعْيَادِ، وَلِلصَّوْمِ ثَلَاثَةُ أَرْكَانٍ:

أ. الْأَوَّلُ الْإِنْسَانُ عَنْ الْمُفْطِرَاتِ كَالْجِمَاعِ وَإِخْرَاجِ الْمَنِيِّ وَالْمَذْيِ وَالْقَيْهِ وَإِصَالِ الْأَكْلِ وَالشُّرْبِ أَوْ غَيْرِهِمَا إِلَى الْحَلْقِ مِنَ الْفَمِ وَالْأَنْفِ وَالْأُذُنِ وَالْمَعِينِ، الثَّانِي النِّيَّةُ، فَلَا يَصِحُّ صَوْمٌ بِدُونِهَا فَرَضًا أَوْ نَفْلًا، وَيُشْتَرَطُ فِيهَا أَنْ تَكُونَ مُعَيَّنَةً بِأَنْ يَنْوِيَ آدَاءَ فَرَضٍ رَمَضَانَ مَثَلًا، مَبْنِيَّةً، فَلَا تَصِحُّ نَهَارًا، جَائِزَةً، فَالْيَوْمِ الْمُرْتَدِّدَةُ بَاطِلَةٌ. فَمَنْ نَوَى لَيْلَةَ الشُّكِّ صِيَامَ عَدٍ إِنْ كَانَ مِنْ رَمَضَانَ لَمْ يُجْزِهِ، الثَّالِثُ زَمَنُ الصَّوْمِ، وَمِنْ طُلُوعِ الْفَجْرِ الْصَادِقِ إِلَى غُرُوبِ الشَّمْسِ فِي غَيْرِ أَيَّامِ الْحَيْضِ وَالنَّفَاسِ وَيَوْمِ الْفِطْرِ وَيَوْمِ النَّحْرِ وَالْيَوْمَيْنِ بَعْدَهُ لِغَيْرِ الْمُتَمَتِّعِ.

﴿فَصْلٌ﴾

يُسْتَحَبُّ تَقْدِيمُ الْفِطْرِ وَتَأْخِيرُ السُّحُورِ وَكَفُّ اللِّسَانِ عَنِ الْهَذْيَانِ وَالْفُحْشِ مِنَ الْقَوْلِ وَتَرْكُ السَّوَالِكِ بِالرُّطْبِ، وَتَرْكُ الْمَبَالِغَةِ فِي الْمَصْنُوعَةِ وَالِاسْتِشْقَاقِ، وَصَوْمُ يَوْمِ عَرَفَةَ لِغَيْرِ الْحَاجِّ وَيَوْمِ

in every month. The days need not be 13th, 14th and 15th (of lunar month). It is permissible for one to fast on Friday. It is reprehensible to taste anything. If it is done, it has to be spat out. Also reprehensible are sexual preliminaries such as kissing, physical contact, romantic thoughts or look or romance, if one is sure of self-restrain (from ejaculation or strong sexual arousal), but if one is not sure, all these are absolutely prohibited. A person observing even voluntary fast cannot abort the fast on account of a firm commitment for similar excuses. If any person imposes a vow of irrevocable divorce or manumission on a fasting person, the vow shall be broken; except when the person who places the vow on the person is one of his parents or his tutor (spiritual guide, or knowledgeable mentor) in which case, he has to accede. Provided the one who imposes the break does so out of pity over the hardship of the fast.

Whosoever deliberately or out of forgetfulness aborts his Ramadān fast in the day-time, would have to repay the fast. He has however in addition committed a sin if it is intentional for which reparation is obligatory on him. He is at liberty to select any of the three reparatory modes which are:

- (i) Feeding of 60 poor people, each of them taking as much as the *mudd* of the prophet (S.A.W.)
- (ii) Fasting for two consecutive months.
- (iii) Manumission of a worthy full muslim slave (not partially or conditionally free). Not one who is otherwise qualified for manumission.

تَسْرِعَاءَ وَعَاشُورَاءَ وَثَلَاثَةَ أَيَّامٍ مِنْ كُلِّ شَهْرٍ وَلَا تَخْتَصِمُ بِالْأَيَّامِ
الْبَيْضِ وَلَا يُكْرَهُ صَوْمُ يَوْمِ الْجُمُعَةِ مُتَفَرِّدًا ، وَيُكْرَهُ ذَوْقُ الْمِلْحِ
وَمَجْهُ ، وَمَقْلَمَاتُ الْجِمَاعِ كَالْقَبْلَةِ وَالْمُبَاشَرَةِ وَالتَّفَكُّرِ وَالنَّظَرِ
الْمُسْتَدَامِ وَالْمَلَاعِبَةِ إِنْ عَلِمْتَ السَّلَامَةَ وَإِلَّا فَيَحْرُمُ عَلَيْهِ ذَلِكَ وَلَا
يُفْطِرُ الصَّائِمُ الْمُتَطَوُّعُ لِعَزِيمَةٍ أَوْ غَيْرِهَا ، وَإِنْ حَلَفَ عَلَيْهِ بِالطَّلَاقِ
الْثَلَاثِ أَوْ الْعِتْقِ حُنْتَ إِلَّا أَنْ يَكُونَ أَحَدَ وَالدَّيَّةِ أَوْ شَيْخَهُ فَإِنَّهُ يُطِيعُهُ
إِذَا كَانَ عَلَى وَجْهِ الرَّأْفَةِ لِإِدَامَةِ صَوْمِهِ ، وَمَنْ أَفْطَرَ فِي نَهَارِ رَمَضَانَ
عَمْدًا أَوْ سَهْوًا وَجَبَ عَلَيْهِ قَضَاؤُهُ ، وَيَأْتِي إِنْ كَانَ عَمْدًا ، وَجَبَ
عَلَيْهِ الْكَفْلَةُ بِأَحَدِ ثَلَاثَةِ أَشْيَاءَ عَلَى التَّخْيِيرِ ، وَهِيَ إِمَّا إِطْعَامُ سِتِّينَ
مِسْكِينًا كُلُّ وَاحِدٍ مَدًّا بِمَدِّ عِلْقَةٍ وَهُوَ أَفْضَلُ أَوْ صِيَامُ شَهْرَيْنِ
مُسْتَابْعَيْنِ أَوْ عِتْقُ رَقَبَةٍ مُؤْمِنَةٍ كَامِلَةٍ غَيْرِ مُلَفَّقَةٍ سَلِيمَةٍ لَا تُسْتَحَقُّ
بِرَجْعِهِ .

CHAPTER FIVE SPIRITUAL RETREAT - 'I 'TIKĀF

Its real meaning is staying in a mosque for the purpose of worship in a specified manner for at least a day and a night and at most for ten days. It is one of the voluntary meritorious acts of worship. It has four principles.

- (i) The performer of the 'I 'tikāf That is any rational Muslim. The retreat by a woman, a child or a slave is valid.
- (ii) Fast. Retreat is not valid without it.
- (iii) The venue of retreat is the mosque. It is not valid in any other place.
- (iv) Continuous performance of any of the specified acts of worship. They are canonical prayer (*aṣ-Ṣalāh*), Qur'anic recitation and remembrance of Almighty Allah. It is reprehensible for him to engage in any other acts of worship apart from these three, such pre-occupation with acquisition of knowledge or research; or extensive copying of the Qur'an, or to be Imam of the daily prayers. Also reprehensible for the performer of the retreat, is climbing the roof of the mosque (or elsewhere) or the minaret; going out on consolatory or congratulatory visit, retreating without having with him adequate provision.¹⁴⁵ It is desirable to observe the spiritual retreat during the month of Ramaḍān and performance specifically during the last ten days of Ramaḍān is an emphatic tradition of the prophet.

VITIATORS OF 'I 'TIKĀF

One's 'I 'tikāf becomes void with the commission of a grievous sin such as adultery or fornication, consumption of liquor, telling a lie, making a defamatory accusation, and by sexual cohabitation or its preliminaries such as lustful kissing either during day-time or night, menstruation, eating or drinking during the day, or going out of the mosque, not for the purpose of sustenance nor response to the call of nature.

الباب الخامس في الاعتكاف

وَحَقِيقَتُهُ الْبَقَاءُ فِي الْمَسْجِدِ لِلْعِبَادَةِ عَلَى وَجْهِ مَخْصُوصٍ وَأَقَلُّهُ يَوْمٌ وَلَيْلَةٌ، وَأَكْمَلُهُ عَشْرَةُ أَيَّامٍ وَهُوَ مِنْ نَوَافِلِ الْخَيْرِ، وَلَهُ أَرْكَانٌ أَرْبَعَةٌ: الْأَوَّلُ الْمُتَكَيِّفُ وَهُوَ كُلُّ مُسْلِمٍ مُتَمَيِّزٍ بَصِيحٍ مِنَ الْمَرْأَةِ وَالْهَبْشِيِّ وَالرَّقِيقِ، الثَّانِي: الصَّوْمُ فَلَا يَصِحُّ بِدُونِهِ، الثَّلَاثُ: الْمُتَكَيِّفُ فِيهِ وَهُوَ الْمَسْجِدُ فَلَا يَصِحُّ فِي غَيْرِهِ، الرَّابِعُ: الْإِسْتِخْرَارُ عَلَى عَمَلٍ مَخْصُوصٍ مِنَ الْعِبَادَةِ وَهُوَ الصَّلَاةُ وَقِرَاءَةُ الْقُرْآنِ وَذِكْرُ اللَّهِ تَعَالَى، وَبُكْرَةُ لَهُ أَنْ يَفْعَلَ غَيْرَ هَذِهِ الثَّلَاثَةِ مِمَّا هُوَ عِبَادَةٌ كَالِاسْتِغْفَالِ بِالْعِلْمِ، وَكِتَابَةِ الْكَثِيرِ مِنَ الْقُرْآنِ وَأَنْ يَكُونَ إِمَامًا رَاتِبًا، وَأَنْ يَرْقَى عَلَى سَطْحٍ أَوْ مَنَارَةٍ. وَأَنْ يُعْزِي أَوْ يُهْنِي، وَأَنْ يَتَكَيَّفَ غَيْرَ مَكْنِيٍّ وَيُسْتَحَبُّ الْإِعْتِكَافُ بِرَمَضَانَ. وَيَتَأَكَّدُ بِالْعَشْرِ الْأَخِيرِ مِنْهُ.

﴿فَضْلٌ﴾

يَبْطُلُ الْإِعْتِكَافُ بِفِعْلِ الْكَبَائِرِ: كَالزُّلْمِ وَشُرْبِ الْخَمْرِ الْكَذِبِ وَالْقَذْفِ وَبِالْجِمَاعِ وَمُقَدَّمَاتِهِ كَالْقُبْلَةِ لَبًّا أَوْ نَهَارًا عَلَى وَجْهِ الشَّهْوَةِ، وَبِالْحَيْضِ وَبِالْأَكْلِ وَالشُّرْبِ نَهَارًا وَبِالْخُرُوجِ مِنَ الْمَسْجِدِ لِغَيْرِ مَعِيشَةٍ أَوْ لِغَيْرِ حَاجَةٍ الْإِنْسَانِ.

CHAPTER SIX

PILGRIMAGE

It is obligatory on a free mature and capable person once in his or her life-time. It is not valid except from a Muslim. It has four principles.

1. Putting oneself in an inviolate status during a particular period, in the months of Shawwal, Dhū'l-Qa'dah and Dhū'l-Hijjah and in a particular place, that is Makkah for those who are within Makkah at the period of inviolation. The place, for one coming from Madina is Dhū'l-Hulaifah; for one coming from Egypt, Syria and Maghrib (Algeria, Tunisia, Morocco, Mauritania and Libya), the station is al-Juhfah. Yalamlam is the station for one coming from Yemen while Dhatu 'Irāq is the station for one coming from Persia, Iran and Khurasan.

The state is not validly entered into except with an accompanying intention, either through word or action, for a person, immediately before entering the inviolate status to cleanse off his dishevelled parts by paring his nails, and shaving certain hairy parts of the body (pubic hair and armpits).

Traditional Prophetic acts of *Iḥrām* (inviolable state) are four:

- (i) Bath at the time of wearing it.
- (ii) Abstention from sewn clothes; sewn wrapper or shoes (or covered sandals).
- (iii) Two non-obligatory *rak'ahs*.
- (iv) *At-Talbiyah* - response call. The formula is: I am totally available to you, Allah. I am totally available to you. I am totally available to you, you have no partner.

Surely praise, benefaction and sovereignty are yours
You have no partner. ¹⁴⁶

الباب السادس في الحج

وَمَوْجِبٌ فِي التَّمَرُّ مَرَّةً عَلَى الْحَرِّ الْمُكَلَّفِ الْمُسْتَطِيعِ، وَلَا يَصِحُّ إِلَّا مِنْ مُسْلِمٍ وَلَهُ أَرْبَعَةُ أَرْكَانٍ: الْأَوَّلُ الْإِحْرَامُ بِرَمَزٍ مَخْصُوصٍ وَمَوْشَوَالٍ وَذُو الْقَعْدَةِ وَذُو الْحِجَّةِ وَمَكَانٍ مَخْصُوصٍ وَمَوْجِبٌ لِمَقِيمٍ بِهَا وَقْتُ الْإِحْرَامِ، وَذُو الْحَلِيفَةِ لِمَنْ تَوَجَّهَ مِنَ الْمَدِينَةِ، وَالْحُفَّةِ لِمَنْ تَوَجَّهَ مِنْ مِصْرَ وَالشَّامِ وَالْمَغْرِبِ وَيَلْتَمَسُ لِمَنْ تَوَجَّهَ مِنَ الْبَحْرِ، وَذَاتُ عِرْقٍ لِمَنْ تَوَجَّهَ مِنْ فَارَسٍ وَخِرَاسَانَ، وَلَا يَنْتَعِدُ إِلَّا بِنَيْتٍ مَقْرُونَةٍ بِقَوْلٍ أَوْ فِعْلٍ، وَيُسَجِّدُ لِلْمُحَرِّمِ إِزَالَةَ شَعْرِهِ قَبْلَ إِحْرَامِهِ بِقَلَمٍ أَوْ أَظْفَارِهِ وَإِزَالَةَ مَا عَلَى بَدَنِهِ مِنْ شَعْرٍ وَسُنُّ الْإِحْرَامِ أَرْبَعَةٌ: الْغُسْلُ مُتَّصِلًا بِهِ وَالتَّجَرُّدُ مِنَ الْمَخِيطِ فِي رِدَائِهِ وَإِزَارِهِ وَنَعْلَيْهِ، وَصَلَاةُ رَكْعَتَيْنِ مِنْ غَيْرِ الْقَرِيبَةِ، وَالتَّلْبِيَةِ وَهِيَ كَلِمَتُكَ اللَّهُمَّ لِيكَ لِيكَ لَا شَرِيكَ لَكَ الْفَرِيقَةُ، وَالتَّلْبِيَةُ وَهِيَ كَلِمَتُكَ اللَّهُمَّ لِيكَ لِيكَ لَا شَرِيكَ لَكَ، وَلَا يَقْطَعُ

The *Muhrim* would not stop chanting the call until he enters Makkah; and performs the circumambulation and the jogging between Safa and Marwa. Thereafter he resumes the *talbiyah* until he gets to worship-ground of 'Arafat.

There are four kinds of *Ihrām*. The best of them is the *Ifrād* —exclusive *Ihrām*. This is when the pilgrim enters into inviolate state for the *hajj* alone. Then after-hajj rites, it is traditional (*sunnah*) for him to enter the inviolate state for lesser *hajj* — *Umrah*.

The *Ihrām* of a male involves both his face and his head, thus he is prohibited from covering both with whatever amounts to direct cover such as turban, rag or any of such things that can be of benefit to him, from heat or cold. It is forbidden for him to wear a ring. The *Ihrām* of a female involves only her face and her hands. She is allowed to hang a cloth over her face for the purpose of veiling it from arousing passion but she is not to affix the cloth to her face with a pin or a similar item. It is forbidden for a *Muhrim* to apply scent that can stick to the body or the cloth such as musk or ambergris. One is also forbidden from anointing his/her hair, clipping nails, cutting of hair and having sexual cohabitation or its preliminaries.

Hajj becomes void if sexual cohabitation occurs before staying at the 'Arafat or after it but before performing the circumambulation of *'ifaqah* ¹⁴⁷ and throwing of pebbles at the *Jamrat al-'Aqbah*, be it on the day of sacrifice or before it.

2. The circumambulation. It has obligatory conditions, prophetic traditional practices and meritorious practices.

The obligatory conditions are six.

- i. Freedom from impurity and filth
- ii. Covering of nudity
- iii. One should keep the House (Ka'bah) to one's left.
- iv. Doing the circumambulation for seven full rounds in the mosque.
- v. Keeping the whole body out of the Ka'bah.

التَّيَّةَ حَتَّى يَدْخُلَ مَكَّةَ فَإِذَا طَافَ وَسَمَى عَاوِدَهُمَا لِرَوَاحِ
مُصَلَّى عَرَفَةَ ، وَأَوَجَّهُ الْإِحْرَامَ أَرْبَعَةً وَأَفْضَلُهَا الْإِفْرَادُ ، وَهُوَ أَنْ يُحْرِمَ
بِالْحَجِّ مُفْرِدًا ثُمَّ إِذَا فَرَغَ مِنْ أَعْمَالِ الْحَجِّ يُسْنُّ لَهُ أَنْ يُحْرِمَ بِعُمْرَةٍ ،
وَإِحْرَامُ الرَّحْلِ فِي وَجْهِهِ وَرَأْسِهِ ، فَيُحْرِمُ عَلَيْهِ سِتْرُهُمَا بِمَا يُعَدُّ
سَاتِرًا كَالْعِمَامَةِ وَالْخِرْقَةِ ، وَكُلُّ مَا يَنْتَفِعُ بِهِ مِنَ الْحَرِّ وَالْبَرْدِ وَيُحْرِمُ
عَلَيْهِ لُبْسُ الْخَاتَمِ ، وَإِحْرَامُ الْمَرْأَةِ فِي وَجْهِهَا وَكَفِّهَا فَقَطْ . وَلَهَا
أَنْ تَسُدَّ عَلَى وَجْهِهَا ثَوْبًا لِأَجْلِ الشَّرِّ ، وَلَا تَغْرِزُهُ بِإِبْرَةٍ وَنَحْوِهَا ،
وَيُحْرِمُ عَلَى الْمُحْرِمِ مَسُّ طَيْبٍ يَغْلُقُ بِالْجَسَدِ وَالتَّوْبِ كَالْيَسَنِ
وَالْعَنْبَرِ مِنْ الرُّأْسِ وَتَقْلِيمُ ظُفْرِ إِبْرَةٍ شَعْرِ الْجِمَاعِ وَمُقَدَّمَاتُهُ ،
وَيَقْدُ الْحَجَّ بِالْجِمَاعِ إِنْ وَقَعَ قَبْلَ الْوُقُوفِ أَوْ بَعْدَهُ قَبْلَ طَوَافِ
الْإِقَاضَةِ وَدَمِي جَمْرَةِ الْعَقَبَةِ فِي يَوْمِ النَّحْرِ أَوْ قَبْلَهُ ، الرُّكْنُ الثَّانِي :
الطَّوَافُ وَلَهُ وَاجِبَاتٌ وَسُنَنٌ وَمُسْتَحَبَّاتٌ : فَالْوَجِبَاتُ سِتَّةٌ . السَّلَامَةُ
مِنَ الْحَدَثِ وَالْجَبْتِ ، وَسَرُّ الْعَوْرَةِ ، وَجَعْلُ الْيَتِّ عَنْ يَسَارِهِ ،
وَالطَّوَافُ سَبْعَةً أَشْوَاطٍ دَاخِلَ الْمَسْحِدِ وَخُرُوجُ الْجَمْعِ مِنَ الْبَدَنِ عَنْ

- vi. Performance of 2 *rak'ahs* of prayer at the end of the circumambulation.
The prophetic traditions on it are five;
 - i. Doing it on foot
 - ii. Kissing the Black Stone with the mouth during the first round, if the pilgrim is able to and
 - iii. Touching the "Angle of Yaman" of the Ka'bah during the first round.
 - iv. Offering of supplication and invoking blessings on the Prophet. Blessing and peace of Allah be on him.
 - v. Trotting for men in the first three rounds of the (initial) Circumambulation of Arrival. Trotting is more than walking and it is not running.

Its meritorious acts are many. Among which are: avoidance of extensive reading of the Qur'an; avoidance of much talk, and recitation of poem.

Another meritorious act is abstention from drinking water except (when absolutely necessary) for quenching of thirst. Non-resident of Makkah should perform more circumambulations; for doing so is much better in his/her own case than performing supererogatory canonical prayer. One who sits in the mosque is expected to face the Ka'bah. It is reprehensible to recite and to chant the *talbiyyah* in the mosque.

3. Jogging, between Safa and Marwah for seven rounds. The pilgrim starts from Safa and ends it at Marwah. The going is counted as a round while the return-trip is also another round. The jogging is not valid except it is preceded by circumambulation. It is not stipulated that the said preceding circumambulation should be necessarily be an obligatory circumambulation. All the condition for canonical prayer, except facing the *Qiblah*, are also conditions for the jogging. Desirable as well are stay at Safa and Marwah and supplication there. The stay or supplication has no time limit.

Care should be taken concerning what some people do by running between Safah and Marwah. The male pilgrim, and not the female; is expected to trot in between the two green slopes.¹⁴⁸ If one trots throughout the jogging it is still valid though the person commits an error, the same

الْبَيْتِ وَصَلَاةٍ رَكَعَتَيْنِ عَلَيْهِ وَسُنُونَانِهِ خَسَّةٍ الْمَشْيُ، وَتَقْبِيلِ الْحَجَرِ الْأَسْوَدِ فِيهِ فِي الشُّوْطِ الْأَوَّلِ إِنْ قَدَرَ وَلَمَسُ الرُّكْنِ الْيَمَانِيِّ فِي أَوَّلِ شُوطٍ وَالِدُعَاءِ وَالصَّلَاةِ عَلَى النَّبِيِّ ﷺ، وَالرَّمْلُ لِلرِّجَالِ فِي الْأَشْوَاطِ الثَّلَاثَةِ

الأولى فِي طَوَافِ الْقُدُومِ وَهُوَ فَوْقَ الْمَشْيِ، وَدُونَ الْجَرْيِ، وَمُسْتَحَبَّاتُهُ كَثِيرَةٌ مِنْهَا تَرَكَ الْكَثِيرُ مِنْ قِرَاءَةِ الْقُرْآنِ وَتَرَكَ الْكَلَامَ وَإِنشَادِ الشُّعْرِ وَتَرَكَ شُرْبَ الْمَاءِ إِلَّا لِعَطَشٍ، وَلِكثيرِ الْغَرِيبِ مِنَ الطَّوَافِ فَإِنَّهُ أَفْضَلُ فِي حَقِّهِ مِنَ الرُّكُوعِ، وَيُسْتَحَبُّ لِمَنْ جَلَسَ فِي الْمَسْجِدِ أَنْ يَتَوَجَّهَ إِلَى الْكَعْبَةِ وَتَكَرَّرَ الْقِرَاءَةُ وَالتَّلْبِيَةُ فِيهِ. الرُّكْنُ الثَّالِثُ السَّغْيُ بَيْنَ الصَّفَا وَالْمَرْوَةِ سَبْعَةَ أَشْوَاطٍ يَبْدَأُ بِالصَّفَا وَيَخْتِمُ بِالْمَرْوَةِ وَيَعُدُّ الْبَدْءَ شُوطًا وَالرَّجْعَةَ شُوطًا وَلَا بَصِحُ إِلَّا بِتَقْدِيمِ طَوَافٍ، وَلَا يُشْتَرَطُ أَنْ يَكُونَ الطَّوَافُ وَاجِبًا، وَيُسْتَحَبُّ فِيهِ شُرُوطُ الصَّلَاةِ غَيْرِ الْإِسْتِقْبَالِ وَالْمُكْتِ عَلَى الصَّفَا وَالْمَرْوَةِ وَالِدُعَاءِ عَلَيْهِمَا، وَلَيْسَ فِي ذَلِكَ حَدٌّ، وَلِيَحْذَرُ مِمَّا يَفْعَلُهُ بَعْضُهُمْ مِنَ الْجَرْيِ مِنَ الصَّفَا إِلَى الْمَرْوَةِ، وَإِنَّمَا يُسْرِعُ الرَّجُلُ دُونَ الْمَرَّاءِ بَيْنَ الْمِيلَيْنِ الْأَخْضَرَيْنِ، وَلَوْ رَمَلَ فِي جَمِيعِ سَعْيِهِ

applies to one who does not trot at all throughout.

4. Staying at 'Arafat for at least an hour before the eve of the Day of Sacrifice. To be on a mount for the stay is preferred; except if there are difficulties for the animal. Standing is better than sitting. One should not sit, unless there are some necessities. To stand on the 'Arafat, with the Imam in the afternoon is obligatory. Leaving it shall necessitate a sacrifice (if done without a cogent reason).

'UMRAH

Lesser *hajj* ('Umrah) is a prophetic tradition that shall be performed once in a life-time.

All the principles of *hajj* except standing on 'Arafat, are its own principles. It has two physical boundaries which is the same as the posts for *hajj* except for one who is in Makkah, who would have to enter the state of *Ihrām* at a territory called *Hill* - (opposite the Haram at Makkah). It is better for him to enter the state of *Ihrām* at *Ji'ranah*. The second boundary is that of time. That is all days of the year. The method of its *Ihrām*, such as the desirability of bath and cleanliness, what is to be worn, what is prohibited for him as dress, scent and similar things are as exactly as in *hajj*. It is reprehensible to do it more than once in a single year. It becomes void with the occurrence of sexual cohabitation and other similar actions before the completion of its principles.

CONCLUSION

When a pilgrim leaves Makkah, let his intention and resolve be to pay a visit to the Prophet (on whom there are blessing and peace of Allah) for visiting him (S.A.W.) is a unanimous prophetic tradition, as well as a desirable meritorious act. When a visitor aims at visiting the Prophet, let it be

أجزأه ، وقد أساء ، وكذا لو لم يرمل بالكلفة . الركن الرابع الوقوف بعرفة ساعة من ليلة النحر والوقوف راكباً أفضل ، إلا أن يكون بدائته عذراً ، والقيام أفضل من الجلوس ولا يجلس إلا لتعب والوقوف نهاراً مع الإمام واجب يجبر بالدم إذا تركه .

﴿فصل العُمْرَة﴾

العُمْرَة سُنَّة فِي الْعُمْرِ مَرَّةً وَأَرْكَانُهَا أَرْكَانُ الْحَجِّ مَا عَدَا الْوُقُوفَ ، وَلَهَا مِيقَاتَانِ ، مَكَانِيٌّ وَهُوَ مِيقَاتُ الْحَجِّ إِلَّا فِي حَقِّ مَنْ هُوَ بِمَكَّةَ فَإِنَّهُ يُحْرَمُ مِنَ الْحِلِّ ، وَالْأَفْضَلُ أَنْ يُحْرَمَ مِنَ الْجِعْرَانَةِ ، وَذَمَانِيٍّ وَهُوَ جَمِيعُ أَيَّامِ السَّنَةِ ، وَصِفَةُ الْإِحْرَامِ بِهَا مِنْ اسْتِحْبَابِ الْغُسْلِ وَالتَّنْظِيفِ وَمَا يَلْبَسُهُ وَمَا يُحْرَمُ عَلَيْهِ مِنَ اللَّبَاسِ وَالطِّيبِ وَغَيْرِ ذَلِكَ كَالْحَجِّ ، وَبُكْرَةُ تَكَرُّرِهَا فِي الْعَامِ الْوَاحِدِ وَتَنَسُّدُ بِالْجَمَاعِ ، وَمَا فِي مَعْنَاهُ إِذَا وَقَعَ قَبْلَ انْقِضَاءِ أَرْكَانِهَا .

﴿خَاتِمَةٌ﴾

إِذَا خَرَجَ الْإِنْسَانُ مِنْ مَكَّةَ فَلْيَكُنْ يَتُّهُ وَعَزِيْمَتُهُ زِيَارَةُ النَّبِيِّ ﷺ ، إِذْ زِيَارَتُهُ ﷺ سُنَّةٌ مُجْمَعَةٌ عَلَيْهَا وَفَضِيلَةٌ مُرَغَّبٌ فِيهَا فَإِذَا

exclusively for the visit, for the Prophet is a leader and not a follower. It is desirable for the visitor to stop at the outskirts of Madinah, perform purification, apply scent and put on his most beautiful dress. Then when he enters the mosque, he starts with canonical prayer (*ṣalātu tahiyyati l-masjid*), if it is a time when it is proper to observe prayer. If not, he would start by visiting the tomb of the noble prophet, Muhammad (S.A.W.) He would not stick to the tomb. He backs the *Qiblah* and faces the noble tomb and says: ¹⁴⁹

On Prophet, may peace, mercy and benediction of Allah be unto you.

Then he moves towards his right by about the length of an arm and says:

Peace be unto you oh Abu Bakr Aṣ-Ṣiddiq

He moves again by about an arm-length and says:

Peace be unto you, father of Ḥaṣṣ, 'Umar; al-Fāruq. He thereafter offers the salutation whenever he enters or goes out of the mosque.

أَمُّ الرَّايِرُ لَا يُشْرِكُ مَعَهُ غَيْرُهُ لِأَنَّهُ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ مَتَّبِعٌ لَا تَابِعٌ، وَيُسْتَحَبُّ أَنْ يَتَوَلَّى خَارِجَ الْمَدِينَةِ، فَيَتَطَهَّرُ وَيَتَطَيَّبُ وَيَلْبَسُ أَحْسَنَ ثِيَابِهِ، ثُمَّ إِذَا دَخَلَ الْمَسْجِدَ بَدَأَ بِالرُّكُوعِ إِنْ كَانَ وَقْتُ تَجَوُّزِهِ فِيهِ النَّافِلَةُ، وَإِلَّا بَدَأَ بِالْقَبْرِ

الشَّرِيفِ وَلَا يَلْتَصِقُ بِهِ، وَيَسْتَدِيرُ الْقِبْلَةَ وَيَسْتَقْبِلُ الْقَبْرَ الشَّرِيفَ وَيَقُولُ: السَّلَامُ عَلَيْكَ أَيُّهَا النَّبِيُّ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ، ثُمَّ يَتَنَحَّى عَنْ يَمِينِهِ نَحْوَ ذِرَاعٍ فَيَقُولُ: السَّلَامُ عَلَيْكَ يَا أَبَا بَكْرٍ الصَّدِّيقَ، ثُمَّ يَتَنَحَّى إِلَى الْيَمِينِ أَيْضًا نَحْوَ ذِرَاعٍ فَيَقُولُ: السَّلَامُ عَلَيْكَ يَا أَبَا حَفْصٍ عُمَرَ الْفَارُوقَ، وَيُسَلِّمُ كُلَّمَا دَخَلَ وَخَرَجَ.

CHAPTER SEVEN

SACRIFICE, NAMING RITES AND THE SLAUGHTERING OF ANIMALS

As for a type of sacrifice of animal known as *al-udhiyah*, it is the slaughtering of animals for the purpose of seeking closeness to Allah on the day of *'Idu'l-kabir* — the Great Festival¹⁵⁰ — and the two days after it. It is a Prophetic tradition which is done by a free Muslim who is capable of doing it whether he/she is old or young, male or female, resident or traveller while he is not a pilgrim at Munna. It is done on behalf of himself and or on whom he has responsibility to maintain, such as his children, and his poor parents. It is done after the Imam has slaughtered his own animal, on the days of sacrifice. The sacrifice of a person who slaughters his beast before then, is not valid.

Those who do not have an Imam shall give allowance of time that is considered enough for the Imam nearest to them to have performed his prayer and offered his sacrifice. On whether the said Imam is the spiritual leader or the political leader, there are two opinions. The sacrifice of whoever sacrifices his/her animal before the sacrifice day or after the dawn-break but before sunrise on the day of sacrifice is not valid. The least sufficient animal for the festival — sacrifice is as follows: a lamb or a goat that is a year old. For cattle it is a *thaniyy* — one calf on its fourth year; for camels, it is a *thaniyy* — camel — one which has completed its fifth and is in its sixth year.

For festival-sacrifice and hajj penance sacrifice, the following should be avoided:

- (i) One eyed animal. That is the one whose eye has lost sight.
- (ii) An animal with pronounced illness.
- (iii) One with pronounced lameness.
- (iv) The emaciated i.e. one without any fat. It is said that it is one whose bone has no marrow
- (v) One with slit ear except when the slit is slight; that is,

الباب السابع في الأضحية والعقيقة والدبح

أما الأضحية فهي ما يُقربُ بذكائه من الأنعام يوم الأضحية وتاليته، وهي سنة على المستطيع الحر المسلم، كبيراً كان أو صغيراً ذكراً أو أنثى مقيماً أو مسافراً: غير حاجٍ ببني عن نفسه وعن تلزمته نفقته كالآولاد والآباء الفقراء، وروثها بعد نحر الإمام، من يوم النحر فمن ذبح قبله لم يجزه ومن لا إمام لهم فليتحروا صلاة أقرب الأنثمة إليهم ونحره، وهل المراد بالإمام إمام الصلاة أو العباسي؟ قولان،

ومن ذبح قبل يوم النحر أو يوم النحر بعد الفجر قبل طلوع الشمس لم يجزه، وأقل ما يجزى في الضحايا من الأسنان الجذع من الضأن والمعز وهو ابن سنة والثني من البقر وهو ما دخل في السنة الرابعة والثني من الإبل وهو ما أوفى خمس ميين ودخل في السادسة ويتقى في الضحايا والهدايا الغيوب فلا يجزى في الضحايا والهدايا عوراء، وهي التي ذهب نور إحدى عينيها، ولا مريضة مريضة يئنا، ولا عرجاء عرجاء يئنا ولا عجفاء، وهي التي لا شحم فيها، وقيل هي التي لا منع في

not more than a third.

- (vi) Similarly, one whose ear is cut off, is not acceptable, except the cut is insignificant.
- (vii) One that has lost a greater part of its tail.¹⁵¹
- (viii) One with broken horn, if the wound has not healed up; if it has healed, then it is acceptable.

Slaughtering a beast on the 7th day of a child-birth is desirable. Its conditions are identical with those of festival sacrifice.

Slaughtering is the complete cutting of the gullet and the two jugular veins. Anything short of that is unacceptable. Slaughtering by a woman is acceptable.

If the one carrying out the slaughtering of the animal lifts his hand in the process, after cutting only part of the gullet and the jugular veins, and thereafter returns the knife and completes the slaughter, the flesh of the animal so slaughtered shall not be eaten.

If, on the other hand, the slaughterer deliberately continues to apply the knife until he completely severed the head from the beast, he has committed a reprehensible act, though the flesh of the animal so slaughtered shall be eaten.

If the slaughterer begins the slaughtering from the nape or from only the outlay the animal shall not be eaten.

The acceptable method of slaughtering is to lay the beast on its left side, facing the *Qiblah*, and the slaughterer says:

In the name of Allah, Allah is the Greatest.¹⁵²

He combines the invocation of Allah's name with *Takbir*. When saying the *Basmalah* he would not complete it up to *Ar-Rahmān-R-Rahīm*, and he would not offer any salutation to the Prophet (S.A.W.). If he stops at saying *Bismillāh*, it is sufficient even if he forgets to say it out of forgetfulness, it is still unanimously acceptable. *Ibnu'l-Qāsim* opined that even if the omission is deliberate, it is still acceptable but according to *Mudawwanah* - school of thought (the most basic book on Islamic Law) it is not acceptable.

If he does not make the beast face the *Qiblah*, even if deliberate, it is still admissible. Allah knows best.

عِظَامِهَا وَلَا مَشْفُوقَةُ الْأُذُنِ . إِلَّا أَنْ يَكُونَ الشَّقُّ بَسِيرًا وَهُوَ الثَّلَاثُ وَكَذَا قَطْعُ الْأُذُنِ لَا يُجْزِي إِلَّا أَنْ يَكُونَ بَسِيرًا وَكَذَلِكَ ذِمَابُ أَكْثَرِ الذَّنْبِ وَكَذَلِكَ مَكْسُورَةُ الْقَرْنِ إِنْ لَمْ يَبْرَأْ فَإِنْ بَرَأَ أَجْزَأُ وَأَمَّا الْعَقِيقَةُ فَمُسْتَحَبَّةٌ وَهِيَ الذَّبِيحَةُ الَّتِي تُذْبَحُ يَوْمَ سَابِعِ وَلَادَةِ الْمَوْلُودِ ، وَيُشْتَرَطُ فِيهَا مَا يُشْتَرَطُ فِي الصَّحِيَّةِ . وَأَمَّا الذَّبِيحُ فَهُوَ قَطْعُ الْخُلُقُومِ جَمِيعِهِ وَقَطْعُ الْوَدَجَيْنِ ، فَلَا يُجْزِي أَقْلُ مِنْ ذَلِكَ ، وَذَبْحُ الْمَرَأَةِ جَائِزٌ ، فَإِنْ رَفَعَ الذَّابِحُ يَدَهُ عَنِ الذَّبِيحَةِ بَعْدَ تَطْمِئِنِّ بَعْضِ الْخُلُقُومِ وَالْوَدَجَيْنِ ثُمَّ أَعَادَ يَدَهُ فَأَجْزَأُ

لَمْ تُؤْكَلْ فَإِنْ تَمَادَى الذَّابِحُ عَمْدًا حَتَّى قَطَعَ الرَّأْسَ مِنَ الذَّبِيحَةِ أَسَاءَ وَتُؤْكَلُ وَمَنْ ذَبَحَ مِنَ الْقَفَا أَوْ مِنْ صَفْحَةِ الْعُنُقِ لَمْ تُؤْكَلْ وَصِفَةُ الذَّبْحِ الْمُسْتَحَبُّ أَنْ يَقَعَ الذَّبِيحَةُ عَلَى بَاسِهَا مُتَوَجِّهَةً لِلْقِبْلَةِ وَيَقُولَ الذَّابِحُ : بِسْمِ اللَّهِ وَاللَّهُ أَكْبَرُ فَيَجْمَعُ بَيْنَ التَّسْمِيَةِ وَالتَّكْبِيرِ وَلَا يَذْكُرُ مَعَ التَّسْمِيَةِ الرَّحْمَنَ الرَّحِيمَ ، وَلَا يُصَلِّي عَلَى النَّبِيِّ ﷺ ، فَإِنْ اقْتَصَرَ عَلَى التَّسْمِيَةِ أَجْزَأُ وَلَوْ تَرَكَهَا نِسْيَانًا أَجْزَأُ اتِّفَاقًا وَكَذَلِكَ تُجْزَأُ لَوْ تَرَكَهَا عَمْدًا عِنْدَ ابْنِ الْقَاسِمِ وَمَذْهَبُ الْمُتَوَنِّةِ لَا تُجْزَأُ وَلَوْ تَرَكَ التَّوَجُّهَ إِلَى الْقِبْلَةِ أَجْزَأُ وَلَوْ كَانَ عَمْدًا وَاللَّهُ أَعْلَمُ .

CHAPTER EIGHT
MARRIAGE AND DIVORCE

Matrimony

AN-NIKĀH – (Marriage) literally means entering of a thing into another thing. In Islamic Law, the term, (*nikāh*) – is contract and it is a metaphor for sexual cohabitation. Imām Mālik is reported to have said "Marriage is a desirable act". There is a divergence of opinions on its status in this generation. Some people believe that to leave marriage and engage in acts of worship, for fear of lack of means of meeting his obligations towards wife, is more meritorious (than going into marriage when one is incapable of meeting the obligations). Some people opined that to marry, under such circumstances, is still preferred, and he would strive for a lawful means, if he is able to, and if not, he would have recourse to means that are neither expressly allowed nor forbidden—doubtful means. Sexual cohabitation is not acceptable in the Islamic law, except through two means marriage contract or possession; for the statement of the Almighty Allah that "Those who guide their sexual organs except to their spouses and what their right hands possess"¹⁵³

The first – Marriage contract – has four constituents:

1. Marriage guardian. Marriage contract is not valid without it. Certain conditions are to be satisfied by a would be guardian. These include religious compatibility (on the part of the guardian and the ward). An unbeliever cannot give a Muslim lady out in marriage; neither can a Muslim give out an unbelieving lady out in marriage, except when the prospective bride is his (Muslim's) bondswoman or his manumitted ward; these he can give out in marriage.

Another condition is freedom. Therefore a bondsman, a conditionally freed, a semi autonomous bondsman, or a partially freed person would have marriage contracted by him nullified even if consummation had taken place. Sexual cohabitation would make her earn the dower.

الباب الثامن في شيء من مسائل
النكاح والطلاق

أما النكاح فمعناه في اللغة دخول الشيء في الشيء ، يقال نكحت الحصة أخفاف الأبل ونكح النؤم العبن ، وفي الشرع حقيقة في العقد مجاز في الوطء ، قال مالك : النكاح مسح ، واختلف فيه في زماننا هذا ، فقال بعضهم : تركه والاستغفال بالعبادة مخافة عدم القيام بحقوق الزوجة أفضل ، وقال بعضهم : التزوج أفضل ، ويجتهد في الحلال ما قدر فإن لم يجد فالمشابه ، والنكاح بمعنى الوطء لا يجوز في الشرع إلا بأحد أمرين : عقد نكاح ، أو ملك يمين ، لقوله تعالى : والذين هم لفروجهم حافظون إلا على أزواجهم أو ما ملكت أيمانهم ، والأول له أركان أربعة : الأول الولي ، فلا يصح العقد بدونه ، ويشتراط في الولي شروط : منها اتفاق الدينين فلا يزوج الكافر المسلم ولا المسلم الكافرة إلا أن تكون أمته أو معنوقته فإنه يزوجه ، ومنها الحرية ، فالعبد والمكاتب والمذبر والمعنق بفضه يفسخ ما عقده ولو بعد الدخول ولها المهر

According to some jurists, the conditions include that he must not himself be a ward, and that he must be a just person. The popular view is that viciousness does not strip one of the right to be a marriage guardian; rather it impairs the perfection of a marriage contract but it does not hinder the validity of the marriage. A fool but impudent person may contract marriage of his own daughter with the permission of his own guardian. Other conditions are maturity, consciousness, masculinity. A contract by a woman on herself or on other is not acceptable.

She should delegate to a man her own marriage contract, that of her bonded-servant and also that of her freedmaid and those under her patronage.

2. Dower. Marriage contract is not valid without it. It is a minimum of a quarter of a *dinar* of gold or three *dirhams* of silver. Or an amount of money that is equivalent of any of the two. It is an obligation due to Allah and to the woman. The obligation towards Allah is three *dirhams* and anything above that is the right of the woman. Even if she agrees, with dispensing with the whole dower, marriage contract based on such agreement is not valid, she may forgo anything above a quarter of a *dinar*. Dower has no maximum limit.
3. Witnessing. It is a condition for a valid consummation and not a condition for marriage contract.
4. Legally qualified spouses. This is the woman who should be free from legal inhibitions which render her forbidden in marriage and the man.
In the case of the man, there are conditions for validity and conditions for its confirmation. The conditions for its validity are four: Islam, discretion, consciousness, (or sanity) manliness. For a hermaphrodite shall not marry and shall not be married.
The confirmatory conditions are five:
 - (i) Freedom from bondage. The marriage of a bondsman, without the consent of his master, shall not be confirmed.

بِالْمَسِيرِ. وَمِنْهَا عِنْدَ بَعْضِهِمْ أَنْ يَكُونَ غَيْرَ مُوَلَّى عَلَيْهِ، وَأَنْ يَكُونَ عَدْلًا، وَالْمَشْهُورُ أَنَّ الْفِسْقَ لَا يَسْلُبُ الْوِلَايَةَ وَإِنَّمَا يَقْدَحُ فِي كَمَالِ الْعَقْدِ دُونَ صِحَّتِهِ وَيَعْقِدُ السَّفِيهُ ذُو الرَّأْيِ عَلَى ابْنَتِهِ بِإِذْنِ وَلِيِّهِ، وَمِنْهَا الْبُلُوغُ وَالْعَقْلُ وَالذُّكُورِيَّةُ، فَالْمَرْأَةُ لَا يَجُوزُ عَقْدُهَا عَلَى نَفْسِهَا وَلَا عَلَى غَيْرِهَا وَلَهَا أَنْ تَقْرَضَ لِمَنْ يَعْقِدُ لَهَا مِنَ الرِّجَالِ فِي تَرْوِيجِ نَفْسِهَا، وَفِي أَمْنِهَا الْقَيْنُ وَالْمُعْتَقَةُ، وَمَنْ مِثْلُ فِي إِبْصَانِهَا

الرُّكْنُ الثَّانِي الصَّدَاقُ فَلَا يَصِحُّ النِّكَاحُ بِدُونِهِ وَهُوَ رُبْعُ دِينَارٍ مِنَ الذَّهَبِ، أَوْ ثَلَاثَةُ دَرَاهِمٍ مِنَ الْفِضَّةِ، أَوْ مَا هُوَ قِيَمَةُ أَحَدِهِمَا مِنَ الْمَرْوُضِ وَهُوَ حَقٌّ لِلَّهِ تَعَالَى وَلِلْأَدَمِيِّ، فَحَقُّ اللَّهِ ثَلَاثَةُ دَرَاهِمٍ، وَمَا زَادَ عَلَى ذَلِكَ حَقٌّ لِلْمَرْأَةِ، فَلَوْ رَضِيَتْ بِإِسْقَاطِهِ جُمْلَةً لَمْ يَجْزْ وَلَهَا أَنْ تَسْقِطَ مَا زَادَ عَلَى رُبْعِ دِينَارٍ وَأَكْثَرِ. الصَّدَاقُ لَا حَدَّ لَهُ الرُّكْنُ الثَّالِثُ الْإِشْهَادُ، وَهُوَ شَرْطٌ فِي صِحَّةِ الدُّخُولِ لَا فِي صِحَّةِ الْعَقْدِ.

الرُّكْنُ الرَّابِعُ الْمَحَلُّ وَهُوَ الْمَرْأَةُ الْخَلِيفَةُ مِنَ الْمَوَارِعِ الَّتِي تَقْتَضِي تَحْرِيمَهَا، وَالزَّوْجُ وَيُشْتَرَطُ فِي الزَّوْجِ شُرُوطُ صِحَّةٍ وَشُرُوطُ اسْتِقْرَارٍ، فَشُرُوطُ الصَّحَّةِ أَرْبَعَةٌ: الْإِسْلَامُ وَالتَّمْيِيزُ وَالْعَقْلُ وَتَحَقُّقُ الذُّكُورَةِ، فَالْخَتْنُ الْمُسْكِلُ لَا يَنْكِحُ وَلَا يَنْكَحُ، وَشُرُوطُ الْإِسْتِقْرَارِ خَمْسَةٌ: الْحُرِّيَّةُ. فَلَا يَسْتَقِرُّ نِكَاحُ الْعَبْدِ بِغَيْرِ إِذْنِ سَيِّدِهِ

- (ii) Maturity. If a kid marries without the consent of his father or his testamentary executor, if the guardian confirms it, it is acceptable but if he rejects it after consummation the woman shall earn a quarter of a *dīnār*.
- (iii) Management of one's own affair - Independence. If an imprudent marries without the permission of his guardian, the guardian shall confirm it, if it is appropriate, but if he rejects it only after consummation, then the woman shall earn a quarter of a *dīnār*.
- (iv) Sound health. The marriage by a sick man or woman is not valid. It would be nulled, even if consummation had already taken place.
- (v) Compatibility of spouses. Marriage equality or compatibility is a right of the woman and the marriage guardians. If the woman agrees with the marriage guardians to wave it except the question of Islam it is proper.
- (vi) The formula. It is a pronouncement with which marriage is contracted. The formula expected from the marriage guardian is such as "I have contracted the marriage" or "I have given her out in marriage" and the groom would say something like "I accept" or "I am pleased with it"

A muslim-man shall not request marriage from a lady who had received an earlier request for marriage from another Muslim, nor make a bid over his bid. Marriage on the basis of exchange is prohibited. That is a vulva for a vulva such as when one man gives out his daughter in marriage to another man, in consideration of the other man's daughter who he takes in marriage without any dower. Also unlawful is temporary marriage, that is, marriage that would subsist for a specified time (not for life).

Such temporary marriage shall be annulled whether before or after consummation without any divorce. She would be entitled to dower which women of equal status with her normally take; unless a particular amount had been specified. In that case she shall be entitled to the specified amount. The punishment for adultery shall be waved for him,

وَالْبُلُوغُ فَلَوْ تَزَوَّجَ الصَّبِيُّ بِغَيْرِ إِذْنِ أَبِيهِ أَوْ وَصِيِّهِ فَإِنْ أَجَازَهُ وَلِيُّهُ جَازَ ، وَإِنْ رَدَّهُ بَعْدَ الْبِنَاءِ فَلِلزَّوْجَةِ رُبْعُ دِينَارٍ ، الثَّالِثُ الرُّشْدُ فَإِنْ تَزَوَّجَ السَّيِّئُ بِغَيْرِ إِذْنِ وَلِيِّهِ ، فَلِلْوَلِيِّ إِمْضَاؤُهُ إِنْ كَانَ سَدَادًا ، وَإِنْ رَدَّهُ بَعْدَ الْبِنَاءِ فَلِلزَّوْجَةِ رُبْعُ دِينَارٍ ، الرَّابِعُ الصُّحَّةُ فَلَا يَصِحُّ نِكَاحُ مَرِيضٍ وَلَا مَرِيضَةٍ وَيُفْسَخُ وَلَوْ بَعْدَ الْبِنَاءِ ، الْخَامِسُ الْكِفَاءَةُ ، وَالْكَفَاءَةُ حَقُّ الْمَرْأَةِ وَالْأَوْلِيَاءِ ، فَإِنْ انْفَقَتْ مَعَهُمْ عَلَى تَرْكِهَا مَا حَدَا الْإِسْلَامَ جَازَ ، الرُّكْنُ السَّادِسُ الصَّبِيَّةُ ، وَهِيَ اللَّفْظُ الَّذِي يَتَعَدَّى بِهِ النِّكَاحُ .

فَالصَّبِيَّةُ مِنَ الْوَلِيِّ نَحْوُ أَنْكَحْتُ وَزَوَّجْتُ وَالصَّبِيَّةُ مِنَ الزَّوْجِ نَحْوُ قَبِلْتُ وَرَضِيْتُ وَلَا يَخْطُبُ أَحَدٌ عَلَى خِطْبَةِ أُخِيهِ وَلَا يَتَزَوَّجُ عَلَى سَوْمِ أُخِيهِ ، وَلَا يَجُوزُ نِكَاحُ الشَّغَارِ وَهُوَ الْقُبْحُ بِالْبُغْضِ ، مِثْلُ أَنْ يُزَوَّجَ الرَّجُلُ ابْنَتَهُ إِرْجُلًا عَلَى أَنْ يُزَوَّجَهُ لِأَخِيهِ ابْنَتَهُ ، وَلَيْسَ بَيْنَهُمَا صَدَاقٌ وَلَا يَجُوزُ نِكَاحُ الْمُتَمَعِ وَهُوَ النِّكَاحُ إِلَى أَجَلٍ وَيُفْسَخُ قَبْلَ الْبِنَاءِ وَبَعْدَهُ بِغَيْرِ طَلَاقٍ ، وَيَجِبُ فِيهِ صَدَاقٌ الْعِلْمُ إِلَّا أَنْ يَكُونَ هُنَاكَ تَسْيِيَةٌ فَلَهَا الْمُسَمَّى وَيَسْقُطُ عَنْهُ الْحَدُّ

and the offspring of the marriage shall be his and she should observe full 'iddah (waiting term.)

Marriage cannot be properly contracted with a woman during her 'iddah — waiting term — period, be the 'iddah that of death or that of divorce. The prohibition of marriage becomes everlasting if sexual cohabitation takes place during the 'iddah period or even if it takes place after it (but when the marriage contract had taken place during the 'iddah period).

Explicit courtship is forbidden during 'iddah but allowed are complimentary utterances which imply the desire, such as his saying "I am attracted to you"

Both a free-person and a bondsman can marry concurrently a maximum of four free Muslim women or four free scriptural women. For a bondsman he has the right to marry concurrently a maximum of four Muslim bondswoman. A free man can also do like the bondsman, if he fears committing fornication, and does not have the means i.e. money to marry or maintain a free-woman.

POLYGYNY

A man who marries two or more wives, be they free persons, or bondswomen, muslims or women of the scripture, it is obligatory on him to deal equitably with them. If he does not act equitably with them, he is a transgressor and disobedient to Allah and His prophet. Neither is he fit for Imamship nor should his witness be acceptable. Whoever contests its being mandatory is an apostate, who would be expected to repent within three days, if he does not then, he is an unbeliever.

The said equity is applicable to maintenance and clothing, according to the status of each of them. The noble, according to the standard of women of her status, and a lowly woman, according to her status. There should also be equality in night sharing. The man shall not go into the apartment of a wife, for his needs in a day that is not her turn, rather he would make his request from outside her room. The

وَيُلْحَقُ بِهِ الْوَلَدُ وَعَلَيْهَا الْعِدَّةُ كَامِلَةً وَلَا يَجُوزُ النِّكَاحُ فِي الْعِدَّةِ سَوَاءَ كَانَتْ عِدَّةَ وَفَاةٍ أَوْ طَلَاقٍ وَيَتَأَبَّدُ التَّحْرِيمُ فِيهِ بِالْوُطْءِ فِي الْعِدَّةِ أَوْ بَعْدَهَا وَيَحْرُمُ التَّضَرُّعُ بِالْخِطْبَةِ فِي الْعِدَّةِ وَالتَّغْرِيبُ بِالْقَوْلِ الْمَعْرُوفِ مَبَاحٌ مِثْلُ أَنْ يَقُولَ إِنِّي فِيكَ لِرَاغِبٌ.

وَيَجُوزُ لِلْحَرِّ وَالْعَبْدِ نِكَاحُ أَرْبَعِ حَرَائِرَ مُسْلِمَاتٍ أَوْ كِتَابِيَّاتٍ ، وَلِلْعَبْدِ نِكَاحُ أَرْبَعِ إِمَاءَ مُسْلِمَاتٍ وَلِلْحَرِّ ذَلِكَ إِنْ خَشِيَ الْعَنَتَ وَلَمْ يَجِدْ لِلْحَرَائِرِ طَوْلًا : أَيَّ مَالًا .

﴿فصل﴾

مَنْ كَانَ مُتَزَوِّجًا بِامْرَأَتَيْنِ أَوْ أَكْثَرَ حَرَائِرَ أَوْ إِمَاءَ مُسْلِمَاتٍ أَوْ كِتَابِيَّاتٍ فَإِنَّهُ يَجِبُ عَلَيْهِ أَنْ يَعْدِلَ بَيْنَهُنَّ فَإِنْ لَمْ يَعْدِلْ فَهُوَ ظَالِمٌ نَاصِرٌ لَهُ وَلِرَسُولِهِ لَا تَجُوزُ إِمَانَتُهُ وَلَا شَهَادَتُهُ وَمَنْ جَحَدَ وَجُوبَهُ فَهُوَ كَافِرٌ يُسْتَأَبُّ ثَلَاثًا فَإِنْ لَمْ يَتُبْ فَهُوَ كَافِرٌ وَالْعَدْلُ الْمَذْكُورُ يَكُونُ فِي النِّفَقَةِ وَالْكُسُوفِ بِحَسَبِ حَالِ كُلِّ وَاحِدَةٍ فَالْشَّرِيفَةُ يَقْدَرُ مِنْهَا ، وَالْدُّنْيَةُ يَقْدَرُ مِنْهَا . وَفِي الْمَيْتِ فَلَا يَدْخُلُ لِحَاجَتِهِ عِنْدَ

sharing of nights shall be a day and night at a time, the sharing shall not be on a two-day rotation except with the consent of the wives.

TWO USEFUL HINTS

1. A man shall not cohabit with his wife or his bondswoman in a room while there is another person there, whether the person is young or old, awake or asleep.
2. It is reprehensible to have the spouses together on a single mat (or bed). It is said that it is even prohibited. There is divergence of opinions on sleeping together with a collection of bondswomen. Some opined that it is legal, while others opined that it is not. As far as sharing of a bed is concerned it is said to be reprehensible, but as regards sexual cohabitation with any one of them while another or others are present, the law is unanimous about its illegality. This brings us to the end of what I intended to compile on issues related to marriage.

DIVORCE

Repudiation or Divorce

The word "at-ṭalāq" – repudiation or divorce is taken from the statement "I release the camel". And it is released when you free it from the cord or shackle. Any woman with a husband is under a covenant with her husband. When he repudiates her, she has been released from his covenant. "At-Ṭalāq" literally means a break and departure. In usage it is the breaking of marriage bonds between a couple. This authority to break the bond, has been vested on the husbands and not the wives by the Almighty – Allāh. The break are of two types: The approved that is orthodox repudiation and the reprehensible, which is heretical repudiation. The latter is three repudiations in one pronouncement. Orthodox repudiation has conditions. That if the repudiated woman is capable

مَنْ لَمْ تَكُنْ نَوَيْتَهَا وَإِنَّمَا بَطَّلَهَا مِنْ خَارِجِ الْبَيْتِ ، وَالْقِسْمُ يَوْمَ
وَلَيْلَةٍ وَلَا يَقْسِمُ يَوْمَيْنِ إِلَّا بِرِضَاهُنَّ .

﴿قَالِدَتَانِ﴾

الْأُولَى : لَا يُصِيبُ الرَّجُلُ زَوْجَتَهُ أَوْ أَمَتَهُ وَمَعَهُ أَحَدٌ فِي الْبَيْتِ
صَغِيرًا كَانَ أَوْ كَبِيرًا يَقْطَعُ أَوْ نَائِمًا ، الثَّانِيَةُ يُكْرَهُ أَنْ يُضَاجِعَهُنَّ
فِي فِرَاشٍ وَاحِدٍ وَقِيلَ يَحْرُمُ ، وَاخْتَلَفَ فِي جَمْعِ الْإِمَاءِ فَقِيلَ
يَجُوزُ وَقِيلَ لَا يَجُوزُ وَقِيلَ يُكْرَهُ هَذَا فِي الْمُضَاجَعَةِ وَأَمَّا وَطْئُ
إِحْدَاهُمَا بِمَخْضَرِ الْأُخْرَى فَلَا يَجُوزُ اتِّفَاقًا ، وَهَذَا آخِرُ مَا أَرَدْنَا
جَمْعُهُ مِنْ مَسَائِلِ النِّكَاحِ

وَأَمَّا الطَّلَاقُ فَهُوَ مَاخُودٌ مِنْ قَوْلِكَ أَطْلَقْتُ النَّاقَةَ فَانْطَلَقَتْ
إِذَا أُرْسِلَتْهَا مِنْ عِقَالٍ أَوْ قَبْدٍ ، فَكُلُّ ذَاتِ زَوْجٍ مُؤَقَّتَةٌ عِنْدَ
زَوْجِهَا . فَإِذَا فَارَقَهَا أَطْلَقَهَا مِنْ وَثَاقِهِ ، وَالطَّلَاقُ لُغَةً الْإِنْقِطَاعُ
وَالذَّمَّابُ ، وَاضْطِلَاحًا حَلُّ الْعِصْمَةِ الْمُنْعَقِدَةِ بَيْنَ الزَّوْجَيْنِ ،
وَهَذَا أَمْرٌ جَعَلَهُ اللَّهُ تَعَالَى بِأَيْدِي الْأَزْوَاجِ دُونَ الزَّوْجَاتِ وَهُوَ عَلَى
قِسْمَيْنِ : مُبَاحٌ وَهُوَ طَّلَاقُ السَّنَةِ ، وَمَحْظُورٌ وَهُوَ طَّلَاقُ الْبِدْعَةِ
وَهُوَ الطَّلَاقُ ثَلَاثًا فِي كَلِمَةٍ وَاحِدَةٍ ، وَلِطَّلَاقِ السَّنَةِ شُرُوطٌ :

of menstruating, she should not be menstruating or having post-natal bleeding at the time of the pronouncement of the repudiation. She should be in a period of cleanliness in between two distinct occasions of menstruation within which he had not cohabited with her. He should pronounce the divorce once in the period.

If a man tells his wife: "You are divorced." That is one pronouncement of divorce, unless he intends it to be more than once pronouncement of divorce.

Khul' — Release — is an irrevocable dissolution. It cannot be reversed, even if he did not mention repudiation. Once she has given him something on the basis of which he releases her.

The constituents of repudiation are four:

1. The proponent of the repudiation. It is conditional that he should be a Muslim, who is responsible. The repudiation pronounced by an unbeliever is discounted.¹⁵⁴ Also disregarded is the repudiation pronounced by a child-husband, someone who is not in his senses, due to insanity, swoon or similar feats. It is said in *Jawāhir*¹⁵⁵ "that concerning one intoxicated by liquor or spirit, there are two views" The statement of the author of *Jawāhir* "with liquor or spirit" is to exclude the situation when a person takes milk or eats lawful food or medicine then it intoxicates him. If such a person pronounces repudiation under such circumstances, according to the unanimous opinion of jurists, such repudiation is not binding on him.
2. Another constituent is the object of repudiation. That is the wife. The condition is that the husband, prior to the repudiation, possessed marital authority over the woman.
3. Another constituent is intention. One whose tongue pronounced repudiation without actually intending it, that pronouncement does not confer repudiation on him. The repudiation pronounced by one coerced to pronounce it is not effective.

أَنْ تَكُونَ الْمُطْلَقَةُ مِنْ تَحِيضٍ، وَأَنْ لَا تَكُونَ حَائِضًا وَلَا نَفَسًا وَأَنْ تَكُونَ فِي طَهْرٍ لَمْ تُمَسَّ فِيهِ وَأَنْ يُطْلَقَ فِيهِ وَاحِدَةً، وَمَنْ قَالَ لِزَوْجَتِهِ أَنْتِ طَالِقٌ فَهِيَ وَاحِدَةٌ حَتَّى يَنْوِي أَكْثَرَ مِنْ ذَلِكَ، وَالْخُلْعُ طَلَقٌ بَاطِنٌ لَا رَجْعَةَ فِيهَا وَإِنْ لَمْ يُسَمَّ طَلَاً إِذَا أُعْطَتْهُ شَيْئًا يَخْلَعُهَا بِهِ مِنْ نَفْسِهِ، وَأَرْكَانُ الطَّلَاقِ أَرْبَعَةٌ: الْأَوَّلُ مَوْقِعُ الطَّلَاقِ، وَشَرْطُهُ أَنْ يَكُونَ مُسْلِمًا مُكَلَّفًا فَلَا يَنْعَقِدُ طَلَاؤُ الْكَافِرِ، وَلَا الصَّبِيِّ وَلَا مَنْ زَالَ عَقْلُهُ بِجُنُونٍ أَوْ إِغْمَاءٍ أَوْ نَحْوِ ذَلِكَ، وَالسَّكْرَانُ بِخَمَرٍ أَوْ نَبِيذٍ الْمَشْهُورُ نَفَوْذُ طَلَاغِهِ، قَالَهُ فِي الْجَوَامِرِ وَظَاهِرُهُ مَبْرَأٌ أَمْ لَا،

وَاحْتَرَزَ بِقَوْلِهِ بِخَمَرٍ أَوْ نَبِيذٍ عَمَّا لَوْ شَرِبَ لَبَنًا أَوْ أَكَلَ طَعَامًا حَلَالًا أَوْ دَوَاءً فَسَكِرَ مِنْهُ، فَإِنَّهُ إِنْ طَلَّقَ فِي تِلْكَ الْحَالَةِ لَا يَلْزَمُهُ طَلَاؤُهُ إِجْمَاعًا، الثَّانِي الْمَحَلُّ وَهُوَ الزَّوْجَةُ، وَشَرْطُهُ مِلْكُ الزَّوْجِ عِصْمَةُ الْمَرْأَةِ قَبْلَ الطَّلَاقِ، الثَّالِثُ الْقَصْدُ فَمَنْ سَبَقَ لِسَانُهُ إِلَى الطَّلَاقِ لَمْ يَقَعْ عَلَيْهِ طَلَاؤُهُ وَلَا يَقَعُ طَلَاؤُهُ

4. The pronouncement or an action that amounts to it. The pronouncement is of two kinds: manifest pronouncement and indirect pronouncement as well as what amounts to either of them both.

The manifest pronouncement is that which contains the word — "at-talāq" — "repudiation" —, no matter how it is put. Such as you are repudiated or you are a repudiated one. Such repudiation thus becomes effective and it does not require any intention and the repudiation amounts to one repudiation only except when he intends it (as shown by action and circumstances) to be for more than one.

The indirect pronouncement is of two kinds: The clear and the imputed. The clear one are such as "You are free" or "You are acquitted" it is like manifest pronouncement in the sense that the claim of the man that he did not intend divorce shall not avail.

In the case of the imputed pronouncement such as "Be gone" or "Go away", the claim of the husband that it was not an intent of repudiation and concerning the number of divorce that it was intended to convey, shall be upheld. If he claims that he intends repudiation by it, the popular view among jurists is that it is taken as repudiation.

What amounts to the pronouncement is of various kinds. Among them are understood indicators. An indication from a dumb is considered as repudiation, Understood indicator includes written repudiation from one who is capable of speaking.

If he puts the repudiation in writing and he intends it to mean repudiation, then what he wrote shall be binding on him. If he writes it without any determination to repudiate, he can recall it provided the letter has not got to the woman; but if it has got to the woman, it becomes binding.

But in the case of one who had absolutely resolved within his mind to repudiate and he wrote the letter which has not got to the woman, there are two reports. (One is that repudiation is binding; the other is that it can be recalled by him).

المُكْرَوِ ، الرَّابِعُ اللَّفْظُ أَوْ مَا يَقُومُ مَقَامَهُ مِنَ الْفِعْلِ ، أَمَّا اللَّفْظُ فَيَنْقَسِمُ إِلَى صَرِيحٍ وَكِتَابِيٍّ وَمَا عَدَاهُمَا ، فَالصَّرِيحُ مَا فِيهِ لَفْظُ الطَّلَاقِ عَلَى أَيِّ وَجْهِ كَانَ مِثْلُ أَنْ يَقُولَ أَنْتِ طَالِقٌ أَوْ أَنْتِ مُطَلَّقَةٌ فَيَلْزَمُ بِهِذَا الطَّلَاقُ وَلَا يَفْتَرِ إِلَى بَيِّنَةٍ وَمُطَلَّقَهَا وَاحِدَةٌ ، إِلَّا أَنْ يَنْوِي أَكْثَرَ ، وَالْكِتَابِيُّ قِسْمَانِ ظَاهِرَةٌ وَمُخْتَمَلَةٌ فَالظَّاهِرَةُ مِثْلُ قَوْلِكَ أَنْتِ خِلَّةٌ وَرَبِيَّةٌ وَهِيَ كَالصَّرِيحِ فِي أَنَّهُ لَا تُقْبَلُ دَعْوَاهُ فِي غَيْرِ الطَّلَاقِ ، وَالْمُخْتَمَلَةُ مِثْلُ أَذْمِي وَأَنْصَرِفِي فَتُقْبَلُ دَعْوَاهُ فِي نَفْيِهِ وَعَدْدِهِ فَإِذَا ادَّعَى أَنَّهُ أَرَادَ الطَّلَاقَ فَالْمَشْهُورُ أَنَّهُ يَكُونُ طَلَاقًا ، وَأَمَّا مَا يَقُومُ مَقَامَ اللَّفْظِ فَأَنْوَاعٌ : مِنْهَا الْإِشَارَةُ الْمَفْهُومَةُ وَهِيَ مُعْتَبَرَةٌ مِنْ

الْأَخْرَاسِ فِي الطَّلَاقِ وَمِنْهَا كِتَابَةُ الطَّلَاقِ مِنَ الْقَادِرِ عَلَى التَّلْقِي فَإِنْ كَتَبَ الْكِتَابَ بِالطَّلَاقِ وَهُوَ عَازِمٌ عَلَى الطَّلَاقِ وَقَعَ عَلَيْهِ مَا كَتَبَهُ وَإِنْ كَتَبَهُ غَيْرَ عَازِمٍ فَلَهُ ادِّعَاؤُهُ مَا لَمْ يَتْلَعْ الْمَرْأَةُ فَيَلْزَمُهُ وَلَوْ عَقَدَ الطَّلَاقَ بِقَلْبِهِ نَجَازِمًا مِنْ غَيْرِ تَرَدُّدٍ فَفِيهِ وَقُوعُ الطَّلَاقِ عَلَيْهِ بِمَجْرَدِ ذَلِكَ رَوَاتِبَانِ ، وَلَا يَجُوزُ أَنْ يَتَرَوَّجَ الرَّجُلُ امْرَأَةً لِحِلِّهَا

It is prohibited for a man to marry a woman in order to make her lawful for one who had irrevocably repudiated her. Such practice does not make her lawful for the first husband. The marriage shall be aborted whether or not consummation has taken place. If the termination of marriage is after consummation had taken place, she is entitled to the specified dower. A woman whom a man has repudiated by a triple repudiation shall not thereafter, whether through ownership or marriage, be lawful for him until she had been married to, and divorced by another man.

REVOCABLE REPUDIATION

It is said in the *Risālah* ¹⁵⁶ that: He who repudiates his wife may take back his wife who still menstruates in as much as she has not entered her third menstrual circle. For a free woman or second menstrual circle for a bondswoman. A commentator said: "The husband possesses the right of revocation in any repudiation that is not yet up to three, provided it is not accompanied with a ransom, that is, once the separation is not through *Mubara'ah*, mutual separation or on account of ransom.

He has the power of revocation provided the period of retreat *'iddah* — has not expired, for marriage bond between a couple does not cease to subsist without triple repudiation in the case of a free woman as long as it is not accompanied by ransom and the *'iddah* has not expired.

The revocation may be through both intention and utterance, or intention alone. If he resolves within himself that he has revoked the repudiation, the revocation, between him and Almighty Allah, remains valid. If a person pronounces the revocation without the actual intention, while the revocation is valid, it is a matter between him and Allah; the Almighty.

Sexual cohabitation without the intention of revocation is not a revocation. Sexual cohabitation without the intent of revocation, is illegal. ¹⁵⁷

لِمَنْ طَلَّقَهَا ثَلَاثًا وَلَا يُحِلُّهَا ذَلِكَ ، وَيُفْسَخُ قَبْلَ الْبَيِّنَةِ وَبَعْدَهُ ، وَإِنْ فُسِّخَ بَعْدَهُ فَلَهَا الْمُسْتَى ، وَمَنْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا لَمْ تَحِلَّ لَهُ جِلَّتْ وَلَا يَكَاحُ حَتَّى تَكَاحَ زَوْجًا غَيْرَهُ .

﴿فَضْلُ﴾ الرَّجْعَةِ

قَالَ فِي الرِّسَالَةِ وَهُوَ : أَيُّ الْمَطْلُوقِ زَوْجَتَهُ الرَّجْعَةُ فِي أَلْيِ تَحْيِضُ مَا لَمْ تَدْخُلْ فِي الْحَيْضَةِ الثَّالِثَةِ فِي الْحُرَّةِ أَوْ الثَّانِيَةِ فِي الْأَمَةِ قَالَ شَارِحُهَا

الرَّجْعَةُ بِمِلْكِهَا الزَّوْجُ فِي كُلِّ طَلَاقٍ نَقَصَ عَدَّتَهُ عَنْ الثَّلَاثِ مَا لَمْ يَكُنْ مَعَهُ فِدَاءٌ أَوْ مَا لَمْ يَكُنْ عَلَى وَجْهِ الْمُبَارَاةِ وَالْفِدْيَةِ وَإِنَّمَا كَانَتْ لَهُ الرَّجْعَةُ مَا لَمْ تَنْقُضِ الْعِدَّةُ لِأَنَّ الْعِصْمَةَ بَيْنَ الزَّوْجَيْنِ لَا تَنْقَطِعُ بِمَا دُونَ الثَّلَاثِ فِي الْحُرَّةِ إِذَا لَمْ يَكُنْ مَعَهُ فِدَاءٌ مَا لَمْ تَنْقُضِ الْعِدَّةُ وَالرَّجْعَةُ تَكُونُ بِالنِّبَةِ مَعَ الْقَوْلِ أَوْ بِالنِّبَةِ دُونَ الْقَوْلِ ، فَإِنْ نَوَى فِي نَفْسِهِ أَنَّهُ رَاجِعَهَا فَقَدْ صَحَّتْ رَجْعَتُهُ فِيمَا يَنْتَهِي وَيَبْنِي اللَّهُ تَعَالَى ، وَلَوْ انْفَرَدَ اللَّفْظُ دُونَ النِّبَةِ لَمْ

On the issue of the need for the presence of witnesses for the revocation, there are two views: that it is obligatory and that it is only desirable.

CHAPTER NINE

COMMERCIAL TRANSACTION

A commercial transaction has three constituents.

1. A statement that amounts to consent, such as the statement of the seller that "I sold it to you" and the purchaser saying "I bought it"; or an action (from either party) such as acceptance of offer by payment and delivery.
2. The parties, i.e. the seller and the purchaser. It is a condition for the validity of the sale that each of the parties¹⁵⁸ must be in full possession of his/her faculties. Sale or purchase by a person not in his full senses is not validly contracted, be the lack of full control of one's faculties due to youthfulness, madness, or drunkenness and similar things. A commercial transaction cannot be effected except by one with his full capacity.
3. The object. This means the price and the priced. Concerning both of them, there are five conditions to be satisfied.
 - (i) Ritually clean. The sale of a ritually unclean object such as excreta, or a filthy thing that cannot be purified such as rancid oil is not valid.
 - (ii) To be of lawful utility. The sale of an animal that is illegal for consumption such as horse, mule or donkey is not valid, if it is in a critical condition that may lead to death.
 - (iii) Not being generally unlawful while at the possession of the seller. It is not proper to sell dog (except for hunting and security).

صَحَّتْ لَهُ الرُّجْعَةُ بِذَلِكَ فِيمَا بَيْنَهُ وَبَيْنَ اللَّهِ تَعَالَى ، وَالْوُطْءُ بِدُونِ
النَّبَةِ لَا يَكُونُ رَجْعَةً ، وَالْوُطْءُ حَرَامٌ ، وَفِي الْإِشْهَادِ عَلَى الرُّجْعَةِ
قَوْلَانِ بِالْجُوبِ وَالْإِسْتِحْبَابِ .

الباب التاسع في البيع

وَلَهُ ثَلَاثَةُ أَرْكَانٍ الْأَوَّلُ مَا يَدُلُّ عَلَى الرِّضَا مِنْ قَوْلٍ كَقَوْلِ
الْبَائِعِ بِعُتْكَ وَقَوْلِ الْمُشْتَرِي اشْتَرَيْتُ ، أَوْ فِعْلٍ كَالْمُعَاطَاةِ . الثَّانِي
الْعَاقِدُ وَهُوَ الْبَائِعُ وَالْمُشْتَرِي وَيُشْتَرَطُ فِي صِحَّةِ بَيْعِهِ أَنْ يَكُونَ
مُعِيزًا ، فَلَا يَنْعَقِدُ بَيْعُ غَيْرِهِ ، وَلَا شِرَاؤُهُ لِعَصْرٍ أَوْ جُنُونٍ أَوْ سُكْرِ أَوْ
نَحْوِ ذَلِكَ وَلَا يَلْزَمُ الْبَيْعُ إِلَّا مِنْ مُكَلَّفٍ . الثَّالِثُ الْمَقْشُودُ عَلَيْهِ وَهُوَ
الْشَيْءُ وَالْمُسْنَى ، وَيُشْتَرَطُ فِيهِمَا خَمْسَةُ شُرُوطٍ : الطَّهَارَةُ فَلَا
يَجُوزُ بَيْعُ نَجَسٍ كَالْعَذْرَةِ ، وَلَا مُتَجَسِّسٍ لَا يُمَكِّنُ نَظْمَهُ
كَالزَّيْتِ ، وَالْإِنْتِفَاعُ بِهِ إِنْتِفَاعًا شَرْعِيًّا فَلَا يَجُوزُ بَيْعُ مُحَرَّمٍ الْأَكْلِ
كَالْقَرَسِ وَالْبَغْلِ وَالْحِمَارِ إِذَا أَشْرَفَ عَلَى الْمَوْتِ ،
وَعَدَمُ تَهْمِهِ وَدَرَدٍ فِي عَيْنِهِ فَلَا يَجُوزُ بَيْعُ الْكَلْبِ وَالْقَذَرَةِ عَلَى

- (iv) Capability of delivery. It is illegal to sell a run-away slave while at large, or a stray camel; or fish while still at large in the river.
- (v) Ascertained price and definite object. Ignorance about any of them renders the sale contract void. Examples of such void contracts are when something is bought with a piece of an unknown stone. Or such as when gold or silver soil is sold.

USURY/INTEREST

Usury or increase in repayment is forbidden. That is increase over what is due. Also forbidden is usury due to postponement, that is, deferment of payment. This type of exchange involves gold and silver. It is not lawful, for example, to sell two *di-hams* for three *dirhams* (of the same value), or to sell a *dirham* for a *dirham* to be paid, for example, in the next day or in the next hour.

Resale with specification of gain is lawful but preferable to avoid it, for it involves much explanation from the vendor. And it is likely that he forgets a particular aspect which may have adverse effect or he may omit a thing while his mind may wander from one thing to another.

It is not lawful, in sale contract, to defraud. That is to conceal the defect in the commodity, from the purchaser.

It is compulsory that the vendor should mention every thing which if it had been mentioned could have reduced the interest of the purchaser in the good. It is also mandatory on the vendor to mention what he agrees upon and what he waves. Allah knows best.

تَسْلِيمِهِ فَلَا يَجُوزُ بَيْعُ الْآبِقِ ، وَلَا الْبَعِيرِ الشَّارِدِ وَالسَّكِّ فِي الْغَنَاءِ ،
وَالْعِلْمُ بِكُلِّ مِنَ الثَّمَنِ وَالْمُشْتَرِي فَالْجَهْلُ بِهِمَا أَوْ بِأَحَدِهِمَا مَبْطُلٌ
مِثْلُ أَنْ يَشْتَرِيَ بَرْنَةً حَجَرٍ مَجْهُولٍ وَتَرَابٍ الصَّوْغَائِنِ

﴿فَضْلُ الرِّبَا﴾

يَحْرُمُ رِبَا الْفَضْلِ وَهُوَ الزِّيَادَةُ وَرِبَا النَّسِي وَهُوَ التَّأْخِيرُ فِي الْقَدْرِ
وَهُوَ الدَّعْبُ وَالْفِضَّةُ فَلَا يَجُوزُ بَيْعُ دِرْهَمَيْنِ بِثَلَاثَةِ وَلَا بَيْعُ دِرْهَمٍ
بِدِرْهَمٍ إِلَى يَوْمٍ أَوْ سَاعَةٍ مَثَلًا ، وَبَيْعُ الْمُرَابَحَةِ جَائِزٌ ، لَكِنْ الْأَحَبُّ
خِلَافُهُ لِكَثْرَةِ الْبَيَانِ عَلَى الْبَائِعِ فِيهِ فَرُبَّمَا نَسِيَ مَا يَضُرُّ أَوْ يَنْهَوُ
فَيَسْتَقِلُّ ذِمَّتَهُ مِنْ شَيْءٍ إِلَى غَيْرِهِ ، وَلَا يَجُوزُ فِي الْبَيْعِ التَّدْلِيسُ وَهُوَ
كَيْفَانُ عَيْبِ السَّلْعَةِ عَنِ الْمُشْتَرِي ، وَيَجِبُ عَلَى الْبَائِعِ الْإِخْبَارُ
بِكُلِّ شَيْءٍ إِذَا أَخْبَرَ بِدِ الْمُسْتَرِي قَلَّتْ رَغْبَتُهُ فَيَجِبُ عَلَيْهِ أَنْ يُبَيِّنَ أَنَّهُ
عَقَدَ عَلَى كَذَا وَنَقَدَ عَنْهُ كَذَا وَاللَّهُ أَعْلَمُ .

CHAPTER TEN

INHERITANCE

The male heirs are ten:

Son and son's son however low, the father and the grandfather however high, brother and the son of the brother be he a germane brother or a consanguine brother no matter how distant; the full paternal uncle or consanguine paternal uncle and his son(cousin) no matter how high; the husband; and the man who set free a slave i.e. the manumitted slave still under the care of his master/mistress.

Female heirs are seven: the daughter; the daughter of the son, however low, the mother and the grandmother, however high; the sister, the wife and a manumitted bondswoman still under the protection of her master/mistress.

Besides those mentioned, other persons, such as mother's father or sister's son¹⁵⁹ are relations who have nothing to inherit.

SHARES

The basic shares are six:

1. Half: It is the share of each of the following five relations: The only daughter and the son's daughter in the absence of the daughter. The only germane sister or in her absence the consanguine sister and the husband in the absence of children.
2. A quarter: It is the share of the husband if the deceased has an issue. It is also the share of the wife or wives if the deceased left no issue.
3. One eighth: It is the share of the wife(s) if there is a child.
4. Two thirds: It is the share of two or more female shares that if one of them has been the only one, she would have been entitled to half.

الباب العاشر في الفرائض

الْوَارِثُونَ مِنَ الرِّجَالِ عَشْرَةٌ: الْإِبْنُ وَابْنُهُ وَإِنْ سَقَلَ وَالْأَبُ وَالْجَدُّ وَإِنْ عَلَا وَالْأَخُ مُطْلَقًا وَإِنْ الْأَخِ الشَّقِيقِ أَوْ لِلْأَبِ وَإِنْ بَعْدَ وَالْعَمُّ الشَّقِيقُ أَوْ لِلْأَبِ وَابْنُهُ وَإِنْ عَلَا، وَالزَّوْجُ وَمَوْلَى النِّعْمَةِ وَهُوَ الْمُعْتِقُ. وَالْوَارِثَاتُ مِنَ النِّسَاءِ سَبْعٌ: ابْنَتُ ابْنِ الْإِبْنِ وَإِنْ سَقَلَتْ وَالْأُمُّ وَالْجَدَّةُ وَإِنْ عَلَتْ وَالْأَخْتُ وَالزَّوْجَةُ وَمَوْلَاةُ النِّعْمَةِ، وَمَنْ عَدَا مَوْلَاةُ كَأَبِي الْأُمِّ وَإِنْ الْأَخْتُ فَهِيَ مِنْ ذَوِي الْأَرْحَامِ لَا يَرِثُ شَيْئًا

﴿فَضْلٌ﴾

الْفَرُوضُ الَّتِي هِيَ أَصُولُ سِتَّةٍ: النِّصْفُ وَهُوَ فَرَضُ خَمْسَةٍ: ابْنَتُ لِّلصُّلْبِ وَبْنَتُ ابْنِ عَدَمِهَا وَالْأَخْتُ لِلْأَبِ عِنْدَ عَدَمِهَا وَالزَّوْجُ مَعَ عَدَمِ الْحَاجِبِ وَالرُّبْعُ فَرَضُ الزَّوْجِ مَعَ وُجُودِ الْحَاجِبِ وَالزَّوْجَةُ أَوْ الزَّوْجَاتُ مَعَ فَقْدِهِ، وَالثُّمْنُ فَرَضُ الزَّوْجَةِ أَوْ الزَّوْجَاتِ مَعَ وُجُودِ الْحَاجِبِ، وَالثَّلَاثَانِ فَرَضُ كُلِّ اثْنَتَيْنِ فَصَاعِدًا نَسْتَحِقُّ إِحْدَاهُمَا إِذَا انْفَرَدَتِ النِّصْفَ، وَالثَّلَاثُ فَرَضُ الْأُمِّ مَعَ فَقْدِ

5. A third: It is the share of the mother in the absence of a posterity. It is also the share of two or more children of the same mother with the deceased, whether male, female or mixed.
6. A sixth: It is the share of each of the following seven relations:
 - i. The father who co-exists with the offspring.
 - ii. The mother who co-exists with the offspring.
 - iii. The grandmother when she is alone or if she co-exists with another female sharer.¹⁶⁰
 - iv. One or more son's daughters, if one actual daughter exists.¹⁶¹
 - v. One or more uterine sisters in co-existence with a germane sister.
 - vi. One uterine brother or sister alone.
 - vii. The paternal grandfather when he co-exists with an offspring or an offspring of a son.

THE AGNATES

When the father, the grandfather, the son or the son's son, exists alone, he would take the whole estate. If two or more brothers alone exist, they would share the whole estate equally. If they (brothers) are made up of male and female, they would share it in a way that a male would have the portion of two females.

All male direct link or all male linked with the deceased through a male shall inherit as agnates. The implication of being an agnate heir is that whoever inherits through it, is entitled to the whole estate, if he is the only one existing as sharer and if he co-exists with others he would also be entitled to take the residuaries after the other basic sharers have got their shares.

EXCLUSION

Exclusion is of two types: exclusion through elimination and exclusion through shift.

الْحَاجِبِ ، وَالْإِثْنَيْنِ فَصَاعِدًا مِنْ وَلَدِ الْأُمِّ مَا كَانُوا ، وَالسُّدُسُ
فَرَضَ سَبْعَةً : الْأَبِ مَعَ وُجُودِ الْحَاجِبِ ، وَالْأُمِّ مَعَ وُجُودِ
الْحَاجِبِ ، وَالْجَدَّةِ إِذَا انْفَرَدَتْ أَوْ كَانَ مَعَهَا أُخْرَى تُشَارِكُهَا .
وَالْوَحِيدَةِ فَأَكْثَرُ مِنْ بَنَاتِ الْإِبْنِ إِذَا كَانَ مَعَهَا بِنْتُ الصُّلْبِ ،
وَالْأَخْتِ لِلْأَبِ فَأَكْثَرُ مَعَ وُجُودِ الْأَخْتِ الشَّقِيقَةِ ، وَالْوَحِيدِ مِنْ
وَلَدِ الْأُمِّ ذَكَرًا كَانَ أَوْ أُنْثَى وَالْجَدُّ مَعَ الْوَلَدِ أَوْ وَلَدِ الْإِبْنِ .

﴿فَضْلُ﴾ التَّغْصِيبِ

إِذَا انْفَرَدَ الْأَبُ أَوْ الْجَدُّ أَوْ الْإِبْنُ أَوْ ابْنُهُ أَخَذَ الْمَالَ جَمِيعَةً .
وَالْإِثْنَانِ مِنَ الْإِخْوَةِ فَصَاعِدًا يَقْسِمُونَهُ بِالسُّوْبَةِ ، وَإِذَا اجْتَمَعَ مِنْهُمْ
ذَكَرٌ وَإِنَاثٌ يَقْسِمُونَهُ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيْنِ ، وَبِثَرِ
بِالتَّغْصِيبِ كُلُّ ذَكَرٍ يُدْلِي بِنَفْسِهِ أَوْ بِذَكَرٍ ، وَمَعْنَى التَّغْصِيبِ أَنَّ
مَنْ بَرِثَ بِهِ يَسْتَفْرِقُ جَمِيعَ الْمَالِ إِذَا انْفَرَدَ وَيَسْتَحِقُّ الْبَاقِي بَعْدَ
ذَوِي السَّهَامِ إِنْ كَانَ مَعَهُ ذُو سَهَامٍ .

﴿فَضْلُ﴾ الْحَجَبِ

الْحَجَبُ قِسْمَانِ : حَجَبُ اسْتِطَاعٍ ، وَحَجَبُ نَقْلِ ، أَمَّا حَجَبُ
الْإِسْطَاعِ فَلَا يُلْحَقُ مَنْ

Exclusion through elimination cannot affect any one who is directly related to the deceased, such as sons, daughters, fathers, mothers, and those who occupy such direct position — the husband and the wife.

Other heirs apart from those ones are affected by exclusion through elimination. Thus the son's son is excluded through elimination, by the son.¹⁶² The grandfather is excluded by the father. The brothers, whether germane, consanguine or uterine are so excluded by the son, the son's son, however low, and the father. The children of brothers are so excluded by their fathers and those who are substitutes of their fathers, as well as the grandfather.

The paternal uncle is excluded by the children of the brothers and those who exclude the children of the brothers.¹⁶³ The son of the paternal uncle is excluded by his father and those who exclude him.¹⁶⁴ The daughters of the son are excluded by the existence of the only son of the deceased, or two or more daughters of the deceased; except when the daughters of the son co-exist with their male counterpart, who in that case, agnatised the son's daughters, then the male counterpart (son's son) and the son's daughters would share what is left after the shares of the daughters.¹⁶⁵ The sharing shall be based on the principle of "for a male the share is for two females."

The consanguine sisters shall be excluded by germane brother or two or more germane sisters except when the consanguine sisters co-exist with a consanguine brother who, in that case, agnatises the consanguine sisters. Then the consanguine brother and the consanguine sisters shall share what is left after the due of the germane sisters.¹⁶⁶ It would be done among them in such a way that a male shall have the share of two females.

The germane or consanguine sisters shall be excluded by the father, the son, and the son's son. The grandmothers of any kind is excluded by the mother while the grandmother from the father's side (paternal grandmother) is eliminated by the existence of the father. The manumitted slave is excluded by agnates relations (of the deceased).

يُنْسَبُ إِلَى الْمَيِّتِ بِنَفْسِهِ كَالْبَنِينَ وَالْبَنَاتِ وَالْأَبَاءِ وَالْأُمَّهَاتِ
وَمَنْ فِي مَقَامِهِمُ الزَّوْجِ وَالزَّوْجَةِ وَيَلْحَقُ مَنْ عَدَاهُمْ فَأَيُّ
الْبَنِينَ يَحْجِبُهُ الْإِبْنُ وَالْجَدُّ يَحْجِبُهُ الْأَبُ وَالْإِخْوَةُ مُطْلَقًا
يَحْجِبُهُمُ الْإِبْنُ وَابْنُهُ وَإِنْ سَقَلَ وَالْأَبُ وَبَنُو الْإِخْوَةِ يَحْجِبُهُمُ
أَبَاؤُهُمْ وَمَنْ يَحْجِبُهُمُ وَالْجَدُّ وَالْعَمُّ يَحْجِبُهُ بَنُو الْإِخْوَةِ وَمَنْ يَحْجِبُهُمُ
وَابْنُ الْعَمِّ يَحْجِبُهُ أَبُوهُ وَمَنْ يَحْجِبُهُ وَبَنَاتُ الْإِبْنِ يَحْجِبُهُنَّ الْوَاحِدُ
مِنْ ذُكُورٍ وَلَدِي الصُّلْبِ ، وَالْإِثْنَانِ فَصَاعِدًا مِنْ بَنَاتِ الصُّلْبِ إِلَّا أَنْ
يَكُونَ مَعَهُنَّ ذَكَرٌ فَيَعْصِبُهُنَّ فَيَكُونُ لَهُ وَلَهُنَّ مَا بَقِيَ عَنْ فَرَضِ
النِّسَاءِ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ وَالْأَخَوَاتُ لِلْأَبِ يَحْجِبُهُنَّ الشَّقِيقُ
وَالشَّقِيقَانِ مَا كَثُرَ إِلَّا أَنْ يَكُونَ مَعَهُنَّ أَخٌ لِأَبٍ فَيَعْصِبُهُنَّ فَيَكُونُ لَهُ
وَلَهُنَّ مَا بَقِيَ عَنْ فَرَضِ الْأَخَوَاتِ الْأَشِقَاءُ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ
وَالْأَخَوَاتُ الْأَشِقَاءُ يَحْجِبُهُنَّ الْأَبُ وَالْإِبْنُ وَابْنُهُ وَالْجَدَّاتُ مِنْ أَيِّ
جِهَةٍ كُنَّ بِالْأُمِّ وَتَنْقُطُ الْجَدَّةُ الَّتِي مِنْ جِهَةِ الْأَبِ بِهِ ، وَالْمَوْلَى
الْمُعْتَقُ يَحْجِبُهُ عَصَبَةُ النَّسَبِ

- Exclusion through shifting is divided into three kinds:
1. Shift from one fixed share to another. This is pertaining to five situations.
 - (i) The mother is shifted by the child whether male or female, from a third to a sixth. She is also so shifted by the child of the son, (whether male or female, one or more) two or more of all types of brothers or/and sisters.
 - (ii) The husband is shifted from half to a quarter by a child or the grand-child.
 - (iii) The wife is shifted from a quarter to an eighth by those who shift the husband's share.¹⁶⁷
 - (iv) The sole daughter of a son shall be shifted from half and (in the case of) two or more daughters of the son would be shifted from two-thirds (and in both cases) by the existence of a female offspring at a generation level higher than theirs¹⁶⁸ and the son's daughter(s) would thus be co-sharers of a sixth.
 - (v) Consanguine sisters would be shifted to a sixth by one germane sister.
 2. Shifting from the position of an agnate to the position of a basic sharer. This applies to the father and the grand-father. Either of them is shifted by the son or son's son to the position of a sharer and thus would have a sixth.
 3. Shifting from having basic share to having portions as agnate. This is the case with daughters, son's daughters, germane sisters, consanguine sisters.

Sole-daughter would be a sharer of half since she is alone, and if they are two or more, they would have two thirds, once they have a brother of their level. They are not sharing inheritance as sharers on account of being relations, entitled to shares but as agnates.

The same applies to son's daughters when they qualify for inheritance. It is also applicable to germane sisters and also to consanguine sisters when there are no germane sisters.

وَأَمَّا حَجَبُ النَّفْلِ فَثَلَاثَةُ أَسْمَاءٍ :

الْأَوَّلُ نَفْلٌ مِنْ فَرَضٍ إِلَى فَرَضٍ نُوْنُهُ وَهُوَ مُخْتَصَرٌ بِخَمْسَةِ أَشْيَاءَ : الْأُمُّ يَنْقُلُهَا الْوَلَدُ مُطْلَقًا مِنَ الثُّلُثِ إِلَى السُّدُسِ وَوَلَدُ الْإِبْنِ مُطْلَقًا وَالْإِثْنَانِ فَصَاعِدًا مِنَ الْإِخْوَةِ وَالْأَخَوَاتِ مُطْلَقًا ، وَالزَّوْجُ يَنْقُلُهُ الْوَلَدُ وَوَلَدُهُ مِنَ النُّصْفِ إِلَى الرَّبْعِ ، وَالزَّوْجَةُ يَنْقُلُهَا مِنَ الرَّبْعِ إِلَى الثُّمَنِ مَنْ يَنْقُلُ الزَّوْجَ وَبَنَاتُ الْإِبْنِ يَنْقُلُ الْوَاحِدَةَ مِنْهُنَّ عَنِ النُّصْفِ وَالْإِثْنَتَيْنِ فَكَأَكْثَرِ عَنِ الثُّلُثَيْنِ الْوَاحِدَةُ فَوْقَهُنَّ فَيَأْخُذَنَّ السُّدُسَ وَالْأَخَوَاتُ لِلْأَبِ يَنْقُلُهُنَّ إِلَى السُّدُسِ الْأُخْتُ الشَّقِيقَةُ

الْقِسْمُ الثَّانِي النَّفْلُ مِنَ التَّعْصِيبِ إِلَى الْفَرَضِ وَهُوَ مُخْتَصَرٌ بِالْأَبِ وَالْجَدِّ فَيَنْقُلُهُمَا الْإِبْنُ وَبَنَاتُهُ إِلَى السُّدُسِ

الْقِسْمُ الثَّالِثُ النَّفْلُ مِنْ فَرَضٍ إِلَى تَعْصِيبٍ وَهُوَ مُخْتَصَرٌ بِبَنَاتٍ وَبَنَاتِ الْإِبْنِ وَالْأَخَوَاتِ الْأَشْقَاءِ وَالْأَخَوَاتِ لِلْأَبِ ، فَإِنَّ الْبَنَاتِ يُفَرِّضُ لِلْوَاحِدَةِ مِنْهُنَّ إِذَا انْفَرَدَتْ النُّصْفَ وَالْإِثْنَتَيْنِ فَصَاعِدًا الْثُلُثَيْنِ وَإِذَا كَانَ لَهُنَّ أَخٌ لَمْ يَرْنَ بِالسَّهَامِ وَيَرْنَ بِالْتَّعْصِيبِ ، وَكَذَا حُكْمُ بَنَاتِ الْإِبْنِ إِذَا اسْتَحَقَّتِ الْوَرَاثَةَ وَالْأَخَوَاتِ الْأَشْقَاءُ وَالْأَخَوَاتُ لِلْأَبِ مَعَ عَدَمِ الْأَشْقَاءِ :

BARRIERS TO INHERITANCE

Difference in religion constitutes a legal barrier to inheritance. There cannot be mutual right of inheritance between a Muslim and an unbeliever; nor between the Jews and the Christians. Another barrier is being a slave. Thus a slave can neither inherit nor be inherited. What he leaves behind belong to his owner. Another barrier is murder. There cannot be inheritance for a heir who intentionally kills the deceased.

Another barrier is the rejection of blood-tie through action of imprecation.¹⁷⁰ The loss of right to mutual inheritance is between the one who claims imprecation and the child only.¹⁷¹

Uncertainty concerning who dies first or last between two relations is also a barrier to mutual right to inheritance. It is so, for instance, when relations die in a mishap such as fire or road accident.

﴿فَضْلٌ﴾

يَمْنَعُ الْمِيرَاثَ اخْتِلَافَ الدِّينِ فَلَا تَوَارَثُ بَيْنَ سُلَيْمٍ وَكَافِرٍ وَلَا
بَيْنَ الْيَهُودِيِّ وَالنَّصْرَانِيِّ ، وَالرَّقُّ فَلَا يَرِثُ الرَّقِيقُ وَلَا يُورَثُ وَمَا
مَاتَ عَنْهُ فَهُوَ لِمَالِكِهِ .

وَالْقَتْلُ فَلَا مِيرَاثَ لِمَنْ قَتَلَ مَوْتَهُ عَمْدًا وَانْتِغَاءَ النَّسَبِ
بِاللَّمَانِ ، فَيَنْقَطِعُ التَّوَارَثُ بَيْنَ الْمَلَاعِينِ وَالْوَلَدِ قَطْعًا ، وَاسْتِنِهَامُ
الْمُتَقَدِّمِ وَالْمُتَأَخِّرِ فِي الْمَوْتِ كَمَا إِذَا مَاتَ أَقَارِبُ تَحْتَ هَذِهِ
مَثَلًا .

THE EXPLANATION OF SOME OBLIGATIONS, PROPHETIC TRADITIONAL PRACTICES AND ETIQUETTES

It is mandatory on a Muslim to believe that Allah is one, no associate for Him in His sovereignty and there is no co-sharer with Him in any of His Divine attributes. A Muslim must also know that all what are in existence have a sole Creator. It is imperative that He exists. He is the Eternal, The Everlasting, He lives, He is Capable; The Initiator of resolutions, The All Knowing, The Hearer, The Perceiver and The Speaker. It is also imperative that His attributes do exist; Embracing particularities, generalities, impossibilities and others. The Muslim should also know that Allah, The Almighty is one in His Being, no partner for Him and no one is worthy of worship except Him; and that All His Messengers, Blessings and Peace Be on them are firm believers in what they brought; and that Muhammad Blessings and Peace be on Him is His servant and Messenger.

The Muslim must also know that all what the Prophet brought are true; and all what he disseminated are absolutely true, such as concerning punishment in the grave; the resurrection and horrors of the Day of Resurrection; the narrow path; the measurement (through which man's deeds would be assessed), all those things hidden from us; paradise and hell and that what He wishes shall be and what He does not wish shall not be.

Other things the prophet disseminated which are true included that faith is to be established in the heart, expressed by the tongue and demonstrated by the parts of the body. That the Word of Almighty Allah is abiding and firm, stored in the minds, read with the tongues, recorded in the sheets. That the believers shall see the Almighty Allah, and He shall talk to them.

A Muslim must also hold the belief that the best generation is that of the Prophet's Companions, then followed by the next generation to theirs and the generation that came

في بيان جمل من الفرائض والسنن والآداب وَيَتَمَيَّنُ عَلَى الْمُسْلِمِ أَنْ يُؤْمِنَ بِأَنَّ اللَّهَ إِلَهٌ وَاحِدٌ ، لَا شَرِيكَ لَهُ فِي مُلْكِهِ وَلَا نَظِيرَ لَهُ فِي صِفَتِهِ مِنْ صِفَاتِ الْأَلُوْهِيَّةِ ، وَيَعْلَمُ أَنَّ لِجَمِيعِ الْمَوْجُودَاتِ خَالِقًا ، هُوَ وَاجِبُ الْوُجُودِ ، أَرْزَلِي أَبَدِي حَيٌّ بِحَيَاةٍ قَادِرٌ بِقُدْرَةٍ مُرِيدٌ بِإِرَادَةٍ عَالِمٌ بِعِلْمٍ سَمِيعٌ بِسَمْعٍ بَصِيرٌ بِبَصَرٍ مُنْكَلَمٌ بِكَلَامٍ وَأَنَّ صِفَاتِهِ أَيْضًا وَاجِبَةُ الْوُجُودِ تَمَلُّقُ بِجَمِيعِ الْجُزْئِيَّاتِ وَالْكُلِّيَّاتِ وَالْمُسْتَحِيلَاتِ وَغَيْرِهَا ، وَأَنَّهُ تَعَالَى وَاحِدٌ فِي ذَاتِهِ لَا نَظِيرَ لَهُ وَأَنَّهُ لَا يَسْتَحِقُّ الْعِبَادَةَ غَيْرَهُ ،

وَأَنَّ جَمِيعَ رُسُلِهِ صَلَوَاتُ اللَّهِ وَسَلَامُهُ عَلَيْهِمْ مُصَدِّقُونَ فِيمَا جَاءُوا بِهِ ، وَأَنَّ مُحَمَّدًا ﷺ عَبْدُهُ وَرَسُولُهُ ، وَأَنَّ جَمِيعَ مَا جَاءَ بِهِ حَقٌّ ، وَمَا أَخْبَرَ بِهِ صِدْقٌ مِنْ عَذَابِ الْقَبْرِ وَأَحْوَالِهِ وَالْقِيَامَةِ وَأَهْوَالِهَا وَمِنَ الصِّرَاطِ وَالْمِيزَانِ وَجَمِيعِ الْمُغَيَّبَاتِ عَنَّا ، وَالْجَنَّةِ وَالنَّارِ وَأَنَّ مَا شَاءَ اللَّهُ كَانَ ، وَمَا لَمْ يَشَأْ لَمْ يَكُنْ ، وَأَنَّ الْإِيمَانَ اعْتِقَادٌ بِالْقَلْبِ وَنُطْقٌ بِاللِّسَانِ وَعَمَلٌ بِالْجَوَارِحِ ، وَأَنَّ كَلَامَ اللَّهِ تَعَالَى قَائِمٌ بِذَاتِهِ ، مَحْفُوظٌ فِي الصُّمُورِ مَقْرُوءٌ بِالْأَلْسِنَةِ مَكْتُوبٌ فِي الْمَصَاحِفِ ، وَأَنَّ اللَّهَ تَعَالَى يَرَاهُ الْمُؤْمِنُونَ وَيُكَلِّمُهُمْ وَأَنَّ بَعْتِدَ أَنْ خَيْرَ الْقُرُونِ الصَّحَابَةُ ، ثُمَّ الَّذِينَ يَلُونَهُمْ ، ثُمَّ الَّذِينَ يَلُونَهُمْ ،

immediately after the generation that succeeds them and so on. He must also hold that the best of the Companions are Abū Bakr, 'Umar, 'Uthmān and 'Alī in that order. Similarly one should not mention them except for good.

MISCELLANEOUS PROVISIONS

Seeking blessing upon the Prophet, blessing and peace of Allah be upon him is obligatory once in one's life. It is forbidden to recite the Qur'an wrongly, similarly forbidden are back-biting, calumny, lie, envy, extortion, usury, and unlawful acquisition of others' properties. The Almighty Allah says:

"Do not illegally consume the properties of one another"¹⁷²

That is, through unlawful means. This is of various kinds. Among them are embezzlement, embezzlement of the properties of the orphan. Allah, the Almighty says: "Surely those who illegally acquire the properties of the orphans are consuming fire into their stomachs and they shall soon be burnt in the Hell-fire"¹⁷³. This implies that the end of their life shall be in hell.

BRIBERY AND CORRUPTION

One of the most grievous corruptions is taking bribes in matters of justice. The prophet, blessings and peace of Allah be on him, said: "All flesh nurtured through corruption shall be fit for hell." The prophet was asked: "O the messenger of Allah, what is corruption?" He said: "bribery in justice". He went further saying "Allah cursed the giver and taker of bribe". Al-Hassan, Qatadah and Muqātil said so, too. Ibn Mas'ūd said: "Corruption is bribery in any matter". He said further "that one helps one's brother out of a problem and the latter then gives him a gift on account of that." He was

وَأَنْ أَفْضَلَهُمْ أَبُو بَكْرٍ ثُمَّ عُمَرُ ثُمَّ عُثْمَانُ ثُمَّ عَلِيٌّ ، وَيَجِبُ الْكَفُّ
عَنْ ذِكْرِهِمْ إِلَّا بِخَيْرٍ .

﴿فَضْلُ﴾

الصَّلَاةُ عَلَى النَّبِيِّ ﷺ وَاجِبَةٌ فِي الْعُمُرِ مَرَّةً ، وَتَحْرُمُ قِرَاءَةُ
الْقُرْآنِ بِالتَّلْحِينِ ، وَالغِيَةِ وَالنِّسِيَةِ ، وَالْكَذِبِ وَالْحَدِّ وَالنَّصَبِ
وَالرِّبَا وَأَكْلُ أَمْوَالِ النَّاسِ بِالْبَاطِلِ ، قَالَ اللَّهُ تَعَالَى : وَلَا تَأْكُلُوا
أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ : أَيُّ بِالْحَرَامِ ، وَفَرِ أَنْوَاعٌ ، مِنْهَا
السُّخْتُ ، وَمِنْهُ أَكْلُ مَالِ الْيَتِيمِ ، قَالَ اللَّهُ تَعَالَى ، إِنَّ الَّذِينَ
يَأْكُلُونَ أَمْوَالَ الْيَتَامَى ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا وَسَيَصْلَوْنَ
سَعِيرًا : أَيُّ عَاقِبَةُ أَمْرِهِمْ ذَلِكَ فِي النَّارِ .

﴿فَضْلُ﴾

وَمِنْ أَعْظَمِ السُّخْتِ الرِّشْوَةُ فِي الْحُكْمِ ، قَالَ النَّبِيُّ ﷺ كُلُّ
لَحْمٍ نَبَتْ بِالسُّخْتِ قَالَتِ النَّارُ أَوْلَى بِهِ ، قَالُوا : يَا رَسُولَ اللَّهِ وَمَا
السُّخْتُ ؟ قَالَ : الرِّشْوَةُ فِي الْحُكْمِ ، وَقَالَ ﷺ : لَعَنَ اللَّهُ
الرَّاشِيَّ وَالْمُرْتَشِيَّ ، وَبِهَذَا التَّفْسِيرِ قَالَ الْحَسَنُ وَقَتَادَةُ وَمُقَاتِلٌ ،
وَقَالَ ابْنُ مَسْعُودٍ : السُّخْتُ الرِّشْوَةُ فِي كُلِّ شَيْءٍ ، وَقَالَ أَيْضًا هُوَ أَنْ
يَقْضِيَ الرَّجُلُ لِأَخِيهِ حَاجَةً فِيهَا عَيَّ إِلَيْهِ هَدِيَّةٌ قِيلَ لَهُ يَا أَبَا عُبَيْدٍ

told "Oh the father of 'Abdur-Rahmān we see that as taking bribe on justice". Then He said "Receiving a gift on justice is disbelief". Allah, the Almighty said: "Those who do not judge according to what Allah has revealed are unbelievers" ¹⁷⁴ Abu Hanifah, ¹⁷⁵ May Allah be pleased with him said "if a judge receives bribe, he should be retired immediately, if he is not retired all the judgement he pronounces thereafter becomes void.

Al-Qurtubī said: "This position, if Allah, The Almighty, wishes, is not to be contested by any person for bribe taking is viciousness and the judgement of a vicious person is not valid". Illegal possession is called *suhṭ* - corruption (literally an eraser) because it erases obedience to Allah i.e., it removes and eliminates it, for Allah, The Almighty has said: "Whoever rejects faith, all his deeds had become naught and in the hereafter he would be one of the losers". ¹⁷⁶ It is said that whoever contests this position is one who permits the forbidden and forbids the lawful.

SECTION ON ETHICS

Saying of *Bismillāhi-r-Rahmāni-r-Rahīm* (in the name of Allah the Beneficent, The Merciful) at the commencement of eating and drinking is desirable. So also is the saying *Al-hamdul illāh* (All praise is due to Allah) at the end of each of the two.

It is also desirable that one eats or drinks with one's right hand. One should not blow air into food or drink nor respire into the container. There is no harm in drinking while standing.

Men are prohibited from wearing silk and sitting on it, so also is wearing gold-ring or ring made from any material that contains gold. It is meritorious to wear one's right shoe first before the left and to put off the left shoe first before the right shoe. One is not to walk with only a shoe on, and one is not to stand wearing only one shoe except for a necessity. Playing chess is prohibited. Also prohibited is fashioning a thing in the image of a human being or similar beings such as animals. ¹⁷⁷

الرَّحْمَنِ ، مَا كُنَّا نَرَى ذَلِكَ إِلَّا الْأَخْذَ عَلَى الْحُكْمِ ، فَقَالَ الْأَخْذُ عَلَى الْحُكْمِ كَثُرَ ، قَالَ اللَّهُ تَعَالَى : وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ .

وَقَالَ أَبُو حَنِيفَةَ رَضِيَ اللَّهُ عَنْهُ إِذَا ارْتَضَى الْحَاكِمُ انْعَزَلَ فِيهِ لِقَوْتِ وَإِنْ لَمْ يَنْعَزَلْ بَطَلَ كُلُّ حُكْمٍ

يَحْكُمُ بِهِ بَعْدَ ذَلِكَ ، قَالَ الْقُرْطُبِيُّ : وَهَذَا لَا يَجُوزُ لِأَحَدٍ أَنْ يَخْتَلِفَ فِيهِ إِنْ شَاءَ اللَّهُ تَعَالَى لِأَنَّ أَخْذَ الرِّشْوَةِ فِسْقٌ وَالْفَاسِقُ لَا يَجُوزُ حُكْمُهُ وَسُمِّيَ الْمَالُ الْحَرَامُ سُخْتًا لِأَنَّهُ يُسْحِتُ الطَّاعَاتِ أَيْ يُذْهِبُهَا وَيَسْتَأْصِلُهَا ، وَقَدْ قَالَ اللَّهُ تَعَالَى : وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَهُدًى حَيْطَ عَمَلُهُ وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ ، قِيلَ هُوَ الَّذِي يُحْلِلُ الْحَرَامَ وَيُحَرِّمُ الْحَلَالَ .

﴿فَصْلٌ﴾

وَالْتَّسْنِيَةُ هُنْدُ الْأَكْلِ وَالشُّرْبِ مُسْتَحَبَّةٌ ، وَالتَّخْفِيدُ عِنْدَ الْإِنْتِهَاءِ ، وَبِأَكْلِ وَيَشْرَبُ يَمِينِهِ ، وَلَا يَنْفُخُ فِي الطَّعَامِ ، وَالشُّرَابِ وَلَا يَنْفُسُ فِي الْإِنَاءِ وَلَا بِأَسٍ بِالشُّرْبِ قَائِمًا ، وَيَحْرُمُ عَلَى الرَّجَالِ لُبْسُ الْحَرِيرِ وَالْجُلُوسُ عَلَيْهِ وَالتَّجَنُّمُ بِالذَّهَبِ وَبِمَا فِيهِ ذَهَبٌ وَيُسْتَحَبُّ أَنْ يَتَدَا فِي لُبْسٍ نَعْلُهُ بِالْيَمْنَى وَفِي خَلْعِهِ بِالْيَمْرَى وَلَا يَنْشِي فِي نَعْلٍ وَاحِدٍ وَلَا يَهْفُ فِيهِ إِلَّا لِضَرُورَةٍ ، وَيَحْرُمُ اللَّعِبُ بِالْشَطْرَنْجِ وَيَحْرُمُ التَّصَوُّيرُ عَلَى صِفَةِ الْإِنْسَانِ أَوْ غَيْرِهِ مِنَ الْحَيَوَانَاتِ .

Salutation to one who sneezes is obligatory just as response to salutation of peace. It is by telling the one who sneezes "*Yarhamuka Allahu* – May Allah have mercy on you" Response to it is a desirable act. It is that the one who sneezes should say: "*Yahdikumu 'L-Lahu wa yuslihu balakum* – May Allah guide you right and cleanse your heart -- or to say "May Allah forgive us and you". To combine the two is better. The one who sneezes shall not be saluted until he expresses gratitude to Allah.

It is not lawful for a Muslim to forsake his Muslim brother for more than three days. Two persons should not engage in secret conversation in the presence and to the exclusion of another person. It is not lawful for a man to be in seclusion (where sexual cohabitation is possible) with a woman who is neither within prohibited-degree-in-marriage¹⁸⁰ nor his wife. It is also not lawful for a man to look at her.

EPILOGUE

It is necessary for every person not to do anything other than good and virtuous towards his hereafter or acquisition of money for his sustenance. Every person must avoid what does not concern him; to be on his guard against his own whims and caprices; to abandon what he is not clear about; to be equitable with his subordinates, deal gently with them, overlook their human frailties. Constant patience is also expected from him.

If he is in company of a learned person he should grant the learned person every honour and dignity; when the learned person speaks he should listen attentively. When he asks questions from the learned man it should be for purpose of clear understanding and one should not counter his response to another person's question.

﴿فصل﴾ تَشْمِيتُ الْعَاطِسِ

تَشْمِيتُ الْعَاطِسِ وَاجِبٌ كَرَدُ السَّلَامِ ، وَقَوْلُ الْقَوْلِ لِلْعَاطِسِ : يَرْحَمُكَ اللَّهُ ، وَجَوَابُهُ مُسْتَحَبٌّ ، وَقَوْلُ الْعَاطِسِ : يَهْدِيكُمْ اللَّهُ وَبُضْلُحُ بَالِكُمْ ، أَوْ يَغْفِرُ اللَّهُ لَنَا وَلَكُمْ وَالْجَمْعُ بَيْنَهُمَا أَفْضَلُ . وَلَا يُشْمِتُ الْعَاطِسُ حَتَّى يَحْمَدَ اللَّهَ ، وَلَا يَحِلُّ لِمُسْلِمٍ أَنْ يَهْجُرَ أَخَاهُ فَوْقَ ثَلَاثَةِ أَيَّامٍ ، وَلَا يَتَنَاجَى ائْتَانِ دُونَ وَاحِدٍ ، وَلَا يَجُوزُ لِرَجُلٍ أَنْ يَخْلُوَ بِامْرَأَةٍ لَيْسَتْ بِمَحْرَمٍ لَهُ وَلَا زَوْجَةٍ ، وَلَا يَجُوزُ النَّظَرُ إِلَيْهَا .

خَاتِمَةٌ

يَنْبَغِي لِلْإِنْسَانِ أَنْ لَا يَرَى إِلَّا مُحْصَلًا حَسَنَةً لِمَعَادِهِ ، أَوْ دَرَاهِمًا لِمَعَالِيهِ ، وَيَتْرَكَ مَا لَا يَنْبَغِي ، وَيَحْتَرِسَ مِنْ نَفْسِهِ ، وَيَقِفَ عِنْدَمَا أَشْكَلَ ، وَيُنْصِفَ جَلِيسَهُ ، وَيُلِينَ لَهُ جَانِبَهُ ، وَيَصْفَحَ عَنْ زَلَّتِهِ ، وَيَلْزَمَ الصَّغِيرَ ، وَإِنْ جَالَسَ عَالِمًا نَظَرَ إِلَيْهِ بِمَعْنَى الْإِجْلَالِ ، وَيُنْصِفَ لَهُ عِنْدَ الْمَقَالِ ، وَإِنْ رَاجَعَهُ رَاجَعَهُ نَفَهُمَا وَلَا يَمَارِسُهُ

If anyone is engaged in academic argument with another person he should do it with calmness, sobriety, and avoidance of pomposity. He should also do it with good conduct and good manners. These are two essential tools for scholarship.

All praise is due to Allah alone. Blessing and Peace be upon our leader, Muhammad, members of his house-hold and his companions.

فِي جَوَابِ سَائِلِهِ سَأَلَهُ ، وَمَنْ نَظَرَ فِي عِلْمٍ فَيَسْكِينَهُ وَقَارٍ وَتَرَكَ
الِاسْتِعْلَاءَ وَحُسْنَ الثَّانِي وَجَمِيلِ الْأَدَبِ فَإِنَّهُمَا مُعِينَانِ عَلَى طَلَبِ
الْعِلْمِ . وَالْحَمْدُ لِلَّهِ وَحْدَهُ ، وَصَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ
وَصَحْبِهِ وَسَلَّمَ .

NOTES AND REFERENCES

1. A scholar of the Maliki School of Islamic jurisprudence who is also a member of the Shadhili *ṭarīqah*.
2. Included are such as spring-water, treated tap-water and water from similarly pure sources.
3. Ordinary bath which is non-obligatory on one like taking bath during a very hot weather to reduce the effect of the heat on one.
4. Non-obligatory ritual bath taken in preparation for *Jumu'ah* prayer.
5. Animals not slaughtered or properly killed.
6. Ibn. Yunus was a renowned muslim jurist.
7. The Tradition of the prophet Muhammad (S.A.W.)
8. This provision is to caution against the use of the residue of same handful of the water used for wiping the head for the wiping of the ears. A separate handful of water is needed for the wiping of the ears.
9. The Islamic law.
10. Cleansing the outlet of a filthy discharge with water.
11. One can wash one's hand with soap instead of rubbing it over an object.
12. Resting on one leg. This explains why the traditional Islamic scholars in Nigeria disapprove of urinating while one is in a standing position.
13. While one is still in the act of discharging the filth.
14. For a sudden appearance of any animal from it could lead to serious embarrassment and a messy consequence.
15. The author mentions only two of the three. The third is the bank of a functional river.
16. Towards the sacred house in Makkah i.e. The Ka'bah.
17. The other view is that it is allowed.
18. The implication of "wife" here is spouse.
19. The maid from Islamic view point meant a slave-girl under a master. During the time of slavery such ladies were considered inferior and could not marry unless with the permission of their masters. One way through which the manumission of such ladies was effected by Islam is to make sexual cohabitation with them lawful for their masters. Once they had a child for the master, they became the "mothers of the children" and their status enhanced. This provision is not applicable to present-day female aids or house-helps who are just employees of their masters. For detailed information read M.M. Ali: *The Religion of Islam*, Lahore, 1973, pp 543-544.
20. See *The Holy Qur'an* 4:22 ff.

21. Abdu's-salam b. Sa'id - Sahnun : *al-Madawwanah al-kubra*, Cairo, 1908, Vol. I P.17.
22. On which Qur'anic passages are written.
23. Provided there are other competent Muslims around to perform the funeral ritual prayer.
24. If it dawns on one only after the expiration of the prescribed period for the particular ritual prayer, then one need not repay.
25. (i) To do only the possible washing (ii) To do only the possible wiping (iii) To abandon both (iv) To combine what is possible of the two options.
26. Once it is not otherwise necessitated, it has no time limit when one should remove it and perform fresh and direct ablution.
27. The other view is that for the wiping of the left-foot, one places one's left hand fingers on the toes and places one's right fingers under the toes.
28. The maximum duration she has ever had.
29. Still subject to the maximum of fifteen days.
30. Period of grace when one is expecting the cessation.
31. Khalil b. Is-haq : *Mukhtasar, Daru 'L-fikr*, n.d, P. 22
32. The prescribed period for the daily ritual prayer which is due at the time when the dryness has been ascertained.
33. Post natal blood-discharge including lochia.
34. Obligatory charity imposed by Allah on all believers once in a year.
35. The ninth month of the lunar calendar.
36. Or intention to do so at the earliest convenient opportunity.
37. That is: "I bear witness that there is no deity worthy of worship but Allah and that I bear witness that Muhammad is His servant and Messenger."
38. See *The Holy Qur'an* 4:103. Each of the daily ritual prayer has its specific time before which the particular prayer cannot be validly observed.
39. It could, but should not, be unduly delayed.
40. This provision has been analysed in I.O. OLOYEDE: *Shari'ah Versus Secularism in Nigeria*, (in Press) I.P.B., Lagos.
41. Each of the five daily prayers has both the prime time and the period of grace or period of excuse.
42. I.e. not obliterated or destroyed.
43. Not serious enough to inflict wound on him

44. *Zuhr*
45. *'Asr*
46. *Maghrib*
47. *'Isha'* and *Subh* respectively.
48. It is the time when objects begin to have shadows in a sunny afternoon.
49. The paleness can be vividly observed through the rays of the sun as reflected on the ground and on objects.
50. The circular shaped object and not the glow.
51. The implication of the statement is that if he makes the first second and he has to repay the second, it follows that the 'first' which is supposed to come after the one he has erroneously made the second, should also be repaid.
52. The implication of "within the prescribed time" is that if the time has lapsed by the time he finishes the missed ones, he need not repay the one he had performed behind the Imam. See Salih Abdul - Sami' Al-'Abi Al-Azhari: *al-Jawahir al-Madiyyah bi Sharh 'I-Izziyyah*, Cairo, n.d, p. 59.
53. Ibn Qasin was a renowned muslim jurist who first compiled Al-Mudawwanah.
54. *Mukallaḥ*. A mature and sane free person.
55. Not for one who is on the prayer when the call is made nor for one who has already stood up to begin the *naflah* when the call is commenced.
56. Act which is in conformity with the practice of prophet Muhammad S.A.W.
57. Area mosques normally used for the observance of the daily prayers.
58. The call is to be made in Arabic which is the *lingua franca* of the Muslims. It is to be noted that the call is not intended for the people of any particular race, tribe or language but all Muslims within the locality. The practice of having ethnic mosques such as Hausa mosque, Yoruba mosque, etc which is in vogue in some parts of Nigeria is antithetical to the intended goal of congregational ritual prayer. Muslims should also discourage the practice of having family mosques which is rampant in some low density areas in most of our urban cities. Muslims should avail themselves of the opportunity and benefits of daily congregational ritual prayer in every locality. Individual family mosque is likely to hinder communal efforts and effective consultation and the taking of collective decisions by Muslims within a locality. See Qur'an. 3:102.
59. It distorts the original meaning and thus constituting an un-intended opinion.
60. The elongation turns the statement to a question such as "Is Allah the Greatest?" instead of "Allah is the Greatest".

61. It does not make a complete sense and unless the succeeding phrase is added, it represents an opposition to the position of Islam on the concept of the existence of Allah.
62. If it is called "*rasūla*", it means "I bear witness that Muhammad, the Messenger of Allah" instead of "I bear witness that Muhammad is the Messenger of Allah".
63. "*Ṣalat*" and not "*sala*". Though the origin of the letter is *ha* it becomes "*t*" with the two dots.
64. Or any other form of verbal greetings.
65. The two statements starting with "I bear testimony. . .".
66. Condition precedent.
67. Ibn Kinanah was a muslim jurist.
68. The general view is that it is not void. See S.A. Sami' al-'Abi Al-Azhari: *Sharhu 'I-Izziyyah*, op. cit. p. 65.
69. The *'Iqamah*, just as the *'Adhān* has to be made in Arabic.
70. May be else-where in another work of the author.
71. Externally imposed impurity.
72. Literally those that have *rukū'* and *sujūd* and those which do not have both, such as *Sā'idtu l-janārah*.
73. A person who is marriageable to her. One who is not within prohibited degree of relationship to her in marriage.
74. If it is an obligatory prayer and he has completed it, and not if it is a voluntary ritual prayer.
75. For it to be valid, it has to be done normally while standing and facing the *Qiblah*. If these conditions are omitted without valid excuse, then the consecration - *Allāhu Akbar* is not validly made.
76. Chapter one of the Glorious *Qur'ān*.
77. The palms are included in some sound traditions of the prophet.
78. Whether it is the whole prayer or the rising that would be reperformed depends on how soon thereafter he remembers the omission.
79. Terminal salutation.
80. A member of the congregation.
81. Such as a Quranic verse(s)
82. *Zuhr*, *'Asr*, *Maghrib* and *'Isha'*
83. It has to be recited in Arabic

84. *Ibid.*
85. The second and third are to be said silently.
86. A wood or any object. This is to avoid direct passage in front of either of them.
87. Pledge of absolute obedience to Allah to the absolute exclusion of all others.
88. The Glorious Qur'an 2:255
89. Some jurists opined that it is only when such drinking or eating is done deliberately.
90. Technically called *Ba'di* (that which comes after).
- 90b. Technically called *Qabli* (that which precedes).
91. Except for an all female congregation.
92. In Nigeria, it is not uncommon to find an Imam with linguistic impediment, who pronounces *lam* instead of *dal* or *sin* instead of *Zad*. We are of the opinion that such linguistic peculiarity does not invalidate the Imamship of such persons.
93. With a proviso that the error does not seriously affect the intended meaning.
94. Compensation is used for a prayer which is being observed after the expiration of its prescribed time.
95. Such as lack of space.
96. Provided such situation is not forced on them by necessity.
97. The length of a mile varies from place to place. 3 English miles are equal to 4.8 k.m.
98. Such as removing the hair of the armpits and shaving the pubic region. See: *Al-Risalah*, p. 156.
99. Anything with repulsive odour, such as cigarette is not to be taken along, nor the remnant of its odour, to the *Jumu'ah* mosque.
100. A female's nudity is her whole body except the face and the hands while that of a male is what falls between his navel and his knees.
101. The plural is *burud*.
102. See footnote 97
103. A cubic is .68m. So 1,000 cubics is 680 metres which is less than a kilometre. This explains our earlier opinion that 'mile' has varied measurement.
104. Approximately 76.8 kilometre.

105. A journey on which the traveller spends more than three days on transit cannot be regarded as valid for the purposes of calculating the distance and the permissibility of shortening of ritual prayer.
106. After the observance of twenty obligatory daily prayers.
107. Qur'an 87
108. Qur'an 109
109. Qur'an 112, 113 and 114 respectively.
110. For a *sunnah* cannot be allowed to lead to the missing of an obligatory prayer.
111. *Fajr* prayer.
112. It falls on the first of *Shawwal*.
113. Greater *Id*. It is observed on the 10th of *Dhul Hijjah*.
114. It is usually recited in Arabic
115. Note that each *rak'ah* has two standings.
116. Qur'an 2
117. Qur'an 3
118. Qur'an 4
119. Qur'an 5
120. The reciter must be pure from impurities, cover his/her nudity while his/her dress free of physical and ritual impurities
121. Qur'an 53, 84, 68 and 22 respectively
122. If it is done by a group of people the obligation on others is removed
123. Legal minimum assessable amount for the poor
124. That is mineral resources.
125. A *dinar* is about 51.3 U.S. Dollars
126. The Value of a *dirham* is about 5.13 U.S. Dollars
127. If the collection is organised one year would mean the first time that the collector (who normally goes around annually) comes after the wealth has been possessed by the prospective payer.
128. A three-year old one.
129. Two - year old ones.
130. Every additional 10 increases the due.

131. The official collector may use 30 or 40 as a unit. The same goes for any number that is divisible by both 30 and 40. The rule is that, to be on the safe side, which ever is costlier should be adopted out of the two methods.
132. 40 - 120 is in the same category.
133. 121 - 200 is in the same category.
134. 201 - 399 is in the same category.
135. Literally loads. Technically it is about 60 *sa'*. One *Sa'* is 4 *mud*s of the prophet. One *mud* is an average double handed scoop. (See the *Sharhu 'L-'Izziyah*, *op. cit.* p. 122.)
136. The *ratl* is 449.28 English grammes; 3.202 Syrian kilogramme, 2.566 Beirut kilogramme: See J.M. Cowan (Ed.), *Arabic-English Dictionary*, India, 1960, p. 345.
137. The use of both methods would entail proportional determination as specified in *Sharhu 'L-'Izziyah op. cit.* p. 123.
138. For the owner of the slave owns all the possession of the slave. However, if the owner does not maintain the slave, the slave can be entitled to it. If possible, the *Zakah* should be used to obtain the slave's freedom first.
139. Provided he took enough precaution.
140. *Zakah* is not to be given to one's dependants.
141. Alms given at the end of *Ramadan* fast.
142. Slightly less than a bushell. See Ruxton: *op. cit.* p. 52.
143. The last day of *Sha'ban*. The 30th of *Sha'ban* may be the first of *Ramadan*, if the month ends on the 29th.
145. Or adequate arrangements for his feeding.
146. The formula should be recited in Arabic.
147. On the second day of *'Arafat*.
148. *Batnu 'L-Masil*. Only between Safa and Marwa.
149. Preferable in Arabic if one is able.
150. On the 10th of *Dhu'l-Hijjah*.
151. One which has lost up to a third of its tail.
152. To be said in Arabic.
153. *The Glorious Qur'an* 23:6
154. This provision is superfluous since a non-Muslim cannot be legally married to a Muslim lady, divorcing her is completely out of place.

155. *Jawāhiru'l - Ikhlā'* is a commentary on *Mukhtasar khalil* on which one of the present writers is currently researching.
156. Of Ibn Abi Zayd al-Qayrawani.
157. The popular view is that sexual cohabitation terminates the divorce process unless another one is started. The woman can seek judicial dissolution if she is not satisfied.
158. Or its agent.
159. Such as daughter's daughter; sister's daughter, maternal uncle, uncle's daughter, and brother's daughter.
160. Such as the deceased's descendant.
161. If more than one daughter exist, the son's daughters are eliminated, except by the presence of a brother of theirs (son's son) or their paternal uncle's son.
162. Many Islamic countries such as Egypt, Tunisia and Pakistan have amended this provision.
163. Their own fathers, the father and the grandfather of the deceased.
164. Children of the brothers.
165. Daughter's son $1/3$ and son's son $2/3$
166. $1/3$ and $2/3$ respectively.
167. The child or grandchild
168. Such as the direct daughter in relation to son's daughter.
169. In each case, once their male counter-part co-exist, they would be agnatised and they are thus no longer basic sharers.
170. When a man disowns paternity of a pregnancy of his wife through *Li'an*
171. The child can inherit from or through the mother but not from or through the father.
172. *The Glorious Qur'an* 4:28
173. *Ibid*, 4:10
174. *Ibid*, 5:44
175. The leader of the Hanafi school of Law in Islam
176. *The Glorious Qur'an* 5:5
177. An image that could have shadow. This does not apply to pictures.
178. Two extremist groups in Islamic History. There is no Qur'anic justification for this provision.