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# Practical Laws of Islam



According to the fatawa of Ayatullah Al Uzama

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**KEHAIMENET**

**Part 1**  
**Taqlid and the Authority of the**  
**Jurist Leser (Wilayat al Faqih)**

## **Options: Caution, Ijtihād, and Taqlīd**

Q 1: Is taqlīd an absolute rational issue or is it also grounded on jurisprudential evidence?

A: Taqlīd has its jurisprudential evidence in addition to reason which also admits that a person who is ignorant of religious rules should refer to a qualified mujtahid.

Q 2: Is it better, in your opinion, to act with caution or to follow a marji'?

A: Acting according to caution depends upon knowledge of its cases (instances in which it is applied) and its method. In addition, acting according to caution is time consuming. Thus, it is preferable to follow a qualified mujtahid.

Q 3: What are the limits of acting upon caution with respect to the fatwās of mujtahids? Is it necessary to take into consideration the fatwās of the past mujtahids as well?

A: Acting according to caution, when it is applicable, means observing all jurisprudential probabilities so that the mukallaf feels confident that he is really doing his duty.

Q 4: My daughter will reach the age of shar'ī puberty in a few weeks, and consequently, she will have to select a marji' (to follow). Since she has some difficulties in understanding this matter, kindly advise us about our duty in this regard?

A: If she could not recognize her religious duty in this regard, you should educate and guide her.

Q 5: It is well-known among mujtahids that identifying the subject of a rule is the responsibility of the mukallaf whereas the determination of the rule itself is the duty of the mujtahid. But in many instances we notice that mujtahids give their opinion with respect to the identification of the subject. Is it obligatory to act upon them in this regard?

A: The responsibility of identifying the subject rests with the mukallaf. Therefore, he is not obliged to follow the identification of his mujtahid unless he feels confident of the mujtahid's identification or the subject is something the identification of which requires jurisprudential derivation.

Q 6: Will one be considered a sinner if he is careless in learning the religious rules that he frequently encounters?

A: If his carelessness in learning religious rules leads to forsaking an obligation or committing a ḥarām action, he will be a sinner.

Q 7: When some individuals ? who are not well informed ? are asked whom they follow, they reply: "We do not know" or say: "We follow this or that marji'" without feeling any obligation to refer to his book on practical laws of Islam and act upon it. What is the rule concerning their actions?

A: If their actions are in accordance with caution, the actual rule, or the fatwā of the mujtahid to whom they must refer, their actions will be valid.

Q 8: In cases where the most learned mujtahid gives a fatwā of obligatory caution, we can refer to the second most learned one. Our question is that if he also calls for obligatory caution, is it permissible to refer to the third most learned one and so on? Please explain this rule.

A: In case the most learned mujtahid has no fatwā, there is no objection to referring to the second most learned one who has a clear-cut fatwā on the issue and does not call for obligatory caution. If he calls for obligatory caution, one may refer to the third most learned one and so on.

## Conditions of Taqlid

Q 9: Is it permissible to follow a mujtahid who is not a marji' and does not have a book on practical laws?

A: If it is proven for a mukallaf, who wants to follow this mujtahid, that he is a qualified mujtahid, there will be no problem in following him. In other words, being a marji' or having a book on practical laws of Islam are not conditions for the taqlid of a qualified mujtahid to be correct.

Q 10: May a mukallaf follow a mutajazzī mujtahid i.e. someone who is mujtahid only in some of the sections of Islamic law such as in the issues of prayers or fasting?

A: The fatwā of a mutajazzī mujtahid is binding (proof) for himself. However, for others the permissibility to following him (his fatwās) is problematic, although it is not remote.

Q 11: Is it permissible to follow the scholars of other countries even if they cannot be possibly reached?

A: Following a qualified mujtahid in matters pertaining to Islamic law does not require that the mujtahid comes from and/or reside in the same country as the mukallaf does.

Q 12: Is the 'justice' that is required of a marji' different in degree from that of a leader of congregational prayer?

A: Given the sensitivity and significance of the office of marji'iyah in issuing fatwās, in addition to being 'just', having full control over rebellious desires and self-restraint in face of worldly aspirations are required of a marji', based on obligatory caution.

Q 13: It is said that one should to do taqlid of a 'just' mujtahid. What is meant by being 'just'?

A: A 'just' person is so pious that he would not commit a sin deliberately.

Q 14: Is knowledge of the current times and circumstances one of the conditions of ijtihād?

A: It possibly plays some role with respect to certain issues.

Q 15: According to the opinion of the late Imam Khomeini (q.), a marji', in addition to the rules of the rites of worship and transactions, he should know political, economic, military, social, and leadership matters. We used to follow the late Imam Khomeini (q.) and now, upon the guidance of some respected scholars as well as our recognition, we feel obliged to refer to you in matters of taqlīd. In this way we combine both supreme leadership and the office of marji'iyah. What is your opinion in this regard?

A: The conditions of the eligibility of a marji' in matters of taqlīd are mentioned in detail in Tahrīr al-Wasīlah and other books on practical laws of Islam. It rests with the mukallaf to recognize who enjoys all taqlīd requirements.

Q 16: Is it required to follow only the most learned marji'? And what is the criterion of being the most learned?

A: It is a caution to follow the most learned mujtahid with respect to issues in which his fatwās differ from that of others. The criterion of being the most learned is to have a greater competence, when compared to other mujtahids, in the following realms:

- i. Identifying the divine laws,
- ii. Inferring the shar'ī rules from their proofs, and
- iii. Being aware of the events of his time insofar as it affects identifying the subjects of religious rules and influences the expression of juristic opinion.

Q 17: Thinking that the most learned mujtahid possibly lacks some qualifications, someone follows another mujtahid. Is his taqlīd valid?

A: According to caution, the mere probability that the most learned mujtahid lacks the required qualifications does not make it permissible to follow a mujtahid who is not the most learned in issues upon which the two disagree.

Q 18: If a number of scholars are identified as the most learned in different issues (each being so in a particular area), is it permissible to refer to them (in their particular areas of expertise)?

A: There is no problem with dividing one's taqlīd (between

many mujtahids). Rather, presuming it is verified that each mujtahid is the most learned with respect to the particular issue(s) in which he is followed, dividing one's taqlīd will be obligatory if their fatwās differ in that particular issue(s).

Q 19: May one follow a mujtahid who is not the most learned when the most learned mujtahid is alive?

A: There is no problem in referring to the mujtahid who is not the most learned concerning issues in which his fatwā does not disagree with that of the most learned.

Q 20: What is your opinion concerning the necessity of following the most learned mujtahid? And what is the proof for such an opinion?

A: If there are several mujtahids who are qualified for issuing fatwās and their fatwās are different, it will be of obligatory caution upon the mukallaf to follow the most learned one unless it is proven that his fatwā is contrary to caution while the other's agrees with it. The basis for this view is reason and the way rational people behave, because the mukallaf is certain that fatwās of the most learned mujtahid are valid while the that of other's is possibly valid.

Q 21: Concerning the taqlīd issue, whom should we follow?

A: It is obligatory to follow a mujtahid who meets all requirements needed for issuing a fatwā and functioning as a marji'. And according to caution, he should be the most learned as well.

Q 22: Is it permissible to begin to follow a deceased marji'?

A: Caution should not be overlooked in following the most learned and living marji' when starting to do taqlīd of a marji'.

Q 23: To begin following a deceased mujtahid, does it depend on following a living mujtahid?

A: The permissibility of starting or continuing to follow a deceased mujtahid depends on the fatwā of the most learned, living one.

## **Methods to Know Who Is Mujtahid / the Most Learned Mujtahid, and to Obtain His fatwās**

Q 24: I verified the competence of a certain mujtahid as marji' through the testimony of two just persons, is it obligatory for me to ask other persons about this matter also?

A: The testimony of two just experts regarding the competence of a certain mujtahid and that he meets all requirements is enough to consider his following as permissible and it is not necessary to ask others thereafter.

Q 25: What are the methods for selecting a marji' and obtaining his fatwās?

A: Ijtihād of a marji' and that he is the most learned one is verified through examining him and becoming certain, even if due to publicity which makes one certain or confident, or the testimony of two just experts. The fatwā of a marji' could be obtained:

- a) by hearing it from him, from two or one just person(s) or from a reliable person; or
- b) by referring to his book on practical laws of Islam provided that there is no mistake in it.

Q 26: Is it correct to make another person one's agent in selecting a marji', such as the representation of a son by his father or a student by his teacher?

A: If what is meant is to entrust to one's father, teacher, etc., the task of searching for a qualified mujtahid, there is no objection to it. Their opinion in this matter is valid in shar' and considered as a proof provided that their opinion induces knowledge or confidence, or it meets the criteria of evidence and testimony.

Q 27: I asked several mujtahids about the most learned mujtahid. They told me that following so-and-so (may Allah, the Exalted, elevate his spiritual ranks) would discharge me of my obligation. May I rely on their opinion if I personally do not know whether or not he is the most learned or I doubt, or I am certain, that he is not the most learned mujtahid due to the existence of others with similar evidences in their favor?

A: If sharʿī evidence is established that a qualified mujtahid is the most knowledgeable, it is binding proof upon which one may rely as long as there is no contradicting evidence, even if it does not induce certainty or confidence. In such a case, it is not necessary to search for opposing evidence and make sure that it does not exist.

Q 28: Someone does not have formal permission (from a mujtahid to transmit his fatwās). Moreover, he occasionally makes mistakes in relating fatwās. Is it permissible for him to relate the mujtahid's opinions? What is our duty if he relates fatwās by reciting the book on practical laws of Islam?

A: Permission is not required to transmit a mujtahid's fatwā or to explain religious rules. However, undertaking this task is not permissible for someone who makes mistakes while performing it. If a person notices his mistake in relating a fatwā, it is obligatory for him to inform the listener about the mistake. In any case, it will not be permissible for the listener to act upon the statements of someone who relates fatwās unless he obtains confidence regarding the correctness of his statements.

## **To Change from One Marji' to Another**

Q 29: We obtained permission of a mujtahid, who is not the most knowledgeable, to continue following a deceased marji'. If the permission of the most learned mujtahid is required here, is it now obligatory to change our taqlid to the most learned mujtahid and seek his permission to continue following the deceased marji'?

A: If the fatwā of the mujtahid, who is not the most learned, in this matter is similar to that of the most learned mujtahid, there is no problem in following the former and it is not required to change to the most learned mujtahid.

Q 30: To stop acting upon one of Imam Khomeini's (q.) fatwās, is it obligatory for me to refer to that mujtahid whose permission I obtained to continue following the deceased mujtahid, or may I refer to other mujtahids also?

A: Caution goes with reference to the fatwās of the mentioned mujtahid unless there is another living mujtahid who is the most knowledgeable and whose fatwā in the matter of changing one's taqlid differs from that of the first one. In such a case, it is an obligatory caution to refer to the most learned mujtahid.

Q 31: May one change one's marji'?

A: It is an obligatory caution not to change from a living mujtahid to another living one unless the latter is — at least probably — the most learned.

Q 32: As a pious teenager I used to follow Imam Khomeini (q.). This was before I reached the age of sharī puberty and my taqlid was not based on religious proof but on the conviction that following Imam (q.) would discharge me of my obligations. After some time, I changed to another marji' but my changing was also invalid. Then I changed to you after the second marji' passed on. What is the rule concerning my taqlid of that marji' and my acts during that period, in particular? What is my duty now?

A: Your past actions, which were performed based on the Imam's (q.) fatwās during his blessed life or after his demise —

in continuation of his taqlīd — are ruled as valid. Regarding those acts you performed on the basis of making taqlīd of another marji' — which had not been grounded on shar'ī standards — if they are in accordance with the fatwās of the mujtahid you must follow now, they are ruled as correct and would absolve you of any further obligation. Otherwise it is obligatory to repeat those acts. At present, you have the choice either to continue following the late Imam (q.) or to change to someone you consider qualified to be followed based on shar'ī criteria.

## **To Continue with Following a Deceased Marji'**

Q 33: Someone has been following a certain marji' since the late Imam Khomeini (q.) passed away and now he/she wishes to follow the Imam again. May he/she do so?

A: By caution, changing taqlid from a qualified living mujtahid to a deceased one is not permissible. However, in case the living mujtahid was not qualified when he/she started following him, changing to him in taqlid was void. And thus, the mukallaf enjoys the choice either to continue following the late Imam (q.) or to change to a living mujtahid whose taqlid is permissible.

Q 34: I had reached the age of shar'i puberty when Imam Khomeini was alive. I followed him in certain rules, but did not have a clear notion of the issue of taqlid. What is my duty now?

A: If you performed your rites of worship and other acts according to the Imam's (q.) fatwas while he was alive and you were practically a follower of him, even in certain issues, you may keep following him in all issues.

Q 35: What is the rule in continuing to follow a deceased mujtahid if he is the most learned?

A: Continuing to follow a deceased mujtahid in any case is permissible. However, it is advisable not to skip caution in continuing to follow a deceased mujtahid who is the most learned.

Q 36: Is the most learned mujtahid's permission necessary in continuing the taqlid of a deceased marji' or is it enough to have the permission of any mujtahid?

A: If the scholars are unanimous in their view about the permissibility of continuing with the taqlid of a deceased mujtahid, it is not obligatory to get the permission of the most knowledgeable one.

Q 37: Someone who used to follow the late Imam Khomeini (q.) changed, with respect to certain issues, to another mujtahid after the Imam passed away. After a while, the second mujtahid also passed away. What is this person's duty now?

A: It is permissible for him/her, as before, to continue following the late Imam (q.) regarding those issues in which he is still acting according to his views. As for the issues in which he changed to the second marji', he has the choice of either continuing to following him or to change to a living mujtahid.

Q 38: After Imam Khomeini (q.) passed away, I thought it was not permissible, in accordance with his fatwā, to continue with following a deceased marji', and therefore, I chose a living marji' for taqlīd. Is it now permissible to return to the taqlīd of the late Imam (q.)?

A: Regarding issues in which you had changed to a living mujtahid, it is not permissible for you to return to Imam's (q.) taqlīd again. This is unless the fatwā of the living marji' is that it is obligatory to continue with following the most learned marji' who has passed on; and you are of the opinion that the late Imam (q.) was more knowledgeable than the living marji'. Therefore, in this case it is obligatory for you to return to the late Imam's taqlīd.

Q 39: Is it permissible for me to refer sometimes to a deceased mujtahid and at other times to the most learned living one with respect to a particular issue on which they have different opinions?

A: Before referring to a living mujtahid, it is permissible to continue with following a deceased marji'. However, once you change to a living mujtahid, it is not permissible to refer back to the deceased one.

Q 40: Is it obligatory for the followers of the late Imam Khomeini (q.) who wish to continue his taqlīd to seek the permission of a living marji'? Or, does the unanimity of most of the marji's and well-known scholars concerning the permissibility of continuing to follow a deceased marji' suffice?

A: Supposing the unanimity of scholars regarding the permissibility of continuing to follow a deceased marji', continuing the taqlīd of the late Imam (q.) is permissible and there is no need to refer to a specific mujtahid in this regard.

Q 41: What is your opinion about continuing to follow a

deceased marji' with respect to an issue upon which the mukallaf has, or has not, acted during the lifetime of that marji'?

A: Continuing to follow a deceased marji' with regard to all issues, even those which he has not acted upon during the lifetime of the marji', is permissible and valid.

Q 42: Does the permissibility of continuing to follow a deceased mujtahid also apply to those who, during mujtahid's life, acted upon his fatwās although they were not mukallaf?

A: If the taqlīd of a person, before the age of shar'ī puberty, to a qualified mujtahid was realized in a correct way, it is permissible to continue with the taqlīd of that mujtahid after his death.

Q 43: We are followers of Imam Khomeini (q.) and have continued to follow him after his heartbreaking demise. At times, we face some new religious problems, especially due to the fact that we live in a period of struggle between the Islamic world and the global arrogance. So we feel that we should refer to your Excellency, and do your taqlīd, May we do so?

A: You may keep following the Imam (q.) and at the time being there is no reason for you to give up his taqlīd. If the need arises to obtain shar'ī ruling concerning new issues, you may correspond with our office.

Q 44: What is the duty of a follower regarding his marji' when another marji' is recognized to be the most learned mujtahid?

A: It is based on obligatory caution, to shift from the marji' who is currently being followed to the one who is the most learned with respect to issues in which their fatwās differ.

Q 45: a) When is it permissible for a follower to change his taqlīd to another marji'?

b) Is it permissible to change from the most learned marji' to another one if the fatwās of the former are not in accordance to the time or are difficult to practice?

A: a) According to caution, it is impermissible to change from a living marji' to another unless the second marji' is more learned than the first one and his fatwā in a particular issue differs from that of the first marji'.

b) It is not permissible to shift from the most learned mujtahid to another simply based on speculations that his fatwās are not compatible with the contemporary circumstances or are difficult to act upon.

## Miscellaneous Issues of Taqlid

Q 46: What is meant by the "blameworthy ignorant person"?

A: He is the person who realizes his ignorance and knows the possible methods by which he can overcome his ignorance, but deals carelessly with learning religious rulings.

Q 47: Who is the unblameworthy ignorant person?

A: He is the person who is not at all aware of his ignorance or he/she is aware of it, but there is no way out of it.

Q 48: What does obligatory caution mean?

A: It means that the obligation of performing or refraining from an action is a matter of caution.

Q 49: Does the phrase 'there is a problem in it', mentioned in some fatwās, mean prohibition?

A: It differs from one case to another. If the problem is in permissibility, it indicates prohibition on the practical level.

Q 50: Are the following statements fatwās or do they call for caution: (1) 'there is a problem in it'; (2) 'it is problematic'; (3) 'it is not void of problem'; and (4) 'there is no problem in it'?

A: All of these phrases call for caution, except for 'there is no problem in it' which is a fatwā.

Q 51: What is the difference between the terms 'impermissible' and 'ḥarām'?

A: Practically, there is no difference between them.

## Marja'iyah and Leadership

Q 52: When the fatwā of the leader of Muslims on social, political, and cultural issues disagrees with that of another marji', what is the religious obligation of Muslims? And is there a dividing line between fatwās issued by marji' and those issued by the jurist leader? For example, if the opinion of a marji' concerning music differs with that of the jurist leader, which one is valid and obligatory to follow? And, in general, what are the wilā'i edicts regarding which opinion of the jurist leader has priority over that of a marji'?

A: The edicts of the jurist leader must be followed with respect to the issues relating to the administration of the Islamic country and general affairs of Muslims. While, every mukallaf is obliged to follow his own marji' in absolutely personal issues.

Q 53: As you know, there is a discussion in the principles of Islamic jurisprudence on the subject of the mutajazzī mujtahid. Is the measure taken by Imam Khomeini's (q.) in separating marji'iyah from leadership considered a step toward the recognition of mutajazzī mujtahid?

A: Separation between the leadership of the jurist leader and the office of marji'iyah has nothing to do with the issue of mutajazzī mujtahid.

Q 54: If the leader of Muslims declares war against the tyrant infidels or calls for jihad, whereas the marji' that I follow does not allow me to participate in the war, should I follow the opinion of the marji' or not?

A: It is obligatory to obey the edicts of the leader of Muslims with regard to public affairs of Muslim society, which includes the defense of Islam and Muslims against aggressive infidels and tyrants.

Q 55: To what extent is the edict or fatwā of the leader of Muslims applicable? And when it conflicts with the opinion of the most learned marji' which one is to be acted upon and given priority?

A: It is obligatory for all to obey the edict of the jurist leader and the fatwā of a marji' cannot make it ineffective.



## **Authority of the Jurist Leader [Wilayat al' Faqih] and the Command of the Ruler**

Q 56: Is the belief in the principle of the authority of the jurist leader, with respect to its concept and instance, based on reason or derived from Islamic law?

A: The authority of the jurist leader, which is the governance of a just mujtahid who is learned in religion, is a biding shar'ī rule that is confirmed by reason as well. There is a rational method for determining the outer instance of this precept, which is elaborated upon in the Constitution of the Islamic Republic of Iran.

Q 57: Are shar'ī rules alterable and revocable when the jurist leader passes an edict that contradicts those rules due to the public interest of Islam and Muslims?

A: It depends.

Q 58: Should the media in an Islamic system be supervised by the jurist leader, by the Islamic Seminaries, or by some other organization?

A: They should be run under the direction and supervision of the leader of Muslims. That is, it should be used for the service of Islam and Muslims, the dissemination of divine teachings, solving the problems of the Islamic society, intellectual development, the promotion of Muslim Unity and brotherhood, solidarity amongst Muslims, and so forth.

Q 59: Could someone who does not believe in the absolute authority of the Jurist Leader be considered a true Muslim?

A: The lack of belief, whether based on ijtihād or taqlīd, in the absolute authority of the jurist leader during the period of occultation of the Imam al-Hujjah [the 12th Imam] — may our souls be sacrificed for his cause — does not lead to apostasy.

Q 60: Does the jurist leader enjoy a kind of authority that enables him to abrogate religious laws for such reasons as public interest?

A: Abrogation of the rules of Islamic law, after the demise of the Great Messenger of Islam (SW) is impossible. Alteration

that takes place in the subject, the emergence of necessity and exigency or the existence of a temporary obstacle in implementing a rule does not constitute abrogation.

Q 61: What is our duty towards those who think that the authority of the jurist leader is restricted only to ḥisbī affairs, given that some of their representatives propagate their belief?

A: The authority of the jurist leader in the realm of the leadership of the Islamic society and governance of social affairs of Muslims in all periods and eras is one of the fundamental beliefs of the true Twelver denomination; as its roots are founded in the principle of Imamate. Whoever is led by reasoning and proof not to accept this notion is excused, but it is not permissible for him to spread disunity and controversy among Muslims.

Q 62: Are the commands of the jurist leader binding for all Muslims or only for his followers? Is it obligatory for someone, who makes taqlīd of a mujtahid who does not believe in the absolute authority of the jurist leader, to obey him or not?

A: According to the Shī'ah denomination, it is obligatory for all Muslims to submit to the wilā'ī edicts issued by the jurist leader, and to comply with his commands and proscriptions. This ruling applies to all eminent mujtahids, let alone their followers! In our opinion, commitment to the authority of the jurist leader is not separable from the commitment to Islam and the authority of the infallible Imams (AS).

Q 63: The term 'absolute authority' was used during the time of the Noble Messenger (SW) in the sense that when he (SW) ordered an individual to do something, it was obligatory for him to carry out his order, even if it was one of the most difficult acts such as suicide. My question is whether the term 'absolute authority' still means the same thing, given that the Noble Prophet (SW) was infallible, whereas no infallible leader exists at the present time?

A: The 'absolute authority' of the qualified mujtahid means that the true religion of Islam, which is the final heavenly religion and will last till the Day of Resurrection, is a religion of governance and administration of social affairs. Therefore, it is

necessary for the Islamic society, at all levels, to have a guardian for their affairs, a ruler, and a leader to defend the Islamic society against the enemies of Islam and Muslims. He must preserve their social system, establish justice among them, prevent the strong from victimizing the weak, and attain for them the means of cultural, political, and social development and prosperity.

At the stage of implementation, the above goals might sometimes conflict with the tendencies, ambitions, interests, and liberty of some individuals. Thus, after assuming the grave duty of leadership according to Islamic law, it is obligatory for the leader of Muslims to take necessary measures, whenever he realizes the need for them, and issue orders in accordance with Islamic jurisprudence.

When the general interests of Islam and the Muslims are at issue, the jurist leader's will and authority should necessarily be superior to the will and powers of the people in case of disagreement. This is a short explanation of the concept of absolute authority.

Q 64: According to the fatwā of mujtahids, continuing to follow a deceased mujtahid depends on the permission of the living one. Do the wilā'ī edicts and orders issued by a deceased (jurist) leader also require the permission of the living leader to remain effective or are they efficacious without the permission of a living leader?

A: The wilā'ī edicts and decisions made by the leader of Muslims remains effective unless they were limited to a certain time span or the new leader of Muslims deems it beneficial to revoke them, and thus, does so.

Q 65: Is it obligatory for a mujtahid who lives in the Islamic Republic of Iran but does not believe in the absolute authority of the jurist leader to obey his orders? Will he be considered as unjust if he defies the jurist leader? And if a mujtahid believes in the absolute authority of the jurist leader but regards himself to be more qualified for that position, will he be considered as unjust if he disobeys the orders of the mujtahid who is in charge of leadership?

A: It is obligatory for every mukallaf — even if he is a mujtahid

— to obey the wilā'ī orders of the jurist leader. It is not permissible for anyone to disobey him — as the one with the responsibilities of leadership — on the pretext of being more qualified. This is the case, only if the present mujtahid in charge of leadership reached the office through its known legal process; otherwise, the matter would be completely different.

Q 66: Does the qualified mujtahid have any authority to enforce Islamic penal codes during the period of occultation of the 12th Imam (a.)?

A: Enforcement of Islamic penal codes is obligatory, even during the period of occultation and the authority in this regard belongs to the leader of Muslims.

Q 67: Is the authority of the jurist leader an issue of following (in which someone could follow a marji') or is it a doctrinal issue, which the mukallaf must believe in through his own reason and understanding? And what is the rule with respect to someone who does not believe in it?

A: The authority of the jurist leader is an aspect of wilāyah and Imamate that forms one of the fundamental principles of the Shī'ah denomination with one difference that the rules pertaining to it are derived — like every other juristic rule — from the evidence and sources of Islamic law. Whoever is led by reasoning not to believe in it is excused.

Q 68: Is it obligatory to obey the orders of the jurist leader's representative that lie within the jurisdiction of his representation?

A: If his orders are issued within the limits of the powers delegated to him by the jurist leader, it is not permissible to disobey them.

# **Part 2**

## **Purity Cleanness [taharah]**

## Rules Concerning the Different Types of Water

Q 69: If the lower part of qalīl water that flows downward without pressure comes into contact with a najis substance, will its upper part remain pure?

A: The upper part of the flowing water will be pure if the water can be said to be flowing from a higher plane to a lower one.

Q 70: When purifying najis clothes in kurr/running water, is it necessary to wring them out; or after removing inherently najis substance, is permeation enough?

A: As per caution, they should be wrung out or shaken.

Q 71: To purify najis clothes in water, whether it is running water or kurr water; is it obligatory to wring out the clothes with the clothes out of the water, or will they become purified when squeezed inside the water?

A: It will suffice to wring them out or shake them inside the water.

Q 72: To purify a najis carpet or the like, is it enough to apply tap water — which is connected to the city water supply pipes — to a najis area; or should the used water be extracted as well?

A: After applying piped water, removal of the used water is not necessary; rather, after the inherently najis substance has been removed, water has reached the najis area, and the used water has been removed from this area by pressing with the hand while connected to piped water; the carpet becomes pure.

Q 73: What is the rule of wuḍū' or ghusl made with water hard by nature such as sea water which is hard by its natural salts (like the water of Urumiyeh Lake in Iran) or water that is harder than that?

A: The mere hardness of the water due to the presence of salts does not prevent it from being considered as unadulterated water. And the criteria by which the shar'ī application of unadulterated water comes into effect, is that the water must be regarded as such in the common view.

Q 74: For the consequences of kurr water to apply (in the case of waters such as the water stored in train toilets, etc.), is it obligatory to know for sure that the water is kurr? Or is it enough to assume that it is kurr?

A: If it is established that the water was kurr in its previous situation, it will be permissible to apply rules of kurr water to it.

Q 75: According to ruling no. 147 of Imam Khomeini's (q.) book on Practical laws of Islam, "one should not depend on what a discriminating child says concerning purity and najāsah until he becomes legally mature." This ruling involves a difficult obligation because it entails, for instance, that parents should keep cleaning their child after he goes to the toilet until the child becomes fifteen years old. What is the religious duty in this regard?

A: The statement of a child who is close to the age of shar'ī puberty is valid in this regard.

Q 76: Occasionally, a certain substance is added to water that makes its color milky. Is such water considered adulterated? And what is the rule with respect to using it for wuḍū' and purification?

A: The rules of adulterated water do not apply to it.

Q 77: What is the difference between running water and kurr water as far as purification is concerned?

A: There is no difference between the two in this regard.

Q 78: Is it valid to perform wuḍū' with the water collected from the vapor of boiling salty water?

A: If the water can be called unadulterated water, the shar'ī rules of unadulterated water will apply to it.

Q 79: In order to purify the bottom of one's foot or shoes one should walk at least fifteen steps. Is this true only after removing the inherently najis material, or can the foot be purified even while the said material is there? Thus, does the bottom of one's foot or shoes become purified when the inherently najis

material is removed by walking fifteen steps?

A: When the bottom of one's shoes / soles of feet become najis as a result of walking, one can purify them by walking almost ten steps on a dry and pure ground provided that the inherently najis substance is removed.

Q 80: Are the roads paved with asphalt or other materials considered as instances of the earth that purifies, so that by walking upon them the sole of the feet or the underneath surface of the shoes can be purified?

A: Grounds paved with asphalt or covered with tar do not purify the sole of feet or the bottom of shoes.

Q 81: Is the sun considered one of the purifying agents? If so, what are the conditions for it to purify?

A: The sun purifies the ground and all irremovable objects such as buildings, objects connected to them and/or whatever is fixed inside of them — such as timbers, doors and so forth. These things are purified by sunshine provided that at first the inherently najis substance is removed, and then they are wet and in the sun until it dries them up.

Q 82: How can we purify najis clothes which color the water while being washed?

A: If it does not make the water adulterated, the clothes will become pure by pouring water on them.

Q 83: Someone put water in a vessel in order to use it for the ghusl of janābah. If some water drops fall from his body into the vessel during the ghusl, will the water become najis? And will there be any problem in completion of the ghusl with this water?

A: If the water falls into the vessel from some part of the body that is pure, then the water remains to be pure and there is no problem in completing ghusl with it.

Q 84: Is it possible to purify a clay oven built of clay that has been mixed with najis water?

A: Washing can purify its surfaces and for baking it is sufficient to purify the surfaces of the clay oven on which the bread

dough is placed.

Q 85: Does najis oil remain najis after performing a chemical reaction on it so that it has new properties or does the metamorphosis rule apply to it?

A: For the purification of a najis substance, it is not sufficient merely to perform chemical reaction upon it so as to give it new properties.

Q 86: There is a bathhouse with a flat roof in our village. In this bathhouse, drops of water that are created from the steam in the bathhouse fall from the roof on the heads of the people who are bathing. Are these drops of water pure? Is the ghusl performed after these drops fall valid?

A: Both the steam and the drops of water that fall from the pure roof are ruled to be pure. Therefore, bodily contact with these drops of water does not harm the correctness of the ghusl and does not make the body najis.

Q 87: Scientific studies have shown that after sewage system water mixes with mineral pollutants and germs its specific gravity becomes ten percent more than the normal water. The filtration plant changes the water obtained from the sewage system and separates these materials and germs from them through physical, chemical and biological operations. Hence, after being purified in various respects — physically (color, taste, and odor), chemically (removal of mineral pollutants), and hygienically (removal of harmful germs and parasites ova), it becomes by far much cleaner and better than the water of many rivers and lakes, especially the water used for irrigation. Does najis drainage water become pure by the aforementioned process and does the rule of metamorphosis apply to this type of water? Or is the water, after going thorough such a process of filtration, ruled to be najis?

A: Metamorphosis would not be achieved just by separating mineral pollutants, germs, etc., from drainage water unless the purification process is done by evaporating the water and condensing its vapor into water again.

## Rules of the Lavatory

Q 88: The nomadic tribes do not have sufficient water, especially during the days of their migration, for purifying the urinary outlet. Is it sufficient to purify it with wood or pebbles? And can they offer their prayers in such a situation?

A: The urinary outlet cannot be purified except by water. But if it is not possible to purify it with water, the prayer will be valid.

Q 89: What is the rule with respect to purifying the urinary outlet and the anus with qalīl water?

A: For purification of the urinary outlet with qalīl water it is necessary, according to caution, to wash it twice with water; and for the anus it is obligatory to wash it until the inherently najis material and its traces are removed.

Q 90: Customarily, it is obligatory for men who want to perform prayer to do *istibrā'* after urination. I have a wound on my penis that bleeds while doing *istibrā'* due to pressure upon the penis, and thus blood is mixed with the water used for purification causes my body and clothes to become najis. If I do not do *istibrā'*, the wound will possibly heal earlier. Doing *istibrā'*, which puts pressure on the penis, would certainly cause the wound to persist and heal only after the next three months. Please explain whether I should do *istibrā'* or not?

A: Doing *istibrā'* is not obligatory. Furthermore, it is not allowed if it causes harm. However, after urination if one does not do *istibrā'* and a doubtful liquid comes out, it will be ruled as urine.

Q 91: Occasionally, after urinating and doing *istibrā'*, wetness similar to urine comes out involuntarily. Is it najis or pure? And, if one notices the problem by chance after a while, what is the rule concerning the prayers he has performed earlier? Is it obligatory in the future to examine this wetness, which comes out involuntarily?

A: The wetness that comes out after doing *istibrā'*, about which one doubts whether it is urine or not, is not considered urine. It is to be considered pure, and it is not obligatory to do any

investigation in this case.

Q 92: Please give an explanation concerning the different wet discharges that one may experience.

A: The wetness that comes out occasionally after the discharge of semen is called 'wadhi' That which comes out occasionally after urinating is called 'wadi', and that which comes out after foreplay is called 'madhi'. All of them are pure and do not invalidate wuḍū'.

Q 93: A toilet seat was fixed in a direction totally different from the direction believed to be that of the qiblah. After some time it was known that the direction of the toilet seat is deviated with 20 to 22 degrees from the direction of the qiblah. Is it obligatory to change the direction of the toilet seat or not?

A: Assuming the deviation from the direction of qiblah is enough to be considered a deviation, there is no problem.

Q 94: Due to a urinary disease, the urine does not stop and wetness comes out after urinating and doing istibrā'. I have consulted a physician and acted on his prescription but it had no use. What is my duty?

A: Doubt concerning discharge of urine after doing istibrā' is not to be taken into account. But if one is certain that there is a discharge of some drops of urine, one's obligation is to act according to the duty of that who is incontinent to urine as explained in Imam Khomeini's (q.) book on Practical laws of Islam and he has no other duty.

Q 95: How is istibrā' done before purifying anus?

A: There is no difference between performing it before or after purifying anus.

Q 96: Employment in some companies and institutions depends on undergoing a medical examination that partly includes exposing one's private parts. Is that permissible when one needs to find a job?

A: It is not permissible to expose one's private parts before another person, even if one's employment depends upon it except in compulsory cases where not getting the job would entail

unbearable hardship.

Q 97: After urination, how many times should the urinary outlet be washed to become pure?

A: According to the obligatory caution, the urinary outlet will become pure by washing it two times with qalīl water.

Q 98: How could the excretory outlet (anus) be made pure?

A: The excretory outlet could be made pure through two methods. First: washing it with water until the najis material removed after which there would be no need for further washing. Second: remove the najis material with three pure pieces of stone, clothes or the likes. If the najis material is not removed with these three pieces, more pieces could be used until the najis material is completely removed. Instead of three pieces, one could use three sites of the same piece of stone or cloth.

## Rules of Wuḍu

Q 99: Having made wuḍū' with the intention of having wuḍū' for the prayer of maghrib, is it permissible for one to touch the Noble Qur'an and offer the prayer of 'ishā' with the same wuḍū'?

A: Once a valid wuḍū' is made and it has not become invalid, it is permissible to perform any act that requires wuḍū'.

Q 100: A person who wears artificial hair on his head and it is difficult for him not to wear it, is it permissible for him to wipe over it in wuḍū'?

A: If the artificial hair is in the form of a wig, it would be obligatory to remove it and do wiping. But if the artificial hair is implanted in the skin and its removal would entail difficulty and hardship which could not normally be tolerated, it would be valid to do wiping over it.

Q 101: I have been told that one can pour only two handfuls of water on the face during wuḍū', and a third one will invalidate the wuḍū', is that correct?

A: Washing wuḍū' parts is obligatory for the first time and permissible for the second time. But it invalidates wuḍū' if it is done for the third time. The criterion in determining each time is one's intention. Therefore if somebody pours two or more handfuls of water on his face as the first time, there is nothing wrong with it.

Q 102: In doing wuḍū' by immersion, is it permissible to submerge the face and the hands into the water more than two times?

A: For wuḍū' by immersion one may submerge the face and the hands only twice into the water. It is obligatory for the first time, permissible for the second time, and impermissible for more than that. Regarding the hands, in the given wuḍū', one should intend washing for wuḍū' when bringing them out of water in order to make it possible to use their wuḍū' water for wiping.

Q 103: Are the natural oily secretions of the body — that cover

the hair and skin — considered a barrier that would prevent water from reaching the skin?

A: It is not considered a barrier unless it is so much that it would prevent water from reaching the skin and the hair.

Q 104: For some time I was not wiping the tips of my toes while performing the wiping in wuḍū'. I was only wiping the upper surface of the foot and part of the toes. Is this wiping valid? In case of invalidity, is it obligatory for me to repeat the prayers that I have performed with such wuḍū'?

A: If the tips of the toes are not covered in the wiping process, the wuḍū' is invalid and it is obligatory to repeat all the prayers offered with such wuḍū'. But in case that one knew the ruling and it is possible that he/she was wiping the tips of the toes during wiping, the wuḍū's and the prayers offered with them are ruled to be correct.

Q 105: What is meant by the 'ka'b' up to which the wiping of the foot is to be made?

A: It is obligatory that the wiping is made up to the ankle joint.

Q 106: What is the rule concerning wuḍū' performed in the masjids, centers, and government offices built by the government in other Islamic countries?

A: It is permissible and there is no shar'ī impediment in doing so.

Q 107: A spring flows out from land belonging to someone. If we want to carry the water by pipes to an area at a distance of several kilometers, it is necessary to lay pipes on his land and those of the other people. In the case of dissatisfaction of the owners, is it permissible to use the spring water for wuḍū', ghusl and other acts of purification?

A: If the spring is natural, situated beside and outside other's property, and its water flows into the pipes before it flows on the ground and carried to the said area, there is nothing wrong in using the water unless the common view consider it a violation of others' properties.

Q 108: Although the city water supply department interdicted installation of pumps in the pipeline, in some places water pressure is so low that people in higher stories are forced to

use pumps. Considering the abovementioned situation, please provide us with the answer to the following questions:

i. According to Islam, is it permissible to install pumps in order to use more water?

ii. If it is not permissible, what is the ruling in regard to performing wuḍū' and ghusl with water got through a pump?

A: In the given question, it is not permissible to install and use a pump. Furthermore, performing wuḍū' and ghusl with water obtained through a pump is problematic.

Q 109: What is your opinion with respect to performing wuḍū' before the arrival of the time of prayers? In one of your answers you have stated that if wuḍū' is done at a time near to the beginning time of prayer, the prayer performed therewith is valid. So how far before the beginning time of prayer have you meant?

A: The criterion is that common people consider it near to the arrival of the time of prayer, and there is no objection to the wuḍū' performed — for the prayer — within that period.

Q 110: Is it mustaḥabb for someone who performs wuḍū' to wipe the lower surface of the toes that touches the ground while walking?

A: The place of the wiping is the upper surface of the foot from the tip of one of the toes to the ankle, and the recommendation of wiping the lower part of the toes is not proved.

Q 111: If someone who performs wuḍū' opens and closes the faucet while washing his hands and face with the intent of wuḍū', what is the ruling concerning this act?

A: There is no problem in doing so and it does not harm the validity of the wuḍū'. However, after washing the left hand and before performing the wiping, if one puts his hand on the wet faucet and the water used for wuḍū' in the hand is mixed with water which was not used for wuḍū', the validity of wiping with this water becomes problematic.

Q 112: Is it possible to use water other than that of wuḍū' for wiping? And is it necessary to wipe the head with the right hand and in an up-down direction?

A: It is obligatory to do wiping on the head and the feet with the remnant wetness of wuḍū' remained in the hand and in case that no remnant wetness is there, the wetness should be taken from the beard or the eyebrows by the hand and to do wiping with it. Also, it is based on caution to do wiping on the head with the right hand but it is not necessary to wipe the head in an up-down direction.

Q 113: Some women claim that fingernail polish does not create a hindrance for the wuḍū' and that it is permissible to do wiping over transparent socks. What is your opinion?

A: If the fingernail polish has a substance that prevents water from reaching the nails, the wuḍū' is void, and wiping performed on socks is incorrect, however transparent they may be.

Q 114: Is it permissible for those wounded in war, who have lost bladder control due to the severing of the spinal cord, to attend the Friday congregational sermons and take part in the Friday and afternoon prayers with wuḍū' performed according to the duties of someone who is incontinent for urine?

A: They may participate in a Friday prayer. But as it is obligatory for them to begin the prayer after wuḍū' without delay, their wuḍū' performed before the sermons is not sufficient for the Friday prayer unless no invalidator of wuḍū' (e.g. urination) occurred after wuḍū'.

Q 115: Someone gets assistance in making wuḍū' as he is unable to perform wuḍū' on his own. Then he makes intentions and performs the wiping with his own hand. And when unable to do the wiping himself, the assistant takes his hand and does the wiping with it, and when that cannot be done the assistant takes the moisture from his hand and does the wiping with it. But what is the rule when he does not have hands?

A: If he does not have a palm, the moisture would be taken from his forearm, and if there is no forearm the moisture would be taken from his face, and with it the wiping of the head and the feet is carried out.

Q 116: Near the place where Friday prayer is performed, there

is a place for wuḍū' affiliated to the local jāmi' masjid but the water is not paid for by the budget of the masjid. Is it permissible for those performing Friday prayer to use that water for wuḍū'?

A: As the water is prepared for performing wuḍū' for all those who perform prayer, without any restrictions, there is no problem in using it.

Q 117: Is wuḍū' performed for the noon and afternoon prayers also sufficient for the maghrib and 'ishā' prayers, this is when one knows that nothing occurred within this time that might annul the wuḍū'? Or is it obligatory to make a separate intention and wuḍū' for each prayer?

A: It is not necessary to perform wuḍū' for every prayer. Rather, It is allowed to offer as many prayers as one wants with a single wuḍū' as long as it remains valid.

Q 118: Is it permissible to do wuḍū' with the intention of offering the daily obligatory prayer before the beginning of its time?

A: There is no problem in doing wuḍū' with the intention of performing the daily obligatory prayer a little while before its time begins.

Q 119: My feet are affected with paralysis and I walk with the help of medical shoes and crutches. By no means, is it possible for me to take off the shoes for wuḍū'. Please explain my shar'ī duty concerning the wiping of the feet.

A: If removing the shoes for wiping the feet is so difficult for you, wiping over the shoes is sufficient and valid.

Q 120: After searching for water in a range of several farsakh, we found only some dirty water. Is it obligatory to do tayammum in this condition or to do wuḍū' with this water?

A: If the water is pure and unadulterated and there is no harm or fear of harm in using it, it is obligatory to do wuḍū', and it is not the occasion for tayammum.

Q 121: Is wuḍū' by itself mustahabb? And is it valid to perform wuḍū' for the sake of nearness to Allah before the time of

prayer arrives and then to offer the prayer with that wuḍū'?

A: Doing wuḍū' for the sake of being in a state of purity is mustaḥabb and preferable in Islamic law and it is permissible to perform prayer with a mustaḥabb wuḍū'.

Q 122: How could a person who is always doubtful about the validity of his wuḍū' go to the masjid, pray, read the Noble Qur'an, and visit the shrine of the Infallibles (a.)?

A: No attention should be paid to doubt concerning state of purity after the performance of wuḍū'. And it is permissible for one to offer prayer and read the Noble Qur'an, etc. as long as one is not certain that his wuḍū' has been invalidated.

Q 123: For wuḍū' to be correct, is it a condition that the water should flow over the whole hand, or is it sufficient that the hands are wiped with a wet hand?

A: The criterion for washing is that water should reach to every part of the hand, even if it is achieved by wiping with the hand, but the mere wiping with a wet hand is not sufficient.

Q 124: In wiping the head, is it sufficient to make the hair wet or is it obligatory that the moisture from the hand reaches the skin of the head, as well?

A: Wiping the skin is not obligatory, and it is sufficient to wipe over the hair of the top part of the head.

Q 125: Someone is using a wig, how can he wipe his head? And what is his duty in the case of ghusl?

A: If the hair is implanted and it is impossible to remove it or its removal entails harm and unbearable difficulty and it is impossible to make the skin wet due to the hair, wiping over this hair is sufficient. The same ruling is applicable to ghusl, as well.

Q 126: What is the rule concerning an interval of time, which may separate the wiping and / or the washing of different body parts during wuḍū' or ghusl?

A: There is no problem in an interval time — i.e. not observing succession — during the ghusl. However, wuḍū' will be invalid if there is a delay in completing it to the extent that previously

washed or wiped body parts dry up.

Q 127: What is the duty of a person suffering from continuous discharge of gas, though in a small amount, regarding wuḍū' and prayers?

A: If he cannot keep his wuḍū' until the end of the prayer, and the renewal of wuḍū' during the prayer is so difficult, he can pray only one prayer with each wuḍū'. That is, for each prayer the performance of one wuḍū' is sufficient, though it would become invalid during the prayer.

Q 128: Some people who live in residential complexes refuse to pay their share of the expense of keeping a watchman and other services including cold and hot water, air conditioning, and so forth. Are prayers, fasting and other acts of worship of such people, who put the financial burden of the mentioned services on the shoulders of their unwilling neighbors, invalid from the viewpoint of Islamic law?

A: Each person is liable for paying the expenses of the common facilities he shares in, according to Islamic law. And if he does not pay the cost of water which he uses for wuḍū' and ghusl, their validity would be problematic; rather, they would be invalid.

Q 129: Someone performed ghusl of janābah and wants to offer the prayer after about 3 or 4 hours, but he does not know whether his ghusl is still valid or not. Is there any problem if he performs wuḍū' as a caution?

A: In this case, performing wuḍū' is not obligatory, but there is no objection to taking caution.

Q 130: Does the wuḍū' of an immature child become invalid due to wuḍū' invalidators? Is it permissible to allow the child to touch the writings of the Noble Qur'an?

A: Yes, wuḍū' invalidators makes the wuḍū' of the child invalid. However, touching the script of the Noble Qur'an is not ḥarām for the child and it is not obligatory for a mukallaf to prevent him from touching it.

Q 131: One of the body parts involved in wuḍū' becomes najis

after being washed and before the completion of the wuḍū'. What is its rule?

A: That does not harm the validity of the wuḍū', though it is obligatory to purify that part to obtain a state of purity from na-jāsah, which is required for prayer.

Q 132: Does it matter if there are some drops of water on the foot while wiping them for wuḍū'?

A: It is obligatory to wipe these drops of water off the wiping site so that the hand used to wipe the foot will wet the foot, not the reverse.

Q 133: Is one relieved of the obligation of wiping the right foot if the right hand, for instance, is amputated from above the elbow?

A: No, it is obligatory for him to wipe it with the left hand.

Q 134: What is the duty of someone who has a wound or a fracture in one of his body parts involved in wuḍū'?

A: If the wound or the fracture is not dressed and it is not harmful to wash it with water, it should be washed. However, if washing it is harmful, the surrounding area is to be washed and it is based on obligatory caution to wipe it with wet hand if it is not harmful.

Q 135: What is the duty of a person who is wounded in those areas involved in wiping in wuḍū'?

A: If he cannot wipe the wound with a wet hand, he is obliged to do tayammum instead. But if he can put a piece of cloth on the wound and do wiping over it with a wet hand, by caution, in addition to doing tayammum, he should perform wuḍū' according to the mentioned method.

Q 136: A person does not know that his wuḍū' is invalid, and comes to know about it only after completing the wuḍū'. What is the rule?

A: It is obligatory for him to repeat the wuḍū' for the acts that require wuḍū', such as prayers. If he has offered prayer with this void wuḍū', he should repeat this prayer as well.

Q 137: One has a wound on one of the limbs involved in the wuḍū' process; which bleeds continuously despite of putting the dressing on it. How can they perform wuḍū'?

A: It is obligatory for them to use a dressing on the wound, such as one made of nylon, which prevents blood from oozing out.

Q 138: Is it makrūh to wipe off the moisture after wuḍū'? And is it mustahabb to abstain from doing so?

A: If a particular towel or piece of cloth is specified for such an act, there is no objection to it.

Q 139: Would the artificial dye which women use to dye their hair and eyebrows act as an impediment to the validity of wuḍū' or ghusl?

A: If it is just dye that does not have a substance that prevents water from reaching the hair, wuḍū' and ghusl would be both valid.

Q 140: Is the presence of ink on the hands among the obstacles of water that invalidate the wuḍū'?

A: If it has a substance that prevents water from reaching the skin, the wuḍū' is invalid and the decision concerning the instances rests with the mukallaf.

Q 141: Does wuḍū' become void if the moisture of the hand comes into contact with that on the face while wiping the head?

A: As it is obligatory that wiping of the feet is done with the palms' moisture which remains from the wuḍū' water, one should not touch the top of the forehead with the hand while wiping the head in a manner that the hand's moisture comes into contact with the moisture on the face. This is to prevent the hand's moisture, needed for wiping the feet, from being mixed with that on the face.

Q 142: A person takes much more time for wuḍū' than is ordinarily needed, what is he to do to become certain that he has washed the parts involved in wuḍū'?

A: It is obligatory for him to refrain from obsession and to

ignore it in order to disappoint Satan. He should also try to confine himself, like other people, to the extent that is required by Islamic law.

Q 143: There are tattoos on some parts of my body and I am told that my ghusl, wuḍū', and prayers are invalid. Please guide me in this matter.

A: If the tattoos are merely color or it is under the skin and there is nothing on the skin to prevent water from reaching it, then wuḍū' and ghusl are valid.

Q 144: After urinating, doing istibrā', and performing wuḍū', a fluid suspected of being either urine or semen came out. What is its rule?

A: In the given question, it is obligatory to perform both wuḍū' and ghusl in order to obtain certainty of purity from the invalidators of both of them.

Q 145: Please state the difference between the wuḍū' of men and women.

A: There is no difference between men and women in respect of the acts of wuḍū' and its procedure. However, it is mustahabb for men while washing the elbow to begin with its outer side, and for women to begin with its inner side.

## **The Rules for Touching the Names of Allah, the Glorious, and the Verses of the Qur'an**

Q 146: What is the rule concerning the pronouns referring to Allah, the Exalted, such as in the expression, " bismihī ta'ālā"?

A: The rule concerning His Names does not apply to pronouns.

Q 147: It has been usual to write 'A.' instead of the name of 'Allah,' what is the rule with respect to touching this letter without wuḍū'?

A: The rule concerning Allah's names does not apply to the 'A.', i.e. touching it without wuḍū' is no problem.

Q 148: I work in a place where the word 'Allah' is written in the form of 'A.' in correspondence. Is it correct to write in this way instead of writing the real Divine Name that is indicated upon?

A: There is no objection to doing so.

Q 149: Is it permissible to abstain from writing the Name of 'Allah' or to write it as 'Al...' just for the probability that it might be touched by someone without wuḍū'?

A: There is no objection to doing so.

Q 150: Blind people use a script called Braille for reading and writing on which they pass their fingers. Is it necessary for the blind, while learning the Noble Qur'an and also while touching the sacred names written in Braille to have wuḍū'?

A: If the protruding dots are signs for the original letters, the ruling of the letters is not applicable to them. But, if, according to the view of informed people, they are considered as script, it is necessary to observe caution in touching them.

Q 151: What is the rule concerning touching such names as Abdullah and Ḥabībullah without wuḍū'?

A: It is not permissible for one who is not in a state of purity to touch the name of Allah, even if it is a part of a compound name.

Q 152: Is it permissible for women, during their menstrual

period, to wear a necklace engraved with the blessed name of the Prophet (s.)?

A: There is no objection to hanging it around the neck, though based on obligatory caution the name should not touch the body.

Q 153: Is the prohibition of touching the words of the Noble Qur'an without purity limited to the case where they are in the sacred scripture, or is it ḥarām, although they are found in other books, tableaux, walls, etc.?

A: It is not limited to the sacred scripture. Rather, it also includes the Qur'anic words and verses written in other books, newspapers, magazines, tableaux, etc.

Q 154: A family uses a dish for eating rice on which Qur'anic verses, such as The Verse of Āyah al-Kursī inscribed for the sake of blessing. Is there any problem in this?

A: If they are touching it with wuḍū' or using spoons for eating, there will be no problem.

Q 155: Is it obligatory for persons engaged in typing, with typewriter, the Divine Names, or the verses of the Holy Qur'an or the names of the Infallible Imams (a.) to have wuḍū'?

A: Purity is not a condition for this work, but it is not permissible for them to touch the printed items without wuḍū'.

Q 156: Is it ḥarām to touch the emblem of the Islamic Republic of Iran without wuḍū'?

A: If the emblem of the Islamic Republic is, as per common view, considered and read as the exalted name of Allah, then touching it without wuḍū' is forbidden. Otherwise, there is no problem, although based on caution it is better not to touch it without wuḍū'.

Q 157: What is the ruling concerning printing the emblem of the Islamic Republic of Iran on official papers and using it in correspondence, etc.?

A: There is no problem in writing or printing the name of Allah or the emblem of the Islamic Republic of Iran and it is based on caution to observe the rulings of the name of Allah in this

emblem, as well.

Q 158: What is the rule concerning using postal stamps on which verses of the Noble Qur'an or the Name of Allah or other Names of Allah, the Glorious and Exalted, are written, or to print the emblems of institutions containing verses of the Noble Qur'an in newspapers, magazines and publications that are published every day?

A: There is no problem in printing and publishing Qur'anic verses, the name 'Allah', or the like. But, it is obligatory for whoever handles them to observe the related rules of Islamic law and to refrain from dealing with them irreverently or making them najis or touching them without wuḍū'.

Q 159: In some newspapers the names of Allah or Qur'anic verses are written. Is it permissible to wrap food with them, sit on them, use them instead of a tablecloth and put food on them, or throw them into the garbage knowing that it is difficult to get rid of them through other ways?

A: It is impermissible to use these newspapers for such purposes which are considered in the common view as disrespect while it is no problem if they would not be considered like that.

Q 160: Is it permissible to touch the words engraved on rings?

A: If they are words that require wuḍū' to touch them, it is not permissible to touch them without wuḍū'.

Q 161: What is the rule concerning throwing something which includes the names of Allah, the Exalted, into rivers and streams? Is this act considered as disrespecting them?

A: There is no objection to throwing it in rivers or streams if the common view does not consider it as irreverence towards them.

Q 162: Is it obligatory while throwing corrected exam papers in the garbage or while burning them to ascertain that they do not contain the names of Allah, the Exalted, and those of the Infallibles (a.)? Is it considered extravagance to throw away papers with one blank page (i.e. only one page is used)?

A: It is not obligatory to investigate, and when you are not sure

whether it includes the name of Allah, the Exalted, there is no objection to throwing it in the garbage. However, as to papers that are partly blank, and can be used for writing upon them or can be used for manufacturing cardboard, burning them and throwing them away which may amount to extravagance, is not free of problems.

Q 163: What are the sacred names whose veneration is obligatory and which it is unlawful to touch without wuḍū'?

A: It is ḥarām to touch the names and attributes special to Allah, the Gracious, without wuḍū'. And obligatory caution lies in applying the same rule to the names of the Great Prophets and the Infallible Imams (a.).

Q 164: What are the shar'ī methods for erasing the holy names and Qur'anic verses when there is a need to do so? What is the rule with respect to burning papers that carry Allah's Name and Qur'anic verses when it becomes necessary to destroy them in order to keep secrets?

A: There is no problem in burying them in the soil or converting them, with water, into pulp. But burning them is problematic and, when considered disrespect, impermissible except when compulsion calls for it and it is not possible to cut out Qur'anic verses and the holy names from them.

Q 165: What is the rule concerning shredding the holy names and Qur'anic verses in such a way that no two letters remain connected to each other and the names and verses become illegible? Does it suffice in their effacement, in order to evade their rule, to change their written form by adding some letters to them or erasing some of their letters?

A: If shredding them in such a manner amounts to disrespect, it is impermissible. Otherwise, if it does not lead to the disappearance of Allah's name and verses of the Holy Qur'an, it is not sufficient. Also, changing the words through addition or removal of some letters does not prevent the rule from being applied to a letter intended to be a part of Allah's name at the time of writing. It is not remote to say, when changing of the letters is considered as effacement, that the rule of holy names

is not applied to them, though caution lies in refraining from touching them without wuḍū'.

## Rules of the Ghusl of Janābah

Q 166: In case of shortage of time is it permissible for an individual who is in the condition of janābah to offer prayer with tayammum, while his body and clothes are najis or should he clean himself, perform the ghusl, and offer the missed prayer as qaḍā'?

A: If there is not sufficient time to purify his body and clothes, or to change the clothes, and it is not possible to offer the prayer while naked due to coldness or the like, he should pray with tayammum instead of performing the ghusl of janābah and with these najis clothes. This prayer is valid, satisfies his obligation, and he is not obliged to repeat it later.

Q 167: Sometimes semen enters the womb without penetration. Does it result in janābah for the female?

A: That does not cause janābah.

Q 168: Is it obligatory for women to perform ghusl after a vaginal examination with medical instruments?

A: Ghusl is not obligatory as long as there is no emission of manī.

Q 169: If penetration of only the glans occurs with no ejaculation of semen and the woman has not reached orgasm, is ghusl obligatory for her, him, or both?

A: If penetration occurs, even of the glans only, ghusl will be obligatory for both of them.

Q 170: In respect of women's nocturnal emission, when does ghusl become obligatory for them? Is the discharge that comes out at the time of caressing and foreplay considered manī? And is it obligatory for them to perform ghusl despite the fact that they do not have an orgasm or do not feel weakness in the body? In general, when do women become junub without intercourse?

A: When a woman reaches orgasm and a fluid is discharged from her, she becomes junub and ghusl of janābah becomes obligatory for her. But if she doubts whether she reached such a stage or not or whether the discharge came out or not, ghusl

would not be obligatory for her.

Q 171: Is reading books or watching films that are sexually arousing permissible?

A: It is impermissible.

Q 172: A woman performed ghusl after intercourse with her husband, but his semen remained in her vagina. Is her ghusl valid if the semen comes out after ghusl? Is the semen that comes out later najis? Does it make her junub again?

A: Her ghusl is correct and if the discharge that comes out from her after ghusl is semen or manī, it is najis. However, if it is her husband's semen, it would not lead to a new state of janābah.

Q 173: I have been afflicted with doubts in the ghusl of janābah for some time, so much so that I do not have intercourse with my wife. Nevertheless, now and again I find myself in a state that I think I must perform ghusl of janābah. In fact I take ghusl twice or thrice a day. This doubting has made me helpless. What am I to do?

A: The rule concerning janābah does not apply in case of doubt unless there is a discharge accompanied by the sharī signs of semen discharge, or one is certain of the discharge of semen.

Q 174: Is the ghusl of janābah performed during the menstrual period valid so as to discharge a junub woman of her duty?

A: In the case mentioned, the validity of the ghusl performed is problematic.

Q 175: Is a menstruating woman who becomes junub or a junub woman who starts her monthly period obliged to perform both ghusls after she becomes clean? Or if a janābah state occurs during menstruation, would not ghusl of janābah be obligatory for her due to the fact that she was not clean when janābah occurs?

A: In both cases, ghusl for janābah is obligatory for her in addition to ghusl of menses, but practically it is permissible to perform only ghusl of janābah, although caution lies in making intention to perform both ghusls while doing one ghusl.

Q 176: When is a discharge from a male considered to be semen?

A: When it is accompanied by sexual excitement, weakness of the body and ejaculation, it is subject to the rule of semen.

Q 177: In some cases it is observed that after ghusl there remain traces of soap or chalk around the fingernails and toenails that were not visible in the bathroom; however, after coming out from the bathroom the whiteness of soap becomes visible. Some people do ghusl and wuḍū' without knowing this rule or paying attention to it. What is one's duty in such cases, as it is uncertain whether water has reached the skin under the white trace or not?

A: The mere presence of a layer of chalk or soap, that becomes visible after the body dries up, does not harm the validity of wuḍū' or ghusl, except when it makes an obstacle that prevents water from reaching the skin.

Q 178: Some brother says that it is obligatory to purify the body off najāсах, such as semen and the like, before the ghusl, and if it is purified during the ghusl, ghusl will be invalid. Supposing what he says is right, are the prayers I performed earlier invalid, and is repeating them obligatory, keeping in view that I did not know this matter?

A: It is not obligatory that the whole body be pure before starting the ghusl. Rather it is sufficient to purify each part of the body before its ghusl. Thus, if each part is purified before its ghusl, ghusl and the prayers performed with it are both correct. But if the part is not purified before making its ghusl and one wants to purify it and perform its ghusl with one wash, the ghusl and the prayers performed with such a ghusl are both invalid and it would be obligatory to repeat the prayers as qaḍā'.

Q 179: Is the discharge occurring during sleep considered semen if it is not accompanied with the three signs (ejaculation, sexual excitement, and weakness of the body) and it is not noticed except after awakening and observing wetness on one's underclothing?

A: If all the three signs of discharging semen or one of them

does not exist or you are doubtful about it, the discharged moisture is not ruled as semen unless you are certain in one way or another that it is semen.

Q 180: I am young and live in a poor family. I have very frequent emissions of semen and I am ashamed to ask my father to give me the money for the bathhouse expenses, as we do not have a bathroom in our house. Please guide me.

A: There is no reason to be ashamed of carrying out shar'ī duties, and shame cannot be a legitimate excuse for not carrying out an obligation. In any case, if you are not able to perform ghusl for janābah, your duty is to perform tayammum instead of ghusl for praying and fasting.

Q 181: I am faced with a problem, i.e. even a single drop of water is so harmful for my body that even it should not be wiped. While washing my body, even a part of it, my heartbeat increases along with other symptoms. Is it permissible for me in such a condition to have intercourse with my wife, to do tayammum instead of ghusl for several months, and to pray and enter the masjid with this tayammum?

A: It is not obligatory for you to refrain from intercourse and after becoming junub, if you are excused from performing ghusl of janābah, your shar'ī duty is to do tayammum instead of ghusl for the acts that require ghusl. And with tayammum, there is no impediment to your entering a masjid, offering prayer, touching the script of the Noble Qur'an and all the other acts that require ghusl.

Q 182: Is it obligatory to face the qiblah during the obligatory or mustahabb ghusl?

A: Facing the qiblah during ghusl is not obligatory.

Q 183: Is it valid to perform ghusl with the water already used for ghusl of janābah knowing that ghusl was done with qalīl water and the body was pure before it?

A: In the given case, there is no objection to doing ghusl with this water.

Q 184: During ghusl of janābah a wuḍū' invalidator occurred.

Is it obligatory to repeat ghusl or to finish it and to do wuḍū'?

A: It is not obligatory to repeat the ghusl and it does not affect the correctness of the ghusl. Rather, one should complete his ghusl. However, it does not remove the necessity of doing wuḍū' for prayers and other acts that require wuḍū'.

Q 185: After urination thick discharge resembling semen came out involuntarily and without any sexual excitement. Is it subject to the rule of semen?

A: It is not subject to the rule of semen unless one is certain that it is semen, or it is accompanied with the three shar'ī signs of semen discharge.

Q 186: When there are several mustahabb or obligatory ghusls to be performed, is performing one sufficient for all the rest?

A: If one performs one ghusl with the intention of performing all of them, it is sufficient. However, if one of them is ghusl of janābah and the intention is made to perform it, it suffices for all other ghusls, although caution is to make the intention for all of them.

Q 187: Do the ghusls other than ghusl of janābah relieve one of making wuḍū'?

A: They do not replace wuḍū'.

Q 188: In the janābah ghusl, is it necessary that water flows over the body?

A: The standard is the real meaning of washing the body with the intention of ghusl and the flowing of water over it is not a condition.

Q 189: One knows that if he becomes junub by having intercourse with his wife, he would have no water for the ghusl or there would not be enough time for both ghusl and prayers, is it permissible for him to have intercourse?

A: Although it is not possible for him to make ghusl, there is no objection to having intercourse with his wife if he is able to perform tayammum.

Q 190: Is it sufficient in the ghusl of janābah to observe the order between the head and the other parts of the body, or is the

observance of order necessary in washing the two sides as well?

A: It is also necessary to observe the order between the two sides by washing the right side before the left one.

Q 191: When one is going to perform the sequential ghusl, is there any problem if one washes first his back then makes the intention and perform the sequential ghusl thereafter?

A: There is no objection to washing one's back or any other part of the body before making the intention for ghusl and starting it. The way of doing sequential ghusl is to make the intention for ghusl after making the body pure. Thereafter, one washes his head and neck first, then washes the right half of the body, and, afterwards, the left.

Q 192: Is it obligatory for women to wash all the hair during ghusl? And if water does not reach all the hair in ghusl does it make the ghusl invalid, even if one knows that water has reached the entire scalp?

A: It is an obligatory caution to wash the whole hair.

## Rules of Invalid Ghusl

Q 193: Someone reaches the age of shar'ī puberty but does not know that ghusl is obligatory and how to make it; and in this way he passes about ten years before coming to know about taqlīd and that ghusl is obligatory? What is his duty concerning qaḍā' of his fasts and prayers?

A: It is obligatory for him to do qaḍā' of the prayers offered in the state of janābah. Also it is obligatory to redo the fasts if he knew that he was junub but did not know that ghusl is obligatory for him for fasting.

Q 194: A youth has been masturbating due to ignorance before reaching fourteen and after. As he did not know that discharging semen makes him junub and he is required to do ghusl for praying and fasting, he did not perform the ghusl after the discharge of semen. What is his duty? Is it obligatory for him to perform the ghusls of this period during which he was masturbating and had seminal discharge? Are all his prayers and fasts made during this period and until now invalid and should he repeat them?

A: A single ghusl of janābah is sufficient for all the past discharges of semen. And it is obligatory for him to make qaḍā' of all prayers he is certain he offered in the state of janābah. As to the fasts, if he did not know, the nights before, that he was junub, he would not be obliged to make up these fasts and they would be ruled as valid. But if he knew that he had had a discharge of semen and had been junub without knowing that ghusl is necessary for the validity of his fast, it would be obligatory for him to make qaḍā' of the days he had fasted in the state of janābah.

Q 195: Someone was junub and performed the ghusl, but his ghusl was incorrect and invalid. What is his duty concerning the prayers that he has offered after such a ghusl if he did not know of its invalidity?

A: Prayers performed with an invalid ghusl are invalid and it is obligatory to repeat them or do their qaḍā'.

Q 196: I took a bath with the intention of performing an obligatory ghusl, and after leaving the bathroom I doubted

weather I did observe the order of ghusl or not. As I thought the mere intention of sequence is sufficient, I did not repeat the ghusl. Now, I wonder if I should perform the qaḍā' of all the prayers offered thereafter?

A: If it is possible that the ghusl you performed was valid and while performing it you were attentive to what is required for its validity, you have nothing to do. However, if you are certain that your ghusl was invalid, it is obligatory for you to repeat all the prayers in qaḍā'.

Q 197: I used to do ghusl of janābah in this order: first, the right side of the body, then the head, and thirdly the left side. What is my duty in regard to the prayers I offered and the fasts I kept, taking into consideration that I had dealt with this issue with negligence and did not ask and investigate about it?

A: ghusl performed in the mentioned manner is invalid and does not remove the state of janābah. Accordingly, the prayers performed with such a ghusl are invalid and making their qaḍā' is obligatory. As for the fasts, they are considered valid as you believed that ghusl in the said manner was valid and you had not remained junub intentionally.

Q 198: Is it ḥarām for the junub person to recite those Qur'anic chapters with obligatory prostration?

A: Among the acts prohibited for a junub person is the recitation of these specific verses that require prostration, but it is no problem for him to recite the other verses of the same chapter.

## Rules of Tayammum

Q 199: In performing tayammum on things upon which tayammum is valid, such as soil, plaster of Paris, stone, and rock, is it all right to do it when they are fixed on a wall, or is it necessary that they be on the ground?

A: It is not a condition for the validity of tayammum that they should be on the ground.

Q 200: One becomes junub (e.g. after ejaculation) and there is no access to the bath and the state of janābah remains for several days. Then, if he prayed with tayammum instead of ghusl and thereafter a wuḍū' invalidator happened, is he obliged to perform again tayammum instead of ghusl for the later prayers? Or is the first tayammum enough for janābah and it is obligatory to do wuḍū' or tayammum for the following prayers due to the occurrence of wuḍū' invalidator?

A: When a junub person performs a valid tayammum as a substitute for the ghusl of janābah and a wuḍū' invalidator occurs later, then as long as the excuse of performing tayammum instead of ghusl is existing it is of obligatory caution for him to perform tayammum instead of ghusl for every act that requires being in a state of purity and then to do wuḍū', as well,. If he is excused from wuḍū', he is to perform another tayammum instead of wuḍū'.

Q 201: Do the rules of ghusl apply to tayammum performed as a substitute for ghusl in the sense that it is permissible to enter a masjid with it?

A: All of the shar'ī effects of ghusl apply to tayammum performed as a substitute for it, except when it is performed due to shortness of time.

Q 202: Is it permissible for one, suffering from incontinence of urine due to spinal cord injury in the war, to perform tayammum as a substitute for mustaḥabb ghusl like Friday ghusl, and ghusl for visiting the Infallibles' shrines and so on, as it is somewhat difficult for him to go to bathroom?

A: The correctness of tayammum as a substitute for ghusl — in order to perform those practices for which purity is not a

condition — is problematic. However, there is no objection to doing it as a substitute for mustahabb ghusls, in cases involving unbearable hardship, in the hope that it is desired by shar‘.

Q 203: One who cannot find water, or one for whom using water is harmful, performs tayammum instead of the ghusl of janābah. Is it permissible for him to enter a masjid and attend congregational prayer? What about reciting the Holy Qur’an?

A: As long as the excuse permitting tayammum is not removed and the tayammum remains valid, he is allowed to perform all the acts for which purity is required.

Q 204: Someone had a discharge during sleep and on waking up he does not remember anything but finds wetness on his clothes. There is no time for him to sit and try to remember, for there is little time remaining to offer the morning prayer. What is one to do in such a state? How is he to make the intent for tayammum as substitution for the ghusl? What is the basic rule?

A: If one knows that there was discharge of semen, he is junub and, thus, ghusl is obligatory for him. If the time is short, he must do tayammum after cleaning his body from najāsah, pray, and do ghusl afterwards. But when there is doubt concerning discharge of semen and janābah, the rule of being in a state of janābah does not apply to him.

Q 205: If a person becomes junub on several successive nights, what is his duty, in view of what has been mentioned in the noble traditions that taking a bath continuously for several days causes weakness?

A: It is obligatory for him to perform ghusl unless using water is harmful for him, in which case his duty is to perform tayammum.

Q 206: I am in an abnormal condition in which I suffer from frequent involuntary emissions of semen, which are not accompanied with sexual pleasure. What is my duty in regard to each prayer?

A: If doing ghusl for every prayer is harmful, or involves

unbearable hardship for you, you can offer prayers with tayammum after cleaning your body.

Q 207: Someone abstains from performing ghusl of janābah for the morning prayer and does tayammum believing that he would fall sick if he performs ghusl. What is the rule?

A: If he believes ghusl to be harmful for him, there is no problem in doing tayammum, and the prayer offered therewith is valid.

Q 208: How can we perform tayammum? Is there any difference between the method of tayammum done instead of wuḍū' and that done instead of ghusl?

A: Tayammum should be done in this order: First, one makes the intention. Then, the palms of the two hands are hit on something on which tayammum is correct and they are rubbed over the entire forehead and both sides of it from the hair line to the eyebrows and the upper part of the nose. Thereafter the left palm is rubbed over the back of the entire right hand and the right palm over the back of the entire left hand. Also, based on obligatory caution, one should hit both palms, again, on the earth and then to wipe the left palm over the back of the entire right hand and the right palm over the back of the entire left hand. This order is the same whether tayammum is to be done instead of wuḍū' or ghusl.

Q 209: What is the ruling of doing tayammum on gypsum, limestone, their baked pieces and bricks?

A: Doing tayammum on anything that is considered as the earth — like gypsum, limestone, etc. — is valid and it is not remote that doing it over baked gypsum and limestone, and bricks is also correct.

Q 210: You have stated that things on which we can do tayammum should be pure. Is it obligatory for body parts involved in tayammum — i.e. forehead and back of the hands — to be pure as well?

A: It is based on caution that, whenever possible, forehead and the back of the hands should be pure. If one could not purify them, he would perform it without purification, although it is

not remote that it is not necessary for them to be pure in any case.

Q 211: If one is not able to perform wuḍū' and tayammum is not possible either, what is his duty?

A: If he is neither able to perform wuḍū' for prayer nor tayammum, he should offer his prayer, as per caution, within its specific time without them and make it up in qaḍā' with wuḍū' or tayammum later on.

Q 212: I am suffering from a skin disease i.e. the skin dries up whenever I take a bath or even wash my hands or face. Accordingly, I am forced to apply oil to my skin and that creates difficulty when doing wuḍū', especially when doing it for the morning prayer. Is it permissible for me to do tayammum instead of wuḍū', for morning prayers?

A: If using water is harmful for you, it is incorrect to do wuḍū', and you should do tayammum instead. But if doing wuḍū' is not harmful and the mentioned oil does not prevent water from reaching the skin of the body parts involved in wuḍū', you should perform wuḍū'. Also, if the oil acts as a barrier between water and skin and you can clean the oil, do wuḍū', and apply the oil again, tayammum will not be accepted from you.

Q 213: A person prays with tayammum due to shortness of time, and after completing the prayer he comes to know that there was enough time to do wuḍū'. What is the rule concerning his prayer?

A: It is obligatory for him to repeat that prayer.

Q 214: We live in a cold area where there is no bathroom or any place for bathing. At times we wake up in a state of janābah before the morning adhān during the blessed month of Ramadan. As it is shameful for youths to get up at midnight before the eyes of the people and to take a bath with the water of a water-skin or a pool, and water is also cold at that time, what is our duty concerning fasting on the next day in such a condition? Is tayammum permissible? And what is the rule if one were not to fast for not having performed the ghusl?

A: Sole difficulty of an act or that one is embarrassed to do it in

front of people's eyes is not a shar'ī excuse. Rather, one is obliged to take ghusl in any manner that he can, as long as it does not involve hardship on the mukallaf or harm. In case it is harmful or unbearably difficult, he can perform tayammum instead. If he does tayammum instead of ghusl before the fajr adhān, his fast is valid, and if he does not do tayammum, his fast would be invalid; but it is obligatory for him anyway to refrain from eating and drinking throughout the day.

## Rules Pertaining to Women

Q 215: My mother is a descendant of the Noble Prophet (s.), am I also considered as a sayyid? Can I consider the blood I see until the age of sixty as menses and abstain from praying and fasting during it?

A: A woman, whose father is not hāshimī, should consider every discharge of blood after the age of 50 years as istiḥāḍah even though her mother is sayyidah.

Q 216: What is the duty of a woman whose menses start while she is observing a fast to fulfill a nadhr of fasting on the very day?

A: Her fast is nullified by the start of menses, even if they cover only a part of the day of the fast, and it is obligatory for her to make the fast up after being cleansed.

Q 217: What is the rule pertaining to spotting seen by a woman after she is convinced that she has become cleansed, and is certain that the spot neither possesses the properties of blood nor that of blood mixed with water?

A: If it is not blood, it does not fall under the category of menstruation. But if it is blood, even in the form of yellow spotting, and does not exceed the tenth day of the period, all these sorts of spotting are considered menses. Determining the nature of the liquid rests with the woman.

Q 218: What is the rule concerning postponement of menses by using medicines for the purpose of fasting the month of Ramadan?

A: There is no objection to it.

Q 219: If slight bleeding occurs during pregnancy, though it does not result in miscarriage, is it obligatory for a woman to perform the ghusl? What is her duty?

A: Any blood discharged during pregnancy and either possesses the properties and conditions of menstruation or it happens at the time of her usual period is considered as menses provided that it continues — even it is only internal bleeding — for three days. Otherwise it is ruled to be istiḥāḍah.

Q 220: A woman who has had regular monthly periods of seven days, for example, has a discharge for twelve days as a result of using a contraceptive device. Is the discharge after the seventh day to be considered menstruation, or is it istiḥāḍah?

A: If the bleeding does not stop after the tenth day, the blood on the days of the regular monthly period is ruled as menses, and the remaining days of bleeding as istiḥāḍah.

Q 221: Is it permissible for a menstruating woman or for a woman in 'puerperium' to enter the shrines of the Imams' descendants (a.)?

A: It is permissible.

Q 222: Is a woman who has undergone abortion curettage categorized as having 'puerperium' or not?

A: The discharge of blood after miscarriage, even when the fetus is just a clot-like structure, is ruled to be 'puerperium'.

Q 223: To which category does the blood discharged after 'menopause' belong? What is the shar'ī duty of such a woman?

A: It is ruled as istiḥāḍah.

Q 224: One of the methods of preventing unwanted births is the use of contraceptive pills, and women who take these pills get blood spots during and outside their menstrual time. What is the rule applicable to these spots?

A: If these spots do not possess the criteria mentioned in Islamic law for menstruation, they are not considered menses. Rather the rules of istiḥāḍah apply to them.

## Rules of the Dead

Q 225: Is the person carrying out ghusl, shrouding and burial for the deceased to be of the same sex as that of the dead person? Or is it allowed for a person of the opposite sex to perform the affairs of the dead body?

A: Only the person doing ghusl for the deceased must be of the same sex as them. Hence, where ghusl can be given by persons of the same gender, it is not valid for a person of the opposite sex to engage in it and the ghusl is void. But sameness of sex is not a condition for shrouding and burying.

Q 226: It is presently common in villages to wash the dead at home, and at times the dead person has no executor (of a will) and has minor children. So what is your opinion concerning such situations?

A: The performance of acts generally necessary for the funeral, including its ghusl, shrouding and burial, does not depend upon the permission of the minor's guardian, and the presence of minor children among the heirs is no problem.

Q 227: A person dies in a collision or by falling from a height. What is the duty in case bleeding continues after death? Is it obligatory to wait till it stops by itself or by using medical means, or can it be buried despite the continuation of the bleeding?

A: Before performing the ghusl, it is obligatory to purify the corpse, if possible. And it is obligatory to wait for the bleeding to stop, or to stop it, if possible.

Q 228: While digging a canal in a public square, formerly a cemetery, a bone belonging to a corpse buried forty to fifty years ago is found. Is there anything wrong in touching such bones for the purpose of viewing them? Are the bones najis?

A: The bone of a Muslim corpse that has been given ghusl is not najis, though it is obligatory to bury it again under the ground.

Q 229: Is it permissible for a person to shroud his father, mother or a relative with a shroud that he had bought for himself?

A: There is no objection to it.

Q 230: A medical team is constrained, for the purpose of conducting medical research and experiments, to remove the heart and some other organs from a corpse and to bury them a day after the study. Please answer the following questions:

i. Is it permissible for us to undertake such an activity despite our knowledge that these corpses on whom the tests are conducted belong to Muslims?

ii. Is it permissible to bury the heart and some body organs separately?

iii. Is it permissible to bury these parts with another corpse, especially when we are certain that the separate burial of the heart and these organs will cause many problems?

A: As long as saving a respectful human life, getting access to medical experiments needed for the society, or providing information about a disease threatening people's lives depends on dissection of a dead body, dissection is permissible. However, it is necessary, as far as it is possible to dissect a non-Muslim's body, not to dissect a Muslim's cadaver. As to the organs removed from a Muslim corpse, the rules of Islamic law say that they should be buried along with the body. If it is not possible, there is no objection to burying them separately.

Q 231: A person buys a shroud for himself and he always spreads it out to offer obligatory and mustahabb prayers and to recite the Noble Qur'an on, and at the time of death it is used for shrouding him. Is this permissible? Is it correct from the Islamic point of view for a person to buy for himself a shroud and write Qur'anic verses on it with the sole purpose of being shrouded in it after death?

A: There is no problem in doing any of the things stated.

Q 232: Recently a woman's skeleton was discovered in an ancient grave dating back to about seven hundred years. It is big and in an intact state with some hair on the skull. According to the archeologists who discovered it, it is the body of a Muslim woman. Is it permissible for this immense and extraordinary corpse to be displayed by the Museum of Natural Sciences (after repairing the grave and placing the body in it) for the

visitors for educational purposes, or to serve as a reminder by displaying it with suitable verses and traditions.

A: If it is confirmed that this skeleton belongs to a Muslim, it is obligatory to bury it again, immediately.

Q 233: In a village there is a graveyard that is neither the private property of anyone nor an endowment. Is it permissible for the inhabitants of the village to prevent the dead from the city or other villages, or someone who has willed to be buried there, from being buried in it?

A: If the public graveyard in the village is neither the private property of anyone nor an endowment for the specific use of the villagers, they are not allowed to prevent others from burying their dead in it. And if anyone makes a will to be buried there, it is obligatory to act according to this will.

Q 234: According to some traditions, such as the one in the book "La'ālī al-Akhhbār, it is mustahabb to sprinkle water on graves. Is this recommendation limited to the day of burial or is it general, as maintained by the author of this book? What is your eminence's opinion?

A: Sprinkling water on the grave on the day of burial is mustahabb and there is no problem in doing so later on in the hope that this maybe desired in shar'.

Q 235: Why is a dead body not buried at night? Is burial prohibited during the night?

A: There is no problem in burying the dead at night.

Q 236: A person who died in a car accident was given ghusl, shrouded and brought to the graveyard. When the body was about to be buried, they found that its coffin and shroud were stained with the blood which had come out of his head. Is it obligatory to change the shroud in such a situation?

A: If it is possible to wash the bloodstained area or cut it off or change the shroud, it is obligatory to do so; otherwise it is permissible to bury the corpse in that state.

Q 237: It is three months that a corpse with blood stained shroud has been buried, is it permissible to exhume it?

A: In the given question, it is not permissible to exhume it.

Q 238: We request your eminence to reply to the following three questions:

- i. If a woman dies in childbirth, what the rule is pertaining to the unborn baby in the womb in the following circumstances:
  - a. If the soul has recently entered it (after three months or more) and there is a strong possibility of its death upon being removed from the womb.
  - b. If the age of the fetus is seven months or more.
  - c. If the fetus has died in the womb.
- ii. If a woman dies during childbirth, is it obligatory for the others to fully ascertain whether the unborn baby is dead or alive?
- iii. If a woman dies during childbirth while the baby is still alive in her womb, and a person orders, in violation of the common practice, the mother's burial along with the unborn child even if it is alive, what is your opinion in this regard?

A: If the unborn fetus dies by the death of its mother or its mother's death happens before the soul enters its body, it is not obligatory to bring it out; rather to do so is not permissible. But if the fetus is alive in the womb of its dead mother and the soul has entered its body and there is a chance of its surviving until the time it is taken out, it is obligatory to take it out immediately. Unless the death of the fetus in the womb of its dead mother is ascertained, it is not permissible to bury her along with the fetus. If a living fetus is buried with its dead mother and there is a probability of its being alive even after the burial, it is obligatory to immediately exhume her body and bring it out of the womb. Similarly, if keeping a fetus alive in its dead mother's womb depends upon not burying her, apparently her burial should be delayed to protect the fetus's life. If someone says that it is permissible to bury the dead woman with the living fetus in her womb, and others, assuming his view to be correct, bury her and it leads to the fetus death in the grave, its blood money lies with one who actually buried her. But, if the death of the fetus is directly attributed to the opinion expressed by that person, he is held liable for the blood money.

Q 239: The municipal authorities have given an order to build

two-storied graves to ensure better utilization of land. We request you to expound the rule of Islamic law in this regard.

A: It is permissible to build multi-level graves for Muslims provided that it does not result in the reopening of a Muslim's grave and disrespect to his/her body.

Q 240: A child fell into a well and died in it, and its water prevents the body from being retrieved. What is the rule applicable to it?

A: It will be left in the well, which will be the child's grave. And if the well is not someone's property or if its owner agrees to close it, it is obligatory to close it.

Q 241: It is customary in our region to perform the traditional chest beating and hitting with chains only during mourning ceremonies of the virtuous Imams (a.s.), martyrs, and major religious figures. Is it permissible to perform these rituals on the death of such persons who belonged to Voluntary Forces or those who were engaged in providing some kind of service to the Islamic government and the Muslim nation?

A: There is no problem in doing so.

Q 242: What is the rule applicable to a person who considers nightly visits to graveyards as effective in instilling Islamic values despite the knowledge that visiting graveyards at night is *makrūh*?

A: There is no objection to doing so.

Q 243: Is it permissible for women to participate in funeral ceremonies and to carry the coffin?

A: There is no objection to doing so.

Q 244: It is a custom among some tribes to borrow money, on the death of some persons, for buying a large number of sheep (which causes a substantial loss) to feed all who participate in the mourning ceremonies. Is it permissible to incur such a burden for complying with the customs?

A: If the cost of preparing the food is being borne by the adult heirs of the deceased and with their consent, it is permissible. However, if this act results in financial loss and problems, it is to be avoided. In case the money is to be spent from the

deceased's estate, the spending should be according to the provisions of the will. In general, one should avoid any kind of extravagance that may result in wasting the Divine bounties.

Q 245: If a person is killed at the present time by a mine in a certain region, are the rules of a martyr applicable to him?

A: The rule of burial without ghusl and shrouding is exclusively for a martyr who has been killed on the battlefield.

Q 246: Brothers in the Islamic Revolutionary Guard Corps frequently travel between Mahabad and Urumiyeh (in Iran) and other areas where they are at times ambushed and engaged in combat by elements hostile to the Islamic Revolution leading, sometimes, to their martyrdom. Is it obligatory to give them ghusl or tayammum, or will it be considered a battlefield?

A: If that region is a battleground between the forces of truth and the deviant insurgent band, the rules pertaining to a martyr are applicable to someone who belongs to the forces of truth and is martyred there.

Q 247: Is it valid for a person who does not meet the conditions for leading a congregational prayer to lead the people in the prayers offered over the body of a deceased believer?

A: It is not remote that the conditions considered essential for imam and the congregation in other prayers are not necessary in the prayer over the deceased, though they may be also observed, as a caution, in prayer over the deceased.

Q 248: If a believer is killed in some parts of the world for the sake of the implementation of Islamic Law, participation in protest rallies, or for the application of Ja'fari jurisprudence, is he considered a martyr?

A: He is entitled to the reward and merit of a martyr, though the rules of martyr concerning the burial rites are specifically meant for those who have been martyred in action during war.

Q 249: If a Muslim is sentenced to death in accordance with the law and approval of the judiciary on the charge of drug trafficking and the sentence is carried out:

i. Is it valid to offer the prayer for the dead upon him?

ii. What is the rule concerning participation in mourning ceremonies held for such a person as well as recitation of the Noble Qur'an and elegies of the Ahlul-Bayt (a.)?

A: A Muslim who has been given the death sentence is like all other Muslims and all the rules applicable to them are applicable to him, including the Islamic rites pertaining to the dead.

Q 250: Does touching a bone that has flesh on it and has been amputated from a living person require the ghusl of touching a corpse?

A: It is not obligatory to perform ghusl after touching a body part which has been amputated from a living body.

Q 251: Does touching an organ or body part which has been separated from a dead body obligate performing of ghusl of touching a corpse?

A: If the touching of this organ is made after it became cold and before it is washed as corpse ghusl, it has the same ruling as that of touching a dead body.

Q 252: Is it obligatory to direct the dying Muslim towards qiblah?

A: It is advisable to place a dying Muslim to lying down on his back and to direct the bottom of his feet towards the qiblah. Many mujtahids believe that it is obligatory for the dying person himself — if he can — or for the others to do this and caution in doing so is not to be neglected.

Q 253: When a tooth is extracted, some tissue of the gum also comes out with it. Does touching this tissue require performance of the ghusl of touching a corpse?

A: Ghusl does not become obligatory in this case.

Q 254: Do the rules pertaining to touching a corpse apply to touching a Muslim martyr who had been buried in his clothes?

A: Touching the body of a martyr for whom ghusl and shrouding are not obligatory does not necessitate the ghusl of touching a corpse.

Q 255: I am a medical student and am forced at times to touch

cadavers while performing dissection without knowing whether the cadavers belong to Muslims or not, or have been given ghusl or not, though the officials say that these bodies have definitely been given ghusl. With attention to what has been said, please explain our duty with respect to prayers and other religious acts after touching these bodies. With reference to what has been said, is ghusl obligatory for us?

A: If it is not ascertained that the cadavers have been given ghusl and you have doubts in this regard, the ghusl of touching a corpse is obligatory for you when touching such a cadaver or a part of it and prayers offered without performing this ghusl are invalid. But, if it is assured that the cadaver has been given ghusl, it is not obligatory to perform ghusl upon touching it, even if there is a doubt about the validity of its ghusl.

Q 256: A martyr whose name and address were not known was buried. After a month certain facts were disclosed indicating that the martyr was not a resident of the city (where he was buried). Is it permissible to exhume his body for the sake of carrying it to his own city?

A: If he was buried in accordance with the rules and norms of Islam, exhuming his body is not permissible.

Q 257: If it were possible to know what is inside a grave by filming its contents without digging and removing the earth, would it be like opening and exhuming the grave?

A: Taking pictures of a buried corpse without digging and exhuming the grave, and exposing the body are not considered as exhumation.

Q 258: The municipal authorities intend to demolish the chambers surrounding a graveyard for widening the lanes. Is it permissible? And is it permissible to exhume the bones of the dead and bury them elsewhere?

A: The demolition and exhumation of the graves of the believers are not permissible even for the purpose of widening the lanes. In the case where exhumation occurs and a Muslim's corpse or his bones that had not yet decomposed are uncovered, it is obligatory to bury them again.

Q 259: If someone starts demolishing a Muslim graveyard without paying attention to the rules of Islamic law, what is the duty of other Muslims in regard to this person?

A: It is obligatory for the others to forbid him from evil while observing all of its conditions and grades and if the bones of Muslim's body are uncovered due to this act, it would be obligatory to bury them again.

Q 260: My father was buried thirty-six years ago in a graveyard and, presently, I am thinking of using that grave for myself with the permission of the Endowments Department. On this basis, is it necessary for me to get the permission of my brothers in this regard if this graveyard is an endowment?

A: For burying another dead body in a grave located in land that is a public endowment, it is not necessary to get the permission of the deceased's heirs. But before the bones of the buried corpse decompose, it is not permissible to open the grave to bury another body.

Q 261: Please mention if there is a way to demolish a cemetery belonging to Muslims and converting it into other centers, and please explain it.

A: It is not permissible to change and transform a Muslim cemetery endowed for the burial of Muslims.

Q 262: Is it permissible, after getting the permission of the marji', who is followed in taqlid, to exhume graves and use the cemetery, endowed for burying the dead, for an alternative purpose?

A: Permission of the marji` is of no avail in cases where it is not permissible to open a grave or to demolish a cemetery specified as an endowment for burying the dead. But if it falls under the exceptional cases, there would be no problem.

Q 263: A man died nearly twenty years ago. Some days ago a woman died in the same village and, by mistake, they dug the man's grave and buried her in it. What is the rule in this regard presently, keeping in view that there was no trace of man's body in the grave?

A: In the given case, they have to do nothing at this time, and

the burial of a corpse in the grave of another corpse does not, by itself, act as a justification for opening the grave and transferring the body to another.

Q 264: There are four graves in the way of one of the roads, which obstruct the continuation of its construction. As there are sharī problems involved in the opening of the graves, please guide us regarding what needs to be done so that the municipal authority does not commit an act violating Islamic law.

A: If the constructing of the road does not require digging up or opening the graves and it is possible to make it over them, or if it is necessary that the road be constructed where the graves are located, then there is no problem involved in constructing such a road.

## Rules of Unclean Substances [Najasahs]

Q 265: Is blood pure?

A: The blood of an animal, whose blood gushes out when its body is cut, is najis.

Q 266: During a mourning ceremony for Imam Ḥusayn (a.) a person strikes his head forcefully against the wall and blood gushes out splashing on the heads and faces of other participants in the ceremony. Is this blood pure?

A: Human blood is najis in all circumstances.

Q 267: If a faint bloodstain remains on the dress after it has been washed, is that faint-colored stain najis?

A: If it is not the blood itself and only the color remains which does not disappear with washing, it is pure.

Q 268: What is the rule pertaining to a spot of blood present in an egg?

A: It is considered pure, but eating it is ḥarām.

Q 269: What rule applies to the sweat of a person who has become junub by a forbidden act, and, similarly, to the sweat of an animal that is used to eating human excrement?

A: The sweat of a camel that eats human excrement is najis. But, as for the sweat of animals apart from the camel that eats human excrement and the sweat of a person who makes himself junub by a ḥarām act, they are pure according to the strong opinion, although it is based on obligatory caution to abstain from praying with the sweat of a person who has become junub by a forbidden act.

Q 270: Are the drops of water, that fall from the dead body before its ghusl with pure water (the third ghusl) but after its ghusl with water mixed with lotus leaves and camphorated water, pure?

A: Until the third ghusl is not completed, the dead body is considered najis.

Q 271: Are the dead cells of the skin that at times fall off from

the hands, lips and feet, pure or najis?

A: The fine skin that separates by itself from the hands, lips, feet or any other part of the body, is pure.

Q 272: A person on the war front faces a situation in which he is compelled to kill and eat a pig. Are the sweat on his body and his saliva considered najis?

A: The sweat and saliva of a person who has eaten ḥarām and najis meat is not najis. However, anything which comes in contact with pork in the presence of moisture is considered najis.

Q 273: In view of the use of brushes in painting and sketching, and considering that good quality brushes are imported from non-Islamic countries and are often made of pig's hair and are accessible to all, especially in cultural and propagational centers, what is the legal rule regarding using such brushes?

A: Pig's hair is najis and its use is not permissible in situations where purity is required by Islamic law; but there is no problem in using it where purity is not necessary. Further, if it is not known whether the brush is made of pig's hair or not, there is no problem in its use even in cases where purity is required.

Q 274: Is it permissible to eat meat which is imported from non-Islamic countries? And what is the ruling regarding its purity?

A: Unless its ritual slaughtering is known for sure, eating it is ḥarām. However, as far as purity is concerned, if one is not certain that it has not been slaughtered ritually, it is considered pure.

Q 275: Would you mind clearing up for us your respected opinion regarding leather and other animal parts that are imported from non-Muslim countries?

A: If you think that the animal may have been slaughtered ritually, they are pure. But in case you are sure of its not having been ritually slaughtered, they are ruled to be najis.

Q 276: If the clothes of a junub person become najis with semen, what is the rule if a hand touches the clothes when there is moisture in any one of them? Secondly, is it permissible for

the junub person to give this dress to another for washing it? Is it obligatory for him to inform the person who wants to wash the dress about its najāsah?

A: Semen is najis, and if it comes into contact with something with transmitting moisture, it makes the latter najis. It is not necessary to inform the person washing the dress about its najāsah. However, unless the owner of the clothes becomes certain about their purity, he could not apply rules of purity to them.

Q 277: After urination I did *istibrā'*, but after that a liquid smelling like semen was discharged. Is this liquid najis? Please explain the rule applicable to me for performing prayers?

A: If you are not sure that it is semen, and the *shar'ī* signs for the discharge of semen do not accompany it, then the semen rule does not apply to it and it is ruled to be pure.

Q 278: Are the droppings of a bird whose meat is not *ḥalāl*, like that of a crow, an eagle, or a parrot, najis?

A: They are not najis.

Q 279: Scholars mention in their treatises on practical laws of Islam that the droppings of the animals and birds whose meat is religiously not eaten are najis. If this is true, then are the droppings of the religiously edible animals and birds, such as the cow, sheep and chicken, najis or not?

A: Droppings of religiously edible birds and animals and that of religiously non-edible birds, as well, are pure.

Q 280: If there is a najāsah [such as excrement] in or around a lavatory, and there still remain some traces of the najāsah after the place is washed with *kurr* or *qalīl* water, is the place where there is no najāsah but the water has certainly reached, najis or pure?

A: The place where najis water has not reached is considered pure.

Q 281: If a guest makes any household appliance of his host najis, is it obligatory for him to inform the host about it?

A: It is not obligatory to inform him unless it is something

edible or drinkable, or it is a utensil used for food.

Q 282: Something comes in contact with an extrinsically najis object. Does it become najis? And if it becomes najis, does it make anything else najis? What about the subsequent things in this chain?

A: The object, which contacts an intrinsically najis material and becomes najis, makes another thing najis if they come into contact with each other when one of the two is wet. The latter makes, by obligatory caution, another thing najis on contact. However this third extrinsically najis object does not make anything najis.

Q 283: When using leather shoes, the leather for which was made from an animal that was not ritually slaughtered, is it obligatory to wash one's feet every time before performing wuḍū'? Some say: It is necessary to do so if the feet perspire in the shoes. And I have observed that the feet do sweat, either slightly or profusely, in all kinds of shoes. What is your opinion on this issue?

A: If a person is sure that his shoes are made of an animal's skin which was not slaughtered ritually or he is sure that his feet have perspired in such shoes, it is obligatory for him to wash his feet for the purpose of praying. But in case of doubt about the sweating of the feet or whether or not that leather is obtained from a ritually slaughtered animal, the feet are ruled to be pure.

Q 284: What is the rule concerning a child's wet hand, his saliva and leftover food if he regularly makes himself najis? What is the rule applicable to children who place their wet hands on their feet?

A: As long as it is not certain that they have become najis, they are considered pure.

Q 285: I am suffering from a gum disease and in the doctor's opinion I must constantly massage it. But doing so leads to parts of the gums turning black and it looks as if blood has collected inside them, and when I place a tissue paper on them it becomes red. Therefore, I use kurr water to purify my mouth,

though the blood that has clotted remains for some time and does not disappear on washing. Now, after contact with kurr water is broken, will the water that enters the mouth and is spitted out from the mouth, after passing over these parts and contacting with particles of blood clotted in the gums, be considered najis? Or will it be considered saliva and so clean?

A: It is considered pure, though it is better, according to caution, to abstain from it.

Q 286: I want to ask if the food which I eat and which comes into contact with the particles of blood coagulated in the gums becomes najis or not? If it does, does the oral cavity remain najis after the food is swallowed?

A: The food, in question, is not considered najis and there is no problem in swallowing it. The mouth also remains pure.

Q 287: For some time it has been rumored that cosmetics are made from the placenta when a fetus is delivered or from the dead fetus itself. We use these materials at times, rather some lipstick is swallowed, is it najis?

A: Rumors do not constitute shar'ī proof that cosmetics are najis, and there is no objection to using them unless their najāsah is confirmed by a reliable shar'ī method.

Q 288: Minute hair-like fibers fall off from every dress and pieces of cloth, and we find these minute fibers if we observe the water in a washtub while washing clothes. Accordingly, when the washtub is full of water and connected with tap water, by immersing clothes in it the water overflows from its sides. Due to the presence of these minute fibers in the overflowing water, as a caution I clean the whole place. Or when I take off the children's najis clothes I wash the place where these clothes were taken off even if it is dry, because I think those minute fibers have fallen there. Is observing such cautions necessary?

A: If a cloth is put into a washtub for washing and a tap water flows on it until it is completely soaked with water and water gets out of, or moves within, the cloth, the water in the washtub, the cloth, and the washtub are pure, as well as the minute fibers that have fallen from the clothes, in the question,

and overflow along with the water. Also dust and minute fibers that are separated from a najis cloth are considered pure unless you are sure that they have been separated from the najis parts of the cloth and it is not necessary to observe caution in case of doubt whether they originally had been separated from najis clothes or not and whether or not their place is najis.

Q 289: What is the degree of wetness that causes najāsah spread from one object to another?

A: The criterion for transmitting moisture is that the wetness should spread from a wet body to another body when they contact each other.

Q 290: What is the rule pertaining to clothes given to laundries and dry-cleaners as far as purity is concerned? It needs to be mentioned that religious minorities (Jews, Christians etc.) also have their clothes washed and dry-cleaned at these places, and it is also known that the owners of these shops use chemicals for washing clothes.

A: Clothes given to laundries and dry-cleaners, if they were not najis, are considered pure, and their coming into contact with the clothes of the minorities from the People of the Book does not make them najis.

Q 291: Do the clothes washed in a fully automatic domestic washing machine become pure or not? The mode of functioning of this machine is as follows: Initially when the clothes are washed in it with detergent, some water and foam of the detergent spreads on the glass door of the machine and the rubber surrounding it. After this, the used water is drawn while the foam of the detergent remains on the glass door and the rubber surrounding it. And, at later stages, the machine washes the clothes thrice with qalīl water and then the used water is driven out. Please explain whether the clothes washed in this manner are pure or not?

A: After the inherently najis material is removed, if the water, which is connected with pipe water, goes into the machine and reaches the clothes as well as all the parts inside the washing machine and, then, it is drawn out, the clothes will be pure.

Q 292: If water is poured on the ground or in a pool or a bath in which clothes are washed, and then drops of this water fall on one's clothes, do they become najis or not?

A: If water is poured on a pure spot or ground, the drops that splash from it are also pure. If we doubt whether that place is pure or najis, the splashed drops are ruled to be pure, as well.

Q 293: Is the water which flows on the streets from municipal garbage vans and at times splashes on people's clothes, due to strong wind, considered pure or najis?

A: It is considered pure unless one is sure of its being najis due to contact with something najis.

Q 294: Is the water that gathers in potholes in the streets pure or najis?

A: Such water is ruled to be pure.

Q 295: What is the rule concerning exchanging family visits with persons who do not pay attention to the rules of purity and najāsah in matters of food, drink, etc.?

A: In general, the ruling of religion of Islam is that everything, about whose najis state one is not certain, is considered pure from the shar'ī viewpoint.

Q 296: Please elucidate the legal rule concerning the following from the point of view of purity and najāsah: The vomit (a) of a breast-fed child; (b) of a breast-fed child that is also given supplementary diet; (c) of an adult.

A: It is pure in all these instances.

Q 297: What is the rule applicable to something that comes into contact with some objects one of which is najis?

A: If it comes into contact with only some of them, it is not treated as najis.

Q 298: In an Islamic country a foreign person, whose religion is unknown, sells food items and touches it in the presence of transmitting moisture. Is it obligatory to ask him about his religion, or will the principle of presuming a state of purity apply?

A: It is not obligatory to ask about his religion and the principle

of presuming state of purity will be applicable in respect to him as well as the food he touches in the presence of transmitting moisture.

Q 299: A member of a family or someone who regularly visits them does not care about purity rules and makes the house as well as its furniture najis to such an extent that it is not possible to wash and clean them. In such a case, what is the duty of the residents of the home? And how is it possible for a person to remain clean, especially for prayers in which a state of purity is a necessary condition for validity? What is the rule in this regard?

A: It is not necessary to purify the whole house. The purity of the clothes of the person praying and the place of resting the forehead during prayer is sufficient for the validity of prayer. The najāsah of the house and its furnishings does not give rise to any additional duty apart from observing a state of purity during prayers and in eating and drinking.

## **Ruling of Intoxicants**

Q 300: Are alcoholic beverages najis?

A: By obligatory caution, intoxicating drinks are najis.

Q 301: What is the rule applicable to grape juice that boils over a fire and two-thirds of which has not yet evaporated, although it is not intoxicating?

A: Drinking it is ḥarām, but it is not najis.

Q 302: It is said that when a quantity of unripe grapes are boiled to extract their juice, the substance derived after boiling is ḥarām if they included a few or even a single ripe grape. Is this opinion correct?

A: If the quantity of the juice derived from a few ripe grapes is so insignificant that it disappears in the juice of the raw grapes so that it cannot be called the juice of ripe grapes, it is ḥalāl. But, if only the ripe grapes are boiled on the fire, then it is ḥarām to drink the juice.

Q 303: Nowadays alcohol (which is in fact intoxicating) is used in making a large number of medicines, especially syrups, and in perfumes and colognes that are generally imported. Do you consider it permissible for a person, whether he is aware of this or not, to buy, sell, prepare and use such products?

A: An alcohol which you do not know whether it originally belongs to the category of a liquid intoxicant is considered pure, and there is no problem in buying, selling and using liquids containing it.

Q 304: Is it permissible to use white alcohol for disinfecting the hands and medical equipments, like thermometers etc., or their use in medical work and treatment by doctors? White alcohol is an alcohol used for medical purposes and is also fit for consumption. Are prayers valid in clothes on which a drop or more of this alcohol has fallen?

A: An alcohol that is not originally liquid is considered pure even if it is intoxicant and prayer performed in clothes which come into contact with such an alcohol is valid and they do not require purification. But if it is originally liquid and, according

to the experts, intoxicant as well, it is najis by obligatory caution and should be purified from the body or clothes on which it falls before praying. However, using it for sterilizing medical equipment and the like is no problem.

Q 305: There is a substance called 'kafir' which is used in food and medical industries, and during fermentation 5% to 8% alcohol is found in the produced material, and this small quantity of alcohol does not cause any kind of intoxication. Is there any problem from the shar'ī viewpoint in using this substance?

A: If the alcohol in the product is intoxicating by itself, it is najis and ḥarām by obligatory caution, even if it is not intoxicating for the consumer due to its small quantity or as it is mixed with the produced item. But if there is a doubt as to its being intoxicant in itself or as to its being originally a liquid, the rule is different.

Q 306: i. Is ethyl alcohol najis or not? (Apparently it is this type of alcohol that is present in all intoxicants and the cause of intoxication.)

ii. What is the criterion for the najāsah of alcohol?

iii. What is the method of ascertaining whether a drink is an intoxicant?

A: i. All the various kinds of alcohol that are intoxicating and originally in liquid form are najis by obligatory caution.

ii. The criterion is its being intoxicating and originally a liquid.

iii. If the mukallaf is not sure, then the information provided by reliable specialists will be sufficient.

Q 307: What is the rule concerning the soft drinks available in the market, including soft drinks produced within the country, e.g. Coca Cola, Pepsi, with the knowledge that some of the ingredients are imported and it is probable that they may contain alcohol?

A: They are considered pure and ḥalāl except where the mukallaf is sure that they contain an alcohol that is intoxicating and originally liquid.

Q 308: Basically, is it necessary, while purchasing food items

from a non-Muslim, to investigate whether the hand of its seller or the person preparing it has touched it, or whether he uses alcohol in preparing it?

A: It is not necessary to ask and investigate.

Q 309: I make atropine sulfate spray and alcohol is an essential ingredient in its formulation, that is, if we do not add alcohol to the compound, it is not possible to prepare the spray. This spray is considered a counter weapon that can protect the Islamic forces from chemical weapons. Is it permissible in your opinion to use alcohol in preparing medicines in the above-mentioned manner?

A: If the alcohol is intoxicating and originally liquid, it is ḥarām and by obligatory caution najis, but to use it as a medicine does not involve any problem whatsoever.

## Obsession and Its Treatment

Q 310: It is several years that I am suffering from the problem of obsessive doubting, and it has really been tormenting me. Day by day this state is becoming more severe and has reached such a point that I suspect everything and my whole life is affected with doubt, mostly in relation to food and wet things. As a result, I am unable to behave like ordinary people. When I enter a place I remove my socks immediately because I think that they have become wet by sweat and will become najis on coming into contact with a najāsah. I am even unable to sit on the prayer mat, and when I do sit, I stand up immediately lest the minute fibers of the prayers mat should stick to my clothes compelling me to clean them with water. Earlier I was not like this, and now I feel embarrassed by my conduct and always long to see someone in my dream to put my questions to him or hope for a miracle to change my life and take me back to my previous state. Please enlighten me.

A: The rules of purity and najāsah are the same as those which have been explained in detail in the books on the practical laws of Islam. In shar‘, all things are considered pure unless it has been pronounced as najis by the Legislator, and one is certain of it being najis. Thus, getting rid of obsession in this situation does not require dreams or miracles; rather it is the duty of the mukallaf to set aside his personal inclination and observe, and bind himself to, the teachings of the sacred laws of Islam and have faith in it and he should not consider the thing whose state of najāsah is not confirmed najis. Therefore, how do you know that the door, wall, prayer mat and other things that you use are najis? And what makes you sure that the minute fibers of the prayer mat that you walk or sit on are najis and that their impurities will transfer to your socks, clothes and body? So in this case, it is not permissible for you to pay attention to this obsession. Disregarding obsession with regard to najāsah and practicing indifference and carelessness will, God willing and by Allah’s aid, help you to free yourself from the grip of obsessive doubting.

Q 311: I am a postgraduate woman with several children. I am suffering from a problem concerning purity. In view of the fact

that I have been raised within a religious family and want to observe all Islamic regulations and since I have young children, I am always busy with the affairs of urine and excrement. Especially in the toilet, the water drops of the flash-tanks, etc sprinkles on my leg, face, and even head and every time I face a problem of purifying these body parts a matter that created many difficulties in my life and I cannot stop observing such matters since it is something related to my faith and religion. I consulted a psychologist in the matter, but in vain. In addition, there are some other problems that I suffer from, like the dust of the najis things and being too concerned about purifying the najis hands of the children or to prevent them from touching other things. To purify something najis is a very difficult job for me, while it is easy for me to wash the same vessels and clothes when they are just dirty. Thus, I request your valuable advice to make my life easier.

A:

i. The point of view of the sacred laws of Islam regarding the subject of purity and najāsah is that purity is fundamental for all things. This means that in all situations if you feel any doubt whether something has become najis or not, you should assume that it has not.

ii. Those who suffer from a severe psychological sensitivity in respect to najāsah matters (who are called obsessive as an Islamic term) should consider that not everything is najis even if they become sure that it is najis. This is true except when they see with their eyes that a certain thing becomes najis, in such a way that if another person saw it, he would become sure about najāsah transference. It is only in such situations the obsessive people may assume this thing as najis. Those individuals should keep on acting upon this ruling until this psychological problem is completely cured.

iii. For any thing or body part that becomes najis, it is sufficient, after removing the inherently najis material, to wash it once with tap water for making it pure and there is no need for repeated washing or dipping it into water. If the najis thing is a cloth or the like, it would be squeezed to the accepted degree, according to the common view, to remove water from it.

iv. Since you are suffering from a sever sensitivity to najāsah, let it be known that you should not consider the dust of najis

things as najis whatever the situation would be. It is, also, not necessary to care about whether a child's hand is najis or pure or to inquire punctiliously whether the blood, [for example], had been removed from the body or not. This ruling should continue to be applicable to you until this sensitivity is completely removed.

v. Islamic religion has easy rules which accord with human nature. So, you should not make them difficult and troublesome for yourself and do not harm your body and hurt your soul due to that. The state of anxiousness and restlessness in such situations makes life bitter and unbearable and Allah, the Great and the Almighty is not pleased with your and your family's pains and sufferings. Be grateful for the blessing of an easy religion. The best method to thank Allah for such a blessing is to act according to the orders of Allah, the Sublime.

vi. Your problem is a transient and treatable case. Many patients have been relieved from such a condition by following the mentioned training. Ask Allah, the Sublime, for help, take it easy, and relieve yourself of such stress by determination and willpower.

## **Rules of Non-Muslims**

Q 312: Some mujtahids are of the opinion that the People of the Book are najis, while some others consider them pure. What is your opinion?

A: It is not established that the People of the Book are najis themselves; rather, we consider them as pure by themselves.

Q 313: Are the People of the Book, who accept the Prophethood of the Seal of the Prophets (s.) but follow the practice of their ancestors in matters of worship, considered non-Muslims as far as of the rules of purity are concerned?

A: Solely having faith in the Prophethood of the Seal of the prophets (s.) is not sufficient for considering someone Muslim. However, such persons are considered pure if they belong to The People of the Book.

Q 314: A number of friends and I rented a house together and then came to know that one of them does not perform prayers. After inquiring him about the reason, he replied that he has faith in Allah, the Glorious, and the Exalted; but does not perform prayers. Considering that we eat food together and there is lot of contact among us; do we consider him najis or pure?

A: Merely forsaking the performance of prayers and not observing the fast or other shar'ī obligations, do not make a Muslim an apostate or najis. Rather, as long as his apostasy is not confirmed, his ruling is the same as that of other Muslims.

Q 315: What are the religions whose followers are considered the People of the Book? What is the criterion for defining the limits of social relations with them?

A: By the People of the Book is meant all those who profess a divine religion and consider themselves the followers of one of the prophets of Allah, the Glorious and the Exalted (may peace be upon our Prophet and his progeny and upon them) and who possess a heavenly scripture from those revealed to the Prophets (a.), such as the Jews, the Christians, the Zoroastrians and similarly the Sabeans who, on the basis of our research, are among the People of the Book. Therefore, the rule of the People of the Book applies to the followers of these religions,

and there is no objection to associating with them socially, while observing Islamic laws and morals.

Q 316: There is a sect that calls itself 'Aliyyullāhī, and it considers the Commander of the Faithful, Ali ibn Abītālib (a.), as a god and believes in supplicating and seeking fulfillment of requests as an alternative to prayers and fasting. Are they najis?

A: If they believe that Amīr al-Mu'minīn, Ali ibn Abītālib (a.), is a god (Allah, the exalted, is above what they say), then the rule applicable to them is that of non-Muslims who have not a Book, i.e., they are kāfirs and najis.

Q 317: There is a sect called 'Aliyyullāhī which says that Ali (a.) is not a god, although he is not less than a god either. What is the rule applicable to them?

A: If they do not ascribe a partner to Allah, the One, the Munificent and the Exalted, the rule applicable to them is not that of polytheists.

Q 318: Is it permissible to donate the votive offerings of a nadhr made by a Twelver Shī'ah and dedicated to Imam Ḥusayn (a.s.) or to Aṣḥāb al-Kisā', to such centers where followers of the 'Aliyyullāhī sect gather, knowing that this act amounts, one way or another, to strengthening these centers?

A: The belief that the Leader of the Monotheists Ali (a.) is a god is a false belief and takes its adherent out of the pale of Islam. Aiding the propagation of this perverse belief is ḥarām. Further, it is not permissible to spend a nadhr offering for any thing other than its vowed purpose.

Q 319: There exists a sect in our region, and in some other places, that calls itself Ismā'īlī. Though they profess faith in the first six Imams (a.) they do not believe in any of the religious obligations or in the authority of the jurist leader. Please explain whether the followers of this sect are najis or pure?

A: The sole rejection of the Imamate of the last six Imams (a.s.) or any rule from among the rules of Islamic law, so long as that does not amount to rejecting Islamic religion or the Prophet-hood of the Prophet (SW), does not make them non-Muslims and najis unless they abuse or insult any of the infallible Imams

(a.s.).

Q 320: The vast majority of people here are Buddhist non-Muslims. Therefore if a university student rents a house, what is the rule concerning its state of purity and najāsah? Is it necessary to wash and clean the house? It is noteworthy that most of the houses are made of wood and to wash them is not possible. Further, what is the rule concerning hotels and their furniture and articles?

A: Unless it is confirmed that the hand or body of a non-Muslim that is not among The People of the Book has touched something in the presence of transferable wetness, that thing will not be considered najis. Presuming that its najāsah has been ascertained, it is not obligatory to purify the doors and walls of homes and hotels, nor their furniture and articles. All that is obligatory is to purify those things which are used for eating, drinking, and praying.

Q 321: There live a large number of people in Khuzestan who call themselves Sabeans and claim that they are the followers of Prophet John [Yaḥyā] (a.s.) and that they possess his scripture. It has also been established for the religious scholars that they are the Sabeans mentioned in the Qur'an. Please explain whether they are among the People of the Book.

A: The rule of the People of the Book is applicable to this group.

Q 322: It is generally said that a house built by the hands of non-Muslims becomes najis and performing prayer in it is makrūh. Is this correct?

A: Performing prayer in such a house is not makrūh.

Q 323: What is the rule pertaining to working for Jews, Christians, and other non-Muslims, and taking wages from them?

A: There is no objection to doing so by itself, provided the work is not among the ḥarām works or detrimental to the general interests of Islam and Muslims.

Q 324: In the region in which we are doing our military service, there exist some tribes belonging to a sect called 'Ahl-e-Ḥaqq'.

Is it valid to use the milk, yogurt and butter they produce?

A: If they profess faith in the principles of Islam, they are like all other Muslims in matters of purity and najāsah.

Q 325: The residents of the village where I give lessons do not perform prayers because they belong to the Ahl-e-Ḥaqq sect, and I am forced to eat the food and bread prepared by them, since we live day and night in that village. Is there any problem in my prayers?

A: if they do not reject the oneness of Allah and the Prophet-hood of Muhammad (SW) or any of the indispensable elements of the religion and do not believe in any defect in the mission of the Messenger of Islam (SW), being non-Muslim or najis is not attributed to them. Otherwise, it is obligatory to observe the matter of purity and najāsah while coming into contact with them and eating their food.

Q 326: One of our relatives is a communist, and when we were children he gave us a lot of money and gifts. What is the rule concerning the money and gifts if they are still with us?

A: If he is proved to be a non-Muslim, his apostasy has been confirmed and he had chosen the path of infidelity after attaining shar'ī puberty but before confessing faith in Islam, the rule that applies to the wealth of the non-Muslims will apply to his wealth.

Q 327: Please answer the following questions:

i. What is the rule for Muslim students intermingling and shaking hands with students belonging to the deviant Bahā'ī sect at the primary, secondary, and high school levels, irrespective of whether they are boys or girls, mukallafs or not, within or outside the school?

ii. What should be the behavior of the teachers vis-à-vis students who either declare that they are Bahā'īs or are known to be such?

iii. What is the rule pertaining to using things used by all the students, such as drinking-water taps, latrine taps, pitchers, soap, etc., knowing that the body and hands are wet?

A: All followers of the deviant Bahā'ī sect are considered najis and their coming into contact with something requires

observing the rules of purity for matters in which the state of purity is required. But the behavior of the headmasters and teachers with Bahā'ī students should be in accordance with the regulations and Islamic ethics.

Q 328: Please elucidate the duty of the believing men and women vis-à-vis the deviant Bahā'ī sect and the impacts that arise due to the presence of its followers within the Islamic society?

A: It is obligatory for all believers to counter the plots and corruption of the deviant Bahā'ī sect and to stop others from being misled by this deviant sect or following it.

Q 329: At times the followers of the deviant Bahā'ī sect bring us food or something else. Is it permissible for us to use them?

A: Any sort of social association with the deviant and misleading Bahā'ī sect should be avoided.

Q 330: A large number of Bahā'īs live in our neighborhood and often visit our home. Some say that the Bahā'īs are najis while others consider them as pure. These Bahā'īs also exhibit good morals. Are they najis or pure?

A: they are najis and enemies of your religion and faith. So you should beware of them, my dear friends.

Q 331: What is the rule pertaining to the bus and train seats which are used by Muslims as well as non-Muslims, and in some areas the number of non-Muslims is greater than that of Muslims. Should they be considered pure despite the knowledge that perspiration in hot weather leads to transferable wetness?

A: Among non-Muslims, the People of the Book are ruled to be pure. In general, in respect with the things used by both non-Muslims and Muslims, they are considered pure unless their najāsah is known.

Q 332: Studying abroad necessitates contact and association with non-Muslims. In this case, what is the rule concerning taking food prepared by them (after ascertaining that it does not contain prohibited items such as the meat of an animal which

is not slaughtered ritually) if there is a possibility that the non-Muslim's hand have touched the food in the presence of wetness?

A: The mere possibility that the non-Muslim's wet hand have touched it is not sufficient for creating an obligation for refraining from it. Rather, unless one is sure that such contact has occurred, it is considered pure. Further, if the non-Muslim is among The People of the Book, he is not intrinsically najis, and if his wet hand touches something, it does not render it najis.

Q 333: If all the expenses and cost of living of a Muslim living under the shelter of an Islamic government are met as a result of his working for a non-Muslim and he has close relations with him, is it permissible to establish strong family ties with such a Muslim and eat his food on occasions?

A: There is no objection that other Muslims establish relations with such a Muslim. But, if the latter fears that he might be led astray from the doctrines of his faith by the non-Muslim he is serving, it is obligatory for him to leave this job; and it is obligatory for others, in such circumstances, to forbid him from evil.

Q 334: My brother-in-law had, regrettably, turned a total apostate due to various reasons, so much so that it led him to commit sacrilege against certain religious sanctities. Now, years after leaving Islam, he has sent a letter informing that he has come to believe in Islam, though he never prays or fasts. What kind of contact can his parents and other members of family have with him? Is he categorized as a non-Muslim? Is it obligatory to consider him najis?

A: Presuming that his earlier apostasy is established, if he has repented later, he is considered pure, and there is no problem in his parents and other relatives having contact with him.

Q 335: Does the rule applicable to a non-Muslim apply to a person who rejects some indispensable elements of the religion, such as fasting, etc.?

A: If rejection of some indispensable elements of religion amounts to rejection of the Prophet's (s.) prophethood, denial

of the Prophet's mission, or belief that the sharī'ah is defective, then it leads to apostasy and being a non-Muslim.

Q 336: Do the punishments prescribed for an apostate and the warring non-Muslim [at war with Muslims] fall into the category of political issues and are, thus, among the duties of the leader or are they established laws which will remain unchanged till the Day of Judgment?

A: They are divine shar'ī laws.

**Part 3**  
**PRAYERS [ SALAT ]**

## Importance and Conditions of Prayers

Q 337: What is the rule concerning a person who intentionally refrains from performing prayers or someone who belittles prayer?

A: The five daily obligatory prayers are among the most important obligations in Islamic law; rather, they constitute the pillar of the faith. According to shar', forsaking their performance or belittling them is ḥarām and one who does so deserves divine punishment.

Q 338: Is performing prayer obligatory for a person who lacks the means of wuḍū' and tayammum, viz. water and any thing with which doing tayammum is correct?

A: Prayer must be performed on time, according to caution; and afterwards, it is made up in qaḍā' with wuḍū' or tayammum.

Q 339: In your esteemed opinion, what are the instances for changing the intention, i.e. to change one's prayer, during obligatory prayer?

A: Changing one's intention is obligatory in the following instances:

- i. From afternoon to noon prayer, when one realizes during prayer that he/she has not performed the noon prayer.
- ii. From 'ishā' to maghrib prayer, when one realizes during prayer, and before passing the point for changing one's intention, that one has not performed the maghrib prayer.
- iii. When one is obliged to perform two qaḍā' prayers that are to be performed in order, but forgetfully begins with the latter before performing the former.

Changing one's intention is mustaḥabb in the following cases:

- i. From an obligatory daily prayer to an obligatory qaḍā' provided that doing so does not lead to the expiration of the time of merit of the daily prayer.
- ii. From an obligatory prayer to a mustaḥabb one for the purpose of joining congregational prayer and getting its reward.
- iii. From an obligatory prayer to a recommended one at Friday's noon by a person who forgot to recite the chapter al-Jumu'ah and is reading another chapter of which he has recited

either half or more. Thus, it is mustahabb that he turns from obligatory to recommended prayer so that he may repeat the obligatory prayer including the chapter al-Jumu'ah.

Q 340: Which one of the following should be done by a person who wants to perform the Friday and the noon prayers together on Friday:

- i. Perform each of them for the sake of nearness to Allah without intending that they are obligatory?
- ii. Or to offer one of them both for the sake of nearness to Allah and that it is obligatory and the second only for the sake of nearness.
- iii. Or perform the both for the sake of nearness to Allah and that they are obligatory as well?

A: Performing each of them with the intention of doing it for the sake of nearness to Allah suffices and it is not necessary to intend that they are obligatory.

Q 341: If the mouth or the nose keeps bleeding from when the time of an obligatory prayer begins until it is about to end, what will be the prayer rule?

A: If one is unable to purify one's body and fears the expiration of the time of the obligatory prayer, he can perform this prayer in that state.

Q 342: Should the body stand still completely while reciting the mustahabb dhikrs of prayers?

A: There is no difference between obligatory and mustahabb dhikrs as far as the observing of the obligatory stillness and calmness during prayers is concerned. However, for dhikr which is not said as a part of the prayer, it is possible to say it in moving state.

Q 343: A catheter is put for some patients in hospitals to gather urine. When the catheter is in place the urine comes out of patient's body unintentionally, whether the patient is asleep, awake, or is performing prayers. In light of this, please answer the following question: Is it obligatory for him to repeat the prayer later, or does the prayer performed in such conditions suffices?

A: His prayer is valid and it is not obligatory for him to repeat it or perform its qaḍā' if he performs it, in such a condition, in accordance with his real shar'ī duty.

## Prayers Times

Q 344: What is the proof on which the Shī'ah rely concerning the times of daily obligatory prayers? As you know, at the beginning time of the 'ishā' Sunnīs say that the maghrib prayer has lapsed and has become qadā'; and so is the case with the noon and the afternoon prayer. Accordingly, they believe that when the time of the 'ishā' prayers begins and the imam stands up to perform it, the person who prays behind him cannot perform the maghrib prayer with him in order to perform both prayers side by side.

A: The proof is represented by the generality of Qur'anic verses and the noble Sunnah in addition to the traditions that specifically indicate the permissibility of performing such prayers together. Moreover, Sunnīs also have some traditions that prove the permissibility of performing the two prayers during the time of one of them.

Q 345: Keeping in mind that the time of the afternoon prayer ends at sunset and the time of the noon prayer ends a little before sunset when there is just enough time to perform the afternoon prayer, I would like to ask what is meant by "sunset"? Is it the setting of the sun or when the adhān of maghrib prayer is said (according to the local horizon)?

A: The time for the afternoon prayer ends upon the disappearance of the sun.

Q 346: How many minutes is the time gap between sunset and the time for adhān of maghrib?

A: Apparently, it varies with the change of the seasons of the year.

Q 347: Since I work until late at night I cannot return home before 11 p.m. and it is not possible for me to perform the maghrib and 'ishā' prayers while working due to the large number of clients. Is it correct to perform the maghrib prayer and the 'ishā' after 11 p.m.?

A: There is no problem in it insofar as it does not entail their postponement beyond 'midnight'. But try to perform them no later than 11p.m., rather offer prayer as soon as its time begins

if possible.

Q 348: For our prayer to be considered as *adā'* and make it possible for us to perform it with *adā'* intention, at least how much of the prayer should be done at its proper time? And what is the rule in the case of doubt as to whether that portion has been performed within the time or not?

A: Performing a single *rak'ah* of the prayer at the end of its time is sufficient for considering that it is *adā'*, and if you doubt whether the time is enough for performing at least one *rak'ah* or not, you will perform the prayer with the intention of your real duty.

Q 349: The embassies and consulates of the Islamic Republic of Iran based in other countries have prepared a timetable for the designation of *shar'ī* times in major areas and cities. My question is that, to what extent are these timetables reliable?

A: The criterion is the certainty of the *mukallaf* and if he is not convinced about the correspondence of these timetables with reality, it will be obligatory for him to observe caution and wait till he is sure that the *shar'ī* time has set in.

Q 350: What is your opinion on the issue of the true *fajr* and the false *fajr*? What is the duty of the praying person in this regard?

A: The *shar'ī* criterion with respect to the time of praying and fasting is true *fajr*, and its determination is the task of the *mukallaf*.

Q 351: In a full-time secondary school, the authorities conduct noon and *'aṣr* prayers in congregation at 2 p.m., shortly before the start of the afternoon classes. The reason for the delay is that the morning session ends 45 minutes before the *shar'ī* noon and keeping students till the *shar'ī* timing of noon is difficult. Having this in mind, what is your esteemed opinion, given the importance of performing prayer at the beginning of its time?

A: There is no problem in delaying congregational prayer so that those who want to perform prayer can gather assuming they are at school when prayer time begins.

Q 352: Is it obligatory to perform noon prayers after the adhān of noon and ‘aṣr prayers when its time has arrived, and to do the same with respect to maghrib and ‘ishā’ prayers?

A: After the time arrives, the mukallaf has the choice either to perform the two prayers together successively or to perform, each at its prescribed most excellent time of virtue.

Q 353: Is it obligatory to wait for 15 to 20 minutes for performing morning prayer during moonlit nights? Given that the time of prayer could be determined by clocks and it is possible, then, to obtain certainty concerning the occurrence of the fajr?

A: There is no difference between nights, moonlit or otherwise, as regards fajr arrival, the time of morning obligatory prayer, and the obligatory time of abstinence for fasting, though it would be good to observe caution in this regard.

Q 354: Is the amount of difference of the shar‘ī times among various provinces, which is caused by the difference of their horizons, the same with respect to the time of all three daily obligatory prayers? For example, suppose that the difference between the noon prayer timings of two provinces is 25 minutes. Does this difference remain with respect to other timings and is it the same amount? Or does it vary for the timings of morning, maghrib and ‘ishā’ prayers?

A: The sole similarity of the amount of difference between them with respect to the occurrence of fajr, noon, or sunset does not necessarily imply similarity with regard to all the other timings. Rather, the amount of difference between various cities often differs in relation to the three praying times.

Q 355: Given that Sunnīs perform maghrib prayer before its shar‘ī time, is it permissible for us to perform prayers behind them during hajj season and at other times? Do these prayers suffice?

A: It is not certain that their performance of prayer is before the arrival of its time. Joining them in their congregational prayer and praying behind them do not involve any problem and it is sufficient. However, it is necessary to wait for the specified time of prayer to arrive unless the time issue is also a

matter of dissimulation.

Q 356: The sun rises in Denmark and Norway at 7 a.m. and keeps shining in the sky till the time which corresponds to 12 p.m. in nearby countries. What is my duty with respect to performing prayers and fasting?

A: It is obligatory to observe the particular horizon of that area as far as the timing of daily prayers and fasting are concerned. If fasting is impossible or causes unbearable hardship due to the length of the day, it will cease to be obligatory in its time, and instead, it should be performed later as qadā'.

Q 357: The sunlight reaches the earth in about 7 minutes. Which one is the criterion for determining the end of the time of morning prayer: sunrise or when the sunlight reaches the earth?

A: The criterion of sunrise is its visibility on the local horizon of the praying person.

Q 358: Shar'ī timings are announced by mass media a day before. Is it permissible to rely on these announcements and consider the broadcast or the telecast of adhān as the basis for the arrival of prayer time?

A: If the mukallaf becomes confident about the beginning of the time by this means, he can rely on it.

Q 359: Does the time of prayer start as soon as adhān begins to be recited, or is it obligatory to wait till adhān is over? And is it permissible for a fasting person to end his fast as soon as adhān begins or is it obligatory for him to wait until it ends?

A: If one is certain that adhān started when the time arrived, it is not necessary to wait until its end.

Q 360: Is the prayer of someone who has performed the second of two prayers before the first — such as the 'ishā' before the maghrib — correct?

A: In case that he performed the second prayer first by mistake or unintentionally and he remembered only when he had completed the prayer, then it is correct. But if he did so intentionally, it is invalid.

Q 361: Does the time of the afternoon prayer extend until the adhān of maghrib or does it end just at sunset? Also what is the exact time of shar'ī midnight regarding 'ishā' prayer and passing the night at Mina in hajj?

A: The end limit of the time of the afternoon prayer is sunset. It is an obligatory caution — regarding the prayer of maghrib and 'ishā' and the like — to calculate the length of the night from sunset till the time of morning adhān. According to that, the end limit of the time for offering maghrib and 'ishā' prayers will be about 11:15 hours after the time of shar'ī noon. But regarding passing the night at Mina one should calculate the night from sunset to sunrise.

Q 362: What is the duty of the person who becomes aware during the afternoon prayer that he had not performed noon prayer?

A: If he starts saying the afternoon prayer thinking that he had prayed the noon prayer and during the prayer he notices his mistake, then if that happened at the time which is common between noon and afternoon prayers, he should, immediately, change his intention to the noon prayer and finish it and, then, perform the afternoon prayer. If that happens at the specific time of the noon prayer [which starts at noon time and last until it is enough for offering noon prayer, i.e. enough for four rak'ahs for the resident person and two rak'ahs for the traveling one], it will be an obligatory caution to change one's intention to the noon prayer and complete it, but he should perform both the noon and afternoon prayers later in order. The same duty is applicable to maghrib and 'ishā' prayers.

## **Qiblah**

*Qiblah is the point to which one should turn while performing prayers and is symbolized by the Ka'bah or the House of God located in Mecca.*

Q 363: Please answer the following questions:

i. It is stated based on some books of Islamic law that the sun is exactly above the Ka'bah on two days: the 25th of May and the 16th of July. In such a condition, is it possible to determine the direction of the qiblah by fixing a pole in the ground at the time of adhān in Mecca? In case the direction of qiblah in the prayer niches of masjids differs from the direction of the pole's shadow, which one is more correct?

ii. Is it correct to rely on a compass to find the qiblah?

A: It is correct to rely on the pole or compass provided that it makes the mukallaf confident with respect to the direction of qiblah and it should be acted upon. Otherwise, there is no problem in relying on the niches of masjids or the graves of Muslims in determining the direction of the qiblah.

Q 364: Is it correct to perform prayer in any direction in the course of a fierce battle when it is not possible to determine the direction of qiblah?

A: If all directions are equally probable and there is enough time, one should perform prayer in four directions, as per obligatory caution. But in the shortage of time one should repeat the prayer to every direction that he thinks it may be the correct one as much as time allows.

Q 365: How should one face the qiblah at the point which is the opposite to the Holy Ka'bah on the other side of the earth so that the line drawn from the Holy Ka'bah passing through the center of the earth comes out of the other side of the earth at this point?

A: The basis in facing the qiblah is to turn towards the Free House [Ka'bah] in such a manner that someone who stands on the surface of the earth faces the Holy Ka'bah that is built upon the earth's surface in Mecca. Therefore, if one stands at a point on the earth where the straight lines emanating from it in

four directions and passing over the earth's surface towards the Holy Ka'bah are equal in distance, he can pray to any direction he wishes. But, if the distance in some directions is shorter to the extent that the realization of facing qiblah varies according to common view, it will be obligatory to choose the direction of the shorter distance.

Q 366: What should a person do in a place where he does not know the direction of the qiblah for sure or with probability, i.e., all four directions enjoy equal chances to be that of the qiblah?

A: In the given question it will be obligatory, as per obligatory caution, to perform the prayer in all four directions and if there is not enough time for offering four prayers, one should perform the prayers in as many directions as time allows.

Q 367: How is the direction of the qiblah determined and how should prayer be performed at the north and South Pole?

A: The criterion in determining the direction of qiblah at the two Poles is to find the shortest line from the location of the praying person to the Ka'bah passing on the surface of the earth and then, to face qiblah along that line.

## The Place of Praying

Q 368: Is one permitted to sit in, perform prayers in, or pass through places that have been usurped by a tyrannical regime?

A: Assuming certainty about usurpation, the rules and consequences of the usurped [places] will apply to it.

Q 369: What is the rule with respect to performing prayer on land that used to be an endowment in the past and the government has taken it over and built a school on it?

A: If there is a considerable probability that the said making use of the land by the government has been due to a shar'ī justification, there will be no problem in performing prayers on it.

Q 370: A person performed prayers, for a period of time, on a prayer mat or in a dress out of which khums was to be paid. What is the state of these prayers?

A: If he was unaware of the fact that these things are subject to khums, or of the rule of making use of them, the prayers performed would be considered valid.

Q 371: Is it true that men should stand in front of women while performing prayer?

A: By obligatory caution, there should be a distance of — at least — one hand span between a man and a woman who are praying. In this case, their prayers are valid if they are in the same row or she stands in front of him.

Q 372: What is the rule with respect to hanging the photographs of Imam Khomeini (q.) and the martyrs of the Islamic Revolution in the masjids, given that Imam Khomeini (q.) expressed his desire not to have his photographs fixed in the masjids and there is also a view that considers such an act as *makrūh*?

A: There is no objection to doing so. But if they are in the place where people say their prayers, it is better to cover the photographs at the time of prayer.

Q 373: A person has been living in a house owned by the government and after the allotted time for his residence is over, he

is given a notice to vacate it. What is the rule pertaining to his prayers and fasting after the deadline fixed for its evacuation expires?

A: If he is not allowed by the concerned authorities to reside in the house after the deadline, all kind of making use of the house will be considered as acts of usurpation.

Q 374: Is it makrūh to perform prayer on a prayer mat that has pictures on it or on clay [turbah] with engravings?

A: It is not problematic in itself but if it provides an opportunity for those who always accuse Shī'ah, it will be obligatory to refrain from manufacturing such things and performing prayers on them. Also, if it entails absent mindedness and loss of concentration during prayer, it will be makrūh.

Q 375: The place we perform prayer is not pure but the place of prostration is. Is our prayer correct?

A: If the najāsah of the place does not transfer to one's clothes or body and the place of prostration is pure, there will be no problem in performing prayer there.

Q 376: The present building of the office where we work used to be the site of a graveyard in the past. About forty years ago it was abandoned and thirty years ago this building was constructed. Now, all the lands around the office have been built on, and there remains no sign of the graveyard. Please clarify whether it is correct for the employees to perform prayer in such an office from the viewpoint of Islamic law?

A: The different kinds of making use of such an office and performing prayer in it are allowed without any problem unless it is proved through a sharī way that the ground upon which this office has been built is an endowment for the burial of the dead and it has been used for building through illegal ways as per shar'.

Q 377: Some faithful youths have decided to hold prayers in parks on one or two days of the week for the sake of enjoining the good. Some respected and elderly people objected to it saying that the ownership of such places is not clear. What is the ruling with regard to performing prayer in such places?

A: There is no problem in using present parks and the like for such activities as holding prayers, etc. The mere probability of usurpation is not to be taken into consideration.

Q 378: In our city, there were two adjacent masjids separated by a wall. Some time ago, some pious people removed a large part of that wall with the purpose of connecting the two masjids. This became the cause of doubt for some people with respect to performing prayers in both masjids. They still doubt. Please advise what is to be done in this case?

A: The destruction of the wall separating the two masjids does not cause any problem with performing prayers in them.

Q 379: There are some restaurants on the roads next to which there exist places for performing prayer. If one does not eat in those restaurants, will he be allowed to perform prayer in those places or does he have to seek permission from the owners of the restaurants?

A: If there is a probability that the place for performing prayer belongs to the owner of the restaurant and that the right to take advantage of it is exclusive to those who eat in that restaurant, it will be obligatory for him to ask for permission.

Q 380: Will the prayer of a person be valid if he performs it on usurped land while standing on a prayer mat or a wooden board or something similar?

A: The prayer performed on usurped land is void even if one stands on a prayer mat or something else put on the land.

Q 381: In some governmental companies and institutions, there are some people who do not attend congregational prayers held in them with the excuse that such places were taken over from their owners upon the orders of a shar'ī court. Please state your honored opinion in this matter?

A: If there is a probability that the judge who issued the confiscation order enjoys legal competence and did so according to shar' and legal criteria, then his act will be considered valid, and therefore, it will be permissible to carry out every kind of activity in that place and the rules of usurpation do not apply to it.

Q 382: If there is a masjid next to a ḥusayniyyah, will it be correct to perform congregational prayer in the ḥusayniyyah? Are the rewards of such prayers equal in both places?

A: There is no doubt that the merit of performing prayer in a masjid is more than that performed in any other place. However, there is no shar'ī obstacle to performing congregational prayer in a ḥusayniyyah or in any other place.

Q 383: Is it correct to perform prayer in a place where forbidden music is being played?

A: If it entails listening to a ḥarām kind of music, staying there is not permissible, although performing prayer is considered valid. If the sound of music distracts one's attention and concentration, performing prayer there will be makrūh.

Q 384: What is the rule concerning the prayer of those who are sent on a mission in a boat when the prayer time begins in such a way that if they do not pray there, they will not be able to perform it thereafter in its specific time?

A: In the mentioned condition it is obligatory for them to perform prayer at its time in any possible way even inside the boat.

## Rules of Mosque

Q 385: Given that performing prayers in the neighboring masjid is mustahabb, is there any problem in leaving the neighboring masjid in order to go to the jāmi' masjid of the city to perform congregational prayer?

A: There is no problem if one abstains from going to the local masjid in order to attend the congregational prayer of another masjid, particularly the jāmi' masjid of the city.

Q 386: What is the rule with regard to performing prayers in a masjid which some people who participated in its construction claim that they built for themselves and their tribe?

A: After being built as a masjid it does not belong to a specific nationality, group, tribe, or individuals, and it is permissible for all Muslims to make use of it.

Q 387: Is it more preferable for women to perform prayer in a masjid or at home?

A: The merits of performing prayer in a masjid are not restricted to men.

Q 388: At present, there is a short wall between Masjid al-Ḥarām and the passage between Safā and Marwah. This wall measures half a meter high and one meter wide and is shared by both the Masjid and the passage of sa'y. Could women sit on this wall during their period when it is not permissible for them to enter Masjid al-Ḥarām?

A: There is no problem in doing so unless one becomes certain that the wall is a part of the Masjid.

Q 389: Is one permitted to do sports exercises or sleep in a local masjid? What is the rule of doing so in other masjids?

A: A masjid is not a place of sport exercises and any practice incompatible with its standing and prestige should be avoided. Also sleeping inside a masjid is makrūh.

Q 390: Is it permissible to use the yard of a masjid for providing youngsters with intellectual, cultural, ideological and military (through military lessons) information? And what is the

shar‘ī rule of practicing these actions in the portico of a masjid (taking into account the shortage of places designated for such purposes)?

A: It depends on the conditions of the endowment of the yard and portico of the masjid and it is obligatory to seek the advice of the congregational prayer imam and the board of trustees of the masjid in this regard. Of course the presence of the youth in masjids and setting up religious classes upon the permission of the imam and the board of trustees are desirable and *mustahabb* matters.

Q 391: In some areas, particularly in villages, people hold wedding ceremonies in masjids. That is, they perform all celebrations involving dance and music at home, but serve lunch or dinner in the masjid. Does Islamic law permit this?

A: There is no problem, in itself, in serving food to guests in a masjid.

Q 392: A cooperative builds residential quarters and it is initially agreed upon that those areas include public places such as masjids. Now that residential units are prepared and have been submitted to the company’s shareholders, could some of them breach their agreement by saying that they are not content with building the masjid?

A: If the company builds the masjid upon obtaining the agreement of all of its members and the masjid is constructed and endowed, the withdrawal of some members from the previous agreement will have no effect. If, however, their change of mind occurs prior to the realization of the masjid’s endowment, construction of the masjid using members money on the land which belongs to all members without their consent will be impermissible unless it is stated as a condition in a binding contract that a part of the land is allocated for the construction of the masjid and the members have accepted this condition. In such a case, they have no right to change their minds and their withdrawal will have no effect.

Q 393: In order to combat the non-Islamic cultural invasion, we gathered about 30 students from elementary and high schools in the form of song bands in the masjid. The members of these

bands participate in classes on the Qur'an, the practical laws of Islam, and Islamic ethics appropriate to their age and intellectual level. What is the rule regarding such activities? What is your ruling on playing a musical instrument called organ by this band? And what is the rule of playing this instrument in the masjid while observing shar'ī standards?

A: There is no problem in having classes on Qur'an, practical laws of Islam, Islamic ethics and practicing religious and revolutionary songs in a masjid. But it is obligatory to show appropriate respect for the status, sacredness, and position of the masjid and it is impermissible to annoy and disturb the praying persons.

Q 394: Is it allowed, according to Islamic law, to show movies distributed by the Ministry of Islamic Guidance (in Iran) in a masjid for people who come to Qur'anic programs?

A: It is not permissible to convert a masjid to a place for showing movies, but there is no problem in showing religious and revolutionary movies with useful and educational content on special occasions when the need arises and under the supervision of the imam of the masjid.

Q 395: Is there any objection, according to Islamic law, to playing cheerful music in the masjid on the occasion of the birthdays of the Infallible Imams (a.)?

A: The masjid has obviously a distinguished shar'ī status. Therefore, if playing music is not appropriate to its status; it will be ḥarām even if the music being played is not exhilarating and enrapturing.

Q 396: When is it permissible to use loudspeakers of a masjid to broadcast programs outside? And what is the ruling with respect to playing Qur'anic cassettes and revolutionary songs prior to adhān?

A: There is no problem in relaying the recitation of the Holy Qur'an over the loudspeaker for a few minutes prior to adhān when it does not cause discomfort and disturbance for neighbors and the residents of the area.

Q 397: How do you define a jāmi' masjid?

A: It is a masjid built in the city for the gathering of most of the residents of that city without being specific for a particular tribe or group of people.

Q 398: A roofed section of a masjid has been left vacant and no prayers have been performed there for the last thirty years. Now, it has become a ruin and a part of it is used as storage. Recently, some repairs have been done in this masjid by the Basīj Forces that have been headquartered in its roofed section since approximately 15 years ago. The reason for these repairs was the inappropriate condition of the building, especially that the roof was about to fall. Since the brothers in the Basīj Forces were unaware of the rules of masjid, and those who knew the rules did not guide them, the brothers built a number of rooms in a part of this section spending large amounts of money on the project. Now that construction operations are nearly completed, we would be grateful if you clarify the shar'ī rule concerning the following matters:

- i. Assuming that those in charge of this project and those supervising it were unaware of the rule, are they considered liable, according to shar', for the expenditures spent out of the public assets of Muslims? And are they sinners or not?
- ii. Given that the expenditures were obtained from the public assets of Muslims, would you allow — as long as the masjid does not need this part and no prayers is performed there — that these rooms are used, in full compliance with shar'ī rules and restrictions concerning a masjid, for educational purposes like teaching the Holy Qur'an and practical laws, and for other affairs of the masjid? Or is it obligatory to destroy those rooms?

A: It is obligatory to restore the roofed part of the masjid to its original condition by demolishing the rooms that were built in it. As regards the expenditures, it is not certain whether anyone is responsible for them as long as there was no extravagance, wastefulness, wantonness and negligence. There is no problem in using the roofed section of the masjid for holding classes of the Holy Qur'an, laws, and Islamic theology and engaging in other religious ceremonies as long as such activities do not disturb those who are performing prayers and are held under the supervision of the imam of the masjid. The imam, the

Basīj Forces, and other persons in charge of the masjid should cooperate to preserve the attendance of Basīj Forces in the masjid as well as to prevent any disorder in its worship related duties such as prayers, etc.

Q 399: Several masjids are located inside the area covered by a road-widening project. Therefore, it is necessary to demolish some of these masjids completely and some others partially in order to facilitate the traffic of motor vehicles. Please clarify your esteemed opinion in this regard.

A: It is not permissible to demolish a masjid or a part of it except when there is a specific advantage which cannot be neglected and ignored.

Q 400: Is it permissible for people to make personal use of a small quantity of a masjid's water, which is specifically there for performing wuḍū'. For example, could shopkeepers use it for drinking cold water, making tea, or for their cars, given that the masjid has no single endower who can prevent people from doing so?

A: If it is not known that the masjid's water is endowed to be used for wuḍū' only by those who want to perform prayer, and in the masjid's area the neighbors and passers-by usually use such water, there will be no problem with it, although observing caution in this regard is preferred.

Q 401: There is a masjid near a graveyard. When some believers come to pay a visit to the graves of their dead, they take water from the masjid to pour over the gravestones. We do not know whether this water has been endowed for the masjid or may be subject to general use. And assuming that we know that the water is not endowed for the masjid, and we do not know whether or not it is allocated for use in wuḍū' and toilet uses, is it permissible to use the water in the said way?

A: There will be no problem in taking water from the masjid for pouring over the gravestones located outside if it is commonly practiced, nobody objects to doing that, and there is no evidence suggesting that the endowment was specifically for wuḍū' and purification only.

Q 402: Is the permission of the authorized religious authority or his attorney required when a masjid needs to be repaired?

A: For the voluntary repair of a masjid — spending one's own money or the money of charitable contributors — there is no need to acquire any permission from the authorized religious authority.

Q 403: Is it permissible for me to make a will that I should be buried in the local masjid to which I have made many contributions? That is because I would like to be buried in that masjid, whether inside or in its yard.

A: If the burial of a dead is not excepted at the time of pronouncing the formula of the endowment, it is not permissible to bury anybody there, and therefore, your will in this regard has no validity.

Q 404: A masjid was constructed about 20 years ago and decorated with the lovely name of Ṣāḥib al-Zamān, (may Allah hasten his reappearance). Given that it is not known whether this name was mentioned in the endowment formula of the masjid, what is the rule of changing the masjid's name from 'Ṣāḥib al-Zamān' to jāmi' masjid?

A: There is no problem in the mere change of the masjid's name.

Q 405: Some masjids have been equipped with electricity and air conditioners by using nadhr money and believers' gifts to these masjids. Whenever one of the neighboring residents dies, ceremonies for reciting the Fātiḥah are held for him in the masjid and the masjid's electricity and air conditioning system are used during the service but the organizers do not pay anything towards the expenses of such usage. Is this permissible according to Islamic law?

A: The permissibility of using the facilities of the masjid for special mourning events and the like is dependent on the conditions of the endowment or donation of those facilities as nadhr for the masjid.

Q 406: There is a newly built masjid in a village (on land where the old masjid stood). Due to the lack of knowledge, a room

was constructed for making tea in a corner of this masjid, the land of which was a part of the old masjid. Furthermore, a library was built on the rooftop of the terrace that exists inside the masjid. Please express your honor's opinion on this matter and also the completion of, and how to use, the interior half of the building?

A: Building a tearoom on the land of the old masjid is not correct and it is obligatory to restore the place to its previous status of being a masjid. The same rule applies to both the rooftop of the masjid and the masjid itself and all rules and shar'ī effects pertaining to the masjid also apply to its rooftop. However, there will be no problem in setting up bookcases there and gathering there for the purpose of reading books if such things do not disturb praying persons.

Q 407: In a village, there is a masjid which is going to be ruined. Since this masjid does not obstruct any path or route, there is no justification for demolishing it. Is it permissible to demolish this masjid completely? Besides, this masjid has certain equipments and properties. To whom should these things be given?

A: It is not permissible to demolish and destroy a masjid. Generally speaking, a masjid does not cease to be a masjid merely due to demolishing it. As for the assets of the masjid, if there is no need for using them there, there is no problem in transferring them to other masjids so that they are used.

Q 408: Is it permissible, according to Islamic law, to build a museum in a corner of the yard of a masjid without interfering with the masjid's building itself, just like a library that constitutes a part of the masjid's construction at the time being?

A: It is not permissible to build a museum or a library in a corner of the masjid's yard if it is against the specifications of the endowment of the masjid's hall, terrace, or yard, or results in a change in the masjid's building. It is preferred that you build another place adjacent to the masjid for the said purpose.

Q 409: There is an endowed place where a masjid, a school for Islamic studies, and a library are built and all of them are currently operational. This place is a part of the map of the places

that are to be demolished by the municipality. How could we cooperate with the municipality for the destruction of these places and obtain clearance from them to build better places?

A: If the municipality demolishes them and compensates for them, there is no objection to it. However, the very demolishing of an endowed masjid or school is not permissible unless there is a more significant interest that could not be overlooked.

Q 410: In order to enlarge a masjid here, it has become necessary to cut down some of the trees which exist in its yard. Given that the masjid's yard is quite big and it has numerous trees, is it permissible to do so?

A: There is no problem in it if cutting the trees is not considered an alteration in the endowment.

Q 411: What is the ruling with regards to the land that was originally a part of the roofed section of a masjid but was altered to a street after the masjid was included in the municipality's development plan and a part of it was demolished due to necessity?

A: Application of the rules for masjids to it is not certain if the probability of the restoration of the land to its original status of a masjid is faint.

Q 412: There was a masjid that had been destroyed and its traces are completely effaced or another building has been built in its place and there is no hope that the building of the masjid will be restored, for example, all surrounding buildings are ruined and the people have moved to another area. Is the act of making this place najis ḥarām and is purifying it obligatory?

A: In the given question, it is not certain that it is ḥarām to make this place najis, although it is a caution not to make it najis.

Q 413: I have been conducting congregational prayers at a masjid for a while having no information about the details of the masjid's endowment. Given that this masjid is presently facing numerous financial difficulties, is it permissible to rent out

its basement to do something that fits the masjid's status?

A: There is no problem in it if the title of 'masjid' does not apply to the basement, the basement is not considered a part of the facilities that the masjid needs, and it is not endowed to be utilized itself.

Q 414: The masjid does not have any properties through which its affairs could be run. The supervisory board has proposed digging a basement under the roofed section of the masjid in order to build a small factory and facilities for public utilities for the service of the masjid. Is this permissible?

A: It is not permissible to dig a basement under the roofed section in order to set up a small factory or the like.

Q 415: In general, is it permissible for non-Muslims to enter Muslims' masjids even for the purpose of visiting ancient monuments?

A: According to shar', they should not enter Masjid al-Ḥarām. If their entrance to other masjids is considered to entail disgrace and disrespect to the sanctity of the masjid, it is, also impermissible; in general, they should not enter any masjid.

Q 416: Is it permissible to perform prayers in a masjid built by non-Muslims?

A: There is no objection to performing prayers in it.

Q 417: Is it permissible to accept the money or other kinds of donations offered by non-Muslims for building a masjid?

A: There is no objection to it.

Q 418: What is the duty of someone who enters a masjid at night, sleeps there, and has a nocturnal emission but cannot leave the masjid after he wakes up?

A: If there is no way that he can leave the masjid and go to somewhere else, it is obligatory for him to perform tayammum at once which makes it permissible for him to remain in the masjid.

## Rules Regarding Other Religious Places

Q 419: Is it permissible to register a ḥusayniyyah under the names of certain persons?

A: It is impermissible to register a ḥusayniyyah that is endowed for holding religious ceremonies as private property and there is no need to register it — as an endowment — under the names of specific persons. In any case, registering it as an endowment under the names of some persons is better done after obtaining the permission of all those who contribute in its construction.

Q 420: It is stated in the books on practical laws that it is not permissible for a junub person or a menstruating woman to enter the shrines of the Imams (a.). Please explain whether what is meant by the shrines is only the area beneath the dome or does it include all buildings connected to that area?

A: The shrine means the area under the blessed dome and that which is commonly recognized as the shrine and the holy place where an Imam (a.) is buried. As far as the attached building and porches are concerned, they are not subject to the rules of the shrine; therefore, there is no problem in the entrance of a junub person or a menstruating woman in them except those sections that have the title of masjid.

Q 421: A ḥusayniyyah was built next to an old masjid. At present, this masjid does not have enough space to accommodate all of the people who want to perform prayer. Is it permissible to incorporate the said ḥusayniyyah to this masjid and use it as a part of the masjid?

A: There is no problem in performing prayers in the ḥusayniyyah. However, if the ḥusayniyyah has been endowed correctly, according to shar', as a ḥusayniyyah, it is not permissible to transform it to a masjid or incorporate it to the adjacent masjid under the title of masjid.

Q 422: Could the carpets and properties donated — as nadhr — to the shrine of one of the descendants of the Imams (a.) be used in the jāmi' masjid of an area?

A: There is no problem in it provided that they are in excess of

the needs of the shrine and its visitors.

Q 423: Do the rules of a masjid also apply to the takiyahs that are founded under the name of Abulfaḍl (a.), etc.? Please, clarify the rules of such centers.

A: The rules of a masjid do not apply to takiyahs and ḥusayniyyahs.

## **Clothes Of The Praying Person**

Q 424: Will my prayer be invalid if I perform them in clothes that I doubt are najis?

A: Clothing which one doubts is najis is considered pure and it is correct to perform prayer in it.

Q 425: I purchased a leather belt from Germany. Is there any shar'ī problem in performing prayers with it if I doubt whether it is made of natural or synthetic leather or whether the leather belongs to an animal that is slaughtered ritually? And what is the ruling with respect to the prayers that I performed while having the belt on?

A: If you doubt whether it is made of natural leather or not, there is no problem in performing prayers with it on. But, if you know it is made of natural leather but doubt whether it is from an animal that was ritually slaughtered or not, even though it is ruled as pure, it is unlawful to pray in it. Nevertheless, the prayers performed in the past are considered valid and there is no need to make them up if you were ignorant of this ruling.

Q 426: If someone is sure that there is no najis substance on his clothes or body and performs his prayer but realizes afterwards that his body or clothes were najis; is the prayer he performed invalid? What will be the ruling if he realizes this matter during his prayer?

A: If someone is not aware at all that his body or clothes are najis and comes to know it only after the end of the prayer, it is valid, and it is not obligatory for them to repeat, or perform the qadā' of that prayer. But, if they notice the matter during the prayer, it will be obligatory for them to remove the najāsah from their body or take off the najis clothing during the prayer — provided that they can do so without committing anything that contradicts the prayer — and complete their prayer. If they are unable to remove the najāsah while preserving the status of the prayer and there is enough time, it is obligatory for them to break the prayer and resume it after the removal of the najāsah.

Q 427: A person used to perform his prayers for a period of time while wearing clothes made of the leather of an animal about which there was doubt as to whether it was ritually slaughtered and he did not know that it is not actually correct to perform prayers in such clothes. What should he do now? In general, what is the ruling on an animal about which there was doubt as to whether it was ritually slaughtered?

A: The rule for such an animal is similar to the rule for an animal that was not ritually slaughtered in that it is ḥarām to eat the meat or to perform prayer with the leather, but it is considered pure. Nevertheless, if the previous prayers were performed in ignorance about this rule, they are ruled as correct.

Q 428: A woman realizes during her prayer that some of her hair is unveiled and immediately covers it. Is it obligatory for her to repeat that prayer?

A: It is not obligatory to repeat that prayer as long as unveiling the hair is not intentional.

Q 429: Due to urgency, a person is compelled to clean his urinary outlet using a piece of wood, stone or something else. Then he washes that part with water after returning home. Is it obligatory for him to change or purify his underwear in order to perform prayer?

A: It will not be obligatory for him to purify his clothes if they have not been made najis by the wetness of the urine.

Q 430: Some imported industrial machines are installed with the assistance of foreign experts who are considered, according to Islamic law, non-Muslims and najis. The activation of these machines is accomplished through their lubrication or other actions done by hand. Therefore, these machines cannot be pure. Given that workers' clothes and bodies always touch these machines during the work, and they do not have enough time throughout working hours to purify their cloths and bodies completely, what is their duty with respect to performing prayer?

A: Due to the probability that the non-Muslim who activates the machines is from the People of the Book, who are considered pure, or that he wears gloves while working, no

certainty emerges concerning the najāsah of the place and machines merely by knowing that they are activated by a non-Muslim. However, if there is certainty about the najāsah of the machine and that workers' bodies and clothes contact it with transmitting moisture while working on it, it is obligatory to purify their bodies and purify or change their clothes for prayer.

Q 431: If a praying person carries a handkerchief or something similar that is made najis by blood or has such things in his pocket, will his prayer be void?

A: If the handkerchief is too small to cover one's private parts, there is no problem in it.

Q 432: Is it correct to perform prayer in clothes that are scented with modern perfumes containing alcohol?

A: There is no problem in performing prayer in it as long as the perfume in question is not known to be najis.

Q 433: How much of the body a woman should be covered in prayer? Is there any problem with short-sleeved clothes and in not wearing socks?

A: Women should cover the whole body except the area of the face washed during wuḍū', the hands up to the wrists, and the feet up to the ankles provided that the dress should really cover the body. In the presence of a non-maḥram the feet should be covered as well.

Q 434: Is it obligatory for women to cover their feet during prayer?

A: Covering the feet up to the ankles is not obligatory as long as no non-maḥram is there.

Q 435: Is it obligatory to cover one's chin completely when wearing ḥijāb and performing prayer or is it sufficient to cover the lower part of it? And is the obligation of veiling the chin a preliminary step for the obligatory face veil in shar'?

A: It is obligatory to cover the lower part of the chin not the chin itself, because it is a part of the face.

Q 436: Does the rule relating to the correctness of prayer prayed with an extrinsically najis thing that is not enough to cover one's private parts apply only to the cases of forgetting of, or ignorance of, the rule or the subject, or does it cover cases of ambiguity with respect to the case or to the rule?

A: The rule is neither specific to the case of forgetfulness nor to that of ignorance. Rather, it is permissible to perform prayers along with carrying an extrinsically najis thing which is not sufficient to cover the private parts even if one knows about it.

Q 437: Does the existence of the hair or saliva of a cat on a person's clothes cause his/her prayer to be invalid?

A: Yes, it invalidates the prayer.

## **Wearing and Using Gold and Silver**

Q 438: What is the rule of wearing gold rings by men, (particularly during prayers)?

A: A man is not allowed to wear a gold ring at all, and the prayer he performs while wearing it is void as per obligatory caution.

Q 439: What is the rule of wearing white gold rings by men?

A: If the so-called white gold is the known yellow gold which is mixed with a substances that makes its color white, it is ḥarām. While if the amount of gold in it is so small that in the common view it is not called it gold anymore, it is not forbidden to wear it. Platinum is also no problem.

Q 440: Is there any problem, according to shar‘, in wearing gold when it is not for beautification purposes and the gold is not visible to others?

A: It is absolutely ḥarām for men to wear gold whether ring or something else even though it is not for adorning purposes and the gold is hidden from others.

Q 441: What is the ruling with respect to wearing gold by men for a short period? We ask this question because there are some people who claim that there is no problem in wearing gold for a short period such as the time of marriage.

A: Wearing gold is ḥarām for men, whether for a short period or a long one.

Q 442: Taking into consideration the rules regarding the clothes of a praying person and that wearing gold as an adornment is forbidden for men, please answer the following two questions:

i. Does adorning with gold mean any use of gold by men even in bone surgery and dentistry?

ii. Given that, according to a tradition in our area, newly married youths wear engagement rings made of yellow gold, and this action is by no means considered by ordinary people as an adornment for men, but as a sign of the beginning of the individual’s marital life, what is Your Eminence’s opinion in this

regard?

A: i. The criterion in the prohibition of wearing gold by men is not that it falls under the category of adorning, rather it includes all forms and purposes of wearing gold. Therefore, it is ḥarām even if it happens to be an ordinary or wedding ring, chain, etc. However, there is no problem in the use of gold for men in bone surgery and dentistry.

ii. Wearing rings made of yellow gold is ḥarām for men in any case.

Q 443: What is the rule of selling and making golden jewelry which is specifically to be used by men and not worn by women?

A: Making golden jewelry to be specifically used by men is ḥarām. Similarly, it is not permissible to buy and sell it for that purpose.

Q 444: We see in some parties that sweets are served on silver plates. Is this action considered an example of eating from a silver plate? And what is its rule?

A: If to take food or the like from a silver plate for the purpose of eating is considered as eating from a silver plate, it is ḥarām.

Q 445: Is there any problem in having one's tooth covered with gold? What is the rule of having it covered with platinum?

A: There is no problem in having one's teeth covered with gold or platinum. However, a problem arises in the case of covering the front teeth with gold for the purpose of adornment.

## **Adhān and Iqāmah**

Q 446: In our village, the person who says the morning adhān during the blessed month of Ramadan always does so a few minutes before the beginning of the time so that people may continue eating and drinking until the middle or end of the adhān. Is it correct to do so?

A: If raising the adhān does not lead to people's confusion, and is not intended as an announcement of the arrival of the time of fajr, there will be no problem in it.

Q 447: Some individuals have started, with the aim of announcing prayer time arrival, to say adhān in groups in public places. All praise be to Allah! This activity has had a great effect in preventing overt corruption in the area and in encouraging people, especially the youth, towards the timely performance of prayers. However, someone has stated that this action is not specifically mentioned in the sources of Islamic law, and therefore it is an innovation. This statement has caused some doubt. What is your esteemed opinion?

A: Reciting adhān at the beginning of the times of daily obligatory prayers, its repetition by the listeners, and raising one's voice while reciting it are among the most highly mustahabb actions in the viewpoint of shar'. There is no problem in saying the adhān in a group form around public places as long as it does not lead to obstruction of the way or harassment of others.

Q 448: Since saying adhān loudly is a religio-political act which involves a great reward, the believers decided to do so on the roofs of their houses without using a loudspeaker at the time of obligatory prayer, particularly the morning prayers. What is the rule of such an action in case of objection by some neighbors?

A: There is no problem in saying the adhān in a conventional form on the roofs of houses.

Q 449: What is the rule with respect to relaying the special programs of saḥar in the holy month of Ramadan through the masjid's loudspeakers so that everyone hears it?

A: There is no problem in doing so in areas where most people are awake during the nights of the holy month of Ramadan for reciting the Holy Qur'an and supplications, attending religious ceremonies and so on. But if it annoys the masjid's neighbors, it will be impermissible.

Q 450: Is it allowed in masjids and other centers to broadcast Qur'anic verses before morning adhān and supplications after with such a very loud volume that it is heard from a distance of several kilometers, given that this occasionally continues for more than half an hour?

A: There is no problem in broadcasting the adhān in a usual and common way by means of a loudspeaker to announce the beginning of the time of morning prayer. But there is no shar'ī justification for, and rather there is a problem in, broadcasting Qur'anic verses, supplication, and the likes at any time using a loudspeaker in the masjid when it annoys the neighbors.

Q 451: Is it permissible for a man to suffice, for his prayer, with the adhān of a woman?

A: It is problematic for him to suffice with her adhān.

Q 452: What is your esteemed opinion on the third testimony for the master of believers, Imam Ali (a.), as being the commander and the leader, in the adhān and iqāmah of obligatory prayers?

A: Saying "Ashhadu anna 'Aliyyan Waliyyullāh" in adhān and iqāmah with the intention of being a symbol for the Shī'ah school of thought is good and important and it should be said only for the sake of nearness to Allah, but it is not a part of adhān and iqāmah.

Q 453: I have been suffering from back pain for a long time which sometimes becomes so severe that it prevents me from praying while standing. Taking into consideration that if I want to perform my prayer at its beginning time, I will be compelled to do it in a sitting position, while if I wait, it may be possible for me to pray it at the end of its specific time in standing position, what is my duty in this situation?

A: If there is a likelihood that you will be able to offer your

prayer standing late in its time, it is an obligatory caution that you must wait until that time. But if you had performed your prayer sitting at the beginning of its time due to an excuse that continues until end of the time, your prayer is correct and you do not have to repeat it. However, if you are not able to pray in a standing position early during prayer time and you are sure that this excuse will continue until the time ends but it disappears and praying in standing position becomes possible before the time expiration, you are obliged to repeat your prayer standing.

## **Recitation [of the Fātiḥah and the Other Chapter] and its Rules**

Q 454: What is the rule regarding the prayers in which our recitation of al-Fātiḥah and the other chapter is not loud?

A: It is obligatory for men to recite the chapter the Fātiḥah and the other chapter loudly in the morning, maghrib, and 'ishā' prayers, and their prayer is void if they intentionally recite them quietly, but if they do so unintentionally or out of ignorance, their prayer is correct.

Q 455: While performing the qaḍā' of morning prayer, should the 'recitation' be done loudly or quietly?

A: It is obligatory to recite the Fātiḥah and the other chapter loudly in morning, maghrib, and 'ishā' prayers whether the prayers are performed on time or later and at all times even if their qaḍā' is being performed during the day. If one intentionally does not recite them loudly, his prayer is void.

Q 456: We know that each prayer consists of intention, takbīrah al-iḥrām, the Fātiḥah, the other chapter, rukū', and prostration. On the other hand, it is obligatory to recite quietly the noon and afternoon prayers, the third rak'ah of the maghrib, and the last two rak'ahs of 'ishā' prayers. However, in the Radio and the TV, the dhikrs of rukū' and prostration of the third rak'ah are read loudly. Given that these rukū' and prostration are parts of a rak'ah in which quiet recitation is obligatory, what is the rule regarding this matter?

A: The obligation of loud recitation in maghrib, 'ishā' and morning prayers and of quiet recitation in the noon and afternoon prayers are limited to the recitation of the Fātiḥah and the other chapter, just as the obligation of quiet recitation in the rak'ahs other than the first two rak'ahs of maghrib and 'ishā' prayers applies only to the recitation of the Fātiḥah or the tasbīḥāt al-arba'ah of those rak'ahs. As for the dhikrs of rukū' and prostration and also tashahhud and salām and other obligatory dhikrs of the five daily prayers, the mukallaf has the choice to recite in either way, loudly or quietly.

Q 457: If someone wants to perform, in addition to the

seventeen daily rak'ahs, another seventeen rak'ahs of qaḍā' prayers by way of caution, will it be obligatory for him to recite loudly or quietly in the first two rak'ahs of morning, maghrib, and 'ishā' prayers?

A: With respect to the obligation of loud or quiet recitation in daily prayers, there is no difference between adā' or qaḍā' prayers even when their qaḍā' is performed by way of caution.

Q 458: We know that the word "ṣalāt" [prayer] ends with "t" but in adhān it is said: "ḥayya 'alaṣṣalāh" [hurry up for prayer] ending with "h". Is this correct?

A: There is no problem in ending the word "ṣalāt" with "h" while stopping at the end of the word. Rather, it is obligatory.

Q 459: Given that, in his commentary on the blessed chapter of the Fātiḥah, Imam Khomeini (q.) prefers the word "malik" over "mālik" is it correct to pronounce the word in both ways while reciting this holy chapter in obligatory and non-obligatory prayers for the sake of caution?

A: There is no problem in observing caution in this respect.

Q 460: Is it correct to stop, without immediate transfer to the rest of the sentence, after reciting "ghayr il-maghḍūbi 'alayhim", and then start reading "Wa laḍ-ḍallīn"? And is it correct, while reciting "Allāhumma ṣalli 'alā Muhammad wa āli Muhammad" in tashahhud, to stop after the word "Muhammad" (s.) and then to continue by reciting "wa āli Muhammad"?

A: It does not harm as long as it does not reach the point of disturbing the integrity of the sentence.

Q 461: The following question had been directed to Imam Khomeini (q.): "Considering that there are several opinions on the pronunciation of the Arabic letter 'Ḍād' in the science of tajwīd, what is your view?" Imam replied: "It is not obligatory to know the points of articulation of letters according to the opinions of tajwīd experts; rather, one should pronounce every letter in a way that it is considered correct according to the common view of the Arabs."

My question is:

i) What is the meaning of the phrase “that it is considered correct according to the common view of the Arabs”? And is it not correct that the rules of tajwīd — like Arabic grammar rules — have been derived from the Arabs’ usage of the language? If so, how could the two be separated from one another?

ii) If someone is sure — based on a reliable method — that he does not pronounce or articulate the letters correctly and he has the ability and opportunity to learn this science, would it be obligatory for him to learn the proper pronunciation as much as possible?

A: The standard for correct pronunciation is its compliance with the way the native speakers, from whom the rules of tajwīd have been derived, pronounce the letters when they read. Therefore, if a difference of opinions among scholars of tajwīd as to what constitutes the correct pronunciation stems from a difference in understanding of how native readers recite, the practice of the native readers itself will be the standard. But if the difference of opinion stems from the actual diversity of their method of pronunciation, the mukallaf may choose the opinion he wishes to follow. The person, who thinks that his recitation is incorrect, is obliged, as far as he can, to learn the correct recitation of the Qur’an.

Q 462: Someone had the intention of reciting the Fātiḥah and Ikhlās chapters at the beginning or is accustomed to reciting them. However, he happened to recite the basmalah and forgot to specify the chapter. Should he intend a specific chapter and then recite the basmalah?

A: It is not obligatory for him to repeat the basmalah. Rather, he can consider the basmalah that he already recited sufficient for any chapter he wants to recite afterwards.

Q 463: In obligatory prayers, is it necessary to pronounce all the words properly? Can a prayer be considered correct when the words are not pronounced correctly in the Arabic language?

A: It is necessary to pronounce all the obligatory dhikrs of prayer including the Fātiḥah, the other chapter, and other parts correctly. If a praying person does not know the correct pronunciation, it is obligatory for him to learn it. However, if

he is unable to learn, he is excused.

Q 464: Does the word 'reading' also apply to the recitation of words in one's heart without uttering them?

A: 'Reading' does not apply to this and expressing the words in a way that can be called 'reading' is obligatory in prayers.

Q 465: According to the opinion of some commentators of the Qur'an a number of its chapters, such as "Fīl" and "Quraysh", and "Inshirāḥ" and "Ḍuḥā", are not considered complete chapters. They believe that whoever reads the chapter "Fīl," he should certainly read the chapter "Quraysh," and the same rule applies to chapters "Inshirāḥ" and "Ḍuḥā" that should be read together. If someone reads the "Fīl" or "Inshirāḥ" chapter alone in prayer and does not know this rule, what will his duty be?

A: The previous prayers are correct if he was not negligent in learning the rule.

Q 466: If someone inadvertently reads the Fātiḥah and another chapter in the third rak'ah of noon prayer, for example, and notices his mistake after finishing the prayer; will it be obligatory for him to repeat that prayer? And if he does not even notice his mistake, will his prayer be correct?

A: In the given case, the prayer is correct.

Q 467: Can women recite the Fātiḥah and the other chapter of the morning, maghrib and 'ishā' prayers loudly?

A: They can recite them loudly or quietly. But if a non-maḥram hears their voice, it is preferable for them to recite quietly.

Q 468: According to Imam Khomeini (q.) the criterion for reciting quietly in the noon and afternoon prayers is avoidance of jahr [loud recitation] recitation. Given that all Arabic letters, except ten of them, are jahr letters, if we have to pray the noon and the afternoon with quiet recitation, then what will happen to the eighteen jahr letters? Please explain the rule.

A: The criterion in ikhfāt [quiet recitation] is not to forsake the voice's substance but to avoid expressing it; in contrast to jahr which means expression of the voice's substance<sup>1</sup>.

Q 469: How could foreigners, whether men or women, who embrace Islam and are not familiar with Arabic language perform their religious duties, including prayers, etc.? And basically, is there any need to learn Arabic in this case or not?

A: It is obligatory to learn takbīrah al-iḥrām, the Fātiḥah, another chapter, tashahhud, and salām of prayer, and also everything for which Arabic recitation is a condition.

Q 470: Is there any proof for the opinion that mustaḥabb prayers of loud prayers should be recited loudly? What about quiet recitation of mustaḥabb prayers pertaining to the quietly recited prayers? If yes, suppose that a mustaḥabb prayer which belongs to a loud prayer, for instance, is recited quietly. Will it be correct? What about the reverse case? We would appreciate your kind reply.

A: It is mustaḥabb to recite the mustaḥabb prayers of loud obligatory prayers loudly and those of quiet ones quietly. If they are recited otherwise they are also correct.

Q 471: Is it obligatory in prayer to recite a whole chapter after the Fātiḥah or does it suffice to read a part of the Noble Qur'an? And in the former case, is it permissible to recite some Qur'anic verses after the chapter?

A: In daily obligatory prayers, recitation of some verses of the Noble Qur'an does not substitute for the recitation of a whole chapter. However, reading some verses of the Glorious Qur'an after the recitation of a whole chapter with the intention of reading Qur'an is no problem.

Q 472: If someone makes some mistake — due to his negligence or accent — in the recitation of the Fātiḥah and the other chapter, or in the pronunciation of the vowels, for example, 'yūlid' instead of 'yūlad,' what will be the rule of such a prayer?

A: If he makes this mistake intentionally or he is a blame-worthy ignorant person (who can learn it), his prayer is void; otherwise, it is correct. Of course, if one had read his previous prayers like that believing that they were correct, doing their qaḍā' is not obligatory.

Q 473: Someone is thirty-five or forty years old. His parents did not teach him how to perform prayers. Although he is illiterate, he tried to learn how to say prayers in a correct way. The problem is that he cannot express the prayer's words and dhikrs in a correct manner. Moreover, he is not able to pronounce some of its words at all. Are his prayers correct?

A: His prayers are correct if he recites what he is able to.

Q 474: I used to pronounce the words of prayers in the way I had learned from my parents and in secondary school. After a while, I found out that I had been pronouncing some words in a wrong manner. Is it obligatory for me — according to the fatwā of Imam Khomeini (q.) — to repeat the prayers? Or are all prayers that I performed in that way correct?

A: In the mentioned case, all your previous prayers are correct and you do not have to repeat or make them up in qadā'.

Q 475: Are the prayers performed in gesture by a dumb person, whose senses function properly despite his inability to speak, correct?

A: His prayers are correct and valid in the mentioned case.

## Dhikr of Prayer

(Zikr is generally applied to an statement recited in glorification of God and invocation of his blessings).

Q 476: Does intentionally changing the dhikr of rukū' for that of the prostration and vice versa make any problem?

A: If they are recited as a general dhikr of Allah, then there will be no problem and the rukū', prostration, and prayer are all correct.

Q 477: If a person mistakenly recites the dhikr of prostration while in rukū', or conversely says the dhikr of rukū' in prostration, and realizes his mistake and corrects himself immediately, will his prayer be void?

A: No, there is no problem and his prayer is correct.

Q 478: What is the ruling in the case of a person who realizes after his prayer, or during it, that the dhikr of rukū' or prostration was incorrect?

A: If he has passed the point, that he remembers it after rukū' or prostration, there is no problem.

Q 479: Does it suffice to recite the tasbīḥāt al-arba'ah just once in the third and fourth rak'ah of prayer?

A: Yes; although it is a caution to recite them three times.

Q 480: The tasbīḥāt al-arba'ah are recited three times in prayer, but if a person by mistake recites them four times, will his prayer be accepted by Allah?

A: There is no problem in it.

Q 481: What is the ruling in the case of a person who does not know whether he has recited the tasbīḥāt al-arba'ah three times or more or less in the third and fourth rak'ahs of prayer?

A: Just once is sufficient, and nothing is obligatory for him. And if he has not yet been in rukū' state, then he may assume the lesser number and repeat them until becomes confident about saying them three times.

Q 482: Is it allowed to say "Biḥawllillāhi wa Quwwatihī Aqūmu wa Aq'ud" ... in prayer while one is moving? And is it correct to say it while getting up?

A: There is no problem in it. Indeed, the above-mentioned dhikr is essentially recited while rising for the next rak'ah of prayer.

Q 483: What is meant by the term 'dhikr'? And does it include the ṣalawāt upon the Prophet (s.) and his progeny (a.)?

A: All expressions containing the remembrance of Allah are counted as dhikr; and the ṣalawāt upon Muhammad (s.) and the progeny of Muhammad (a.) is one of the best dhikrs.

Q 484: In waṭr prayer [the one-rak'ah prayer included in night prayer] when we raise our hands for qunūt and ask Allah for our needs, is it wrong if we ask for them in Persian?

A: No, there is nothing wrong in supplicating in qunūt in Persian. Moreover, in qunūt one can supplicate in any language.

## Rules of Prostration

Q 485: What is the ruling on performing prostration and tayammum on cement or concrete tiles?

A: There is no problem in doing prostration, and tayammum on it, although it is a caution to refrain from doing tayammum on cement and concrete tiles.

Q 486: In prayer, is it incorrect to place one's hands on perforated floor tiles?

A: No, there is no problem in it.

Q 487: Is there any problem in using, for prostration, a turbah blackened and dirty in such a way that the stain covering it obstructs the forehead from touching the turbah?

A: If the stain on it is so much as to form a barrier between the forehead and the turbah, the prostration is void and so is the prayer.

Q 488: If a woman does prostration on a turbah while her forehead (the place of prostration in particular) is covered by her hijāb; is it obligatory for her to repeat this prayer?

A: If she was not aware of the obstacle during her prostration, then it is not necessary to repeat the prayer.

Q 489: A woman after putting her head on the turbah realizes that her forehead is not in complete contact with it due to her scarf or the like. So she raises her head and places it again after having removed the hindrance. What is the ruling on this issue? Moreover, if this last action of hers is counted as a separate prostration, then what becomes of the prayers that she has done (in this manner)?

A: It is obligatory to reposition the forehead until contact is made with the turbah without raising the head from the ground. Now if she raised the forehead — to put it again on the turbah — absent-mindedly or out of ignorance and she did so only in one of the two prostrations of each rak'ah, then her prayer is correct and there is no need to repeat it. But if the action was done on purpose or it was done in both prostrations of a single rak'ah, then her prayer is void and it is obligatory for

her to repeat it.

Q 490: While performing prostration it is obligatory to place the seven body parts of prostration on the ground. But we are not able to do this due to our particular physical problem (as disabled veterans who use wheelchairs). So for the purpose of prayer we either raise the turbah to our forehead or place the turbah on the arm of our chair and perform prostration on it. Is this practice correct?

A: If it is possible for you to place the turbah on the arm of the wheelchair or a similar place of the chair and do prostration upon it, then do so and your prayers will be correct. If this is not possible, then do it in any possible manner, even through signs and gestures for rukū' and prostration.

Q 491: What is the rule of performing prostration on marble (with which the yard of some sacred shrines is paved)?

A: There is no problem in performing prostration on marble.

Q 492: What is 'the ruling on placing toes on the ground in addition to the big toe while doing prostration?

A: There is no problem in it.

Q 493: Recently a turbah for prayers has been manufactured that it counts the rak'ahs and prostrations for the person praying and it removes doubt to some degree. Please clear the matter for us with your opinion, considering that when the forehead is placed on it, it moves down a little due to the presence of a metal spring beneath it. Is it correct to do prostration on it?

A: If it is made of a material upon which it is correct to do prostration and after putting the forehead on it and pressing it down, it comes to a stable position, there is no problem in performing prostration on it.

Q 494: Which foot should we place upon the other while sitting down after prostration?

A: It is mustahabb to sit on the left thigh and place the right foot on the sole of the left foot.

Q 495: What is the best dhikr to recite after the obligatory dhikrs of prostration and rukū'?

A: The repetition of the same obligatory dhikr is the best and it is preferable for it to end in an odd number (of reciting the dhikr). In addition it is mustahabb in prostration to say "Allāhumma ṣalli 'alā Muhammad wa āli Muhammad" and to supplicate concerning the needs of this world and that of the hereafter.

Q 496: What is one's shar'ī duty upon listening to a verse that requires prostration when the reciter is not present, as from a radio, TV or recording instrument?

A: In the given case making prostration is obligatory.

## Things that Invalidate Prayer

Q 497: Does testimony concerning the wilāyah of the Commander of the Faithful, Imam Ali (a), in the tashahhud invalidate the prayers?

A: The prayer including the tashahhud should be recited in such a way that our great marji's of taqlīd (May Allah increase them) mentioned within their books of Practical Laws of Islam and one should not add anything to it even if it is a true and correct phrase.

Q 498: A person is afflicted with riyā' in his worship and he is now struggling with his self to overcome this riyā'. Is this also counted as a form of riyā'? How can he keep away from riyā'?

A: Any action done for Allah including fighting against riyā' is not considered riyā'. To get rid of riyā' one must think of the greatness of Almighty Allah, the weakness of his own self and his and others' dependence on Allah, and his and their subservience to Him, the Exalted.

Q 499: When attending congregational prayers with the Sunnī brothers, the word "āmmīn" is pronounced loudly after the imam finishes reciting the Fātiḥah. What is the ruling on this?

A: If dissimulation requires saying "āmmīn" in the said situation, there is no problem in it; otherwise, it is not permissible.

Q 500: In our obligatory prayers is it allowed to say some of the words of the Fātiḥah, of another chapter or a dhikr in a loud voice in order to warn a child who is doing something dangerous or to make the occupants of the house aware of the situation so that they may remove the danger? In addition, what is the status of the person's prayers during which he, through gestures of the hand or raising of the eyebrows, informs another person of something or answers his question?

A: If the raising of the voice when reciting a verse or dhikr (for the purpose of warning others) does not cause one to lose the status of being in prayer, then there is no objection to doing so, on condition that the recitation and the dhikr are done with the intention of recitation and dhikr. If moving the hand, eyebrows

or eye is brief and does not ruin the necessary composure and stillness or the prescribed form of the prayers, it would not lead to invalidation of the prayer.

Q 501: Does it invalidate the prayers if a person laughs in the middle of his prayers upon recalling a joke or due to a humorous event?

A: The prayer will be invalid if the laughter is loud (guffaw).

Q 502: Does the passing of hands over the face [wiping] after the qunūt invalidate the prayer? And in case of its being void is it also considered to be a sin?

A: It is makrūh, but it does not invalidate the prayer.

Q 503: Is it allowed to close one's eyes during prayers? (Because, keeping them open distracts one's attention from the prayers.)

A: There is no shar'ī problem in shutting eyes during prayer, although it is makrūh to do so.

Q 504: During my prayers I sometimes recall the spiritual heights and elevations that I experienced on the days of confrontation with the infidel Ba'thist army and this helps me to increase my humility in prayers; does doing so invalidate the prayers?

A: It does not harm the validity of the prayer.

Q 505: Are the prayers invalid during the first three days in which two persons have quarreled, and broken ties? Does the same hold for fasting?

A: No, disagreement and enmity between two people invalidate neither the prayers nor the fasting, although it is disliked in shar'.

## Rules of Greeting in Prayers

Q 506: What is your opinion with regards to answering a greeting that is not in the form of "al-salām ... "?

A: It is not permissible to reply to it during prayer, but if he is not in prayer then it is closer to caution to return the greeting when it is oral and is considered to be a greeting by common view.

Q 507: Is it obligatory to respond to the greeting of children whether boys or girls?

A: It is obligatory to reply to the salām of children (male and female) who can distinguish right from wrong in the same way as it is obligatory to do so in response to men and women.

Q 508: A person was greeted with the salām but did not reply due to inattention or some other reason so that a short span of time passed, is it still obligatory for him to respond to it?

A: If the delay is of such a length that a reply is no longer considered a reply (to the greeting), then it is not obligatory.

Q 509: A person enters upon a group of people and salutes them with the words "al-salāmu alaykum jamī'an (peace be upon all of you)". If one of the people in the group is praying, is it obligatory for him to answer the salutation even though someone else in the group has already replied to the greeting?

A: If someone has already done so, the praying person should not respond.

Q 510: If someone is greeted repeatedly with the salām, whether by one person or by many people at the same time, is it sufficient for him to reply once for all these greetings?

A: In the first instance a single reply is sufficient. In the second, one reply in the plural form (with the intention of answering all their greetings) would suffice.

Q 511: Is it obligatory to answer the person who greets another with the word "salām" instead of "salāmun alaykum"?

A: If it is, in common view, considered to be a greeting and the salām, its reply is obligatory.



## **Doubt in Prayers**

Q 512: A person in the third rak'ah of his prayer doubts whether he has performed the qunūt or not. What should they do? Should he complete the prayer or should he break it when the doubt occurs?

A: The doubt should be ignored. His prayer is correct and there is no obligation upon him in this case.

Q 513: Should a person pay heed to doubts that occur in nāfilah prayers (other than the doubt concerning the number of performed rak'ahs)? For example, he is unaware whether he has done one prostration or two.

A: The rule of doubts in the words and deeds of nāfilah prayer is the same as those of obligatory prayers, i.e. the doubt is heeded if its pertinent place has not passed, and is ignored after that.

Q 514: Knowing that those who doubt excessively are not to pay heed to their doubts, what are they to do if the doubts occur during prayer?

A: They must posit the occurrence of the act which they doubt unless doing so would lead to the invalidation of their prayers, in which case they must hold the opposite to be true. There is no difference whether the doubt is with regard to the number of rak'ahs, the words or acts of prayer.

Q 515: What is the religious duty of a person who realizes after a number of years that his worship was invalid, or doubts its correctness?

A: Doubts after the performance of a deed are ignored. In case he is certain of its invalidity, he must perform the qaḍā' of what is possible.

Q 516: Does the prayer of a person become void if he mistakenly performs some parts of his prayer in the place of other parts, or looks away at some point during the prayer, or speaks by mistake?

A: Unintentional acts in prayer do not bring about its invalidation. In some cases they call for the performance of two

prostrations of inadvertence. But, of course, the prayers are invalid if additions are made to the rukns of the prayer or if some are left out.

Q 517: What is the duty of a person who forgets to perform a rak'ah of his prayer and then remembers it in the last rak'ah? For example, thinking first rak'ah of his prayer to be the second one, he performs the third and the fourth rak'ah; then in this last rak'ah he realizes that it is really only the third rak'ah. What should he do?

A: It is obligatory for him before reciting the final salām of the prayer to perform the rak'ah he has missed and then recite the salām. As he had not done an obligatory tashahhud in its proper place, it will be obligatory for him, based on a caution, to perform its qadā' and two prostrations of inadvertence.

Q 518: How can a person know the number of rak'ahs of caution prayers he is liable to perform? (That is whether it is one rak'ah or two).

A: The number of rak'ahs of caution prayers corresponds to the number of rak'ahs that he may have missed in the obligatory prayer. So when it is doubted whether two rak'ahs were performed or four, then it becomes necessary to perform a two-rak'ah prayer of caution. However, if he doubts whether he prayed three or four rak'ahs, then a one-rak'ah prayer of caution must be done in standing position or a two-rak'ah one in sitting position.

Q 519: Do two prostrations of inadvertence become obligatory if a word of the dhikrs of the prayer, of the verses of the Holy Qur'an, or of the supplication of qunūt is mistakenly recited?

A: No, it is not obligatory.

## Qaḍa Prayer

Q 520: I was about seventeen years old and I did not know anything concerning seminal emission, ghusl, and the like. I had not even heard from anyone anything about these things. I did not understand the meaning of janābah or the necessity of ghusl. So if my prayers and fasts until that time were wrong, what is my duty now?

A: It is obligatory to do qaḍā' of all the prayers that you did in the state of janābah. However, the fasts that you kept in this state without knowing any thing about the state of janābah are correct and sufficient, and there is no need to do their qaḍā'.

Q 521: Unfortunately, due to my ignorance and lack of will power I had got into the evil habit of masturbation, and so I did not perform prayers at times. But I do not know how long I abandoned prayers, as it was not one continuous period (I would not have prayed when I was junub until I took ghusl, although it may have been delayed for a while), but I think that it lasted for six months. I have made up my mind to perform the qaḍā' of my prayers for this period. Is it obligatory to perform qaḍā' of these prayers?

A: You must perform the qaḍā' of all daily prayers that you know you did not perform or you performed while you were junub.

Q 522: Some people do not know whether qaḍā' prayers are due on them or not. Assuming that they are really responsible for some qaḍā' prayers, are their mustahabb or nāfilah prayers considered as qaḍā' prayers?

A: Nāfilah and mustahabb prayers do not count as qaḍā' prayers and if any qaḍā' prayers are due upon someone then they must perform them with the intention of qaḍā' prayers.

Q 523: It has been about six months since I reached the age of shar'ī puberty. Up until some weeks before my age of shar'ī puberty I was under the impression that there was only one sign of ritual maturity, i.e. the completion of fifteen lunar years. Then I happened to read a book which spoke of the signs of maturity for boys. I read there of other signs of maturity which

I really possessed but do not know the date of their occurrence. So, do I now have to perform the qada' of my prayers and fasts? Taking into consideration that I would sometimes perform prayers and that I fasted the whole of Ramadan last year, what is the ruling in this case?

A: It is obligatory to perform the qada' of all the prayers and fasts that you are certain you missed after becoming ritually mature.

Q 524: If a person performs janābah ghusl three times in the month of Ramadan, say for example, on the twentieth, twenty-fifth and twenty-seventh of the month, and afterwards becomes certain that one of these ghusls was incorrect, what is the ruling with respect to his prayers and his fast?

A: His fast is correct, but it is based on caution that he must perform the qada' of some prayers so that one becomes certain that he has discharged his obligations.

Q 525: What is the ruling on the prayers and fasts of a person who for some time, due to ignorance of the ruling, did not observe the proper order in performing his ghusl?

A: If he was performing his ghusl in a manner which is void according to Islamic law, he would be obliged to do qada' of all his prayers that he prayed without ghusl. But regarding fasts, if he thought that his ghusl was correct, his fasts are ruled to be correct.

Q 526: How should one perform the qada' prayers of one year?

A: He must start with one of the prayers and perform it in the same sequence as he performs the five daily prayers.

Q 527: If a person has a lot of qada' prayers due on him, is it permissible for him to perform them in the following manner:

- i. To perform morning prayers, say twenty times;
- ii. The noon and afternoon prayers, twenty times;
- ii. maghrib and 'ishā' prayers, twenty times, continuing in this way for a year?

A: There is no problem in performing the qada' prayers in the manner described.

Q 528: Someone's head was injured causing damage to a part of his brain. As a result, his left hand and foot as well as his tongue were paralyzed. Moreover, he has forgotten how to pray and is not able to learn it either. But he can make out the different parts of prayers by following a book or by listening to a tape. Presently, he is faced with two problems with respect to his prayers. First, he is not able to make his urinary outlet pure or to perform wuḍū'. Second, he has a difficulty with recitation in prayers. What is the ruling in this case? And what about the prayers he has not performed over the last six months?

A: If he is able to do wuḍū' even with the help of somebody else, or to do tayammum, then it is obligatory for him to perform his prayers in anyway he is able to, even if he has to listen to a tape, or look at a book, or whatever it may be. As for the missed prayers it is obligatory for him to perform their qaḍā' unless he was unconscious and the unconsciousness took all the time of the prayer.

Q 529: In my youth I missed my noon and afternoon prayers more than maghrib, 'ishā' and morning prayers. But I do not know their number, order or sequence. Should I perform dawr prayers in this case? What are dawr prayers? Please clarify this matter for me.

A: It is not necessary to observe the order in qaḍā' prayers — except for noon and afternoon / maghrib and 'ishā' prayers of one day — and it is enough to perform as many prayers as you are certain you have missed. Dawr, i.e. repetition of the prayers to ascertain their performance in order, is not obligatory for you.

Q 530: After marriage, I occasionally experienced emissions of a liquid which I thought to be najis, and therefore, performed janābah ghusl having its intent in mind and then offered prayers without performing wuḍū'. This liquid is called madhi in the books on practical laws of Islam, and now, I do not know the rule regarding the prayers I performed without wuḍū' but with janābah ghusl while I was not junub?

A: It is obligatory to make up for all of the prayers which you offered without wuḍū' but with janābah ghusl after experiencing the liquid's emission.

Q 531: A non-Muslim converts to Islam after a period of time, is it obligatory for them to make up for the prayers and fasts they missed?

A: it is not obligatory.

Q 532: Due to misguiding propaganda of communists, some people did not perform their prayers and other obligatory duties for some years. But, after reading Imam Khomeini's letter to the leaders of the USSR, they repented. Now they are not able to make up for their missed obligations. What is the rule regarding them?

A: It is obligatory for them to make up for the missed obligatory prayers and fasts as much as possible and to make a will for those whose qada' they are not able to perform.

Q 533: A person died while he had to perform the qada' of some fasts of Ramadan and some prayers. He has no son. However, he left behind a certain amount of wealth. If this wealth is spent for the performance of the qada' of his missed fasts, the qada' of his prayers will remain outstanding and vice versa. In this situation, which one of the two should be given priority over the other?

A: None of the fasts and the prayers has any priority. It is not obligatory for the heirs to spend his wealth for making qada' of his fasts and prayers unless he left a will that someone is hired, out of the one third of his wealth, to perform of his qada' prayers and fasts as much as 1/3 of his wealth can afford.

Q 534: Most often I offered my prayers and performed the qada' of those which I missed either because I was asleep during their times or my body and clothes were najis and I failed to clean them due to laziness. Now, how could I calculate the number of the missed daily, ayat, and shortened prayers due on me?

A: It suffices to perform qada' of the missed prayers as much as you are certain about. Out of this number, perform that number of shortened and ayat prayers that you are certain about and offer the remaining as daily prayers. There is nothing else obligatory for you.



## **Qaḍā' Prayers of the Parents**

Q 535: My father had a brain stroke. As a result, he remained ill for two years and was unable to distinguish between good and bad. That is to say, he lost his mental senses. During this two year period, he was not able to perform his prayers or fasts. Since I am the family's eldest son, is it obligatory for me to perform his missed prayers and fasts? Of course, I know that if he were fine, it would be obligatory for me to perform those missed prayers. I would appreciate your advice in this regard.

A: If his mental defect did not reach the level of insanity and he was not unconscious through out the whole time of prayers, you would be obliged to make qaḍā' of his missed prayers and fasts, otherwise there is nothing obligatory for you.

Q 536: Who should give the kaffārah for missed fasts of a person after he dies? Is it obligatory for the sons and daughters of the deceased person to give the kaffārah or could somebody else give it as well?

A: With respect to the kaffārah of missed fasts that was due on the father, if he could have the choice between fasting or feeding, the kaffārah should be taken out of the wealth he has left if possible; otherwise, the fasting rests with the eldest son.

Q 537: An elderly man left his family due to certain reasons and it is difficult for him to contact them. He is the eldest son of his parents. During that period, his father passed away and the son is unaware of the number of prayers and other duties his father might have missed. He does not have enough money to hire somebody to perform those missed duties for his father either. Nor does he have the ability to perform them himself due to his elderliness. What should he do?

A: It is not obligatory to do qaḍā' of the missed prayers of the father except the amount the oldest son knows for sure have been missed. It is obligatory for the eldest son to perform his father's missed prayers by any means possible. If he is unable to do so even through hiring another person to perform them, he is excused.

Q 538: If the eldest child of a deceased person is a female and

his/her second child is male, is it obligatory for this son to perform the missed prayers and fasts of the mother and the father?

A: The criterion is that the male son being the eldest among the sons, if the father has any sons. As for the assumption in question, it is obligatory for the son, i.e. the father's second child, to perform both parent's missed prayers and fasts.

Q 539: If the eldest son — whether mature or not — dies before his father, will it become obligatory for any of the other sons to perform the missed prayers of his father?

A: The performance of the father's missed prayers and fasts is obligatory for the eldest son who is alive when his father dies, even if he is not the father's first child or son.

Q 540: I am the eldest son of the family. Is it obligatory for me to investigate and acquire information from my father about his missed prayers so that I can perform them for him? Or should he inform me of the numbers outstanding and if he does not, what will my duty be?

A: It is not obligatory for you to investigate, but it is obligatory for the father to perform them while he is alive or, if he could not, to specify it in his will. In any case, it is a duty of the eldest son, after the father's death, to perform fasts and prayers he is certain his father missed.

Q 541: Someone dies while owning only a house where his children live and he has some missed prayers and fasts to perform. His oldest son cannot do so for him because of his daily occupations, is it obligatory to sell the house and have his missed prayers and fasts performed?

A: In the given case, it is not obligatory to sell the house. But the performance of the missed prayers and fasting, which were obligatory for the father, is the duty of his eldest son in all cases except if the deceased person ordered in his will that someone be hired by the third of his estate for that purpose and that amount is sufficient for all of the prayers and fasts that are obligatory for him. In this case, it will be obligatory to spend one third of the property left for this purpose.

Q 542: If the eldest son who had the obligation to offer his father's missed prayers dies, will this obligation pass on to the eldest son's inheritor or to the grandfather's second eldest son (the brother of the eldest son)?

A: The performance of the father's missed prayers and fasts, which were obligatory for his eldest son, will not become obligatory for the latter's son or brother upon his death after that of his father.

Q 543: In case a father never performed any prayer, will his prayers be considered as all missed and obligatory for his eldest son to offer?

A: It is based on obligatory caution that, even in this case, doing their qada' is obligatory.

Q 544: If a father forsakes all of his worship duties intentionally, will it be obligatory for his eldest son to perform all of the prayers and fasts his father missed over 50 years?

A: In case he did not perform them out of rebellion, the performance of missed prayers and fast is not obligatory for the eldest son. However, caution by performing qada' for him, should not be forgone in such a case, as well.

Q 545: If the eldest son already has the obligation to perform some missed prayers and fasts of his own when the performance of his father's missed prayers and fasts is also added to his obligations, which one of the two will have priority?

A: He has the choice in this situation; therefore, it is correct for him to start performing either of them.

Q 546: My father has some qada' prayers due but he cannot offer them and I am the family's eldest son. Is it permissible — while he is still alive — that I perform his missed prayers or hire someone to perform them?

A: It is not correct to perform the missed prayers and fast on behalf of a living person.

## Congregational Prayers

Q 547: What should a congregational prayer imam say in his intention? Should he perform it with the intention of a congregational or individual prayer?

A: If he wants to acquire the benefits and reward of a congregational prayer, then he should have the intention to lead the prayers. However, if he enters the prayers without the intention of leading, then his prayer is correct and there is no problem for others to read their prayers behind him.

Q 548: Because of the work they have at hand, some people do not attend the prayer which is held during working hours at the bases of the armed forces. Knowing that they can do that work later on or even the following day, can this action of them be classified as belittling the prayer?

A: To acquire the merit of offering prayer early at its time and that of the congregational prayer, it is preferable to make a proper arrangement of office hours so that this divine duty could be performed in the form of congregational prayer in the shortest necessary period of time.

Q 549: What is your opinion as regards performing the mustahabb actions such as nāfilah prayers, Du'ā' Tawassul and other supplications in governmental offices before, after and during prayers? These acts usually take longer time than the actual congregational prayer itself.

A: Any mustahabb action which is performed with the congregational prayer would be considered problematic if it becomes a cause for wasting time and delay in the performance of official duties there.

Q 550: Is it permissible to start a second congregational prayer in an area near to another congregational prayer in which a lot of people participate and the sound of its adhān and iqāmah is quite clearly heard?

A: There is no problem in starting a second congregational prayer in such a situation, although it is preferable that the believers come together and attend a single congregational prayer so that the greatness of the congregation can be expressed.

Q 551: What is your rule regarding a person or people who come to a masjid to offer the prayers individually while prayer is being held in congregation?

A: If this act is seen as something which weakens the congregational prayer or leads to disrespect towards its imam or is insulting to him who is considered just by the people, it will not be permissible.

Q 552: There are several masjids in our area and congregational prayer takes place in all of them. There is a house between two masjids. On one side between the house and the masjid there are ten other houses while in the direction of the other masjid, the distance is of only two houses. A congregational prayer takes place in this house also. What is your ruling regarding this congregational prayer?

A: congregational prayer is offered to create unity and closeness not to cause disunity and division. Anyhow the neighboring houses are permitted to start a congregational prayer as long as it does not become a cause of division and conflict.

Q 553: Is an individual allowed to lead congregational prayer without the permission of the appointed Congregational prayer imam who has been appointed by the center which runs the affairs of the masjids?

A: Holding congregational prayer is not dependent on the permission of the permanent congregational prayer imam. However, it is preferable that no one would prevent the imam from leading the prayer at the time of his presence in the masjid. If he is obstructed then that action could be defined as ḥarām if it becomes a cause of division and ignites conflict.

Q 554: Does the justice of the congregational prayer imam become void if he says or makes a joke that is not appropriate for a scholar of Islam?

A: If what he has said does not contravene Islamic law, then it has no effect on his justice.

Q 555: Is one allowed to start to pray behind a congregational prayer imam about whom one has no information and does not

know?

A: If he knows — through any shar‘ī means — that the Imam is ‘ādil, it is permissible to pray behind him and the congregational prayer is correct.

Q 556: A person considers another one as just and pious and at the same time considers him as an oppressor because on certain occasion he has oppressed him. So can this person consider the other as ‘ādil in the common sense of the word?

A: Until it is not clear that the person, whom he has considered an oppressor, has done that action knowingly, by choice and without any religious excuse, it is not permissible to label him unjust.

Q 557: Can one pray behind a person who has the ability to enjoin the good and forbid evil but does not?

A: The mere abstention from enjoining people to do good and forbidding them from evil, which in itself could be due to some reasons acceptable for the person who has this duty to perform, neither becomes a cause for invalidating the person’s justice nor does it become an obstacle for others to perform prayer behind that person.

Q 558: What is the meaning of justice in your opinion?

A: It is a psychological state due to which a person always enjoys piety which prevents him from neglecting obligatory duties or doing things forbidden according to Islamic law. To recognize the state of justice, it is sufficient that one sees the apparent goodness of the person.

Q 559: We are a group of youngsters who gather in some religious places and whenever it is time for prayers, we appoint one among ourselves who is ‘ādil and perform prayers behind him. There are some people who confront us and say that according to Imam Khomeini’s ruling, one should not perform his prayer behind a person who is not an Islamic scholar? What is our duty?

A: Whenever an Islamic scholar is available, one should not pray behind one who is not an Islamic scholar.

Q 560: Can a congregational prayer be conducted by two individuals?

A: If you mean that one is the imam and the other is the follower, there is no objection to it.

Q 561: Although it is not obligatory for him, a follower recites the Fātiḥah and another chapter in congregational noon and afternoon prayers so as to better concentrate on his prayers. What is the ruling regarding his prayers?

A: In the prayers which should be said quietly, e.g. the noon and the afternoon prayers, he is not permitted to recite the Fātiḥah and another chapter even if it is to protect oneself from losing his concentration on the prayers.

Q 562: Although he complies with all the regulations of traffic, a congregational prayer imam rides a bicycle to the place of congregational prayer. What is your ruling in this regard?

A: This action harms neither justice nor correctness of leading the congregation.

Q 563: There are times when we attend the congregational prayer and the imam is reciting the tashahhud of the last rak'ah. Here to get its reward, we can say takbīrah al-ihrām, sit, recite tashahhud with the imam and stand up when the imam finishes his salām, to start the first rak'ah. Can we do the same thing in the tashahhud of the second rak'ah of a four-rak'ah prayer?

A: The above mentioned procedure is specific to the final rak'ah of the congregational prayer so that one may acquire the reward of the congregation.

Q 564: Is it permissible for a congregational prayer imam to take fees for his offering it?

A: It is impermissible to take fees for that except if it is for the preliminaries of being present in the congregation.

Q 565: Can an imam say a single prayer — whether an 'īd or a daily prayer — twice in congregation?

A: As far as the five daily prayers are concerned, he is permitted to perform the same prayer again in congregation but with

another group of followers. In fact this is *mustahabb*. However, regarding an *ʿid* prayer, there is a problem in doing so.

Q 566: Does a person have to read the *Fātiḥah* and another chapter loudly when he is doing his second *rakʿah* while the imam is in his third or fourth *rakʿah* of *ʿishāʿ* prayer?

A: It is obligatory for him to read them quietly.

Q 567: After the completion of a congregational prayer, the verse which declares *ṣalawāt* on the Holy Prophet (s.) is recited. After that, the praying persons recite *ṣalawāt* upon the Holy Prophet (s.) and his Household (a.) three times. After that they say *Allāhu Akbar* three times and then chant political slogans (in form of supplications) loudly. Is there any problem in this?

A: There is no objection to reading the verse, and saying *ṣalawāt* for the Noble Prophet Muhammad (s) and his Household (a), rather, it is desirable and yields rewards. Also it is desirable to chant Islamic slogans and that of the Islamic Revolution (i.e. *Allāhu-Akbar*, etc) which remind all of the messages and aims of the Islamic Revolution.

Q 568: An individual arrives at a *masjid* when the congregational prayer is in its second *rakʿah*. Due to his ignorance of Islamic rules, he does not perform the *tashahhud* obligatory for him in the following *rakʿah*. Is his prayer correct or not?

A: The prayer is correct but he should, by obligatory caution, perform the *qaḍāʿ* of *tashahhud*. He should also perform the two prostrations of inadvertence as he failed to perform the *tashahhud*.

Q 569: Does one need to acquire the permission of the person behind whom one wants to pray? Can one perform or start his prayer behind a follower — i.e. a person who is himself being led in the prayer?

A: One does not need the permission of the prayer imam to follow him in the prayer. It is not correct to start one's prayer behind a follower, while he continues to be a follower.

Q 570: There are two people and between them they select one

as the imam and the other follows him in the prayer. A third person enters and starts his prayers behind the one who is following thinking that he is the imam. As soon as the prayer finishes, the third person realizes that the person was not the imam but in fact he was following the imam. What is the rule regarding the prayer of the third person?

A: To start one's prayer behind someone who is himself following an imam is not correct. However, if one starts his prayer behind such a person due to ignorance but regarding rukū' and prostration he fulfills all requirements of one who prays individually, i.e. without increasing or decreasing a rukn intentionally or unintentionally, the prayer is considered correct and valid.

Q 571: Is it correct to perform one's 'ishā' prayer behind one who is performing the maghrib prayer?

A: There is no objection to doing so.

Q 572: Do the prayers of the followers become void when the imam is at a higher position than them?

A: If the place where the imam is standing is so high that it is not permissible in Islamic law, this would invalidate the congregational prayer.

Q 573: One of the lines of congregational prayer was made up completely of people who were travelers (saying shortened prayers) and behind them was a line of people who were saying complete prayers. The former, having finished their prayers after two rak'ahs, stood up to offer the next prayer, did the prayers of the line behind them remain as congregational prayer or not?

A: In the above situation, the congregational prayers of the line behind were questionable as all the people in the front line performed their prayers as shortened. According to caution, it would be necessary to change the status of prayer to one prayed individually once the line in front sits down to say the salām.

Q 574: Is it permissible for one who is joining at one of the ends of the first line to enter the congregational prayers prior

to those between him and the imam?

A: When the followers between that person and the imam are completely ready to enter the prayer after the imam has started his prayer, then that person is permitted to start his congregational prayer.

Q 575: A person joins a congregational prayer in the third rak'ah. However, he does not read anything, thinking that the imam is in the first. Does this person have to repeat the prayer?

A: If he realizes this before rukū', then it will be obligatory for him to recite Fātiḥah and another chapter. If he happens to realize it in rukū' or later, then the prayer is correct and there is no need to do anything. Even though, according to the mustaḥabb caution, he may perform two prostrations of inadvertence for missing out the recitation unintentionally.

Q 576: There is a great need for congregational prayer imams to hold congregational prayer in governmental offices, schools, etc. Other than me, there is no scholar in this area. That is why I perform one obligatory prayer several times at different places. All marji's have permitted the imam to lead two congregational prayers. Can one lead more congregations with the intention of performing qaḍā' of possibly missed prayers for caution?

A: It is not correct to lead congregational prayer with the intention of performing of possibly missed qaḍā' of prayers for caution.

Q 577: A college arranges a congregational prayer for its staff in a building within the complex of the college. It is located next to the town's masjid and they are fully aware that at the same time there is a congregational prayer held in the masjid. What would the rule be regarding one's participation in the congregational prayer being conducted in the college?

A: When one maintains that a congregational prayer enjoys the conditions required for following and congregation; he can participate in it, even though it is close to a masjid in which a congregational prayer is held simultaneously.

Q 578: Is it permissible to offer one's prayer behind a person who is a judge but has not reached the stage of *ijtihād*?

A: When his performance as a judge is based on an appointment by the person who has the authority to appoint, then there is no objection to saying prayer behind him.

Q 579: What is your rule about a person who follows Imam Khomeini in *taqlīd* concerning traveling prayer, if he prays, especially Friday prayer, behind an imam who follows another *marji'*?

A: The difference in *taqlīd* does not prevent one from correctly starting his prayer behind someone else. However, it is not correct to offer one's prayer behind an imam in a prayer which should be offered as shortened according to the follower's *marji'* while it should be offered completely according to that of the imam or vice versa.

Q 580: What should the follower do if the imam accidentally goes to *rukū'* immediately after saying *takbīrah al-ihrām*?

A: If the follower realizes this after entering the congregational prayer, and before going to *rukū'*, he should do the intention of offering the prayers individually and then read the *Fātiḥah* and another chapter.

Q 581: What is the rule regarding congregational prayer of the adult persons who stand after the children standing in the third and fourth lines?

A: In mentioned case, there is no objection to it.

Q 582: A congregational prayer imam performs *tayammum* in place of *janābah ghusl* due to an excuse. Is it sufficient for the purpose performing congregational prayer?

A: If his inability is justifiable by Islamic law, then he can perform prayer as imam of congregation with *tayammum* instead of *ghusl*. It would also be permissible to start one's prayer behind such a person.

## **Rule of Incorrect Recitation by a Congregational Prayer Imam**

Q 583: Is there any difference in the ruling regarding the correctness of recitation undertaken by the imam, the followers, or a person praying individually? Or do the rules apply to the cases in the same manner with regards to its correctness?

A: When one's recitation is not correct and they are not able to improve it, the prayers they perform are correct. However, it is not correct for others to pray behind them.

Q 584: Some imams are unable to pronounce some letters properly. Is it, therefore, correct for a person who can pronounce the letters properly to perform prayer behind them? Some people say that it is possible to recite one's prayers in congregation. But it is necessary to repeat this prayer individually. However, I do not have the time to repeat these prayers. What is my duty in this situation? Do I have the permission to recite the Fātiḥah and the other chapter quietly while participating in the prayer?

A: If the follower maintains that the imam is not pronouncing properly, then to perform prayer behind him would not be valid and would cause the congregational prayer to be void for him. If the person does not have the ability to repeat the prayer, then there is no problem in not joining the prayer. To read quietly in a prayer which should be recited loudly in order to give the impression that one is joining the congregational prayer is not correct and does not fulfill one's obligation.

Q 585: Some people suggest that the recitation of some imams is not correct because either they do not pronounce some consonant letters as they are or they alter the related vowels which change the consonant letters as well. Is it correct to offer one's prayers behind such a person without repeating it?

A: In recitation, the standard is that the words should originate from their appropriate places in such a manner that the native speakers recognize the word and do not confuse it with another. If the followers find that the imam's pronunciation does not meet the specified standard, they cannot perform prayer behind him. If they perform prayer behind him, then their prayer

is not correct and it would be obligatory for them to repeat it.

Q 586: An imam has doubts about the pronunciation of a word after it is said. After he completes the prayer, he realizes that there was in fact an error in its pronunciation. Are the prayers of the followers and that of the imam valid?

A: The prayers are ruled to be correct.

Q 587: What is the religious duty of an individual, especially a teacher of Qur'an, who is certain that as far as tajwīd is concerned the imam reads his prayer wrongly? At times when this person does not participate in the congregational prayer, he is subjected to much slander?

A: Observing the rules which provide betterment of pronunciation is not necessary. But if the follower considers the recitation of imam to be incorrect, and, as a result his prayer is also incorrect, they should not perform prayers behind him. However, there would be no problem with pretending that one is taking part in the prayers for a rational purpose.

## **Congregational Prayer Led by a Person Lacking a Body Part**

Q 588: What is the rule about performing prayers behind an imam in the following cases?

- i. No part of his body is amputated but because of the fact that his legs are crippled he is unable to stand up without the help of a stick and the wall;
- ii. His injuries include the amputation of a part or whole of his finger or toe;
- iii. He lacks all the fingers, toes, or both;
- iv. He lacks a part of one hand or feet or both; and
- v. He lacks a part of the body and asks for assistance when performing wuḍū' as he has a paralyzed hand?

A: Generally speaking, there is no problem in performing prayers behind one who has a normal, tranquil, and established standing and keeps it during the recitation and actions of the prayer, and is able to perform a correct wuḍū', rukū' and prostration provided that he enjoys all the other requirements for a congregational prayer imam. Otherwise, it is problematic.

Q 589: I am a student of Islamic studies. My right hand has been amputated by a surgical operation. Recently, I came to realize that Imam Khomeini (q.) did not consider it correct for a person who has a part or parts of his body amputated to lead prayer for people who are normal. I would be grateful if you advise me about the rule regarding the prayer of those who offered their prayers behind me during this period?

A: The previous prayers of those who followed you are correct if they did their prayers behind you without knowing the sharī ruling. They would not have to repeat them whether the time is expired or not.

Q 590: I am a student of Islamic studies. During the fight in defense of the Islamic Republic of Iran, my feet were injured and the big toes were amputated. At present I am leading prayer at a ḥusayniyyah. Is there any religious problem in this or not? I am hopeful that you will give me an explanation for my problem.

A: The defect — as much as mentioned — in an imam does not

harm the state of leading the congregational prayer. Yes, it is problematic in case a hand or foot is completely amputated or paralyzed.

## Women's Attendance in Congregational Prayer

Q 591: Has the Divine Legislator encouraged women to take part in congregational and Friday prayers in masjids in the same way as it has done in the case of men? Or is it considered more preferable for women to perform prayers at home?

A: There is no problem if women go there to attend congregational and Friday prayers. Moreover, they would acquire the rewards for performing prayer in congregation.

Q 592: When can a woman be a congregational prayer leader?

A: A woman can lead congregational prayer for women only.

Q 593: What is the ruling of participation of women in congregational prayer as far as being makrūh or mustahabb is concerned?

i. What are the rules if women stand behind men?

ii. Do women need to have something separating them from the men when they are standing behind them?

iii. Is there any need for something to veil the women when they are offering prayer along side the men?

iv. It must be noted that to separate women from men, even when they are behind the men, during the prayers, the speech, etc is humiliating and insulting to women.

A: There is no problem in women's attendance and participation in congregational prayer. There is no need for anything to separate the women from the men if they are standing behind the men. However, if women are performing prayers along side men, then it is preferable to have something to separate them to eradicate the karāhah arising due to the association of men with women in prayer. It is merely an assumption and baseless to say that separation affects the status and dignity of women. Furthermore, it is incorrect to enter one's own opinion in jurisprudential matters.

Q 594: How should the lines of men and women be connected when there is no curtain between?

A: Women can stand behind men without any separation between them.

## **Performing Congregational Prayer behind Sunnīs**

Q 595: Is it permissible to perform one's prayer behind a Sunnī imam?

A: It is permissible to perform one's prayer in congregation behind them for the sake of maintaining Muslim's unity.

Q 596: I work in an area which is predominately Kurdish. Most Friday and congregational prayer leaders in this area are Sunnī. What is the rule with respect to performing prayers in congregation behind them? Is one permitted to backbite?

A: There is no problem in attending the prayer with them in their Friday and congregational prayer to maintain the unity. As far as backbiting is concerned, one should refrain from it.

Q 597: I associate with Sunnī people and perform the daily prayers with them. On certain occasions I practice according to them, e.g. cross my hand, not observing times of praying and do prostration on carpet.

A: If maintaining the Muslims' unity demands of you to perform the prayer in that manner including prostration on a carpet and the like, then it is correct and valid. But it is not permissible to cross one's hands during prayer unless a necessity requires such an action.

Q 598: In Mecca and Medina, we perform prayers in congregation with the Sunnī brethren relying on the verdict of Imam Khomeini (q.). On certain occasions to acquire the reward of performing prayer in a masjid, we perform our afternoon and 'ishā' prayers after noon and maghrib prayer in Sunnī masjids while doing prostration on the prayer mats. What is the ruling for such a prayer?

A: In the given case, one should prostrate on a thing on which it is correct to prostrate unless it contradicts the duty of dissimulation.

Q 599: Can we the Shī'ahs attend the Sunnī's congregational prayer in other countries when they perform their prayers with their hands crossed? Would it be necessary for us to follow them in keeping our hands crossed or should we perform our

prayers with our hands released?

A: It is permissible to perform one's prayers with Sunnīs when it is required for maintaining Muslim unity and it will be considered correct and valid but it is not obligatory to cross one's hands, rather it is not permitted unless a necessary requires it.

Q 600: While praying in Sunnī congregational prayer every participant places his little toes close to those of the next persons, they consider it necessary to do so. What is its ruling?

A: This is not obligatory. It does not invalidate one's prayer either.

Q 601: The Sunnī brethren do their maghrib prayer prior to maghrib adhān. Is it correct during the occasion of Hajj or on other occasions to perform our prayer with them and consider that prayer sufficient?

A: It is not certain whether they actually do their prayer prior to its time. However, if the person is not certain that it is time for prayer then it is not correct for them to join it. However, if they intend to maintain Muslims' unity, then they would be permitted to join in the prayer at that time and the prayer would be sufficient and there is no problem in it.

## Friday [Jumu'ah] Prayers

Q 602: What is your opinion regarding one's participation in Friday prayers nowadays when the Twelfth Imam is not present? Is it obligatory or not for someone to attend Friday prayers when they do not believe that the Friday prayer imam to be just?

A: Even though Friday prayer is considered an alternative obligation during this period of time and it is not considered obligatory for people to participate in it, one should not deprive oneself of the blessings gained through attending the prayer solely due to doubt about the justice of the imam or due to irrelevant excuses.

Q 603: What is meant by alternative obligation concerning Friday prayer?

A: It means that one has a choice to perform either Friday or noon prayer.

Q 604: What is your opinion regarding someone who does not participate in Friday prayer due to lack of concern?

A: It is religiously reprehensible when one does not attend or participate in this religious and political Friday prayer because they do not consider it important.

Q 605: There are some people who do not take part in Friday prayer because of difference or baseless excuses. What is your opinion about this?

A: It is not Islamically acceptable to make oneself permanently absent from Friday prayers even though it may be an alternative obligation.

Q 606: Is it permissible to perform noon prayers in congregation at the time of Friday prayer at a place near to that of the Friday prayer?

A: In itself there is no objection to doing so and the followers would have fulfilled their duties because the Friday prayer is considered an alternative obligation at the present time. However, performing the noon prayer in congregation on Friday close to where Friday prayer is proceeding becomes a

cause of division of the believers and often people consider such congregational prayer as an insult to and disrespect for the imam of the Friday prayer and an indication of lack of care and due attention for the Friday prayer. That is why it is preferred for the believers not to do so. In fact, if a depravity or ḥarām act may result, it would be obligatory to abstain from it.

Q 607: Can an individual offer his noon prayer in the time between Friday and afternoon prayers? Furthermore, is one allowed to recite one's afternoon prayer behind a person other than the Friday prayer imam?

A: Although Friday prayer discharges one from the obligation to perform the noon prayer, there is no problem with performing noon prayers out of caution. There is no objection to saying one's afternoon prayer behind a person other than imam of the Friday prayer; however, when one wants to say the afternoon prayer in congregation, then the absolute caution is to read it behind the individual who has read the noon prayer after Friday prayers according to caution.

Q 608: Are the followers allowed to pray their noon prayers when the imam of Friday prayer does not perform it after Friday prayer?

A: They are permitted to do so.

Q 609: Is it obligatory for the imam of the Friday prayers to acquire permission from the authorized religious authority? What is meant by the authorized religious authority? Does this rule apply to far cities?

A: Basically, the leadership of Friday prayer does not depend on permission. However, one is not considered as an appointed imam unless he is appointed by the Leader of the Muslims. This rule applies to all lands and cities where the Leader governs and people are obedient to his rule.

Q 610: Can an Imam of Friday prayer appointed for a certain place lead the Friday prayer in another place where he has not been appointed when there is no obstacle or contending Friday prayer?

A: For him to lead a Friday prayer in another place is

permissible in itself. However, the rules specific to an appointed imam would not be applicable.

Q 611: Does a temporary imam of Friday prayer need to be appointed by the Jurist Leader? Or does the permanent Friday prayer imam have the right himself to appoint people as temporary imams of Friday prayer?

A: The Friday prayer imam has the right to appoint anybody as a temporary Friday prayer imam. However, the rules applicable to an imam appointed by the Jurist Leader do not apply to such a person.

Q 612: If a mukallaf does not consider the appointed imam of Friday prayer as just or has doubts about his justice, then are they allowed to perform their prayers behind him just to maintain the unity of the Muslims? Furthermore, can a person who does not attend the Friday prayer discourage others from attending it?

A: It is not correct for a person to perform prayer behind one who is not considered as 'ādil or about whom the follower doubts his justice. Nor would his congregational prayer be considered correct. However, for the sake of unity, there is no problem in joining the congregational prayer. But this person is not allowed, under any circumstances, to encourage others not to join the Friday prayer.

Q 613: What is the rule regarding not participating in Friday prayer when it is established for the mukallaf that the imam is a liar?

A: The contradiction in the speech of the Friday prayer imam is not evidence for that. It is possible that he may have made a mistake, an error of judgment or even taken the side of tawriyah. One should not deprive oneself of the blessings of the Friday prayer just due to imagination that the imam is not 'ādil anymore.

Q 614: Is it necessary for the follower to check or be certain about the justice of the Friday prayer imam who has been appointed by Imam Khomeini or the 'ādil Jurist Leader? Or is the mere fact that he has been appointed to lead Friday prayers

sufficient to determine his justice?

A: If the appointment as imam of Friday prayers makes the follower certain and confident of the imam's justice, then it is sufficient for the follower to consider his praying behind him as correct.

Q 615: Should the imam of a masjid be selected by trustworthy scholars or appointed as the imam of Friday prayers by the Jurist Leader, is it considered as evidence that he is 'ādil? Or is it necessary to investigate his justice?

A: If the appointment makes the followers certain about the imam's justice, then it is permissible for them to follow him in prayer.

Q 616: Is it necessary to repeat the prayers one has prayed behind a Friday prayer imam whose justice is questionable or, Allah forbid, if it is established that the imam is not 'ādil?

A: If doubt about the imam's justice or certainty about the lack of justice is acquired after completing the prayer, then it is not obligatory to repeat the prayers and they are considered correct.

Q 617: What is the rule regarding one's participation in Friday prayers — offered in Europe and other places — conducted by university students from Islamic countries and most of the participant and the imam of Friday prayer are usually Sunnī brothers? And is it obligatory — in this case — to offer the noon prayer after the Friday prayer?

A: There is no objection to participating in it for the sake of safeguarding unity and Muslim solidarity and it is not obligatory to pray the noon prayer.

Q 618: In one of the cities of Pakistan there has been a Friday prayer for nearly 40 years. Now a person has started another one without taking into consideration the necessary shar'ī distance between the two congregations. This has created a conflict between the people who come for prayers. What are the shar'ī ruling regarding this act?

A: It is not permissible for one to create such a situation, thereby causing a conflict and separation between believers,

especially when it is related to the Friday prayer which is a sign of Islam and shows the strength and unity of Muslims.

Q 619: It was announced by the religious speaker of the Jāmi' Ja'farī masjid in Rawalpindi that Friday prayer will not be offered there due to construction work. Now that the work is finished, we face a problem. At a distance of 4 kilometers a Friday prayer has been started in another masjid. Taking the distance into consideration, would it be correct to do the Friday prayers in the mentioned masjid?

A: When the distance between the two Friday prayers is not one sharī farsakh, the secondly offered Friday prayer will be void while if both of them started at the same moment, both of them are void.

Q 620: Could one perform Friday prayer, which is held in congregation, individually by performing it side by side with those who are performing it in congregation?

A: One of the requirements of Friday prayer is that it should be performed in congregation. Therefore, Friday prayers will not be valid if said individually.

Q 621: When a mukallaf whose duty is to pray shortened, wants to perform his prayer behind an imam of Friday prayer, will this action of his be valid?

A: Friday prayer said by a traveling follower is valid and discharges his obligation of performing the noon prayer.

Q 622: Is it obligatory to mention the name of Fātimah al-Zahrā's (a.) as an Imam of Muslims in the second sermon, or is it obligatory to mention her name with the intent of being mustahabb?

A: The concept of Imams of Muslims does not apply to Fātimah al-Zahrā (a.), and it is not obligatory to mention her blessed name in the Friday sermon, but there is no problem in seeking blessings through mentioning her noble name (a). It is, in fact, a required thing and makes one gain rewards.

Q 623: Could a follower perform an obligatory prayer other than the Friday prayer behind the imam who is performing the

Friday prayer?

A: The validity of such a prayer is problematic.

Q 624: Is it correct to deliver the two sermons of the Friday prayers before the time of shar‘ī noon?

A: It is permissible to make them before shar‘ī noon [i.e., the time when the sun crosses the meridian], although it is a caution to make a part of the sermon after noon.

Q 625: A follower has not been present during any of the two sermons and joined the prayer when the imam has started. Will his prayer be valid and discharge him of his obligation?

A: His prayers will be valid and sufficient even if he joins the imam during the rukū‘ of the last rak‘ah of the Friday prayer.

Q 626: In our city, Friday prayer is held one and a half hours after the noon adhān. Does this prayer discharge us of our obligation to perform the noon prayer, or is it necessary to perform the noon prayer too?

A: The time of Friday prayer begins at shar‘ī noon, and according to caution it should not be delayed more than about an hour or two after the beginnings — according to common view — of shar‘ī noon.

Q 627: It is not possible for an individual to attend the Friday prayer. May he perform the noon and afternoon prayers at the time’s beginning, or is it obligatory for him to wait until the end of Friday prayer and then perform his prayers?

A: Waiting is not obligatory, and he may perform the noon and afternoon prayers at the beginning of the time.

Q 628: If the appointed imam of the Friday prayers is well and present on the site, may he order the temporary Friday prayer imam to lead it? Is it correct to pray behind the latter?

A: There is no problem in performing the Friday prayer behind the deputy of the appointed imam even for the appointed imam himself.

## The Two Id Prayers

Q 629: What kind of obligatory duties are the two 'īd prayers in your opinion?

A: The two 'īd prayers are not obligatory but mustahabb in the present period.

Q 630: Does any increase or decrease in the qunūt of 'īd prayers make them invalid?

A: Prayers are not invalidated by this if the meaning of increase or decrease is to elongate or shorten the qunūt itself. While if it means increases or decrease in the number of the qunūts, one should offer the 'īd prayer as it is mentioned within the books of jurisprudence.

Q 631: In the past, every imam of congregational prayers used to perform 'Īd of Fiṭr prayers in his masjid. Is it permissible for imams of the masjids in the current period to hold the two 'īd prayers?

A: It is permissible for the representatives of the Jurist Leader who are permitted by him to hold 'īd prayers, and also for the Friday prayer imams, who have been appointed by him, to hold 'īd prayers in congregation during the current period. As for any other individual, it is based on caution to perform them individually, and it does not matter if he performs them in congregation as something hopefully — not surely — desired in Islamic law. If it is deemed exigent that only one 'īd prayer be held in a city, it is preferable not to be led by anyone other than the Imam of Friday prayer appointed by the Jurist Leader.

Q 632: Is there any qaḍā' for the 'Īd of Fiṭr prayer?

A: It does not have any qaḍā'.

Q 633: Does 'Īd of Fiṭr prayer have any Iqāmah?

A: It does not have any Iqāmah.

Q 634: If an imam of Friday prayer recites Iqāmah for 'Īd of Fiṭr prayer, what will be the rule of his prayers and that of others who are praying behind him?

A: It harms neither the 'Īd prayer of the imam nor those of the followers.

## Traveler's Prayers

Q 635: Does the obligation of saying shortened prayer by a traveler apply to all obligatory prayers or is it limited to some of them?

A: The obligation of shortened specifically applies to some daily prayers, i.e., noon, afternoon and 'ishā'. As for the morning and the maghrib ones, this rule does not apply.

Q 636: What are the conditions for the four-rak'ah prayers to become obligatorily shortened on the traveler?

A: They are eight conditions:

- i. The traveled distance should be at least eight continuous shar'ī farsakhs, either going or returning, or altogether provided that the going distance is not less than four shar'ī farsakhs.
- ii. The intent to travel the distance should exist from the time of departure. Hence if one does not intend to cover the distance, or intends a shorter one and then intends to travel to another place after reaching his destination, whose distance from the first destination is less than the shar'ī distance, but more than the shar'ī distance from his home, one will not pray shortened.
- iii. The continuation of intent until the distance is covered. Thus if one changes his mind before covering four shar'ī farsakhs or hesitates, the rule of travel will not apply to him after that, but the shortened prayers he performed before changing his intention are valid.
- iv. That there be no intention to interrupt one's journey while covering the distance by passing through one's hometown, or by intending to stay ten days or more in another place.
- v. That the journey be a lawful one according to Islamic law. Thus if the journey is a sinful or ḥarām one, whether it is such in itself like fleeing a holy war, or its purpose is ḥarām, such as traveling to commit highway robbery, for example, the rule of the traveler will not apply to it.
- vi. That the traveler not be one of those who live a migrant life, like some Bedouins who do not have a fixed location and wander through deserts and stay near water, grass and pastures.

vii. That traveling should not be one's job, such as a driver, a sailor, a person who hires out animals of burden, and so on. One whose job is done in traveling is also treated like the aforementioned.

viii. Reaching the tarakhkhuṣ limit, namely the point from where one cannot hear the town's adhān or see its walls.

## **Someone For Whom Traveling Is A Job Or A Job Requirement [Muqaddimah]**

Q 637: A person travels as a preliminary to his job, should he perform his prayer complete, or does this rule apply only to someone whose job is traveling? What do marji's such as Imam Khomeini mean by the phrase "one whose job is traveling". Is there anyone whose job is to travel? This is because the jobs of a shepherd, a driver, a sailor, etc. are to look after the sheep, or to drive, or to sail, respectively. Basically, there is no one whose job is traveling as such.

A: Whoever travels as a preliminary to his job and at least once every ten days goes back and forth between his home and place of work should perform his prayer complete and his fasting is valid. The phrase "one whose job is traveling" in the statements of mujtahids, may Allah be pleased with them, means someone whose job itself involves traveling, like the jobs mentioned in the question.

Q 638: There are people who take residence in a certain city for a period exceeding one year, or the soldiers who have to reside in a city for one or two years in order to complete their military service. Is it obligatory for them to intend to stay there at least for ten days after each travel so that they can perform their prayers in full and fast? What rule applies to their prayers and fasting if they intend to stay for less than ten days?

A: If they are frequenting that place for their job at least once every ten days, they should pray in full and fast except during the first and the second trip. In the first and the second trip if they do not intend to stay for ten days, their rule is the same as that of other travelers namely that prayers are to be shortened and fasting is invalid.

Q 639: What rule applies to prayer and fasting of fighter pilots who, on most days, fly from their air bases and travel a distance much more than the shar'ī distance and return again?

A: Their rule in this regard is the rule of car drivers, sailors, and pilots, i.e., during their traveling, they pray in full and their fasting is valid.

Q 640: Some tribes live in a winter resort for one or two months and in a summer resort for the rest of the year or vice

versa. Are these two places considered their watan? When they are residing in one of them, they may have a trip to the other. How should they pray?

A: If they intend to continue going back and forth permanently between the summer and the winter resorts, spend some days of the year in one and other days in the other one, and choose both places as their permanent settlements, then both places are regarded as their watans. If the distance between the two watans equals or exceeds the sharī distance, while traveling from one watan to the other, their rule is that of other travelers.

Q 641: I am an employee at a government office in the city of Semnan, and the distance between my work place and residence is about 35 km. Everyday I travel this distance to reach my work place. How am I to perform my prayers when I have a special assignment and intend to stay in the city (place of my work) for several nights? Is it obligatory to perform my prayer in full? If, for example, I travel to the city of Semnan on Friday to visit my relatives, is it obligatory to perform my prayer in full or not?

A: If the journey is not for the sake of your job for which you travel daily, the rule of traveling for work will not apply to it. But if the journey is for the sake of the job itself and during it you do other things in the place of your work, such as visiting relatives and friends, and sometimes you stay there for one or more nights, the rule of traveling for work will not change because of this, and you will perform your prayers in full and fast.

Q 642: If I do certain personal work at my place of work after the time of my official assignment for which I have traveled (for example, I do my office work from 7 a.m. till 2 p.m. and do personal work after 2 p.m.), what will be the rule of my prayer and fasting?

A: Doing personal work during travel for official assignment, after completing the office work, does not change the rule of travel for official assignment.

Q 643: What rule applies to the prayers and fasting of the

soldiers who know they will stay in a certain location for more than ten days, but have no control over their own affairs and situation? Please clarify Imam Khomeini's fatwā too.

A: When they are sure that they will stay for ten days or more, it is obligatory for them to perform their prayers in full and fast. This is also the Imam's fatwā.

Q 644: What rule applies to prayers and fasting of the personnel of the army, or that of the Islamic Revolution's Guards Corps, who stay for more than ten days in garrisons and the same in border areas? Please explain the Imam's fatwā, also.

A: If they decide to stay more than ten days in a location, or know that they will do so, it will be obligatory for them to perform their prayers in full and to fast. This is the Imam's fatwā also.

Q 645: It is stated in the risālah of Imam Khomeini (q.), in the chapter on the traveler's prayer, the seventh condition, "It is obligatory for the driver, except during his first journey, to perform prayer in full. During the first journey, his prayer is shortened even if it takes long."

Does the first journey mean the beginning of travel from the watan till returning to it or it ends when one reaches his destination?

A: If the act of going to the place of work and returning back from it is considered as one trip in the common view — e.g. the teacher who travels to another town for teaching and return to his hometown in the afternoon or on the next day, to go and to return altogether would be considered as one trip. However, in case the common view does not consider them as one trip — like the driver who travels for transporting travelers or goods to another place and then returns to his watan — the first trip ends at the first destination.

Q 646: Does the traveler's rule apply to persons whose permanent jobs are not driving, but driving has become their duty for a short term, such as soldiers in garrisons etc. who are assigned to drive cars, or is it obligatory for them to perform full prayers and fast?

A: If common people consider driving as their job during this

temporary period, they have the same rule as that of other drivers.

Q 647: If a driver's car breaks down and he travels to another city to buy spare parts to repair his car, should he perform prayer in complete or in shortened during such a trip, considering that he does not take his car with him?

A: If his job during this trip is not driving and this trip is not considered as traveling for work in the common view, his rule will be that of other travelers.

## **Rule of Students**

Q 648: What rule applies to university students who travel at least two days a week for the sake of studying, or to employees who travel weekly to their jobs? Given that they travel every week but occasionally stay in their watan for a month during college or office vacations and they do not travel during this period, will their prayers be shortened during the first journey (according to the rule), when they resume traveling, and be said in full after it?

A: It is obligatory for them to shorten their prayers, and their fasting is not valid while they are traveling to study, whether their trip is weekly or daily. As for a person who travels for his job, whether official or private, if he travels to and fro between his watan/residence and his workplace at least once every ten days, beginning from the third trip he should perform his prayers in full and his fasting is also valid. And if he stays for ten days in his watan or in another place, between two trips to work, during the first work trip after the ten days he will shorten the prayers and will not fast.

Q 649: I am working as a teacher in my hometown. Now I got an admission to a higher educational center which is located in a far city to which I should travel and stay three days a week as a professional mission. The other days of the week I teach in my hometown. What is the rule of my prayer and fasting in this travel? Does the rule of students apply to me or not.

A: If education is a part of your job, you should pray in full and fast as well.

Q 650: If a student of Islamic studies intends to do propagation of Islam as his job, may he perform his prayers in full and fast while traveling? If someone travels for a purpose other than propagating Islam and guidance or enjoining the good and forbidding evil, what will be the rule concerning his prayers and fasting?

A: If propagating Islam, guidance, enjoining the good and forbidding evil are considered to be his job, while traveling for that work his rule is that of others who travel for their jobs. If he occasionally travels for a purpose other than propagating Islam, during such a journey his rule is that of other travelers,

namely his prayer must be shortened and his fasting will be invalid.

Q 651: What is the rule of the prayers and fasting of those who travel for an indefinite period, such as the students of Islamic studies who go to the Islamic seminaries, or government employees who are transferred to a certain city for work purposes for an indefinite period?

A: The rules of watan do not apply to the place of study or work unless they have stayed in the place of study or work for such a time that according to the common view it is considered to be their watan.

Q 652: A student of Islamic studies lives in a city which is not his watan, and before making the intent of staying for ten days he knows in advance, or decides himself, that he would go every week to a masjid near the city. Can he make the intent of staying for ten days?

A: If at the time of deciding to stay for ten days, a person intends to leave his place for another location at less than the shar'ī distance for about six-seven hours in the whole period of his staying, it will not harm the validity of his intent to stay. Whether or not the place he intends to visit is located within his place of residence is determined by common view.

## **Intent of Traveling the Shar'ī Distance and Staying for Ten Days**

Q 653: I work in a place which is less than the shar'ī distance from the nearby city. Since none of the two places is my watʿan, I make the intent to stay ten days in my place of work in order to perform full prayer and fast there. When I decide to stay in my place of work for ten days, I do not intend to leave for the neighboring city during those ten days or afterwards. What is the shar'ī rule in the following situations:

- i. If I leave for the nearby city in an emergency or for a business before the end of the ten days, and stop there for about two hours before returning to my place of work?
- ii. If I leave for the city after the end of the ten days, visiting one of its districts without passing the shar'ī distance, and stay there for a night before returning to my residence?
- iii. If I leave for the city after ten complete days, intending to visit a certain district, but I change my mind after reaching it and decide to go to another point which is at more than the shar'ī distance from my city of residence?

A: First and second: If one does not have a primary intention to leave the place, after the rule of full prayer is established — though it be by performing at least a single four-rak'ah prayer — leaving it for a place at less than the shar'ī distance, in one or more days, does not harm the intention of staying for ten days, whether he leaves it before or after completing the ten days. Therefore, he should perform full prayers and fast until he starts a new journey.

Third: If one intends to stay in a district within a certain city, his travel to another places within the same city will not harm his intention of staying in that city or its rule even though the distance between the district and those places equals the shar'ī distance. But if he intends to reside in a certain city and then he leaves for another city located at a distance more than the shar'ī one, this will destroy the intent of residence in the first city and it will be necessary to renew this intention after returning to it again.

Q 654: After leaving his watʿan, a traveler passes by a place where he can hear the adhān of his watʿan or see the walls of

its houses, will it affect the distance covered?

A: This does not harm the distance covered as long as he does not pass through his watan itself and his journey is not discontinued by it. But the traveler's rule does not apply to him while he is at this very place.

Q 655: The place where I live presently is not my original watan, and its distance from my original watan exceeds the shar'ī limit. I did not adopt this place of my work as watan, and I may stay there only for some years. Sometimes I leave it two or three days a month to make a job-related trip. Is it obligatory for me to make the intent to stay for ten days whenever I return to the city of my residence after traveling more than the shar'ī distance? If so, what is the distance I can cover on the city's outskirts?

A: Whenever you leave your city of residence and travel the shar'ī distance, on returning again you should make the intent to stay for ten days. If your intent to stay for ten days is achieved in a valid manner and the rule of full prayer — even by performing at least a single four-rak'ah prayer — is established, leaving the place of residency for a point within the shar'ī distance will not harm the rule of staying for ten days. Similarly, the intent to visit the city's orchards and farms during the ten days does not harm the intention of Iqāmah.

Q 656: A person lives four kilometers far from his watan for several years, visiting home weekly. What is the rule of his prayer if he travels a distance of 25 km. from his watan and 22 km. from a place in which he studied for several years?

A: If he leaves his own watan for the said destination, his prayer should be shortened.

Q 657: A traveler intends to travel to a place at three shar'ī farsakhs, but his intention, at the beginning, is to travel a shar'ī farsakh along a side road to accomplish some business and then return to the main road to continue his journey. What rule applies to the prayers and fasting of this traveler?

A: The traveler's rule does not apply to him. It is not sufficient, in order to complete the shar'ī distance, to add what he covered [along the side road] from the time he departed the main road to the time he returned to it.

Q 658: According to the Imam one should pray shortened and break the fast when travels a distance of eight shar'ī farsakhs. If the going distance is less than four shar'ī farsakhs but for returning one is forced to cover a distance of six shar'ī farsakhs (due to unavailability of a car or difficulties of the road), should one shorten the prayer and break the fast?

A: If the going distance is less than four farsakhs and the return way alone is not equal to the shar'ī distance, he should say full prayer and fast.

Q 659: A person travels from the place where he lives to another place within the shar'ī distance and several times a week goes from the second place to other places so that the total distance exceeds eight shar'ī farsakhs, what is his duty?

A: If he does not intend to travel the shar'ī distance when leaving his home, and the distance between his first destination and the subsequent ones is not equal to the shar'ī distance, the traveler's rule would not apply to him.

Q 660: If one leaves his town heading towards a certain place, and on getting there goes around here and there, would his going around be added to the distance which he has traveled from his home?

A: Going about within the place of destination is not counted as part of the distance covered.

Q 661: When one intends to be in a place for ten days, is it permissible to have in mind to leave it for another place of less than shar'ī distance?

A: If it does not contradict the intention of staying there for ten days — e.g., one leaves it once or several times only a few hours, during the day or night, so that the whole period does not exceed six-seven hours — the intention of leaving does not harm the intention of staying for ten days.

Q 662: One who travels to and fro between his place of residence and work — they are far from each other by more than 24 km — must perform prayers in full. Will his prayers remain full-length if he leaves the city of work and travels less than the shar'ī distance, whether to another city or not, and then returns to his place of work before or after noontime?

A: The rule of one's prayers and fasting in the place of work

does not change simply on leaving it for a place within the shar'ī distance, even for a purpose not related to the daily work, regardless of whether one returns to the place of work before or after the noon.

Q 663: I am from Esfahan and for some time I have been working at a university in the satellite town of Shahinshahr. The distance between Esfahan and Shahinshahr is less than the shar'ī distance (about 20 km) but the distance to the university, which is located on the city's outskirts, is more than the shar'ī distance (about 25 km). Taking into account that the university is located in Shahinshahr and my real destination is the university, though I go through the middle of the city, am I considered a traveler?

A: If the distance between the two cities is less than four shar'ī farsakhs, the traveler's rule does not apply.

Q 664: I travel every week to the city of Qom on a visit to Holy Ma's'umah's (a.) shrine and also in order to perform the rites of the Jamkaran Masjid. Should I offer full prayers or do shortened prayers during these journeys?

A: Your rule during such a journey is similar to that of other travelers and you shorten the prayer.

Q 665: I was born in Kashmar but lived in Tehran from 1966 to 1990. Three years ago, I came with my family to Bandar 'Abbas on an official job, and within a year I will return to my wat'an, Tehran. During the period that I am at the port, I might have to go any time to the nearby towns on an assignment and stay there for a while, without being able to predict how long the official assignment will take.

Please, firstly clarify the rule which applies to me concerning prayers and fasting.

Secondly, taking into consideration that most of the times, or in certain months of the year, I leave on assignments lasting several days, am I considered a frequent traveler?

Thirdly, what is the shar'ī rule concerning the prayers and fasting of my wife who is a housewife born in Tehran and who came to the port of 'Abbas to live here with me?

A: The rule of your prayers and fasting in your current place of

work, which is not your watan, is that of the prayers and fasting of a traveler, namely, shortened prayers and invalidity of fasting unless you make the intention to stay there for ten days or if you travel for work at least once every ten days. As for your wife who accompanies you in your place of work, if she makes the intention to stay there for ten days, she will have to say full prayers and fast; otherwise she shortens the prayers and cannot fast there.

Q 666: Someone makes the intention to stay for ten days, either because he knows that he would stay for ten days or decides to do so. Then, after the rule of full prayer applies to him through performing a four-rak'ah prayer, he decides to travel. May he do so, if this travel is not a necessary one?

A: There is no problem in his traveling, even though it is not necessary.

Q 667: Someone travels to visit the shrine of Imam Rid'ā (a.). Despite knowing that he will stay there for less than ten days, he makes intention to stay for ten days in order to perform his prayer in full. What rule applies to him?

A: If he knows that he will not stay for ten days, it does not make sense to make an intention to stay for ten days, this intention would be of no effect, and he should shorten the prayers there.

Q 668: Some employees travel less than the shar'ī distance to reach their work place. They never stay there for ten days. Should they shorten their prayers?

A: If the distance between their watan and their place of work is less than the shar'ī distance, even after considering the to and fro journey, the rules of a traveler do not apply to them. As for one whose place of work is at a shar'ī distance from his watan and he travels between them at least once every ten days, it will be obligatory for him to pray the full prayer from the third trip on. Later, if he stays ten days in his watan or his place of work, he should offer the shortened prayer during [only] the next trip.

Q 669: Someone travels to a place without knowing whether

they are going to stay there for ten days or less, how should they say the prayers?

A: They should shorten their prayers for thirty days then pray in full even if they want to leave on the same day.

Q 670: What rule applies to the prayer and fasting of someone who is propagating Islam in two locations and intends to stay in that area for ten days?

A: If they are considered as two locations according to the common view, it will not be correct for him to make the intention of staying for ten days in both of them, or in one of them as long as he intends to go back and forth between the two during the ten days.

## **Tarakhkhuş Limit**

Q 671: In Germany and some other European countries, the distance between some cities (that is, the distance between the exit sign board of one city and the entry sign board of the other) is not even a hundred meters, and the houses and streets of the two cities are totally connected to one another. What is the tarakhkhuş limit in such cases?

A: Assuming that two cities are connected to each other in the way mentioned in the question, the rule of such cities is similar to that of two localities of one city. Thus, leaving one for the other is not regarded as traveling and there is no need to consider the tarakhkhuş limit.

Q 672: The criterion of the tarakhkhuş limit is the visibility of the city's walls and audibility of its adhān. Are both of them together necessary or one is sufficient?

A: It is based on caution to observe both the signs, though it is not remote that the inaudibility of the adhān is adequate for determining the tarakhkhuş limit.

Q 673: What is the criterion of the tarakhkhuş limit, the audibility of the adhān from the houses of the area in which the traveler first arrives or from the centre of the city?

A: The criterion is the audibility of the adhān from the city's end where the traveler leaves the city or enters it.

Q 674: There is a difference of opinion among the residents of an area concerning the shar'ī distance. Some believe that the criterion is the walls of the area's last connected houses. Some others believe that the distance should be calculated from the factories and scattered townships which are located beyond the city's houses. The question is where does a city end?

A: The determination of a city's end depends on the common view. Thus, if the factories and scattered townships are not considered as part of the city, according to the common view, the distance should be calculated from the last houses of the city.

## **A Travel for the Purposes of Committing a Sin**

Q 675: If one knows that they will be engaged in sinful and ḥarām conduct during the journey they are about to make, will their prayer be full or shortened?

A: If their journey is not for the sake of neglecting an obligatory act or committing ḥarām, their rule will be that of normal travelers, namely, shortened prayer.

Q 676: If someone travels without the intent to commit a sinful act, but on the way he pursues his journey for a sinful purpose, is it obligatory for him to shorten the prayers? Are the shortened prayers he performed on the way correct?

A: It is obligatory for him to perform prayer in full from the time he intends to continue his travel for the sake of a sinful act and to repeat in full the prayers shortened he performed after continuing the journey for a sinful purpose.

Q 677: What is the rule that applies to a picnic made for pleasure, or a journey for purchasing the necessities of life, supposing that one will have no access during the journey to a place for praying or carrying out its preliminaries?

A: If he knows that he will have to forsake a prayer obligation during the journey, it is a caution to refrain from such a trip unless that results in harm or causes an unbearable hardship. Anyhow, it is impermissible to neglect one's prayer for any reason.

## Rules Regarding the Watan

Q 678: My birthplace is Tehran but my parents are originally from the city of Mahdishahr. They usually travel to Mahdishahr several times a year, and I go with them. As I do not intend to return to my parents' town to live there, but have decided to stay in Tehran, what rule is applied to my prayer and fasting?

A: Based on the above assumption, your prayer and fasting in the original watan of your parents will be in accordance with that of a traveler.

Q 679: I live six months in one city during the year, and six months in another which is my birthplace as well as my place of residence and that of my family. However, my stay in the first city is not continuous, but intermittent. For example, I stay there for two weeks, ten days, or less, and then return to my birthplace where my family resides. My question is: Does the rule of a traveler apply to me if I intend to stay in the first city for less than ten days?

A: If that city is not your watan and you do not intend to make it your watan, the rule's of a traveler will apply to you whenever you intend to stay there for less than ten days unless you frequent to this city for job-related purposes at least once every ten days in which case you should pray in full and fast.

Q 680: An individual decided to reside in a place for years. How long should he intend to reside there so that the ruling of watan applies to it? Is there any difference if he intends just living there, staying for work or both?

A: For such a place to be considered as watan, it is enough to intend living there for seven-eight years. But if he intends to stay there for work or a purpose other than living, it is not ruled as watan.

Q 681: A person's watan is Tehran. Recently he decided to take up residence in one of the towns near Tehran and make it his watan. But, since his daily business and work is in Tehran, he cannot stay in this city for ten days, let alone six months, so that it may become a watan for him. He goes to his work every day and returns at night to this town. What is the rule of his

prayer and fasting in this town?

A: For a place to become one's new watan, it is not a condition to stay there continuously for six months after deciding to consider it as his/her watan and place of residence. Rather, after selecting a place as a new watan and residing there with this intention — even only at nights — for a while, it becomes his/her watan.

Q 682: My wife and I were born in the city of Kashmar. After my employment in a government office, I moved to the city of Neyshabour, while our parents still live in our birthplace. At the beginning of our move to Neyshabour, we abandoned our original watan (Kashmar) (i.e. we ceased to consider it as our watan anymore), but fifteen years later we changed our mind. Please answer the following questions:

i. What is our duty with respect to our prayers whenever we visit our parents and stay with them for several days?

ii. What is the duty of our children, who were born in our current place of residence (Neyshabour) and now they are ritually mature, during our visit to our parents' town (Kashmar) and in the course of our several days' stay in Kashmar?

A: After you abandon your original watan (Kashmar), it is not considered as your watan any more unless you return to live there again and stay there for a period after intending to live there permanently. As far as your children are concerned, the rule of watan does not apply to this city, and the rules of a traveler apply to all of you in that city.

Q 683: Someone has two watans. Therefore, he performs full prayer in both places and fasts. Please answer this question: Do his dependants, i.e. wife and children, have to follow their guardian in this matter, or may they act independently on their own?

A: It is permissible for the wife not to adopt the new watan of her husband as her own, but as for the children, if they are minors and dependent in making decisions and in earning money, or they are subject to their father's decision with respect to this matter, the new watan of their father will be considered their watan as well.

Q 684: If a mother, to deliver her baby, has to travel for a few days to a maternity hospital located outside the watan of the baby's father and return after the delivery, where will be the baby's watan?

A: If the hospital is located in the parents' watan where they live, the same city will be the baby's original watan. Otherwise, simply being born in a city is not sufficient to make it its watan. The baby's watan will be the parents' watan where it is brought after birth and lives with its parents.

Q 685: Someone has been living in Tehran for several years, but he has not taken it as a second watan. What will be the rule of his prayer and fasting in this city when he leaves Tehran, travels more or less than the shar'ī distance and returns?

A: After he makes the intent of staying at least for ten days in Tehran and the rule of full prayer becomes established to him through performing at least a single four-rak'ah prayer, he should make full prayers and fast there as long as he does not leave the city and travel a shar'ī distance; otherwise, if he travels a distance equal to or more than the shar'ī one, the traveler's rule will apply to him.

Q 686: I am an Iraqi and would like to abandon Iraq as my watan. Should I take Iran as a whole as my watan, or one of its areas, and do I have to buy a house so that I might take a watan?

A: For taking a new watan, it is necessary to make the intention of adopting a particular city as watan and to reside there long enough to be considered as one of its residents according to common view. But the possession of a house in that city or anything else is not a condition.

Q 687: A person migrated from his birthplace to another city before being ritually mature, and was not aware of the issue of abandoning ones watan. Having reached the age of maturity now, what is his duty concerning his prayer and fasting in his birthplace?

A: If he migrated from his birthplace following his father, and his father did not intend to return there for living, the watan's

rule will not apply to him in that place.

Q 688: Someone has a watan where he does not live at present, but goes there sometimes with his wife. Should his wife perform full prayer there, like him, if she goes along with him to that place? What rule will apply to her prayer if she goes there alone?

A: The mere fact that a place is the husband's watan does not entail that it is a watan for the wife as well so that the watan's rule should apply to her while being there.

Q 689: Does the rule of watan apply to one's place of work?

A: To work at a place does not make it one's watan. However, one should perform full prayer and fast there if a shar'ī distance is traveled back and forth, at least once every ten days, between one's residence and place of work.

Q 690: What is meant by abandoning one's watan? If a girl gets married and travels with her husband to the place he wishes, will it amount to abandoning her watan?

A: It means leaving one's watan with the intention not to return to live there. Her mere going to the husband's house in another city does not entail abandoning her original watan.

Q 691: Please explain your opinion on the issue of original and second watan.

A: Original watan is the place where one is born, lives for a time, grows up, and flourishes. The second watan is the place a mukallaf intends to live there for seven-eight years.

Q 692: My parents are from Saveh. They both went to Tehran when they were young and took residence there. After marriage they went to Chalus, where my father works. Given that I was born in Tehran but did not live there at all, how should I perform my prayer in Tehran and Saveh?

A: If you did not grow up in Tehran after being born there, Tehran will not be considered your original watan. Therefore, if you did not take Tehran or Saveh as your watan, the rule of watan will not apply to you in the two cities.

Q 693: Without abandoning his watan, someone has been residing in another city for six years. Given that he has kept the taqlid of the late Imam Khomeini (q), should he perform prayer in full when he returns to his watan?

A: As long as he has not abandoned his previous watan, the watan's rule remains valid for him, and he should perform full prayers and his fasting is valid there.

Q 694: A university student has rented a house in the city of Tabriz in order to study in a college there for four years. Besides, he intends to stay in Tabriz permanently if possible. At the present, during the blessed month of Ramadan, he sometimes visits his original watan. Are these two considered his watans?

A: If he has not resolved to make the place of his studies a watan, the watan rule will not apply to him there. But his original watan will remain as such as long as he does not abandon it.

Q 695: I was born in Kermanshah but have been living in Tehran for six years. I have not abandoned my original watan, while I intend to adopt Tehran as watan as well. If I move from one locality of Tehran to another every one or two years, what rule will apply to my prayer and fasting while I am here? Since we have been living in the new locality (inside Tehran) for more than six months, does the watan rule apply to us here? How will our prayers and fasting be when we travel between different areas of Tehran during the day?

A: If you make the intention to take the present Tehran, or one of its areas, as watan, it will be your watan as a whole, and the watan rule, namely the obligation to perform prayer in full and validity of fasting, will apply to you in all areas of the present Tehran, and the traveler's rule will not apply to your traveling around inside present Tehran.

Q 696: Someone belongs to a village but works and lives in Tehran at present. His parents live in the village where they own some land and wells. He travels to the village to visit his parents or to help them, but is not interested at all in returning to live there. Given that he was born in this village, what is the

rule of his prayer and fasting there?

A: If he does not want to, rather he has resolved not to, return to that village to live there, the watan rule will not apply to him there.

Q 697: Is one's birthplace considered their watan even if they do not live there?

A: If they stayed there for a period of time, grew up and flourished there, and did not abandon it, then the watan's rule will apply to them while being there; otherwise it will not.

Q 698: What rule applies to the prayer and fasting of someone who has been living for a long time (nine years) in a place which is not his watan and is presently forbidden from returning to his watan, but is certain that he will return some day?

A: His rule with respect to his prayer and fasting in the place where he now lives is that of the traveler.

Q 699: I spent six years of my life in a village, and eight years in a city before I came to Mashhad, where I now study. What is the rule of my prayer and fasting in each of these places?

A: The watan rule applies to you, concerning your prayer and fasting, while in the village, which is your birthplace, as long as you do not abandon it. But as for Mashhad, the traveler's rule will apply to you as long as you do not make the intention of making it your watan. As for the city where you resided for several years, if you took it as your watan, the watan rule will apply to you while being there, as long as you do not abandon it; otherwise your rule there would be that of a traveler.

## **Wife's and Children's Following as far as Watan Is Concerned**

Q 700: Should the wife follow her husband with respect to watan and ten-day stay?

A: Matrimony alone does not make the wife follow her husband involuntarily. Therefore, the wife may choose not to follow the husband with respect to the adoption of watan or the intent of ten-day stay in a place. However, if the wife is not independent in her decisions and living, and she submits to her husband's will with regard to taking a watan and abandoning it, her husband's intent will suffice for her in that regard, and the city to which her husband moves with her, intending to adopt it as his watan to live there permanently, will be her watan as well. Similarly, the husband's abandoning their earlier watan, along with leaving it for another place, will also be considered as her abandoning her watan. Concerning her staying for ten days during travel, assuming that she submits to her husband's wish, her knowledge of the husband's intent of ten-day stay will be enough, even if she is compelled to accompany her husband during the period of his ten-day stay there.

Q 701: A young man married a girl from another city. Should the girl pray shortened or full prayers when she goes to her father's home?

A: Her prayer is full while in her original watan, as long as she does not abandon it.

Q 702: Are wife and children covered by the ruling no.1284 of the risālah of Imam Khomeini (q.) according to which, it is not necessary for them to make the intention of travel also (along with the husband or the father) in order to be travelers? Does the father's watan cause the prayers of those who follow him to be full?

A: In case they follow the father in traveling, though by compulsion, the father's intention to cover the distance will suffice them if they know about it. But as far as taking a watan and abandoning it are concerned, if they are dependent in their decisions and living, in the sense of dependence on the father's will in that regard, they will follow the father with respect to

abandoning watan and adopting the new watan where the father has shifted with them to live permanently.

## Rules of Large Cities

Q 703: What is your opinion concerning large cities with respect to the conditions of the intention of making them a watan or of staying there for ten days?

A: There is no difference between a large city and an ordinary one in respect of the traveler's rules and the intention to make a watan or to stay for ten days. On making the intention to take a large city as one's watan and staying in that city for a period without specifying any particular area, the watan's rule will apply to the whole city. Similarly, if one makes the intention to stay in such a city for ten days without specifying any particular area of it, his prayer will be full and his fasting will be valid.

Q 704: Until the Revolution a person had no knowledge of Imam Khomeini's (q.) verdict considering Tehran as a large city. What rule will apply to the prayers and fasts that he had performed in the usual way?

A: If he continues to do taqlīd of the late Imam (q.) concerning this issue, it will be obligatory for him to repeat the past acts which did not conform to his verdict, by making the qaḍā', in shortened form, of the prayers performed in full while his duty was to shorten them, and making the qaḍā' of the fasts kept while he was a traveler.

## Prayer Performed by Hiring

Q 705: I am unable to perform prayer. May someone else pray on my behalf? Is there any difference between taking a representative for a wage and without it?

A: According to Islamic law, it is obligatory for every living mukallaf themselves to perform their obligatory prayers in any possible way. And an agent's prayers, whether it is for a wage or without it, do not relieve them of this obligation.

Q 706: Someone is hired to perform prayer on another's behalf, how is he to go about it?

- i. Is it obligatory for him to recite the adhān, the Iqāmah, and the threefold salāms, and the complete tasbīḥāt al-arba'ah?
- ii. If he performs the noon and afternoon prayers, for example, one day and performs the complete five daily prayers on the next day, will it be necessary to observe their order?
- iii. Is it necessary to mention the specifics of the deceased person for the prayer performed on their behalf?

A: Mentioning the specifics of the deceased person is not necessary. Order should be observed only between noon and afternoon and between maghrib and 'ishā'. If the person hired to perform the prayers is not ordered to follow a particular method in the hiring contract, and there is no usual method implied by the generality of the contract, he must perform the prayers along with the mustaḥabb acts which are normally performed, but it will not be obligatory for him to say adhān for all the prayers.

## Aayat Prayers

Q 707: What is an āyāt prayer and what makes it obligatory according to Islamic law?

A: It is comprised of two rak'ahs, with five rukū's and two prostrations in each rak'ah. According to Islamic law, it becomes obligatory due to solar and lunar eclipses, even partial ones; an earthquake; and any abnormal phenomenon which scares most people, such as an unusual black, red, or yellow storm, an intense darkness, landslide, a cry (from the heavens), and the fire which sometimes appears in the sky. Āyāt prayer is not made obligatory by that which does not frighten most people, excepting eclipses and earthquakes, or by things which scare exceptions among people.

Q 708: How is an āyāt prayer performed?

A: Āyāt prayer has several forms:

i. After making intention and saying the takbīrah al-iḥrām, one recites the Fātiḥah and another one, and then performs rukū'. After rising from the rukū', one recites the Fātiḥah and a chapter, and again performs rukū'. One keeps on doing so until he performs five rukū's, each preceded by the Fātiḥah and another one. After that, he rises up and performs two prostrations, then stands up and performs the second rak'ah in the same manner as the first one, completing with two prostrations, followed by tashahhud and salām.

ii. After making intention and saying takbīr, one recites the Fātiḥah and one part, at least a single complete verse, of a chapter, then performs rukū'. Then rising from the rukū', one recites another part of that chapter followed by a rukū'. Then raising his head, he recites another part of the same chapter, and continues this procedure until the fifth rukū', by then he should have completed the chapter. Then after the fifth rukū', he performs two prostrations, then stands up and recites the Fātiḥah and a part of a chapter, followed by rukū', and continues in the same manner as in the first rak'ah, finishing with tashahhud and salām. If one wants to suffice with one verse of the chapter before every rukū', he may not recite the Fātiḥah more than once at the beginning of the rak'ah.

iii. One performs one of the two rak'ahs in one of the above

two forms and the other rak'ah in the other form.

iv. One completes the chapter, of which he recited a verse in the first standing state, in the second, third, or the fourth standing state, for instance. Then it will be obligatory for him, after raising his head from the rukū', to repeat the Fātiḥah in the following standing state, and to recite with it a chapter or a verse of a chapter if he is before the third or fourth rukū'. In this case, he must complete that chapter before the fifth rukū'.

Q 709: Is the obligation of āyāt prayer limited to those who are in the city of occurrence of the phenomenon, or does it apply to any mukallaf who comes to know about it without being in that city?

A: It is obligatory only for those who are in the phenomenon's city, and this rule also applies to those who are in the adjacent city if both are considered as one city.

Q 710: If someone is unconscious when an earthquake occurs, and becomes conscious after its occurrence, will the āyāt prayer be obligatory for him?

A: If he does not come to know that an earthquake occurred until the adjacent time has finished, it is not obligatory for him to perform the āyāt prayer, but it is of caution to do so.

Q 711: After an earthquake in an area it is often observed that dozens of tremors occurs there in a short period of time. What is the rule with respect to āyāt prayer in such cases?

A: Each quake, whether violent or mild, requires its own āyāt prayer provided that it is considered as an independent quake.

Q 712: The center of seismography reports the occurrence of several mild earthquakes in the area we live, mentioning their number, though we felt none of them. Is āyāt prayer obligatory for us in such a case?

A: If you did not feel the quakes during or immediately after their occurrence, the āyāt prayer will not be obligatory for you.

## Nāfilahs

Q 713: Should nāfilah prayers be recited loudly or quietly?

A: It is mustahabb to perform the daytime nāfilahs quietly and the nightly ones loudly.

Q 714: Is it permissible to perform night prayers as follows: two four-rak'ah prayers instead of four two-rak'ah ones, then a two-rak'ah one, followed by the watr prayer?

A: It is not correct to perform the night nāfilah in the form of four-rak'ah prayer.

Q 715: Is it necessary to perform the night prayers in the dark and in such a manner that nobody knows that we do it?

A: It is not required to perform it in the dark or to hide it from others. However, it is not permissible to show it off.

Q 716: Having performed the noon and afternoon prayers during the nāfilah's time, occasionally we perform their nāfilahs, should the intention be to make qaḍā' or something else?

A: In such a case, it is based on caution to perform them for the sake of proximity to Allah, the Exalted, not with the intention of adā' or qaḍā'.

Q 717: Please explain in detail how to perform the night prayer?

A: Night prayer comprises eleven rak'ahs in all. Eight of these rak'ahs, which are performed two by two, are called night prayer. The next two-rak'ah prayer performed like morning prayer is called shaf' prayer, and the last rak'ah is known as rak'ah of watr. It is mustahabb, in the qunūt of the rak'ah of watr, to seek Allah's forgiveness, to pray for believers, and to make appeals for fulfillment of requests to the Beneficent Allah, in accordance with what is mentioned in the books of supplications.

Q 718: How are the night prayers performed in respect of the chapters, begging Allah's forgiveness and supplications?

A: The recitation of a certain chapter, repenting, or supplication is not a necessary part. After making intention and saying

takbīrah al-ihrām, it is sufficient to recite the Fātiḥah in every rak'ah, perform rukū' and prostration, say their dhikr, and terminate it by tashahhud and salām, although one may recite a chapter of the Holy Qur'an after the Fātiḥah if one wants to.

## Miscellaneous Issues of Prayers

Q 719: How should one wake one's family members for morning prayer?

A: In this case, there is no particular way with respect to family members.

Q 720: What rule applies to the prayer and fasting of those who belong to different groups that are jealous of and even hostile to one another for no reason?

A: It is not permissible for a mukallaf to nurture envy, enmity and hostility towards others, but doing so does not invalidate one's prayers and fasting.

Q 721: If combatants on the warfront cannot recite the Fātiḥah or perform prostration or rukū' due to the intensity of battle, how should they say prayer?

A: They should perform prayer in any possible way and if they cannot perform rukū' and prostration, it will suffice to do them through gestures.

Q 722: At what age must parents teach their children the rules of Islamic law and the rites of worship?

A: It is mustaḥabb for the guardian of children to teach them the rules of Islamic law and the rites of worship when they reach the age of discrimination.

Q 723: Drivers of some passenger buses that travel between cities do not care about their passengers' prayers. So they do not stop the bus at the passengers' request so that they may perform prayers. That may cause the passengers' prayers become qaḍā'. What is the duty of bus drivers in this respect, and what is the passengers' duty concerning their prayers in such a situation?

A: If the passengers fear the lapse of a prayer's time, it will be obligatory for them to ask the driver to stop the bus at a place appropriate for praying, and it will be obligatory for the driver to accept their request. If he refuses to stop the bus for an acceptable reason, or no reason, the passengers, if they fear the lapse of the prayer's time, should perform the prayer on the

bus while it is moving, and observe qiblah, standing position, rukū' and prostration as much as possible.

Q 724: Does the statement, "One who drinks wine has neither prayer nor fast for forty days" mean that it is not obligatory for them to perform prayer during that period, and that they should make qaḍā' for what they miss? Or does it mean that they should do adā' (perform it in time) as well as qaḍā'? Or that it is not obligatory for them to make qaḍā' and adā' will do, though its reward is less than the other prayers?

A: It means that drinking wine prevents the acceptance of prayers and fasting, not that it exempts them from the obligation to perform prayers and fast on time and it becomes obligatory for them to perform their qaḍā' instead, or that it is obligatory to perform them both adā' and qaḍā'.

Q 725: What is my shar'ī duty when I see someone performing some acts of prayer wrongly?

A: You have no obligation unless his mistake is a result of his ignorance of the rule, in which case it is a caution to guide him.

Q 726: What is your opinion concerning the praying persons doing shaking hands with each other immediately after the prayer? It is noteworthy that some eminent scholars have said that nothing is narrated on this subject from the Immaculate Imams (a.), and therefore there is no basis for shaking hands. But at the same time, we know that shaking hands increases friendship and affection among those who gather for prayer.

A: There is no problem in shaking hands after the salām and finishing the prayer. In general, shaking hands with a believer is mustahabb.

**Part 4**  
**FASTING [ SAWM ]**

## Conditions Under Which Fasting Is Obligatory And Valid

Q 727: A young girl has reached the age of sharī puberty. However; she cannot fast in the month of Ramadan due to her weak constitution. She is also unable to perform the qaḍā' of the missed days of fasting until the next Ramadan. What is the ruling in this situation?

A: The obligation of fasting or performing the qaḍā' for the missed fasts is not removed just because of weakness. Rather, the qaḍā' of the missed days of fasting in Ramadan will remain obligatory for her.

Q 728: What is the ruling for those girls who have recently reached maturity and find it somewhat difficult to fast? Is nine years the age when girls become mature?

A: The legal age of maturity for girls start at the completion of nine lunar years, hence it is obligatory for them to fast. It is not permissible to forsake fasting due to some excuse. However, if fasting becomes harmful for them or involves unbearable hardship, it is permissible to break the fast.

Q 729: I do not know exactly when I reached the age of sharī puberty. Please clarify, from which time is it obligatory for me to perform the qaḍā' of missed prayers and fasts?

A: You are only responsible for the qaḍā' of prayers and fasts you are certain you have missed after the age of sharī puberty.

Q 730: A nine-year old girl, upon whom it is obligatory to fast, breaks her fast because fasting is very hard for her. Does she have to perform the qaḍā' of the fast?

A: Yes, she has to perform the qaḍā' of the Ramadan fast that she broke.

Q 731: Someone with a strong excuse doubted — 50% probability — that fasting was obligatory for him, so he did not fast. Later it became clear to him that fasting was obligatory for him at that time. What is the ruling in respect of performing the qaḍā' and paying kaffārah?

A: If one breaks a fast in the month of Ramadan, merely due to the possibility that fasting is not obligatory for him, then he must carry out its *qaḍā'* and pay the *kaffārah* as well. However, if one did not fast out of rational fear that fasting would be harmful for him, then it is not necessary for him to pay *kaffārah*, but he must perform the *qaḍā'*.

Q 732: A person performing military service could not fast during the month of Ramadan last year because of frequent traveling and being stationed at the base. As Ramadan approaches this year, he is still serving in the same area and does not think he will be able to fast this year, either. Does he have to pay the *kaffārah* after leaving the service, in addition to performing the *qaḍā'* of those fast?

A: When someone forgoes fasting in the month of Ramadan because of the excuse of traveling, which extends until the next Ramadan, his only duty is to perform the *qaḍā'* and no *kaffārah* of delay is obligatory for him.

Q 733: A fasting person is unaware that he is *junub*. In the afternoon, he notices and performs *ghusl* by immersion. Does this invalidate his fast? And if he realizes what he has done only after performing the *ghusl*, does he have to perform the *qaḍā'* of the fast?

A: If one performs *ghusl* by immersion out of forgetfulness (of the fact that he is fasting) or unintentionally, then both his fast and *ghusl* are valid; thus, he does not have to perform the *qaḍā'* of the fast.

Q 734: A person who is fasting had planned to reach his place of residence before noon *adhān*. But, along the way he came across an accident that delayed him, hence he did not reach his residency in time. Is his fast valid? Does he have to pay *kaffārah* or will performing the *qaḍā'* be sufficient?

A: His fast is invalid while traveling and it is only obligatory for him to perform the *qaḍā'* (of fasting) for the day in which he did not reach his place of residency, and he does not have to pay *kaffārah*.

Q 735: A passenger or a crewmember aboard an airplane

flying at a high altitude and bound for a distant city — a 2 1/2 to 3 hour journey — has to drink water every 20 minutes to maintain his equilibrium. Does he/she have to pay kaffārah in addition to performing the qaḍā'?

A: If fasting is harmful for them, one can break the fast to drink water. He will have to perform its qaḍā', but kaffārah will not be obligatory for him in this case.

Q 736: If a woman's periods begin two hours or more before the maghrib prayers in the month of Ramadan, will her fast be null and void for that day?

A: Her fast is void.

Q 737: What rule applies to someone who immerses himself in water wearing waterproof clothing such as a diving suit which does not allow the body to become wet?

A: If the clothing has close contact with his head, it is problematic to say his fast is valid. Hence, as an obligatory caution he should perform its qaḍā'.

Q 738: Is it permitted for a person to travel intentionally during the month of Ramadan in order to break the fast and to evade fasting?

A: There is no problem in doing that. Therefore, when traveling — even in order to evade the duty of fasting — he must break the fast.

Q 739: A person, responsible for performing an obligatory fast, decided to fulfill his duty but could not because of unforeseen circumstances. For example, he prepared to travel after sunrise — he traveled, but failed to return home before noon. He had not done anything that invalidates the fast, except that the time for making the intention of an obligatory fast has elapsed; and that day is one in which fasting is mustahabb. Is it valid if he makes the intention to perform a mustahabb fast?

A: When one is responsible for the qaḍā' of Ramadan fast, it is invalid to make intentions to perform a mustahabb fast, even if the time for making intention for performing an obligatory fast has passed.

Q 740: I am addicted to smoking. No matter how much I try not to be irritable in the blessed month of Ramadan, I can not abstain from conduct that disrupts the peace of my family and puts me into a nervous state. What is my duty in this situation?

A: It is obligatory for you to fast in the month of Ramadan and it is not permissible for you to smoke while fasting. Also, you should not treat others harshly without justification.

## **Pregnant And Nursing Women**

Q 741: A pregnant woman does not know whether fasting will harm the baby or not. Does she have to fast?

A: If she has reasonable grounds to fear that fasting would harm her baby, then, it is not obligatory for her to fast, otherwise she must fast.

Q 742: A pregnant woman fasted while she was breast-feeding her baby. When she delivered, the baby was found dead. From the beginning she had thought that her fasting might be harmful, but she fasted nevertheless. 1. Was her fasting valid? 2. Is she liable to pay blood money? 3. What is the ruling in her case if she did not think that fasting would be harmful but later found it to be otherwise?

A: If she fasted even after she had reasonable fears that fasting would be harmful to her or her baby, or she discovered later that fasting was harmful to herself or her baby, then her fast is invalid, and she has to perform its qadā'. However, the liability of paying the blood money depends upon proving that her fasting caused the death of the fetus.

Q 743: Upon delivery, Allah Almighty blessed me with a son who is being breast-fed. The blessed month of Ramadan is approaching, and at present, I am capable of fasting. However, if I fast, my milk will dry up, as I have a weak constitution — and my baby wants milk every ten minutes. What should I do?

A: If there is fear of harm to your baby due to a decrease in the quantity of milk or its drying up caused by fasting, it is permissible for you to break the fast. And for every day you missed the fast, you have to give one mudd [750 grams] of food to the poor, in addition to performing the qadā' of the missed fasts, later.

## Illness And Restriction By A Physician

Q 744: Some physicians who are not truly committed to Islamic laws forbid their patients to fast, claiming that fasting is detrimental to their health. Should their orders be acted upon or not?

A: If the physician is not trustworthy and his statements are not relied upon to the extent that the patient fears harm due to fasting, then his statements are not worthy of notice. Otherwise, they should not fast.

Q 745: My mother was ill for a period of almost 13 years and could not fast. I know for certain that what prevented her from this duty was her need to take medicine. Please tell us if it is obligatory for her to perform the *qaḍā'* for these missed fasts.

A: If she was not able to fast due to her illness, she does not have to perform the *qaḍā'* for those days.

Q 746: I did not fast after reaching the age of maturity until I was twelve years old, because I was physically too weak to do so. What should I do now in this regard?

A: You should perform the *qaḍā'* for the days of fasting that you did not perform after becoming ritually mature. And if you deliberately — voluntarily and without a *shar'ī* excuse — did not fast, then you will have to pay the *kaffārah* as well.

Q 747: An ophthalmologist ordered me not to fast due to an eye disease. But, I did not pay attention to his order and began fasting. However, while fasting I felt a pain in the afternoons on some days. Now, I wonder whether I should refrain from fasting or bear the pain until sunset. Basically, is it obligatory for me to fast? And should I maintain the fast on the days when I am not certain whether I can continue fasting until sunset or not? What should my intention be?

A: If you are confident — due to what your physician said — that fasting is harmful for your health or you fear so, then it is not obligatory for you to fast. In fact, it is not permissible for you to fast in such a situation, and the intention to fast is not correct when there is fear of harm. When there is no fear of harm, the fasting intention is not problematic, but the validity

of your fast depends on the actual absence of harm.

Q 748: I wear medical glasses and at the present, my eyes are too weak. The doctors tell me that if I do not strengthen my physique my eyesight will get weaker. If I am unable to perform the Ramadan fasts, what is my duty?

A: If fasting is harmful for your eyes, you are not obligated to fast; in fact, it is obligatory that you refrain from fasting. And if your illness continues until the next Ramadan, then your duty is to give one mudd [750 grams] of food to the needy for every day that you did not fast.

Q 749: My mother is seriously sick, and my father is also physically weak. Nevertheless, both of them fast. Sometimes, it is quite evident that fasting aggravates their illness. So far, I have not been able to persuade them to refrain from fasting at least at times when their illness is serious. Please guide us concerning the rule that applies to their fasting?

A: The criterion in determining the inability to fast, or whether fasting causes illness, or aggravates it, is the opinion of the fasting person himself. However, if he knows that fasting is harmful for him and he still decides to fast, it is ḥarām.

Q 750: Last year I had surgery on my kidneys, and the surgeon ordered me not to fast for the rest of my life. However, I eat and drink normally and do not feel any signs of illness. What is my duty?

A: If you personally do not fear any harm in fasting and there is no sharʿī ground for that, you are obligated to fast during the month of Ramadan.

Q 751: Since some physicians are not aware of Islamic laws, should the patient obey a physician's order if he forbids fasting?

A: If the physician's statement makes the patient certain that fasting is harmful for him or he fears of harm in fasting — either on the basis of his statements or on some other reasonable grounds — then it is not obligatory for him to fast; rather, it is not permissible.

Q 752: I have kidney stones and the only way to prevent them from calcifying is to continuously consume fluids. As the

doctors have prohibited me from fasting, what is my duty regarding fasting during the blessed month of Ramadan?

A: If the treatment of your illness requires that you drink water and other fluids during the day, it is not obligatory for you to fast.

Q 753: Diabetics are required to take insulin injections once or twice a day. Also, their meals should not be delayed or taken at long intervals; otherwise they might go into a coma or get fits. That is why physicians advise them to have four meals a day. Please give your opinion concerning their fasting.

A: If abstaining from eating and drinking from dawn to sunset is harmful to their health, fasting is not obligatory for them. In fact, it is not permissible for them to fast.

## Fast Invalidators

Q 754: During the month of Ramadan, A mukallaf decides to break his fast but he changes his mind before doing so. Is his fast valid? What about the fast other than that of Ramadan?

A: During the month of Ramadan if he ceases intending to fast, i.e. he does not have intention to continue his fast, it invalidates his fast and intending again to proceed with the fast is to no avail. However, if he just decides to perform or take anything that would invalidate the fast, the validity of his fast is problematic and there is an obligatory caution to complete the fast and later perform its qadā' as well. The same rule is applied to any fast which is obligatory for a specific day like that of nadhr.

Q 755: If a person who is fasting bleeds in the mouth, does it invalidate his fast?

A: Bleeding in the mouth does not void a fast. However, it is obligatory to prevent blood from reaching the throat.

Q 756: Please, give your opinion concerning smoking by a person who is fasting.

A: By obligatory caution, one has to avoid taking in cigarette smoke and the like while fasting. The same rule is applied to drugs absorbed through nose or put under the tongue.

Q 757: Some people use 'nās,' which is made up of tobacco and other constituents, and they put it under their tongues for a few minutes, then they spit it out. Does that void the fast?

A: If they swallow the saliva mixed with nās, then their fast will become void.

Q 758: There is a medicine for asthma patients, which is in the form of a spray containing a vapor-borne powder which enters the patient's lungs through the mouth providing him relief. At times, asthma patients need to use it several times a day. Is it permissible to fast while using such a spray?

A: If it is compressed air mixed with medicine in the shape of a powder or gas and enters the throat, the fast's validity is problematic. If fasting without using it is difficult or impossible,

using the medicine is permissible. However, it is a caution not to perform any other invalidator and to make qadā' of the fast without using it, if possible.

Q 759: My gums often bleed and the blood gets mixed with saliva. At times I am not sure whether the saliva that enters my throat is mixed with blood or not. Please tell me what I am supposed to do to overcome this problem.

A: If the blood from your gums dissolves in the saliva, then the saliva is pure and can be swallowed. If you are not sure whether the saliva is mixed with blood or not, it can still be swallowed without affecting the fast.

Q 760: Once in the holy month of Ramadan, I forgot to brush my teeth, and some tiny bits of food remained in my mouth. I swallowed the bits unintentionally. Do I have to perform the qadā' for that day's fast?

A: If you did not know that some bits of food remained between the teeth, or you did not know that they would reach the throat, and they were swallowed unknowingly and unintentionally, then you are not liable to make qadā' of the fast.

Q 761: The gums of a person who is fasting bleed a lot. Does that invalidate his fast? Moreover, is it permissible to pour water over one's head with a jug?

A: Bleeding of gums does not invalidate the fast unless the blood is swallowed. Also one's fast is not affected by pouring water over one's head with a jug or the like.

Q 762: There are certain medicines for feminine illnesses that are applied through the vagina. Does their use invalidate the fast?

A: The use of such medicine does not invalidate the fast.

Q 763: Please explain your view on having injections while fasting during the blessed month of Ramadan?

A: It is based on obligatory caution for the fasting person to avoid having any kind of supportive, nutritional or intravenous injections. The same rule is applied to all kinds of intravenous fluid infusions. However, there is no objection to using

anesthetic injections and intramuscular ones for treatment purposes.

Q 764: Is it permissible to take pills for high blood pressure during fasting?

A: If taking these pills during Ramadan is necessary for controlling high blood pressure, it is permissible, but it will invalidate the fast.

Q 765: Since we think taking tablets for treatment is not regarded as eating or drinking in the common view, would taking them void the fast?

A: Taking tablets through the mouth invalidates the fast.

Q 766: During the month of Ramadan a man had sexual intercourse with his wife with her consent. What is the rule concerning them?

A: The rule of intentional breaking of the fast applies to both of them. Hence it is obligatory for both of them to perform its qadā' along with kaffārah.

Q 767: A man has foreplay with his wife during the day in the month of Ramadan, does it invalidate his fast?

A: As long as it does not result in ejaculation, his fast is not affected.

## Remaining Junub

Q 768: If one remains junub (because of some difficulty) until the morning adhān, can he/she fast the following day?

A: There is no problem if one is performing a fast other than that of Ramadan or its qaḍā'. However, while performing Ramadan fast, if one has a lawful excuse for not performing ghusl, then it is obligatory to perform tayammum. And if he does not perform tayammum either, the fast is invalid.

Q 769: A junub person fasts for some days without knowing that being free from janābah is required for a valid fast. Do they have to pay kaffārah for the days fasted in the state of janābah, or it is enough to perform the qaḍā' of those fasts?

A: In the given case, it is enough to perform their qaḍā'.

Q 770: Is it permissible for a junub person to perform the ghusl of janābah after sunrise and then perform a qaḍā' or mustaḥabb fast?

A: If one deliberately remains junub until morning adhān, then his fast is not valid if it is a fast of Ramadan or its qaḍā'. However, it is strongly probable that other fasts are valid, especially mustaḥabb ones.

Q 771: A person staying as a guest in his host's house becomes junub at night during the month of Ramadan. As he is a guest and does not have any extra clothes, he decides to travel the following day to avoid fasting. He takes off after the morning adhān with the intention to travel without breaking the fast. The question is, does his intention to travel relieve him of the kaffārah or not?

A: Neither mere intention at night to travel nor travel in the day is sufficient to relieve one of the kaffārah if one becomes junub and knows that he is junub without making an immediate attempt to perform ghusl or tayammum before dawn.

Q 772: Is it permissible for one to intentionally become junub during the night in the month of Ramadan even if he does not have water or has some other excuse (except shortness of time)?

A: It is permissible when his obligation is to perform

tayammum and he has sufficient time to perform it.

Q 773: A person woke up before the morning adhān but did not realize that he was junub and went back to sleep. Later, he woke up during the morning adhān and realized that he has been junub. What is the ruling concerning his fast?

A: Before the morning adhān, if he did not realize that he was junub, then his fast is valid.

Q 774: During the month of Ramadan, a person wakes up before morning adhān and realizes that he is junub. Then, he sleeps again to rise some time after sunrise. He performs the ghusl only after the noon adhān, and says the noon and afternoon prayers. What is the ruling regarding his fast on that day?

A: In the given case, which is the first sleep, his fasting is correct. However, if he sleeps again and does not wake up before fajr, he should fast again.

Q 775: During the month of Ramadan, a person doubts before morning adhān whether he is junub or not. Then, he sleeps without ascertaining the case. After the morning adhān, he wakes up again to realize that he was junub before morning adhān. What is the ruling concerning his fast?

A: After waking up for the first time, if he observes no sign of janābah, although there is only unconfirmed suspicion, and he sleeps again until the morning adhān, then his fast is valid even if he finds later that he was junub before morning adhān.

Q 776: A person uses najis water to perform ghusl during the month of Ramadan. A week later, he remembers that the water was najis. What is the ruling concerning his prayers and fasts during that period?

A: His prayers are void and he is liable to their qaḍā', but his fasts are valid.

Q 777: A person suffers from incontinence for a limited duration, i.e., it continues for an hour or more after passing urine. What is the ruling concerning his fast if he is junub in some nights and he might wake up an hour before the morning

adhān and it is probable that semen may come out with urine afterwards? What is he to do to start the fast in a state of ṭahārah?

A: If he performs the ghusl or tayammum before morning adhān, his fast is valid, even if there is an involuntarily discharge of semen afterwards.

Q 778: A person sleeps prior to, or after, morning adhān. He becomes junub, realizing it after morning adhān. How much time does he have to perform ghusl?

A: Being junub under the mentioned condition does not invalidate that day's fast. However, it is obligatory for him to perform ghusl for prayers, and he may delay it until the time of prayers.

Q 779: If one forgets to perform the janābah ghusl during the month of Ramadan, or during other days, and remembers during the day, what is the rule in this case?

A: During the month of Ramadan, if one forgets to perform the ghusl of janābah at night before morning adhān, his fast is void. As per caution, the same rule applies to the qaḍā' of Ramadan fasts. However, other fasts do not become void if one forgets to perform ghusl of janābah before morning adhān.

## **Masturbation**

Q 780: A person breaks his fast by masturbation, ḥarām sexual intercourse, or taking ḥarām food/drink. What is the ruling?

A: In the given case, he should fast for sixty days or feed sixty poor persons. It is a mustahabb caution to do both.

Q 781: Someone masturbated although he knew that masturbation would invalidate the fast. Does he have to offer the two-fold kaffārah?

A: The two-fold kaffārah is not obligatory for him if he masturbated intentionally and ejaculated, although it is a recommended caution to pay the two-fold kaffārah.

Q 782: I had an emission during the blessed month of Ramadan for no reason other than excitement that I felt during a telephone conversation with a non-maḥram woman. If the phone conversation was not for the purpose of pleasure, is my fast invalid? And if it is, do I have to pay kaffārah as well?

A: If you had not been in the habit of having emission while conversing with a woman and the semen was discharged involuntarily, then your fast is valid and you are not liable to anything.

Q 783: For a number of years, a person was in the habit of masturbating during the month of Ramadan and at other times. What is the rule regarding his prayers and fasts?

A: Masturbation is absolutely prohibited. When it leads to discharge of semen, it makes one junub. To masturbate while fasting amounts to breaking the fast by ḥarām means. If one performs prayers and fasts in the state of janābah, i.e., without performing ghusl or tayammum, his prayers and fasting are void and he must perform their qaḍā’.

Q 784: Is it permissible for a husband to masturbate using his wife’s hand?

A: It is not an instance of ḥarām masturbation.

Q 785: Is it allowed for a bachelor to masturbate if required by the doctor for a laboratory test of semen, and that is the only

way to get it?

A: There is no problem if it is required for treatment.

Q 786: Some medical centers require a man to masturbate for sperm tests to determine whether he can have children or not. Is this masturbation permissible?

A: Although it is done to determine fertility, masturbation is prohibited by Islamic law unless it is necessary.

Q 787: Is it permissible for a man to have sexual excitement through imagining his own wife or a non-maḥarām woman?

A: In the first case, there is no objection to it unless it leads to ejaculation. In the second case, it is a caution to avoid doing so.

Q 788: Someone at the beginning of ritual maturity fasts during the month of Ramadan, and masturbates while fasting, continuing in this way for some days without knowing that fasting requires him not to be junub. Is it sufficient for him to perform the qaḍā' of the fasts of those days, or does some other rule apply to him?

A: In the light of the question, he has to perform qaḍā' and to pay — by obligatory caution — kaffārah as well.

Q 789: If someone who is fasting looks at a sexually arousing scene during the month of Ramadan and becomes junub, does it invalidate his fast?

A: If he looks in order to ejaculate, he knows that he will become junub if he looks at it, or he is in the habit of that yet looks at it intentionally and becomes junub, then, the rule of intentionally becoming junub applies to him. So he should observe both qaḍā' and kaffārah.

Q 790: Someone repeatedly breaks the fast on the same day. What should he do?

A: This only entails one kaffārah. However, if he breaks fasting by masturbation or sexual intercourse, it is an obligatory caution to pay as many kaffārah as he masturbated or had sexual intercourse.

## **Rules of Iftar [ Breaking One's Fast ]**

Q 791: Is it permissible to follow Sunnīs in their timings for breaking the fast while one attends public or official gatherings and the like? What is one's duty if s/he thinks that doing so cannot be counted as one of the instances of dissimulation and no compulsion is involved?

A: It is not permissible for a mukallaf to follow others in breaking the fast unless there is shar'ī evidence that it is maghrib time. If it is a case of dissimulation, they can break their fast but they should make it up in qaḍā'. Otherwise, they cannot break their fast before they are sure through sense [sight] or there is shar'ī evidence that the day has ended and the night has begun.

Q 792: When I was fasting, my mother forced me to eat and drink. Did it invalidate my fast?

A: Eating and drinking invalidates fast, even if it is done at the request or insistence of someone else.

Q 793: If something is forced into the mouth of someone, or his head is forcibly submerged in water, does it invalidate the fast? If they are forced to break their fast, e.g. they are told you break your fast or you/your property will be harmed and they eat something in order to evade the danger, is their fast valid?

A: Forcing food into another's mouth without their consent does not invalidate their fast and neither does submerging their head in water. However, if they break the fast themselves when forced or threatened, the fasting becomes void.

Q 794: While going on a trip someone who is fasting breaks his fast before crossing the tarakhkhuṣ limit with the notion that he is a traveler, without knowing that he may break his fast before noon only when he has gone beyond the tarakhkhuṣ limit. What is the rule concerning his fast? Does he have to perform its qaḍā' or is he liable to something else as well?

A: In the given case, his fasting is invalid and he should fast again. However, if he did not know the rule, he is not liable to kaffārah.

Q 795: While suffering from a cold, some mucus gathered in my mouth and I swallowed it instead of spitting it out. Was my fast valid? Also, once, staying for some days with one of my relatives during the blessed month of Ramadan, I had a cold and felt shy to perform ghusl of janābah, so I did tayammum instead and did not perform ghusl until some time before noon. This happened for several days. Were my fasts for those days valid? If not, do I have to pay the kaffārah as well?

A: Swallowing the mucus does not make one liable to anything. However, after the mucus enters the mouth, one should — by obligatory caution — avoid swallowing it. As for not performing ghusl of janābah before dawn and performing tayammum instead, if the tayammum was done because of some shar'ī excuse or done at the last moment due to shortness of time, then your fasting is valid. Otherwise your fasts for those days are void.

Q 796: I work in an iron ore mine and the nature of my work requires me to enter the mine daily. While working with mining equipment dust enters my mouth. This is my daily routine throughout the year. What is my duty? Is my fast valid?

A: Swallowing thick dust invalidates the fast by obligatory caution. Therefore, one must guard against it. However, the entering of dust into the mouth and the nose does not invalidate the fast unless it reaches the throat.

## **Kaffarah [Penalty] of the Fast And Its Amount**

Q 797: Is it sufficient to give a needy person the money to buy one mudd (750 grams) of food instead of giving them the food itself?

A: If you are sure that the needy person who receives the money will buy the food on your behalf and then take it as kaffārah, there is no problem in it.

Q 798: A person was appointed attorney to feed a group of needy persons. Can he take his wages for the work and cooking he does from the kaffārah money with which he was entrusted?

A: He can demand the wages for his work and for the cooking. But he cannot take it from the kaffārah.

Q 799: A woman could not fast due to pregnancy and the approaching delivery. She knew that after delivery she must, before the next Ramadan, perform qaḍā' for the days she did not fast. However, she did not fast after delivery, intentionally or otherwise, for several years. Does she have to pay only the kaffārah for that year or for all the years she delayed the fasting?

A: Although performing the qaḍā' fasts has been delayed for several years, it is obligatory to pay only one fidyah i.e. one mudd (750 grams) of food for each day. Fidyah is required only if the qaḍā' is delayed until the next Ramadan due to negligence and without any shar'ī excuse. If one has an excuse for the delay preventing them from performing valid fasts, no fidyah is required.

Q 800: A woman could not fast due to illness. She could not perform the qaḍā' before the next Ramadan either. Does she or her husband have to pay kaffārah?

A: If she did not fast nor performed its qaḍā' before next Ramadan, both due to illness, she should pay fidyah, i.e. one mudd (750 grams) of food for each day and nothing rests with her husband.

Q 801: A person was liable to perform the qaḍā' of ten

Ramadan fasts and he started them on the 20th of Sha‘bān. Can he break the fast intentionally before or after the noon? And, if he does, what is the kaffārah for breaking it before or after the noon?

A: In this case, it is not permissible for him to break his fast intentionally. However, if he does break his fast intentionally before noon, he does not have to pay any kaffārah. But if he breaks it intentionally in the afternoon, his kaffārah is to feed ten needy persons. If he cannot afford to do so, he shall fast for three days.

Q 802: A woman was pregnant during two consecutive Ramadans and could not fast during those two years. Now that she is able to fast, what is her duty? Does she only have to perform the qaḍā’ for the two months, or does she have to carry out the twofold kaffārah as well? What is the rule concerning her delaying the fasting?

A: If she did not fast during the month of Ramadan due to a shar‘ī excuse, she is only liable for their qaḍā’. However, if she did not fast because she feared it might harm the fetus or the baby, she has to give fidyah, i.e. one mudd (750 grams) of food for each day, in addition to making their qaḍā’. And if she delayed the qaḍā’ beyond the following Ramadan without a shar‘ī excuse, another fidyah is obligatory for her as well, i.e. she should give one mudd [750 grams] of food to a poor person for each day.

Q 803: Someone has to perform qaḍā’ and give kaffārah, must he observe their sequence?

A: It is not obligatory.

## **Making Up For Missed Fasts**

Q 804: Due to a journey made for an important religious mission, I became liable for the qaḍā' of eighteen days of Ramadan. What is my duty? Is it obligatory for me to perform qaḍā' of the missed fasting?

A: You must perform qaḍā' of the Ramadan fasts missed due to traveling.

Q 805: A person was hired to perform qaḍā' fasts of the month of Ramadan for somebody else, and he breaks the fast in the afternoon. Does he have to pay the kaffārah?

A: No kaffārah is required.

Q 806: Some people could not fast due to their journey for religious missions during the month of Ramadan and now want to make up for it after years of delay; do they have to pay any kaffārah?

A: If delaying the qaḍā' of Ramadan fasts until the next Ramadan was due to a continuing legitimate excuse, then they should perform only the qaḍā' of the missed fasts and no fidyah, i.e. one mudd of food for each day, is required, although caution lies in giving fidyah as well. But, if the delay was out of negligence and without any excuse, then they are liable to their qaḍā' as well as fidyah.

Q 807: A person did not perform prayers or fast for about 10 years due to ignorance. Now he has repented, turning to Allah, the Exalted, and has decided to compensate for his past. But he cannot perform the qaḍā' of all the days he did not fast, nor has he the means to pay for the kaffārah. Is it enough for him to ask for forgiveness alone?

A: He is not relieved from the duty of performing the qaḍā' of the missed fasts by any means. As to the kaffārah for each day that he did not fast, if he is not able to fast for 60 days or to feed 60 needy persons, he must give food to the poor as much as he can and also, according to caution, ask Allah for forgiveness. If he cannot do that at all, it suffices to ask Allah for forgiveness.

Q 808: Due to a lack of financial and physical power, I failed to perform obligatory kaffārah, i.e. to fast or to feed the poor. As a result, I asked Allah for forgiveness. Due to Allah's grace, now I am able to fast and feed the poor. What should I do?

A: In the given case, it is not necessary to perform kaffārah, although it is a mustahabb caution.

Q 809: What is the duty of a person who did not know that performing qaḍā' of missed fasts is required before the next Ramadan, and so did not do it?

A: Ignorance of the obligation to perform qaḍā' before next Ramadan does not relieve one of the fidyah for delay.

Q 810: A person did not fast for 120 days. What must he do? Does he have to fast for 60 days for every missed fast, and does he have to pay kaffārah?

A: He has to perform qaḍā' for the Ramadan fasts he missed. If he broke the fast intentionally and not for some shar'ī reason, then he has, in addition to performing their qaḍā' , to pay the kaffārah, which is fasting for sixty days or feeding 60 needy persons, or giving one mudd (750 grams) of food to each of the sixty.

Q 811: I fasted for almost one month with the intention of carrying out the qaḍā' of any fast that I might have missed, or to be counted as a means of nearness to God. Does this month of fasting count as qaḍā' for the missed fasts?

A: If you fasted with the intention of carrying out whatever counts as your present duty, an obligatory or recommended fast, it would be counted as the qaḍā' of the fasts missed if you were liable to any.

Q 812: If a person, not knowing the number of fasts missed, performs fasts with the intention of performing a recommended fast believing that he is not liable to any qaḍā' , does this fasting count as qaḍā' for missed fasts while he is liable to qaḍā' of some fasts?

A: The fasts kept with the intention of recommended fasting do not count as qaḍā' for fasts one is liable to perform.

Q 813: Due to ignorance of the rules, a person does something that invalidates his fast, should he only perform qada' of the fasting or should he pay the kaffarah as well?

A: If someone does something that invalidates his fast due to lack of knowledge about the shar'i rule, e.g., he does not know that taking medicine like taking food invalidates fasting and takes medicine in Ramadan month during the day, his fasting is void. He should perform its qada' but paying kaffarah is not required.

Q 814: A person, at the outset of the age of shar'i puberty, is not able to fast due to physical weakness and inability. Is it enough for him to perform the qada' of the fast, or is he required to offer the kaffarah as well?

A: If fasting does not cause unbearable hardship for him yet he breaks the fast intentionally, then he has to perform qada' and pay kaffarah as well.

Q 815: A person does not know the exact number of days he has failed to fast or how many days of prayers he missed. What should he do? And what rule applies if he does not know whether he missed the fast intentionally or due to a shar'i excuse?

A: It is permissible for him to perform only the qada' of the prayers and fasts he is sure he missed. When there is doubt as to whether the fast was broken intentionally or not, kaffarah is not required.

Q 816: Fasting in Ramadan, a person did not wake up one day to eat the meal taken before the dawn. Therefore, he could not continue fasting until sunset. During the day, something happened which forced him to break his fast. Does he have to give the single or the twofold kaffarah?

A: If he keeps the fast and breaks it only when it becomes — due to hunger and thirst — unbearably hard for him to continue, he has only to perform qada' of the fast and no kaffarah is required.

Q 817: If one is not sure whether they have done the qada' of all missed fasts, what is their duty?

A: If they are sure they were obliged to perform qaḍā' of some fasts in the past, then it is obligatory to ascertain that they have fulfilled their duty.

Q 818: A person did not fast on reaching shar'ī puberty. He fasted for eleven days then broke the fast one day at noon and did not fast for the remaining eighteen days. Also, he did not know that kaffārah was obligatory for the days not fasted. What is the ruling concerning him?

A: If he intentionally and without a shar'ī excuse broke his fast in the month of Ramadan, he has to perform qaḍā' and pay kaffārah as well, regardless of whether he knew he had to give a kaffārah or not.

Q 819: A physician told a patient that fasting is harmful for his health. However, after a few years, he realized that fasting was not harmful for him and the physician was wrong in excusing him from fasting. Does he have to pay kaffārah in addition to performing qaḍā'?

A: If he had refrained from fasting due to fear for his health based on an experienced and reliable physician's diagnosis or some other reasonable basis, he has only to perform the qaḍā' of the missed fasting.

## Miscellaneous issues of Fasting

Q 820: If a woman's menstrual cycle starts while she is fasting on a specific day that she had vowed to perform, what should she do?

A: Her fast is void because of the menstrual cycle, and she has to perform its qada' after she is clean again.

Q 821: A person fasted from the first day of Ramadan until the twenty-seventh. On the morning of the twenty-eighth day he traveled to Dubai. Arriving there on the twenty-ninth, he noticed that they had declared that day as the first of Shawwāl and 'Īd of Fiṭr there. Now that he has returned to his hometown, does he have to make up for the fasts he missed? If he does qada' of only one day then the month of Ramadan for him will be only twenty-eight days, and if he makes up for two days, then on the 29th day he was present in a place where the 'Īd was declared. What is the ruling for such a person?

A: If the twenty-ninth day of Ramadan was declared the 'Īd in accordance with valid and shar'ī criteria, then he does not have to perform qada' for that day. But on the assumption that both places have the same horizon, it indicates that he missed fasting at the beginning of the month, which he has to make up.

Q 822: A person finished his fast in his hometown after sunset. Then on traveling to another city, he found that the sun there had not set yet. What will be the rule regarding his fasting? Can he eat and drink in the new place before sunset?

A: His fast is valid and he can eat and drink in the new place before sunset.

Q 823: A martyr had made a will asking his friend to perform the qada' of some fasts on his behalf as caution. However, the martyr's heirs do not give significance to such issues and it is not possible to put the matter before them. Moreover, fasting would involve hardship for that friend. Is there any other solution?

A: If the martyr had made a will asking the very friend to fast on his behalf, the martyr's heirs do not have any obligation in this regard. If it is too difficult for the friend to fast, he also

does not have any obligation.

Q 824: I am obsessed by doubts — or to put it precisely I am obsessive — especially in religious matters, and particularly in ritual matters. For instance, during the last Ramadan, I had a doubt whether I had swallowed some thick dust that had entered my mouth and whether I had spitted out water that I had drawn into my mouth? Is my fast valid?

A: In light of your question, your fast is valid. Such doubts have no significance.

Q 825: Is the tradition of the Cloak [Kisā’], which is narrated by Faṭimah al-Zahrā (a.), a reliable tradition? Is it permissible to attribute it to her during fasting?

A: If the tradition is attributed quoting the books where it has been reported, there is no problem with it.

Q 826: I have heard from scholars and other normal people that if a person performing a mustahabb fast is invited to eat something, he can accept the invitation, and eating and drinking does not invalidate his fast nor deprive him of its reward. Please express your view on the matter.

A: Accepting a believer’s invitation is preferred by Islamic law over a mustahabb fast, and although eating and drinking breaks the fast, but it does not deprive one of the rewards for fasting.

Q 827: There are certain supplications for the month of Ramadan each of which is specified for a day in a sequence, starting with the supplication for the first day, followed by the one for the second day and so on. What is the rule on reciting them if there is a doubt as to their authenticity?

A: There is no problem in reciting them in the hope of being desired in shar’.

Q 828: Despite having intended to fast, a person did not rise to eat the prefast meal. Therefore he could not fast the following day. Does the guilt for not fasting fall on him or on someone who did not wake him up? Also, if one fasts without eating the prefast meal, is his fast valid?

A: Breaking the fast due to inability to fast, even if due to not eating prefast meal, is not a sin. In any case others who did not wake him up are not liable to anything. Also, fasting without eating the prefast meal is valid.

Q 829: If a person is on a retreat in Masjid al-Ḥarām in Mecca for i'tikāf of three or more days, what rule applies to his fasting on the third day?

A: If he is a traveler and has intended a ten-day stay in Mecca or has vowed to fast while traveling, then after fasting for two days he must complete the i'tikāf by fasting on the third day. However, if he didn't make the intention of a ten-day stay in that place nor did he vow to fast while traveling, it is not valid for him to fast while traveling. And as the fast is invalid, the i'tikāf in the masjid is also invalid.

## **Sighting the New Moon**

Q 830: As you know, one of the following three things occurs at the beginning or end of the each month: The crescent sets before the sunset; or the crescent sets along with sunset; or the crescent sets after the sunset. Please clear the following matters: First, which one of the three above-mentioned things could be calculated for the farthest places of the world by exact electronic calculating programs? Second, can we use theses calculations to figure out the beginning of the month in advance, or it is necessary to sight the crescent by eye?

A: In all three cases, sighting the crescent is sufficient to ascertain the beginning of the new lunar month from the night after the sighting.

Q 831: Is the sighting of the new crescent through binoculars, telescope, or the like sufficient?

A: The sighting of the new crescent with these instruments is also reliable and its ruling does not differ from that of the naked eye since the standard is to say it has been seen by eyes. However, computerized photographing of the crescent moon or the like which cannot be clearly categorized as sighting is problematic.

Q 832: If the crescent marking the beginning of Shawwāl is not observed in a city by the local people but the radio or television announces the beginning of Shawwāl, should the local people act upon the radio announcement, or should they ascertain by investigating whether Shawwāl has commenced?

A: If the radio or television announcement makes them feel sure that Shawwāl has commenced, or there is a decree by the Jurist Leader announcing the beginning of Shawwāl, then there is no need for further investigation.

Q 833: If it is difficult to ascertain the beginning of the month of Ramadan, or 'Īd of Fiṭr, because of inability to observe the crescent at the beginning of the month due to clouds or for some other reason, and if the count of the month of Sha'bān or the month of Ramadan did not add up to 30 days, is it permissible for us in Japan to go by the horizon in Iran or should we rely on the regular calendar? What is the rule?

A: If the crescent has not been ascertained even by being

sighted in an adjacent city which is united in horizon [with your city], on the evidence of two just witnesses, or on the basis of a decree by the religious authority, it is obligatory to observe caution until the beginning of the month is ascertained.

Q 834: Is the unity in horizon considered to be a condition in regards to observing the crescent?

A: Yes, it is a condition.

Q 835: What is meant by the unity in horizon?

A: When certain cities are the same concerning the possibility and the impossibility of sighting the crescent, they are said to be united in horizon.

Q 836: If the twenty-ninth day of the month is 'Īd of Fiṭr in Tehran and Khorasan, is it permissible for the residents of areas like Bushehr to break their fast too, though the horizon of Tehran and Khorasan differs from the horizon of Bushehr?

A: In general, if the horizons of two cities are so different that the new moon cannot be seen in one of them when sighted in the other, its sighting in the city located to the west of the other is not sufficient for the residents of the city to the east, where certainly there is no possibility of sighting.

Q 837: If the Islamic scholars of a city differ regarding the new crescent and one considers all of them to be just and precise in their investigations, what is his duty?

A: If the difference between the two testimonies leads to contradiction, in the sense that one of them claims the new crescent has been substantiated and the other claims the opposite, one's duty is to neglect both of them and act according to aṣl. However, if the first group testifies to the sighting of the new crescent, but the second group does not claim to have seen it, others should accept the view of the first group — if they are just — and break their fasts. The same rule applies when the authorized religious authority issues a decree announcing substantiation of the new crescent.

Q 838: A person sees the new crescent and knows that the city's religious authority is not able to see the crescent for some reason. Is it his duty to inform the religious authority that he has observed the crescent?

A: It is not his duty to do so unless it leads to a vile consequence.

Q 839: As you know, most Islamic scholars have written in their books on practical laws that the beginning of Shawwāl can be proved through five methods. However, announcement of the end of Ramadan by a religious authority is not among those methods. Thereby, how can most people break their fasts when the beginning of Shawwāl is ascertained by marji's? What is the duty of a person who is not convinced of the new moon's sighting by such means?

A: Until a religious authority issues a decree announcing the sighting of the new crescent, the mere ascertaining of it by him is not sufficient for others to follow him, unless they are convinced thereby of the end of Ramadan.

Q 840: If the Leader of Muslims issues a decree announcing the next day as 'Īd of Fiṭr and the media report that the crescent has been cited in certain cities, does it determine the 'Īd for all the cities or only those cities and those of the same longitudes?

A: If the decree issued by the religious authority includes a country as a whole, it is valid for all cities in that country.

Q 841: If on the evening of 'Īd of Fiṭr, the moon appears as a very fine crescent having the same characteristic of the new crescent, does it mean that the next day is the first of Shawwāl and that the 'Īd was declared by mistake? Is one required to perform qaḍā' for the last day of Ramadan?

A: The thinness or thickness of the moon and also its size and position in the sky are not shar'ī evidence in deciding the first or second of a month. But if it brings conviction to the mukallaf, he is obliged to act in accordance with his knowledge in this case.

Q 842: Can the night of the full moon, which is the fourteenth night of the month, be taken as a reliable basis for calculating the first day of the month so as to determine whether the Day of Doubt was the thirtieth of Ramadan and to apply its rule, for example, so that all who did not fast on that day may have

evidence concerning the necessity to perform qada' for the thirtieth day of Ramadan and whoever fasted that day, considering Ramadan to continue, may know that he is free of obligation?

A: That which has been mentioned does not constitute shar'i evidence for anything mentioned. However, if it brings knowledge to the mukallaf his obligation is to act in accordance with his knowledge.

Q 843: Is watching out for the new moon a kifai obligation or something to be done as an obligatory caution?

A: It is not a shar'i duty in itself.

Q 844: Are the beginning and end of Ramadan determined through sighting the crescent or by means of the calendar, even if Sha'ban was not thirty days?

A: Deciding the beginning of any lunar month is possible through one of the following methods: sighting the new moon by the mukallaf himself; the testimony of two just witnesses to that effect; numerous reports that bring conviction that the moon has been sighted; completion of thirty days since the month's beginning; or the decree of a religious authority.

Q 845: If it is permissible to follow a government announcement regarding sighting the crescent and it constitutes a scientific criterion for the new month in other regions, is it limited to an Islamic government or does it include a tyrannical government?

A: The criterion in this regard is being confident that the crescent is sighted in a place where it is sufficient in relation to the mukallaf.

Q 846: Would you please tell us what your opinion is regarding i'tikaf in masjids (whether it is a jami' masjid or not) other than the Four Masjids?

A: There is no objection to doing it hoping that it is desired in shar'.

**Part 5**  
**KHUMS [20% TAX]**

## **Gift, Present, Bank Prize, Dowry, and Inheritance**

Q 847: Are gifts and ʿīd presents subject to khums?

A: Khums does not apply to gifts or ʿīd presents, although it is a caution to pay khums on their remainder after the annual expenditure.

Q 848: Is khums applicable to the prizes given by the banks and ribā-free loan institutions to their customers?

A: Khums is not obligatory for prizes and gift.

Q 849: Does khums apply to the excess over annual expenses remaining out of the sums of money paid by the Martyrs' Foundation to a martyr's family?

A: Khums is not obligatory for gifts given to the honored families of the martyrs by the Martyrs' Foundation.

Q 850: Is the maintenance that is paid to a person by his father, brother, or a relative, considered a gift or not? If the donor has never paid khums on his assets, is it obligatory for the receiver to pay khums for the maintenance he receives from the donor?

A: The application of the terms 'gift' and 'present' depends on the donor's intention, and as long as the receiver is not certain whether the money given to him is subject to khums, he is not required to pay its khums.

Q 851: I have given my daughter a residential flat as a trousseau. Is this flat subject to khums?

A: You do not have to pay khums on the flat you gave to your daughter as a gift provided it is normally considered proportionate to your status and it is done during your khums year.

Q 852: Is it permissible for a person to give money to his wife as a gift before the end of his khums year while knowing that his wife will save the money in order to buy a house in the future or to buy them some necessities of life?

A: He is allowed to do so, and he is not required to pay khums on the gift he gives to his wife provided the amount is normally proportionate to his social status and that of people like him,

he has really given it to her as a gift and not for the purpose of evading of khums.

Q 853: In order to evade payment of khums on their assets, a husband and wife give each other their annual income as gifts prior to the end of their khums year. Please explain the rule concerning their liability to khums.

A: They are not exempted from the obligatory khums by this type of gift which is a formality and intended to evade giving khums.

Q 854: A person deposited an amount with a Hajj travel agency in order to perform mustahabb Hajj, but he died before he could visit the House of Allah, the Exalted. What is the ruling concerning this money? Is it obligatory to spend it for performance of Hajj on his behalf? Is it subject to khums?

A: The value of the Hajj travel document obtained in exchange for the money deposited in the account of the Hajj agency is considered part of his inheritance. It is not obligatory to spend it on performing Hajj on his behalf if Hajj was not obligatory for him or he had not made a will in this regard. Regarding its Khums, if it has not been paid, paying it is obligatory in the given case.

Q 855: An orchard belonging to someone was transferred to his son as a gift or by the way of inheritance. At that time it was not of much value, but its present market value is much greater than its previous value. Is the excess amount resulting from the price increase subject to khums?

A: Inheritance and gifts are not subject to khums, nor the money earned from their sale, even if their value increases, unless they have been kept for trading purposes or for the increase in their value.

Q 856: An insurance company owes me an amount in lieu of medical expenses, and I will receive it one of these days. Is it subject to khums?

A: It is not subject to Khums.

Q 857: Is khums applicable to the money that I have saved from my monthly salary to purchase things for my wedding in the future?

A: If you have saved the very money you received as your

monthly salary income, you must pay its khums at the end of the khums year unless you want to buy necessary items for your wedding in the near future and you will not be able to buy needed things if you pay the khums.

Q 858: It is mentioned in the book *Tahrīr al-Wasīlah* that a woman's dowry is not subject to khums, but it does not specify whether it is for a dowry that is paid at the time of marriage or deferred. Please explain the matter.

A: In this case, there is no difference between due and deferred dowry, or between cash and commodities.

Q 859: The government gives things as 'īd gifts to employees some of which remain unused until the year's end. Although employees' 'īd gifts are not subject to khums, as we make partial payment for these things, it implies that it is not fully a gift but something bought at a reduced price. Should we pay khums for the amount we have paid for it or should we calculate its total worth on the basis of its market value to pay its khums? Or is it not subject to khums at all because it is an 'īd gift?

A: In the given case, since the government had really given a portion of the things to the employees for free and took money for the other portion, it is obligatory to pay one fifth of the remaining things — in proportion to the paid portion — as khums or pay twenty percent of its actual value.

Q 860: While he was alive, a person recorded in his diary the amount of khums he owed and he was determined to pay it. After his death, his entire family, with the exception of one daughter, refused to pay the due khums, and they are using the estate for their own use and the deceased's expenses, as well as other things. Please explain your opinion regarding the following matters:

- i. What is the rule concerning the right of the son-in-law or one of the heirs to use the deceased's movable and immovable assets?
- ii. Is it permissible for his son-in-law or any of the heirs to eat food at the house of the deceased?
- iii. What is the rule regarding the money spent and food eaten by the said persons previously?

A: If the deceased has provided in the will that a part of his property is to be paid for khums or the heirs are certain that the deceased owed an amount of khums, they are not permitted to use the estate unless they carry out the deceased's will or pay the khums he owed. Their use of the estate before fulfilling the will or paying off his debts in proportion to the amount of the will or debt is considered usurpation and they are liable in regard to their past use.

## **Loan, Monthly Salary, Insurance, and Retirement Pension**

Q 861: Is it obligatory for employees having a surplus remaining over their annual expenses to pay khums, considering that they owe money which is due or should be paid in installments?

A: If the debt incurred during the year was for expenditure of the same year, or to purchase on credit some necessities for the same year, it is subtracted from the remaining income at the end of the year provided that they want to pay it from the gains of this very year; otherwise, the remaining income is liable to khums.

Q 862: A loan is acquired for performing hajj al-tamattu', should its khums be paid before using the balance for Hajj?

A: One is not required to pay khums on loaned money.

Q 863: I have paid an amount of money to a housing foundation over a period of five years for the purpose of purchasing a piece of land to build a house for myself. However, till now no step has been taken to deliver the land, and so I want to withdraw my money from the foundation. I obtained a part of that money on loan, another part came from the sale of the house carpet, and the rest from the salary of my wife, who is a teacher. Please respond to the following questions:

i. If I get the money back and spend it exclusively for buying land or a house, would it be subject to khums?

ii. How much khums should I pay?

A: In the given case the money gained as a gift, through borrowing, or selling life necessary items is not subject to khums.

Q 864: Some years ago I acquired a bank loan and deposited it in my account for one year. I could not make use of the loan, but I had to pay its monthly installments. Is this loan subject to khums?

A: In the question, khums only applies to that portion of borrowed money whose loan installments you paid from your yearly gains by the end of the khums year.

Q 865: I have an outstanding debt on the house and I will remain indebted for 12 years, please enlighten me in regard to my liability to khums, i.e. is this debt to be subtracted from the gain of the year?

A: you are allowed to pay the loan installments of a loan which was spent for constructing a house and similar things from your yearly gains. But, if not paid, they are not subtracted from the year's gains. The gains remained at the end of the khums year are subject to khums.

Q 866: Are the books bought by a student subject to khums if he does not have any source of income and buys them with his father's money or with a loan given to him by the university? And what if his father has not paid khums on the money used to purchase the books?

A: The books that he buys with loaned money are not subject to khums. Those purchased with the money given to him by his father has the same rulings unless he is certain that this particular money was liable to khums, in which case he should pay its khums.

Q 867: if a person borrows an amount of money and is not able to pay off the loan before the end of year, should the lender or the borrower pay its khums?

A: The borrower does not have to pay khums on loaned money. However, in regard to the lender, if the money loaned was from his annual income prior to paying khums, and he can collect his money from the borrower before the end of his khums year, he has to pay khums on that money at the end of khums year. But if he is unable to collect the money before his khums year ends, he is not to pay khums now. He waits until he receives the money, then he should pay its khums.

Q 868: Are those who receive retirement pensions required to pay khums on their monthly salaries received throughout the year?

A: If it remains unspent at the end of the khums year, it is subject to khums.

Q 869: The government of the Islamic Republic pays a monthly salary to parents of prisoners of war during the time

of their captivity. Is it subject to khums if it is saved in a bank?

A: The said money is not subject to khums.

Q 870: I owe an amount of money and at the year's end the lender has not asked for its repayment. At the same time, I have saved an amount from my yearly income enough to pay off my debt. Is this loan excluded from the annual income or not?

A: A debt incurred to provide for annual living expenses of the same year, whether by borrowing or by buying necessities on credit, that you want to repay is subtracted from annual income. But if the debt was incurred in previous years, it may be paid out of the annual income. However, if it is not paid off by the year's end, it is not excluded from the annual income.

Q 871: Is the amount left after a person's annual expense liable to khums if he is in debt at the year's end and has the opportunity to pay off the debt in several years?

A: Whether the debt is due immediately or deferred, it is not excluded from the annual income unless it was incurred for providing the expenses of the same year. In this case, only a part of his income of this year he uses to repay his debt is exempted from khums.

Q 872: Is money paid by insurance companies to the insured as a result of loss or injury subject to khums?

A: Khums does not apply to the money paid to the insured by insurance companies.

Q 873: Last year I borrowed some money with which I bought land, anticipating that its value would increase and planning to sell it along with my present house to be able to solve my housing problem in the future. Now, at the end of my khums year, can I exclude that loan from the last year's income to which khums is applicable?

A: On the assumption that the money borrowed is used to buy land with the intent of selling it in the future, the borrowed sum is not subtracted from the annual income of the year in which it is borrowed. The entire amount of the yearly income after deducting living expenses is liable to khums.

Q 874: I borrowed from a bank an amount of money whose due date is after my khums year. I am apprehensive that if I do not pay it off this year, I will not be able to do it next year. What is my obligation in regard to paying khums at the end of khums year?

A: If you spend the annual income to pay off the debt before the year's end and the loan was not for a capital increase, it is not liable to khums. But if the loan is for increasing the capital or you want to save the annual income, then you are obliged to pay its khums.

Q 875: For renting a house, people usually give a sum of money in advance. If this money is obtained from one's earnings and remains with the house owner for several years, is it obligatory to pay its khums immediately after receiving it? And What if one wants to rent another house with this very money?

A: It is subject to khums but if one needs this money for renting another house, he can make Mudāwarah with the khums amount and pay it after meeting his needs.

## **Selling House, Means of Transportation, And Lands**

Q 876: Is khums applicable to a house constructed some time ago with the money from which khums had not been paid? Assuming that its khums is obligatory, does the appropriate khums correspond to its current value or to the value of the money spent on its construction?

A: If the house is constructed from the earnings gained during the year as a residence and after one had lived in it he sold it, the proceeds are not subject to khums. But if it is constructed from the earnings whose khums year had finished, one should pay the khums on the money used for its construction.

Q 877: Recently, I sold my residential apartment and this transaction took place at the end of my khums year. While I see that I am liable to fulfill my religious obligations, I face a problem in the present circumstances. Please enlighten me regarding this matter.

A: If the house was originally purchased with money exempted from khums or money obtained from the earnings of the same year of purchase, selling money is not subject to khums.

Q 878: I own an unfinished house in a town, but I do not need it since I am living in housing provided by the government. I want to sell it to buy a car for personal use. Is its price liable to khums?

A: If the mentioned house was bought or built from the annual income during the year for living purposes and you sold it later during the same year, its proceeds are not subject to khums on the condition that it is spent during this year of selling for living expenses. Similarly the proceeds are not subject to khums if after you had lived in it you sold it in the next year.

Q 879: I had purchased some doors for my house, and as I did not like them I sold them two years later, and I put the money in an aluminum company account for assembling new aluminum doors at the same price to replace those I had sold. Is khums applicable to that money?

A: In the given question, the sale price is not subject to khums.

Q 880: I paid 100,000 tumans to an institution to acquire housing land in the future. One year has elapsed on that money, part of which is mine and the rest was obtained through a loan, some of which I have paid off. Is khums applicable to this money and to what extent?

A: If the purchase of the land to build the house one needs is not feasible without making deposits in advance, then you are not required to pay khums on the money you have already paid, even if it was from your annual income.

Q 881: If a person sells his house and deposits the money in a bank to get interest, what is the ruling when the khums year ends? And what if this money was saved to purchase a house?

A: Its proceeds are not subject to khums at all if they build or buy the house with the annual earnings in order to live in it, considering it as part of one's annual expenses and, then, they sell it after the end of khums year.

Q 882: Does khums apply to the money saved gradually intending to buy a house or other life necessities?

A: If, according to the financial status of the person, buying their life necessities depends on saving annual earnings and they decide to spend these savings to purchase such things in the near future (e.g. within two or three months) and paying khums prevents them from purchasing them, then such savings are not subject to khums.

Q 883: I bought a car several years ago, and at the present time it might sell for a price several times more than what it was purchased for. As khums was not paid on the money spent to buy it, and I am planning to buy with its proceeds a house to live in, does khums apply to the entire amount once I receive it, or does it apply only to the money that I paid to buy the car while the balance, that is, the difference of the sale value over the original price of the car, is considered as part of the earnings of the year in which the car is sold and as a result is subject to khums if the money is not spent on living expenses by the end of the khums year?

A: If the car was a part of your ma'ūnah and purchased out of the annual income during the year for personal use, then there is no khums on its proceeds. But in case the car was bought to

be used for work then if it was acquired on credit or bought with a loan, you have only to pay khums on the money spent to repay the debt — of course there is caution to make muṣālahah with the authority in charge of khums as far as devaluation of money is concerned; while if you bought it with the earnings which were subject to khums but from which khums was not paid, then you have to pay khums on its entire sale price.

Q 884: I owned a very modest house, but for some reason I decided to buy another house. Due to debts I was forced to sell the car which I was using and borrow some money from the provincial bank and ribā-free loan institution in our city to pay for the house. As the sale of the car occurred before the beginning of my khums year, and I spent the money obtained from its sale to pay off a part of my debts, does khums apply to the money obtained from the sale of the car?

A: With regard to given question, you do not have to pay khums on the proceeds from the sale of the car.

Q 885: When a house, car, or other necessities that a person or his family needs and were purchased from the annual income are sold on account of a necessity or to replace them with items of superior quality, what is the ruling in regard to khums?

A: The proceeds from the sale of ma'ūnah are not subject to khums.

Q 886: If a house, car or other necessities bought for personal use — not for the sake of business or making money with the money whose khums was paid are — later sold for some reason, is the increase in the market value subject to khums?

A: In the given case, there is no khums on the profit resulting from the increase in value.

## **reasure, Mine, and Ḥalāl Mixed With Ḥarām Property**

Q 887: What is your opinion concerning buried treasure that someone finds on his own land?

A: If he does not suspect that the found treasure belonged to the previous owner of the land, it belongs to him, and he must pay khums on it if it exceeds 20 golden dinars in the case of gold, 200 silver dirhams in the case of silver, or the price of any of them with respect to other kinds of treasure. This is if no one prevents him from retaining what he has found. But if the government or others prevent him and forcibly seize it, and what remains with him out of what he had found is equal to the value of the aforementioned threshold then khums applies only to that. Otherwise he is not liable to khums for what was seized from him.

Q 888: If a number of one hundred year old silver coins are found in a building owned by someone, do these coins belong to the current owner of building, for example the purchaser, or the legal heir?

A: Its rule is the same as the one pertaining to treasure, mentioned under the previous question.

Q 889: Our question is as follows:

Certainly the payment of khums on extracted minerals is obligatory at the present time, as our major mujtahids consider the obligation of khums on minerals one of the conceded rulings. Considering that the government's mere spending of the minerals' proceeds for Muslim citizenry does not remove the obligation to pay khums, what is the ruling with respect to these minerals. Mining is either carried out primarily by the government and then its income spent on the citizens, in which case it is like a person who extracts the minerals and gives as a gift or as charity to another person. However, it is included in the generality of the proofs regarding khums, as there is no ground for limiting their application. Or the government extracts the minerals as the people's agent, and in reality it is the people who are the extractors and in this case paying khums is obligatory for the principal. Or the government extracts the minerals through its guardianship over the people in which case the

extractor is the guardian itself or, as in the case of being people's agent, the people are considered as the actual extractor. In any case, there is no proof for excluding the extracted minerals from the general rule of khums when the quantity of mined minerals reaches the threshold, unlike the earnings, which may be spent or given as gift, counted as part of the annual expense and consequently exempted from khums. What is your opinion concerning this important issue?

A: Among the conditions for minerals to be subject to khums are: a) mining is done by a person, or persons in partnership; b) every person's share reaches the threshold, and; c) the extracted minerals are counted as their own. As the minerals extracted by the government are not privately owned by any person or persons, rather they are property of a public purpose, the condition for liability to khums is absent. On this basis, there are no grounds for the state and the government to be liable for their khums and this is not an exception to the obligation of khums on minerals. However, the minerals that are extracted by a certain person, or persons in partnerships, are liable for khums when the share of each of them, after deducting the extraction and refining expenses, reaches the thresholds, i.e. 20 dinars, 200 dirhams or the equivalent.

Q 890: If ḥarām property gets mixed with a person's own property, what is the rule concerning such property and how can it be made ḥalāl? And what must they do if they know it is ḥarām or do not know it?

A: If they are certain of the existence of ḥarām property within their assets, but do not know the precise amount and cannot identify its owner, the way to make it ḥalāl is to pay its khums. But if there is a doubt that their property is mixed with ḥarām, then they are liable to nothing.

Q 891: Before the beginning of my khums year, I lent someone some money, and the said person intended to invest that money and distribute its profits equally between us. This money is not at my disposal at the present and I have not paid its khums, what is your opinion in this regard?

A: If you lent the money and you cannot receive it before the end of your khums year, you are not presently liable to pay its

khums, rather you should pay it at the time you receive it. But in this case, you have no right to receive any amount of the profit made by the borrower's business, and if you demand anything from him, it is counted as ribā which is prohibited. But if you had given him the money as silent partnership, then you would have a share in the profits according to the agreement. Then you are required to pay khums on the capital.

Q 892: I am a bank employee. To start my job, I deposited 500,000 tumans in the bank (of course, this money is kept in my name in a long-term savings account and I receive its interest every month). Is it obligatory to pay khums on this money, considering that this money has been deposited with the bank for four years?

A: The deposited money is not subject to khums as long as you are not able to withdraw it. But its interest — after the deduction of yearly ma'ūnah — is subject to khums.

Q 893: The banks have a method for depositing money which makes it inaccessible to the depositor. It is in fact kept in one's bank account with a particular method of computation. Is khums applicable to that money?

A: If the money deposited in the bank was part of one's annual earnings and one is able to withdraw it from the bank at the end of his khums year, then paying its khums is obligatory for him at the end of the year.

Q 894: Is khums obligatory for the house tenant or the landlord on the money that the tenant deposits with the landlord?

A: If the money is from the annual earnings of the tenant then its khums is obligatory for the tenant after the landlord returns it and the landlord, who takes it as a loan, is not liable for its khums.

Q 895: For several years the government has not paid its employees their salary. Will it be considered as income of the khums year in which they receive it so that they should calculate its khums at the end of that year or it is not subject to khums at all?

A: This money would be considered as part of the annual income of the year of receipt, and its excess over the year's ma'ūnah is liable for khums.



## Ma'unah

Q 896: Someone has a personal library whose books he used for a while. For several years he has not used them, but it is likely that he may use them in the future. Does khums apply to the library in the period that he does not use the books? Is there a difference in respect of liability to khums whether the original purchaser of the books was he himself or his father?

A: If at the time of purchase he was in need of them for reading and reference, and their quantity was suitable for a person like him in the common view, then khums does not apply to the books even if he does not use them after the first year. Also they are not liable for khums if they were inherited or received as gift from parents or others.

Q 897: Is the gold a husband buys for his wife liable for khums?

A: If it is in a quantity normal for his social status in the common view it is counted as part of his annual expenses which are not subject to khums.

Q 898: Is khums applicable to the down payment made for purchasing books at the International Book Fair while the books have not been delivered yet?

A: If the books are needed by him and their quantity is normal for his social station as per common view, it is not liable for khums.

Q 899: A person owns a second piece of land, which he needs and is normal for his social status. However, he would not be able to build a house on it during his khums year or to complete the construction in one year. Is it subject to khums?

A: In respect to the piece of land which one needs to build a house on for living in, there is no difference between being one or several pieces of land or to building one house or several houses to be expected from khums. The criterion is the strict meaning of being in need for it/them in accordance with his social status as per common view and his financial ability for gradual construction.

Q 900: One has a complete set of dishes. For the whole set to be exempted from khums, is it sufficient to use some of them?

A: The criterion for exemption from khums for home appliances is the need for them in accordance with what is normal for one's social status in the common view even if they are not used for the entire year.

Q 901: A set of dishes or carpet is not used for the entire year but it is needed for guests, is it liable for khums?

A: It is not liable for khums as per the given question.

Q 902: Considering Imam Khomeini's (q.) verdict concerning bride's trousseau which she takes to her husband's house at the time of wedding, what is the rule if it is customary in a certain region that the groom's family is responsible for providing the household furnishings and other necessities, which are procured gradually and over the course of some years?

A: If the procurement of furniture and future necessities is normally considered a part of their expenditure in the common view, it is not liable for khums.

Q 903: Does the use of one volume of a book set, such as an encyclopedia, exempt the entire set from khums, or is one required, for instance, to read at least one page of each volume?

A: If the whole set is needed, or if obtaining one volume requires buying the entire set, then it is not liable to khums; otherwise khums is obligatory for volumes that are not presently needed, and the mere reading of one page of each volume does not exempt them from khums.

Q 904: The medical insurance company has reimbursed the cost of medicines bought in the middle of the year from annual earnings, and if the medicines remain until the end of the khums year without becoming unusable, are they liable to khums?

A: If they were purchased to be used when needed and there is a good chance of using them, they are not liable to khums.

Q 905: A person does not own a house and saves money in order to pool sufficient funds for purchasing a house and the necessities of life, is it liable to khums?

A: The money which is saved from annual earnings is liable to khums at the year's end if it is intended for future living

expenses unless it is saved for necessary living expenses in which case if it is to be spent shortly after the end of khums year, say two or three months, for the said purpose, it is not subject to khums provided that paying khums prevents him from purchasing the necessities of life.

Q 906: My wife weaves carpets and the capital involved in carpet weaving belongs to us. We obtained it through a loan, and only a part of the carpet has been woven till now while my khums year has already ended. Would khums be applicable to the portion that has been woven when the carpet is completed and sold if I intend to use its sale proceeds for household necessities? What is the rule regarding the capital?

A: After excluding the capital acquired on loan from the sale price of carpet, the rest would be considered part of the earnings of the year it is sold. Therefore, if it is spent for living expenses in the year the carpet is completed and sold, it will not be liable to khums.

Q 907: My sole possession is a three-story house and each floor consists of two rooms. I reside on one floor and the other two are occupied by my children. Is this building liable to khums during my lifetime? Would it be liable to khums after my death, so that I may direct the heirs in my will to pay it after my death?

A: In the case mentioned, you are not liable to khums on the building. Of course, the person who has not yearly khums accounting, he should do muşālahah in some way.

Q 908: What is the procedure for calculating the khums on household items?

A: The items that endure despite use, like carpets etc., are not liable to khums. But the surplus of daily consumable goods, such as rice, oil, etc., that remains at the year's end is liable to khums.

Q 909: Someone does not have his own house to live in. He bought a piece of land with the intention of building a house for himself but did not have sufficient funds to build it. A year has passed and it has not been sold. Is it liable to khums? If it is, should he pay khums on its purchase cost or on its present value?

A: If he bought it from the annual earnings of the year in which he bought it to build his needed house, he is not liable to pay its khums.

Q 910: In the preceding question, if he starts the construction but it is not completed until the end of his khums year, is the money spent on the building materials liable to khums?

A: In the given case, it is not liable to khums.

Q 911: Someone adds an additional floor to his house for the future accommodation of his children. He occupies the first floor and he would not need the second floor until some years later. Is he liable to khums on the amount spent in constructing the second floor?

A: If building the second floor for the future accommodation of one's children is considered part of one's annual expenses in accordance with his social status in the common view, the money spent is not liable to khums. Otherwise, paying its khums is obligatory if neither he nor his children are in need of it currently.

Q 912: You have stated that khums is not obligatory for anything which forms part of one's expenditures. On this basis, if a person does not own a house for living but it is several years that he bought a piece of land and he does not have adequate funds for its construction, why is it not considered part of his annual expenditure? Would you please explain it.

A: If the land was bought from one's earnings within the khums year to build the needed house on it, it is indeed considered part of the annual expenditure and does not require khums. Also, if it is bought from yearly earnings for sale to use its proceeds to get a house, it is liable to no khums.

Q 913: The beginning of my khums year coincides with the beginning of the sixth month of the solar year, and the university and school exams are usually held in the second or third month of the year. We receive an overtime payment for conducting the tests six months later. Is the compensation for work performed prior to the start of the khums year and received after the end of the khums year liable to khums? Please explain.

A: It is considered as part of the earnings of the year of receipt,

not of the year of work and if it is spent for living expenses of the year of receipt, it is not liable to khums.

Q 914: At times we purchase home appliances, such as a refrigerator, at a lower price than its market value. These appliances will not be necessary for us but in the future, i.e. after marriage. Considering that these things will cost us many times their current cost if bought later, after marriage, and they are now kept unused in the house, are they liable to khums?

A: If you have purchased them for the future use with the money from annual earnings, and they are not needed in the year of purchase, they would be liable to khums at their fair market value at the year's end. But if it is a normal practice to purchase them gradually and store them until needed, due to the inability to acquire them all at once when needed, and it is to an extent that is normal for your social status in the common view, then it is considered part of the annual expenditures and is not liable to khums.

Q 915: Is the money donated to charitable causes, like helping schools, flood victims, and the people of Palestine and Bosnia, considered part of annual expenditures so that they are not liable to khums?

A: These charitable donations are considered part of annual expenditures for the year of contribution and do not require khums.

Q 916: Last year, we saved some money to buy a carpet. Near the last year's end, we visited shops. One of the stores promised to procure a suitable carpet to meet our requirement and taste. This continued until the second month of this year. As my khums year begins with the solar Hijrī year, would this amount be subject to khums?

A: According to the given question the saved money and the said carpet are not subject to khums.

Q 917: Several people have collectively established a private school. After they invested the little money they had, the founding committee decided to take a bank loan to cover other

expenses. The founding committee further decided that each partner should pay a certain amount every month to complete the investment capital and to pay off the bank installments. Considering that the institution has not yet entered its profit bearing stage, is the amount paid by each of the partners liable to khums? Does khums apply to the entire capital (the value of the institution)?

A: Khums is obligatory for each member with respect to his monthly payments towards contribution to the capital of the company, as well as on the initial share in the school's foundation. Once each member has paid khums on his share of the capital of the company, the total capital is not liable to khums.

Q 918: For some years my employer has been indebted to me. Would this amount be liable to khums on its recovery, or at the year's end after receipt?

A: If the money is your salary and is not receivable at the end of the khums year, it is considered part of the gains of the year of receipt. And if the amount is spent on the annual expenses in the year of receipt, it is not liable to khums.

Q 919: Is the criterion for exemption of something from khums its usage during the year or its being needed during the year, even if it remains unused?

A: For items like clothing, carpets, etc. that are not consumed when used, the criterion is the need for them. But for consumable items of daily necessities, such as rice, oil, etc., the criterion is their consumption, and any surplus of these over the year's consumption is liable to khums.

Q 920: A person buys a car for his family's comfort and pays for it by money whose khums is not paid and by the earnings made during the year. Is he liable to pay khums on that money? And if he purchases the car to use for work-related purposes, or both, what would be the rule?

A: If the car was intended for purposes related to his work and business, then it is ruled as tools of business in respect of liability to khums. But if it is meant for his daily living needs, and the common view considers it as a normal need for such a person as per his social status, it is not liable to khums. Of course,

if the money with which the car is bought was subject to khums, its khums should be paid.

## **Mudawarah, Musalahah, And Khums` s Mixture With Other Things**

Q 921: Some people have outstanding khums, and at present they are either unable to pay it or its payment would put them to severe hardship. What rule applies to them?

A: They are not relieved of the obligation to pay khums due to mere inability to pay it or hardship caused by its payment. It is obligatory for them to pay it in any way they can, they may perform mudāwarah with the authority in charge of khums, or his attorney, to make the payments in accordance with their ability in respect of time and amount.

Q 922: I have a house with loan installments on it, and a place where I do business. In order to discharge my sharī duty, I have fixed a date for the beginning of my khums year. Would you please exempt me from the khums pertaining to the house? But I shall make khums payments on my business place in installments.

A: Khums does not apply to the residential house referred to in the question which was bought on credit. However, the place of business is liable to khums unless after paying its khums, the rest is not enough to make a business appropriate to one's station as per common view or a business which covers his/her life expenses.

Q 923: A person living abroad has not paid his khums. He has purchased a house with money whose khums has not been paid. At the moment, he does not have sufficient funds to pay the khums that he owes. However, he pays an amount in excess of his khums each year to compensate for his unpaid khums. Is this an acceptable procedure?

A: Under the assumption in the question, a mudāwarah arrangement is obligatory concerning his khums liability, after which he must try to pay it off gradually. Concerning the amount he has paid till now he should consult one of our authorized representatives.

Q 924: A person owes outstanding khums on the earnings of several years, and he has not paid any khums. He also does not remember the amount of khums he has to pay. Now how can he discharge his obligation in respect of khums?

A: It is obligatory for him to assess all his possessions that are liable to khums and pay their khums. In cases of uncertainty, he should reach a settlement with the authority in charge of khums or his attorney.

Q 925: I am a young person living with my family. My father does not pay his required khums and zakāt, and he has even built a house with ribā. The unlawfulness of the food that I eat at home is obvious. Considering that I cannot leave my family, please explain my obligation in this matter.

A: Assuming that you are certain that your father's assets are mixed with ribā, or you know that he has not paid his obligatory khums or zakāt, this is not a sufficient reason for you to be certain of the unlawfulness of the very things he spends and what you use of his assets. As long as you are not certain of their unlawfulness, you are not forbidden from using them. Of course, if you are certain of the unlawfulness of what you are using from his assets, you are not allowed to use them unless separation from your family and leaving them would cause extreme hardship for you, in which case you are allowed to use the assets that are mixed with ḥarām ones. However, you will be liable for khums, zakāt and others' property you consume or use.

Q 926: I am certain that my father does not pay his khums and zakāt. When I remind him in that regard he says, "We ourselves are in need of it, and so it is not obligatory for us to pay khums and zakāt." What is the rule in this case?

A: If he does not have assets liable to zakāt or to khums, neither khums nor zakāt is obligatory for him, nor is it your obligation to investigate this matter.

Q 927: We do business with some people who do not pay khums and they do not keep a yearly account either. We transact and trade with them and visit and dine with them. What is the ruling concerning this matter?

A: In case of certainty of the presence of khums money in the assets that you acquire from them through sale or purchase, or that you use while visiting them, your dealing or transaction in the khums portion of what you acquire from them through sale

and purchase is considered fudūlī which needs the permission the authority in charge of khums or his attorney. Using their assets for you is impossible unless refraining from associating with them and declining their food and use of their assets would create an unbearable hardship for you, in which case you are allowed to use them, but you will be liable to khums on what you use of their assets.

Q 928: If someone donates an amount of money to a masjid from khums-liable funds, is it permissible to accept this money from him?

A: If one is certain of presence of unpaid khums in the money donated, it is not permissible to accept it. But, if taken, it is obligatory to consult the authority in charge of khums or his attorney with respect to its khums.

Q 929: What is the rule on associating with Muslims who do not care about religious affairs, especially prayers and khums? Is there a problem in eating in their houses? In case there is, what rule applies to someone who has done it several times?

A: There is no problem in associating with them unless it implies endorsing their indifference to religions matters, or avoiding their company would be effective in making them observant of religions matters. In that case, temporary disassociation is necessary for the sake of the duty to enjoin to the good and forbid from evil. As to using what belongs to them, such as their food, etc., if you are not certain that they are liable to khums, it is not prohibited.

Q 930: A friend has invited me on many occasions to dine with her. But I recently discovered that her husband does not pay khums. Is it permissible for me to eat at someone's place who does not pay khums?

A: There is no objection to dining with them as long as you do not know that the very food that they serve is khums-liable.

Q 931: A person intends to assess his assets for the first time in order to pay his khums. What would be the rule in regard to the residential house that he has purchased if he does not know what money he had paid for? And if he knows that he had

purchased it with funds saved over several years, what would be the rule?

A: If he doubts that he may have bought the house or other necessities of life with the money which was not liable to khums — e.g. inherited or granted money — he is not liable to anything in respect with their khums. In case he is certain that he bought it with his own income but he does not know whether he spent the money for the house during the year it is gained or after the khums year had passed and before paying its khums, he should make muṣālahah with one of our representatives. Again if he well knows that he bought the house with earnings saved for several years and before its khums is paid, he is obliged to pay the khums of the saved earnings. As far as the devaluation of the money is concerned, it is caution to make muṣālahah with the authority in charge of khums.

Q 932: A cleric in a town has collected a sum of khums money from the public. But it is difficult for him to deliver this very money to you or your office. May he transfer it through the bank, considering that the money will be received from the bank is not the same currency that he submitted to the bank in his town?

A: There is no problem in delivering khums money or other religious funds through a bank.

Q 933: If I purchased a piece of land with khums-liable money, is it permissible to perform prayers on that property?

A: If the purchase of the land is made with the very funds that are liable to khums, the transaction — as to the proportion of khums — is fuḍūlī and requires the permission of the authority in charge of khums to be valid.

Q 934: If a buyer knows that a thing he has purchased is liable to khums and the seller had not paid it, is it permissible to use it?

A: If the sold item is subject to khums, the transaction on the khums portion is considered fuḍūlī and depends upon the permission of the authority in charge of khums.

Q 935: A shopkeeper does not know whether or not the

customer with whom he has dealings has paid khums on his money. Is he required to pay khums on that money?

A: As long as he is not aware of the presence of khums in the money that he receives from the customer, he is not liable to anything, nor is he required to investigate the matter.

Q 936: If four people, for example, put together a hundred thousand tumans to invest in production, and one of them does not pay his khums, is partnership with him valid? Can they receive such a person's money (as a ribā-free loan) for investing if he does not pay khums? In general, if a number of people are partners, is it obligatory for each one of them to pay khums on the profits independently, or should they pay it from their joint fund?

A: Partnership with a person whose capital is liable to khums and he has not paid it is fuḍūlī concerning the khums portion about which they must refer to the authority in charge of khums. It is not permissible to use the joint capital if some of the partners have not paid their shares' khums. When they get profits from the joint capital, each one of them should pay the khums of what remains from his share at the end of his khums year.

Q 937: What is my duty if my partners do not keep a yearly account?

A: It is obligatory for each one partner to pay the shar'ī liabilities of his share, in order to have a lawful usage of their joint assets. However, if the rest of the partners are not paying their shar'ī liabilities, and dissolving the partnership or withdrawing from them would impose undue hardship or inflict losses on you, then you are allowed to continue in your partnership with them.

## Capital

Q 938: A cooperative of employees in the department of education was founded in 1986. The company's capital was formed with the shares of a number of employees and each paid an amount of 100 tumans. Initially, the company's capital was small. But presently, due to the increase in the number of members, the company's (working) capital has reached 18 million tumans in addition to the vehicles owned by the cooperative. The company's net profits are divided proportionally among the shareholders. Every shareholder can easily withdraw his share and settle his account with the cooperative. Since the khums of the capital and dividends has not been paid till now, as the president of the management committee, may I pay the khums pertaining to the company's account? Does it require the approval of the shareholders?

A: Paying khums on the partnership's capital and its profits is the duty of each shareholder in regard to his share in the total assets of the company. Taking charge of its payment by the chief of the management committee depends on obtaining the permission and authorization from the shareholders.

Q 939: A group of people want to establish a ribā-free loan fund in order to provide loans to each other in times of necessity. In addition to the initial contribution, every member is required to pay a monthly amount to increase the capital. Will you kindly explain how each member is to calculate his khums? Moreover, as the fund's capital is continually loaned out to the members, how is it possible to pay its khums?

A: If a person paid his share from his earnings or salary after the end of his khums year, he must pay its khums. But if he paid his share during the khums year, then khums should be paid at the end of the year if he is able to withdraw the money. Otherwise, before he withdraws it from the fund he is not liable to khums.

Q 940: Is a ribā-free loan fund a separate legal entity? If it does, are its profits liable to khums? If it is not a separate legal entity, how is its khums paid?

A: If the capital of the fund belongs to individuals who form a

partnership, then each shareholder's profit is considered his personal property and he will be liable to its khums if it exceeds his annual expenditures. However, if the capital of the fund does not belong to a person or persons, e.g. it belongs to a public endowment; the profits are not liable to khums.

Q 941: A group of twelve pious people agreed to deposit a certain sum of money (20 dinars, for instance) in a joint fund at the beginning of every month. Each month a member takes the amount and uses it for his private purposes. This process goes on for twelve month when it is the turn of the last person. It means that he will receive only what he has contributed in that period, i.e. 240 dinars. Is he liable to pay khums on that amount or is it considered part of his annual expenditure? And in case this person has a fixed date for the end of his khums year and part of the money he received is still in his possession at the end of the year, may he fix a separate khums year for this portion to avoid paying khums?

A: If the money a member deposits in the fund is from his annual income during the year, what he receives to spend for the annual expenditure is not liable to khums provided that the received money is loan in a part and the rest equal to what he deposited in the fund from the income of the same year. But if the deposit was from the previous year's income, then he must pay its khums. In case it includes both years' income, each year has its own rule. And for the amount he receives, which was deposited from the yearly income and is in excess of the year's expenditure, he could not specify a separate khums year to avoid its khums. He is required to fix a single khums year for the year's total earnings and pay khums on the amount in excess of his expenditure during that year.

Q 942: I rented a house for which I paid a deposit called rahn. Am I liable to khums on the rahn money after the elapse of one year?

A: If the money that you lent the landlord is from your income, it is subject to khums.

Q 943: We require a big budget in order to undertake development projects, and it is difficult to pay the entire cost all at once. Therefore, we have established a development fund and make monthly deposits in this fund. After collecting the capital,

we spend it on these projects. Is khums applicable to this saved amount?

A: If the money paid by each person is obtained from his yearly earnings and remains in his ownership until it is spent for the projects and he can withdraw it from the fund at the end of his khums year, then he is liable to pay its khums.

Q 944: Several years ago I made an assessment of my possessions and fixed a date for my khums year. At that time, I had 98 heads of khums-paid sheep, together with some cash and a motorcycle. In the course of a few years due to gradual sale, the number of sheep was decreased and accordingly the money was increased. At the moment, the number of sheep is sixty, and I also have some cash. Do I have to pay khums on this money or on the increase?

A: If at the present the combined value of the sheep and cash is more than the total value of 98 heads of sheep and the money whose khums was previously paid, then the excess is subject to khums.

Q 945: A person owns a property (land/house) which liable to khums. Can he pay its khums from his annual income, or must he first pay khums on the profits and then pay the khums from the remainder of the profits after khums is paid?

A: If he wants to pay the outstanding khums from the annual income, he is required to pay its khums as well.

Q 946: We have saved some assets for the children of the martyrs from the profits of factories, farmlands, etc., which belonged to some venerable martyrs, through which they were sustaining their living, or from the pensions that the Martyrs' Foundation pays the martyr's small children. Occasionally, part of these assets is spent to provide for their necessary needs. Please explain if these profits and saved pensions are subject to khums, or should it be deferred until they grow up?

A: What was transferred as inheritance to the children of the illustrious martyrs from their fathers or is paid to them by the Martyrs' Foundation is not subject to khums. But as to the profits made out of the inherited assets, or out of the assets given to them by the Martyr's Foundation as gifts and

remaining in their ownership until they reach the age of sharī puberty, it is obligatory for each of them, by way of caution, to pay their khums after reaching the said age.

Q 947: Does khums apply to the money that one spends on investments and business transactions?

A: What is spent in obtaining profits from capital, that is, the costs of storage, transportation, weighing, middleman, etc. is excluded from that year's earnings and is not subject to khums.

Q 948: Does khums apply to the principal capital and its profits?

A: If the amount of the capital is so that after paying its khums, the rest is not enough to make a business which covers one's life expenses or a business appropriate to his/her station as per common view, it is not subject to khums.

Q 949: Someone owns gold coins in a quantity reaching zakāt threshold, is it liable to khums, in addition to zakāt?

A: If it is considered a part of their business profit, it is subject to khums like other types of income.

Q 950: My wife and I work at the ministry of education and she regularly gives me her monthly salary as a gift. I have spent an amount to buy shares of a farming cooperative of the department of education employees, of which I am a member. I do not remember whether that amount was from my own salary or from my wife's. As the savings of my wife's salary at the end of my khums year are less than the total amount of her yearly earnings, is the amount mentioned liable to khums?

A: The money saved or paid for buying shares in the cooperative if it is obtained from your own salary is liable to khums, unlike the amount given by your wife as gift. Similarly, the amount about which you are uncertain whether it is from your own salary or from your wife's gift is not liable to khums, although it is a caution to pay its khums or make muṣālahah its khums for an amount of money.

Q 951: Is the money that remains in a bank as a ribā-free loan for two years liable to khums?

A: All savings from annual income are subject to khums only once, and depositing it in a bank as a ribā-free loan does not

exempt it from khums. Of course, as long as one does not recover it from the borrower — in the case he is not able to recover it at the end of khums year — one is not liable to its khums.

Q 952: A person goes through a difficult time and imposes the same thing upon his family to save some money or acquires a loan to solve his living problems. At end of the year, the saved or loaned money is left over, does khums apply to it or not?

A: If the profit is saved for spending it on necessities of life and it is spent for this purpose in the near future — say two or three months after the end of the khums year, if it cannot be spent sooner — it is not subject to khums provided that paying khums prevents him from purchasing the necessities of life. As for the loan, paying its khums is not the responsibility of the borrower. However, if he is paying its installments from his annual income and the very loan remains with him until the end of the khums year, he should pay khums in proportion to the paid installments.

Q 953: Two years ago I purchased a piece of land to build a house. If I save some money from my daily expenditures to build my house, then would khums apply to this amount at the end of the year?

A: If the very money obtained from yearly income is spent to purchase the construction materials needed for the house before the end of the khums year, or you want to spend it within the near future after the year's end to construct the house, it is not subject to khums.

Q 954: I want to get married. I have invested some money in the university to bring a profit. Is there any way to make muṣālahah on its khums?

A: If the above mentioned money is from business profit and in your possession up to the end of the khums year, then it is subject to khums. One cannot make muṣālahah on definite khums.

Q 955: Last year the Hajj Travel Agency purchased my equipment needed for the caravan of Hajj. I received the sale money this summer which is equal to 214,000 tumans. On top of that, during the previous year, I acquired a further 80,000 tumans. It must be pointed out that I have specified a fixed date for my

khums year and that I always take khums out on my surplus possessions. Furthermore, I needed the equipment in question during the Hajj days when I was in charge of administering the pilgrims' caravan. Is it necessary for me now to pay khums on the sale money, after taking into account that the price has increased considerably, or to pay the khums only on the difference in the value?

A: If the above mentioned items were purchased by money on which khums has been paid, then there is no khums on it. If not, then it would be obligatory to pay its khums.

Q 956: I am a shopkeeper and every year I assess the whole stock and cash I have. There are some things which are not sold by the end of the specified khums year. Is it obligatory to pay khums on those items which have not been sold by that time, or is it paid when the things are sold? However, if the khums is taken out on them prior to their sale and they are sold later, then how should I do the next year's khums assessment? Furthermore, if I do not sell the items and their value changes, then what is the ruling regarding this situation?

A: For the time being, khums is not obligatory on the increased price of things that have not been sold by the end of the year and no one is found to buy them. In fact, the profits acquired from their sale in the future would count as that of the sale year. However, the items, whose price increased and there was a potential buyer for them during the year yet to gain more profit you did not sell them by the end of the year, khums would apply to their increased value at the beginning of the next year. In this case, these items — at the price estimated at the year's end and khums on the appreciation is paid — would be exempted from khums in the next year.

Q 957: Three brothers purchased a house consisting of three floors. They live in one of the floors while the other two floors are rented. Are the two rented floors subject to khums or not? Are these floors considered as part of their annual expenditure?

A: If they purchased the house from their yearly income for the purpose of living but now they rent the two floors out of need to provide their living expenditures, the two floors are not

subject to khums. But if they constructed or bought the additional two floors for renting to use their proceeds for living purpose, the two floors are ruled as capital which is subject to khums.

Q 958: A person had some wheat on which he had paid khums. After harvesting new crops, he used the khums-paid wheat and replaced it with the new wheat. He did so for several years. Is the new wheat — as a replacement for the khums-paid wheat — subject to khums as a whole or only part of it?

A: If he uses the khums-paid wheat, he cannot exempt the equivalent new crops from khums. Then, the new crops consumed by the end of the khums year are not subject to khums, while the rest is.

Q 959: By the grace of Allah, I withdraw khums from my income every year. However, during the years I did so I always had doubts about the calculation. What is the ruling regarding this doubt? Should I calculate all my cash this year or should I ignore the doubt?

A: If you doubt whether the khums assessment of your previous years' income was correct or not, then you are not to pay attention to this doubt. Furthermore, you have no duty to pay khums again. However, if you doubt whether a particular income relates to the previous years from which khums has been paid or to the present year from which khums has not yet been paid, then it is obligatory for you to pay its khums as a caution unless you verify that its khums has already been paid.

Q 960: I purchase, for example, a carpet for 10000 tumans with money on which khums has already paid. After a while I sell it for 15000 tumans. Is the appreciation of the khums-paid carpet, i.e., 5000 tumans, considered as income which is subject to khums?

A: If you purchase it with the intention to sell it later, the appreciation counts as business profit, of which any amount in excess of the annual expenditure is subject to khums.

Q 961: An individual specifies a separate date of the khums year for each and every single income he makes. Is he allowed

to pay the khums of some profit whose year has ended from the profit whose year has not ended? And what if he is certain that these profits will remain untouched till the end of the year, i.e. not being used for his annual expenditure?

A: When he wants to pay khums on the profits of one business from the profits of the other, he should pay khums on the paid money as well. Regarding those incomes from which nothing will be spent for living expenses until the end of the year, he has the choice either to pay their khums directly when he receives them or to wait until the end of the khums year.

Q 962: A person owns property consisting of two floors. He lives on the upper floor while giving the lower part to another person to live in. The owner takes some money from that person in the form of a loan and does not charge the tenant at all. Would this borrowed amount be liable to khums?

A: There is no sharī reason for offering free use of the house for a loan acquired from the tenant. In any case, the borrowed money is not subject to khums.

Q 963: I have rented a place for a specified monthly rent from the Endowments Office and the person in charge of it to make a clinic. At the time when I made my request to rent that property, I was asked to make a payment. Would I have to pay any khums on that amount of money, taking into consideration that the money which I have paid is no longer mine and I will not own it again?

A: If the payment is considered as transferring sarqoflī and the money was obtained from your income, it is obligatory for you to pay its khums.

Q 964: A person wanted to cultivate a barren piece of land. In it, he dug a deep well and planted some fruit trees so that he could make use of the fruits in the future. It must be noted that the trees would not have any fruits for several years and that during this period, they cost a lot. Up to now, the expenditure made by the person exceeded one million tumans. Until now, the person did not have a yearly account for khums. Now that he decided to pay khums, he calculated his assets and saw that the price of the land, well and orchard has increased several times over their original value due to inflation. Thus, if he were

obliged to pay the khums based on the present price, then he would not be able to pay the amount. If the duty is to pay khums on the very land and orchard, then he would have to face a great difficulty since he bore much trouble for the land hoping that he would be able to earn his livelihood and that of his family by it. What is the duty of the person regarding his assets' khums in this situation? And how can he calculate the khums he owes so that he could easily pay it?

A: The barren land that he developed into an orchard is subject to khums after deducting development costs. He has the choice to pay its khums from the very land itself or from its present value. Also the well, young trees and the like are all subject to khums in accordance with their fair present value. However, if he needs the land to earn his living and by paying its khums, the rest will not be enough to cover his life expenses, it is not subject to khums.

Q 965: An individual does not have a yearly account for khums and now he wants to pay khums and have a yearly account. He has been in debt from the time of his marriage up to now. How should he account for the khums?

A: If he has never had any income in excess of his annual expenditure, he is not obliged to pay anything with regard to the past.

Q 966: What is the ruling of zakāt and khums regarding the benefits and crops obtained from endowed property or land?

A: There is no khums on the endowed assets themselves. Even if it is a 'special endowment' (e.g. something dedicated for one's offspring) its outcome and growth are not subject to khums at all.

There is also no zakāt on growth of the 'general endowment' prior to its acquisition by the beneficiaries. However, after the acquisition, zakāt becomes obligatory for the growth provided that it is also subject to other conditions which make zakāt obligatory. Paying zakāt is obligatory for the growth of a 'special endowment' if the share of each beneficiary reaches the threshold.

Q 967: Are sayyids' and Imam's shares of khums applicable to the children's income?

A: According to obligatory caution, after they reach the age of shar'ī puberty they should pay khums on their past earnings if they still own them.

Q 968: Is khums applicable to the instruments used in one's profession?

A: Tools and instruments used to earn a livelihood are ruled as capital, i.e. if they are obtained from one's income, paying their khums is obligatory.

Q 969: An employee's end of khums year coincides with the end of the 12th month. Each year they receive their last salary nearly 5 days before the end that month and spend it in the 1st month of the next year. Is it subject to khums?

A: Any salary acquired prior to the end of the year is subject to khums unless it is paid for annual expenditure before the khums year ends unless having an amount as deposit is considered as a part of one's ma'ūnah.

Q 970: Many university students save a portion of their scholarship to solve their future problems of life which amounts to a great deal of money. Is it subject to khums?

A: Scholarship is not subject to khums.

## The Method of Calculating Khums

Q 971: What is the ruling regarding postponement of paying khums from one year to the next?

A: To delay the payment of khums to the next year is impermissible, although paying it at any time will free one's debt. One does not have any right to use that money once the next year has started unless its khums is paid. However, if he uses the money prior to the payment of khums, he is liable to its khums and if he purchases things like commodities, land, etc., with this very money from which khums is not paid, the transaction is fuḍūlī with respect to the amount of khums and its validity depends on the permission of the authority in charge of khums, after which the person should pay khums on these items based on their current value.

Q 972: I have some money, a part of which I have given to others as loans. At the same time, I owe to some people for the land I purchased to build a house on it for which I have a postdated check to be paid in a few months. Am I permitted to subtract the amount I owe for the land from the cash and loan and pay the khums on the balance? Furthermore, is khums applicable to the land which has been purchased for residential purposes?

A: It is not obligatory for you to pay the khums on the part of the previous year's income you lent to others until you receive it if you could not get it back by the end of the khums year. Also from the money gained as annual earnings, you can pay your debt which will be due several months later — before the khums year ends. But if you do not do so and the khums year ends, you cannot exclude your debt from khums, rather, you should pay khums on the whole amount. Anyhow, if you make a decision to pay all or some of your money to settle your debt within the near future, and if you pay its khums the remaining money will not be enough to pay the debt and will make you suffer from a trouble and difficulty, it is not obligatory, then, to pay khums on the money by which you want to pay your debt. The land bought with annual income during the earning year for living purposes is not subject to khums.

Q 973: I am not yet married. Is it permitted for me to save money from my present income for my future needs?

A: If the annual income is saved to be spent for necessary marriage expenses within the near future after year's end — while if its khums is paid, the entire marriage expenses could not be provided — it is not subject to khums.

Q 974: Each year, end of the 10th month is the end of my khums year. Does the 10th month's salary which I get at the end of it count in the khums of that year? Upon receiving my salary, I often give the remaining amount to my wife as a gift — which is usually saved every month — is this amount subject to khums?

A: Khums applies to any amount that remains as surplus over the annual expenses from the salary received during the year even if it happens to be on the last day of the khums year. What you give as a gift to your wife or any other person is not subject to khums unless it is formal, beyond your station in the common view, or intended to evade the payment of khums.

Q 975: I spent some items and money on which khums had been paid. Is it permissible to exclude an amount of the annual earnings at the year's end equal to the spent amount?

A: Of the present year's earnings, nothing is exempt from khums to account for the money used, on which khums had been paid.

Q 976: Some property that is not liable to khums, such as prize, is mixed with capital. At the end of the khums year is one permitted to exclude the equal amount from the actual capital and pay khums on the balance?

A: There is no problem in excluding that amount.

Q 977: Three years ago, I opened a shop with khums-paid money. My khums year ends with the end of the solar year. Until now, whenever the year ends, I see that my entire capital is in the form of loan which is lent out to people while I owe a large amount. I would be grateful if you could tell me what my duty is?

A: There is no khums on you if at end of the year your actual capital and profit are not at your disposal and nothing is added to your capital. As to what you sold to people on credit, it will be counted as the income of the year of receipt.

Q 978: At the end of the khums year, it is extremely difficult for us to determine the value of items in our shop. What should we do?

A: To calculate annual income whose khums you should pay, it is obligatory to establish a value for the items in your shop in any way possible even through estimation.

Q 979: What is the rule if I do not calculate my annual income for several years so that my cash and capital increase with intention to pay khums on all of my property with the exception of the original capital later on?

A: At the end of the khums year, if there is any khums on your assets — no matter how little the amount — then you have no right to use them. Before paying their khums, if the khums-liable assets themselves are involved in a transaction, then in proportion to the khums share, the transaction is *fudūlī* and its validity depends on the permission of the authority in charge of khums.

Q 980: I hope you will explain the easiest way a shopkeeper may calculate and pay his annual khums?

A: At the end of the khums year the owner should calculate the value of the stock plus the cash money he has. Then compare this with the original capital investment. If the calculated figure amounts to a value greater than the original capital investment, then the extra amount would be considered as the year's profit on which khums should be paid.

Q 981: Last year I have determined the first of the third month as the beginning of my khums year. On that day I also consulted at the bank to calculate the khums on the interest I gained on my bank account. Is it a right method to calculate khums of the year?

A: Your khums year starts when you acquire some benefit or become able to receive it for the first time. It is not permissible for you to delay your year's beginning beyond that time.

Q 982: If certain items essential for living like car, motorcycle, carpet, etc, on which khums is not paid, are sold, should their

khums be paid immediately after sale?

A: If the mentioned items were necessary for your life and you paid for them from the income of the year of earning, their sale money is not subject to khums. But if they were bought with the money on which the khums year had passed without paying its khums, you should pay khums on their purchase price before their selling. However, if the person has no yearly account for his assets, he makes muşālaḥah with one of our authorized representatives regarding the purchase price.

Q 983: A person wants to have a home appliance, like a refrigerator but he cannot buy it all at once. The only way is to save an amount of money monthly and buy it when savings reach the appropriate amount. Now his khums year ended. Is the money put aside for the mentioned purpose liable to khums?

A: If they saved money to buy the necessities of life in the near future after the end of khums year, — for example, within two-three months in case they cannot buy them sooner — it is not subject to khums provided that paying khums prevents him from purchasing the necessities of life.

Q 984: If someone lends a part of his income before the end of the khums year and retrieves it after a few months into the next one, how is khums to be calculated?

A: It is obligatory to pay khums on the money whenever it is paid back to you.

Q 985: What is the ruling regarding those things one buys during his khums year and sells after the khums year ends?

A: If the mentioned items were considered part of one's necessities of life and he bought them for his personal use, they are not subject to khums. But if he bought them for sale and it was possible to sell them before the end of the khums year, paying khums on the gained profit is obligatory. Otherwise as long as they are not sold, no khums applies to them and whenever they are sold, the profit gained from their sale is considered part of the income of the year of sale.

Q 986: Is khums obligatory for that income an employee receives in the new khums year but relates to the previous year?

A: If one was able to acquire it before the end of his previous khums year, khums is obligatory for that amount even if he did

not receive it then. Otherwise, it is considered part of the income of the year of receipt.

Q 987: How does one account for the khums of gold coins which constantly fluctuate in value?

A: If one wants to pay khums on their value, the standard is the value of the day of payment.

Q 988: A person calculates his khums year account in gold value, e.g., if his entire capital equals the value of 100 gold coins (of certain type), he will pay an equivalent of 20 coins as khums to have 80 coins left as khums-paid capital. Then if in the next year gold coin's value increases, but his capital is still equivalent to 80 coins, is it subject to khums? Is it obligatory for him to pay khums on the increment in value?

A: The criterion in the exclusion of a khums-paid capital is the original capital itself. Therefore if one's capital which he works with consists of gold coins of certain type, he could exempt those coins on which khums was paid at the end of the khums year no matter whether their market value — compared with the value of the last year — has increased or not. But if his capital consists of cash and stocks which he calculated in terms of gold value at the end of the khums year to pay their khums, then at the end of the next khums year he should exempt only the value, not the number, of those gold coins that he counted the last year. Accordingly, if the value of the coins increases in the next year, one could not exclude the amount of increment, rather, it is considered as a profit on which paying khums is obligatory.

## **Determining the Khums Year**

Q 989: Is one obliged to specify a date for one's khums year, although he is certain nothing of his income will exceed his living expenditures at the year's end? What is the ruling regarding an individual who did not specify a certain date for it because he knew that he would not save anything from his income at the year's end?

A: The beginning of khums year is not determined by the mukallaf himself. In fact it is a real matter. It starts with trading work for traders, the time of harvest for farmers and receiving one's first salary for workers and employees. Determining the khums year's end and an account for one's yearly income is not an independent obligation; rather it is a method for calculating the amount of khums that should be paid. When one knows he is liable to khums, but does not know how much it is, the calculation becomes obligatory. However, if from his income nothing is left at the year's end and all one's earnings were spent for one's annual expenses, he is not liable to khums.

Q 990: Does one's khums year begin with the first month of his work or the day when he receives his first salary?

A: For those who receive salary, including workers, employees, and so on khums year starts on the first day they receive their salary or they can request it.

Q 991: How does one specify the beginning of the year in order to pay one's khums?

A: There is no need to specify the beginning of one's khums year, rather it is determined automatically depending on the nature of income. Thus, for workers, employees and the like the khums year begins on the date of receiving their first salary. As to merchants and shopkeepers, it begins when they start their work (buying and selling). However, farmers' khums year starts at the time of first harvest.

Q 992: Should unmarried youths who live with their parents specify their own date for the khums year? When would their year start? How would they calculate for that?

A: It is obligatory to specify the khums year if the unmarried youth has a personal income no matter how small the amount.

This is to calculate annual income and to pay khums on the amount that is left over from his/her income at the end of the khums year. The beginning of the year would start from the receipt of the first income.

Q 993: Is it possible for a husband and wife to specify a single common date for khums, when they both use their incomes together for their costs?

A: Each one must have a separate and independently specified date for the khums year in terms of his/her income. It is obligatory for each of them to calculate the khums of the remaining portion of his/her own incomes at the end of the year.

Q 994: I am a housewife following Imam Khomeini (q.) in taqlid. My husband has specified a date for his khums year so as to pay khums on his property. I too sometimes have some income. Can I specify a date for my khums year based on my first income on which I have not paid khums and at the end of the year remove my khums from what remains at hand after paying for the annual expenditure? Would I have to pay khums on money I used during the year towards the costs of visiting the Holy Infallibles (a.) and purchase of presents?

A: It is obligatory that you consider the date of your first income of the year as the beginning of your khums year. All that you spent for personal purposes during the year, e.g. the things you mentioned, are not subject to khums. From the yearly income, what is left over at the end of the year — after taking the annual expenditures into account — is subject to khums.

Q 995: Is it obligatory to specify the date of the khums year according to the solar calendar or the lunar one?

A: In respect to this matter, one has a choice.

Q 996: A person says that his khums year starts from the 11th month of the year. He forgot about that date and in the 12th month he purchased a rug, a clock, etc. before calculating the khums. Now he wants to change his khums year's date to Ramadan. It must be pointed out that this person has presently a khums debt of 83,000 tumans relating to the last two years which he is presently paying in installments. What would your

ruling be with regards the two (Imam's and sayyids') shares of khums which would apply to the rug, clock, etc.?

A: It is not permissible to delay or bring forward the specified khums year's date unless it is done with the permission of the authority in charge of khums, the profits of the period up to the new date have been calculated and it does not cause any harm or inconvenience for the recipients of khums. As to the items purchased with the previous year's income, one should pay khums on the money paid for them.

Q 997: Can an individual himself calculate his own khums and then pay it to your attorneys?

A: It is no problem.

## **The Authority in Charge of Khums**

Q 998: Considering the honorable view of the late Imam Khomeini (q.) and that of yours and of some other mujtahids that khums, zakāt, and the like should be paid to the leader of Muslims, what is the ruling of paying such things to a person other than the leader of Muslims?

A: If those who follow one of the marji's (May Allah maintain His blessings on them) act according to the fatwā of their own marji' in this regard, it will suffice to discharge their obligation.

Q 999: Is one permitted to use sayyids' share of the khums for a good deed like the marriage of a sayyid?

A: The sayyids' share of the khums, as well as that of the Imam (a.) falls under jurisdiction of the authority in charge of khums. There is no problem in using that portion relating to the sayyids' for the mentioned cause as long as special permission has been acquired prior to its use.

Q 1000: Should one acquire permission from the mujtahid whom he follows to use that portion of the khums which relates to the Imam (a.) for a good deed like using it for an Islamic seminary or a hostel for orphans or acquiring the permission from any mujtahid is sufficient? Generally speaking, is permission from a mujtahid necessary for this purpose?

A: Both portions of khums come into the jurisdiction of the Leader of Muslims. Consequently, anybody who owes khums to the Imam (a.) or to the sayyids or his property is subject to any kind of khums must forward it to the authority in charge of khums or his authorized attorney. However, if one wants to spend any of these portions in their areas, they should acquire prior permission for that. At the same time, they should consider the ruling of their mujtahid.

Q 1001: Are your attorneys, or those who are not your attorneys, obliged to give a receipt to those who pay khums?

A: Those who give khums to our respected attorneys, or to people who deliver it to our office, will request a receipt that has our stamp on.

Q 1002: Some times, when we give our khums to your attorney in our area, he returns the portion related to the Imam (a.) to us saying that he has your permission to do so. Can we spend this returned money on our families or not?

A: If you have any doubt about his power of attorney permission then you can politely request to see the document which allows him to do so or ask for the receipt with our stamp on it. If it appears that they act according to the permission given by us, their act is confirmed.

Q 1003: A person purchased property with money on which khums had not been paid. He then spent a lot of money refurbishing it. Afterwards he gave it as a gift to his son, who had not yet reached the age of ritual maturity. He also registered it officially as his son's property. It must be noted that the person who gave the gift is still alive. Please advise what would the situation of khums with regard to this issue?

A: If the money used to purchase and refurbish the property was provided by the year's income, the granting was made in the same year and it was in accordance with his social status as per common view, then there is no khums applicable to it. Otherwise, he should pay its khums.

## **Sayyids' Share and How to Be Considered as a Sayyid**

Q 1004: My mother is a sayyidah. I would be grateful if you would kindly answer the following questions:

Do I qualify as a sayyid?

Do my children and grandchildren, etc., identify as sayyids?

What is the difference between a sayyid from the father's side and that from the mother's side?

A: Although, descendants of The Holy Prophet through their mothers also considered as his descendants, the criterion for being a sayyid — as far as Shar'ī rulings are concerned — is paternal relationship.

Q 1005: Are the rules of sayyids applicable to descendants of 'Abbās, the son of Ali ibn Abī Tālīb (a.), e.g. can the students of Islamic studies who have that family tree wear the religious garment which shows that they are sayyids? Do the children of 'Aqīl ibn Abī Tālīb (a.) fall into this category as well?

A: The descendants — through paternal lineage — of 'Abbās, the son of Ali bin Abī Tālīb are regarded as 'alawī sayyids [a sayyid from the descendants of Imam Ali (a.)]. All sayyids, whether descendants of Imam Ali or that of 'Aqīl [Imam Ali's brother], are considered as hāshimī sayyids. They enjoy the rights specific for hāshimī sayyids.

Q 1006: Recently I found a personal document of my father's paternal cousin in which he is identified as a sayyid. Furthermore, it is famous in our family that we are sayyids. Considering these two proofs, I request you to give me your opinion regarding my being a sayyid.

A: The mere mentioning the word "sayyid" in a document of one of your relatives does not stand as a shar'ī evidence that you are a sayyid. Unless you are confident or there is shar'ī evidence that you are a sayyid, the rulings specific to sayyids and their effects cannot be applied to you.

Q 1007: I adopted a boy and called him Ali. I, then, referred to the registration centre to acquire identification card for him. In it, they described the child as a sayyid. I did not accept this

since I am afraid of Prophet Muhammad (s.). Now I am stuck in two situations; either to refuse his adoption or to commit the sin by accepting him as a sayyid while he is not a sayyid. Which one of the two situations should I choose? Please give me some guidance.

A: The shar'ī effects of being son do not apply to the adopted child. Also shar'ī rulings and effects of being a sayyid do not apply to the person whose real father is not sayyid. However, to adopt a child and provide him with his needs when there is nobody to look after him is a highly mustahabb act in Islamic law.

## **Areas in which Khums Is Spent, Obtaining Permissions, Gift, and the Monthly Stipends Paid by Islamic seminaries**

Q 1008: Some people take the responsibility to pay for the electricity and water bills of some sayyids. Is it possible to include them in one's annual khums account?

A: What they have paid with the intention of paying sayyids' share is accepted. However, in the future it is obligatory to acquire permission prior to the payment.

Q 1009: Do you permit anybody to buy and distribute Islamic books, using 1/3 of the Imam's (a.) share of khums?

A: If our authorized attorneys deem it necessary to buy and distribute Islamic books, they may use for this purpose from the 1/3, which they have the permission to use in certain Islamic area.

Q 1010: Is one permitted to give the sayyids' share of khums to a poor sayyid woman who is married and has children while her husband is not a sayyid but poor? Can she spend this money on the children and her husband?

A: It is permissible for her to take sayyids' share of khums to meet her needs and to use it for herself, her children, and even her husband if the husband is not able to pay his wife's sustenance and the wife is considered poor according to Islamic law.

Q 1011: A person gets the monthly stipend given by the Islamic seminaries. He also enjoys an alternative source of income, which is enough to meet his life needs. Can he receive the sayyids' share of khums or that of the Imam (a.)?

A: Those who do not deserve khums according to Islamic law and to whom the rules of stipends from Islamic seminaries do not apply are not allowed to take from these portions.

Q 1012: There is a sayyid lady who claims that her father does not fulfill his duty to pay for their maintenance. The situation has now reached the stage that they are begging outside the masjid so that they may be able to get some money for their daily expenditures. It is also known in the area that this sayyid

is a rich man but a miser and accordingly he does not spend on his family. Is it permissible to give them their maintenance from the sayyids' share of the khums? And if the father says: "My responsibility is only to dress and feed them, on the exclusion of giving anything else such as pocket money and the things of specific use for women, then is it permissible to spend the sayyids' share of khums for them to the extent sufficient to fulfill their needs?

A: With regards to the first situation in which they are unable to acquire their maintenance from their father, it is permissible to give their ma'ūnah from the sayyids' share of khums. As far as the second situation is concerned, if they need something other than clothing and eating in accordance with their social status, it is also permissible to give them a sufficient amount of the sayyids' share of khums to cover these needs.

Q 1013: Do you permit people themselves to give their sayyids' share of khums to the poor sayyids?

A: It is obligatory for them to acquire permission with regard to giving the sayyids' share of khums to the deserving people.

Q 1014: With regards to the use of khums, is it permissible for a person in your taqlīd to pay the sayyids' share of khums to destitute sayyids? Or is it obligatory for him to forward the khums, regardless of whether it is the portion of the Imam (a.) or that of the sayyids, to your attorney so that he may spend it in deserving cases as per Islamic law?

A: In this particular issue, there is no difference between the sayyids' share and that of the Imam (a.).

Q 1015: Do religious tithes (e.g. khums, repaying al-mazālim and zakāt) fall under the jurisdiction of the government? Can a person liable to religious tithes give the sayyids' share of khums, repaying al-mazālim and zakāt to a deserving person?

A: As far as zakāt is concerned, he himself is allowed to give it to any needy individual who is religious and modest. Relating to repaying al-mazālim, it is a caution to give it with the permission of the authorized religious authority. As for the khums, it is obligatory to give it to one of our offices or to one of our authorized attorneys to use it in an area allocated by shar'.

Otherwise, one should ask permission for giving it to deserving persons.

Q 1016: Does a sayyid, who has a job and earns for himself, have the right to take khums or not? I would be grateful if you could explain it.

A: People with enough income for their livelihood in a usual manner and in accordance with their social status in the common view have no right to take khums.

Q 1017: I am 25 years old, employed and single. I live with my parents. My father is too old to work. For the last four years I have been fully responsible for their living needs. I cannot pay khums while providing my parents with the maintenance. I owe 19,000 tumans for khums of previous years which I have to pay in the future. The question is whether I can give my close family members like my parents khums paid on my annual profit?

A: If your parents do not have enough economic power to meet their needs and you are able to accommodate their expenditure, it is obligatory for you to help them and the money you provide them for this purpose is considered as part of your own annual expenses. But you are not allowed, as per shar', to count it as your khums which is obligatory for you as well.

Q 1018: I owe an amount of money as khums, the portion related to the Imam (a.), which I should transfer to you. However, there is a masjid in need of some money. Can I forward it to the imam of that masjid so that it may be used for its completion?

A: At the present time, the two portions of khums are needed for the administration of the Islamic seminaries. The masjid's building and its completion can be done through the generous contributions of the believers.

Q 1019: Taking into consideration that during his life our father would not have paid khums in full and we have granted a piece of his land as a gift for the construction of a hospital, is it permissible to consider that land as part of the khums paid on the deceased's property?

A: The said piece of land cannot be counted as part of the

khums.

Q 1020: When is it permissible for khums to be pardoned?

A: The khums cannot be pardoned.

Q 1021: A person, at the end of his khums year, has for example 100,000 tumans in excess of ma'ūnah on which he pays khums. Then at the end of the following year the extra money reaches 150,000 tumans. Is it necessary for him only to pay khums on the additional 50,000 tumans for the next year or does it have to be on the whole amount?

A: If the khums-paid money remains unused during the next year, there is no khums on it. But if the khums-paid money is mixed with the income of the next year and used along with it in providing annual expenses, it is obligatory to pay khums on the money saved at the year's end in a proportion equal to that of the khums-unpaid money to the khums-paid money.

Q 1022: Is khums applicable to the income obtained by the students of Islamic studies while working and propagating Islam or to the portion of Imam (a.) they receive if they are unmarried and do not have a place of residence? Or can they save that income to be used for their future marriage without paying its khums?

A: The religious tithes granted by the respected marji's as a gift to the students of Islamic seminaries who occupy themselves with Islamic studies are not subject to khums. However, any income obtained from work or Islamic propagation is subject to khums if it remains in one's possession until the end of the khums year.

Q 1023: An individual has a savings including khums-paid money and money on which khums has not been paid. On occasions, he takes quantities out of the total for his annual expenses and sometimes he adds some money to it. Then, if the person knows the amount of khums-paid money, does he have to pay khums on the whole amount or only on the amount on which khums has not been paid?

A: It is obligatory to pay khums on the money left at the end of the year in a proportion equal to that of the khums-unpaid

money to khums-paid money.

Q 1024: Does one have to pay khums on a shroud bought but remained unused for several years? Or is it sufficient to pay khums on its purchase price only?

A: If it was purchased with khums-paid money, it is not subject to khums. Otherwise, khums of the purchasing money should be paid. As far as devaluation of money is concerned, there is obligatory caution to make muṣālahah with the authority in charge of khums.

Q 1025: I am a student of Islamic studies in an Islamic seminary. I used a little amount of my money, an amount of sayyids' share, other's grant, and some borrowed money to purchase a small house. Now I have sold it. Are the proceeds subject to khums at the end of the year if they have not been used to purchase another house?

A: The sale price of your house purchased with monthly stipend of the Islamic seminaries, grants of the good people, other religious tithes, and loan is not subject to khums.

## Miscellaneous Issues Related to Khums

Q 1026: In 1962, I became a follower of Imam Khomeini (q.) in taqlīd and used to forward my khums money to His Holiness. In 1967, while asking about religious tithes and general taxes, he replied that religious tithes are khums and zakāt in which general taxes are not included. Now that we are living in the period of Islamic Government, please explain to me my duty regarding religious tithes and general taxes.

A: Although the payment of taxes levered by Islamic Government according to the rules and regulations is obligatory for persons subject to these regulations, and fall within one's annual expenditures of the year of payment, these taxes cannot be considered as two shares of khums. In fact paying khums on the income in excess of one's yearly earnings is an independent obligation.

Q 1027: Can religious tithes be converted into hard currency which has a fixed value, unlike those that always fluctuate in their price? Would this be considered permissible according to Islamic law?

A: A person who is indebted for such tithes is allowed to do this but he should consider its price at the time of payment. However, the attorney of the authority in charge of khums — if he has just the right to collect and deliver the khums — does not have the right to change it from one currency to another. They can only do it if they have a permission to do so. The fluctuation in value does act as a shar'ī justification for the exchange.

Q 1028: There is a cultural institution in which a shop for business has been opened and its capital is obtained from religious tithes so as to provide for the institution's future expenditures. Is it necessary to pay khums on the profits which the business makes? Can the khums be used for the development of the institution?

A: Trading — without the permission of authority in charge of khums — with religious tithes which are allocated to special cases in shar' and refraining from spending them in deserving cases is problematic, even when one intends to use the

proceeds for a cultural institution. If it happened, the profit has the same rulings as the principal and should be used for the same case. The profit is not subject to khums. Of course, there is no objection to investing the gifts donated to the institution in a trade. The income and the profit are not subject to khums when the institution is the owner of the principal.

Q 1029: If we doubt whether we have paid khums on a particular thing or not — although we are almost sure that we have paid — what is our duty then?

A: If it was subject to khums, you should make sure that its khums has been paid.

Q 1030: Approximately seven years ago, I had to pay an amount of khums. I made mudāwarah for the payment with a mujtahid and paid off a part of it. I am indebted for the balance, but at present I am unable to pay it. What is my duty?

A: The fact that you are unable to pay does not discharge your obligatory duty. You are responsible to pay off the debt, whenever you are able, even by installments.

Q 1031: I paid money as khums on something which was not subject to khums, could I consider it as the khums I owe at the moment?

A: If it has already been spent on areas allocated by shar‘, you cannot count it in the place of the present khums you owe. But if your money is still untouched, you can claim it.

Q 1032: Are khums and zakāt obligatory for children who are not mature?

A: Zakāt is not obligatory for somebody who is not mature. If he has things on which khums is applicable (like a mine or ḥalāl property mixed with ḥarām), it is the duty of the child’s guardian to take the appropriate khums out except for a profit made by doing business with the child’s property or the money the child earns through work upon which it is not obligatory for the guardian to pay khums. But on becoming mature, the child should, as per caution, pay khums on the remaining part.

Q 1033: A person has spent some religious tithes, an Imam’s

(a.) share of khums, and other things — spending of which depends on acquiring permission from one of the mujtahids — for one of the religious institutions, school building, masjid, or a ḥusayniyyah. Now according to shar‘, is he allowed to claim back what he spent as his religious tithes, to claim its piece of land, or even try to sell the building of the institution?

A: If this person used his money for a school, etc. after acquiring permission of the person to whom he was obliged to give his religious tithes and with the intention of paying his obligatory religious tithes, he has no right to demand them back or to use them as their owner.

## **Anfal**

Q 1034: Does the municipality have an exclusive right with respect to making use of river bed's sand in the construction and development of the city and so on? In case of permissibility, if someone, other than the municipality, alleges to be the owner of a river bed, will his claim be considered?

A: It is permissible for the municipality to do so but it is not accepted from individuals to claim ownership of large, public riverbeds.

Q 1035: Is the priority right of nomads with respect to utilization of their pastures — each tribe with respect to its own pasture — terminated by their departure from that pasture with the intention of returning to it — given that this departure has been constantly occurring since tens of years ago?

A: The establishment of sharī priority right for them with respect to the pasture of their livestock after their departure is problematic and it is better to observe caution in this case.

Q 1036: There is a village that faces a shortage of pastures and agricultural lands. This village used to provide its public expenses through the sale of pasture grasses. This has continued after the Islamic Revolution but now the authorities prevent such action. Considering that the residents of this village are economically poor and that the pasture has been abandoned (became bā'ir), does the consultative assembly of the village have the right to prevent the residents from selling pasture grasses to provide the public finances needed for the village?

A: the grasses of the public, natural pastures with no prior private property are not owned by anyone in particular and no one is allowed to sell them. But it is permissible for the person who is appointed by the government to administer the affairs of the village to take an amount of money for the public benefit of the village from those permitted to graze their livestock in these pastures.

Q 1037: Is it permissible for tribes to claim ownership of the summer and winter pastures where they have been frequently traveling to and fro for dozens of years?

A: The natural pastures that are not owned privately by anyone are considered as *anfāl* and public properties, thus, their affairs are decided by the Leader of Muslims and tribes' frequent travels to and fro do not make any ownership right for them.

Q 1038: When is it correct and when is it incorrect to buy and sell (tribal) pastures?

A: It is not correct in any case to sell and purchase pastures which are not owned by any person, rather considered as *anfāl* and public properties.

Q 1039: We are livestock owners and graze our herd in a forest. We have been practicing this job for more than fifty years and hold a legal document of ownership to this forest through inheritance. Besides, this forest is also an endowment for the Commander of the faithful Imam Ali, the Master of Martyrs Imam Ḥusayn, and Abulfaḍl al-Abbās (a.). In this forest livestock owners led a life of ease and comfort for many years and have residential houses, agricultural lands, and gardens. Recently, the foresters have decided to expel us from this forest and take it over. Do they have the right to do so or not?

A: The validity of endowment, as per Islamic law, depends upon the precedence of *shar'ī* ownership — similarly transfer through inheritance depends on the testator's *shar'ī* ownership — and forests or pastures never owned by any individual, never cultivated and never constructed upon are not considered the private property of anyone. Thus, their endowment is not correct and they cannot be inherited. In any case, any portion of the forest that is developed in the form of a farm, home, and the like, and is owned in accordance with *shar'*, its *shar'ī* trustee has the right to make use of it if it is an endowment, and its owner if it is not an endowment. And the rest of the forests and pastures, which remain in a natural form, belong to *anfāl* and public properties and, according to law, their affairs are decided by the Islamic state.

Q 1040: Are livestock owners, who have permission to graze their livestock, allowed to enter private farms located next to the pastures in order to drink the farms' water or give it to their livestock without owners' permission?

A: The mere holding of permission to graze livestock in pastures next to private properties does not suffice to legitimize grazers' trespass into others' properties and usage of their water. They are not allowed to do so without the owner's permission.

# **Part 6**

## **JIHAD**

## Initiation of Jihad and other Issues

Q 1041: What is the rule concerning initiation of jihad against infidels during the occultation of the Infallible Imam (a.)? Is it permissible for the qualified mujtahid who possesses state power [the Leader of Muslims] to declare it?

A: The opinion that affirms the permissibility of such a declaration for the qualified mujtahid who has the position of administering the affairs of Muslims, when he sees that expediency requires it; is not improbable. Rather, it is the strongest opinion.

Q 1042: What is the rule concerning defending Islam when it is felt to be in danger, but without the parents' consent?

A: To defend Islam and Muslims is obligatory and does not depend upon the parent's permission. Nevertheless, it is advisable to try to obtain their consent as far as possible.

Q 1043: Does the rule of dhimmī apply to the People of the Book who live in Islamic countries?

A: As long as they obey the rules and regulations of the Islamic government under which they live and do not do anything contrary to the treaty, their rule will be the same as that of mu'āhids, [those who have a peace treaty with the Islamic state].

Q 1044: Is it permissible for a Muslim to take possession of any non-Muslim person whether kitābī or non-kitābī, man or woman, in a non-Muslim country or in an Islamic one?

A: It is not permissible. In case the infidels attack Islamic lands and a group of them are captured by Muslims, deciding the fate of the prisoners of war rests with the Islamic ruler and Muslims as individuals do not have such powers.

Q 1045: If, supposedly, the preservation of the genuine Islam of the Holy Prophet Muhammad (s.) depends on shedding the blood of a respected soul, is it permissible to do so?

A: According to Islamic law, shedding the blood of a respected soul without any right is forbidden and contradicts the rules of genuine Islam of the Holy Prophet Muhammad (s.). Therefore, it does not make sense to say that the preservation of the

genuine Islam depends on killing an innocent person. But if what is meant is the mukallaf's commitment to jihad in the way of Allah, the Almighty, and defense of the genuine Islam of the Holy Prophet Muhammad (s) in cases in which he may be killed, the cases differ. If the mukallaf feels, on the basis of his judgment, that the very existence of Islam is in danger, it will be obligatory for him to rise for its defense, even if there is fear of being killed.

**Part 7**  
**ENJOINING TO MA'RUF [ GOOD]**  
**AND FORBIDDING FROM**  
**MUNKAR [EVIL]**

## **Conditions under Which Enjoining the Good and Forbidding Evil Becomes Obligatory**

Q 1046: What is the rule if enjoining the good and forbidding evil compromises the dignity of someone who fails to carry out an obligatory act or perpetrates a prohibited act, and humiliates him before the people?

A: If one observes the conditions and etiquette of enjoining the good and forbidding evil and does not transgress their limits, it is no problem.

Q 1047: Is it a governmental ordinance or a fatwā that under the Islamic state the people's duty with respect to enjoining the good and forbidding evil is limited to oral enjoining and forbidding and the other grades are the responsibility of the authorities?

A: It is a jurisprudential fatwā.

Q 1048: Is it permissible to forbid evil without the permission of the ruler when stopping someone from perpetrating evil depends on hitting him, imprisoning him, putting him to hardship, or on entering in / using his properties even if it leads to their destruction?

A: There are different situations and cases. Generally speaking, the different grades of enjoining the good and forbidding evil, so long as they do not affect the life or property of the perpetrator of the evil, do not require anybody's permission and are obligatory upon all mukallafs. But if enjoining the good and forbidding evil involve measures beyond oral enjoining and forbidding and it is in a country ruled by an Islamic government and system that has taken charge of this Islamic responsibility, the matter will depend on the Leader's permission or that of the relevant authorities, the local police force and righteous courts.

Q 1049: If forbidding evil with respect to very important matters, such as protecting the life of a 'respected person' [i.e., to exclude the life of a murderer and the like], cannot be performed except through violence, such as hitting which may cause injury or occasionally even killing of the assailant, will the permission of the authorized religious authority be required?

A: If saving life of a 'respected person' and preventing murder depends on immediate and direct intervention, it is permissible and even obligatory according to Islamic law, because it is considered defense of a 'respected person'. This obligation neither requires the authorized religious authority's permission nor depends on obtaining any order to that effect. However, if defending a 'respected person' depends on killing the assailant, there are different cases whose rulings may differ as well.

Q 1050: Is it obligatory for someone who wants to enjoin another person to the good or forbid him from evil to have the power to carry it out? When is it obligatory to enjoin someone to the good and forbid him from evil?

A: Whoever enjoins and forbids must know what the good and evil are and knows that the wrongdoer violates them intentionally and without any sharī excuse. It is obligatory to enjoin the good and forbid evil only when it is likely to be effective and one is secure from harm in doing it, considering the extent of the expected harm and the importance of the good or evil in question. Otherwise, it is not obligatory for him.

Q 1051: If one of our relatives carelessly commits sins, what is our duty with respect to keeping relations with him?

A: If you think that cutting relations may make your relative refrain from sins, it will be obligatory for you to do so to enjoin the good and forbid evil; otherwise, it is not permissible to break ties of kinship with blood relatives.

Q 1052: Is it permissible to neglect enjoining the good and forbidding evil for fear of losing one's job, e.g. the head of an educational institution, who deals with the university youth, commits actions against the sharī'ah or paves the way for commission of sins in that place while we fear of losing our job if we forbid him from evil?

A: As a general rule, if the mukallaf fears considerable harm for himself in enjoining the good and forbidding evil, it will not be obligatory for him.

Q 1053: If the good is neglected and evil is common in some academic environments and the conditions for enjoining the good and forbidding evil are there, will one be relieved of performing this duty if he is single?

A: When there is a case to enjoin the good and forbid evil and the required conditions are available, it is the shar'ī, as well as social and human obligation of all mukallafs to do so. Such things as being married / unmarried, does not change the ruling. Merely being unmarried does not exempt one from carrying out this obligation.

Q 1054: If one comes across evidence of sinful conduct, impropriety and insincerity of a person holding a powerful position so that one fears his power and influence, is it permissible to neglect enjoining the good and forbidding evil in relation to him? Or is it obligatory for one to call him to the good and forbid him from evil even when one is afraid of his harm?

A: If there is a reasonable fear of harm, it will not be obligatory to enjoin the good and forbid evil, rather you will be relieved of the obligation. But it is not good for someone to neglect reminding and advising his brother in faith, simply for fear of the position of the person who neglects the good or that of the perpetrator of the evil, or for the mere likelihood of some harm inflicted by them.

Q 1055: At times forbidding a sinner creates negative feelings against Islam due to his ignorance of Islamic duties and rules. On the other hand, if we leave him alone, it will prepare the ground for others to corrupt the environment and commit sins. What is the duty in such a situation?

A: Enjoining the good and forbidding evil — when their conditions are available — are considered public religious duties for the sake of safeguarding Islamic laws and social health. The mere suspicion that it might create negative feelings against Islam in some individuals does not justify the negligence of such an extremely crucial duty.

Q 1056: If those assigned by the government to prevent corruption do not accomplish their duty well, is it permissible for people to take charge of this duty themselves?

A: It is not permissible for other people to interfere with the affairs assigned to judicial and security authorities. However, there is no objection to enjoining the good and forbidding evil when carried out with due observance of their limits and

conditions.

Q 1057: With regard to enjoining the good and forbidding evil, should individuals confine themselves to the oral level of enjoining and forbidding? Limiting the obligation to oral reminding contradicts with what is stated in the books on Practical Laws of Islam, particularly the *Taḥrīr al-Wasīlah*. And if they are allowed, when necessary, to advance to the other grades, will it be permissible for them, at times of necessity, to carry out all the graded levels mentioned in the book of *Taḥrīr al-Wasīlah*?

A: Considering that under an Islamic government the grades subsequent to oral enjoining the good and forbidding evil are delegated to security and judicial authorities, particularly with respect to cases where prevention of evil entails exertion of force, handling the assets of the wrongdoer, exercising *ta'zīr* against him, his detention, or the like, it is obligatory for the mukallafs to confine themselves to oral enjoining and forbidding and, when the need arises for the use of force, to refer the case to the police and judicial authorities. This does not contradict the fatwā of the late Imam Khomeini (q.) in this regard. But, when and where the Islamic government is not dominant, it is obligatory for the mukallafs — when the conditions are available — to go through all grades of enjoining the good and forbidding evil — with the observation of their sequence — until its purpose is realized.

Q 1058: Some bus drivers play singing and music cassettes of ḥarām kinds, without paying any attention to advice and exhortations to turn off their cassette players. Please explain the rules to be followed in such situations and for dealing with such persons. Is it permissible to be rough with them?

A: If the conditions for forbidding evil exist, you are not liable to more than oral forbidding. In case this forbidding is not effective, it is obligatory to avoid listening to unlawful music and singing. However, if the sound reaches your ears involuntarily, you are liable to nothing.

Q 1059: I work in a hospital in the sacred profession of nursing. Occasionally, during my work I encounter some patients

who listen to cassettes of unlawful and degenerate music. I advise them twice to stop it. And if it does not work, I take the cassette out of the player, erase its content, and then return it to its owner. Please explain if such conduct is permissible?

A: It is permissible to erase the perverse contents to prevent the cassettes to be used in a ḥarām way provided it is done with the permission of the cassettes' owners or the authorized religious authority.

Q 1060: The sound of music cassettes of uncertain permissibility is heard from some houses and is at times with such high volume that it is troublesome for the believers. What is one's duty in this regard?

A: To break into people's houses is not permissible. Besides, enjoining the good and forbidding evil depends on the identification of the actual instance and the existence of certain conditions.

Q 1061: What is the rule of enjoining and forbidding with respect to women with inadequate ḥijāb? What is the rule when one fears that oral forbidding may cause unlawful sexual feelings?

A: Forbidding evil does not depend on looking questionably at a non-maḥram female, and it is obligatory for every mukallaf to avoid ḥarām deeds, especially when carrying out the duty of forbidding evil.

## **How to Enjoin the Good and Forbid Evil**

Q 1062: What is the duty of a son toward his parents or that of a wife toward her husband when they do not pay khums and zakāt on their assets? Are they allowed to use the assets on which khums or zakāt has not been paid or the assets mixed with ḥarām, considering many traditions in which it is emphasized to avoid such properties as they contaminate the soul?

A: They (the son and the wife) should enjoin the good and forbid the evil whenever they see the parents or the husband neglecting the good or committing the evil provided the conditions for carrying them out exist. As for using their wealth, there is no problem in it unless they are certain the very item they use includes khums or zakāt, in which case they should seek the permission of the authority in charge of khums and zakāt concerning khums or zakāt share.

Q 1063: How should a son behave towards his parents who do not care about their religious duties due to their lack of complete faith?

A: He should orally enjoin them to the good and forbid them from evil in a soft language and with due observance of their respect as parents.

Q 1064: My brother does not observe shar‘ī and moral norms, and advice has not been effective so far. What is my duty when I see his conduct?

A: It is obligatory for you to express resentment towards such conduct which is against Islamic law, and to remind him in a brotherly way which you deem effective and suitable. But breaking ties of kinship with him is impermissible.

Q 1065: What kind of relation can one have with persons who formerly used to commit such unlawful acts as drinking?

A: The criterion is the present behavior of people. So if they have repented of what they used to do, they should be treated presently like other believers. As for someone who commits ḥarām acts at present, it is obligatory to deter him from it through forbidding evil. To prevent him from committing a ḥarām act, it is obligatory to avoid his company and break

relationship with him if it is the only solution.

Q 1066: A continuous invasion is going on against Islamic morals by Western culture, and some non-Islamic customs are being propagated. For example, some men hang golden crosses on their necks, or some women wear clothes with garish colors, and, occasionally, some men and women wear bracelets, dark glasses, and certain ornaments which attract attention and are generally considered improper. Taking into consideration that some of these people insist on such actions even after enjoining them to the good and forbidding them from evil, please explain how to treat such individuals?

A: Wearing gold or hanging it on the neck is absolutely ḥarām for men. It is, also, not permissible to wear clothes whose tailoring style, color, etc. are considered imitation and propagation of the invading culture of non-Muslims in the common view. It is not permissible, as well, to wear an ornament in a way that is regarded as imitation of the invading culture of enemies of Islam and Muslims. The duty of others towards such phenomena is to forbid the evil orally.

Q 1067: Sometimes we see that a university student or employee who commits a sin and does not stop it even after repeated advice and guidance. On the contrary, he insists upon committing his wrongdoing which spoils the faculty's atmosphere. What is your opinion on taking such effective punitive administrative measures as writing it into his personal record?

A: There is no problem in doing so while observing the university's internal rules. The dear youth should take the issue of enjoining the good and forbidding evil seriously, learn its conditions and shar'ī rules carefully, publicize this principle, and employ moral and effective methods to encourage the practice of the good and prevent the occurrence of the evil. They should avoid using this principle for their personal ends, and know that it is the best and most effective way of spreading good and preventing evil. May Allah grant you success in carrying out what pleases Him!

Q 1068: Is it permissible not to respond to the greeting of someone who commits evil as a way of stopping and

discouraging him?

A: According to Islamic law it is obligatory to respond to the greeting of a Muslim, but if refusing to respond to someone's greeting with the intention of forbidding evil is normally interpreted by common view as prevention and discouraging the evil, it is permissible to do so.

Q 1069: What is the duty of the authorities if it is proved definitely that some of their employees are negligent of prayers, and exhortation and guidance do not affect their conduct?

A: Nevertheless, it is obligatory not to ignore the effectiveness of enjoining the good and forbidding evil if it is performed continuously with due observance of its conditions. If the authorities become hopeless about the effectiveness of enjoining them to do good and regulations permit depriving them of employment benefits, it will be obligatory to take such measures against them and to remind them that the measure has been taken against them because of their negligence in carrying out this divine obligation.

## Miscellaneous Issues

Q 1070: My sister is married to a man who does not pray. Since he is with us all the time, I have to associate with him, talk to him, and even at times help him in some work at his request. My question is, am I permitted by Islamic law to associate with, talk to and help him in some work? What is my duty towards him?

A: Nothing is obligatory for you except to enjoin him to the good and forbid him from evil in a continuous manner, whenever its conditions exist. If associating with him and assisting him do not encourage him to continue his negligence of prayer, there is no problem in it.

Q 1071: Is it permissible for high-ranking Islamic clerics to visit and associate with tyrants and tyrannical rulers if it leads to a decrease in their tyranny?

A: If it is proved for the cleric in such cases that his links with the tyrant lead to prevention of tyranny and are effective in stopping him from the evil, or the cleric considers an important issue which has to be taken care of and followed up, there is no problem in it.

Q 1072: I got married several years ago. I pay great attention to religious affairs and shar'ī matters and follow the late Imam Khomeini (q.). However, my wife, unfortunately, does not care much about religious matters. Sometimes, after a verbal argument, she offers prayer once in a while, and this is what bothers me very much. What is my duty in such a situation?

A: Your duty is to prepare the grounds for her to reform by every possible means, and to avoid any kind of rough behavior which might indicate bad temper and disharmony. Keep in mind that attending religious gatherings and associating with religious families have great effects on reforming her.

Q 1073: A Muslim man comes to know from circumstantial evidence that his wife, though being a mother of several children, secretly commits acts against chastity while he does not have any shar'ī evidence to prove it (such as a witness who is ready to testify). How can he deal with this woman in

accordance with Islamic law, knowing that his children are being raised by such a woman? How should one deal with a person, or persons, who commit such obscene deeds contrary to the divine laws if he becomes aware of them without possessing any evidence which can be presented in a shar'ī court?

A: It is obligatory to avoid suspicion and refrain from depending on conjectural evidences. If it is ascertained that a ḥarām act has been committed, it is obligatory to prevent her by reminding, advising, and forbidding evil. If forbidding her from evil is not effective, one may refer to competent judicial authorities if provable evidence is available.

Q 1074: Is it permissible for a girl to guide a young man and help him with his studies etc. while observing Islamic norms?

A: Under the assumption in the question, there is no problem in it. However, one should try hard to avoid satanic temptations, and it is obligatory to observe the related shar'ī rules, e.g. to avoid being alone with a stranger in a place where nobody else may enter.

Q 1075: What is the duty of employees in official departments and institutions when they occasionally observe certain organizational and religious misconduct perpetrated by their high-ranking managers? Will the obligation be called off if the individual fears that his forbidding evil may provoke high-ranking authority or authorities to harm him?

A: If all conditions of enjoining the good and forbidding evil are present, they should enjoin the good and forbid evil. Otherwise, they have no obligation in this respect. This is the case when they fear considerable harm for themselves as a result of enjoining the good and forbidding evil and the country is not governed by an Islamic government. When there is an Islamic government that takes up the fulfillment of these divine duties, the obligation of those who are incapable of enjoining the good and forbidding evil is to inform official institutions assigned by the government to handle such a case and follow it up until corruption is uprooted.

Q 1076: There is continuing misappropriation of public assets of Muslims in a government department, and there is someone

who thinks that he can curtail this phenomenon if he takes charge of the department. However, it is impossible for him to acquire that post without bribing one of the managers. Is it permissible to give a bribe in order to prevent misappropriation of public assets, a measure which amounts to averting a major evil in the expense of a minor one?

A: The duty of those who become aware of violations of the law is to forbid the evil while observing its related sharī conditions and norms, and it is not permissible to resort to bribery and illegal methods in order to obtain an office, even if it is done for the purpose of preventing corruption. Of course, if this is assumed to occur in a country ruled by an Islamic government, the people's duty does not end simply with personal inability to enjoin the good and forbid evil, rather they must bring the matter to the attention of the related authorities and follow up on it.

Q 1077: Is evil something relative so that one may compare the university environment with some worse environments, and make it an excuse to neglect forbidding evil with respect to some evils and avoid preventing them arguing that in comparison to other evils they are not considered ḥarām and evil?

A: There is no difference among the evils. Yet some the evils may be considered more ḥarām compared to others. In any case, forbidding evil is regarded a sharī obligation for everybody whenever its conditions exist, and its negligence is impermissible. As to this ruling, there is no difference between various evils, or between university environments and other settings.

Q 1078: What rule applies to alcoholic drinks found with some foreign specialists in some institutions of an Islamic country and who drink them at home or in places assigned for their stay? What rule applies to their preparation and consumption of pork, as well as their conduct contrary to chastity and the people's ruling values? What is the duty of factory managers and those who have relations with them? What position is to be taken if the factory managers and related provincial authorities do not take any measures in these cases after being informed?

A: It is obligatory for the related authorities to order them not

to openly commit such acts as drinking and eating unlawful meats and to refrain from doing them in public. As for matters which are against public chastity, they should not be allowed to commit them at all. In any case, the related authorities should take the due measures in this regard.

Q 1079: Some brothers go to places — where improperly veiled women may be available at times — in order to enjoin the good and forbid the evil, and for advice and guidance. Are they allowed to look at these women, considering that they go there for the sake of enjoining the good?

A: There is no problem in the first unintentional look, but an intentional look at parts other than the face and hands — up to the wrists — is not permissible, even for the purpose of enjoining the good.

Q 1080: What is the duty of devout youths in mixed universities in respect of the corruptions which are noticed in some of these universities?

A: It is obligatory for them, besides being careful not to get corrupted, to enjoin the good and forbid evil if the conditions are available and they have the ability to carry it out.

# **Part 8**

## **Haram Gains**

## Trading in Inherently Najis Merchandises

Q1081: Is it permissible to buy boars (wild pigs), which have been culled to safeguard plantation and grazing lands, with a view to processing their meat for export to non-Islamic countries?

A: It is not permissible to buy or sell pork for human consumption, even for non-Muslims. However, should there be other rational, considerable and ḥalāl uses for the meat, such as animal feed, or using its fat in the manufacture of soap, and the like, there is no objection to sell or buy it.

Q1082: Is it permissible to work in nightclubs, food processing factories, where pork is usually processed, or any other corrupt centers? What is the ruling on money earned from such work?

A: It is not permissible to be involved in any ḥarām act, such as dabbling in selling pork, intoxicants, setting up and managing nightclubs and other places where lewd behavior, gambling, and consumption of alcohol are tolerated. Furthermore, any income earned in such a way is ḥarām and one is not allowed to own the wages taken for it.

Q1083: Is it permissible to sell, or give as a gift, alcoholic drinks, pork, or other foodstuffs whose consumption is ḥarām to those who consider it ḥalāl?

A: It is not permissible to sell or give as a gift that which is not ḥalāl to consume even to those who consider consuming them ḥalāl if it is intended for consumption or the vendor is sure that it is going to be eaten or drunk.

Q1084: What is the ruling in the matter of income made from selling some ḥarām foodstuffs, among other goods, in a cooperative, especially when it is destined to be distributed among the shareholders?

A: It is ḥarām to buy and sell the foodstuffs that are ḥarām for human consumption. If done, the sale is void and the proceeds made in the process are ḥarām. Accordingly, it is not permissible to distribute the proceeds among shareholders. If the property of the cooperative is tainted with this illicit money, the rulings of “property mixed with ḥarām” are applicable

whose categories are mentioned in the book Practical Law of Islam.

Q1085: Muslims may do business as hoteliers in non-Muslim countries. Given the norms of social behavior in those countries, the owner has to serve alcoholic drinks and other food, some of which are ḥarām, to the customers. Otherwise, they will not go to his hotel. It is to be noted, however, that the businessman intends to dispose of all profit made on the ḥarām food and drink by giving it to the authorized religious authority. Is it permissible for him to do so?

A: There is no problem in doing business as an hotelier or a restaurateur in non-Muslim countries. However, it is impermissible to sell ḥarām food and drink, even if the customer does not see problem in consuming them; nor is it permissible to receive the money for selling them, even if the seller intends to hand over the profit made to the authorized religious authority.

Q1086: Are inedible water animals, which are caught and taken out alive, considered as mītah and it is ḥarām to sell and buy? Is it permissible to trade in them for purposes other than human consumption such as bird and animal feed or manufacturing?

A: If they are among the fish species and were taken out from the water alive, they are not regarded as mītah. At any rate, it is not permissible to sell or buy any of the types, which are not sanctioned for human consumption, even if the buyer is among those who consider it ḥalāl to eat. However, if they serve some rational, ḥalāl, and beneficial purposes other than food, like in medicine, manufacturing, and feeding birds/animals, there is no problem in doing business in them for the said purposes.

Q1087: If the cargo contains meat of not ritually slaughtered animals, Is it permissible to transport it? And is there any difference whether the receiver considers it ḥarām or not?

A: It is not permissible to transport non-ḥalāl meat if it is used for human consumption, irrespective of whether the potential buyer sees it fit to consume or otherwise.

Q1088: Is it permissible to sell blood to whoever can make use of it?

A: There is no objection to sell blood for a rational and sharʿī purpose.

Q1089: Is a Muslim allowed to sell ḥarām food, such as pork, meat of not ritually slaughtered animals, or intoxicants to non-Muslims in non-Muslim countries? What is the ruling in the following cases?

1. The person dealing in these items is not the owner himself and he does not make any profit but his work is just selling these foodstuffs alongside other ḥalāl ones.

2. The person concerned jointly owns the business with a non-Muslim partner, in such a way that the Muslim owns the ḥalāl segment and the non-Muslim owns the non-ḥalāl segment and each one makes profit from his own goods separately.

3. The person works as a paid worker in the place where these mixed foods are being sold, irrespective of whether the owner is Muslim or non-Muslim.

4. The person either works for, or is a partner in, the business where ḥarām foods and alcoholic drinks are being sold, yet he is not involved directly in the purchase or sale of these foods and they do not belong to him. However, he has a hand in preparing and selling foods. What is the ruling on the activity of such a person, noting that the sold alcoholic drinks are not consumed in the premises?

A: According to Islamic law, it is ḥarām to involve in the offering and sale of intoxicant alcoholic drinks and ḥarām foodstuffs; working in places where these items of food and drink are sold; taking part in manufacturing, selling and buying them, and taking instructions from the others with regard to dealing in them whether the person concerned is a paid worker, an owner, or a partner; whether these items are offered and sold separately or alongside other ḥalāl ones; and whether the involvement is for profit or as paid/unpaid work. In this regard it also does not make any difference whether the owner or partner is a Muslim or a non-Muslim; and whether offering/sale of the items is intended for Muslims or non-Muslims. Generally speaking, it is obligatory upon every Muslim to categorically avoid the manufacture, purchase or sale of ḥarām foodstuffs

intended for human consumption.

It is also incumbent on Muslims to avoid the manufacture, purchase and sale of intoxicants and earnings out of such ventures.

Q1090: Is it permissible to earn income through repairing trucks that carry alcoholic beverages?

A: If the trucks will be used to carry alcoholic beverages, it is not permissible to get involved in repairing them.

Q1091: There is a company with a network of branches selling goods to the public; some items are ḥarām such as imported non-ḥalāl meat. This necessarily means that part of the company's income is illicit.

Is it permissible to buy goods in the stores of such a company where both ḥalāl and ḥarām products are sold? Should one assume that it is permissible, does receiving the change require the permission of the authorized religious authority, for it is considered property of anonymous owner. If, however, one assumes that permission is required, do you permit those persons who buy their necessary things to receive the change?

A: General knowledge of the existence of illicit assets among that of a company should not cast a doubt on the validity of shopping in that company's stores unless all the company's assets could be dealt with by the mukallaf. Consequently, there is no problem, for all people to buy their necessary things from such a store, nor is it a problem to receive the change as long as the whole company's assets could not be dealt with by the buyer himself. The case is also such if one does not know for sure that the very purchased item involves ḥarām things. Furthermore, getting permission from the authorized religious authority for the usage of such goods and the change received from the store is not necessary.

Q1092: Is it permissible to work in cremating non-Muslim dead bodies and get paid for the work?

A: Cremating the dead body of non-Muslims is not ḥarām. So, there is no objection to either embarking on such work or getting paid for it.

Q1093: Is it permissible for a person, who can earn a living with his own effort, to request others for help and to live off them?

A: It is not good for him to do so.

Q1094: Is it permissible for women to earn a living of trading in jewelry in a jewelry market?

A: There is no problem in that as long as shar'ī limits are observed.

Q1095: What is the ruling on working in decorating buildings, especially when the place destined for such a make over could be used for committing ḥarām acts such as worshipping idols? And is it permissible to build a hall, which may eventually be used for dancing and the like?

A: In itself working in decoration is no problem unless the decorated places will be used for committing ḥarām acts. However, it is not permissible according to Islam to decorate a room specified for worshipping idols e.g. to set its furniture and to determine the place of idols. The same ruling is applicable to construction of a hall for ḥarām uses, but the mere likelihood is not objectionable.

Q1096: Is it permissible to build a complex containing a prison and a police station for the use of a tyrannical government? And is it permissible to work in such a project?

A: There is no objection to construct such a complex provided that it is not intended for a court house with unjust practices or for imprisonment of innocent people and the constructor does not maintain that the complex is exposed to such uses. In this case, the constructor can receive the wages for his work.

Q1097: My work involves presenting a show of bull fights for those interested in watching it for a fee that they pay as a gift. Is the work in itself permissible?

A: This work is objectionable by the sharī'ah. However receiving presents from the viewers does no harm, should they do it willingly.

Q1098: Some people sell military uniforms. Is it permissible to

buy one from them and use it?

A: Should there be a possibility that they acquired these uniforms legally, or that they are authorized to sell them, there is no problem in buying from them and making use of them.

Q1099: What is the ruling on the manufacture, sale, purchase, and use of fireworks, and explosive materials irrespective of whether or not they are of the type that may cause annoyance to people?

A: It is not permissible if they pose harm and annoyance to others or indulging in them is regarded as a kind of wastefulness and squandering.

Q1100: What is the ruling on the work of the policeman, the traffic cop, and the employees of departments of customs and tax in the Islamic Republic of Iran? Are they the ones referred to in some ḥadiths that no supplication would be answered if it came from a sergeant or a tax collector?

A: In itself, there is no objection to their work provided that it is carried out in compliance with the laws. However, it seems that "the sergeant and tax collector" mentioned in some ḥadiths are those serving tyrannical governments.

Q1101: Some women work in beauty shops to provide an income for their families. Does this not lead to immorality, which, in turn, is bound to undermine chastity of the Islamic society?

A: There is no objection to working in beautifying women as such, nor is it objectionable to get paid for it provided that wearing of the makeup is not intended for showing it to non-maḥram men.

Q1102: Is it permissible for intermediaries/facilitators of work between the builders and the owners to get paid for their services?

A: There is no problem in getting paid for ḥalāl work.

Q1103: Is commission [such as money paid to an estate agent] ḥalāl?

A: There is no problem in that provided that he gets paid for ḥalāl work which is done at somebody's request.

## Getting Wages for Obligatory Actions

Q1104: What is the ruling on the salaries paid to the professors who teach jurisprudence and fundamentals of jurisprudence in theology colleges?

A: The obligation to teach that which is a kifā'ī obligation does not detract from the permissibility of getting paid for teaching jurisprudence and its fundamentals in a university, especially if receiving the salary is in return for reporting for work and giving lecture classes.

Q1105: What is the ruling on giving instructions in religious matters? Is it permissible for the clergy, who are engaged in this type of work, to be remunerated?

A: Although, generally speaking, giving instructions in ḥalāl/ḥarām matters is an obligation in itself and, therefore, it is not permissible to get paid for it, there is no objection to being remunerated for the preliminaries on which the very teaching of jurisprudence does not depend and they are not obligatory upon any body — like being present in a certain place.

Q1106: Is it permissible to receive a monthly salary for holding congregational prayers, guiding, and preaching in government departments?

A: There is no objection to getting reimbursed for his transport expenses, or getting paid for providing services, which are not obligatory on the mukallaf by way of Islamic law.

Q1107: Is it permissible to ask for payment for performing ghusl to a dead body?

A: Performing ghusl to the Muslim dead is an act of worship and a kifā'ī obligation. Thus, it is not permissible to receive a wage for the procedure itself, i.e., ghusl.

Q1108: Is it permissible to get paid for making marriage contracts?

A: There is no problem in that.

# **Part 9**

## **Chess and Gambling**

## Chess

Q1109: Playing chess has become commonplace in most schools. Do you sanction it and organizing courses to teach it?

A: From the mukallaf's perspective, should it not now be considered among the instruments of gambling, there is no objection to playing it provided that no betting is involved.

Q1110: What is the ruling on playing for amusement, such as with a deck of cards, especially when there is no betting involved?

A: Playing with that which is considered by common view among the instruments of gambling is absolutely ḥarām, even if it is just for amusement and without placing a bet.

Q1111: What is the ruling on chess in the following situations?

1. The manufacture, sale, and purchase of chess instruments [chessboard/chessmen].

2. Playing chess with/without a bet.

3. Establishing centers at public places where it could be played, taught, or promoted.

A: Should the mukallaf be of the opinion that chess is not considered now among gambling instruments, there is no objection to their being manufactured, sold, bought, and played with — but without betting. The same rule is applied to its teaching.

Q1112: Can the mukallaf deem the approval of the physical education department to hold chess competitions as an indication that chess is not among the instruments of gambling? And is it permissible for the mukallaf to depend on such a thing?

A: The yardstick in specifying the instance of rulings is the determination of the mukallaf himself or his having a shar'ī proof to that effect.

Q1113: What is the ruling on playing chess and billiard, for example, with non-Muslims in foreign countries? And what is the ruling on money spent in this avenue, although not in betting?

A: We have already dealt with the subject of playing with chess and gambling instruments in the preceding questions. However, the ruling is universal insofar as engaging in such an

activity, i.e., be it in Muslim or foreign countries. Playing with Muslims or non-Muslims is also immaterial. It is not permissible to sell or buy gambling instruments, or spend any money in such an avenue.

## Gambling Instruments

Q1114: Should a group of people take to playing with cards without contemplating betting or winning, for that matter, but only for passing time and amusement, would they be deemed guilty of committing a ḥarām act? And what is the ruling on those attending such gatherings but not taking part in the playing?

A: Playing with cards, which, according to the common view, is deemed among gambling instruments is absolutely ḥarām. It is not permissible to willingly join in the gatherings where gambling is taking place, or playing with its instruments.

Q1115: Is it permissible to use cards, without betting, in mind-stimulating games, which could have scientific as well as religious connotations? And what is the ruling on a jigsaw puzzle, where betting may be used?

A: It is absolutely impermissible to play with cards, which are considered in the common view as gambling. As for cards that are not considered as gambling instruments by common view, there is no problem in playing with them, but betting should not be engaged in.

Generally speaking, it is not permissible at all to play with what the mukallaf sees as instruments of gambling. Playing with other things while betting is involved has the same ruling. However, there is no problem in playing with instruments, which are not considered as gambling ones when there is no betting.

Q1116: What is the ruling in the matter of playing with walnuts, eggs, or other things, which have lawful monetary value? And could children be allowed to play with them?

A: If it is a gambling and betting game, it is ḥarām. The winning party does not possess what he won over the other party and received. However, if the players are not ritually mature, nothing is obligatory upon them, although they do not possess what they won.

Q1117: Is it permissible to bet money or anything else on games in which there is no gambling instrument?

A: It is not permissible to bet on games, even though they are not played with gambling instruments.

Q1118: What is the ruling on playing with gambling instruments, such as cards, on a computer?

A: Its ruling is the same as that of playing with gambling instruments.

Q1119: What is the ruling on playing with Unu [play cards]?

A: Should they, in the common view, be deemed among gambling instruments, it is not permissible to play with them, albeit without betting.

Q1120: Suppose the people in two different countries have divergent views as to treating certain games as being/not being among gambling instruments. Is it permissible to engage in such games?

A: The established common view in both countries has to be taken into account, i.e., if a thing is viewed in one country among the instruments of gambling while in the past, they considered it as a gambling instrument in both countries, it suffices to make it ḥarām to embark on.

## Music and Ghinā'

Q1121: What are the criteria by which one can distinguish ḥalāl from ḥarām music? Is classical music ḥalāl?

A: Any music which is lahwī and mutrib in the common view — i.e., suitable for gatherings of merry making — is ḥarām whether it is classic or not. To distinguish the subject of a ruling depends on the view of the mukallaf as a part of common people. There is no objection to other kinds of music in itself.

Q1122: What is the ruling on the issue of listening to cassettes sanctioned by the organization of Islamic propagation or other Islamic institutions? What is the ruling on the matter of using musical instruments, such as a violin, or flute?

A: The permissibility of listening to a cassette depends on mukallaf's view. If he maintains that it does not contain ghinā', lahwī music — which is suitable for merrymaking gatherings — or untrue speech, then there is no objection to listening to it. Therefore, its sanction by the Islamic propagation organization or any other Islamic institute does not serve by itself as a shar'ī proof of being permissible. It is not allowed to use musical instruments to produce lahwī mutrib music which is suitable for gatherings of lahw and sinful acts. However, it is ḥalāl to use them for rational purposes. To distinguish the instances rests with the mukallaf.

Q1123. What is meant by lahwī mutrib music? And how best can one recognize it?

A: Mutrib lahwī music is that which due to its characteristics keeps human beings away from Allah, the Sublime, and away from moral merits and drives them towards sinful acts and carelessness. Its recognition rests with the common people.

Q1124: Do such things as the personality of the musician, the place where music is conducted, and the aims of the music have any say in the ruling in the matter of music?

A: The ḥarām type of music is that suitable for dissolute gatherings of sin. However, the personality of the musician, the vocalized words accompanying the music, the venue, and all other circumstances may contribute to place it in the category of ḥarām, lahwī, mutrib music, or another ḥarām category, e.g., if the music, due to the mentioned things, leads to certain

corruption.

Q1125: Is mutrib and lahwī nature of a particular type of music the only criterion for judging that it is ḥarām or should one considers the element of excitement also? If it causes the listener to feel sadness and eventually make him cry, what is the ruling then? And what about listening to love poems that are vocalized to the accompaniment of music?

A: The criterion is to observe how the music is being played in all its characteristics and whether or not it is enrapturing and appropriate to the gatherings of pleasure and sin. Any music categorized due to its nature as lahwī is ḥarām, irrespective of whether it contains the element of excitement or not. Whether it engenders in the listener a state of melancholy and crying is also immaterial.

Should reciting love poems to the accompaniment of music take the form of ghinā', which is suitable for gatherings of lahw, it is ḥarām to sing, or to listen to them.

Q1126: How do you define ghinā'? Is it just the human voice or does it cover the sound of musical instruments?

A: Ghinā' is the voice of the human being, which is produced in a rise and fall pattern to create the effect of rapture that is suitable for the gatherings of merry making and sin. It is ḥarām to engage in this type of singing; as well as to listen to it.

Q1127: Is it permissible for women to rap on things, other than musical instruments, such as kitchen utensils, in wedding parties? And what is the ruling if the sound is heard outside by men?

A: Such [rapping] should be judged by the way it is conducted, i.e., if it is of what people used to do in traditional wedding parties, is not considered lahw, and no bad effect follow it as a consequence, there is no problem in doing so.

Q1128: What is the ruling in the matter of women using the tambourine in wedding parties?

A: To use musical instruments to play lahwī mutrib tunes is not permissible. However, the permissibility of singing in wedding

parties exclusive to women is not remote.

Q1129: Is it permissible to listen to ghinā' at home? And what is the ruling if one does not get affected by such songs?

A: Listening to ghinā' is absolutely ḥarām, be it at one's home alone or in the presence of others, even if one does not get aroused.

Q1130: Some youth, who recently became mature, follow in taqlīd some mujtahids who are of the opinion that music is absolutely ḥarām, even if it is broadcast from the official radio and television of the Islamic state.

What is the ruling in this matter? Is sanctioning, by the Jurist Leader, of certain ḥalāl types of music enough by itself, as a government ruling, to override the fatwā of the other mujtahids who espouse a different view? Or should those youth follow the fatwā of their respective marji's?

A: Passing a fatwā in favor of, or against, listening to music is not a hukm — governmental ruling — rather a shar'ī jurisprudential one. It is the duty, therefore, of every mukallaf to adhere to the fatwā of his/her marji`. However, should the music not be of the type suitable for dissolute gatherings of sin, and leading to bad consequences, there is no evidence for making it ḥarām.

Q1131: What is the definition of music and ghinā'?

A: Ghinā' involves the rise and fall of the voice in a way that suits the gatherings of lahw. It is a sinful act, which is ḥarām for both the singer and the listener.

As for music, it is to play musical instruments. If it is done in a way common in gatherings of lahw and sin, it is ḥarām for both the musician and the listener. Otherwise, it is permissible in itself and there is no objection to it.

Q1132: I work for an employer who made a habit of listening to ghinā' played from a cassette recorder. I find myself listening to what is being played, although unwillingly. Is it permissible for me to do so?

A: Should the cassettes contain ghinā' or lahwī music which suites gatherings of lahw and sin, it is not permissible to listen

to them. However, if you are forced to attend such a place, there is no harm in your going and working there provided that you do not listen to the *ghinā'*, albeit the sound reaches you and you hear it.

Q1133: What is the ruling in the matter of music that is broadcast from the radio and television of the Islamic Republic? And is there any truth in what has been circulated that the late Imam Khomeini (may his soul rest in peace) ruled that music in general is *ḥalāl*?

A: Attributing the ruling of absolute permissibility of music to the late great leader Imam Khomeini (q.) is baseless and a fabricated lie. He was of the opinion that *lahwī mutrib* music, which is suitable for the gatherings of *lahw* and sin is *ḥarām*, which is the case according to our standpoint as well. However, the difference of opinion stems from varying identification of rulings' subject matter which rests with *mukallafs*. For example, the musician may disagree with the listener's point of view. In this case, what the *mukallaf* regards as *lahw* and suitable for gatherings of sin is *ḥarām* for him to listen to. As for the sounds which fall in a grey area, the ruling in their regard is that it is permissible to listen to them. The mere broad-casting [songs and music] by the radio and television is not legitimate evidence that it is *ḥalāl* and permissible.

Q1134: From time to time radio and television broadcast music that, I think, is suitable for gatherings of *lahw* and sin. Is it incumbent on me not to listen to such music and should I prevent other people from listening to it?

A: If you are convinced that it is a *mutrib*, *lahwī* type of music suitable for *lahw* gatherings, you are not allowed to listen to it. As for preventing other people from listening to it, by way of forbidding that which is the evil, this depends on their view, i.e., if they consider it a *ḥarām* type of music as well.

Q1135: What is the ruling in the matter of listening to Western *lahwī* songs and music and working as a distributing agent for such products?

A: It is *ḥarām* to listen to or play music or songs that are *mutrib*, *lahwī*, and suitable for gatherings of *lahw* and

falsehood, regardless of the language it is composed in or the country of origin. Accordingly, it is not permissible to buy, sell, or distribute such cassettes, should they contain the ḥarām type of music and singing. By the same token, it is not permissible to listen to them.

Q1136: What is the ruling in the matter of men or women singing in the way of ghinā' on radio or cassettes, and irrespective of whether or not such singing was done to the accompaniment of music?

A: Ghinā' is absolutely ḥarām. Thus, it is neither permissible to sing ghinā' nor to listen to it, regardless of whether the singer is a man or a woman. Whether singing is broadcast live, or to listen to its cassettes, and whether it is accompanied by tunes from musical instruments or not, does not change the ruling in any way.

Q1137: What is the ruling in the matter of playing music to serve sensible lawful aims in a holy place like a masjid?

A: It is not at all permissible to play mutrib lahwī music that is suitable for the gatherings of lahw and sin, even in venues outside the masjid and for a sensible lawful reason. However, there is no objection to revolutionary martial chanting to the accompaniment of musical tunes in holy places on the occasions which warrant that provided that it does not go against the sanctity of the place or pose any nuisance to the worshippers and praying persons in such places as masjids.

Q1138: Is it permissible to learn to play music, especially a dulcimer? What is the ruling on encouraging other people to do so?

A: There is no objection to using musical instruments to play non-lahwī tunes if it is for revolutionary or religious chanting or carrying out useful cultural and other programs aiming a rational and ḥalāl purposes provided that no other bad consequences may result. Also, learning and teaching playing music for the above mentioned causes are no problem.

Q1139: What is the ruling in the matter of listening to a woman reciting poetry and other material with rise and fall of her

voice to the accompaniment of music, regardless of whom the audiences are, i.e., men or women, old or young? And what is the view if the woman is one's maḥram?

A: If the vocalization does not amount to ghinā', listening to it is not driven by lust, and it does not lead to a bad consequence, there is no problem in it whatsoever.

Q1140: Is traditional national Iranian music ḥarām?

A: Should it, according to the common view, be judged as a lahwī form of music that is suitable for the gatherings of lahw and sin, it is absolutely ḥarām, regardless of the nationality of music, i.e., whether Iranian or otherwise, traditional or otherwise.

Q1141: Some Arabic broadcasting stations air musical tunes. Is it permissible to listen to such tunes for the love of the Arabic language?

A: Listening to lahwī music that is suitable for the gatherings of lahw and sin is absolutely ḥarām. Yearning to listening to the Arabic language per se is not a shar'ī justification for such an act.

Q1142: Is it permissible to recite poems which are being sung but without the music?

A: Ghinā' is ḥarām, even if it is not carried out to the accompaniment of music. What is meant by ghinā' is that type of vocalizing with rise and fall which is suitable for dissolute gatherings of sin. As for reciting poetry in itself, there is no problem in it.

Q1143: What is the ruling in the matter of buying and selling musical instruments? And what are the limits of their use?

A: There is no problem in buying and selling musical instruments that serve dual purposes, intending to use them in playing non-lahwī tunes.

Q1144: Is it permissible to recite the Holy Qur'an, supplication, and adhān, in a ghinā'-like manner?

A: Ghinā' — i.e., a voice accompanied by a rise and fall, and rapture, which is suitable for gatherings of lahw and sin — is

absolutely ḥarām, even if it is used in reciting supplications, the Holy Qur'an, adhān , elegies, etc.

Q1145: Nowadays, music is used to treat a host of psychological diseases, such as depression, anxiety and sexual problems of females. What is the ruling in this matter?

A: Should sincere medical opinion be supportive of this, in that treating an illness depends solely on it, there is no problem in that provided it is in keeping with the requirements of the treatment.

Q1146: If listening to ghinā' stimulates man's sexual desire for his wife, what is the view on that?

A: Increasing husband's libido per se is not a lawful excuse for listening to ghinā'.

Q1147: What is the ruling in the matter of a woman singing in a concert with a women orchestra in the presence of an all-women audience?

A: In itself, there is no problem in it provided that singing should not be done with an enrapturing rise and fall of voice (ghinā') and that music accompanying it is not of the lahwī, ḥarām type.

Q1148: If the criterion for ruling that a music is ḥarām is its being lahwī and suitable for gatherings of lahw and sin, what is the ruling in the matter of tunes and chanting which may cause some people to move their body with joy, even the non-discriminating child? Is it permissible to listen to vulgar cassettes in which women sing in the form of ghinā' if it is not enrapturing? And what should passengers, who use public buses whose drivers play such cassettes, do?

A: With due consideration to the status of the musician or the singer during playing music or singing, the content, and the nature of music or song, any lahwī type of music or vocalization with a rise and fall in voice that is suitable for the gatherings of lahw and sin is ḥarām, even if it does not lead to rapture in the listener.

The users of vehicles and buses must not listen attentively to what is being played of lahwī music and ghinā' songs; they

should also practice forbidding the evil.

Q1149: Is it permissible for a man to listen to a non-maḥram woman's ghinā' in order to enjoy being with his wife? Also, is it permissible for the wife to sing ghinā' for her husband and vice versa? Is there any truth in what is said that the Divine Legislator made ghinā' ḥarām because it is intrinsically tied in with the gatherings of lahw and la'ib and that such a prohibition made because such gatherings are themselves ḥarām and it is ranked in the league of making ḥarām the trading in, and manufacturing of, statues which one cannot contemplate a plausible benefit from other than worshipping them? Accordingly, can one assume that the absence, in this day and age, of the cause for ruling it ḥarām would necessarily render it redundant?

A: It is absolutely ḥarām to listen to ghinā' which is characterized by rising and falling voice in a way that is enrapturing and suitable for gatherings of lahw and sin, even if it is done by wife or husband for the other. The purpose of enjoying being with one's wife per se is not a justifiable reason to make listening to ghinā' permissible.

However, prohibition of ghinā', making sculpture, and the like has been proven by way of being bound to Sharī'ah law and it stands on firm ground in Shi'ah jurisprudence. Thus, it is not contingent on imaginative reasons and psychological and social factors. Rather, as long as the word "ghinā'," "sculpture," or the like is applied to a case it is ruled to be absolutely ḥarām and should be avoided.

Q1150: As a requirement of the curriculum of a major subject, students of the college of education have to take music classes whereby they are introduced to an outline of the subject of revolutionary music and chants. This includes classes in musical notations and playing the organ. What is our duty in respect with buying and using such a musical instrument? And what is the view on learning this subject as part of the compulsory program? What is the obligation of female students who are required to practice before the opposite sex?

A: In itself, there is no problem in using the musical instruments for composing revolutionary recitals, making religious

programs, and holding useful cultural and educational activities, nor is there any harm in buying and selling these instruments for these stated purposes. Also, there is no objection to teaching and learning it for such aims, nor is there any objection to female students attending such classes provided that they uphold the obligatory ḥijāb and other Islamic regulations.

Q1151: On the face of it, some songs give the impression that they are revolutionary, and the common view suggests that as well. However, one cannot tell whether the singer is really aiming at instilling revolutionary values or entertaining the audience. What is the view on listening to this type of songs, especially if the singer is not a Muslim, yet his songs are national and contain words which denounce occupation and encourage resistance?

A: If the listener maintains that as per common view they are not lahwī and enrapturing, there is no problem in listening to the songs. Thus, neither the intention of the singer nor the content have anything to do with this ruling.

Q1152: A person works as a trainer and an international referee in some kind of sport. His work could require his presence in clubs where ḥarām kind of music and singing are played. Is it permissible for him to carry on with this work, especially, if it provides him with some income where jobs are hard to come by?

A: There is no harm in this person's work, albeit it is ḥarām for him to listen to ghinā' and lahwī music. In circumstances where he is compelled to enter places where the ḥarām type of singing and music are taking place, he is allowed to do so provided he avoids listening to them. There is, though, no problem in hearing such singing and music involuntarily.

Q1153: Is listening to music alone ḥarām, or is hearing also ḥarām?

A: The ruling on hearing lahwī and enrapturing singing and music is not the same as that of listening to them except in certain situations when, according to the common view, hearing amounts to listening.

Q1154: Is it permissible to recite Qur'anic ayahs while playing music using instruments other than those usually suitable for gatherings of lahw and la'ib?

A: There is no objection to reciting Qur'an in a beautiful and melodious voice commensurate to the greatness of the Holy Qur'an; it is, indeed, preferable so long as it does not amount to unlawful singing. However, playing music, while the recitation is in progress, has no shar'ī justification.

Q1155: What is the view on beating on drum in birthday parties and similar occasions?

A: The use of musical instruments in a lahwī, enrapturing manner that is suitable for gatherings of lahw and sin is absolutely ḥarām.

Q1156: What is the ruling in the matter of musical instruments used by groups of chanting composed of school students overseen by the department of education and culture?

A: Musical instruments which, according to the common view, are of dual — ḥalāl and ḥarām — purpose, can be used in a non-lahwī manner for lawful purposes. Instruments, which the common view regards as special to the production of lahwī music, are not permissible to use.

Q1157: Is it permissible to: (a) work in manufacturing the dulcimer, a musical instrument, in order to make a living; (b) to teach Iranian classic music in order to revive and promote it?

A: There is no harm in the use of musical instruments to play tunes for revolutionary chanting, national anthems, or any other ḥalāl and useful pursuit provided it does not entail rapture and lahw suitable for the gatherings of lahw and sin. Also, in itself, there is no problem in manufacturing musical instruments or teaching and learning music for the aforementioned purposes.

Q1158: Which instruments are considered as lahw and therefore not permissible to use at all?

A: Instruments used mainly for lahw and la'ib and have no ḥalāl benefit, are regarded as lahw instruments.

Q1159: Is it permissible to charge money for making copies of cassettes that contain ḥarām material?

A: It is ḥarām to copy any audiocassette listening to which is considered ḥarām, or to charge for that service.

## Dancing

Q1160: Is it permissible to dance the traditional dancing in wedding parties and what is the view on taking part in such parties?

A: If dancing entails sexual excitation or committing a ḥarām act, or has bad consequences, it is not permissible. If participating in dancing parties is done by way of supporting the commission of ḥarām by others or leading to committing a ḥarām act, it is not permissible either. Otherwise, there is no harm in it.

Q1161: Is dancing without music in women’s gatherings ḥarām or ḥalāl? If it is ḥarām, should those present leave?

A: Generally speaking, dancing is ḥarām if it is carried out in a sexually exciting manner, entails the commission of a ḥarām act, or leads to bad effects. Accordingly, leaving the party as a kind of protest against the ḥarām act is obligatory if it is a case of forbidding evil.

Q1162: What is the ruling in the matter of traditional dancing in either mixed groups of men and women, men only, or women only?

A: If it is carried out in a sexually exciting manner, entails a ḥarām act, or leads to bad effects, it is ḥarām. The dancing of a woman among non-maḥram men is also ḥarām.

Q1163: What is the view on a group of men dancing? And what is the view on watching little girls dancing on television?

A: If it is carried out in a sexually exciting manner or leads to commission of a forbidden act, it is ḥarām.

As for watching, there is no harm in it if it does not support the action of the wrongdoer, does not dare them to do so, nor entails bad effects.

Q1164: What is the view on women dancing in the presence of women and men in the presence of their counterparts? Attending wedding parties is carried out as a courtesy of the social norms. Is there any objection to doing that if there is a possibility of dancing taking place?

A: Generally speaking, if dancing is done in a sexually exciting manner, lead to the commission of a forbidden act, or entails a bad effect, it is ḥarām.

There is no objection to attending wedding parties where dancing may take place provided it is not regarded as a manifestation of approval, on the part of the partaker, of the misdeeds of the wrongdoer and does not entail the commission of any ḥarām act.

Q1165: Is the dancing of a wife for her husband and vice versa ḥarām?

A: Should it be done without the commission of any ḥarām act, there is no harm in it.

Q1166: Is it permissible to dance in one's offspring's wedding party?

A: If it is of the ḥarām type of dance, it is ḥarām, even though the parents do it in their offspring's wedding party.

Q1167: A married woman dances in wedding parties before non-maḥram people, without the consent of her husband. She is adamant not to give up the habit, despite repeated advice ? enjoining the good and forbidding the evil ? by her husband. What could one do in this regard?

A: Dancing of a woman in the presence of non-maḥrams is absolutely ḥarām. Going out of her home without her husband's permission is also ḥarām in itself; she is regarded as rebellious. Accordingly, she does not enjoy the right of maintenance.

Q1168: What is the ruling in the matter of women dancing in the presence of men in rural wedding parties where musical instruments are played? And what should one do in this regard?

A: Dancing of women before men and every dancing which may entail a bad effect and arousal of sexual desires are ḥarām. Playing music and listening to it is also ḥarām if it is done in a lahwī, enrapturing manner. In this case, the onus is on the mukallaf to forbid the evil.

Q1169: What is the ruling in the matter of dancing of a discerning child, male or female, in the gatherings of men or women?

A: There is no obligation on the child, male or female, which has not attained age of ritual maturity yet. However, it is not good for adults to encourage the child to dance.

Q1170: What is the view on establishing dance-teaching centers?

A: Establishing centers for teaching and promoting dancing goes against the objects of the Islamic system.

Q1171: What is the view on men or women dancing in the company of their mahrams of opposite sex whether in-laws or blood relatives?

A: What is forbidden of dance is universal, i.e., irrespective of whether it is done by a man, a woman, or in the presence of one's mahram or non-mahram.

Q1172: Is fencing with sticks in wedding parties permissible? And what is the view if it is carried out to the accompaniment of music?

A: There is no problem in it in itself, should it be a kind of recreational sporting game, and provided no harm would befall the participants. As for the use of musical instruments in a lahwi an enrapturing manner, it is not permissible.

## Clapping

Q1173: Is it permissible for women to clap in happy occasions like wedding and birthday parties? Assuming that it is permissible, what if the sound of their clapping reaches outside and is heard by non-maḥram men?

A: There is no problem in clapping in the manner which is generally accepted by the common view, even if the sound is heard by non-maḥram men provided that it does not lead to any bad effects.

Q1174: What is the ruling in the matter of clapping which normally accompanies songs of praise of the Prophet (s.a.w.) and his Household (a.s.) and recitation of salawāt in birth parties of the Infallibles (a.s.) and other religious festival? And would the ruling be different if these celebrations were held in places of worship, such as masjids and prayer rooms in government departments and institutions?

A: Generally speaking, in itself there is no problem in clapping in the way common in such celebrations, or as a gesture of encouragement, or expression of approval and the like. However, it is more meritorious to adorn the celebratory atmosphere with the sound of chanting salawāt on the Prophet (s.a.w.), and his progeny (a.s.) and Allahuakbar especially when the event takes place in masjids and similar places of worship so that the participants would reap more reward.

## **Non-maḥrams' Pictures and Films**

Q1175: What is the ruling in the matter of looking at pictures of non-maḥram women who are not wearing ḥijāb? What is the view on viewing women appearing on television? Is the ruling different whether these women are Muslims or non-Muslims and whether or not it is a live broadcast?

A: Looking at the picture of a non-maḥram woman does not have the ruling of looking at the woman herself. Accordingly, there is no objection to it unless looking is accompanied by lust, there is fear of falling victim to temptation, or the picture belongs to a Muslim woman known to the mukallaf.

As a matter of obligatory caution, one should not view pictures of non-maḥram women on television that are broadcast live. As for that which is not broadcast live, there is no problem in it provided it is done without ill intentions and the fear of falling in ḥarām.

Q1176: What is the view on watching satellite programs? And is it permissible for the people living in the provinces neighboring the Gulf States to watch those states' television stations?

A: Programs broadcast via Western satellite television stations and those of most neighboring countries teach misleading thoughts and misrepresentations. They also contain lahw and corrupt items and watching them often leads to corruption, going astray and committing ḥarām acts. So, it is not permissible to access these channels to watch the programs they broadcast.

Q1177: Is there any problem in watching or listening to comical programs broadcast from radio and television?

A: There is no problem in listening to satire programs and humorous shows or watching them unless they involve insult to a believer.

Q1178: In my wedding party a number of photographs were taken of me without my wearing ḥijāb. These pictures are now with my friends and relatives. Should I retrieve these pictures?

A: Should the keeping of these pictures by the others entail no vile effect in the case it entails, you did not have any role in

giving them the photos, or it is difficult for you to collect the photos, you have no obligation in this regard.

Q1179: Is there any problem for us, as women, in kissing the pictures of the late Imam Khomeini (May his soul rest in peace) or the martyrs, as they are non-maḥrams to us?

A: As a whole, the pictures of people do not have the same ruling of the people themselves. Therefore, there is no problem in kissing these pictures as a mark of respect, love, and blessing provided that no evil intentions are harbored and no fear of falling into sinful act is there.

Q1180: Is it permissible to look at pictures of semi naked or naked women, unknown to us, such as those appearing on films and television?

A: Generally speaking, watching moving pictures and photographs does have not the same ruling as looking in reality at people non-maḥram to you. Accordingly, there is no objection to it, as per Islamic law, if it is not done with lust, evil intention, and does not lead to a bad result. However, since watching obscene pictures is inherently intertwined with looking with sexual urge, and it is a precursor to committing ḥarām acts, it is, therefore, ḥarām.

Q1181: In wedding parties, is it permissible for a woman to arrange for taking pictures of herself without the permission of her husband? Assuming that it is permissible, is it obligatory on her to observe proper ḥijāb?

A: Taking photos, per se, does not depend on the permission of the husband. However, if there is a possibility that non-maḥram men may see her pictures and that not observing proper ḥijāb could lead to a bad deed, she should observe it.

Q1182: Is it permissible for a woman to watch men wrestling?

A: It is not permissible if the watching is done by attending the ring, live television broadcast, with lust and questionable thoughts, or the fear of falling victim to temptation. Otherwise, there is no harm in it.

Q1183: In a wedding party, should the bride cover her head

with a light, transparent veil, is it permissible for a non-maḥram man to take pictures of her?

A: Should taking pictures entail ḥarām looking at a non-maḥram woman, it is not permissible. Otherwise, there is no problem.

Q1184: What is the ruling in the matter of taking pictures for women mingling with their maḥrams? And what is the view if there is a possibility that a man who is non-maḥram to them is going to see these pictures while they are developed and printed?

A: There is no problem if the photographer who looks at them to take pictures is one of their maḥrams. There should also be no problem in developing and printing these pictures by a person who does not know them.

Q1185: Some youth look at obscene pictures. They put forward a number of justifications for doing so. What is the view in this matter? Should looking at these pictures contribute to dulling the desire and, in turn minimizing the tendency to committing that which is ḥarām, how should one go about it?

A: Should looking at the pictures be with ill intentions or when the looker knows that it will lead to sexual excitation, the fear of falling into ḥarām, or bad consequences; it is ḥarām. Trying not to commit an act of ḥarām by allowing oneself to fall prey to that which is ḥarām at the outset is not a valid justification to embark on the practice.

Q1186: What is the view on attending wedding parties for filming, knowing that there would be music and dancing? What is the view of filming by a man in men-only parties and a woman in women-only parties? What is the view on developing films of wedding parties by men, regardless of the fact that the producer of the film knows the family? And will the ruling be different if the developer is a woman? And finally, is it permissible to use music in editing these films?

A: There is no harm in attending wedding parties, nor is there any harm in men filming in men-only parties and women filming in women-only parties provided that this does not entail listening to a ḥarām kind of music and singing; this should also

not lead to the commission of any other ḥarām act. However, filming parties by the opposite sex is not allowed if it leads to looking with ill intentions or falling into other kinds of bad consequences. The use of lahwī, mutrib music, which is suitable for the gatherings of lahw and sin, in editing wedding parties' films is also ḥarām.

Q1187: Given the nature of movies — be they foreign or local — and music which are broadcast from the television of the Islamic Republic, what is the view on watching and listening to them?

A: Should the listener or viewer conclude that the music that is broadcast from radio and television is of the lahwī, enrapturing type which is suitable for the gatherings of lahw and sin, or that watching the movie which is broadcast from television would necessarily lead to vile consequences, it is not permissible to either listen to or watch. Broadcasting from radio and television per se is not a shar'ī reason for it to be permissible.

Q1188: What is the ruling in the matter of printing and selling the pictures which ostensibly portray the Prophet (s.a.w.) and Imams Ali and Ḥusayn (a.s.) for putting them in government offices?

A: From the shar'ī point of view; there is no objection to it in itself. That said, this should not entail any insult or degrading act in common opinion, or detract from the status of those luminaries (a.s.).

Q1189: What is the ruling in the matter of reading obscene books and poems arousing one's sexual passion?

A: It should be avoided.

Q1190: Satellite television stations broadcast soap operas that deal with social problems in Western societies. Inevitably, they treat things like the mixing of the sexes, adultery, etc., as a matter of course. Watching these programs started to have its undesirable effects on some believers. What is the view on watching such programs by those who possibly may be affected by what they watch? Would the ruling be different if the person previews them in order to criticize these programs and

to inform people of their negative points persuading people not to watch them?

A: It is not permissible to watch them with lust, nor is it permissible to do so if there is a possibility that one is going to be affected by what he sees or if a fear of depravation exists. As for watching these programs to prepare a critique and show people the dangers and negative aspects they contain, there is no harm in it provided that the critics are qualified to do the job and guarantee that they are not going to be affected by these programs or fall victim to corruption.

Q1191: Is it permissible to look at the hair of a female news-reader that normally appears without ḥijāb?

A: There is no harm in watching per se provided that one is careful not to look with lust, there is no fear of committing a ḥarām act of falling into corruption and that the broadcast is not live.

Q1192: Is it permissible to watch films that are bound to excite one's imagination and sexual urge if the person is married?

A: If watching these films is intended to stir one's desire or watching them leads to such a thing, it is not permissible.

Q1193: What is the ruling in the matter of married men watching films which give instructions about how best they can make love to their pregnant wives provided that it does not lead to committing a ḥarām?

A: It is not permissible to watch such films that normally are accompanied by lustful watching.

Q1194: What is the view on the work of the officials of the ministry of guidance which involves checking films and printed material to ascertain that they do not contain harmful scenes/material for eventual release, noting that the process involves watching and listening attentively?

A: There is no problem in censorship officials watching, and listening to, them attentively as far as necessity requires, so long as this is part of their legal job. However, they should be vigilant not to fall victim to looking lustfully or with ill intentions. Furthermore, these officials should be subject to

authorities' control and guidance both ideologically and spiritually.

Q1195: What is the view on watching video films which contain unsavory scenes for the purpose of censorship and eliminating the corrupt scenes before showing them to others?

A: There is no problem in that, should it be for reforming the film and removing its dissolute scenes provided that the person entrusted with the job should be immune against committing a ḥarām act.

Q1196: Is it permissible for married couples to watch pornographic films in their own home? And is it permissible for a person with a severed spinal cord to do so in order to be able to make love to his wife?

A: It is not permissible to stimulate one's sexual urges by way of watching video films containing sexual scenes.

Q1197: What is the ruling in the matter of secretly watching films and pictures banned by the Islamic state if it does not entail bad results? And what is the ruling if the couple is young?

A: In the light of the ban, it is problematic.

Q1198: What is the ruling in the matter of watching films that contain material showing irreverence towards that which the Islamic Republic holds sacred and dear or viewed as insulting to His Holiness, the Leader of Muslims?

A: It must be avoided.

Q1199: What is the view on watching Iranian films that were produced after the triumph of the revolution, showing women wearing imperfect ḥijāb and which sometimes contain harmful scenes?

A: There is no problem in watching these films in itself if the viewer does not intend watching them with lust or ill intention and it does not cause him to fall victim to bad consequences. It is noteworthy that the producers of these films should avoid producing films which go against valuable Islamic teachings.

Q1200: What is the ruling in the matter of distributing and

showing films, which are passed by the ministry of guidance? And what is the view on distributing musical cassettes in the universities, especially, after the distribution has been sanctioned by the mentioned ministry?

A: If the mukallaf thinks that these films and cassettes contain mutrib and lahwī — by the common view — songs and music suitable for gatherings of lahw and sin, it is not permissible to distribute, sell, watch, and listen to them. Approval by the competent authorities per se is not a valid reason to make it permissible for the mukallaf, so long as he views the matter differently from the authorities licensing the material.

Q1201: What is the ruling in the matter of buying, selling, and keeping magazines of women's fashion, which normally contain pictures of non-maḥram women, especially when the aim is choosing and making dresses?

A: The mere presence of pictures of non-maḥram women in such magazines should not make it objectionable to sell, buy, or make choices for women's fashion unless the pictures are of the kind that entails bad consequences.

Q1202: Is it permissible to buy or sell television cameras?

A: There is no harm in selling and buying television cameras provided that it is not intended for a ḥarām use.

Q1203: What is the ruling in the matter of buying, selling, and renting video films showing explicit sexual scenes and the video machine itself?

A: Should these films contain sexually stimulating scenes which are bound to lead the viewer astray and to depravity, or contain mutrib, lahwī songs and music that are suitable for the gatherings of lahw and sin, it is not permissible to produce, sell, buy, or rent them out. Nor is it permissible to rent the video recorder to be used for these purposes.

Q1204: Is it permissible to listen to news bulletins or scientific and cultural programs broadcast by foreign radio stations?

A: There is no objection to it unless it leads to corruption and going astray.

## Satellite Television Equipment

Q1205: Is it permissible to buy, keep and use satellite television equipment to receive programs? And what is the ruling if a person gets such equipment for free?

A: By virtue of its nature, a satellite receiver is a medium to access television programs whether the latter are ḥalāl or ḥarām. Thus, they are treated as instruments that serve a dual purpose in that it is ḥarām to buy, sell, or acquire them in order to use them for ḥarām purposes. Conversely, they are ḥalāl if they are used for ḥalāl ends.

However, since satellite equipment makes it so easy for its owner to receive ḥarām programs, and sometimes leads to other corruptive matters, it is not permissible to buy or keep them unless for a person who is absolutely sure that he is not going to use the equipment for ḥarām purposes and the availability of such equipment at home is not going to lead to any bad consequences.

Q1206: Is it permissible for those who live outside the Islamic Republic to buy and sell satellite television equipment to receive the channels of the Islamic Republic?

A: Despite the fact that the said equipment is regarded as that serving a dual purpose, which could be used for ḥalāl aims, it is, in the main, used for ḥarām purposes; in addition, it may entail other evil practices if used at home. It is, therefore, not permissible to buy and use at home unless for one who is absolutely sure that it is not going to be used for ḥarām purposes and that installing it at home is not going to lead to any other evil practice.

Q1207: What is the view if the satellite equipment is programmed in such a way that it receives the channels of the Islamic Republic, news bulletins and useful programs of the Persian Gulf television stations plus all Western and corruptive channels?

A: The criterion for making it permissible to use this equipment for receiving television programs is what we have just outlined, regardless of whether the station is Western or otherwise.

Q1208: What is the ruling in the matter of installing satellite television equipment to receive scientific and Qur'anic programs or the like that are broadcast by Western countries or others?

A: Although the use of such equipment to watch scientific and Qur'anic programs via satellite is not objectionable in itself, programs broadcast by the satellite television stations of Western and most of the neighboring countries often contain misleading poisonous material and misrepresentations of the truths as well as programs of lahw and corruption and even watching [the so-called] Qur'anic and scientific programs could lead to corrupt and ḥarām practices. Accordingly, it is ḥarām as per Islamic law to make use of satellite television equipment to watch these programs unless the programs are useful and pure scientific or Qur'anic ones so that watching them does not entail any corruption or ḥarām act.

Q1209: I repair television and radio receivers. Of late, many customers have been approaching me to install and/or repair their satellite equipment. What should I do? And what is the ruling in the matter of selling and buying spare parts for such equipment?

A: It is not permissible to repair, buy, sell, install, or operate this equipment or spare parts should the end use of the equipment be ḥarām — which is often the case — or that you are sure it is going to be used for a ḥarām purpose.

## Theatre and Cinema

Q1210: Is it permissible to use the uniform of the Islamic clerk and judges in making moving pictures? Is it permissible to make films that deal with religious and mystical issues, especially those talking about the lives and achievements of the late or contemporary clerics while observing their dignity and the inviolability of Islam? All of these are aimed at portraying noble Islamic values and explaining the idea of mysticism ('irfān) and the rich Islamic culture; it is also an attempt to stand up to and stem the onslaught of the adverse culture of the enemy. I should add that the introduction of such subjects through effective cinematic techniques has a great impact that would attract a wide audience, especially the youth?

A: In view of the fact that cinema is a medium through which enlightenment and information could be spread, there is no harm in showing anything of useful effect for the intellectual development of the youth and others or in promoting Islamic culture. Included in this is the introduction of religious scholars and their special life histories as well as that of officials and other scholars. However, it is obligatory to observe their particular status, respect, and sanctity of their right to privacy. This should not be used as a means to disseminating any anti-Islamic propaganda, as well.

Q1211: We intend to make a film portraying the story of the martyrdom of Imam Ḥusayn (a.s.), especially the principles for which he sacrificed his life. It is noteworthy that the actor who will play the role of the Imam is not going to appear in the flesh, i.e., just a luminous person. Is it permissible to make such a film?

A: Should the story of the film be based on reliable sources with utmost consideration of the sanctity of the subject and the integrity and status of Imam (a.s.), his companions, and household, there is no harm in that. However, since it is very difficult to tackle the subject carefully and accord due reverence to the integrity of the martyred Imam and his companions; one has to observe caution in this matter.

Q1212: What is the view on men wearing women's clothes and

vice versa for the purpose of acting on theatre or in films? And what is the view on the opposite sexes mimicking the voice of each other?

A: It is not remote to be permissible for the opposite sexes to wear each other's clothes or mimic the voice of each other in acting provided that it does not cause corruption.

Q1213: What is the ruling in the matter of women wearing make-up for acting purposes in performances which are attended by men as well?

A: If applying make-up is undertaken by the person herself, or by another woman, or by one's mahram, and it does not entail any corruption, there is no objection to that. Otherwise, it is not permissible. Of course, their face with make-up should be covered in front of non-mahrams.

## **Painting and Sculpture**

Q1214: What is the view on making dolls and sculpture, or drawing living beings (plants, animals, and human beings)? And what is the view on selling, buying, acquiring, and exhibiting these items?

A: There is no harm at all in the sculpture, photography and painting of beings that have no soul. Nor is there any harm in making sculptures or drawings of living beings that have a soul provided it is not done in three dimensions or full-size. As for a complete sculpture of a human being or any animal, it is a problem. However, it is permissible to sell, buy, or keep pictures and statues. There is no objection to showing them in an exhibition as well.

Q1215: In the new curriculum, there is a subject called self-reliance. Part of the subject deals with sculpture. The teachers ask the students to make dolls of rabbits, dogs, and the like from cloth or other items. What is the ruling in this matter? What is the ruling on the teachers' instructions in this regard? And to what extent does the completion in full-size of these dolls affect the ruling?

A: If the doll of the animal is not considered as the figure of the animal with its full parts, in the common view, or if the students are not ritually mature yet, it is no problem.

Q1216: What is the ruling in the matter of children drawing pictures of Qur'anic stories such as that of the People of the Elephant and the cleavage of the sea for Moses (a.s.)?

A: There is no objection to it in itself. However, it must be based on the truth, making sure to avoid dabbling in falsehoods and not to impinge on the sanctity of the subject matter.

Q1217: Is it permissible to manufacture dolls and statues of beings having spirits like human beings by using machinery?

A: There is no harm in manufacturing these things using machines provided that making statues is not attributed to the direct act of the person. Otherwise, it is problematic.

Q1218: What is the ruling in the matter of making jewelry in

the form of statuettes? And does the material which goes into the making of the jewelry have any bearing on the ruling, in that it may be ḥarām?

A: It is not permissible to make statuettes of beings having spirits if the statue is complete and only one person is going to make it, regardless of the material used and whether it is used as an adornment or something else.

Q1219: Is returning the parts of a dismantled doll, such as hand, leg, and head to it included in the impermissibility of making a statue? And could it fall in the category of making statues?

A: Making limbs or returning them to their places per se is not considered as sculpture. Thus, there is no harm in it. However, putting these limbs together to constitute a complete figure, such as a human or an animal, is regarded as sculpture that is ḥarām.

Q1220: What is the view on body tattooing which is usually done by some people and it is a method of obtaining marks or designs on the skin that are not removable? And does it constitute any barrier to water, used for ghusl or wuḍū', reaching the skin?

A: Tattooing is not ḥarām and the mark it leaves under the skin does not form a barrier to water reaching the skin. Thus, ghusl and wuḍū', with a tattoo on any part of the body, are valid.

Q1221: A married couple of famous painters make a living of restoring paintings. Most of these paintings depict Christian society; some of them portray the crucifix, Mary and Jesus Christ (a.s.) Some companies and institutions or even some people on behalf of Churches refer to them for this purpose. Is it permissible for them to carry out the required restoration work on such paintings and get paid for it, knowing that it is their only way of making living and they are devout Muslims?

A: There is no harm in the mere restoring of such paintings, even if they depict Christian society or portray Jesus Christ and Mary (a.s.). Nor is there any harm in taking fees for such work or taking up such a profession and earning a living from it

unless it contributes to promoting falsehoods or misleading ideas or leads to other vile deeds.

## **Magic, Conjuring, and Evocation of Spirits and Jinn**

Q1222: What is the view on teaching, learning, and watching conjuring? And what is the view on performing (to an audience) illusionary tricks which depend on quick handwork?

A: It is ḥarām to learn or teach conjuring. As for entertainment accompanied by sleight of hand and quick movement that are not considered conjuring, there is no harm in them.

Q1223: Is it permissible to learn fortune telling, geomancy (divination by means of figures or lines in the sand), astronomical almanac and similar things which tell about the unseen?

A: Nowadays, people's knowledge of these sciences cannot be relied on — with absolute certainty — in discovering the unseen. However, there is no harm in learning sciences like jafr and raml in the proper way provided that it does not lead to vileness.

Q1224: Is it permissible to train in magic and apply it? And is it permissible to evoke the spirits of humans, angels, and jinn?

A: Magic is ḥarām, so is training in it unless it is taken up for a sensible and legitimate reason. Regarding evocation of spirits, angels, and jinn, the ruling varies in terms of cases, means, and objectives.

Q1225: What is the view on believers seeking healing with spiritual healers (those who utilize spirits for treating diseases) if the patient is sure that they do not do but good?

A: There is no harm in it in itself if the process is achieved through lawful means according to Islam.

Q1226: Is it permissible to take up divination by means of the sands and earn a living thereof?

A: Telling a lie is not permissible.

## **Hypnosis**

Q1227: Is it permissible to do hypnosis?

A: There is no harm in it if it is done for a sensible motive, with the consent of the person to be hypnotized and it is not associated with any ḥarām act.

Q1228: Some people took to hypnosis not for healing purposes, rather to display human spiritual power. Is it permissible? And is it permissible for those who have some experience in this field, yet not specialists, to do it?

A: Generally speaking, there is no objection to be trained in hypnosis, nor is there any objection to using it for ḥalāl, reasonable, and significant purposes provided that the consent of the person to be hypnotized is obtained and that no considerable harm for him is expected.

## Lottery

Q1229: What is the ruling in the matter of selling and buying lottery tickets? And what is the view if any prize is won in the process?

A: Buying and selling lottery tickets are not valid. The person winning the prize should not take possession of it, nor is he allowed to receive it.

Q1230: What is the ruling of buying tickets in the name of 'social welfare gifts' which are distributed among people?

A: There is no sharī objection to publishing and distributing tickets for collecting people's contributions and using them in charity and encouraging the contributors through stipulation of drawing lots. Also, paying for such tickets with the intention of participating in charitable matters is no problem.

Q1231: A person offered his car for sale by way of lottery. It works like this: Those willing to take part in the draw buy the ticket for a certain amount. After the specified period is up and the target money achieved, the draw takes place. The holder of the winning ticket would own the car. Is this way of selling the car permissible in the Islamic law?

A: There is no harm in selling the car to the holder of the winning ticket, in such a way that the deal is struck after the time of the draw. However, taking possession of, and using the money paid by the other people who took part in lottery is unlawful and considered as ill-gotten property. Accordingly, it should be returned to them.

Q1232: Is it permissible to sell bonds destined for collecting people's charitable donations with the intention of making a draw at a later date, then some of the money collected would be distributed among the participants as gifts and the remaining proceeds are dedicated to projects of public benefit?

A: Naming this work as "selling" is incorrect. However, there is no harm in distributing these bonds in the avenues that serve charitable causes. It is permissible to encourage potential donors by promising them prizes by way of a draw provided that people obtain these bonds with the intention of taking part

in charitable causes.

Q1233: Is it permissible to buy lotto tickets, noting that the company running the enterprise are privately owned and 20% of its profit goes to women's charitable institutions?

A: Lottery tickets have no lawful monetary value and the ruling of gambling instruments is applied to them. Therefore, it is not permissible to sell or to buy one. Also the money obtained by the winners as a prize is not ḥalāl.

## **Bribery**

Q1234: The customers of a bank tip the employees of the bank in order to step up the pace of their work and give them preferential services. What is the view on receiving such money knowing that if the employee did not do anything for them, they will not give him any money?

A: It is not permissible for the employees to get such money for the job they have been hired to do and for which they receive a salary. Nor is it permissible for the customers to entice the employees by tipping them to finish their business because this practice is bound to spread corruption.

Q1235: Some bank customers, due to certain current customs give the bank employees festive presents and think otherwise the employees would not perform their works in a proper way. What is the ruling in this matter?

A: Should giving away such presents result in preferential treatment that would inevitably lead to corruption or impinging on the rights of the other customers, the customers are not allowed to do so, nor are the employees allowed to receive such presents.

Q1236: What is the view regarding the present given out of thank and gratitude by somebody to an employee, knowing that this employee performed his job without any expectation?

A: In work environment giving gifts by people is one of the most dangerous acts and the more you avoid it, the more benefit you achieve in this world and the hereafter. Only in one case, is it permissible to receive the gift and that is when the giver insists on giving the present and the employee rejects it but eventually it is given in one way or another provided that it is done after the performance of the work without any previous discussion or expectation.

Q1237: What is the ruling in the matter of presents, whether in the form of money, food, or the like, given away willingly by people to government employees? And what is the view on money given to them by way of bribery whether in expectation for a favor or without it? Should the employee contravene the

law in order to get a bribe, what would be the ruling?

A: The employees are not allowed to receive any presents under any guise because this is bound to reflect adversely on their character, lead to corruption, and entice some greedy individuals to disregard the laws and to impinge upon the rights of others. It goes without saying that bribery is ḥarām for both the payer and the recipient. If any money has been received by way of bribery, it should be returned to the payer and the recipient has no right to use it.

Q1238: It has been noticed that some individuals ask the public for bribes in return for facilitating their business. Is it justified to pay such money to them?

A: The officials of any official department are not allowed to give the employees of the department, who have the duty to serve the people, any money or service that is not sanctioned by law. By the same token, the employees themselves who are obliged to facilitate people's business according to law must not ask for, or take, any unlawful payment for the work they do. In case they have received such money, they should return it to the payer, as they have no right to use it.

Q1239: What is the ruling in the matter of resorting to bribery in order to restore one's right, as it sometimes brings difficulties to others like preferring him to them?

A: Paying and taking bribes is impermissible even though it does not make any trouble to other people, let alone doing so while it makes troubles for others without having any right in this regard.

Q1240: One may find it necessary, in order to get one's legitimate business finished easily, to pay money to the official concerned in a particular department. The person is fully aware that if they did not pay this money they would not get the business done. Does this amount to bribery and is it ḥarām? Or should the necessity which pushed him to pay the money prevent it from falling in the category of bribery and from being considered ḥarām?

A: Giving any money or the like to the employees of any department — who are responsible for performing people's works —

in return for a favor in facilitating one's business, which inevitably leads to spreading corruption in such departments, is ḥarām as per Islamic law. The illusion of "necessity" does not justify this practice.

Q1241: Smugglers offer government officials bribes for turning a blind eye to their unlawful practices. If the officials refuse, they face threats of death. What should such officials do?

A: It is not permissible to receive any money for turning a blind eye to the unlawful practices of the smugglers.

Q1242: An accountant working for the tax department administration was asked by his boss to decrease the amount of taxes that should be paid by a particular company. Is it incumbent on the accountant to obey the orders of his superior?

It is to be noted, however, that if the accountant did not obey his boss, he would be put in an unbearable situation. And is it permissible for him to take some of this money in return for obeying the orders?

A: There is no objection to obeying the boss in this regard. However, he should not receive money for it.

## **Purchasing and Sales Agents**

Q1243: What is the ruling on money given by a seller to the purchasing agents working for government departments and private companies for the purpose of maintaining good business between them without adding to the actual price so far as the seller and the purchasing agent are concerned?

A: The seller is not allowed to pay such money to the purchasing agent, nor is the latter allowed to take the money. Whatever money the agent receives should be delivered to the department or the company.

Q1244: Are purchasing agents working for government departments or private businesses allowed to make a condition that the seller pays them a percentage of the profit? Is it permissible for them to receive such money? And would the ruling be different if they were allowed by their superiors to do so?

A: The said condition stipulated by them is incorrect and it is not permissible for them to receive any money as a result of the condition they stipulated. Neither are their superiors allowed to embark on such a practice. Their permission is of no effect in this regard.

Q1245: Are purchasing agents working for government departments or private companies justified in buying goods for a higher price with a view to taking the extra money for themselves? And is it permissible to receive the extra money from the seller as a favor?

A: Should the goods be bought for prices higher than the usual market price, or should it be possible for them to buy the goods for less, the original contract of sale for the inflated price is regarded as fuḍūlī, in that it is contingent on the permission of the related official. At any rate, the agent does not have the right to receive any money from the seller for himself in return for his buying from him.

Q1246: An agent has a job of purchasing goods for a governmental department or private company. He, in spite of the existence of various sources, refers to an acquainted one in this regard and makes a condition with the seller that in return for

his buying from him he would share the profit.

1. According to shar', what is the ruling of making such a condition?

2. May the ruling differ in case that his boss or the superior official sanctioned this?

3. What is the view of the seller's offering a price higher than the normal market price for the same good and making the deal accordingly?

4. If the seller gives a share to the purchasing agent, then what is the ruling concerning both the seller and the agent?

5. If, in addition to his job in the said department, the purchasing agent works in marketing for another company, and for the process of buying goods for this department he does marketing for the company, is he allowed to obtain a percentage of profit from the company?

6. If one has obtained a gain in one of the above mentioned ways, what is his Islamic duty regarding this money?

A: 1. It is not in accordance with Islamic law and, so, it is void.

2. Because the permission of the boss or the superior official in this respect lacks any shar'ī and legal validity, it is void.

3. Should the price be higher than the usual one in the market or he could buy the same for a lesser price from the market, the principle contract made is invalid.

4. It is impermissible. Besides, any money the purchasing agent receives for this purpose should be returned to the department he works in.

5. He has no right to receive any percentage and any money he received, he is obliged to deliver to the department for which he works as purchasing agent. Also, if the contract he made is against the interests of the department, it is originally void.

6. The illegal money he received should be given to the department he works in as a purchasing agent.

# **Part 10**

## **Medical Issues**

## Contraception

Q1247: 1) Is it permissible for a healthy woman to use, temporarily, any kind of contraceptive methods that prevent the implantation of the embryo in the uterine wall?

2) What is the view on using a device which, although not known how it prevents pregnancy yet, it is known as a method of contraception?

3) Is the sterilization of a woman, who is afraid of pregnancy as being dangerous to her, permissible?

4) Is it permissible to sterilize a woman who is known to be prone to bearing deformed or diseased children?

A: 1) There is no objection to that provided that it is done with the husband's permission.

2) It is not permissible if it leads to aborting the implanted embryo or to unlawful look and touching (when the device is fitted).

3) As the question goes, it is permissible to sterilize her. Indeed, it is not permissible for her to get pregnant intentionally if pregnancy poses any danger to her life.

4) There is no objection to it if it is done for a sensible reason, does not pose any considerable harm, and is done with the permission of the husband.

Q1248: What is the view on carrying out a vasectomy on a man for birth control purposes?

A: There is no objection to it in itself provided that it is done for a sensible reason and that it does not lead to considerable harm.

Q1249. Is it permissible for a healthy woman for whom pregnancy is not harmful to use any of the contraceptives, such as coitus interruptus, the diaphragm, the pill, and sterilization? And is it permissible for the husband to force his wife to use any method other than coitus interruptus?

A: In itself, there is no problem in doing contraception by way of coitus interruptus. Nor is there any objection to resorting to any other method provided that it is driven by a sensible reason, it is not considerably harmful to her health, it is done with the permission of the husband, and does not entail ḥarām

touching or looking. However, the husband has no right to force his wife to do so.

Q1250: Is it permissible for a pregnant woman, who wants to be sterilized, to have a caesarean so that the procedure of sterilization can be done at the same time?

A: We have already discussed sterilization. As for the caesarean, going for it or not is dependent on the need for it, or the request of the pregnant woman. At any rate, it is ḥarām for a non-maḥram man carrying out the operation to touch or look at her during both procedures unless in necessary cases.

Q1251: Is it permissible for the woman to use contraceptives without the permission of her husband?

A: It is problematic.

Q1252: A man with four children underwent an operation of vasectomy, without the consent of his wife. Is he guilty for not obtaining his wife's approval?

A: Its permissibility does not depend on the consent of the wife and he is not liable.

## **Abortion**

Q1253: Is it permissible to have an abortion because of economic problems?

A: It is not permissible to have an abortion merely because of economic problems.

Q1254: In the early months of her pregnancy the doctor told the mother that continuing with the pregnancy might pose a danger to her life. He further advised that the baby would be born deformed. In the light of his findings, the doctor advised the mother to have an abortion. Is this course of action permissible? And is it permissible to terminate the pregnancy before the soul enters the body of the fetus?

A: Having a deformed baby is not a legal reason to terminate the pregnancy, even before the soul enters the fetus. As for the danger it poses to the mother's life should she carry on with the pregnancy, there is no objection to aborting the fetus prior to the soul entering the fetus provided that it is based on the advice of a reliable who is a specialist.

Q1255: With the help of modern technology, doctors can now identify the congenital deformities of the fetus during pregnancy. Because of the difficulties babies born with deformities face in life, is it permissible to terminate the pregnancy if it is found by a reliable specialist that the fetus has developed any deformity?

A: It is not permissible to abort the fetus at any stage for the mere reason that the fetus is deformed or for future difficulties the born child might encounter.

Q1256: Is it permissible to abort a fertilized ovum that has implanted in the uterine wall before it turns into a clot-like structure which normally takes forty days to develop? And in which of the following stages is abortion not allowed, i.e., the embryo implanted in the uterine wall, the clot, the lump of flesh, the bones (before the soul enters the fetus)?

A: It is not permissible to get rid of the fertilized ovum after it settles in the uterus, nor is it permissible to abort the fetus at any of the later stages.

Q1257: Some couples have congenital blood diseases due to having abnormal genes. They could transmit the disease to their offspring and there is a great probability that the children would be severely affected and will suffer much throughout their lives. An example of this is hemophilia in which even slight injury causes severe uncontrollable bleeding which can end in death or paralysis. Considering the fact that it is now possible to diagnose this disease in the fetus during the first few weeks of pregnancy, is it permissible to have an abortion in such cases?

A: Should the diagnosis be definite and if having such a baby and maintaining him/her entails great difficulty and hardship, it is, in this case, permissible to abort the fetus before the soul enters its body. However, it is an obligatory caution to pay its blood money.

Q1258: What is the ruling in the matter of abortion itself? Is the ruling different if keeping the baby poses a danger to the mother's life?

A: Aborting the fetus is ḥarām by Islamic law. It is not permissible at any count, barring pregnancy which poses danger to the mother's life. In this case, there is no objection to terminating the pregnancy before the soul has entered the fetus. Should the spirit enter the fetus, it is not permissible to abort it, even if the pregnancy spells danger to the mother's life, except in the event where carrying on with the pregnancy could prove fatal to both the fetus and the mother, and there is no way to save the baby's life but it is possible to save the mother's life through abortion.

Q1259: A mother has aborted her seven-month-old illegitimately conceived fetus at the request of the father. Should blood money be paid? Assuming that it is a must, who should pay it, i.e., the mother or the father? How much is the blood money nowadays according to your opinion?

A: It is ḥarām to abort the fetus, even if it was conceived due to adultery. The request of the father does not justify the action. The woman should bear the blood money if she had taken the initiative to abort the fetus and performed the action that

resulted in the abortion herself. As for the amount of blood money, it is doubtful in the given case. However, as a matter of caution, a settlement should be reached. This blood money has the ruling of the inheritance of a person who died with no relatives as heirs.

Q1260: How much is the blood money for deliberately aborting a fetus of two and a half months and who should pay it?

A: If it is a clot-like structure, the amount of blood money is forty dinars. If it is a flesh-like structure, it becomes sixty dinars but when the fetus enters into the stage of a bone, but without the flesh, the blood money is eighty dinars. The blood money should be paid to the inheritors of the fetus, taking into consideration the classes of inheritors. However, the person to whom the action of aborting is attributed must be denied a share in the inheritance.

Q1261: On the advice of the doctor treating her, a pregnant woman found it necessary to have an operation for her gums and teeth. Is it permissible for her to have an abortion on the grounds that the anesthesia and x-ray are going to deform the fetus?

A: The reason mentioned in the question is not valid for terminating the pregnancy.

Q1262: If it is known for sure that the baby will suffer in-utero death and continuing the pregnancy proves dangerous to the mother's life, is it permissible to abort it? And assuming that the husband follows in taqlid a mujtahid who is of the opinion that such a case does not warrant abortion, whereas the woman and her relatives follow another mujtahid who sees it otherwise, what should the husband do?

A: The scenario the question suggests is that of the inevitable death of the fetus alone or the death of the mother and her baby. If this is the case, there is no alternative but to abort the fetus in order to save the mother. As the question goes, the husband has no right to prevent his wife from aborting the fetus. However, it is obligatory, if possible, to act in such a way that killing the fetus should not be seen as the responsibility of anybody.

Q1263: Is it permissible to abort the fetus at the stage of the fertilized egg if the pregnancy has come about as a result of a mistaken sexual intercourse by a non-Muslim or as a result of adultery?

A: It is not permissible.

## **Artificial Insemination and In Vitro Fertilization (IVF)**

Q1264. 1. Is IVF or test-tube baby permissible, when the sperm and the egg belong to a lawfully wedded couple?

2. Assuming it is permissible; can the couple go ahead with the procedure if a non-maḥram doctor carries it out? And does the born child belong to the same couple?

3. Assuming that it is not permissible in itself; would the ruling be different if the continuity of the marriage was dependent on it?

A: 1. There is no objection to carrying out the procedure in itself. However, it is obligatory to keep away from any preliminary step that might involve committing a ḥarām act like prohibited looking and touching.

2. The child born by way of this procedure belongs to the couple from whom the sperm and the egg were taken.

3. It is mentioned that carrying out the procedure, in itself, is permissible.

Q1265: Some childless couples get separated mainly because of the strains and stresses put on the marriage due to the fact that the wife is barren because of ovulation problems. Is it permissible to use an egg donated by another woman to carry out the fertilization procedure in a tube by the husband's sperm and the implantation of the fertilized egg in the wife's womb?

A: Although there is no legal problem in carrying out the said procedure in itself, the born child belongs to the genetic parents. There is a problem in referring the baby to the mother who became pregnant with it. Therefore, they should observe caution insofar as the shar'ī rules governing lineage are concerned.

Q1266: Is it permissible to use the sperm of the husband, after his death, in fertilizing an egg taken from his wife and implanted it inside her womb? Does the born child belong to the dead husband? And does the born child inherit from the father?

A: There is no harm in carrying out the procedure in itself. The born child belongs to the mother to whom the egg and the

womb belong. It is not remote to attribute the baby to the donor of the sperm. However, the baby does not inherit from him.

Q1267: Is it permissible for a woman, whose husband is sterile, to be artificially inseminated with sperm from a non-maḥram man (other than her husband), i.e., through placing the sperm in her womb?

A: In itself there is no legal impediment to inseminating a woman with the sperm of a non-maḥram man. However, it is obligatory to avoid the preliminary steps which are ḥarām, such as looking and touching. However, the born child in this way does not belong to the husband of the woman, rather to the person who donated the sperm and the woman whose egg and womb were used in the process.

Q1268: 1. Can a married woman, who has passed the age of ovulation due to menopause or the like, get pregnant with and be the surrogate mother of a fertilized egg of a second wife of her husband? Would the ruling be different if she or the second wife, whose egg was fertilized, is a permanent wife or a temporary one?

2. Who will be the mother of the child, the person who donates the egg or the one who gets pregnant with it?

3. Is the procedure permissible if the other's egg is needed because the egg of the wife is so weak that it is feared that the born child would be deformed had it been fertilized with the husband's sperm?

A: 1. There is no shar'ī objection to the procedure in itself. The ruling would be the same whether they are permanent marriages or temporary ones. Nor is it different if one of them is permanent and the other temporary.

2. The born child belongs to those whose sperm and egg are used in the procedure. It is problematic to say that the one whose uterus is used is the mother. Therefore, caution in matters of lineage insofar as the said woman is concerned has to be observed.

3. In itself, this procedure is permissible.

Q1269: Is it permissible to inseminate a woman with the sperm

of her dead husband in the following cases?

1. After the death of the husband but before the end of the waiting period?

2. After the death of the husband and after the end of the waiting period?

3. Suppose the widow remarried, is it permissible for her to be inseminated with the sperm of her former husband? And is it permissible for her to be inseminated with the sperm of her former husband after the death of the second husband?

A: In itself, there is no objection to that, be it before or after the waiting period and whether she remarried or remained unmarried. The ruling would also not be different if the insemination takes place with the sperm of her former husband at the lifetime of the second husband or after his death. However, if the procedure takes place during the lifetime of the second husband, his permission should be obtained.

Q1270: Nowadays it is possible to keep the ova that have been fertilized in vitro alive by certain procedures to be implanted later inside the womb of the woman who possesses the ova when necessary. Is it permissible?

A: There is no harm in it in itself.

## Gender Change

Q1271. Some people have the appearance of men. They have female psychological and sexual tendencies though. If they do not undergo the operation of sex change, they might commit sins insofar as their sexual behavior is concerned. Is it permissible for them to undergo such an operation?

A: There is no harm in undergoing the said operation if the end result would be determining of the true sex of the person provided that it does not lead to the commission of any ḥarām act or a vile consequence.

Q1272: What is the ruling in the matter of undergoing an operation for a hermaphrodite person to become either man or woman?

A: There is no objection to it in itself provided that one avoids ḥarām preliminary steps.

## **Autopsy, Anatomical Dissection and Transplantation**

Q1273: Research in heart and vascular diseases could require the physical examination of particular organs of dead people who suffered from such diseases. It is to be noted, though, that the extracted organs would be buried not later than one day or so after the examination has been carried out. Please let us know the ruling in the following matters.

1. Is it permissible if such research is carried out on the dead bodies of Muslims?
2. Is it permissible to bury the removed organs separately, i.e., not with the body they belong to?
3. Since it is rather problematic to bury the organs separately, is it permissible to bury them alongside any other dead body?

A: There is no objection to dissecting a corpse when saving a respectful life, exploring new ideas in medical science that are necessary for the society, or obtaining information regarding a disease that threatens life. However, it is obligatory not to make use of the dead body of a Muslim, where possible.

Extracted parts of the dead body of a Muslim must be buried with the same body unless burying them with the body proves difficult or unbearable. In this case, it is permissible to bury them separately or alongside another dead body.

Q1274: Is it permissible to carry out a postmortem examination to determine the cause of death in doubtful cases, e.g., we do not know whether it happened due to poison, suffocation, or something else?

A: If getting to the truth hinges upon it, there is no objection to it.

Q1275: What is the ruling in the matter of carrying out anatomical dissection for histological research on the body of an aborted baby, of any age, noting that the subject of dissection is very important in the curriculum of the school of medicine?

A: It is permissible to dissect the body of an aborted baby if saving a respectful life, achieving new medical information necessary for the society, or getting more information about certain diseases that threaten life. However, it is advisable, where

possible, not to make use of the dead fetus of a Muslim or of one who is ruled as a Muslim.

Q1276: Is it permissible to remove expensive platinum pieces that had been implanted in the body of a Muslim after his death?

A: As the question goes, there is no harm in removing platinum pieces from the dead body provided that it is not considered as disrespect to the deceased.

Q1277: Is it permissible to dig the graves of Muslims or non-Muslims in order to exhume the bones for training purposes in the school of medicine?

A: As to the graves of Muslims it is not permissible to do so unless there is a pressing need for the bones for medical purposes and it is impossible to obtain such bones from the graves of non-Muslims.

Q1278: Is it permissible to implant hair on the head of a person who suffered burns so much so that they are put under immense psychological pressure because of it?

A: There is no harm in it in itself provided that the implanted hair is taken from an animal whose meat is ḥalāl or human hair is used.

Q1279: If a person is suffering from a fatal illness and doctors say he will die soon, is it permissible to remove certain organs from his body, such as heart, kidney, etc., before he is dead so that it can be transplanted in the body of another person?

A: If the removal of the organs from the patient's body leads to his death, it amounts to murder. Otherwise, there is no objection to it provided that it is done with the person's permission.

Q1280: Is it permissible to use the blood vessels of a dead person for transplantation in the body of another person who is ill?

A: There is no objection to it provided that it is done with the permission of the person in their lifetime, or with that of their guardian after their death, or when saving a respectful life is contingent upon it.

Q1281: Is blood money payable in the matter of using the cornea of a dead person to be transplanted in the eye of another person, noting that corneal transplant is done mostly without the permission of the deceased's guardian? Assuming that it is payable, how much should be paid for both the cornea and the eye?

A: It is ḥarām to remove the cornea from the dead body of a Muslim. Fifty dinars are payable as blood money in such a case. Should it be done with the permission of the dead person in his lifetime, there is no objection to it and paying blood money is not necessary.

Q1282: During the war, a person suffered an injury in his testicles, which resulted in their removal; this in turn had led to his becoming impotent. Is it permissible for such a person to use therapeutic hormones to keep him sexually active and preserve his virility? And should it be found necessary to restore his ability to have young, can he resort to transplantation of the testis?

A: Should the procedure be possible so that it would result in the testis becoming part of his body after cure; there is no objection to that insofar as matter of being najis or pure is concerned. Nor is there any objection to it in respect to his ability to have children and that the children are rightfully referred to him. Also, there is no harm in his using therapeutic hormones to maintain his sexual activity and preserve his manhood.

Q1283: Since having a kidney transplant would improve the patient's condition considerably, there has been an intention to set up a kidney bank. This is bound to encourage people to donate or sell their kidneys willingly. Is it permissible to donate or sell one's body part by choice, whether it is a kidney or any other organ? And what is the ruling in emergency conditions?

A: There is no objection to the living mukallaf donating or selling his organs in order that the sick may make use of them provided that he will not be considerably harmed. Indeed, this becomes obligatory when it becomes the only way to save a respectful life, in case one is not going to put himself in an unbearable situation and it is not harmful for him.

Q1284: Some patients suffer from irreversible brain damage which results in the disappearance of all kinds of neurological activities associated with deep coma plus inability to respire and response to all motor sensory stimulations. In such cases it is not probable at all to restore these activities and the heart could only work temporarily by itself with the aid of a respirator. This condition, which is called in medicine 'brain death' does not continue more than a few hours /days. That is on the one hand. On the other hand there are other patients whose lives can only be saved by the transplantation of organs to them being taken from those who suffer from brain death. Is the use of organs taken from such patients for this purpose permissible?

A: If the removal of the organs from the patient described in the question would precipitate his death, it is not permissible. Otherwise, if the removal of such organs is made with his prior permission, or the use of the removed organ is the only way to save a respectful life, there is no objection to it.

Q1285: I have expressed my wish to donate my organs after my death. I was told that I should make a will in this regard and inform any heirs. Have I the right to do so?

A: There is no harm in making use of a dead person's organs for transplantation in the bodies of other people in order to save their lives or treat their illnesses. There is no objection to writing this in one's will. This ruling, however, does not cover those parts of the body, whose removal could amount to muthlah of the body itself, or severing them would violate the dignity of the dead according to established the common view.

Q1286: What is the view on undergoing plastic surgery?

A: There is no harm in it in itself.

Q1287: Is it permissible for a military institution to examine the private parts of persons?

A: It is not permissible to uncover or to look at the private parts of other people or to force anybody to uncover the private parts in front of others unless it becomes necessary to do so, e.g., circumcision or treatment of an illness. However,

one has no obligation regarding circumcising others. It is only a personal obligation. The same rule is applicable to treatment unless the patient's life is in danger.

Q1288: We have noticed the recurrence of the use of the word "necessity" as a condition to allow the examining doctor to touch or look at the body of a woman. What does it mean and what are its limits?

A: What makes it necessary to look at or touch a woman's body is confined to what the diagnosis and treatment of the illness require. As to its limits, it is judged by the degree of the need for it.

Q1289: Is it permissible for a woman doctor to touch and look at the private parts of another woman for the purpose of medical examination and diagnosis?

A: It is impermissible to do so except for necessary cases.

Q1290: Is it permissible for a male doctor to touch or look at the body of a woman during examination?

A: When treatment makes it necessary for the woman to uncover her body before a man doctor and for the doctor to touch and look at her body, and it is not feasible for the patient to see a woman doctor, there is no objection to it.

Q1291: What is the ruling in the matter of a woman doctor looking directly at the genitals of another woman when she can carry this out indirectly, i.e., through a mirror?

A: If it is feasible to carry out the examination through the mirror and there is no need for her to look at the woman's private parts or to touch it. It is not permissible.

Q1292: To take the pulse count of a patient there has to be some sort of direct contact with the body. If it is feasible for a nurse from the opposite sex to do these wearing gloves, can he/she still do it without the gloves?

A: If it is feasible to go about this with the clothes on or by wearing gloves, there is no need for direct contact, by the opposite sex, with the patient's body. It is, therefore, not permissible.

Q1293: Is it permissible for the male doctor to carry out plastic surgery for a woman which entails touching and looking at her body?

A: Plastic surgery is not a treatment for an illness. Accordingly, it is not permissible to either touch or look at the body unless it is done to treat burns and the like, and it is necessary to touch the body or look at it.

Q1294: Apart from her husband, is it absolutely ḥarām for anyone, including the treating doctor, to look at the genitals of a woman?

A: It is ḥarām for anyone other than the husband to look at the woman's genitals. The ban includes the treating male/female doctor unless it is necessary on medical grounds.

Q1295: Is it permissible for women to consult a male gynecologist if he is more efficient than the female gynecologists, especially when seeing the latter proves to be difficult?

A: If the examination and the treatment require ḥarām looking or touching, it is not permissible for the woman to see a male gynecologist unless it is not feasible to consult a skilled female gynecologist who may serve the purpose or it is too difficult to do so.

Q1296. Is it permissible for someone to masturbate, upon a doctor's advice, for carrying out a sperm test?

A: There is no objection to it if it is intended for medical treatment, the treatment is dependent on it, and it is not possible for his wife to do it.

## **Circumcision**

Q1297: Is circumcision obligatory?

A: Circumcision of boys is obligatory in itself and as a condition for the validity of tawāf in both hajj and ‘umrah. If it is left until the boy attains adulthood, it becomes obligatory on him to have circumcision.

Q1298: A person did not have circumcision. However, there is no foreskin on the penis. Is it obligatory on him to have circumcision?

A: If there is no foreskin on it, it is not a case of obligatory circumcision.

Q1299: Is girls' circumcision obligatory?

A: It is not obligatory.

## Study of Medicine

Q1300: By virtue of their study, medical students, male and female, are required, as part of their training, to examine non-maḥram people which involves touching and looking. Since this training is part of the curriculum and is essential for future treatment of the patients and equips the students with the know-how to make life-saving decisions and otherwise, it may result in prolonging the disease period or even death of the patient, is it permissible to embark on such a practice?

A: There is no problem in it if it is considered as one of the necessary things to gain knowledge and experience in the field of treating patients and saving lives.

Q1301: It is said that in necessary cases it is permissible for medical students to examine non-maḥram patients. Who should determine such necessity?

A: The student can judge such necessity, taking into account the prevailing circumstances.

Q1302: In certain situations, we are faced with instances of examining a non-maḥram patient's body without being able to tell whether we will make use of the experience we acquire from such an examination? However, this is a requirement of the curriculum and an assignment by the professor to the student. In view of this, is it permissible for us to carry out these examinations?

A: The medical examination being part of the curriculum or an assignment required from the student by his professor does not justify the commission of what Islamic law has decreed unlawful. However, the criterion here is the need for the training to save the human life or the requirement of a necessity.

Q1303: For the sake of medical training and practice, is there any difference between examining the genitals and the other parts of the bodies of non-maḥram persons? What is the ruling in the matter of male doctors practicing midwifery and other childbirth complications in remote villages where no female doctor is available; noting that one of such complications is life-threatening bleeding after labor? Stopping such bleeding

needs proper training and experience during the course of study in schools of medicine?

A: Insofar as necessity is concerned, there is no difference between the ruling of examining the genitals and the other parts of the human body. The universal criterion is the need for the training and study of medicine to save the human life. However, in such situations, one should suffice with necessary cases.

Q1304: In most cases where examining the genitals, whether by a male or a female, is called for the shar'ī standards are seldom upheld by the student or teacher, such as examination through the mirror. Since we have no alternative but to follow them in order to gain experience in diagnosing the illnesses, how should we go about it?

A: There is no harm in studying medicine and training in it, even by carrying out examinations which are ḥarām in themselves provided that it is essential for training in medicine and acquiring experience in treating the sick. In addition to that, the student must be confident that ability to save human life in the future depends on knowledge acquired in this way. He must also be confident that he would be in a situation whereby the sick are going to consult him to seek his advice and that he would be responsible to save their lives.

Q1305: Is it permissible to look at the pictures of non-Muslims usually found in the books of medicine, noting that such pictures are of semi-naked men and women?

A: There is no objection to it provided it is done without questionable intents and pleasure and that no fear of bad deeds is contemplated.

Q1306: In the course of their study, medical students watch films and look at pictures showing the genitals for learning purposes. Is this permissible? And what is the view on looking at the private parts of the opposite sex?

A: There is no objection to watching such films and looking at such pictures in themselves provided it is done without the intention of getting sexual pleasure and no fear of committing a ḥarām act is involved. What is ḥarām is looking at or touching

the body of the opposite sex. Also looking at pictures or watching films of others' private parts is not unproblematic.

Q1307: What is required of a woman in labor? And what is required of the female nursing staff insofar as the uncovering of and looking at the genitals of the woman in labor are concerned?

A: It is not permissible for the nurses to deliberately look at the private parts of a woman in labor unless it is necessary. The same goes for the doctor who should avoid looking at the body of the patient or touching it unless it is necessary. As for the woman, she should do her best to cover herself if she is aware and able to do that or to ask other people to do it for her.

Q1308: In the course of the study of and training in medicine, they use plastic models configuring the human reproductive system. What is the ruling in the matter of handling these models and looking at them?

A: Artificial organs and genitals do not have the same ruling as the real ones. Therefore, there is no objection to looking at and handling them unless a questionable intent is involved or it entails arousing one's sexual desire.

Q1309: As a doctor, my research within the Western scientific circles aims at relieving pain by way of music, touching, dancing, medication, and electric shocks. Medical opinion points to the fact that the research in these types of therapy has proved fruitful. Is it permissible to embark on the same road?

A: There is no shar'ī impediment to investigating this affair to see how effective it is in treating illnesses provided that it does not entail getting entangled in practices which are ḥarām.

Q1310: Is it permissible for female nurses to look at a woman's genitals if their study requires it?

A: If the treatment of diseases or saving a respectful life depends on taking a lesson which includes looking at the private parts of others, there is no problem in doing so.

## Teaching, Learning and Their Proprieties

Q1311: Should man be held guilty for abandoning the gaining of knowledge about religious issues which are usually encountered by him?

A: He would be considered as a sinner if it results in his neglect of an obligatory deed or committing a ḥarām act.

Q1312: A theology student has finished the first stage of his study. He is confident that he can carry on attaining the level of ijtihād. Does it become obligatory on him, as an ‘aynī obligation, to finish his studies?

A: There is no doubt that to gain religious knowledge and to peruse it up to the attainment of the level of ijtihād is a great merit in itself. However, the mere ability to reach the level of ijtihād does not make it an ‘aynī obligation on the student to do so.

Q1313: What are the avenues of reaching certitude in matters of the fundamentals of religion?

A: It is often reached through rational proofs and evidence. However, the proof varies in accordance with people’s intellects. If it so happened that someone had reached certitude through a different avenue, this would be sufficient.

Q1314: What is the ruling in the matter of lethargy and time wasting in gaining knowledge? Is it ḥarām?

A: Wasting one’s time by doing nothing is a problematic issue. Should the student be benefiting of the grant and concessions normally accorded to the students, he should have no alternative but to be bound by the curriculum. Otherwise, he is not allowed to avail himself of student grants, scholarships, etc.

Q1315: In the school of economics the professor, in some lectures, deals with certain matters pertaining to ribā-bearing loans and compares the ways of borrowing with interest in trade and commerce. What is the ruling in the matter of teaching this subject and getting paid for it?

A: Teaching and discussing the subject pertaining to ribā-bearing loans per se, is not ḥarām.

Q1316: What is the right way for the devout specialists and other professionals in imparting their knowledge to the people in the Islamic Republic? And who, in government departments, is entitled to have access to important information and

technology?

A: There is no objection to anyone learning any discipline; provided that it is done for legitimate and sensible reasons and that there is no risk of getting corrupted or causing corruption, except for those sciences and information about whose teaching and learning the Islamic state has passed some laws.

Q1317: Is it permissible to teach and study philosophy in Islamic seminaries?

A: There is no objection to learning or studying philosophy for those who are confident that it would not weaken their firm religious beliefs. Indeed, in certain circumstances, it becomes obligatory.

Q1318: What is the ruling in the matter of buying and selling misguiding books such as “The Satanic Verses”?

A: It is not permissible to sell, buy, or keep misleading books unless for a person who wants to refute their contents and is knowledgeable enough to do so.

Q1319: What is the view on teaching and storytelling of fables and fictions that deal with human beings and animals if there is any benefit that could be gained from doing so?

A: There is no harm in it if it is understood from the context that it is imaginary.

Q1320: What is the ruling on enrolling in a university where men mix with women, especially when some of the women are not wearing ḥijāb?

A: There is no objection to going to educational institutes for acquiring knowledge and teaching. However, it is incumbent on women and girls to observe ḥijāb; it is equally incumbent on men to avoid looking in ḥarām way and keeping away from mixing with the opposite sex, which normally leads to temptation and corruption.

Q1321: Is it permissible for a woman to learn driving with the help of a non-maḥram instructor if she observes ḥijāb and chastity throughout?

A: There is no objection to learning driving with the help of a non-maḥram instructor provided that she observes ḥijāb and chastity throughout and ensures that no vile deed is going to be committed. However, it is advisable that one among her maḥram should accompany her. Indeed, it is even much better

if she learns driving with the help of a female instructor or one of her maḥram.

Q1322: University students of both sexes meet each other and discuss matters ranging from study to exchanging light-hearted jokes. Of course this is done without any questionable intentions or sexual pleasure. Is it permissible?

A: There is no objection to it provided that female students observe proper ḥijāb, no questionable intention is involved, and one is immune from corrupting practices. Otherwise, it is impermissible.

Q1323: Which scientific specializations are more beneficial to both Islam and Muslims these days?

A: It is advisable that scientists, professors, and university students pay due attention to all useful scientific fields, which Muslims need, so that they have no need of foreigners, especially those who harbor enmity to Islam and Muslims. To determine which field is the most beneficial is the responsibility of the officials concerned, taking into consideration the existing conditions.

Q1324: What is the ruling in the matter of reading misleading books or the books that belong to other faiths in order to acquire insight into them and get more knowledge and information about them?

A: If it is done just to get acquainted with them and increase one's information, it is problematic to rule it permissible. However, it is permissible for a person who is capable to sift through such books with a view to distinguishing falsehoods and refuting them provided that one is absolutely confident not to go astray.

Q1325: What is the ruling in the matter of enrolling one's children in schools that teach false beliefs, assuming that they are not going to be affected by what they are taught?

A: There is no objection to it if there is no risk of the children's belief, it does not contribute to promoting falsehood, and they can skip the study of false and misleading subjects.

Q1326: A university student is in his fourth year in the school of medicine. He has a burning desire to be a theology student. Is it obligatory on him to continue with his study of medicine or can he make a change?

A: The student has the choice to follow any discipline he

prefers. However, it is important to stress that although religious studies are important for providing a service to the Islamic society, training in medicine is also important in order to provide medical services to the Islamic nation, to treat sick people, and to save their lives.

Q1327: A teacher severely punished one of his students in front of his classmates. Is the student justified to retaliate against him?

A: He does not have the right to retaliate in a way violating the status of the teacher. Indeed, it is obligatory on the student to preserve the dignity of the teacher and keep order in the classroom. However, he can solve the problem through legal ways. By the same token, the teacher should preserve the dignity of the student before his classmates and accord due regard to the Islamic code of teaching.

## Copyrights

Q1328: What is the ruling in the matter of reproducing books and articles of foreign origin, or those published inside the Islamic Republic, without the permission of the publishers?

A: As regards reprinting, or offset, of books printed outside the Islamic Republic, it is governed by bilateral agreements reached by the two countries in this regard. As a matter of caution the rights of the publishers inside the country should be preserved by way of asking their permission to reprint their books.

Q1329: Is it permissible for authors, translators, and artists to be remunerated for the time, money, and effort they put in such works?

A: It is within their right to demand from the publisher whatever they like for delivering their first original manuscript or piece of work to the publisher.

Q1330: Suppose that the writer, translator, or artist received a fee for the first edition of their piece of work, and, at the same time made a provision that they are to be given a share in the proceeds from selling the subsequent edition. Are they justified in demanding a share of the proceeds of subsequent sales? And how should the money, received in such a way, be treated?

A: In case the owner of the work has made a provision in the contract reached for delivering the original one that he should receive an amount of money for the subsequent editions or the law requires so, then there is no objection to receive it and the publisher is obliged to observe the provision.

Q1331: Suppose that the author did not specify anything regarding the subsequent editions, is it permissible for the publisher to reprint the material with neither his permission nor paying him for it?

A: If the contract signed between the two parties is confined to printing the first edition only, it is a caution to preserve his right and ask his permission for the subsequent editions.

Q1332: In case the compiler is absent due to travel, death or the like, who should one approach for permission to reproduce his work and to whom should the money be paid?

A: The permission of the compiler's representative or legal

guardian must be obtained. In the event of his death, his heirs' permission must be obtained.

Q1333: Is it permissible to reprint books without the permission of their owners, especially with the existence of the phrase "All rights reserved for the author"?

A: It is a matter of caution that the rights of both the author and the publisher must be respected through obtaining their permission to reprint the material.

Q1334: Some cassettes containing Qur'anic recitation and religious songs bear the phrase "Recording rights reserved". Is it permissible to make copies of such cassettes and give them to people who are interested in acquiring them?

A: As a matter of caution one should obtain the permission of the original publishers to make copies of the cassette.

Q1335: Is it permissible to make copies of computer disks? Assuming that it is ḥarām, is this confined to disks produced in Iran or does the ruling go beyond that to cover imported disks, especially when we know that the prices of some of these disks are very high because of their contents' importance?

A: It is a caution to respect the rights of the owners by seeking their permission to make copies of the computer disks produced in Iran. In case they are produced abroad, it depends on the contract signed.

Q1336: Do trademarks of supermarkets or companies belong only to their owners so much so that others have no right to use the same trademarks for their businesses? To give an example, suppose that a person owns a business bearing the name of the family. Is it permissible for another member of the same family to use the same name for their business? And is it permissible for another person, who does not belong to the same family, to trade under the same name?

A: If the government, according to the ongoing laws gives the trademarks to someone who requested it earlier than the others and the trademark is registered in their names in administrative files, then, it is not permissible for others — including the family members of a person who acquired that trademark — to use it without the permission of its owner. Otherwise, there is no objection to doing so.

Q1337: Is it permissible for the owner of a photocopier to photocopy some material, on the pretext that they can be of

benefit to the believers, without the permission of the owner of the printed matter? And would the ruling be different if the owner of the photocopier knew that the owner of the printed matter would object to people copying his material?

A: As a matter of caution, one should not take the initiative to photocopy the material without the permission of its owner.

Q1338: Some believers hire videotapes from a video shop. Upon viewing the material, they fancy it and accordingly make a copy of it without the permission of the shopkeeper. They do so on the understanding that the majority of the mujtahids do not recognize copyright. Are such people justified in what they are doing? On the assumption that it is not permissible, should those who have made copies hasten to seek the permission of the owners of the tape or is the wiping of the contents of the cassette sufficient?

A: As a matter of caution, one should not copy a videotape without the permission of its owners. However, if a person has already done so without the permission of the owner of the tape, it is sufficient to wipe the recorded material off the tape.

## **Dealing with non-Muslims**

Q1339: Is it permissible to import Israeli goods and advertise them? If it happens out of choice, is it permissible to sell such goods?

A: It is forbidden to embark on any dealings that may serve the interests of the usurping state of Israel which harbors enmity towards Islam and Muslims. It is not permissible for anyone to import and promote its goods, production and selling of which benefits the Israelis. Nor is it permissible for Muslims to buy such goods, because it entails bad effects and is detrimental to Islam and Muslims.

Q1340: Is it permissible for merchants to import and promote Israeli goods in a country that has lifted the boycott of Israeli goods?

A: They have to refrain from importing and promoting goods whose production and selling would benefit the deplorable state of Israel.

Q1341: Is it permissible for Muslims to buy Israeli goods that are on offer in a Muslim country?

A: It is incumbent on every Muslim to refrain from buying and making use of goods whose production and sale would benefit the Zionists who are at war with Islam and Muslims.

Q1342: Is it permissible to set up travel agencies in Muslim lands with a view to selling tickets for travel to Israel? And is it permissible for Muslims to buy tickets from such agencies?

A: It is not permissible, for it is detrimental to Islam and Muslims. Nor is it permissible for anyone to do anything that may constitute a violation of the Muslim boycott of Israel which is the enemy of Muslims and is at war with them.

Q1343: Is it permissible to buy the products of Jewish, American, or Canadian companies if there is a probability that they are supportive of Israel?

A: If the proceeds from the sale and purchase of these goods would contribute to supporting the occupying, wretched state of Israel or to opposing Islam and Muslims, it is not permissible for anybody to buy or sell such things. Otherwise, there is no objection to it.

Q1344: Should Israeli goods be imported to a Muslim country, is it permissible for retailers to buy some of them and sell

them to the public and advertise them?

A: It is not permissible for them to do that because it constitutes corruption.

Q1345: Should Israeli goods be available on the open market in a Muslim country, can Muslims buy them, especially when it is possible to buy other goods imported from other countries?

A: It is incumbent on every Muslim to refrain from buying and making use of goods, production and sale of which would benefit the Zionists who are at war with Islam and Muslims.

Q1346: Some importers of Israeli goods falsify the documents and re-export such goods as though they belong to another country, such as Turkey and Cyprus, which imported them in the first place. They do so to deceive Muslims who, once they know that the goods are of Israeli origin, would not buy them. What should the Muslims do in these circumstances?

A: Muslims should refrain from buying, promoting, and using such goods.

Q1347: What is the ruling in the matter of buying and selling American goods? Is the ruling universal, i.e., does it cover other Western countries, such as France and Britain? Is it to observe this ruling only in Iran or is it universal?

A: Should the buying of goods, which have been imported from non-Muslim countries, and using them contribute to strengthening the infidel and colonizing states which are the enemies of Islam and Muslims or provide them with financial support they may use to attack Muslims or Islamic lands all over the world, it is the duty of Muslims to refrain from buying and using such goods. The nature of the goods or their countries of origin is immaterial so long as such countries harbor enmity towards Islam and Muslims. The ruling is not confined to Iranian Muslims.

Q1348: What is the position of people working in factories and establishments that would generate income for the infidel states and that would in the end render them strong?

A: In itself, there is no objection to dealing in legitimate business, even if it leads to generating profits for non-Islamic states unless the state is at war with the Muslims and exploits their labor to serve its war machine.

## Working for Oppressive States

Q1349: Is it permissible to work in the government sector in a non-Islamic country?

A: The permissibility thereof hinges on the job in being permissible per se.

Q1350: A person works for the traffic administration in an Arabic country. Among his responsibilities is to sign for imprisoning of those who violate traffic rules. Is such work permissible? And what is the ruling on the salary the person gets from the government for doing such a job?

A: Observing laws and regulations passed — even by a non-Islamic government — for maintaining social order is a must. There is no objection to receiving salary for ḥalāl work.

Q1351. Is it permissible for a naturalized Muslim living in the United States or Canada to join the army or to take a job with the police? Is it permissible for such a Muslim to work in government departments, municipality, and semi-governmental institutions?

A: There is no objection to it if doing such a job does not entail any bad effect, committing a ḥarām act, or abandoning an obligation.

Q1352: Does a judge, who has been appointed by a tyrannical regime for judgment, have legitimacy? Should his judgment, therefore, be obeyed?

A: It is not permissible for any person, who is not a qualified mujtahid, to be a judge and settle disputes between people unless he has been appointed by a qualified authority who has the right to appoint him. [If not], members of the public should not have recourse to such a judge and any judgment passed by him is not binding except for the necessary cases.

## Clothing

Q1353: What is the criterion for what are called “conspicuous clothes”?

A: They are the types of clothes that are not suitable for wearing, be it for their color, design, being worn, or any other reason. The yardstick is that when the person wears such clothes they would definitely attract the attention of other people, so much so that their look would be conspicuous.

Q1354: What is the ruling in the matter of the sound of tapping produced by a woman’s shoes while walking?

A: There is no harm in it in itself provided that it does not draw the attention of other people and lead to vile consequences.

Q1355: Is it permissible for a young woman to wear clothes that are dark blue in color?

A: There is no objection to it in itself unless it attracts the attention of other people and leads to bad consequences.

Q1356: In wedding parties or the like, is it permissible for women to wear transparent or tight clothes that show the contours of their bodies and other types of dresses that show most parts of their bodies?

A: If women are insulated from the gaze of men who are non-mahram to them, and are immune to falling victim to vile deeds, there is no harm in their wearing such clothes. Otherwise, it is not permissible.

Q1357: Is it permissible for a devout woman to wear glittering black shoes?

A: There is no harm in wearing any type/color of shoes unless the color or the design attracts the attention of other people, or makes her conspicuous.

Q1358: Is it incumbent on the woman to choose black colors for her clothing, e.g., headscarf, trousers, and dress?

A: The ruling mentioned in the previous answer is applied to the woman’s clothing, i.e., its color, shape, and design.

Q1359: Is it permissible for a woman to wear a kind of hijāb or dress objects that could trigger the attention of other people or unleash their desire, e.g., to wear a chador in an unconventional way or choose socks with color or material which unleash the desire?

A: It is not permissible for women to wear anything, whose

color, design, or manner of wearing may be attractive to non-maḥram's attention or could eventually lead to bad effects or committing that which is ḥarām.

Q1360: Is it permissible for men to wear women's clothes and vice versa inside one's house without the intention of emulating the opposite sex?

A: There is no harm in it provided that they do not take it as though it were their own dress.

Q1361: What is the ruling in the matter of men buying or selling women's lingerie?

A: There is no harm in it in itself provided that it does not result in immorality and social decay.

Q1362: Is it permissible to make, buy, and sell transparent stockings?

A: There is no objection to making and trading in them provided that they are not intended for women to wear before men who are non-maḥram to them.

Q1363: Is it permissible for unmarried men to work in boutiques selling women's clothes and cosmetics provided that they abide by religious as well as ethical norms?

A: The permissibility of legitimate work and earning ḥalāl living is not confined to one group of people. It is, therefore, permissible for anyone to go about their business provided that they abide by the Islamic norms and ethics. However, should the competent authorities require special conditions for trading in certain sectors, which may have been designed to protect the public interest, they have to be observed.

Q1364: What is the ruling in the matter of men wearing chains?

A: If they are made of gold or for the exclusive use of women, it is not permissible for men to wear them.

# **Part 11**

## **Treating the West**

## **Aping the Infidels and Spreading Their Culture**

Q1365: Is it permissible to wear clothes which bear foreign pictures and inscriptions? And is it considered a means of spreading Western culture?

A: There is no objection to it in itself unless it leads to social decay. As for judging it as a way of spreading Western culture, which is diametrically opposed to the Islamic one, it should be left to the common sense.

Q1366: What is your view on selling, buying and wearing foreign clothes?

A: There is no objection to importing, selling, buying, and using such clothes merely due to their being imported from non-Islamic countries. But it is not permissible to import, sell, buy, or wear that which would constitute an affront to Islamic decency and morals, or what would be seen as the promotion of Western culture which is the enemy of the Islamic one.

Q1367: What is the ruling in the matter of emulating Western hairstyles?

A: The criterion for its being ḥarām is to simulate the enemies of Islam and promote their culture. This, however, varies according to different countries, times, and persons and it is not specifically connected to the West.

Q1368: Is it permissible for the educators in the schools to shave the heads of the students who come to the school with peculiar hair styles which are alien to the Islamic code of conduct and are manifestations of aping Western crazes? It is to be noted, however, that the students do not heed our advice. Also, during school hours they pretend to observe Islamic norms but they change their behavior when they get out of it. What is our duty in this regard?

A: Shaving the heads of students by the educators and teachers is not advisable. However, if those in charge of the school found that some of the behaviors of the students are not in conformity with Islamic ethics and culture, they are advised to give fatherly counsel and guidance. If this proves unfruitful, they may enlist the help of the students' parents by informing

them about their children's situation.

Q1369: What is the view on wearing American clothes?

A: In itself, there is no objection to wearing clothes made in imperialistic countries, i.e., that are made by the enemies of Islam, and this does not affect the permissibility of wearing them. However, should this lead to promoting the unIslamic culture of the enemy, strengthening the economies of such nations, which is in turn used in colonizing and exploiting Muslim countries, or prove detrimental to the economies of an Islamic state, it is problematic. Rather, it is not permissible in some cases.

Q1370. What is the view on wearing a necktie?

A: Generally speaking, it is not permissible to wear a tie, or other kinds of clothes that are considered as the attire of non-Muslims, in such a way that their wearing will promote vile Western culture.

Q1371: What is the ruling in the matter of selling pictures, books, and magazines that although not explicitly containing obscene material, yet aim implicitly to create an unsavory and unIslamic cultural climate especially among the youth?

A: It is not permissible to sell, buy, and promote such material that aims to lead the youth astray, cause their depravity and create an immoral cultural climate. They should be avoided.

Q1372: What is the duty of women nowadays in combating the cultural invasion of our Islamic society?

A: The most important of women's duties is observing proper Islamic hijāb, promoting it, and keeping away from wearing that which reflects the norms of the enemy's culture.

Q1373: In common with Christians, some Muslims celebrate Christmas. Is there a problem in that?

A: There is no harm in celebrating the birthday of the Holy Jesus Christ (May peace be upon him and our Prophet and his pure progeny).

Q1374: Is it permissible to wear items of clothing bearing the advertisement of alcoholic drinks?

A: It is not permissible.



## **Immigration and Political Asylum**

Q1375: What is the view on seeking political asylum in foreign countries? And is it permissible to fabricate a story to achieve that goal?

A: In itself, there is no objection to seeking political asylum in non-Muslim countries provided that it does not lead to bad effects. However, it is not permissible to resort to lying and fabrication to achieve that end.

Q1376: Is it permissible for a Muslim to immigrate to a non-Muslim country?

A: There is no objection to it provided that it does not involve fear of detesting and deviating from one's own religion. Having preserved his faith and observed caution, it is incumbent on the immigrant, to the best of his ability, to defend Islam and Muslims.

Q1377: Is it obligatory on women who embraced Islam in the land of infidels to immigrate to the Islamic land because they cannot declare their Islam for fear of reprisal by their families and society?

A: They are not required to immigrate to the abode of Islam, should this prove unbearable. However, it is obligatory on them to keep up prayer, fast, and other obligations to the best of their ability.

Q1378: What is the ruling in living in countries in which facilities for sinful acts, like nudity and listening to bad music cassettes are commonly available? What is the duty of those individuals who recently entered the age of ritual maturity there?

A: In itself, their residing and living there is no problem. However, they should avoid those acts considered ḥarām by Islamic law. If they fail to do that, immigration to Islamic countries for them becomes obligatory.

## **Spying, Defamation and Disclosing Secrets**

Q1379: I have received reports regarding the embezzlement of public assets of Muslims by a particular person. Upon investigation, some of these allegations proved to be true. However, when he was questioned, he denied all the charges. Is it permissible for me to send the reports to the court, noting that it may prove embarrassing to him? On the assumption that it is not permissible to approach the court, what is the position of the people who know about this matter?

A: If the person entrusted with safeguarding and preserving public assets of Muslims came to know about the embezzlement of it by any official or others, they are religiously and legally bound, in order to get to the truth, to report the culprit to the competent authorities. Saving the face of the accused is not a lawful justification to hold back from upholding truth and preserving public assets of Muslims. Other people also should present their certified reports to the concerned officials who will take the needed steps after investigating and when the case is proved.

Q1380: We notice that some newspapers are full of reports about arresting thieves, cheats, and groups of bribe-takers within government departments. Similar news of people carrying out vile deeds, corruption, and running indecent nightclubs abounds. Does the publication of such news contribute to spreading indecency?

A: The mere publication of incidents and events in the newspapers does not amount to spreading vile deeds.

Q1381: Is it permissible for the students in an education centre to report to the officials concerned what they see as corrupt practices with a view to preventing them taking hold?

A: There is no harm in it provided that the reports deal with overt matters and that they are not considered acts of spying or backbiting. Indeed, it might be obligatory as it could be a preliminary step to upholding the obligation of 'forbidding evil'.

Q1382: Is it permissible to reveal the wrong doings or

treacheries of some officials to the people?

A: After investigation and assuring the truth, there is no objection to report it to the authorities concerned so that they would pursue the matter. Indeed, this becomes obligatory when it is among the preliminaries of the obligation of forbidding evil. As for revealing it to the public, it is not justified. Indeed, if it leads to sedition, trouble, and undermining the Islamic state, it becomes ḥarām.

Q1383: Is it permissible to snoop on the believers' properties and pass information on them to oppressive governments, especially when such action inflicts losses on them or offend them?

A: This type of action is ḥarām. If the inflicted loss resulted from presenting information about the believers before the unjust rule, the informer should compensate for the losses.

Q1384: Is it permissible to talk, in the presence of other people, about one's secrets or private life?

A: It is not permissible to disclose personal matters in front of other people if there are other parties involved or the revelation could lead to a bad consequence.

Q1385: Psychiatrists often ask their patients about personal and family matters with a view to reaching a diagnosis and prescribing a treatment. Is it permissible for the patient to answer such questions?

A: There is no harm in it provided that it does not lead to bad effects, backbiting, or insulting a third party.

Q1386: Some people talk about certain negative aspects and weakness within the Islamic Republic. What is the view on listening to such conversations?

A: Clearly, embarking on any action that may tarnish the image of the Islamic Republic, which is standing against infidelity and world arrogance, is not in the interest of Islam and Muslims. Accordingly, if such conversations lead to weakening of the Islamic Republic system, it is impermissible.

## Smoking and Narcotics

Q1387: What is the view on smoking in government departments and public places?

A: It is not permissible if it is in contravention of the regulations in force in those departments and public places, nor is it permissible if it poses a nuisance to others or endangers their health.

Q1388: My brother is a drug addict and trafficker. Is it obligatory on me to report him to the official authorities in order to prevent him from doing so?

A: Upholding the obligation of forbidding the evil is obligatory upon you and you are required to help him give up the addiction and desist from trafficking in drugs. If informing the competent authorities would benefit him in any way or be considered as a preliminary step to forbid the evil, you should inform them.

Q1389: Is it permissible to use snuff? And what is the view on getting addicted to it?

A: Should there be a considerable danger from using it, it is not permissible to use, let alone to get addicted to it.

Q1390: Is it permissible to buy, sell, and smoke tobacco?

A: There is no objection to buying, selling, and using tobacco per se. However, should it spell a noticeable harmful effect to one's well-being, it is not permissible to smoke, buy or sell it.

Q1391: Is hashish pure? And is it ḥarām to use?

A: Hashish is pure. However, it is ḥarām to use it.

Q1392: What is the ruling in the matter of using narcotics, such as hashish, opium, heroin, morphine, and marijuana, be it by way of eating, drinking, smoking, injecting or applying them anally? And what is the view on selling, buying, and dealing in them in general, i.e., carrying, transporting, storing, or smuggling?

A: It is ḥarām to use narcotics in any way because it results in considerable adverse effects in terms of personal health and social cost. By the same token, it is ḥarām to deal in narcotics in any way, i.e., carrying, transporting, storing, selling, buying, etc.

Q1393. Is it permissible to use narcotic drugs for the treatment of diseases? And assuming that it is permissible, is it absolutely permissible or in case that it is the only way of treatment?

A: There is no objection to it provided that the treatment and the eventual recovery are dependent on their use and it is prescribed by a trustworthy physician.

Q1394: What is the ruling in the matter of growing those plants that produce narcotic drugs like opium, heroin, morphine, hashish, and cocaine?

A: There is no objection to doing so for the sake of considerable ḥalāl purposes like producing medicines and treatment.

Q1395: What is the ruling in the matter of preparing drugs, whether natural, such as morphine and hashish, or synthetic, such as LSD?

A: It is not permissible.

Q1396: Is it permissible to smoke tobacco that is sprinkled with a kind of alcoholic drink? And is it permissible to inhale its smoke?

A: There is no objection to it provided that smoking that kind of tobacco would not, by the common view, be considered as though one is consuming an intoxicating drink. Also, it should not lead to drunkenness or a considerable harmful effect on one's health. However, it is, as a matter of caution, advisable not to smoke it.

Q1397: Is smoking ḥarām to start with? And, if one, who is addicted to smoking, gives it up, is it ḥarām to go back to it after a week or so?

A: The ruling varies according to the degree of damage resulting from smoking. Generally speaking, it is impermissible to smoke cigarettes in the amount that proves considerably harmful to one's health. Also, if one knows that upon starting it, he will reach such a level, it is not permissible.

Q1398: What is the ruling in the matter of illicit money, such as that earned through trafficking in drugs? If we do not know about its owner, can it be considered as that of an anonymous owner? Should this be the case, is it permissible to have the right of making use of such money with the permission of the authorized religious authority or his representative?

A: If the person who gets hold of the money knows that it is

illicit, they should return it to its rightful owner if they know him, albeit among a small group of people. Otherwise, they should give it away in charity on behalf of its rightful owner. Should the illicit money be mixed with the one's licit money, without knowing its amount and owner, it is obligatory on him to pay khums on it which is to be paid to the authority in charge of khums.

## Shaving the Beard

Q1399: What is meant by jaws on which growing a beard is obligatory? Do they include the cheeks?

A: The criterion is that the common view recognizes it as a beard.

Q1400: What should the minimum and maximum length of a beard be?

A: There is no definite measure. However, the criterion is based on what the common view recognizes as a beard. That said, it is disliked to let it grow longer than one's own grasp.

Q1401: What is the view on lengthening one's moustache and shortening the beard?

A: There is no harm in doing so in itself.

Q1402: Some men leave the hair around the chin grow, i.e., goatee, and shave the rest of the beard. What is the view on such practice?

A: The ruling on shaving part of the beard is the same as that passed on shaving the entire beard.

Q1403: Is shaving the beard considered as sin?

A: According to obligatory caution, shaving the beard is ḥarām. Therefore, rulings and consequences of a sinful act are applied to it as a matter of caution.

Q1404: What is the view on shaving one's moustache? Is it permissible to let it grow long?

A: There is no objection to shaving the moustache, nor is there any objection to leaving it to grow long. However, to let it grow long in such a way that the hair comes into contact with food and drink while one is eating or drinking is disliked.

Q1405: What is the view on an actor, who, due to the nature of his work, is required to be clean-shaven either with a blade or a machine?

A: If shaving fits the label of beard shaving, it is, as a matter of caution, ḥarām. However, if his artistic work is regarded necessary for the Islamic society, there is no objection to his shaving his beard in a measure proportionate to the necessity of the work.

Q1406: As a public relations officer in one of the companies which belongs to the Islamic Republic, I have to buy and present shaving tools to the guests to shave their beards with.

What should I do?

A: As a matter of caution, it is ḥarām to buy and give to others tools to be used for shaving beards unless necessity requires it.

Q1407: What is the ruling in the matter of shaving one's beard if growing it would lead to denigration?

A: For a devout Muslim, growing a beard should not be a cause for feeling inferior or lowly. It is not, as a matter of caution, permissible to shave it unless growing it leads to putting oneself in harm or causes unbearable hardship.

Q1408: Is it permissible to shave one's beard if it proves an obstacle to one's achieving a legitimate goal?

A: The mukallaf must obey Allah's injunctions, except in circumstances of facing unbearable hardship or noticeable harm.

Q1409: Is it permissible to buy, sell, and produce shaving cream, which is mainly used for shaving the beard although it is used for other shaving purposes?

A: Should it be acknowledged that this cream is used for lawful purposes other than that of shaving the beard, there is no objection to produce and sell it for this purpose.

Q1410: What is meant by the phrase "It is ḥarām to shave the beard"? Is it that when the hair is fully-grown and one shaves it, or is it true of shaving the facial hair grown in part?

A: Generally speaking, it is ḥarām, on basis of caution, to shave any part of the beard which is universally recognized as shaving a beard. However, there is no objection to shaving some of the hair which does not fit the label of shaving a beard.

Q1411: Is the money the barber charges for shaving a beard ḥarām? Assuming that it is so and that this money is mixed with ḥalāl money, is it incumbent on the person concerned to pay khums on it twice?

A: As per caution, it is ḥarām to receive any money for shaving a beard. If the amount of illicit money is known, it should be returned to its original owner — if he is known — or a settlement should be reached with him. If the owner is not known — even as a person among a small group of people — it is incumbent on recipient to give it to the poor in charity. If the amount of ḥarām money is not known but the owner is, it is obligatory on the person to reach a settlement, in any way possible, with the original owner.

Should neither the amount nor the owner be known, he has to

purify his money from what is ḥarām by paying the khums. One should pay the khums of the left over money if it was an income and is not spent up to the end of the khums year for the yearly expenses.

Q1412: Sometimes people come to me to fix their shaving machines. Since shaving the beard is ḥarām, is it permissible for me to repair such machines?

A: Since this machine can be used for purposes other than shaving a beard, there is no harm in repairing it and getting paid for the work provided that it is not intended to be used for shaving the beard.

Q1413: Is it ḥarām to shave the hair of the cheeks or remove it in any other way, i.e., by using a string or tweezers?

A: It is not ḥarām to remove the hair growing on the cheeks, even by way of shaving.

## Attending Gatherings of Debauchery

Q1414: From time to time parties, attended by professors and students alike, are held in the universities in foreign countries. It goes without saying that alcoholic drinks are served in such parties. What should be the position of the students who want to attend these parties?

A: It is not permissible for anyone to attend any gathering where alcoholic drinks are consumed. You should not take part in such activities to let it be known to those people that since you are Muslim, you neither drink alcoholic drinks nor attend gatherings where such drinks are served.

Q1415: What is the ruling in the matter of taking part in wedding parties? Is attending today's wedding parties where dancing is commonplace tantamount to condoning the action, which can have the same punishment as those who have committed that action (consequently we should not participate in such parties)? Is it permissible to attend these parties without taking part in dancing and the other functions?

A: There is no problem in attending such gatherings provided that the gatherings do not fit the definition of "the gathering of sin and lahw" and taking part in them should also not entail any vile deed. However, the action should not be seen in the common view, as though one is supporting what is not permissible.

Q1416: 1. What is the ruling in the matter of taking part in ceremonies where men and women attend their respective gatherings and dance and play music?

2. Is it permissible to take part in wedding parties where dancing and playing music is commonplace?

3. Should one uphold the duty of forbidding the evil where dancing is taking place, especially when the people concerned are impervious to such counsel?

4. What is the view on men and women dancing together?

A: Generally speaking, it is not permissible to dance in such a way as to arouse sexual desire, go hand-in-hand with what is ḥarām or lead to it. Nor is it permissible when non-maḥram women and men do it jointly. Whether such dancing takes place in wedding parties or in other venues is immaterial.

It is also not permissible to attend sin parties if it leads to

committing ḥarām deeds such as listening to lahwī and ravishing music that is suitable for gatherings of sin and merrymaking, or understood as supporting that which is sinful.

As for the duty of enjoining the good and forbidding evil, it ceases to be obligatory when it certainly falls on deaf ears.

Q1417: Suppose that a man attended a wedding party where there is, among those present, a woman without ḥijāb. Since the man knows that the woman is not going to listen to his forbidding her from the evil, does it become incumbent on him to leave the party?

A: Leaving the gathering of sin, in protest against what is taking place there, becomes obligatory when it amounts to the obligation of forbidding evil.

Q1418: Is it permissible to take part in gatherings where morally corrupt songs of ghinā' are sung? And what is the ruling if someone is doubtful as to the nature of the songs and he cannot stop it?

A: It is not permissible to attend parties where ghinā' and lahwī mutrib music, that is suitable for gatherings of sin and lahw take place when this leads to listening to such singing and music or supporting it. However, when someone is doubtful about the nature of them, there is no harm in attending and listening to them per se.

Q1419: What is the ruling in the matter of attending gatherings, where perhaps religious luminaries, the officials of the Islamic Republic, or other believers are being slandered?

A: There is no objection to attending such gatherings per se, i.e., without being afflicted with committing what is ḥarām, such as listening to backbiting, or promoting/condoning any evil deed. However, forbidding evil is a duty that has to be upheld if its conditions are available.

Q1420: In non-Muslim countries, alcoholic beverages are normally served in seminars and conferences. Is it permissible to participate in such seminars and conferences?

A: It is not permissible to be present in any gathering where alcoholic beverages are consumed. In case of necessity, the participation should be limited to that which is necessary.

## Writing Supplications and Istikhārah

Q1421: Is it permissible to pay or receive money in return for writing supplications?

A: There is no harm in paying or receiving money for writing authentic supplications.

Q1422: What is the ruling in the matter of supplications whose writers allege that they are found in old books? Are these supplications lawfully recognized? And what is the view on reciting them?

A: If the supplications transmitted from the Imams (a.s.) or their contents are right, there is no harm in seeking the blessing from them. Nor is there any harm in seeking blessing in the ones whose authenticity is in doubt in the hope that they might have emanated from the infallible Imams (a.s.).

Q1423: Is it obligatory to act upon istikhārah?

A: Acting upon istikhārah is not binding as per shar'. However, it is preferable not to act against its outcome.

Q1424: According to common belief, there is no place for istikhārah in doing charitable work. Is it, therefore, permissible to rely on istikhārah in order to determine the best way to go about doing this work or with a view to circumventing unforeseen problems in the process? And is istikhārah a means of knowing the unseen or does no one, apart from Allah, the Exalted, know about it?

A: Istikhārah should be embarked on as a way of overcoming indecision over doing lawful things, regardless of the nature of indecision, i.e., whether it is emanated from the nature of the intended action or the route taken to do it. Accordingly, doing charitable work, which does not call for indecision, should not necessitate resorting to istikhārah. Istikhārah is not a means to foretelling the future of the person or the work.

Q1425: Is it right to resort to istikhārah by way of consulting the Holy Qur'an in matters such as divorce? And what is the view on not acting on the result of istikhārah, having done it?

A: The permissibility of doing istikhārah by consulting the Holy Qur'an, or by way of prayer beads, is not confined to certain issues to the exclusion of others. Istikhārah could be made in all lawful circumstances where the person concerned is unable to

decide upon the matter. It is not lawfully binding to follow the result of istikhārah, although it is advisable not to go against it.

Q1426: Is it proper to resort to istikhārah, by consulting the Holy Qur'an or by prayer beads, in decisive matters, such as marriage?

A: For making a decision on a matter, it is preferable to ponder about it and to consult experienced trustworthy people about it. If these steps fail to remove his/her indecision, one can resort to istikhārah.

Q1427: Is it right to take istikhārah more than once for the same issue?

A: Since istikhārah is sought as a means of removing the state of indecision, a goal that should have been achieved by the first one, there is no point in repeating the same. However, should the subject of istikhārah change, one can do istikhārah afresh.

Q1428: Sometimes a person comes by some leaflets containing some information about miracles of Imam Riḍā (a.s.). The publishers of such leaflets usually make a request that the reader makes more copies of them for distribution to other people and in so doing they would achieve what they aspire to. Is there any truth in this? And is it obligatory on the reader to comply with the request of the publishers?

A: There is no evidence in Islamic law that this has any weight. The reader has no obligation towards acceding to the publishers' request.

# **Part 12**

## **Religious Events**

## Commemoration

Q1429: What is the view on the traditional re-enactment of the martyrdom of Imam Ḥusayn (a.s.) which may have some positive effect on the minds of people?

A: There is no harm in it provided that it is bereft of lies and falsehoods, does not lead to vile deeds, and does not undermine the true school of thought due to the requirements of the times. However, it is preferable that assemblies commemorating the martyrdom of Imam Ḥusayn (a.s.) are held where preaching can be done and words of guidance imparted along with elegy recitation.

Q1430: What is the view on beating the drum and cymbal, blowing the trumpet, and lashing oneself with chains with blades during the processions of the commemoration of the martyrdom of Imam Ḥusayn (a.s.)?

A: If the use of such chains leads, in the eye of the public, to defaming our school of thought or inflicting a noticeable harmful effect on the body, it is not permissible. There is no harm in using the drum, cymbal, and trumpet in the traditional way.

Q1431: In commemorating the martyrdom of Imam Ḥusayn (a.s.) highly decorated mourning standards are displayed in the masjids. This is bound to call in the mind of devout people the question as to the rationale behind such expensive exhibits. It may, as well, have adverse impact on the programs designed to propagate the word of Islam. It may also run contrary to the noble aims of the masjid. What is the religious position on that?

A: It is problematic if the act of exhibiting them impinges on the status of the masjid — as seen in the common view — or proves a nuisance to the worshippers.

Q1432: If someone makes a nadhr to place a mourning standard in the ḥusayniyyah, are the people responsible for the upkeep of the ḥusayniyyah justified in not accepting it?

A: The trustees of the ḥusayniyyah are not under any obligation to accept this mourning standard.

Q1433: What is the ruling in the matter of using mourning

standards in the rituals/processions commemorating the martyrdom of Imam Ḥusayn (a.s.) by putting it in the masjid or carrying it along with the mourners?

A: There is no problem in so doing in itself. However, this should not be perceived as part of the religious tradition.

Q1434: As a result of taking part in the commemorative ceremonies of Imam Ḥusayn (a.s.), a worshipper missed out on some devotions, such as the morning prayer. Is it better for this worshipper to refrain from attending the commemorative ceremonies or that breaking the habit would result in alienation from the Household of the Prophet (s.a.w.)?

A: No doubt the obligatory prayer takes precedence over the participation in the commemorative ceremonies of the Household of the Prophet (s.a.w.). Therefore, it is not permissible to overlook an obligatory prayer under the pretext of taking part in the commemorative ceremony of Imam Ḥusayn (a.s.). The participation could be in a way which does not prevent one from performing prayers and it is a highly *mustahabb* practice.

Q1435: Some religious organizations hold ceremonies commemorating the martyrdom of Imam Ḥusayn. Some of the accounts they recite about how the Imam was martyred are not quoted from reliable sources or heard from any mujtahid. When the reciters are asked about the source, the reply is that the Ahlul-Bayt (a.s.) had taught us the same and that the account of the Battle of Karbala can be related by way of inspiration as well and not necessarily through quoting. My question is this: Can the historical events be related through inspiration? If it is not the case, what should be the position of the listeners of such accounts?

A: Recounting the events in such a way without any evidence of an authoritative account or quoting from a reliable ḥadith has no basis in Islamic law unless he says it is his perception of the story and there is no evidence against it. The audience has the duty of forbidding evil if otherwise and the conditions are available.

Q1436: Recitation of the Holy Qur'an and sermons emanate from the loudspeakers installed on top of masjid buildings,

especially during the season of the commemoration of the martyrdom of Imam Ḥusayn (a.s.). Although the sound is very loud, which can be a nuisance to neighbors, the people responsible for the functions are adamant to carry on. What is the ruling in this matter?

A: Although holding commemorative rituals and religious functions during the commemoration season in a ḥusayniyyah is among the best and highly mustaḥabb practices, the people responsible for holding these gatherings should do their best to avoid all that which may cause a nuisance to neighbors. They could do this by lowering the volume of the public address system or by directing the speakers inward.

Q1437: During the month of the Muḥarram, commemorative processions and the sounds of drums and trumpets continue until after midnight. What is your view on such a practice?

A: Staging processions commemorating the martyrdom of Imam Ḥusayn (a.s.) and his companions and taking part in these religious ceremonies are commendable works. Indeed, it is among the best deeds by which one can seek closeness to Allah, the Exalted. However, one must be mindful not to embark on any action which might cause distress to others or is ḥarām in itself.

Q1438: What is the ruling in the matter of using musical instruments, such as the organ, in commemorative marches?

A: Using musical instruments is inappropriate for the commemoration ceremonies of the Master of Martyrs (a.s.). It is preferable to hold commemoration ceremonies in the same traditional way that has been handed down through the generations.

Q1439: Is there any basis in religion for piercing one's body with weights dangling therefrom, all in the name of commemorating the martyrdom of the Imam Ḥusayn (a.s.)?

A: These acts, which are, inevitably, bound to portray our school of thought in a negative shade, are impermissible.

Q1440: What is the ruling in the matter of people who let themselves fall onto the floor before they enter the Holy Shrines of Imams (a.s.), rubbing their face and chest on the

ground and bruising their body?

A: There is no evidence in Islamic Law that may lend support to such behavior that is not considered as showing empathy with the plight of the Imams (a.s.). Moreover, it is not permissible if it causes serious bodily harm or besmirches the image of our school of thought.

Q1441: In some areas women hold functions under the title of "The wedding of Fātimah (a.s.)", where they sing songs, clap and dance. What is the view on these matters?

A: In itself, there is no objection to holding such parties provided that the proceedings do not contain any lies or falsehoods and do not put our school of thought in a bad light. Dancing is not permissible if it is performed in a sexually arousing way or leads to the commission of a ḥarām action.

Q1442: In what avenues should the money left over from the donations for holding commemorative gatherings for the occasion of the martyrdom of the Imam Ḥusayn (a.s.) be spent?

A: Provided that the permission of the donors is obtained, the remainder could be spent in charitable causes or saved for future commemorative functions.

Q1443: Is it permissible to allocate donated funds, for the purposes of holding gatherings commemorating the martyrdom of the Imam Ḥusayn (a.s.), to the preacher, the Qur'an reciter, the elegy orator, the expenditure incurred from hosting the audience and similar avenues?

A: There is no harm in it provided that it is done with the consent and the permission of the donors.

Q1444: Is it permissible for women to take part in the processions where beating the chests and lashing with chains take place provided that they observe ḥijāb and wear special clothes?

A: It is not appropriate for women to take part in the processions of chest beating and lashing with chains.

Q1445: In gatherings held for the commemoration of the

demise of the Imams (a.s.), if hitting with a machete leads to one's death, is it considered suicide?

A: If this practice does not usually lead to death, the ruling of suicide does not apply to it. However, if it was known at the outset that it may endanger one's life, yet the person did it and died, it is ruled to be a suicidal act.

Q1446: Is it permissible to attend memorial services for those who committed suicide? And what is the view on reciting the chapter al-Fātiḥah at their graves?

A: There is no objection to it in itself.

Q1447: What is the ruling in the matter of reciting songs of praise when celebrating the birthdays of the Infallibles (a.s.), or the day in which our holy prophet (s.a.w) was appointed as such? And what is the view on scattering money on people attending these functions?

A: There is no problem in reciting elegies and songs of praise to mark happy religious occasions. And there is no harm in scattering money on people attending such functions. Indeed, it is rewarding if it is intended to show one's bliss and bring happiness to the believer audience.

Q1448: Is it permissible for a woman to be an elegy reciter in commemorative gatherings if she knows that men, who are non-maḥram to her, would hear her voice?

A: If the fear of vile consequences exists, they should avoid it.

Q1449: In commemorating the martyrdom of Imam Ḥusayn (a.s.) on the tenth of Muḥarram, some people hit themselves with a machete, or walk bare-footed on fire. Such actions defame Shi'ism and put it in a bad light, if not undermine it. They cause bodily and spiritual harms on those doing it as well. What is your opinion in this matter?

A: Any practice that causes bodily harm, or leads to defaming the faith, is ḥarām. Accordingly, the believers have to steer clear of it. There is no doubt that many of these practices besmirch the image of Ahlul Bayt's (a.s.) School of Thought which is the worst damage and loss.

Q1450: Is hitting oneself with swords ḥalāl if it is done in secret? Or is your fatwā in this regard universal?

A: In addition to the fact that it is not held in the common view as manifestations of mourning and grief and it has no precedent at the lifetime of the Imams (a.s.) and even after that and we have not received any tradition quoted from the Infallibles (a.s.) about any support for this act, be it privately or publicly, this practice would, at the present time, give others a bad image of our school of thought. Therefore, there is no way that it can be considered permissible.

Q1451: What is the shar'ī criterion in determining physical or psychological damage?

A: The criterion is noticeable and considerable harm judged by common sense.

Q1452: What is the ruling in the matter of lashing oneself with chains as done by some Muslims?

A: If it is that which is commonly done and considered by common people as a manifestation of grief in commemorative gatherings, there is no harm in it.

## Birthdays and Festivals

Q1453: Is it permissible to strike "The pact of brotherhood" on days other than the 'Īd of Ghadīr Khum?

A: It is not known that concluding such a pact is confined to the occasion of celebrating "the 'Īd of Ghadīr Khum", although it is advisable and, as a caution, to confine it to that.

Q1454: Should "The pact of brotherhood" be concluded in accordance with the handed down format, or can it be done in any other language?

A: Although adhering to the transmitted formula is better, yet it does not have to be followed.

Q1455. What is your opinion with regard to the festival of Nawrūz (the celebration of the Iranian New Year)?

In other words, is there any basis in the precepts of divine law that it has to be celebrated in parity with such festivals as 'Īd of Fiṭr and 'Īd of Adḥā, or is it a blessed day as any other holy day such as Friday, etc?

A: There is no reliable report to the effect that Nawrūz is considered among religious festivals or holy days. However, there is no harm in celebrating or visiting one's relatives on this day, rather, as it reinforces the ties among blood relatives, it is recommendable.

Q1456: Is there any truth in what has been reported of the lofty position of the Day of Nawrūz and the great reward that could be reaped for engaging in acts of worship on that day? Is it permissible to engage in these acts of worship as really desired in Islam?

A: Doing so with the intention of being really reported in shar' is problematic and a matter for contemplation. However, there is no harm in engaging in these acts of worship in the hope of being mustaḥabb in Islam.

## **Hoarding and Extravagance**

Q1457: What are the things that are ḥarām to hoard? And do you authorize the imposition of financial penalties on hoarders?

A: According to transmitted traditions and the most famous view, things that are forbidden to be hoarded are confined to the four crops (wheat, barley, dates, and raisins) and animal / vegetable fat which are commonly used by different sections of the society. However, if the public interest necessitates, the Islamic state has the jurisdiction to ban the hoarding of all that the people need. There is no objection to imposing financial penalties on hoarders if the judge thinks fit.

Q1458: It is said that using up electricity more than one's requirements is not considered extravagance. Is it true?

A: There is no doubt that consumption beyond one's requirements is regarded as wastefulness, including the use of electric power. The truth is contained in the Prophetic tradition, "There should be no extravagance in good".

# **Part 13**

## **Buying and Selling**

## Terms of Contract

Q1459: Is de facto transaction binding as the one which is done through utterance of the formula?

A: Insofar as their binding powers are concerned, both de facto transaction and that done through utterance of the formula are the same.

Q1460: Members of a family agreed between themselves on the sale of, or reached a settlement about, some property and got the deal written and signed. However, they neither registered the sale with the competent authorities, nor was the particular formula uttered by a cleric. Is such transaction valid from both shar'ī and legal aspects?

A: It is both valid and binding. That it is not registered with the authorities or that the formula was not uttered should not detract from its validity.

Q1461: Is it permissible to buy property without officially registering its deed with the lands department?

A: The materialization of buying and selling does not call for procuring an official document. The yardstick is the actual transfer of the property by the owner, his agent, or guardian, by way of a lawful and valid selling procedure, even without registering the deed.

Q1462: Is preparing an unofficial sale contract sufficient for the materialization of sale between the vendor and purchaser? And is the intention of both the parties to carry out the contract sufficient to make the deal a reality and, therefore, does it bind the vendor to prepare the official sale document and transfer the goods to the purchaser?

A: Neither the mere intention to sell nor the preparation of an unofficial sale document is sufficient for the materialization of the sale and transfer of the ownership of goods to the purchaser. Unless the deal is struck according to shar'ī norms, the vendor is not obliged to prepare sale document in the name of the purchaser and transfer the goods to him.

Q1463: Two parties reached an agreement concerning a sale

whereby the purchaser paid a down payment to the vendor. About it they prepared a document and stipulated therein that in the event of not completing the deal, the defaulting party should pay a certain amount to the party who kept his part of the deal. Could this very document be considered a sale document? In other words, is the mere agreement between the two parties and their will to complete the deal sufficient for the materialization of the sale in such a way that each party is allowed to demand the other to observe the mentioned condition?

A: The mere intention to sell, agreement to conclude it or promising to do so, even by a provisional written agreement, does not amount to a proper sale and is not sufficient for the validity thereof. The condition is, therefore, not binding unless it is enshrined in the appropriate sale contract or the contract is based on it. Thus unless the sale and transfer of the goods are done in a lawful manner, neither party is under any obligation vis-à-vis the other as far as the arrangement and promise to finalize the deal are concerned.

## Conditions of the Contracting Parties

Q1464: If the government or Islamic court injunction forced someone to sell their land and household effects, is it permissible for those who know that the person has been compelled to sell his/her belongings to buy them?

A: If they have been forced to sell their land and household effects rightfully, i.e., by those who have the right to issue such an injunction, there is no harm in buying the same from them. Otherwise, the owner's consent should be obtained even after the transaction is made.

Q1465: The sale of some property involved a chain of buyers and sellers. Thereafter, the original vendor's property is frozen and confiscated. Does this extend to the sale of the property and thereby render it null and void?

A: If it is proved that at the time of transaction the original vendor was banned from selling the property by an Islamic court injunction or despite his control over the property, he was not its owner, i.e., the judge had the right to confiscate the property, the injunction to freezing the property could be applied to the sale thereof, in which case the sale made before the injunction is deemed null and void.

Otherwise, the subsequent order to freeze the person's possessions should not apply to the sale of the property. Accordingly, it would not make any deal prior to the freezing null and void.

Q1466: The complexities of social relations and people's economic and social problems may compel people to conclude deals, which are unfair and harmful to them or at least the transaction is considered disliked in the common view. Should compulsion render such deals null and void according to Islamic Law?

A: From a jurisprudential viewpoint, concluding any deal out of compulsion, yet willingly, does not detract from the validity of the deal. However, as far as the ethical and humanitarian aspects are concerned, the other party must not make capital out of the misfortunes of the second party.

## **Fuḍūlī Sale**

Q1467: I bought an arable plot of land from my brother through a revocable transaction. My brother changed his mind and sold the land to another person. Has he the right to do so?

A: Should the first sale have gone through in a proper sharʿī manner, the vendor has no right to sell the land to a second person before canceling the first sale. If he has gone ahead with the second sale, the latter should be deemed fuḍūlī which needs the permission of the first purchaser.

Q1468: Members of a cooperative building society bought a plot of land with their own money. The land was officially registered in the name of the society. Later on, the administrative committee of the society became a new member of the society and sold the land below its actual price without the permission of the previous members. Is such a transaction valid?

A: Should the land have been bought by the members for their own use and with their own money, it is theirs. The others have no right of disposal over it. The sale of the land by the administrative committee of the society without the permission of the owners is considered fuḍūlī.

However, if the land was bought with money from the capital of the society, in its legal capacity, and for its own purposes, it would constitute part of its assets. Accordingly, the administrative committee should have right of disposal over the land in accordance with the rules and regulations of the society.

Q1469: Before his embarking on a journey, a person appointed his brother agent, especially with regard to selling his house to any interested party, including the agent himself. After return, the person changed his mind as to the sale of the house and told his brother verbally of his intention. Nevertheless, the brother took the necessary arrangements to transfer the title deed of the property to his name without paying the price to the original owner. Is this sale valid?

A: If it is proved that the agent has sold himself the house despite the fact that he was aware the power of attorney was revoked, albeit verbally, the sale is regarded as fuḍūlī which is unlawful unless permission of the original owner is granted.

Q1470: The owner of a particular type of merchandise sold it to a person. Having not delivered it to the first buyer, he sold it to another person contrary to the fact that he had not the right to cancel the first sale contract. Is such a deal valid? And is it permissible for the second buyer to demand the goods in accordance with the second sale contract?

A: After the merchandise has been sold to the first buyer, selling it to another person without the permission of the first buyer is *fudūlī* and dependent on his permission. Unless the first buyer authorizes the second sale to take place, he can take possession of the goods wherever he finds them and the second buyer has no right to ask the vendor to hand the goods over to him.

Q1471: Someone bought property with the money of another person. Is the ownership of the property his or that of the owner of the money?

A: If the very purchase of the property has been made with the money of the other person, and the latter sanctioned the deal, the property is rightfully his. That is, the buyer has no right in it. Otherwise, the deal is void. Yet, if the person who concluded the deal bought the property on trust for himself but paid the price later from the money of another person, the property shall be his and he would remain indebted with the purchase price to the vendor. He is liable for the money paid to the vendor. The latter should return the money to its owner.

Q1472: A person sold the property of another person and spent the proceeds. After a very long time, he decided to compensate the owner. How should he go about compensating the owner, i.e. paying him the original amount, the current market price of the property, or its market price at the time of selling?

A: If, after the owner had sanctioned the very sale, he sanctioned the receipt of the money as well, the person who concluded the deal should pay the same to the original owner. If the owner had rejected the sale, the seller should try his best to return the same property to its owner if possible. Otherwise, he should compensate the owner whether with a similar property or with its value. As based on caution, however, he must

reach a settlement with the owner about the difference between the price at the time of payment and the price at the time of transaction.

## Those with the Right of Disposal

Q1473. A father bought some property for his minor children. Having satisfied the legal requirements for the sale, can the sale be deemed concluded by the father's taking possession of the property, as the guardian of the children?

A: After legally concluding the deal by the father on behalf of his children, taking possession of the property by the father, as the children's guardian, is sufficient for applying the consequences of the sale.

Q1474: While I was a child, my legal guardian sold a piece of land which belonged to me and received a down payment. I'm not quite sure if the final sale was concluded. However, the land is at the disposal of the so-called buyer. Is this sale binding on me, or am I justified in claiming the land back?

A: If it is proved that your legal guardian sold your land at that time on the basis of his guardianship over you, the sale is valid. You have no right to the land unless the revocation of the sale is proved.

Q1475: The legal guardian of orphaned minors withheld the cash amount remaining from the estate of their deceased parent. He did not invest it with the banks, or in any other avenue, whereby he could have got a handsome return on the money. Should he indemnify the children? And what is the view if the guardian invested the money in some sort of business and made some unspecified amount of profit?

A: The guardian is not responsible for indemnifying hypothetical profits of the minor orphans' money. However, if he had invested the money in business, all the profits made thereof belong to the children. The guardian, though, can receive only the standard wages for his work and that is if he was legally authorized to trade in the money of the children.

Q1476: Is it permissible for children, or sons-in-laws, of a person who is not a ward to sell his property while they have neither power of attorney nor his permission?

A: Selling the property of other people without their permission is *fuḍūlī* and requires the owner's permission. Even if the person who concluded this sale is the son-in-law of the owner,

or one of his offspring, the sale is unsound without the permission of the owner.

Q1477: A person is incapacitated with mental disability after suffering a stroke. How should his children behave vis-à-vis his property? And what is the ruling in the matter of one of the children making use of his father's property without the permission of the authorized religious authority, nor that of the rest of the children?

A: Should the incapacity, in the eyes of the common people, be regarded as insanity, the guardianship over his property belongs to the authorized religious authority. No one is authorized to make use of his property without the permission of the authorized religious authority. However, if this has happened, i.e. without such permission, it will amount to usurpation which would eventually entail compensation. Furthermore, the transactions are *fudūlī* and should be contingent upon obtaining such permission.

Q1478: A person married a martyr's widow. By virtue of this marriage, the husband took overall charge of the affairs of the family. Is it permissible for the husband, his wife, and her children to make use of the pension provided by the Foundation of Martyrs to the children? How could the pension or the in kind monetary aid, this foundation gives them, be spent? Should such income be spent on the needs of the children only?

A: The income of the martyr's minor children should be handled, be it spending it on their provisions or using it for other purposes, with the permission of their *shar'ī* guardian.

Q1479. How should the presents given to the family of a martyr by his friends be treated? In other words, should they be regarded as part of his children's property?

A: Once the *shar'ī* guardian of the children has accepted the presents given to them, they become part of their property. Handling such property by others is dependent on the permission of the guardian.

Q1480: After the death of my father, my uncles began to run his shop, opting to pay us a monthly rent. After a while, my mother, who was then our legal guardian, borrowed an amount of money from one of my uncles. My uncles withheld the

payment of rent to recover the amount of the debt. Later on, they bought the shop from my mother contrary to the provisions of the law that had been designed to preserve the rights of minors in their property until they attain ritual maturity. The transaction was concluded at the time of the previous regime with the mediation of one of the regime's men. What is our duty now? Can the previous actions and transactions be regarded as valid? Are we justified in revoking the transaction? And should the right of the children be overlooked because of time lag?

A: Renting the shop and deducting money from the rent in settlement of the debt are both valid, so is the eventual sale of the shop. That is unless it is legally and Islamically proved that the sale transaction was not in the best interests of the children, or the legal guardian of the children was not authorized to conclude the sale and the children did not sanction the deal after they attained ritual maturity. Assuming that the transaction was proved void, the time lag factor is of no consequence on overlooking the children's rights.

Q1481: My husband was killed in a traffic accident. The driver of the car involved in the accident was my husband's friend. As a result, I have become the shar'ī guardian of my children:

1. Should I demand blood money from the driver of the car, or ask him to follow the claim up with the insurance company?
2. Is it permissible for me to have a free hand in the property of the children for holding a memorial service for their dead father?
3. Have I the right to forgo the children's right to the blood money?
4. Suppose I have forgone their right, yet they do not agree with the decision once they become ritually mature, could I be obliged to compensate them with the blood money?

A: 1. Should the driver be liable in shar' to pay the blood money, it is incumbent on you, as the guardian of your children, to preserve their shar'ī rights by demanding it from those who should pay such money. The same goes for their right insofar as the insurance claim is concerned if the children are entitled to compensation.

2. It is not permissible to spend the money bequeathed to the

children by their father on holding a memorial service.

3. You have no right to forgo the children's right to the blood money which is against their interest.

4. After they have become ritually mature, they have every right to claim the blood money.

Q1482: My husband died, leaving me with minor children. According to the court's injunction the paternal grandfather became their legal guardian. Should one of the children grow up to the age of ritual maturity, can he become the shar'ī guardian of his minor brothers and sisters? If he cannot, can I be the guardian over the children? Also, in accordance with the court's injunction, their grandfather would take a share of one sixth in the estate. What is your opinion?

A: The guardianship of, and the supervision over, the orphaned children are the right of the paternal grandfather until such a time comes when they reach ritual maturity. This, however, does not require an injunction from the court. That said, the best interests of the children should govern his right of disposal over their property. Should he behave against that, they have the right of recourse to the court. Any child attaining ritual maturity comes out from the remit of guardianship of his grandfather to manage his own affairs.

However, neither the child who has reached ritual maturity nor his mother has the right of guardianship over the other minor children. Since the grandfather has the right to acquire one sixth of the deceased's estate, there is no objection that he got his share.

Q1483: A woman was killed. She left her father, mother, husband, and three minor children behind. Her brother-in-law was convicted of her murder and ordered to pay blood money to the woman's inheritors. However, the killed woman's husband, who is the shar'ī guardian of the children, is convinced that his brother is not the killer. Thus, he refused to receive the blood money:

1. Is he justified in so doing?

2. With the existence of the father and the paternal grandfather of the children, has anyone else the right to intervene and insist on having blood money for the children from their

convicted uncle?

A: 1. If the children's father was absolutely certain that his brother was not the killer of his wife, it is not permissible for him to demand, and receive, the blood money in the name of restoring the rights of his minor children.

2. Since the father and the paternal grandfather, who have the right of guardianship over the children, are alive, no one else has the right to meddle in their affairs.

Q1484: A person was killed. He left behind only a number of minor children. Someone was appointed to be their guardian who is not among the inheritors. Is the guardian allowed to pardon the killer or change the penalty of retaliatory punishment for blood money?

A: If the authorities of the shar'ī guardian are transferred to the appointed one, he can pardon the killer through changing the retaliatory punishment for blood money provided that children's interest and welfare are taken into consideration.

Q1485: A minor child has some money in the bank. Can his guardian withdraw some of that money with a view to investing it in business and making some profit for the benefit of the child and covering child's expenses?

A: The minor child's guardian has the right to invest the child's money for the child himself in silent partnership or giving it to somebody to make business with it provided that the middleman is trustworthy. Otherwise, any loss should be indemnified by the guardian.

Q1486: The heirs of a killed person or some of them are minor children and the guardianship over them in claiming their rights is with the authorized religious authority. Then, if it is proved for the authorized religious authority that the perpetrator is insolvent, has he the right to change the retaliatory punishment for blood money?

A: Should the authorized religious authority see that children's interest and welfare is in changing, he is allowed to do so.

Q1487: Can the authorized religious authority withhold the right of guardianship over a minor child from his natural

guardian after concluding that he is doing harm to the property of the child?

A: Should the authorized religious authority be satisfied by way of evidence that the continuance of the guardian having the right of disposal over the child's property would be detrimental to the child's welfare, he is obliged to dismiss him.

Q1488: Someone presents or gives a minor child by way of *şulh* for free which is in consistence with the child's interest, but the guardian refuses to accept it. Does it amount to harming the minor or neglecting its interest?

A: The mere refusal by the guardian of the grant or *şulh* for free given to the minor child does not amount to damaging or neglecting the child's interest. Accordingly, there is no objection to it in itself, in that it is not incumbent on the guardian to get the money for the child. Rather, non-compliance, in some cases may be considered in the best interest of the child in the sight of the guardian.

Q1489: The state granted the orphans of a martyr a plot of land or some property and sanctioned it to be registered in their names. The legal guardian of the minor children refused to sign the official documents. Can the authorized religious authority do so in his capacity as guardian?

A: Should the obtaining of funds for the children be dependent on the signature of the guardian, it is not obligatory on him to comply. In the presence of their legal guardian, the authorized religious authority has no authority to act as the children's guardian. However, if the preservation of a minors' property is dependent on the signature of the guardian, he has no right to withhold it. If this happens, the authorized religious authority has the right to force him to sign the documentation or to do it himself as the children's guardian.

Q1490: Has the guardian to be a just person? And if the guardian of the child is corrupt so much so that it is feared that the child would be corrupted or his property would be damaged, what should the authorized religious authority do?

A: Justice is not a condition when it comes to the guardianship of the father or the paternal grandfather over the child.

However, if the authorized religious authority is convinced even through circumstantial evidence that the child's father or paternal grandfather would introduce harm to the child's interest, he should dismiss the guardian and ban him from meddling with their property.

Q1491: If all the heirs of a murdered person are minor children or mad, is it permissible for their father or grandfather, i.e. their natural guardians, or the guardian appointed by the court to demand retaliatory punishment or blood money?

A: From the proofs relating to the guardianship over minor children and the mad, it is concluded that the Divine Legislator had appointed the guardian for keeping the interests of those under guardianship. Accordingly, in the aforementioned case, the shar'ī guardian should not make a decision unless he takes into consideration their interests. His choice among retaliatory punishment, blood money, or pardon in return for compensation or without it would, therefore, be effective. Of course, to determine their interests, he should take into account all aspects including the period left for their attaining the age of ritual maturity.

Q1492: An adult is injured. Has the man's father or paternal grandfather the right to demand or take blood money for the victim without his permission, i.e. is the criminal obligated to pay blood money to the victim upon their demand?

A: They have no right of guardianship over a sane, adult person. Accordingly, it is not permissible for them to demand his right without his permission.

Q1493: Is it permissible for the guardian of minor children to permit the disposal of the amount in excess of the share of one-third which has been bequeathed by the father?

A: The shar'ī guardian has the right of giving such a permission after taking into consideration minor children's interest.

Q1494: Who is the final arbiter as regards the affairs of the offspring? Is it the father or the mother? If the father or the paternal grandfather has no overall preference, and parents have a say in it, is it the father, or the mother, who should have the

final say in the event of a dispute?

A: The ruling varies in accordance with the rights. The wilāyah over the child is for the father and the paternal grandfather. The right of ḥiḍānah of the boy for the first two years and the girl for the first seven years is the mother's. After that it becomes the father's. For children's part, i.e. to be obedient and not be a source of nuisance and harm to their parents, there is no difference between father and mother. However, the son/daughter should accord his/her mother a preferential treatment, pursuant to the tradition, "Paradise is under the feet of mothers".

Q1495: My husband was martyred, leaving me with two children. Both my brother-in-law and mother-in-law snatched the children with all their possessions and refused to return them to me. It is noteworthy that I shunned the idea of remarrying because I wanted to dedicate my life to their upbringing. Who has the right of supervision over the children and their property?

A: The mother has the right to keep the orphans until their age of ritual maturity. However, the guardianship over the property is the right of the sharī guardian. If there is no guardian, the authorized religious authority has the right of guardianship. Thus, neither the children's uncle nor their grandmother has the right of custody or guardianship over them and their property.

Q1496: After the widow remarries, some guardians of minor children resort to denying the children and their mother their shares in the estate of their father. Is there any legal way of forcing such people to hand over the shares of minor children to their mother who cares for them?

A: The minor children's sharī guardian should behave on the basis of children's interest which is to be determined by him. Any time the guardian acts against their interest and it results in conflict, the case should be referred to the authorized religious authority.

Q1497: Is the minor children's guardian allowed to make business with their property, taking into account their interests?

A: There is no objection to that provided that children's interests are regarded.

Q1498: Who has priority in the guardianship of children and their bringing up the grandfather, the paternal uncle, the maternal uncle, or the wife?

A: The paternal grandfather has the right of sharī guardianship of the minor orphans and their properties. The mother has the right of their custody. Neither the paternal uncle nor the maternal uncle should have any say in these matters.

Q1499: Has the court jurisdiction to give the right of disposal over the property of minor children to their mother in return for her agreeing to their bringing up in such a way that their paternal grandfather has a general supervisory part to play and not a direct role?

A: This is not permissible without the consent of the paternal grandfather, who is the sharī guardian of the children. However, if placement of the children's property under the control of their grandfather proved to be detrimental to their interests, the authorized religious authority can prevent it. In such a case, the judge can entrust the guardianship to whomever he deems as suitable, whether their mother or anyone else.

Q1500: Is it obligatory on the guardian of the minor child to receive its share of the blood money? And is it compulsory on him to invest the child's share from the blood money for the benefit of the child in, say, a savings bank account?

A: It is obligatory on the guardian to demand and take blood money from the perpetrator, should the crime entail blood money. On receipt of such money, the guardian has to safeguard it until the child becomes ritually mature. However, it is not incumbent on him to invest the money. Yet, he may do so provided that the interest of the child is taken into account.

Q1501: One of the partners of a company died, leaving behind minor children as new partners. How should the other partners go about the business of the company?

A: The sharī guardian of the children, or the authorized

religious authority must be consulted as regards their share in the company.

Q1502: Is it obligatory to hand over children's property, which they inherited, to the grandfather as their shar'ī guardian? And suppose it is obligatory, where would the children and their mother live and who is going to feed them, especially when they are still attending school or are minors and their mother is just a housewife?

A: The guardianship over children does not mean handing their property over to the guardian and denying them having access to it until they have attained ritual maturity. It means that the guardian acts as the supervisor over the children and their property to keep their property and that any involvement in their property needs his permission. It is incumbent on him to spend their own money proportionate to their needs. Should he see it fit to put the property at their disposal and that of their mother, he has every right to do so.

Q1503: To what extent can a father have right of disposal over the property of his adult independent son? If he acts wrongfully, can he be asked to compensate his son?

A: He has no right of disposal over the property of his adult son unless it is done with the approval of his son. If he acts contrary to his son's wish, he would have committed a ḥarām act. He should, therefore, compensate his son, excluding exceptional circumstances.

Q1504: In his capacity as his orphan brothers' guardian, a man bought them a plot of land with their own money. However, he did not get an official document for the purchase of land in the hope that he would get it sometime in the future. He would have hoped to sell it at a higher price. He is now apprehensive that someone might claim the ownership of the land or that it might be confiscated. Furthermore, if he sells the land now, it might not fetch even the original price he paid for it. Should he stand to indemnify the children if the land is sold at a loss?

A: If he is really the shar'ī guardian of the orphans and bought the land with their interest and welfare in mind, he is not liable to anything. Conversely, the purchase transaction is ruled to be

fuḍūlī and its validity depends on the permission of their sharʿī guardian or theirs after they have attained ritual maturity. He should compensate the children for any loss.

Q1505: Is it permissible for a father to borrow money for himself, or lend it to others, from the child's money deposited in his trust?

A: There is no objection to that provided that child's interests are taken into account.

Q1506: If the clothes or toys gifted to a child become redundant, is it permissible for his guardian to give them away in charity?

A: It is permissible for the guardian of a child to do with the items what he deems fit, taking into consideration the child's interest and welfare.

## Terms of Exchanged Items in a Sale

Q1507: Can one sell an organ of his body, such as kidney, to a patient who is in need of a transplant?

A: If removing the organ does not endanger the life of the donating person, there is no objection to his selling the said organ.

Q1508: Certain things are considered by the commoners as having no value. However, others attach great value and importance to these things such as insects, and other creatures that are used in scientific experiments in laboratories and universities. Are such things considered as having monetary value and as being a kind of property, which can, therefore, be bought and sold, or can a claim of compensation be lodged in the event of loss or damage?

A: Anything sensible people want to have, albeit some of them, for its legitimate usages, has monetary value and all rulings that apply to property — like ownership, permissibility of dealing, and liability due to having control over it, damage, etc — could be applied to it. That is except for those rulings which are proved in sharī'ah as not applicable. Anyhow, it is a matter of caution that in trading things like insects or bees, payment is to be made in return for giving up control and the right of allocation over such things.

Q1509: Since the majority of mujtahids make it conditional that the object sold has to have physical reality, is the sale of scientific knowledge, as in bilateral agreements between governments of this day and age, sound?

A: If the knowledge is exchanged under the title of muṣālahah, there is no harm in it.

Q1510: What is the ruling in the matter of selling a plot of land or any other goods to someone who is known to be a thief, as he may pay for the goods with illicit money?

A: There is no objection to dealing with someone who is known to earn money through illicit ways per se. However, if you are absolutely sure that the money paid for the purchased goods is ḥarām, you are not allowed to receive it.

Q1511: For my dowry, I had a plot of land which I later sold. Someone has recently claimed that this land has been an endowment for the past two centuries. How should the sale of the land be treated? What would the position of my husband, who gave me this land as a dowry, be? And finally, what would the position of the buyer be?

A: All transactions done on this land are sound until the person who is claiming that the land is an endowment proves his claim before an Islamic court and that endowment is of the kind that is not permissible to be sold. Assuming that both the counts are successfully proven, all the transactions should then be deemed invalid. There and then, it is obligatory on you to return the money to the buyer and the land should be reinstated as endowment. Your husband should compensate the dowry.

Q1512: Sheep and cattle are smuggled from Iran in to the markets of the Persian Gulf states. Is it permissible to buy such animals in those markets?

A: It is forbidden — according to Islamic law — to export sheep and other quadrupeds to foreign countries through illicit methods and in contravention of the regulations of the Islamic state.

Q1513: Is it permissible for a person who has acquired an import license or a purchasing permit from the Chamber of Commerce to sell it in the open market without carrying out any activity in this regard?

A: In itself, there is no objection to doing so.

Q1514: Some goods are to be sold at auction by order of the court. Is it permissible to sell them below the price determined by a professional person if they do not fetch a higher price?

A: The price estimated by the professional person is not the final arbiter in determining the sale price at an auction. Should the goods be sold to the highest bidder in such a way that is both sharī and legal, the sale is sound.

Q1515: We built a house on a plot of land whose owner is unknown. Is it permissible for us to sell the land and the house to a buyer who is aware of the position of the land, and that only

the building belongs to us?

A: There is no objection to selling the house, not the land, if it was built on the land — whose owner is unknown — with the permission of the authorized religious authority.

Q1516: I sold my property to a person who gave me a down payment by way of a check. While some considerable time has passed and the inflation rate has gone up, he still refuses to cash it and there is no money in the account. Should I claim only the amount of the check or am I entitled to demand a higher price because of inflation?

A: The seller has no right to demand an increase over and above the agreed price. However, assuming that the interests of the seller were damaged due to a diminishing purchasing power precipitated by the delay in paying the money by the buyer, there is a caution to make *muşālahah* with the buyer on the difference in the price.

Q1517: I bought a flat and agreed with the seller that he transfers its ownership to me after a specified period of time. The seller and I agreed in the contract that the price might increase up to 15%. The seller is now asking for an increase of 31% and he will never transfer the flat unless it is paid. Is he justified in his demand for the increase and in not completing the transfer of property?

A: If the final sale price was not concluded when the contract was made and it was left to the date of transferring the property, the sale is void. Thus, the seller has the right to refrain from completing the transaction and to put the price he wishes. Mere agreement between the two parties to decide the final sale price on the day of transfer of the property is not sufficient for the validity of the sale.

Q1518: I bought one fifth of a common share of a plastic factory at a particular price. I paid one quarter of the price in cash. The remainder three quarters was settled in three check payments. However, the factory, the money, and the checks are still in the possession of the seller. Can this sale be regarded valid whereby I can demand my share in the profit of the factory?

A: The validity of the transaction of selling and buying is not dependent on receiving the sold item and paying the whole amount in cash to the seller. If the purchase of one fifth of the factory from the rightful owner, his agent, or his guardian did materialize in a lawful manner, it should be in the ownership of the buyer, whereby all matters relating to the ownership should be applied. Thus, it is within the buyer's right to demand his share of the profits of the factory.

## **Conditions Stipulated in the Contract**

Q1519: Someone sold his orchard to someone else. The seller made a provision in the sale contract that the yield of the orchard belongs to him during his lifetime. Is such a deal valid?

A: There is no objection to selling some property without the return it makes for a definite period of time provided that the sold property has monetary value according to both shar' and common view that it is useful and productive at least after the agreed period. However, should the exception of the benefit for a non-specified period result in not knowing about the price of the property or the property itself, the sale is void because the sold item is of unknown specificities.

Q1520: Should the buyer stipulate in the sale agreement that the seller pays a particular amount of money for any delay in delivering the goods beyond the agreed date, is this binding?

A: There is no harm in stipulating such a condition and the seller is obliged, in case of delay in the delivery of the sold goods, to act according to it. The buyer, also, has the right to demand the condition be honored by the vendor.

Q1521: A person sold a shop with the condition that its roof remains as his own to build another storey on it if he so wished. Has the buyer the right of disposal over the roof of the property, noting that, if it had not been for this condition, the vendor would not have sold the property?

A: The buyer has no right of disposal over the roof, after it has been excluded by virtue of the provision in the contract.

Q1522: A person bought a partly built property. It was agreed that the vendor should not have the right to demand any money when it comes to registering the property in the name of the buyer. However, the vendor is now asking the buyer to pay a certain amount of money for this purpose. Has he the right to do so? And is it obligatory on the buyer to pay the money?

A: The vendor has to hand the sold property over to the buyer and register it in his name in compliance with the condition stipulated in the agreement. He has no right to demand any

money over and above the sale price upon which they had agreed unless at the request of the buyer, the vendor has carried out a work commonly viewed as being of value and outside the remit of the sale contract.

Q1523: A plot of land was sold at a given price which was fully paid. In the sale agreement, it was stipulated that the buyer pays a particular amount to the vendor in return for registering the land in his name. The vendor is now demanding an inflated amount to carry out the registration procedure. Has he the right to do so?

A: After the deal has been concluded according to shar', it is incumbent on the vendor to honor all his obligations and stipulations within the contract vis-à-vis the buyer. He has no right to demand from the buyer any amount in excess of that he agreed upon.

Q1524: At the time of concluding a contract, both parties agreed that neither shall rescind the contract. It was further agreed that if the buyer changed his mind as to going ahead with the deal, he would forgo the down payment he had made to the vendor. For his part, the vendor agreed that in the event of a change of heart, he would return the down payment to the buyer plus an extra amount in return for the loss sustained by him. Is the mentioned stipulation of the right of revocation or bilateral revocation by them correct? And is it ḥalāl for both the parties to have a right to the money they may have made in the process?

A: The condition you have just mentioned is not regarded as a stipulation of the right of revocation or bilateral revocation, rather it is stipulating the payment of an amount for changing one's mind regarding going ahead with the deal. Such a condition is not binding and, therefore, of no significance merely due to being mentioned in the initial sale papers and signing them, that is unless it is incorporated in the sale contract or the contract is based on such a condition. If this has been the case, the deal is valid and should, therefore, be honored. There is no harm in having the money made in this way at one's disposal.

Q1525: A sale contract contains the clause: "If either party revokes this agreement, they should pay to the second party (x) amount of money in compensation":

1. Can this clause be regarded as a stipulation of the right of revocation?

2. Is such a condition valid?

3. If it is invalid, would the entire contract be so as well?

A: This is not a stipulation of the right of revocation. Rather, it is a condition to pay a certain amount of money in the event of the other party changing their mind and not going ahead with completing the deal. There is no harm in it if it became binding by way of a binding contract between the two parties, or the binding contract was based and concluded on it. However, a period of time has to be set for the fulfillment of such conditions which have a bearing on the price of the sold property. Otherwise, it is invalid.

## Miscellaneous Sale Issues

Q1526: Some people sell their property with the condition of buying the same later from the buyer at a higher price. Are such deals valid?

A: Such fraudulent deals are ḥarām and void because they are not really intended and they serve as a means to obtain a ribā-bearing loan. However, if the sale was concluded seriously and in a sharʿī way, there is no harm in buying the property back from the buyer later for the same price or even at a higher one in cash or in credit.

Q1527: Some merchants import goods on behalf of other merchants with bank letters of credit. They also pay the full price of goods to the bank on receipt of the paperwork of the imported goods on behalf of the latter. For this service the first party charges the second, as commission, an agreed amount calculated as a percentage of the total price. Is such a transaction valid?

A: There is no harm in the transaction provided that the merchant imported the goods for himself then sold them to any interested party for a profit that is calculated as a percentage of the total price of the goods.

There is also no harm in the transaction, should the merchant have imported the goods at the request of a particular person for a pay under the title of juʿālāh with compensation calculated as a percentage of the total price of the goods.

Q1528: After the death of my wife, I sold some of the house furniture. I bought some new furniture for an amount above what I obtained from the sale. Is it permissible for me to make use of the new furniture in the house of my second wife?

A: If the sold furniture was your own property, whatever you bought as a replacement is rightfully yours. Otherwise selling it depends on the permission of all other heirs.

Q1529: A person rented a shop. It transpired that the owner had built the shop without a proper building permit. The authorities began proceedings, demanding from the tenant the payment of a particular penalty. Who should pay such a

penalty, the landlord or the tenant?

A: The owner of the shop who built it without due regard to the building regulations should pay the fine.

Q1530: I bought property from a person and sold it to a third party. Having snatched the sale paper from me, the first vendor sold it to another person. On the assumption that I cannot prove that he snatched the sale paper from me, which of the two transactions is valid — his or mine?

A: On the assumption that the purchase of property from the owner was materialized in a sharʿī and correct way, the buyer has the right of disposal in the property and should, therefore, have the right to sell it to whomever he wishes. Thus, the first vendor has no right of disposal in the property in any way, including the right of sale. Indeed, any sale by the latter is considered fuḍūlī and should be dependent on the permission of the first buyer.

Q1531: I agreed with my nephew that I would transfer to his ownership part of my land when he settled the purchase price in full. However, because of certain administrative constraints, I registered the land in his name before the settlement of the purchase price. Despite the fact that he admitted that the land was not rightfully his, he demanded that I hand ownership of the land over to him in accordance with the deed issued by the land registry office. Should I give in to his demand?

A: The claimant has no sharʿī right to the land unless he proves that he really bought it in a sharʿī, rightful manner. He should not stick to the land registry document as evidence of his ownership of the land, especially after he had admitted, at the time of registration, that he was not the owner of the land.

Q1532: A cooperative society took control of a plot of land. The land was distributed to the employees in return for money it collected from them. The representatives of the cooperative claimed that they had reached a settlement with the landlord. However, a number of houses and a masjid have already been built on this land. Now, we have learned that he has not consented to the sale of land. We would like to ask the following questions:

1. Insofar as the masjid is concerned, do we need permission from the original owner of land?

2. What is the view in the matter of the plots of lands on which houses have been built by the employees?

A: If it is proved that the representatives of the cooperative society, who were charged with responsibility of buying the land from its owner, conformed to the proper rules in dealing with him, so much so that they were certain that he consented to the deal, the purchase transaction is valid.

If they have told the employees that they procured the land from its owner in a sharī way, their statement should be regarded as valid unless it is proved to be wrong. So should be the distribution of the land among the employees. Any consequential effect should be treated thus.

Accordingly, there is no harm in that the new landlords have the right of disposal in the land they got from the cooperative society. Nor is there a problem in completing the construction of the masjid on part of the land with the permission of the joint buyers of the land.

Q1533: A person asked a widow of a martyr, who is the guardian of her minor children, to apply to the authorities for a concession given to the children of the martyr to buy a car at a discounted price so that he could use this concession to buy a car for himself. After the car was bought with the person's money, the children claimed that it was theirs under the pretext that it was bought with the help of the concession given to them. Are they justified in their claim?

A: If the vendor of the car sold it to the buyer, even through introducing a concession document and the buyer bought it for himself and with his money, the car is rightfully his. However, he is liable for the amount of concession given to the family of the dear martyr.

Q1534: As agent of the owner, I sold a plot of land and noted the transaction on an official piece of paper. I received the sale price in part, on the understanding that I change the title deed of the land to the name of the buyer after he had settled the outstanding amount. Although the transaction has not been officially registered, the buyer took the initiative and constructed

a number of shops on the land. Having enjoyed the returns from the rent of these shops, he did not bother to settle the taxes and rates due to the authorities. When I sold the land some twelve years ago, it used to be a derelict land.

In the unofficial sale agreement, there was a provision that when the land would officially be transferred to the name of the buyer, all the expenses would be borne by him. Who should pay the outstanding taxes and rates, i.e. the vendor or the buyer?

A: The taxes and expenses relating to the land as such or those expenses resulting from selling it are the responsibility of the vendor. Any taxes and expenses arising from the construction on the land, or from its use for commercial purposes, should be borne by the buyer who had built it. Furthermore, if the two parties reached an agreement as a term in the sale contract that one of them is responsible for the expenses, they should act accordingly.

Q1535: A person bought a flat and paid a certain amount of money as a deposit. Among other things, it was agreed that the remaining amount should be paid in installments. The first buyer sold it to a third party. It was agreed that the latter pay the same installments to the original vendor of the flat. Has the vendor the right to revoke the original agreement and its agreed-upon conditions?

A: The vendor has no right to revoke the sale after it has gone through. Nor has he the right to disregard the conditions of the agreement. There is no objection to the buyer's selling the property to another person, even prior to his settling the outstanding installments. However, stipulating that the second buyer should pay the said installments cannot be sanctioned unless the original vendor agreed to the arrangement.

Q1536: A television set was offered for sale by lot. Over one hundred people took part in the process. The ticket I held won the lot and thus I bought the set. Is this transaction correct? And is it permissible for me to make use of this television set?

A: If the sale agreement was concluded after you had won the drawing, there is no problem in the purchase transaction. Nor is there any problem in making use of the goods you bought.

Q1537: A piece of land changed hands between three different people. In accordance with the provisions of the law in force, each transaction requires payment of fees to the government. Is it obligatory on the first vendor to register the land in the name of the first buyer, and on the latter to register it in the name of the second buyer? Or is the landlord justified in bypassing the first buyer and registering the land in the name of the second buyer in order to save on costs? If he chooses to register the land in the name of the first buyer, should he be liable for the payment of fees paid by the latter? Is it obligatory on him to accede to the request of the first buyer to register the land in the name of the second buyer?

A: The vendor has the choice of registering the sold land in the name of the first or the second buyer provided that this does not contravene the law which should be abided by. The vendor has the right to ask the buyer to adhere to the provisions of the rule of law. He should not be made responsible to compensate the costs incurred by the first buyer if the land was registered in his name. Furthermore, he is free not to accede to the request of the first buyer to register the land directly in the name of the second buyer.

# **Part 14**

## **Rules of Revocation**

## **1. Revocation at the Place of the Deal**

Q1538: A person bought some property and paid an amount of money as a down payment. After three hours, the seller revoked the sale agreement and thus did not hand the property over to the buyer. What is the ruling?

A: If the revocation of the sale contract was carried out after the parties have dispersed from the place where the agreement was done, and without the materialization of any of the sharʿī provisions that call for the right of revocation, the revocation is void and thus not effective. Otherwise, the revocation is ruled correct and enforceable.

## **2. Revocation due to Defects Found**

Q1539: Should the authorities refrain from registering some property in the name of the buyer, does this entail the right to annul the agreement?

A: If, after the transaction has been made, it is discovered that the property was officially not transferable which is deemed as a defect in the common view, it should automatically give the right of revocation to the buyer.

Q1540: Officially registering the property in the name of the buyer was not feasible at the time of sale, a matter which the buyer was aware of. Does this render the transaction null and void?

A: This should not necessitate the invalidity of the sale. And, according to the given case the buyer has no right of revocation.

### **3. Revocation due to Delay**

Q1541: A person bought some property from another person for a particular price on credit. They did not talk about delay in the payment of the money. Two years have already elapsed since the deal was concluded. Neither did the buyer pay the money nor did the owner hand the property over. Should the sale be deemed void?

A: The sale cannot be deemed void because of the delay in paying the purchase price and taking possession of the property, albeit without stipulating that in the agreement. However, the vendor has the right to revoke the agreement after three days from the date of sale.

#### **4. Stipulated Right of Revocation**

Q1542: I sold a residential flat on the condition that I have the right to withdraw from the deal and sell it to another person at the market price if the first buyer did not turn up at the property registration office to exchange the contract, pay the outstanding amount, and take possession of the flat. By default of the first buyer, I revoked the sale and sold the flat to another person. Is the second deal valid?

A: There is no harm in revoking the sale and selling the property to another buyer in accordance with the provisions of the contract which are binding on both parties of the contract.

## **5. Revocation Based on Observation**

Q1543: According to the information provided by the vendor regarding the area of land, the buyer agreed to buy it. Upon checking he found out that the measurements do not tally, i.e. the area is much smaller than what he was told by the vendor. Is such a transaction legal and valid? Has the buyer the right to revoke the deal?

A: If the plot of land, which had already been viewed, was bought depending on the information about the area provided by the vendor, the deal is valid. However, the buyer has the right to revoke the deal because the land was not as the vendor had described. Yet, should the sale have been concluded by way of agreeing on the price of each square meter of the land, and it has been discovered that the total area falls short of the vendor's description, the sale is correct insofar as the true area is concerned. The buyer has, therefore, the right to demand from the vendor to pay him back the extra amount he paid for the non-existent land or revoke the entire deal and get his money back.

## 6. Revocation due to Unfairness

Q1544: The buyer delayed the payment for the goods he purchased beyond the agreed date. As a result of market forces the goods' price has gone up. Has the seller the right of withdrawal because of unfairness, or has he the right to do so because of the delay in paying on time?

A: The criterion, which could give rise to the right of revocation because of unfairness, is that such loss should be related to the unfair price on the date of sale, for example, selling the goods at such a knockdown price that it is unacceptable in the common view. As for the increase in the price after the sale agreement has been concluded, it is not a cause for such a right. Likewise, delaying the payment beyond the agreed date should not necessarily lead to exercising the right of revocation by the vendor.

Q1545: I sold a piece of land. When I told a friend of mine the price I sold it for, he told me that I had been aggrieved. Does this entitle me to the right of revocation of the deal due to unfairness?

A: You have no such a right unless it is proven that you sold the land at an unacceptably low price, i.e. much lower than that of the market value of the land, at the time of sale, and that you were unaware of its real value.

Q1546: Someone sold a plot of land on the understanding that it has a particular area. It transpired that the actual area of the land was much greater than the one declared at the time of sale. Has the vendor the right to demand extra payment for the extra area?

A: Should the selling be for the entire plot of land, on the assumption that it is of a particular area, only to find out later that it is more than what it was claimed to be, in which case the price should be higher, he has the right to revoke the agreement because of the unfairness that has been involved. Should the land have been sold by way of a particular price for each square meter, the vendor has the right to demand payment for the extra square meters.

Q1547: An agreement between the seller and the buyer was signed on condition that the price of the goods be settled after a grace period to ascertain whether or not the price was unfair. Is this type of transaction legally valid? And if it is, has the buyer the right to revoke the agreement?

A: There is no harm in concluding the sale on the condition of delayed payment for checking if the price is unfair or not. However, the buyer has no right to revoke the agreement unless unfairness is proven.

Q1548: What is the ruling in the matter of a deal in which the wronged party is non-Muslim?

A: In the matter of having the right of revocation due to unfairness, there is no difference between a Muslim and a non-Muslim.

Q1549: I sold some property to a person. After I received the sale price and he took possession of the property, he claimed that he was unfairly treated and subsequently revoked the agreement. However, he refused to vacate the property and get his money back. Two years later, he claimed that he revoked the agreement insofar as half of the property is concerned, and demanded that I return half of the money to him. Is it permissible for him to own half of the property after he had revoked the entire sale due to unfairness?

A: The party, who claims to be unfairly treated, has the right to revoke the sale of the entire property and retrieve his money provided that such unfairness is proved. He has no right to revoke the sale in part. Nor has he the right to demand extra payment.

Q1550: Two people made a deal and committed themselves to abide by certain conditions. They wrote this on a piece of paper without official registration, undertaking that if either of them changed their minds, they should pay the other party a sum of money. Now that one of them has changed his mind, claiming unfairness, has he the right to revoke the agreement? And if so, should he comply with the condition?

A: Although the condition to pay a sum of money by the party who has refused completion of the sale is valid in itself and

should be honored provided that it is stipulated in the contract or the agreement based on it, this does not include such cases in which the transaction could be revoked due to unfairness.

Q1551: One week after buying some property, I was convinced that I had been unjustly treated. I approached the vendor with a view to revoking the sale. He refused. The property remained at my disposal during which time its price has risen. There and then the vendor asked me to revoke the sale and vacate the property. I did not mind provided that he returned the money I paid for the property plus an extra amount to make up for the price appreciation. He refused. Can my initial request of the vendor to revoke the contract be considered a valid enough reason for that purpose? And can my accepting his proposal of revoking the contract and receiving the extra money be so too?

A: The mere approaching of one who has the right of revocation to the other party with a proposition to revoke the contract or just agreement of the former to return the sold property to the latter in return for an extra payment does not amount to a proper revocation of the contract. However, the revocation of the contract lies with the one who has such a right. It does not depend on the consent of the other party, nor the return of the thing sold. So, had you really revoked the contract, at the time when you found out that you had been unfairly treated, the revocation would have been legally valid. You should, therefore, have no right of disposal in the property and should have handed it over to the vendor.

## **7: Revocable Sale**

Q1552: An item of merchandise was sold by way of revocable sale. Has either the vendor or the buyer the right to sell it to a third party before the buyer takes delivery of the goods?

A: After the materialization of the revocable sale, the ownership of the goods should belong to the buyer, as long as the contract is not revoked. Accordingly, the vendor has no right to sell the goods to a third party unless he revokes the contract of the first sale. Also, the buyer has the right to sell the goods to another person after the agreed period of exercising that right has ended, even if he did not take delivery of such goods, provided that the seller had not revoked the sale during the said period.

## **8. Revocation due to Non-compliance with a Condition**

Q1553: A person bought goods from another person on condition that he settles the price in two months' time, and provided that the buyer has the right to revoke the deal during that time. However, the buyer returned the goods to the vendor after seven months. The vendor accepted the returned goods on condition that a certain amount, calculated as a percentage of the sale price, is charged to the buyer due to the damage sustained by the vendor.

Has the buyer the right to revoke the deal after the agreed period of revocation so much so that the vendor has no alternative but to accept the proposition? And has the vendor the right to make his acceptance of revoking the sale dependent on charging a percentage of the sale price?

A: After the lapse of the agreed period during which revocation can be exercised, the party who had the right of exercising the power of revocation has no right to revoke the contract and return the goods. Similarly, he has no right to force the vendor to agree to his proposition. However, both the parties can bilaterally revoke the contract. That said, the vendor has no right to accept bilateral revocation in return for a charge, for if he does so, it becomes void.

Q1554: Is it permissible for either party of the contract to rescind it under the pretext that his purpose of the sale has not been served?

A: Non-materialization of the intents and purposes does not necessarily and lawfully lead to the revocation of the contract unless it is provided for in the contract itself or its conclusion was based on such a purpose.

Q1555: I sold my business and noted the sale on a piece of paper, on condition, among others, that the buyer bears all the taxes. Now, he is refusing to honor this condition. Have I the right to revoke the sale?

A: The vendor has the right to revoke the contract provided that it is explicitly stipulated in the contract that he would have such a right in case the buyer does not pay the taxes.

Q1556: A person bought a piece of land on condition that he would have the right of revocation in the event of the government department refusing to register it in his name, or if it transpired that the government needs the land for initiating some project. Since the buyer is still unable to obtain the necessary building permit, he is demanding from the vendor to abrogate the sale and return his money. However, he made a new condition that the vendor resells him the land at the same price if the department concerned gives him permission to build within two years. Is he justified in making such provisions?

A: The buyer could have the right of revocation according to the terms of the contract between the two parties. Accordingly, it is permissible for him to revoke the contract and demand his money back from the vendor. However, he has no right to impose [new] conditions at the time of revoking the first contract.

Q1557: Two people concluded a deal, committing themselves to certain conditions. The buyer paid a down payment. However, he refuses to abide by the rest of the conditions. Has he the right to demand from the vendor to proceed with the deal?

A: Provided that the vendor did not revoke the contract for breach of the condition, he has to honor his side of the deal. However, if he has the right to revoke the contract — even due to breach of some conditions by the buyer — he is justified in revoking the sale. Should this be the case, the buyer has no right to force him to comply with anything apart from returning his deposit.

## Miscellaneous Issues Concerning Revocation

Q1558: Should sitting idly by, i.e. not taking action to restore one's right, or delaying it for, say, two years, be a cause for losing a right?

A: Not taking action to restore one's right, or delaying it for a while, should not entail losing the right unless such right is set within a particular time frame.

Q1559: Someone sold some property for a cash deposit, with the remaining amount to be settled by installments. After the vendor received the cash amount and gave the buyer possession of the property, another buyer who offered a higher price for it approached him. Is it permissible for him to revoke the first sale in order to sell the property to the second person?

A: After the sale was concluded in a proper and shar'ī manner, the vendor has to abide by the terms of the agreement. He is, therefore, not justified in revoking the agreement in order to sell the property to another person unless the vendor has the right to revoke the contract.

Q1560: I sold a plot of land to a person on the condition that the price would be settled over a four-year period. However, almost immediately I regretted that I had concluded the deal. Yet, I didn't take any action until after one year when I approached the buyer to return the land, a request which he turned down. Is there a legal way to pull out from the deal?

A: The mere regretting has no shar'ī effect. After the sale has been concluded in a proper and shar'ī manner, it is valid to transfer the ownership of the thing sold to the buyer. The vendor has no right to claim it back unless he revokes the contract when he has the right to do so.

Q1561. A person sold a plot of land. The two parties noted the sale on a piece of paper, stipulating that the vendor has no right of withdrawal whatsoever. However, having the title deed of the land still in his name, the vendor sold it to a third person. Is such a sale good enough?

A: After the sale of the land was concluded in a proper and shar'ī manner, with the provision of foregoing the right of withdrawal, the vendor has no right to sell it to another person.

However, the second sale is categorized as fuḍūlī which is definitely dependent on the consent of the first buyer.

Q1562: Someone bought a quantity of cement from the factory for a particular price, on the understanding that the supplier would supply the buyer with the cement in batches. After a while, the price of the cement has risen sharply. Has the supplier the right to revoke the agreement and refuse to supply the remaining quantity?

A: After the sale [of the cement] was concluded in a proper and sharī manner, whether for cash, on credit, or even in a prepaid sale, the vendor has no right to annul the contract from one side unless he has the sharī right of annulment.

Q1563. I bought property and paid a deposit, on the understanding that I pay the remaining amount in three months' time when the property would be officially registered in my name. We noted the sale on a piece of paper. However, I could not come up with the money on the appointed date. A month later I approached the vendor with the remaining amount of money with a view to transferring the property in my name. He refused to do so claiming that he had cancelled the contract by default. It is worth mentioning that he has not returned the money I gave him. Furthermore, he rented the property during this time and received the rent. Has he the right to do so?

A: The mere declining to pay a part of the price at the specified time does not give the vendor the right to cancel the agreement. If the property was purchased in a proper and sharī manner, yet it remained at the disposal of the vendor who took the liberty to rent it without his enjoying the right of annulment, the rent contract, he concluded, should be dependent on the consent of the buyer. It is obligatory on him to hand the property over to the buyer and pay the latter what he received in rent; that is if the buyer had already agreed to rent the property. If he does not agree with the rent contract, the buyer has the right to demand compensation for the period that the vendor had the property at his disposal.

Q1564: Is the vendor justified in canceling the contract without his enjoying the right of withdrawal? And has he the right to increase the price of the thing sold after the sale has been concluded?

A: No, he has no right to do such things.

Q1565: A person bought some property from another. The latter had bought the property from the department of housing. After the two parties had concluded the contract, the said department approached the buyer with a request to pay an additional amount. The buyer informed the vendor of the situation and demanded the payment of the additional amount. The vendor turned down the request. As a result, the housing department allocated the property to another person. To whom shall the buyer turn to retrieve his money?

A: If the sale is revoked due to a provision or the like, the buyer should demand the money from the vendor.

Q1566: A person bought an animal from someone. He had the intention of reselling the animal. If not, he was going to cancel the agreement and return it to the vendor. Has he the right to cancel the sale contract?

A: Since the item in question is an animal, the buyer has the right of withdrawal within three days of the sale.

Q1567: A group of people jointly bought some property from a person. They paid the vendor a sum of money in installments. The remaining amount of the sale price was to be settled upon the official transfer of the property in the buyers' names. However, the vendor procrastinated and eventually refused to exchange contract, claiming that he cancelled the agreement. Which of the two is valid, the sale or the cancellation of the contract?

A: As long as the vendor has no right of annulment — e.g., due to a provision or a wide gap between sale and market prices — his canceling the contract should not stand. Accordingly, the sale is valid. He has to do according to the contract and is held responsible for officially transferring the property into the names of the buyers.

Q1568: A person bought an item of merchandise from another. He paid the vendor a down payment. The buyer sold the goods to another person for a profit and gave it to him. When the new buyer knew how much profit the first buyer made, he changed his mind. Is he justified in revoking the sale?

A: If there is something which gives the second buyer the right to revoke, he has the right of cancellation. Otherwise, it is not permissible for him to do so.

## **Attached Property**

Q1569: A person sold some property. After the sale was concluded, he took away the electric bulbs, the boiler, and the like. What is the ruling in this matter?

A: If the chattel was, according to common view, not part of the property and the buyer did not stipulate in the contract that the vendor was not to take the items away, there is no objection to his removing them.

Q1570: I bought some property from a person including the car parking place and other facilities. He handed the property over to me without the car park. It transpired that the sale paper had been tampered with to show that the car park was not part of the sale. The sale agreement confirmed the fact that the price he got for the property included the car park. What is the ruling in the matter?

A: It is obligatory on the vendor to give the buyer possession of the property and all that which forms part of it, i.e., subject to the deal, whether it was what the price was paid for or those parts where it is clearly outlined in the contract as part of the deal. The buyer has the right to demand that the vendor turn them over to him.

Q1571: I bought some property situated in the first floor. The desert cooler installed in the property is fed through a water pipe which runs from the property situated on the ground floor. The owner of that property cut the water supply to the cooler under the pretext that he alone has the right to make use of the area of the ground floor. What is the ruling in this matter?

A: If the contract does not clearly provide for you to make use of the water pipe which is installed in the yard of the ground floor, you have no right to demand from the owner to accede to your request.

## **Delivery and Receipt**

Q1572: A relative of mine needed a kidney transplant. A person came forward to donate one of his kidneys in return for money. After medical tests to ascertain compatibility, it was found that the donor's kidney was not suitable for transplantation. Is the donor justified in demanding money from the patient, because he was forced to be away from his work for a number of days?

A: Should the unsuitability of the donor's kidney be discovered after it has been removed, the donor is justified in demanding payment of the agreed amount, although the patient did not make use of the donated kidney. However, if the donor has been informed of the situation prior to the removal of his kidney, he has no right to demand anything from the patient.

Q1573: I sold my residential flat to a person. We noted the sale on a piece of paper. I received some of the money, on the understanding that the buyer settles the remaining amount when the flat is officially registered in his name. Now, I regret selling the flat. But, the buyer insists on my vacating the property. What is the ruling in this matter?

A: If the sale has gone through in a proper and sharī manner, the vendor has no right to refuse to hand it over to the buyer for the mere fact that he is regretful or in need of the property, that is, unless he has the right to annul the contract.

Q1574: I concluded a deal with the management of a stone quarry to buy a given consignment of stones for a provisional price. It was agreed that the final price was to be determined at a later date, albeit with a slight variation from the quoted price. Later on, I was asked to pay a highly inflated price for the consignment. Noting that I had sold the stones, I refused to pay. How should I go about settling this matter?

A: One of the conditions for the validity of the sale is designating both the thing sold and its price. This is so as to avoid lack of knowledge and any unforeseen risk. So, if the sale did not go through at the day of taking delivery of the goods in a proper and sharī manner, the buyer is liable to pay the going price, i.e. at the time he cut and resold the stones.

Q1575: A person bought some property from his married daughter. The property is at the disposal of her husband. The latter started to harass his wife and threaten her with divorce if she did not withdraw from the deal. Thus, she was unable to hand it over to her father, the buyer. Who of the two should bear the responsibility of either returning the money or handing the property over to the buyer?

A: The vendor herself should hand over the property or return the money to the buyer.

Q1576: I bought some property from a person. We noted the sale on a piece of paper. It was agreed that the vendor should accompany me to the land registry office to transfer the property to my ownership. The vendor did not keep his word and retained ownership of the property. Have I the right to demand from him to comply with what we agreed on?

A: If what both of you agreed and committed to pen and paper is a proper and sharī sale transaction, it is not permissible for the vendor to annul the transaction and to refuse to put it to effect. Indeed, it is legally binding on him to hand the property over to you and take necessary action to amend the title deed to bear your name. You have every right to demand from him to do so.

Q1577: A business deal was concluded between two parties. Both the vendor and the buyer agreed that the buyer should settle the price of the goods by installments. As a mechanism of bookkeeping, both agreed that each of them should maintain a book whereby such payments were to be duly recorded and signed by both. After a while, it transpired that there were discrepancies between the two registers. The difference between the two was in respect of one payment where the buyer claimed that he settled it and the vendor denying it. It is worth mentioning that the entry did not appear to have been made in either book. What is the ruling in this matter?

A: If it is proved that the buyer paid what he claims to have paid, there is nothing one can ask him to do. Otherwise, the priority is given to the vendor's say, who denies receiving the amount.

## Credit and Cash Sale

Q1578: What is the view on buying goods on credit for a price that is higher than the cash price? And what is the view on exchanging a check, due after a while, for an amount that is less than the amount written in the check itself?

A: There is no objection to buying and selling goods for a given price for cash or for a higher price on credit. However, it is not permissible to sell a check to a third party for an amount that is lower than that written in the check. But it is permissible to sell it to the person who drew it for a lower amount.

Q1579: The owner of a car offered it for sale at a particular price in cash and a higher one on a ten-month credit. To his mind, the buyer concluded that the difference in price is a surcharge over and above the cash price. Taking into consideration the conclusion of the buyer that he was going to enter into a ribā-bearing deal, is such a transaction considered as a ribā-based one and, therefore, invalid?

A: There is no harm in that if the transaction was based on buying on credit, i.e. paying for the goods by installments. Such a transaction is not considered as a ribā-based one.

Q1580: In a sale contract, it was agreed that the price of the goods should be paid by installments over a period of one year. The buyer would then take delivery of the goods after one year of the payment of the first installment. However, the payment of the first installment is long overdue. Has the vendor the right to exercise the choice of revoking the contract for delay?

A: In the given case that the sold item is going to be delivered later, the price should be paid at the time of concluding the contract. Otherwise the transaction is invalid.

Q1581: If the first installment is delayed beyond its usual time, while there is no specific time for the payment, and no right to revoke on delayed payment is stipulated in the contract for the vendor, has he the right to revoke the transaction because of a delay in paying the installment?

A: In selling on credit, the period during which the settlement of the amount has to be made has to be determined. However,

if the sale was concluded without specifying a date for settling the installments, the sale is deemed null and void to start with. But, if the timetable for paying the installments has been agreed, and the buyer delayed the payment beyond the due date, this, per se, should not give rise to the vendor's exercising the right to revoke.

Q1582: The Ministry of Education constructed a building to house the facilities of a technical institute on a plot of land, on the understanding that it would pay the owners of the land at a later date. However, having finished the building, the officials of the Ministry did not keep their word. For their part, the landlords made it clear that they were not happy and that they regard the building as a usurped property, in which case holding prayer on the premises is deemed lacking in validity. What is the ruling in this matter?

A: After agreeing to hand the land over to the Ministry to build the technical institute in return for money that should be settled at a future date, the landlords have no right to claim it back. Accordingly, the land shall not be regarded as usurped. They can, however, demand from the Ministry to be paid the price of the land. Thus, there is no legal problem in conducting study and holding prayers on the premises. This is not dependent on the consent of the previous landlords.

## Prepurchase

Q1583: I bought a residential flat as a salaf transaction. I paid a part of the price by installments for which I received a receipt. I'm still indebted for the remaining amount of the sale price. The vendors changed their minds and sold the flat to the housing bank. In exchange, I was offered another flat at a higher price. What is the ruling in this matter?

A: Buying the flat by installments as a salaf transaction is invalid from the beginning, because among the parameters which confer validity on this kind of transaction is paying the total amount in advance to the vendor at the time and place of the sale. Should this be the case, the vendor should have no alternative but to give the buyer the property as described in the sale contract.

The vendor has no right to demand from the buyer anything over and above the agreed price. The vendor has also no right to give the buyer any property of different specifications. For his part, the buyer can refuse to take possession of any property whose specifications do not tally with those of the flat he originally bought. It is also within his right to refuse to pay a higher price for it.

Q1584: I bought a partly built residential flat on credit. While still unfinished, I sold it to another person who took possession of it from the vendor. Is this deal in order?

A: If the partly built, and readily identifiable, flat has been bought on credit on the condition that the vendor is going to finish building it, there is no harm in buying or selling it, even before it is completed and handed over to the buyer.

Q1585: I bought some books in Tehran International Book Fair as a salaf transaction so that I would pay half of the total price at once and the second half when I receive the books. The time of delivery was not fixed. Is this sale valid?

A: There is no harm in this deal if the prepaid amount was regarded as a deposit and the sale takes place at the time of delivery of the books and the payment of the remaining amount. However, if this sale, at the time of paying part of the money, is regarded as credit without specifying a time for settling the

remaining amount, or a salaf sale, yet without paying the total amount of the books there and then, it is deemed invalid. Of course, the salaf sale is valid in proportion to the payment but the buyer has the right to revoke it even regarding to the paid portion.

Q1586: A person bought goods from another, on the understanding that the buyer takes delivery of them after a while. On the due date, the goods are of no monetary value. Has the buyer the right to acquire the very goods or he can claim back the money he paid?

A: If the deal was concluded in a proper and lawful manner, the buyer is entitled to take delivery of the very goods, that is, unless its depreciation is deemed, in the common view, as dissipation. Should this be the case, the sale is deemed revoked and the vendor has to return the money to the buyer.

## **Buying and Selling Gold, Silver and Money**

Q1587: If the buyer and seller are agreed, is it permissible to sell gold bullion on credit, for a price higher than the present market price? And is the profit made from such a deal ḥalāl?

A: Specifying the price, i.e. cash or credit, in the sale contract is the prerogative of both parties of the contract. Accordingly, there is no harm in the deal described in the question. Nor is there any harm in the profit made thereof. However, selling gold for gold, whether differential or on credit is not permissible.

Q1588: What is the ruling in the matter of making gold jewelry? How should one go about dealing in it?

A: There is no harm in making and selling gold jewelry. However, when selling one piece of gold for another, the two pieces should be equal in weight and handed over at the time and place of sale.

Q1589: Is it permissible to buy and sell banknotes on credit for a price that is higher than their nominal value?

A: In case it is concluded with a serious intention and for a rational purpose, for example, they are different in respect of being new brand/worn out, having special signs on them, or of different value; there is no objection to doing so. However, if it is not concluded with a serious intention but only to circumvent the law prohibiting ribā; it is ḥarām and invalid in Islamic law.

Q1590: Some vendors sell coins, used to make telephone calls, for more than their real value. What is the view on such dealings?

A: There is no harm in selling and buying the coins for a price more than their real value for use in making telephone calls and the like.

Q1591: A currency dealer bought old currency for the price of new, not knowing that its value was almost half of that of the current one. This dealer sold the same currency for the same price. Is it obligatory on the person who thinks that they did

not treat the buyer fairly to inform him of the "unfairness"? Are such deals valid and, therefore, can one have the right of disposal of the profit made thereof, or could it be a case of money of anonymous owner or that of tainted money?

A: There is no objection to buying old currency in a deal for a price agreed between two parties, even though the price of the old currency is much less than the current one. Thus, the sale is valid, although it may be seen as unfair. This is so because the object offered for sale is real property which has value, albeit cheaper than the current currency. Thinking that he did not treat the buyer fairly, the vendor is not required to inform him. Any profits that may have been made from such dealings should be treated as the rest of his property. Accordingly, the person has the right of disposal over such income unless the person has revoked the sale.

Q1592: What is the ruling in the matter of buying and selling banknotes, not for what they are, i.e. a means of monetary exchange, rather for having a special value? To give an example, one may be interested in acquiring the green backed banknote of one-thousand Toman denomination, which bears the picture of the late Imam Khomeini, for more than its nominal value.

A: There is no harm in that provided that dealing in such banknotes is both serious and for a sensible reason. If this sale is on credit, i.e., just a formality intended to circumvent a ribā-based loan transaction, it is ḥarām and invalid.

Q1593: What is the view on dealing in money exchange, especially foreign currency?

A: There is no objection to it in itself.

Q1594: What is the ruling on buying government bonds? And is it permissible to deal in these bonds?

A: If you mean government bonds offered for sale to the public to raise money, there is no objection to taking part in lending to the government by way of buying these bonds. If the holder of these bonds wishes to sell the same to get his money back, either to another person or to the state for the same value or less, there is no harm in it.

## Miscellaneous Issues in Business

Q1595: If a finished product has been assembled, using different components then put for sale as the product of a particular foreign country, does this amount to cheating and deception? Assuming that it is, would the deal concluded between the seller and the buyer be valid in case the latter does not know about it?

A: Should the components or the very product be identifiable by the buyer, there is no case for swindling. However, promoting these products contrary to their nature amounts to lying and is, therefore, ḥarām. Should the sale be concluded, in that their description does not reflect reality, the deal is valid. But, if the purchaser discovered the truth about the goods, he has the right to revoke the sale agreement [and return the goods].

Q1596: Is it permissible for manufacturers and traders to label their products using a foreign language in order to attract the attention of potential buyers?

A: There is no harm in doing it provided that it is not designed to dupe the buyers, and that it is not considered propagating alien culture.

Q1597: What is the ruling in the matter of cheating, lying, and deception in dealing with non-Muslims with a view to benefiting financially or scientifically?

A: Lying, deception, and cheating in any sort of dealing, even if the other party is non-Muslim, are not permissible at all.

Q1598: What is the acceptable maximum margin of profit in trading?

A: There is no specific ceiling for that in itself. There is no harm in it provided that it does not lead to overcharging the buyer. However, it is preferable, if not mustahabb that the seller be satisfied with a margin of profit that is sufficient for his provisions.

Q1599: An owner of a source of water sold the same quantity/ quality of water to different buyers at different prices. Are we justified in complaining about the differential treatment?

A: If the vendor of water is the rightful owner or he has a right to it according to Islam, concluding separate deals with the buyers, the buyers have no right to object to the difference in the sale price.

Q1600: Can I resell the goods that I bought at a government-subsidized price for, say, three times the original price?

A: There is no harm in it provided that there is no official ban on doing so and the sale price is not exorbitant.

Q1601: I produce computer hardware. Am I justified in selling the products at the market price that is governed by the forces of offer and demand?

A: If the prices are not fixed by the government, there is no objection to selling goods at the price concluded between the vendor and the purchaser as long as it is not exorbitant.

Q1602: What is the Islamic ruling in the matter of capitalism? Is it permissible for a person to become ultra-rich provided that they meet their religious obligations, i.e., by paying the dues of the poor and the needy? Is the war waged by Islam against capitalism confined to the wealth of those people who do not pay khums and zakāt, or is it a total war? And is it feasible for anyone to be excessively rich, although they pay religious dues on their wealth?

A: The religious dues that should be payable by the wealthy are not confined to zakāt and khums only. Islam is not against the creation of wealth provided that it is earned through lawful means and that one should be committed to paying all religious dues. Investing such wealth should be in the interest of Islam and Muslims. Provided people adhere to those principles, there is no objection to their becoming wealthy in the process.

Q1603: Someone asking another to buy him a car is commonplace in this day and age. Upon buying the car, the second party asks the first one to top up the purchase price by a particular amount. This extra amount is in return for the effort and time the second party had put into shopping around and getting the best deal. Is such type of a transaction proper?

A: Should the second party act as agent in purchasing the car, it is not within his right to ask for an extra amount over and above the purchase price. That said, he has every right to ask for remuneration for acting as agent. If the second party buys the car with his own money and sells the same to the first party, he has the right to sell it for the price both the parties agree to. It is to be noted, though, that the second party must not lie about the actual purchase price. Yet, lying would not detract from the validity of the sale.

Q1604: Car mechanics and repairer men are approached by car dealers to do shoddy jobs, aiming to reduce the cost and be able to sell them at good prices. Are they justified in what they are doing?

A: It is not permissible if it leads to duping the potential buyer into not seeing the defects of the car.

## Rules Concerning Ribā

Q1605: A driver was interested in buying a truck. He approached another person to give him the money. The driver bought the truck in his capacity as agent for the money owner. The latter sold the truck to the driver by installments. What is the ruling in this matter?

A: There is no harm in such a transaction if it was concluded on behalf of the owner of the money, who sold it [the truck] to the agent by installments. That said, both the parties should be serious in making the deal, i.e. their intention should not be to find a way out of ribā.

Q1606: What is ribā? And is the amount calculated as a percentage taken by the people who have deposits with the banks regarded as ribā?

A: As an expression, a ribā-bearing loan involves paying an extra amount by the borrower to the lender. The profits arising from the investment of the money deposited with a bank for safe keeping, which is used by the bank on behalf of the saver by virtue of an Islamic contract, is not considered ribā and, thus, is not problematic.

Q1607: What are the boundaries of ribā-based transactions? And is it true that ribā is confined to loans?

A: Ribā can arise from selling and buying in the same way it may arise from a loan. Ribā arising from a sale transaction is to sell an item — normally sold by weight/ volume — in exchange for something of the same category in Islamic law plus extra.

Q1608: In as much as it is lawful for a person, in an emergency, to eat the meat which is not ḥalāl, is it permissible for a person, in a similar situation, to deal in ribā-based transactions to make a living?

A: Ribā is ḥarām. Eating non-ḥalāl meat, in an emergency, is different because the person who is forced to eat the meat has no other source to continue to live.

Q1609: In the open market, postage stamps are sold for more than their nominal value. Is such sale valid?

A: There is no harm in it. Such an increase is not considered ribā. That is because usurious transaction is the one in which two things — normally sold by the weight / volume — are

exchanged and one of them is more than the other. This kind of transaction is invalid.

Q1610. Is ribā ḥarām across the board, i.e. for all legal/personal entities, or are there special cases?

A: Generally speaking, ribā is ḥarām, except for a ribā-bearing loan between a father and his child, between a man and his wife, and that taken by a Muslim from a non-Muslim.

Q1611: A deal was concluded between two people at a given price. However, both parties agreed that the buyer should pay an extra amount over the specified price if he wrote a post-dated check. Is this permissible?

A: If the deal was concluded at a given price and the extra amount was for the delayed payment to settle the original amount, such an increase is ribā which is unlawful. Nor can it be ḥalāl because the parties agreed to it.

Q1612: Suppose a person is in need of a loan. They cannot get a ribā-free loan. Is it permissible for them to, for example, buy goods on credit and sell the same to the seller on the spot for a cash price that is less than the original price of the goods?

A: This type of transaction is nothing but a play to circumvent a ribā-based loan transaction. It is both ḥarām and invalid.

Q1613: In order to escape the involvement in a transaction that is based on ribā, and get returns for my money, I bought property for a particular price. The real value of the property was much higher. I agreed with the other party that if they changed their mind and wanted to withdraw from the deal within five months of the sale, they may do so provided that they return the money I parted with as a price for the property. Having concluded the sale, I rented out the same property to the seller for a given rent. Four months later, I came across verdict by the late Imam Khomeini which makes such type of transactions unlawful. What is the ruling in your opinion?

A: If the two parties were not serious in the entire business, in that it was just a formality to allow the seller to get the loan and the buyer the returns on his money, such a transaction, which is to circumvent the issue of a ribā-bearing loan, is both ḥarām and invalid. In such transactions, the buyer has the right to retrieve only the original amount he paid as a price for the property.

Q1614. What is the ruling in the matter of adding something to the money with a view to avoiding the involvement in ribā?

A: It does not affect the ruling of a ribā-bearing loan. It is not going to be deemed ḥalāl by adding something to it.

Q1615: Is there any problem in receiving an old-age pension from the state, after years of contributions deducted from the wages of the employee during his long years of service? It is to be noted, however, that what the person receives as pension is not only the contributions he made during his service, rather an amount increased by way of government contribution.

A: There is no problem in receiving the pension. The extra amount paid by the government to the pensioner over and above what he has contributed is neither interest nor ribā.

Q1616: Some banks give some house owners a loan — named ju'ālah — to refurbish their property. The recipient of the loan has to pay it back plus an extra, within a given period, by installments. Is such borrowing shar'ī? And how can one call it ju'ālah?

A: If the advance payment is made as a loan to the house owner for refurbishing his property, giving it the label of "ju'ālah" does not make sense. It is, therefore, not permissible to pay back more than the actual amount of the loan, although in essence giving the loan is in order.

But, there is no objection if the house owner compensate [to make a compensation (ju'l)] to the bank as the bank has refurbished his house. This compensation is not equal to what the bank has paid for the refurbishment but the whole amount the bank receives by installments in return for refurbishment.

Q1617: Is it permissible to buy goods by installments for a price that is higher than the cash price? And does this amount to ribā?

A: There is no objection to selling and buying goods by installments for more than the cash price. The difference is not considered ribā.

Q1618: A person sold some property by way of a revocable sale. However, he could not return the money to the buyer so that he could revoke the deal. A third person paid the money so that the seller could revoke the transaction on the condition that he would get his money back plus an extra amount in the form of a compensation for his work. What is the ruling in this

matter?

A: There is no harm in what the third person did if he acted as an agent for the seller insofar as returning the money to the buyer and revoking the transaction are concerned. However, this should be done by lending the seller the amount to be returned to the buyer, then paying the same to the latter and revoking the transaction on behalf of the seller. There is also no harm in receiving the extra money for acting as an agent. However, if the amount the third person paid to the buyer had been in the form of giving a loan to the seller, he has no right to demand from the seller anything more than what he actually paid.

## Right of Pre-emption

Q1619: When two persons share in an endowed property and one of them sells his share — in a case he is allowed to do that, does the other enjoy the right of pre-emption? If two people rent some property — whether or not it is an endowment, then one of them transfers his right to the other through either a rent or *ṣulḥ* contract, does the other have the right of pre-emption? To give an example, one of the partners sold his share to a third party where it is *sharī* to do so. And is it permissible where renting is involved? To give an example, two people jointly rented some property or an endowment. Is it permissible for either party to transfer their share by way of subletting the property to a third party?

A: Pre-emption is confined to the partnership in things themselves [not in using something as in the rent] if it is *sharī* for one of the two partners to sell his share to a third party. Therefore, there is no right of pre-emption in an endowed property in which two people share even on the assumption that one of the two parties is allowed to sell his share to a third party. Nor is there such right in situations where some property was rented out to two people and one of tenants transfers his share to a third party.

Q1620. From Islamic texts it is understood that if one of the two partners sells his share to a third party, the second partner is entitled to the pre-emption right. However, could the encouragement, by the second partner, of a potential buyer to buy the share of the other partner or making it known that he is not going to exercise pre-emption if the third party buys the share of his partner, be considered a relinquishment of pre-emption right?

A: The initiative taken by the partner to encourage the third party to buy the share of the other partner per se does not run counter to exercising pre-emption. Indeed, even his promise of not exercising it does not necessarily take away pre-emption, after the transaction has gone through. That is unless that promise has been stipulated in an Islamically irrevocable contract.

Q1621: Is dropping pre-emption right before one of the partners sells his share to a third party, perceived as unlawful?

A: Forgoing pre-emption is not valid unless it actually takes place, i.e. by the partner selling his share to a third party. However, there is no objection to the partner's giving an undertaking in an Islamically binding contract that he is not going to resort to pre-emption when his partner sells his share.

Q1622. A person rented one floor of a two-storey building. The property is owned by two brothers who are indebted to the tenant for a sum of money. Despite repeated requests by the creditor, the two brothers have been avoiding payment of the debt for the past two years. He concluded that it is within his right to retrieve his money by possessing a portion of the building. The value of the property is higher than the value of debt. In this way, he becomes a partner in the property of the two brothers. Can he exercise pre-emption on the rest of the property?

A: As the question goes, there is no case for pre-emption. Pre-emption can be exercised by one of two partners after the other sells his share to a third person provided that the partnership exists before the transaction. It cannot be acquired as a result of becoming a partner by virtue of buying the share of one of the partners or owning it as a result of settling a debt. Furthermore, pre-emption cannot be activated unless the property is owned only by two people.

Q1623: Two people jointly bought some property whereby it was officially registered in their names. However, in a separate contract, they partitioned the property into two, each with its own boundaries. Has either party the right to exercise pre-emption over the property of the other partner, in the event of sale, by virtue of having an official document pointing to the joint ownership of the property?

A: If the sold share, at the time of sale, was clearly defined and demarcated as an independent one, the mere fact they have only one legal document does not bring about the right of pre-emption.

# **Part 15**

## **Hiring, Renting, and Lease**

Q1624: Some services rendered to others require neither physical nor mental effort. In the absence of a wage rate by the government, and the fact that time spent in the provision of services is not the deciding factor, what is the criterion of deciding the remuneration?

A: The wages paid for such services can be determined by the common view. There is also no objection to both the parties of the transaction agreeing to the payment they both deem appropriate.

Q1625: I rented a house. After a while, it came to my knowledge that the landlord partly paid for the property in money made in ribā. What should I do?

A: Unless it is known that the landlord bought the property with the actual money made as ribā, there is no problem in making use of the property.

Q1626: The government department I work for sent me abroad on duty for a period of two months. I was paid a sum of money in hard currency as compensation for the mission. However, the duty lasted for one month only. When I returned to my country, I sold the remaining hard currency, in the open market, for more than the price I got it for. Now that I want to settle the account with the government department, should I take into account the sale price or the amount I bought it for?

A: Should the total amount have been given to you as compensation for the mission on a daily basis, you have to indemnify the department for the extra period you were not abroad. It is obligatory on you to return either the hard currency or its current value.

Q1627: An employer pays a middleman the wages of his workers. The middleman pays them less than what he receives from the employer. What is the view on such a practice?

A: The middleman — if he did so as an agent for the employer — has to return to the owner the extra amount he did not pay to the workers. It is not permissible for him to use the money unless he knows for sure that [the employer] does not mind.

Q1628: A person leased an endowed plot of land for ten years from its legal and sharī trustee. The leasehold was officially registered. After the trustee passed away, his heirs claimed that the leasehold was unlawful because he [the deceased] was not capable of making a rational decision. What is

the ruling in this matter?

A: Unless the actions of the trustee are proved to be invalid, the lease contract which he made should be deemed valid.

Q1629: A person rented some property that belongs to the endowments of a masjid for a particular period. After the expiry of the period of tenancy, the tenant refused to vacate the property unless he is paid a certain amount of money. Moreover, he had not paid the rent for a number of years. Is it permissible to pay him the money he asked for?

A: The tenant has no right in the property after the expiry of the tenancy. He has to vacate the property and hand it back to the landlord. He has no right in demanding any payment for vacating the property. However, if the law recognizes a right for him, he can claim it and there is no objection to be paid from the masjid endowment.

Q1630: A person rented property for a given rent and period. He paid the landlord an advance and an increased amount for the renewal of another period provided that the landlord would not demand that he vacate the property for a particular period. Otherwise, the rent of the second period should be treated on a par with the first period and the extra amount returned to the tenant.

However, prior to the expiry of the agreed period, the landlord demanded that the tenant vacate the property and withheld from the tenant the payment of the extra amount in question. What is the ruling in this matter? And is the landlord justified in demanding from the tenant the payment of a sum of money which the landlord incurred as a result of redecorating the house, despite the fact that there is no agreement to this effect between the two parties?

A: If it was stipulated in the tenancy agreement that the tenant pays, for the second period of rent, an amount equivalent to the rent of the first period provided that he vacates the property before the agreed date, the landlord has no right to demand any extra payment contrary to this. He should, therefore, return this amount, if he has already received it, to the tenant. The tenant does not have to pay the landlord anything towards the cost of repairing or redecorating the property.

Q1631: A person rented two rooms from their owner on a monthly basis and received the keys. The tenant started

moving some of his household appliances into the rooms. When he went away to bring his family, he failed to turn up. The landlord does not know what happened to the tenant. Has the landlord the right to do with the rooms what he likes? What should he do with the personal belongings of the absent tenant?

A: If the lease was not materialized in a proper and sharī manner, even by failing to determine the period, the tenant has no right in the property and the landlord can occupy the rooms. However, the household appliance of the tenant should be considered as though they have been deposited in trust with the landlord who should keep them safe. The landlord has the right to demand, from the tenant after his return, payment of the normal rent [i.e. not the specified one because the contract is void] for the rooms which remained locked and occupied by his personal belongings.

Yet, should the lease have been concluded in a proper way, the landlord has to wait until the period comes to a close whereby he can demand from the tenant the rent for the entire period. As for the period in excess of the agreed one, it should be treated as though the contract was invalid at the outset.

Q1632: A group of company employees live in accommodations provided by the company. The agent of the landlord claims that there is an ongoing dispute with the company over the rent. He further adds that until the court settles the dispute, the landlord does not consider the tenants as having the right to occupy the property, among which is the invalidity, according to him, of their prayers. Is it obligatory that they repeat their prayers or is nothing required from them because they were not aware of the situation?

A: On the assumption that the lease was proper, the employees do not need any new permission from the landlord to use the property. Accordingly, their prayers are valid. However, even on the assumption that the lease is void or that it came to an end, any prayer performed on the premises is deemed valid, because they were unaware of the situation. Therefore, they are not required to repeat the prayers.

Q1633: An employee owns property in the town where he works. He rented it to a person and moved to an accommodation provided by the company he works for, contrary to the

rules and regulations which clearly make such a practice illegal. What would the tenant's position be when he comes to know about the employee's contravening the law?

A: It is not permissible for anyone to move into properties provided by the company when they are not entitled to do so by virtue of the rules and regulations in force. However, there is no harm in renting out the property owned by the employee to the others. Nor is there any harm in the others renting such property and consequently having the right to use the property.

Q1634: In a lease, the landlord stipulated that the tenant should pay the equivalent of the rent plus a surcharge for every day he stays in the property after the expiry date of the lease. Does the tenant become indebted to the landlord with the amount he undertook to pay in the agreement?

A: He has to honor the terms stipulated in a binding contract.

Q1635: A person rented some property jointly to two people, on the condition that the tenants do not sublet the property to a third party unless the landlord agrees to it. However, one of the tenants transferred his share to his partner without the consent of the landlord. Does this amount to a transfer to a third party?

A: This transfer is a transfer to a third party unless there is something in the contract which prevents "transfer to the third party" to include "transfer to the partner."

Q1636: I bought a four-year lease of a plot of arable land alongside a share of the irrigation water. The landlord and I agreed that he has the right to cancel the contract at the beginning of the second year. However, the landlord did not exercise this right and received the rent for the third year, giving me a receipt for that. Is it permissible for the landlord or another party, who claims to be the new owner, to have the right of disposal in the leased property before the expiry date?

A: Since the landlord did not cancel the contract at the time when it was within his right to do so, it is not permissible for him to cancel the agreement. If he sold the property to another person after the period, when he was supposed to exercise the right of revocation, this does not render the contract void. Indeed, the new landlord should wait until the expiry of the contract period.

Q1637: I rented a business property to a person, on the condition that he uses it to trade in foodstuffs. This has been provided for in the lease agreement. The tenant did not abide by the condition. Is it permissible for him to go about his business in this way? And am I justified in canceling the lease agreement by default?

A: The tenant has to conduct himself according to the terms of the contract laid down by the landlord. If he defaults, the landlord has the right to cancel the agreement by default.

Q1638: On starting work for a company, its official undertook to pay me salary plus the usual allowances for accommodation, holidays, and insurance contributions. Despite the fact that many years have passed, the company has not honored its undertaking. Since I do not have a written contract with the company, am I justified in demanding my rights by starting legal proceedings against the company?

A: It is permissible for you to have recourse to the law to restore your rights.

Q1639. A person leased a plot of arable land which was endowed for religious purposes. The land used to be irrigated with rainfall. Since the yield of the land was meager, the leaseholder, subsidized by a government grant, transformed it into an artificially irrigated land:

a. How should the leaseholder pay for it, i.e., as land irrigated by rain or by artificial means?

b. How should the lease be paid, especially when a government grant has been involved?

c. Since it is an endowment whose proceeds are to be used for holding a ten-day assembly commemorating the martyrdom of Imam Ḥusayn (a.s.), should the leaseholder spend the rent for the same thing?

d. If the trustee refuses to receive the rent, can the leaseholder pay it to the authorized religious authority?

A: Providing for the irrigation of the land by way of drilling a well, digging a ditch, and the like instead of depending on rainfall, should not call for the increase, or decrease for that matter, of rent of the land. That is, on the assumption that the contract had been concluded in a proper way. Whether the cost of investing in the new irrigation system was incurred by the trustee, the leaseholder, or was subsidized by a government

grant is immaterial.

However, should the change have taken place before the contract was concluded, or after it expired yet before the renewal of the contract, it is incumbent on the trustee to determine an equitable rent, taking into account all that which has been installed in the land [to improve its productivity].

The rent of the endowment should be spent according to the terms of the endowment. The amount of the rent is dependent, at all times, on the opinion of the shar'ī trustee, who should not lose sight of the interests of the endowment at the time of leasing it.

It is not permissible to make use of the endowment without leasing it from the shar'ī trustee and having his permission. Otherwise, it amounts to usurpation.

It is not sufficient to pay the rent to the department of endowments, or to any other fund, with a view to making use of the endowment. However, if the trustee refuses to receive the rent during the period of the lease, there is no problem in making use of the leased land by the leaseholder. In this case, the rent is to be spent in area of endowment after coordination with the authorized religious authority.

Q1640: Should the tenant ask the landlord to carry out certain repairs and modifications to the property, who should bear the cost of such work?

A: If the property was in the same condition when the lease began, the landlord does not have to accede to the request of the tenant. However, if he accedes, he should meet the cost of the repairs and modifications to his property. The request by the tenant from the landlord [to carry out the work] should not entail his bearing any expenses.

Q1641: A person hired a person to recite the Holy Qur'an in a mourning ceremony. The hired person forgot to dedicate it to the person who hired him. However, after he finished the service, he wanted to make an amends by dedicating it to the person who asked him. Is he right in doing so and should, therefore, receive the agreed fee?

A: To do that after he had finished the recitation is not right, especially after he did not intend to do so during the delivery of his recitation. Therefore, he is not entitled to get paid.

Q1642: I went with an estate agent to view some property. Immediately after that, I decided that I was not interested in buying it. However, I went with another person to view the same property. The sale was concluded without the knowledge of the estate agent. Is the estate agent justified in demanding a commission?

A: The estate agent has the right to demand a compensation for recommending the viewing of the property and accompanying the buyer to do the viewing. However, since he was not involved in concluding the sale, he has no right in demanding a fee for the transaction.

Q1643: Someone put his property in the market for sale through a real estate agent. The latter managed to introduce a buyer for the property. Both the buyer and the seller agreed to bypass the real estate agent and go ahead with the sale in order to avoid paying the agent his commission. Should the buyer and the seller pay the agent his fees?

A: Approaching the real estate agent per se does not necessarily mean that he is entitled to the fee of carrying out the transaction. However, if he has carried out any work for either party, he is entitled to be paid the normal wage for the work he has done.

Q1644: A person rented a place from another for a given rent and period. After a while, he cancelled the lease agreement. Can his action be deemed *shar'ī*? And on the assumption that he was right in what he did, has the landlord the right to demand the rent for the days during which the tenant was occupying the property?

A: The tenant is not justified in canceling the lease agreement from one side unless he legally has the right of revocation. Even on the assumption that he has such a right, he is required to pay the rent for the period prior to the cancellation date.

Q1645: A person leased a piece of arable land, on the condition that he bears all the expenses arising from drilling a well in the land. The leaseholder got the permission for drilling the well from the government in his name and got it running. However, a year later the landlord cancelled the lease from one side. What is the ruling in the matter of the well and its equipment, i.e. does it remain in the ownership of the leaseholder or is it for the landlord?

A: As long as the lease is still in force, neither party has the right to cancel it. At any rate, the well remains part of the land and, thus, in the ownership of the landlord unless there is a condition that may suggest otherwise. As for the machinery and equipment attached to the well and all the items the tenant bought with his own money, they are his. Furthermore, if the two parties have agreed, in the contract, that the tenant has the right to make use of the well, he enjoys the right.

Q1646: Two government departments signed an agreement whereby one of them gave the other the right of using a part of a building that belongs to one of them. In return for this the recipient department allocated funds in its budget to be used, during the tenure, by the department which put its property at the disposal of the other. Is it permissible for these departments to do so?

A: There is no harm in the transaction provided that it is done through a valid lease contract with the legal approval of the official responsible for the building. A term stipulated in a lease contract is valid provided that it does not violate Islamic law.

Q1647. What is the sharī justification of what has become common these days of leaving a deposit by the tenant with the landlord?

A: There is no objection to the landlord renting his property to the tenant for a particular period and a given rent on the condition that the tenant gives him an amount of money as loan, although the landlord lowers the rent in the contract below the going rate due to the deposit.

Yet, the deal is both invalid and ḥarām if it takes any of the following forms:

a. The landlord borrows the money from the tenant in return for giving the latter the right of occupying the property.

b. The rent, whether at the going rate or less or more, is deemed a kind of a lending and borrowing transaction, culminating in giving the tenant the right, in the debt contract, of making use of the property.

Q1648: If the goods, being transported to the buyer, have sustained any damage or loss en route, is the hauling company responsible for compensating the owner the price of the goods?

A: Should the haulage company, which is charged with

delivering the goods to their final destination, have gone about its job in a proper manner, and was not at fault, it should not be made to pay any compensation unless such compensation is provided for in the contract.

Q1649: A herdsman brought the herd in his trust to its enclosure and closed the gate. He retired to his home, which is situated some sixteen kilometers away, to spend the night there. A pack of wolves attacked the sheep and preyed on them. Is it obligatory on the owner of the sheep to pay the shepherd his wages?

A: If the shepherd was not responsible for guarding the enclosure of the herd during the night and he was not found guilty of dereliction of his duty as far as safeguarding the sheep is concerned, he should not be made to compensate for the destroyed sheep. Furthermore, he has the right to demand the payment of his wages in full.

Q1650: A person had some property. He put it at the disposal of his neighbor without any thing in return. The neighbor has had a free hand with the property for a number of years. The landlord passed away. His heirs laid a claim to the ownership of the property and asked the neighbor to hand it over to them. He refused to accede to their request and filed a counter claim to the effect that the property was his, without producing any evidence to substantiate such a claim. What is the ruling in this matter?

A: In two cases the property is restored to the heirs as the real owner: a) the heirs prove in any sharī way that the property belonged to their legator; b) the person, who currently occupies the property, admits that the property had belonged to the legator, but claims that it became his for any reason, without proving it in any sharī way.

Q1651: A person left his watch in a shop for repair. The shop was broken into and the watch was stolen. Is the shop owner responsible for compensating the owner of the watch?

A: Unless it is proved that the shop owner was at fault, he cannot be held responsible to pay compensation.

Q1652: An agent works for a foreign company to sell its products. He gets a commission calculated as a percentage of the total price of the sold goods. Is this sharī? Assuming that a government official has a connection with the agent, is it

permissible for the official to get paid part of the commission?

A: There is no objection to the agent taking the commission if it is considered a fee for selling the products on behalf of a company, being governmental or non-governmental, foreign or domestic. However, the government official has no right to receive any other remuneration or gift for performing his governmental duty for which he receives a salary.

## Sarqoflī Rulings

Q1653: If the landlord declines to renew the lease, is it permissible for the tenant, who rented a shop for a given period, to refuse to vacate the shop unless he is paid a sarqoflī? And is it permissible for him to claim the right of sarqoflī, especially when he has no right to transfer the lease to a third party?

A: The tenant has no right to remain in the property and refuse to hand it over to the landlord after the expiry of the lease. However, it is permissible for him to demand a sarqoflī from the landlord if he has such right by virtue of acquiring it from the landlord or by law.

Q1654: I leased a business property from its owner and paid him an amount as a sarqoflī for the property. I spent a lot of money to renovate the property. Ten years later, the heirs of the landlord have requested me to vacate the property and return it to them. Do I have to accede to their request? On the assumption that I have to, can I demand from them to pay me all the expenditure I incurred? And can I demand from them to pay me the sarqoflī for the property at the market price?

A: Whether the landlord should renew the lease or be allowed to demand vacant possession of the property as well as compensation for the money spent for the property are matters for the law of the land or the provisions of the lease contract signed by both the landlord and the tenant.

As for the sarqoflī for vacating the property, if it was transferred to the tenant by the landlord in a sharʿī manner, or became thus by the force of the law, he has the right to demand payment of the real value of sarqoflī.

Q1655: A landlord rented a building to a company without charging it sarqoflī. Is the landlord required to pay sarqoflī to the company on vacating the building? And if the landlord sells the property to the same company should he deduct an amount equivalent to sarqoflī?

A: Unless the right to demand payment of sarqoflī by the tenant has been conferred on him in a sharʿī manner, by way of buying, a muşālahah, or a condition in a binding contract, or a law, he is not justified in demanding from the landlord

anything in return for foregoing sarqoflī. Nor is the tenant justified in deducting an amount from the purchase price of the property for the sarqoflī if he buys it from the landlord.

Q1656: My father bought a string of business properties and registered them in the names of his sons. However, in his lifetime, he was conducting his business on these properties. Do sarqoflī of these properties belong to the three sons or to the inheritors at large?

A: Sarqoflī of property is tied in with the property itself. Its ownership should, therefore, belong to the rightful owners of the property. That is unless it is transferred from the owner to another party in a sharʿī way.

Q1657: A tenant paid a landlord a sum of money as sarqoflī for the property he leased. After a while, the tenant decided to vacate the property. Is it obligatory on the landlord to return to the tenant the amount of money he paid him at the time? Or should sarqoflī reflect the market price at the time of vacating the property?

A: Should the tenant lawfully have the right in sarqoflī, it is within his right to demand the payment of such sarqoflī at an equitable rate on the day. For his part, the landlord should pay the tenant the going rate. However, if the tenant had deposited a sum of money with the landlord, on the day the tenancy commenced, to be returned to them once they vacated the property; he is entitled only to demand the payment of that sum of money. As to difference in money value, there is a caution to reach a settlement.

Q1658: I leased some property without paying a sarqoflī because it was not common practice in our town at the time of entering into the lease agreement. After the death of the landlord, the property reverted to his sons who have demanded that I vacate the property. During the period of the tenancy, I incurred some expenditure that arose from carrying out some work on the property such as rewiring and maintenance. There are many people indebted to me as a result of my business dealings with them. Do I have to respond positively to the request of the new owner and vacate the property without

getting any thing in return? And should I have any right, how can I go about quantifying it?

A: After the expiry of lease contract you do not have any right to use the property nor to refuse to vacate the property and hand it over to the owner, who declined to renew the lease. However, matters like the landlord responding favorably to the request of renewing the lease, whether it is within his right to have vacant possession of the property and whether the tenant has to accede to his request are subject to the laws in force and the conditions laid down in the contract.

As for demanding some payment in return for vacating the property, you are not entitled to such money. This is because the established practice in the area at the time of leasing the property did not confer on you the right of demanding Sarqoflī for vacating the property and such right was not handed down from the landlord to you unless the law allows you to do so.

As regards the expenses you incurred as a result of carrying out certain works to the property, they are yours. Unless common view or the law sees that such things become part and parcel of the property either for free or with compensation paid to you.

Q1659: A business property was leased for twenty years. Is the leaseholder justified in transferring the right of receiving sarqoflī to another tenant, either during the period of lease or after it has expired observing all related laws and paying the sarqoflī taxes? If the first tenant transfers its sarqoflī to a new tenant in a formal way observing all regulations but the landlord is not happy with it, has he the right to demand from the second tenant to vacate the property?

A: If sarqoflī of the place was not transferred to him by the landlord or by virtue of law, he has no right to sell or transfer it to any body else. If he does so, it is a fuḍūlī transaction and depends on the permission of the landlord.

Q1660: In his lifetime, the testator gave me his share in a hotel and its furnishings including superstructure and rights by way of muṣālahah. Does this muṣālahah include the right to its sarqoflī?

A: If he had such a right and the muṣālahah included all that

he owned as far as the hotel is concerned, including superstructure and rights, the right of sarqoflī is included in the muṣālaḥah as well.

Q1661: A person rented some property, on the condition that he would vacate it whenever the landlord asked him to do so. After the expiry of the tenancy, the landlord demanded that he vacate the property. The tenant demanded to be paid sarqoflī in return. Should the landlord give in to his demand?

A: As it is stipulated in the contract that the leaseholder should vacate the place on the demand of the landlord and it seems that the right of sarqoflī was not transferred from the landlord to the tenant; the latter has no right to demand it unless the law stipulates it.

Q1662: I rented a place to someone and sold its sarqoflī for a certain amount. He paid me by check which I could not cash due to non-availability of funds in his account. However, he is using the property. Although I have not received the money, he claims ownership of sarqoflī. Does it belong to him or is the transaction deemed invalid because I did not receive the money?

A: Non-availability of funds in the buyer's account which prevented you from cashing the amount should not render the transaction invalid after the sale was concluded properly. The right of sarqoflī should be the buyer's. The seller can demand from the buyer to clear the outstanding check.

Q1663: In case the tenant has the right to demand the payment of sarqoflī for vacating the property by both the law and in the common view, but the landlord refuses him such payment, what is the ruling in the matter of the tenant staying in the property without the agreement of the landlord until he receives sarqoflī? On the assumption that the tenant is not justified in remaining in the property and his action does, therefore, amount to usurpation, would the income of the business he generates on the premises be deemed ḥalāl?

A: Unless it is stipulated in the contract that tenant vacates the property only if sarqoflī is paid, the mere right to sarqoflī does not allow the tenant to use property after the expiry date.

Anyhow any thing gained as a result of business there is ruled ḥalāl.

Q1664: A person leased property for a given rent plus sarqoflī. [Over a period of time], the landlord gradually increased the amount of rent so much so that it is now double the initial amount. Now that the tenant has agreed with a third party to vacate the property and hand it over to them for a higher sarqoflī, the landlord is demanding to be paid 15% of the sarqoflī. Furthermore, he wants to increase the rent ten-fold, despite the fact that similar properties in the vicinity are leased for much less. According to shar‘, is the landlord justified in demanding a percentage of sarqoflī and a highly inflated rent?

A: After it has been known that the tenant has the right to sarqoflī of a premium and the right to transfer this right to whomever he wished, the landlord has no right to demand from him a share of it. As for the rent, it is a matter for the landlord and the tenant to agree at the time of renewing the lease.

Q1665: A person leased property and paid, on top of the monthly rent, an amount as sarqoflī. The landlord and the tenant agreed that the former pays the latter the actual rate of sarqoflī on the day of vacating the property. Failure on the part of the landlord to comply would entitle the tenant to sell the sarqoflī to a third party. Is this agreement shar‘ī and, therefore, binding?

A: There is no harm in stipulating these conditions in the lease agreement. The landlord has to honor his undertaking. He has no right to object to selling of the sarqoflī, by the tenant, to a third party if he declined to buy back the right of sarqoflī from the tenant.

Q1666: We bought some property consisting of a residential accommodation and a shop. The shop was leased to a person alongside the right of sarqoflī. However, sarqoflī of the shop changed hands among a number of tenants. Do we have to pay the present tenant sarqoflī if we ask him to vacate the shop after the expiry of the lease? If not, is it obligatory on the previous landlord, or the previous tenant who got it, to pay?

A: After the present tenant has become entitled to sarqoflī in a shar'ī manner, it falls on the shoulders of whoever is going to buy it from him to pay sarqoflī to him.

## **Pawning and Mortgaging**

Q1669: The owner of a mortgaged property died and left behind minor children. The loan was not fully paid. The lender repossessed the property, which is worth much more than the outstanding amount of the loan. How should the extra amount [from the proceeds of selling the property] be treated? And how should the minor children restore their right?

A: Where it is possible for the mortgagee (lender) to sell the property to get his money back, the property should be sold for the highest price possible. If the property has fetched more than the amount of debt, the lender can take what is his and pay the remainder to the rightful owners. As the question goes, the surplus amount should go to the inheritors.

Q1670: A mukallaf borrowed a sum of money from a person, and undertook to pay it back within a specified period of time in return for mortgaging his property. Having done that, the owner rented the same property from the person for a given rent and a particular period. Is it permissible for him to do so?

A: There is a problem in renting some property to its owner. Furthermore, this type of transaction is nothing but a ploy to circumvent the involvement in a ribā-bearing loan transaction that is both ḥarām and invalid.

Q1671: A person mortgaged a plot of land to another in return for a loan. The situation continued for forty years during which both parties died. Now, the heirs of the landlord are demanding from their counterparts to return the land to them. They refused to agree to their request, claiming that they inherited the land from their father. Can the heirs of the landlord restore their right in the land?

A: If it is proved that the mortgagee who kept the land as collateral for the loan had the right of possessing the land in settlement of the loan, that the value of the land was either equivalent to, or less than, the amount of debt, and that it was at his disposal until he passed away, it is apparent that the land is his.

Accordingly, after his death, it should become part of his estate, where the inheritors have a right to it. If this is not the case, the land should revert to the ownership of the inheritors of the mortgagor. Thus, they should have the right to get it

back. They are required, though, to pay back the money their father owes to the heirs of the mortgagee.

Q1672: Is it permissible for a person who rented some property to mortgage it with a third party, or is it a condition, in order for the transaction to be valid, that the property belongs to the mortgagor?

A: There is no objection to that provided that the landlord has authorized the tenant to mortgage the property.

Q1673: I mortgaged some property to another person as collateral for the debt I owed him. In the contract, we agreed that the period of the mortgage is one year. However, I verbally promised to let him have the right of disposal in the property for three years. Which of the two is valid, i.e. the written agreement or the verbal pledge? Assuming that the transaction is not valid, what would the position of the two parties be?

A: As far as the period of the mortgage is concerned, the written paper, promise, and the like are of no consequence. The yardstick is the loan contract. If it was for a given a period, it lapses by the end of the appointed period. If not, it remains effective until the debt is settled or the mortgagee releases the mortgagor from the debt. If the mortgage is done with, or the contract proved to be lacking to start with, it is permissible for the mortgagor to ask from the mortgagee to give him back his property. For his part, the latter should have no right to refuse to return the property and to consider it as a valid mortgage.

Q1674: My father pawned a piece of jewelry with a pawnbroker in return for a loan. Shortly before his death, my father gave permission to the pawnbroker to sell the pawn in settlement of a debt. However, the pawnbroker was not aware of this permission. I offered to pay the money back in return for the pawn. My intention was not to repay the debt, rather to get the piece of jewelry back and pawn it with another person. The pawnbroker refused to accept my protestation unless all the heirs agree to the proposal. Some of the heirs did not consent to the proposed course of action. When I approached him again with the money, [he received it, yet] declined to hand me back the pawn, claiming that it is within his right to keep it in settlement of the debt.

Is it permissible for the pawnbroker to refuse to return the pawn after he got his money back? Has he the right to refuse

to return to me the money I gave him, under the pretext that it was in settlement of the debt? And is he justified in making the return of the pawn dependent on the agreement of all the heirs?

A: If paying back the money to the pawnbroker was intended to settle the debt the deceased owes the broker, the deceased would be absolved of the responsibility of the debt and the pawn retained by the broker for safekeeping. However, since the heirs now jointly own the pawn, the pawnbroker cannot return it to some of them unless they all agree to it.

If the money given to the pawnbroker was not intended to pay back the debt owed by the deceased, as it is understood from the broker's admission, he is not justified in retaining the money under the pretext that it was in settlement of the debt. It is obligatory on him to pay the person, who gave him the money, his money back, especially after he has demanded that. In the meantime, the piece of jewelry should remain pawned with the broker until the heirs come up with the money to settle the debt of the deceased and release the pawn, or give permission to the pawnbroker to sell the pawn to recover his debt.

Q1675: Can a mortgagor mortgage the collateral to another pawnbroker before the first one is terminated?

A: As long as the first contract is not terminated, the second mortgage is suspended without the permission of the first mortgagee and becomes valid only if he authorizes it.

Q1676: A person pawned his land with someone as a surety for a loan he was supposed to give him. After getting hold of the land, the pawnbroker apologized for not having the money the landlord asked for. However, they settled for ten sheep to be given to the landlord instead of the money. Now, the mortgagor wants to get his land back by paying the debt to the broker. The broker is insisting on getting repaid in kind, i.e. the same ten sheep he gave the owner of the land when they concluded the deal. Is what he is demanding *shar'ī*?

A: Mortgage is for something already loaned not for a future debt/loan. According to the question, the land and the sheep should be returned to their owners.

## Partnership

Q1677: I contributed to the capital of a company and appointed the owner of the company as my agent in so far as the investment is concerned provided that he pays me a fixed monthly sum of money. A year later, I settled for a plot of land he gave me in return for the money I put into the company and the profits thereof. Is this shar'ī?

A: As you invested in the company and authorized him to deal with it, there is no objection to receiving ḥalāl proceeds.

Q1678: A number of people bought an object collectively. They agreed between themselves to draw a lot to determine the owner. What is the ruling?

A: If the intention behind the draw is granting each individual's share in the object to the person who wins it, there is no harm in it. Yet, if the intention is transferring the joint ownership to the person who wins the lottery per se or their intention is mainly wining and losing, it is not shar'ī.

Q1679: Two people jointly bought a plot of land. They have been cultivating the land for some twenty years. One of the partners sold his share to a third party. Has he the right to do so? If he refuses to sell his share to his partner, can the latter do anything about it?

A: The partner has no right to force the other partner to sell him his share. Nor has he the right to object to the partner's selling his own share to another party. However, he can resort to pre-emption, provided that the prerequisites are available and the transaction is concluded.

Q1680: What is the ruling in the matter of dealing in shares in the stock exchange? It is to be noted, however, that the share itself is subject to the deal, rather than the capital of the company and that the price of the shares might go up as well as down. And what is the view if the activities of some companies are either ribā-based or doubtful?

A: If the value of the shares of a company or a bank is based on the shares themselves and their credit was issued by an authorized person, there is no objection to buying and selling them.

If the value of the shares is regarded as the value of the entire plant, mill, company, or bank as the capital thereof, in that

each share constitutes part of the capital, there is no objection to buying and selling such shares provided that the total number of shares is known, besides other information with a view to avoiding any risk that could be thus perceived in the common view.

Q1681: As a result of a disagreement between the three of us, we decided to sell the poultry business we own as partners at auction. One of us won the bidding. Ever since, he has been procrastinating with regard to paying us our money. Can this transaction still be deemed shar'ī?

A: Getting the auction underway and tendering a higher price by one of the partners, or any other party for that matter, is not sufficient to complete the sale and own the business. Therefore, if the sale of shares has not been concluded properly and in a shar'ī way, the partnership should remain intact. However, if the sale has gone through in a proper manner, the delay in paying the price for the business by the buyer should not render the sale transaction invalid.

Q1682. A group of people set up a company by way of partnership. The company was officially registered with the authorities. However, I relinquished my share in favor of another person who bought it from me. He paid me the price by five checks which bounced. When I approached the buyer, he took the checks from me and restored my share in the company, but he remained officially the stockholder. It transpired that he sold the share to another party. Has he the right to do so? And do I have the right to demand the restoration of my stake in the company?

A: If the buyer, who revoked this sale after he had got his checks back, sold the share to a third party before the cancellation, this sale is valid. If he had sold the share after the cancellation, this sale cannot go through unless you sanction it.

Q1683: Two brothers inherited a house from their father. They couldn't reach a settlement as how to divide the inheritance. The case was submitted to the court to decide it. The court consulted an expert, who advised that the property couldn't be divided and that it would be recommended for either of them to sell his share to the other or for the house as a whole to be sold to a third party. Accordingly, the property was sold at auction and the proceeds given to the two brothers.

Is this sale sharī and can the two brothers receive their respective share of the proceeds?

A: There is no problem in that.

Q1684: One of the partners of a company bought some property with the company's money and registered it in the name of his wife. Who has ownership of the property? And is the wife legally bound to register the property in the name of the partners, even though her husband will not let her do it?

A: If the husband [partner] bought the property for himself or his wife on credit, then paid for it with money from the company, the property is his and his wife's. However, he becomes indebted to the rest of the partners insofar as their shares are concerned. If he exchanged it with the very company's money, the [validity of the] transaction proportionately hinges on the consent of the other partners.

Q1685: Is it permissible for some of the inheritors, or their agent, to have the right of disposal, in any way, in the estate that is still jointly owned by the heirs without the agreement of the rest of the heirs?

A: It is not permissible for any of the partners to have the right of disposal in a jointly owned property without the agreement of all the heirs. Nor is it permissible for any one of them to engage in any transaction concerning the property unless they secure the permission of all the partners.

Q1686. Some partners in a jointly owned property sold it without securing the agreement of all the shareholders. Is the sale valid and, therefore, binding on the other shareholders to agree to it, albeit they are not happy with the deal? And should the agreement of all partners be a condition? Does it matter whether the company was a commercial enterprise or a civil one, in that agreement must be secured for the latter and not the former?

A: This sale is valid and, therefore, enforceable insofar as the share owned by the party who sold it or gave permission to sell it. As for the remaining shares, this is dependent on their respective permissions, irrespective of how the company came into being.

Q1687: A person took a loan from the bank and built a house. The property was insured. After part of the property was damaged due to flooding, the bank does not want to admit liability.

For its part, the insurance company says that the damage cannot be covered because it falls outside the terms of the insurance policy. Whose responsibility is it then?

A: The insurance company cannot indemnify for the damage because it falls outside the remit of the policy. The cost of repairing the property, and indemnifying for any loss which is not the responsibility of others, should be borne by the owner. As for the bank, if it is a civil partner in the property, it should bear a share of the cost of repair proportionate to its stake unless the damage occurred due to somebody's default.

Q1688: Three people jointly bought a string of business properties. One of the partners refused to agree with the other two partners to be part of any business conducted therein, to sell, or to rent them out. Is it permissible for any partner: (a) to sell or lease his share without the permission of the other two partners? (b) to occupy the property without the permission of the other two partners?, and (c) to pick and choose any property for himself and leave the rest for others?

A: 1. It is permissible for any partner to sell his own share without any need to obtain the permission of the other partners.

2. It is not permissible for any partner to occupy a jointly owned property unless he secures the permission of the other partners.

3. It is not permissible for any partner to choose his own share of the jointly owned property without the permission of the other partners.

Q1689: A group of people wants to build a ḥusayniyyah on a green piece of land. Those who have a stake in the land do not agree to the project. What is the ruling in the matter, especially when there is a possibility that the land could be anfal or a public facility?

A: If the land is a common property, any involvement in it hinges upon consent of all those who have a vested interest in it. If it is anfal, the decision concerning it should be left to the Islamic state. It is not permissible to have any involvement in the property without the government permitting it. If it is a public utility, the same ruling is applicable.

Q1690: A number of people inherited an orchard. One of the inheritors refuses to sell his share. Is it permissible for the

other shareholders, or a government department, to force him to do so?

A: Neither the other partners nor anyone else can coerce the partner to sell his share, especially where partitioning is possible. In this case, each of the partners can demand from the others to partition their share unless the law of the Islamic government does not permit the partitioning of the plantation. Such legal requirements have to be respected.

If the jointly possessed property cannot be demarcated, any partner can have recourse to the authorized religious authority to force the unwilling party to sell their share or buy the shares of the other partners.

Q1691: Four brothers live of a jointly owned property. Two of them got married and undertook that each would be responsible for bringing one of the younger brothers up and bearing the expenses arising from his marriage. However, neither kept his pledge. The younger brothers now want to have their share of the property and live independently. How should they go about distributing the possessions between themselves?

A: The elder brothers should compensate any amounts that have been spent of the jointly owned property, which the other brothers did not equally spend. They [i.e. the younger brothers] have the right to demand compensation. Then the remaining amount of the jointly owned property should be distributed equally among all the brothers.

Another way of distribution would be that each of those brothers, who have spent less than the others, should take an equal share of the property to be put on a par with those who have enjoyed spending of the jointly owned property. Once this is done, the remaining amount should be distributed equally between them.

Q1692: The tea company in the country has a policy of forcing retailers to become members in the company. Has the company the right to do so? And is such membership valid?

A: Should the company offer the members facilities and services and give them tea provided that they are its members and deal only with it, there is no objection to that. Nor is there any harm in such membership.

Q1693: Is it permissible for the management of a company to spend its profits in charity without seeking the permission of

the shareholders?

A: Making a decision about dividends rests with the shareholder himself. Thus, if someone else spends the dividends without either power of attorney or permission from the shareholder, he should be held responsible to compensate the shareholder, even though the income is spent in charitable causes.

Q1694. Three people set up a joint business venture. One of them contributed half of the capital and the other two a quarter each. They agreed that the profits should be distributed between them each according to their shares. The two partners, who contributed a quarter each of the capital, run the business full-time, whereas the partner, who owns half of the company's capital, seldom works. Is this partnership valid?

A: For shareholders, it is not necessary to have equal shares in the investments. However, there is no objection to distributing the profits equally between the partners, regardless of the percentage of their respective shares in the company. As regards running the business, each of them will be remunerated for his work if nothing is stipulated in the contract in this regard.

Q1695. Both the public and the private sectors jointly own a company. The shareholders appointed the management team. Is it permissible for the company staff to use the company cars for their personal business?

A: Using the transport means and other company property in non-company business is dependent on the permission of the shareholders or their official agents.

Q1696: According to the company charter, a committee, whose responsibility is to settle disputes, has to be set up. The committee cannot be set up because 51% of the shareholders have forgone their rights. Is it obligatory on those shareholders who have relinquished their rights to demand the formation of the committee so that the rights of the existing shareholders are upheld?

A: If the members — as required by the company charter — undertook to form the arbitration committee when it is necessary to do so, they have to abide by their undertaking. The issue of some shareholders relinquishing their rights should not be taken as a pretext for not honoring the pledge concerning the setting up of the arbitration committee.

Q1697: Two people set up a company. Both of them had a stake in the business to meet the setting-up cost including sarqoflī that had been paid for the property. One of the two partners left the business, taking with him his share of the capital. The other partner has continued running the business. The partner who opted out is claiming that he should be given a share of the transactions concluded by the existing partner. What is the ruling in the matter?

A: In itself, partaking in the ownership and sarqoflī of a commercial place is not sufficient for having a part in the [actual] trading and getting a share of the profits. The yardstick is to have a share in the running capital. Accordingly, if the continuation of one of the partners in running the business has occurred after they decided to divide the jointly owned capital in a proper way so much so that one of them took away his share, the latter should have no right in the transactions his [former] partner has concluded. However, should there be any transactions before the actual breaking up of the company, the partner has a right in the commercial activity of his partner in a measure equivalent to his stake of the capital.

Q1698: Is it permissible for me to deny my sister the right to take away her share in the company for fear that she might use the funds she will acquire in projects that serve to spread un-Islamic practices?

A: No partner has the right to prevent any of the other partners from getting their share and also it is not permissible to deprive them of access to their property fearing that they might use their property in the avenues of evil, disobedience, and other unlawful activity. The partners must accede to the request of any partner wanting to break ranks. It is to be noted, however, that the partners who want to go it alone should be mindful of their duty as not to utilize their property in bankrolling forbidden activities. For their part, the other partners should forbid them from evil if they use their property in any avenue that is deemed ḥarām.

## Presents and Gifts

Q1699: Is it shar'ī to use a present given by a minor orphan?

A: It hinges upon the permission of his shar'ī guardian.

Q1700: Two brothers jointly own a plot of land. One of them gave his share by way of gift to his nephew who took possession of it. Is it permissible for the heirs of the gift giver to lay claim to the property, considering it part of the estate of their father?

A: If it is proved that the deceased gave his share in the land to his nephew as a gift, and that he handed it over to him, leaving it at his disposal, the inheritors should have no right in it.

Q1701: A person built a house for his father on land that belonged to the latter. With the permission of the father, he built another storey on top of the house for himself. Both the father and the son died. There is neither evidence nor a will that could lead to proving its owner. How could this issue be resolved?

A: If the son had paid all expenditure arising from the building of the second storey, which was at his disposal and remained so throughout his lifetime, it should be his and part of his estate after his death according to shar'. Accordingly, it is transferred to his inheritors.

Q1702: Before his death, my father officially registered some property in my name when I was eleven years old. A plot of land and half of another property were registered in the name of my brother; the other half of the property was registered in the name of my mother. Now, the rest of the heirs are laying a claim to my property, alleging that it is not mine by shar', whereas they recognize the ownership of the land and the properties of my brother and mother. My father did not leave a will, nor is there a witness. What is your view?

A: During his lifetime, whatever the father had given by way of gift to some inheritors, who took possession of it in a proper manner, so much so that he transferred it into their respective names, that gift is the recipient's by shar'. Therefore, the other heirs have no right to claim it for themselves unless it is proved in a reliable way that the father did not grant his son the [disputed] property and that the registration of the official

document in his name was not accompanied by any real intention to transfer it to him.

Q1703: During his lifetime, my husband built a house. I contributed to the completion of the building by donating my labor which had resulted in saving on building costs. He told me many times that I was his partner in the property and that he would register a share equivalent to two sixths of the house in my name. Unfortunately, he died before he could conclude the registration. I do not have any written document like a will to substantiate my claim. What should I do?

A: Helping in building the house and promising a share in the property does not amount to becoming a partner in the ownership of the property. So unless it is proved beyond doubt that your husband had given you a share during his lifetime, you have no right in the property.

Q1704: While enjoying full mental capacity, my husband called in the bank manager and gave me, by way of gift, all the money in his account. This has been done with his own signature on the papers in the presence of the bank manager to the effect of giving me the right of withdrawal. Accordingly, the bank provided me with a check book which I used to withdraw money from the account. A month and a half later, his son accompanied him to the bank. When he was asked whether the money in the account was his wife's, he nodded, "Yes". When he was asked another question as to whether the money was his sons', he nodded, indicating the affirmative. It is worth mentioning, though, that he was not mentally well then. Does the money belong to me or to my stepsons?

A: Since taking possession of the thing given by way of gift is a condition to owning it, and the transfer of the money in the bank by way of signature and issuing a check book cannot be regarded as sound, the said grant cannot be deemed sharī. However, what you have withdrawn of money, while your husband was mentally well, is rightfully yours. Your husband's remaining money in the bank should be part of his estate. Therefore, it has been transferred to his inheritors, on his death. Furthermore, his undertaking, while in a diminished mental capacity, is of no consequence.

Q1705: Are the things bought for a mother by her children during her lifetime considered part of the estate after her

death?

A: If the things, bought by the children for their mother, have been given to her by way of gift and put at her disposal, they are rightfully hers and, therefore, regarded as part of her estate after her death.

Q1706: Are the items of jewelry, bought by a husband for his wife, considered part of his estate after his death so that they can be distributed amongst his heirs, including his wife?

A: If the items of jewelry have been at the disposal of the wife, so much so that she does with them as though she were the owner, they are rightfully hers unless it is proved otherwise.

Q1707: Do the presents, given to the husband and his wife during their married life, belong to the wife, the husband, or both of them?

A: It depends on the type and nature of the present itself, on whether it is exclusive to men, women, or is for both of them. So, that which is destined for the husband or the wife should be exclusively his/hers. That which is apparently destined for both of them should be jointly owned.

Q1708: In the event of divorce, is it permissible for the wife to take away the things, such as linen, carpets, and clothes, which she brought with her from her parents' home?

A: Things that the wife brought with her from her parents' home, that she bought for herself, or that were given to her as a present are rightfully hers. It is within her right to demand that it be given back to her if they are still available. She has no right, though, to demand from the husband to return to her the things which have been given as gifts to the husband by the family or relatives of the wife. If they exist, the granter of the gifts should decide. That is, it is within the granter's jurisdiction to revoke the gift transaction and take it back provided that the husband is not a blood relative of the granter.

Q1709: After I divorced my wife, I took away all the jewelry, make-up, and other things which I bought her during our married life. Have I the right to do with them whatever I like?

A: If you gave them to your [ex-] wife, by way of loan or gift provided that it is still in its pristine condition, and that she is not among your blood relatives, you can cancel the gift transaction, retrieve the property, and use it. Otherwise, it is not permissible.

Q1710: My father gave me a plot of land by way of gift. The title deed of the land is officially in my name. A year later, he regretted his decision. Is it permissible for me to make use of the land?

A: If your father changed his mind and revoked the gift deed after you received the land and occupied it, the land is yours by shar'. Your father has not right to demand it back. And if he had second thoughts before you took possession of the land, he has the right to rescind the gift. If this is the case, you do not have any right to the land. Registering the land in your name is not sufficient for actually taking hold of the gift which is necessary in a gift deed.

Q1711: I gave a person a plot of land by way of gift. He built a house on part of the land. Is it permissible for me to ask him to give me back what I gave him, or compensate me, or return to me what's left unbuilt of the land?

A: After the recipient has taken possession of the land with your permission and has practically occupied it by building a house, you have no right of revoking the gift. Nor have you the right to get back the land or the price thereof. And if the house was built on a part of the land, nevertheless due to proportionate area of the land it is considered by common view that he took the whole land, you are not entitled to claim back any part thereof.

Q1712: Is it permissible for a person to give all his property to one of his sons to the exclusion of the others?

A: Should this result in creating discord and strife between the offspring, it is not permissible.

Q1713: A person gifted his property to five people in return for something else. The gift deed stipulates that they build a ḥusayniyyah to be used for this purpose for ten years after the building has been completed. Should they wish to treat it as endowment after that, they may do so. They built the ḥusayniyyah with the help of the public. In the endowment deed, they gave themselves wide-ranging powers, including the appointment of the trustees of the endowment. Is it incumbent on the others to abide by their decision as to the choosing of the person who should take overall charge of the trust? Is there any legal obstacle to non-compliance with the provisions in the endowment deed? And what would the position be if one

of the five-member committee goes against endowing the ḥusayniyyah?

A: They have to abide by the conditions laid down by the benefactor in the gift deed. If they do not follow the conditions he laid down regarding ḥabs or endowment, the gift giver or his heirs have the right to rescind the gift. And as far as the conditions they laid down in the endowment deed are concerned, such as the right to appoint the general supervisor, if the five-member body were acting according to the authority vested in them by the gift giver himself, these conditions have to be adhered to and acted upon. Should some members of the committee refuse to declare the ḥusayniyyah an endowment, the other members should toe the line provided that according to the gift giver a unanimous vote for rendering it as endowment is necessary.

Q1714: A person gave one third of his house to his wife by way of gift. A year later, he leased the entire property to someone for fifteen years. After a while, he passed away without leaving behind any children. Are both the gift and the lease valid? If the deceased was in debt, is it going to be paid off from the entire property or from the two-thirds and the remainder distributed according to inheritance law? Should the creditors wait until the expiry of the lease?

A: If the donor let her take possession of part of the house she owned — albeit while making use of the entire house — before leasing it to the third party provided that she was among his blood relatives or the gift was in return for something else, it is valid and, therefore, enforceable as described [i.e. concerning the part of the house]. However, the lease is valid in so far as the remaining part of the property is concerned.

Conversely, the lease, coming hard on the heels of the gift, would invalidate the gift. In this case, only the lease deed concluded after the gift is valid. As for the debt of the deceased, it should be settled from the property he owned at the time of his death. What he leased during his lifetime, the lease holder has the right to make use of throughout the period of the lease. While the house itself would be part of his estate that could be used to pay off his debts and the remainder falls to the inheritors, but they cannot use the leased property until the end of the lease.

Q1715: A person directed in his will that all his immovable property should be given to one of his sons provided that the son pays him and the members of his family a certain amount of rice each year in return. A year later the father gave the son the said property by way of gift. Would the provision, regarding the transfer of the property, made in the will remain valid because it preceded the gift and, therefore, enforceable in one third, in which case the remaining two-thirds would be rendered part of the estate, i.e. after the death of the giver? Or could it be the case that it is deemed invalid because it was superseded by the gift? It is noteworthy that the property is now under the control of the son.

A: If the gift was given to the person, with the permission of the granter during his lifetime, so much so that the recipient took possession of the gift and went about handling it as though he was the owner, this would have been bound to render the will invalid because it would have been deemed a revocation of the will. That is, the property given to the intended person should have been rightfully his, i.e. the other inheritors have no right in it. Otherwise, the will would remain valid unless it is proved that the testator had changed his mind about it.

Q1716: Is it permissible for an inheritor, who donated his share in the inheritance to his brothers, to claim it back from them after several years? And what is the opinion if they refuse to give in to his demand?

A: It is not permissible for him to do that if he has already handed it over to them, and they took possession of it through which the transaction was concluded. However, if this has not been the case, i.e., before any transfer and receipt of the property, he is entitled to revoke the gift.

Q1717: One of my brothers gave me, by way of gift, a part of his share in our inheritance. He retracted his decision before the estate was divided among the inheritors. What is the ruling in the matter?

A: If he had changed his mind before you received what he granted of his share in the inheritance, his action should be deemed *shar'ī*. Accordingly, you have no right in his share. However, if he changed his mind after your receiving what he

had given you, he cannot revoke his decision, and, therefore, has no right to the gift.

Q1718. A woman gave her land away by way of gift to a person, on the condition that he would perform hajj for her, in the belief that hajj was incumbent on her despite the fact that her relatives didn't agree with her analysis. Then, she granted the same land to one of her grand children, and passed away a week later. Which of the two donations is valid? And what would the position of the first person, who was granted the land insofar as the performance of hajj is concerned, be?

A: If the first person was among the woman's blood relatives and took possession of the land with her permission, the first gift deed is valid and, therefore, binding. It is incumbent on the person to perform hajj on her behalf. As regards the second gift deed, it is dependent on his agreement.

If the first person was not among the woman's blood relatives or did not take possession of the land, the second gift deed would be considered a revocation of the first one. Therefore, it is deemed valid, rendering the first one invalid. Accordingly, the first person has no right in the land and is, therefore, not required to perform hajj for the woman.

Q1719: Can someone give his right to another one as a gift before he is entitled to such a right? At the time of the marriage contract, a woman forwent all the financial obligations that may become due to her by her husband. Is such a transaction valid?

A: There is a problem in, if not an objection to, such a type of grant. There is no harm if this foregoing of the wife's future rights is considered as a *şulh* contract or as a term stipulated in the contract that she would relinquish the rights after being entitled to them. Otherwise, it is of no effect.

Q1720: What is the ruling in the matter of exchanging presents with non-Muslims?

A: There is no objection to it in itself.

Q1721: A person gave his grandchild all his property during his lifetime. Does this gift cover all that he left, so much so that one cannot spend of it for his funeral?

A: If the grandchild took possession of the property later during the life time of the grandfather with his permission, the gift deed is effective regarding all gifts he took possession of.

Q1722: Are the things given to people who were wounded or maimed in the war, considered as gifts?

A: Yes, they are, save that which is paid to them as wages for their work, which is compensation of their work.

Q1723: To whom does the ownership of the presents given to the families of martyrs belong, i.e. to the heirs or their guardian?

A: It [the present] belongs to the person it was given to as intended by the giver.

Q1724: Some companies and other quarters, be they national or international give gifts to agents or middlemen when concluding commercial deals of any sort. Since this may make the recipient lean toward favoring the donor, is it permissible to accept and have ownership of such presents?

A: It is not permissible for the agent or the middleman in a sale, purchase, or a contract to accept any presents from the other party of the deal.

Q1725: Suppose a company gave a present, in exchange for another one which was presented to them and paid for by public funds. What is the ruling?

A: Should the present have been given in return for another one paid for by public money, it should be deposited in the public coffers.

Q1726: Should the present leave an adverse impact on the recipient, especially when security matters are concerned, is it permissible to accept and use it in any way?

A: It is not permissible to have such a present. Rather, one must decline to accept it.

Q1727: Should there be any doubt that the present to be given to someone is intended to be used as a carrot to curry favor with them and make them blow trumpets in his praise, is it permissible to take it?

A: If the intended publicity is in accordance with the law and shar', there is no objection to it and there is no harm in accepting the present in return for making the publicity. Of course, in office environments the related rules should be observed if any.

Q1728: If a present is intended to influence the recipient and make them turn a blind eye to an offence or curry favor with the official to approve of certain practices, is it permissible to

take it?

A: To say that it is permissible to accept such a present is problematic if not prohibited. Generally speaking, it is not permissible to accept the present, rather it is obligatory to turn it down if it is geared to achieving that which is not shar'ī or legal, or to curry favor with the official to make him agree to do that which he is not entitled to. The officials should take necessary steps to stem such a practice.

Q1729: During his lifetime; is it permissible for the paternal grandfather to give all his property, or part thereof, to his son's children and his daughter-in-law? Have his daughters the right to object to his decision?

A: It is permissible for him, in his lifetime, to grant his son's children or daughter-in-law all his property or part thereof. His daughters have no right to object to that.

Q1730: A childless person, who does not have any parent's brother or sister, wants to give away his property by way of gift to his wife or her relatives. Is it permissible for him to do that? If so, is there a particular amount of his property that he could part with?

A: There is no objection to the property owner's giving away as a gift either all his property or part thereof during his lifetime to whomever he wished whether or not they are his would be heirs.

Q1731: The establishment looking after the affairs of martyrs gave a grant to the family of a martyr (my son) to meet the expenses of holding a memorial service for him. If I accept it, would this make me sinful or detract from the Allah's reward to the martyr?

A: There is no harm in accepting these grants. It should not detract from reward of the martyr or his family.

Q1732: A hotel staff set up a joint fund to collect all the tips the guests give them. They agreed to distribute the income equally between themselves. However, some senior members of the staff have requested that they be given a bigger share. Naturally, this is bound to create some friction between members of the group. What is your opinion?

A: This is a matter for the person who gave the tip. That is, if he gave it to a particular person, it should be that person's

alone. And if the tip was for all members of the staff, it should be divided equally between them.

Q1733: Do the presents, including money given to the children, belong to them or their parents?

A: If the father, on behalf of the child, receives it, it is the child's.

Q1734. A mother, who has two daughters, wants to give her grandchild — to the exclusion of her second daughter — a piece of arable land she owns. Has she the right to do that? And has the second daughter the right to demand a share of her mother's estate after her death?

A: If the mother gave away the property to her grandchild in her lifetime so much so that the grandchild took possession of the granted property, it is rightfully his and no one else has the right to object to that. However, if she has instructed in her will that the property be given to her grandchild, after her death, this should be confined to one-third of the estate. Adding the remaining two-thirds to the grandchild's share is dependent on the consent of the heirs.

Q1735: A person gave part of his land to his nephew on the condition that the recipient marries his two stepdaughters to the donor's two sons. The recipient refused to honor his undertaking regarding the marriage arrangements of the second stepdaughter. Can the gift still be valid and binding?

A: The said gift deed is both valid and binding. However, the condition laid down is invalid because the stepfather has no jurisdiction over the marriage of his stepdaughters. The matter is entirely theirs if they have no father or paternal grandfather. That said, if the condition required the stepfather to do his best to persuade his stepdaughters to agree to the marriage, the condition is valid and, therefore, binding. If the recipient did not uphold the condition, the donor has the right to annul the gift deed.

Q1736: I transferred the ownership of my residential flat to my younger daughter. After I divorced her mother, I reconsidered the matter and transferred the same property to my son from a second marriage before my daughter attained the age of eighteen years. What is the ruling in this matter?

A: If you had given away the property to your daughter, and took possession of it on her behalf as her guardian, the gift is

valid, binding, and irrevocable. Yet, if the gift deed was not really concluded, but was merely the change of the name in the title deed of the property to that of your daughter's, this is not sufficient to conclude the gift deed and transfer the ownership to her. Indeed, the property is yours and you can do with it whatever you like.

Q1737: When I was very ill, I distributed my property among my offspring and put everything in writing. However, after I had recovered, I demanded that they return to me some of the property I gave them. They declined. What is the ruling in this matter?

A: Writing a document is not a sufficient proof of ownership of the property by your sons and daughters. That said, if you had given them the property and they took possession of and control over it, it is rightfully theirs; you have no right to demand it back. But, if there was no gift involved at the outset, or they had not yet taken possession of it, the property should remain in your ownership and at your disposal.

Q1738: A person donated all his possessions inside his house to his wife. Among them was a book he wrote. Has the wife the copyright of the book or should it be the common ownership of all the inheritors?

A: The copyright of the book belongs to the person who owns it. So, if the author, during his lifetime, gave the book to someone or directed in his will that it would be his and the intended person took possession of the book, all rights concerning the book belong to him.

Q1739: From time to time, some government departments give their employees gifts. Since the source of funding for these gifts is not known, is it permissible for the employees to accept them and eventually have the right to use them?

A: There is no objection to giving gifts that have been funded by public money provided that the official who is giving these gifts is authorized to do so. And if the recipient thinks it is possible to a considerable extent that the donor has such authority, there is no harm in accepting the gift from them.

Q1740: For the gift deed to be valid, is taking possession of it sufficient, or does it have to be registered in the name of the intended person, especially in things like land and property?

A: What is really meant by the “taking possession of it” is not putting the matter on paper and signing. Rather, it is the actual handing over of the thing, so that the recipient can have full control over the property which is sufficient for the gift deed to be concluded and for the realization of ownership, irrespective of its nature.

Q1741: On the occasion of marriage, birthday, etc., a person gave his friend some presents. Several years later, he changed his mind and asked the recipient to return it. Has he the right to do so? And can someone, who donated some money to be used in holding commemoration/celebration assemblies for the Imams’ anniversaries, demand it back?

A: So long as the very present is available in its state, it is permissible for the donor to ask for it to be returned to them. That is unless the recipient is a blood relative of the giver or the gift is compensated for as in a deed of reciprocal present. However, after the gift has been either disposed of or changed in any way from its condition at the time of deed, the donor has no right to demand it back. Nor has he the right to get compensation for it. Also, the money one pays for the sake of Allah and to get nearer to Him, he has no right to get it back.

## Debt and Loan

Q1742: A friend of mine, who owns a factory, borrowed from me a sum of money. After a while, he returned the money with an extra amount which he paid of his own free will. It is worth mentioning, though, that we did not sign an agreement to the effect that he should give me that extra money. For my part, I didn't expect him to give me extra. Is it shar'ī to take that additional amount of money?

A: In the given case that the additional amount was not stipulated in the loan deed and the borrower gave it to you willingly, you are allowed to use it.

Q1743: A person who borrowed a certain amount of money refused to pay it back. The lender took him to court to recover the debt. The court ruled in favor of the lender. Accordingly, the borrower had to pay back the debt; he also paid a tax for law enforcement. Is the lender responsible for that according to shar'?

A: If the procrastinating debtor has to pay the tax of law enforcement, the creditor is liable to nothing in this regard.

Q1744: I gave my brother a loan. On moving to a new house, he gave me a carpet which I, in retrospect, mistook for a present. When I demanded the money back, he claimed that he had given me the carpet in settlement of the debt. Is he justified in his action, despite the fact that he didn't inform me of his intention at the time?

If I don't agree with him, should I return the carpet to him? And due to a decline in purchasing power of the currency, can I ask him to pay me back the debt plus an additional amount to make up the difference in the purchasing power of the currency?

A: For settling the loan, it is not sufficient to give a carpet or other things which are not of the same kind as the loan. As long as you do not consent to have the carpet in return for the loan, you should return it to him, as it still belongs to him. As to the difference in purchasing power, there is a caution to reach a settlement.

Q1745: What is the view on paying off a debt with ill-gotten money?

A: The debt is not considered settled by paying it off with other people's money. Accordingly, the debtor remains indebted.

Q1746: A woman borrowed a sum of money equivalent to one-third of the value of the house she bought. Both the parties, lender and borrower, agreed that the borrower should return the money when she could afford it. However, the woman's son gave the lender a check for the amount of the debt as surety. In the past four years, both parties died. Their respective heirs want to settle the matter. How should they go about it? Is it by way of relinquishing possession of one-third of the property to the lender's inheritors or would the amount written in the check do?

A: The lender's heirs have no right to the property. They are entitled to get the amount of the debt from the borrower's heirs if she has left sufficient money to settle it. As to the difference in money value, there is a caution to reach a settlement.

Q1747. We borrowed a sum of money from a person. After some time, he disappeared so that we no longer know his whereabouts. What can we do?

A: You have to wait and enquire [to try to locate him] to pay him or his heirs the money you owe. If it is beyond hope to find them, you can approach the authorized religious authority or give it as alms on behalf of the owner.

Q1748: Is it permissible to ask the debtor to pay the expenses of the law suit to prove the case and to recover the debt?

A: According to the law of Islam the debtor is not required to compensate the expenses borne by the creditor.

Q1749: Should the debtor spare no effort to pay back the debt owed to other people, is it permissible for the creditors to recover the debt from his property, e.g., in secret?

A: If the debtor denies the debt owed or avoids payment without any excuse, the lender has the right to recover his debt from the debtor's property.

Q1750: Is the debt of the deceased considered among the right of people so that his heirs have to pay it from the deceased's estate?

A: Irrespective of whom he owes to, i.e., be it to a real or legal entity, their rights have to be upheld. Therefore, it is obligatory

on the heirs to pay the creditors or their heirs the debt from the deceased's estate. Furthermore, they have no right to make use of the estate before they have settled the outstanding debts the deceased owed to other people.

Q1751: Someone is owed a sum of money. He owns a plot of land. The building on the land is not his. Is it permissible for the creditors to seize both the land and the property to recover their debt?

A: They have no right to seize any property which does not belong to the debtor.

Q1752: Suppose a person is in debt. Is the property he and his family live in excluded from seizure to pay the debt?

A: All that which the debtor needs — according to his status — in his day-to-day life, such as a house, furniture, car, and telephone, remain out of bounds insofar as paying the debt off.

Q1753: A businessman became bankrupt. All what is left for him is a building that he put in the market for sale. The proceeds from the sale of the building would not be sufficient to pay off half of the total debt. Is it permissible for the creditors to force him to sell the property, or should they wait for him to settle his debts gradually?

A: If the debtor and members of his family do not take the building as a residence, there is no objection to forcing him to sell it to pay off his debt, even though the proceeds would not be sufficient to settle the debt. For this part of the debt, it is not obligatory on the creditors to give him a period of grace. Nevertheless, they should wait for him to pay them back when he can afford it as far as the rest of the debt is concerned.

Q1754: Is it obligatory on one government department to pay the debt it owes to another?

A: Such a debt has the same ruling as any other debt insofar as its settlement is concerned.

Q1755: If a person pays off the debt of another person without telling them, is it incumbent on the debtor to compensate the person who paid off their debt?

A: The person, who paid off the debt of the other person, without telling him, has no right to demand compensation from the debtor. For his part, the debtor does not have to pay compensation in return for settling the debt.

Q1756. Should the borrower postpone the payment of a loan, is it permissible for the lender to ask him to pay an extra amount over and above the amount of the loan?

A: According to shar', he is not entitled to demand any extra payment over and above the amount of the loan.

Q1757: In a bogus transaction, my father gave a person a sum of money. In reality it was a loan. Every month, the borrower used to pay a sum of money, ostensibly, in the form of profits. After the death of my father, the borrower continued paying the money regularly until his death. Should such money be deemed ribā and, therefore, refunded to the borrower's heirs from the estate of the lender, i.e., my father?

A: Assuming that the money he received was a loan, any amount paid as profit is considered ribā which is ḥarām in Islam. They should pay the same money or its equivalent to the debtor or his heirs from the creditor's estate.

Q1758: Is it permissible for any person to deposit funds with others and charge monthly interest?

A: If the deposited money was with the intention of investment in accordance with a shar'ī contract, there is no harm in that, nor is there any objection to receiving the profit as a result of the investment. However, should it be intended as a loan, the loan deed is correct in principle. Yet, the stipulation of earning ribā is invalid. Accordingly, any interest thus earned amounts to ribā which is ḥarām.

Q1759: Someone borrowed a sum of money to set up a business. If the business proved a success and made profits, is it permissible for the borrower to give the lender a share of the profits? And is it permissible for the lender to demand from the borrower a share of the profits?

A: The lender has no right in the profits generated by the business. Nor has he any right in demanding from the borrower any share of these profits. However, if the borrower decides, of his free will, i.e. without any prior agreement with the lender, to pay him some money over and above the amount of the debt as a favor, there is no objection to that, rather, it is mustaḥabb.

Q1760: A person bought merchandise from another. They agreed that the buyer should pay for the goods in three months' time. However, the buyer could not pay the debt on time. Both the parties agreed that the debtor should be given

another three months to come up with the money provided that an additional amount is paid on top of the original debt. Is this transaction sharī?

A: Such an increase is deemed ribā which is ḥarām.

Q1761: Ali takes out a loan from Muhammad. A third person writes down the deed and its terms. A fourth one keeps the accounts. Is the accountant considered as the accessory to the fulfillment of the ribā-bearing loan so that his job and the compensation he gets for it are ḥarām as well? Also, there is a fifth person, the auditor, to check the account book to see whether there has been a mistake in the ribā-bearing transaction to inform the accountant without writing down anything or transferring anything to the account book.

A: The work that contributes, in any way, to a ribā-bearing loan, such as finalizing the transaction, collecting the ribā from the borrower, is ḥarām; and the worker is not entitled to a wage for such work.

Q1762: Because of lack of funds, the majority of Muslims find themselves forced to borrow money from non-Muslims and pay it back with interest. Is this sharī?

A: The ribā-bearing loan is absolutely ḥarām even if it is procured from a non-Muslim. However, the loan deed is correct in principle.

Q1763: Someone borrowed a sum of money for a year on the condition that he meets the expenses arising from the lender's travel, e.g., for performing hajj. Is this transaction valid?

A: To stipulate a condition in the contract to bear the expenses arising from the travel of the lender or the like is the very stipulation of ribā in the loan deed. Therefore, it is both ḥarām and invalid. However, the loan deed is correct in principle.

Q1764: When giving loans, ribā-free loan institutions make the condition that if the borrower falls behind with his repayments for two or more installments, the lender has the right to demand the settlement of the remaining debt at one go. Is it permissible to borrow money from such institutions?

A: There is no objection to doing so.

Q1765: A cooperative society is set up with joint capital from its members. The society provides ribā-free loans to its

members. The objective of the society is to help the individuals. What is the view on the work carried out by its members in order to help and to maintain ties of kinship among the blood relatives?

A: There is no doubt that it is both permissible and commendable to work jointly towards providing loans for the believers along the lines described in the question. However, if the money was provided by the member as a share in the capital of the company on the condition of giving the member a loan in the future, this is not permissible, even though the loan deed is correct in principle [so that the borrower owns the money and owes it is to the lender].

Q1766: Some ribā-free loan institutions deal in real estate. Since some depositors do not agree to their money being used for this purpose, is it permissible for such institutions to take possession of the deposited money? And are such dealings sharʿī?

A: If the money was deposited in trust with these lending institutions to lend it to others, using it to buy real estate and other things should be dependent on the owners' approval. But if the money was lent to the institution, there is no objection to its officials buying real estate and other things according to their responsibilities.

Q1767: Some people borrow an amount of money from others and give them an amount monthly as profit without this being based on any Islamic contract. It is done on the basis of mutual agreement. What is the ruling in this regard?

A: Such transactions are considered ribā-bearing loans. The condition to get ribā is invalid. The increase is regarded as ribā and is, therefore, ḥarām and not permissible to be taken.

Q1768: A borrower paid off the loan he had taken from a ribā-free loan institution. He paid an extra amount to the institution of his own accord. Is it permissible for the officials of the institution to take possession of the money and use it in building work?

A: If, on paying back the loan, the borrower paid the amount of his own free will as a mustahabb action when settling a debt, there is no harm in taking it. As for spending it in building work and the like, it should be left to the officials to deal with according to their responsibilities.

Q1769: The administrative committee of a ribā-free loan institution bought property with money borrowed from a person. A month later, the institution paid back the loan with money deposited in its trust by other people without their permission. Is this transaction sharʿī? And to whom should the ownership of the property belong?

A: There is no harm in purchasing the property with the money lent to the institution if the members of its administrative committee were going about their business according to their brief. Thus, the purchased property should be in the ownership of the institution and its shareholders. Conversely, the purchase is fuḍūlī and hinged upon the approval of the shareholders.

Q1770: What is the ruling in the matter of paying a fee when taking a loan from the bank?

A: If, at the time of taking the loan, the payment made by the borrower to the bank is considered a fee in return for the administrative work like to write it in the book, documentation, and other expenses of the bank such as water and electricity bills and does not amount to ribā on it, then there is no harm in paying the fee. Nor is there any harm in receiving and giving such a fee and taking the loan.

Q1771: A fund gives out loans on the condition that the member deposits a certain amount of money in the fund where it has to be left for three to six months. At the end of this period, the member can take a loan up to double the amount he deposited. After the member pays off the debt, his money is returned to him. What is your view?

A: If depositing the money in the fund was under the title of loan for a particular period, on the condition that the fund grants him the loan, or lending him some money was made conditional on his depositing a certain amount of money with the fund, this condition amounts to ribā and is, therefore, ḥarām and invalid. However, the very loan deed is valid for both parties.

Q1772: As part of their lending policy, ribā-free loan funds require potential loan borrowers to be members in the fund, i.e., to having savings accounts with it and deposit a certain amount in it, and to be resident of the area where the fund is located. Do these conditions amount to involvement in ribā?

A: There is no harm in making the condition of membership or

residence in the area, and others which confine the granting of loans to certain people. There is also no harm in opening a savings account with the fund if the aim was to restrict granting the loan to certain people. However, if this condition was an attempt to link granting the person a loan, sometime in the future, with his depositing an amount of money with the fund, the condition amounts to demanding a return on the loan, in which case it is invalid.

Q1773: Is there a way out of ribā in banking transactions?

A: The solution lies in adopting Islamic contracts whereby all the conditions have to be upheld.

Q1774: Is it permissible to spend a loan that was procured for a particular purpose in other avenues?

A: If what the bank gives the individuals is really a loan and stipulates that it should be spent for certain issues, it is not permissible to violate the stipulation. Also, if one receives some money from the bank as silent partner to be invested in a certain project, he cannot use the money in another project.

Q1775: An ex-serviceman, who is now disabled, approached the bank with a view to obtaining a loan. Since such people enjoy certain privileges commensurate with the degree of their disability, in that the greater the disability the greater the concessions and privileges, the person in question wants to utilize this. Although they do not agree with the degree of disability, which was determined by people in the medical profession, can the disabled people use the certificate in enjoying the concessions and privileges?

A. Should the degree of disability have been determined by specialist doctors in accordance with their diagnosis, and according to the law this is the yardstick for the bank in granting the facilities, there is no objection to making use of the certificate outlining the degree of disability, which was determined by the doctors, although in the person's opinion his disability is less than what they think.

## Şulh

Q1776: In a şulh deed, a man agreed with his wife to relinquish the ownership of all he owned in her favor. He also made her the guardian of their children. After his death, have the husband's parents any right in demanding a share of his estate?

A: If it is proved that the deceased has, during his lifetime, given his wife or any other party all his possessions in a şulh deed, so much so that he did not leave anything for himself till the moment of his death, there is no case for the parents, or the rest of heirs, i.e. they are not entitled to any inheritance. Thus, they have no right to demand from the wife anything of the property which became hers during her husband's lifetime.

Q1777: In a şulh deed, a person gave his son a part of his property. Two years later, the father sold the same property to his son. After the father had passed away, his heirs produced a medical report to the effect that the father was not in his full mental capacity. Did the sale of the same property, which was relinquished by the father to the son, supersede the agreement between the two parties? And suppose that the şulh still stands; is it enforceable in one-third of the property, which was relinquished, or in all of it?

A: The şulh deed is valid and enforceable. Unless the right of revocation by the giver has been proved, it is binding (irrevocable) as well. As a result, its subsequent sale by the donor at a later date was invalid, even in case the donor was enjoying full mental capacity. The şulh deed, which was materialized and ruled as both valid and binding, is enforceable in all the property that was relinquished.

Q1778. In a şulh deed, a person relinquished all his possessions, including his rights, and financial dues with the establishment of medical services. For its part, the said establishment argued that he had no right to transfer his entitlements with it. Thus, they declined to comply with the request. The person in question admitted that he was not frank, claiming that the whole thing was a ploy to extricate himself from paying the debts due from him to others. What is the ruling in this matter?

A: To bring about a şulh deed involving the property of other people or which others have a right in is dependent on the

permission of the owners of the property or the one who has the right to it. Should the *ṣulḥ* deed concerning the absolute property of the person have been designed to avoid the payment of debts due to others, ruling that it is valid and enforceable is problematic, especially in the light of the fact that there is no hope that he could get further funds to settle his debts.

Q1779: In a document, it is written that a father transferred and turned part of his property over to his son through a *ṣulḥ* deed. Is such a document valid in shar‘?

A: The document per se is not shar‘ī evidence or proof that the *ṣulḥ* deed was made and what its mechanics were unless its contents are proved authentic. However, if there is any doubt that the *ṣulḥ* deed was not concluded in a proper manner — while we are sure the owner made it — it should be deemed valid. Therefore, the property is the recipient’s.

Q1780: At the time of our marriage, my father-in-law gave me a plot of land in return for a sum of money through a *ṣulḥ* contract and turned it over to me. The particulars of the agreement were written down, signed and witnessed. Now my father-in-law claims that he really did not intend the agreement and it was not genuine. What is your view?

A: The said agreement is deemed valid. The claim that it was not genuine does not carry weight unless the claimant substantiates it.

Q1781: During his lifetime, my father made a *ṣulḥ* contract to the effect that all his property transferred to me in return for a sum of money that I should pay my sisters after his death. For their part, my sisters agreed to the arrangement and signed the will. After my father had passed away, I gave my sisters their shares of the agreed amount. Is it permissible for me to take ownership of the property and use it? And if my sisters are not happy with the arrangement, what should I do?

A: There is no harm in this agreement. The relinquished property is rightfully the recipient’s. Dissatisfaction of the rest of the heirs is of no consequence.

Q1782: A person gave his property to one of his sons through *ṣulḥ* in the absence of some of his children and without the agreement of those present. Should such an agreement still be valid?

A: For the owner to give one of his [would be] heirs some

property through *ṣulḥ* during his lifetime is not dependent on the approval of the rest of the heirs. They have no right to object to it. However, it is not permissible if it causes discord among the children.

Q1783: A person gives some property to another through *ṣulḥ* on the condition that the recipient makes use of it personally. Is it permissible for the latter to give it to a third-party, for the same purpose, or enter into a partnership for that matter, without the agreement of the previous owner? Should this be *sharʿī*, can the previous owner rescind the agreement?

A: It is not permissible for the recipient to disobey the conditions to which he was a party. Failure to do so would result in giving the previous owner, who made the *ṣulḥ* the right to cancel the agreement.

Q1784: Is it permissible for the owner, who concluded a *ṣulḥ* with another person, to withdraw and conclude another *ṣulḥ* with a third party, involving the same property without informing the person who was party to the first *ṣulḥ*?

A: If the *ṣulḥ* was concluded in a proper manner, it should be binding on the owner. Thus, he has no right to withdraw unless he has reserved the right to rescind the *ṣulḥ*. So, if he enters into a *ṣulḥ* with another party, its validity becomes dependant on the approval of the person who was party to the first *ṣulḥ*.

Q1785: After the death of a woman, her estate was duly distributed among her children. After the lapse of some considerable time, one of the daughters claimed that during her lifetime, the mother gave all of her property to the daughter. To substantiate her claim, she produced an unofficial document bearing her signature and that of her husband, alongside the alleged thumb print of her mother. She is now claiming to be the inheritor of all the property that belonged to her mother. What is the view on this matter?

A: Unless it is proved that the mother relinquished ownership of the property during her lifetime in favor of her daughter through a *ṣulḥ* deed, she has no right in what she is claiming. And the mere existence of such a document is not valid unless its contents are substantiated.

Q1786: A person gave his children the whole property he had through a *ṣulḥ* deed on the condition that he would remain in charge of the property throughout his life. I have the following

questions to ask:

a. Is this agreement valid, considering the stipulated condition?

b. Assuming that it is valid and, therefore, enforceable, is it permissible for the proprietor to change his mind? Suppose that this is the case, is it permissible for him to sell part of the property to some of the parties to the *şulh* deed, and would this amount to canceling the *şulh* deed? And finally, suppose that it is a cancellation of the *şulh* deed, should such cancellation extend to all the property or is restricted to the sold part?

c. What does the phrase, “to be in charge of property throughout the donor’s life”, imply? Does it mean the right of revocation, the right of transferring the ownership of the property to others, or the holding of actual control of the property and use it for life?

A: a. The said *şulh* deed is valid and enforceable, even though it contains such a condition.

b. A *şulh* deed is among the contracts that are binding. The giver is, therefore, not allowed to cancel it unless there is a condition in the contract, giving him the right to do that. So, without such a condition, the sale of part of the shared property to one of the shareholders is deemed invalid insofar as buyer’s share is concerned. And the same goes for the shares of the other shareholders unless they approve the transaction.

c. Apparently, the phrase, “to be in charge of the property throughout the donor’s life”, means the right of handling the property physically, to the exclusion of the right of cancellation and the right of transferring the property to the others.

# **Part 16**

## **Power of Attorney**

Q1787: I work as an agent for a company. My paid work involves promoting the company's products and providing after sales service. What is the view about the wages I receive from the company?

A: There is no harm in getting paid for carrying out the duties of the agency provided that the work is legitimate.

Q1788: A person bought some property through the attorney of the owner. After the settlement of the installments, the attorney claimed that he had cancelled the sale and returned the property to its owner. Is the agent justified in his action? And has the buyer the right to demand from him to give him possession of the property?

A: The sale concluded by the attorney on behalf of the proprietor is valid and binding. The sold property should be the buyer's and, therefore, handed over to him. The attorney has no right to cancel the agreement and return the property to its owner unless he has the right to do so for one reason or another.

Q1789: As an attorney, a person sold plots of land to a number of people. The landlord agreed with his attorney not to give the buyers the official deeds of the land. After the death of the landlord, his inheritors, although admitting the sale, say that the matter of the fees arising from amending the land deeds is the responsibility of the attorney. Moreover, they are demanding that the attorney pay them the difference in the price arising from the appreciation of these lands. Are they right in their demands?

A: The attorney does not have to bear any expenses arising from the official registration of the title deeds in the buyers' names. As for the price of the lands, if it is established that the attorney received it from the buyers and gave it to the landlord, the inheritors have no right to demand the money or the difference arising from the actual higher value of the lands.

Q1790: Is it permissible for the authorized attorney of a given mujtahid to hand over the religious tithes he collects to another mujtahid?

A: The attorney has to pay what he has collected to the person who authorized him to receive such money on his behalf unless he is authorized to hand it over to a third party.

Q1791: I asked my brother to buy a telephone line for me. I gave him the first installment which he paid to the department

concerned. I paid further installments personally. My brother, in whose name the telephone line was registered, died. Have my brother's heirs the right to claim the ownership of the telephone line?

A: If your brother bought it on your behalf with the money you gave him as the first installment, it belongs to you and his heirs have no right in it.

Q1792: I appointed a person as my attorney and gave him the fee he asked for, but he did not give me a receipt for it. The attorney died before doing the job. Is it permissible for me to demand from his heirs to pay me back my money?

A: In the given case, you can demand what the attorney owed you from his heirs. They are obliged to pay it from his estate.

Q1793: Does the attorney contract become void and null with the death of one of its parties, i.e., the attorney or the principal?

A: It becomes null and void with the death of one of its parties.

Q1794: I was asked to represent the family of a person who was killed in a traffic accident abroad. Is it permissible for me to take travel expenses from the deceased's estate or should I get it from money that country is going to give the heirs?

A: The party who asked you to be the attorney should pay you, with their own money, the compensation for your work and the related expenses unless you agreed on something else before.

Q1795: In a contract for the power of attorney, it has been mentioned that it is "irrevocable". Is it the case that once this word is mentioned, the contract for the power of attorney changes from being revocable to being a binding one, rendering the right to revoke it inoperative?

A: A binding power of attorney is one that is made thus by virtue of stipulating a condition to this effect in a binding contract. Therefore, the word, "irrevocable" per se, for rendering power of attorney binding, does not carry weight. So it can be cancelled.

Q1796. Despite the effort and time an attorney spends in going about his work, it may fail to deliver good results. What is the view about the fee given to him? And is it permissible for him to receive it?

A: Neither the validity of the attorneyship, nor the entitlement of the attorney to his fees — equal to what is mentioned /

normal — for the work the principal asked the attorney to do is dependent on the desired result unless they have agreed on something else from the beginning.

Q1797: The wording of attorneyship varies according to intents and purposes. Some are couched in general terms and others in specific ones. However, one phrase in particular is a source of misunderstanding between the agent and the principal. It is the one which gives the attorney the power to address all the issues pertaining to the issue of attorneyship. Is it permissible for the attorney to have an absolute right in that regard if his scope of actions is not restricted in any way?

A: It is obligatory for the attorney to act within the bounds set out for him in the deed of attorneyship, be they explicit or apparent. This may be aided by existing textual or circumstantial evidence, including that common practice indicates the contract is linked in some way to some other matters.

Generally speaking, there are different cases in attorneyship:

- a) Power of attorney is specific to the property upon which to act or the act itself;
- b) it is general in both aspects;
- c) only in one aspect, it is general;
- d) only as to the act, it is absolute, e.g. the principal says “you are my attorney in the case of my house”;
- e) Only as to the property, it is absolute, e.g. the principle says “you are my attorney in selling my property”.
- f) It is absolute in both aspects, e.g. the principal says “you are my agent in my property”.

In any of these cases, the attorney should suffice with what is included in general, specific, or absolute wording.

Q1798. A person appointed his wife as his attorney to sell some land and some buildings he owned and to buy with the sale proceeds a residential flat for their young son. However, making use of [abusing] the power of attorney, she was given by her husband, she registered the property in her own name. Is she right in what she has done? After the death of her husband, would the flat belong to the boy or would it be shared among the inheritors?

A: The actions pertaining to selling the land and some buildings, which she took according to the power of attorney given to her by her husband, are both valid and enforceable.

Registering the flat in her name per se has no shar'ī consequences, in that if she had bought it with the money of the principal, during his lifetime, for his young son in accordance with the power of attorney, the purchase is both correct and enforceable. Therefore, the flat is his alone.

If she had bought the flat for herself, during the lifetime of her husband and by his very money, or it was bought for the son after the death of his father, the buying is fuḍūlī, i.e. should any of the heirs permit the purchase, the transaction would be correct in proportion to the share of person who permitted for her/her son respectively.

Q1799: Someone acted as an attorney in hiring other people to perform certain acts of worship, such as prayer and fasting, on behalf of the deceased. He betrayed the trust, i.e. he did not hire anybody and took the money for himself. Having shown remorse, he wants to pay back his dues. What should he do? Should he hire some people to do the job or return the money to the respective owners at the current rate? Or is he required to return only the amounts he originally received from the people who asked him to do the job? And what is the view if this person himself was hired to do the job, but died before getting it over and done with?

A: If the contract of being attorney has already expired before hiring anybody to perform the prayer and fasting, he should be made to pay compensation equal to the amount of money he received for getting the job done. Otherwise, he has the choice between hiring someone to perform prayer and fasting with the money he received or canceling the contract and returning the money to the owners. In case, there was a change in money value, it is a caution that both parties reach reconciliation.

As for the hired person, if he was hired to do it himself, the contract is automatically cancelled with the death of the person. It would then be obligatory that the money he received be paid back from his estate. If he was hired to do the job or to have it done, he would still be responsible for discharging the work itself. In this case, his inheritors have to hire someone to discharge the work with money set aside from his estate if he has such estate. Otherwise, they do not have to do anything.

Q1800: Some solicitors represent companies in the courts in defending cases filed against the companies by certain

quarters or vice versa. If the solicitor has no doubts as to the guilt of the company, is it permissible for them to defend it? If the solicitor fights the case on behalf of the company, while he maintains that the company has no right in these cases, is he going to be responsible for his own actions in cases where the court rules in the company's favor? And would the fee the solicitor received for his work in defending the unfair claim be considered ill gotten and, therefore, ḥarām to be had?

A: It is not permissible to defend an unfair claim and set out to prove that it is right. The court's judging in favor of the defendant has no effect on the work itself. The fee paid for defending an unfair case is ḥarām.

Q1801: A person appointed another as his attorney to carry out a particular job and paid him beforehand as stipulated in the contract. Is it shar'ī for the attorney to have the money if he does not do the job?

A: The attorney has the right to get his pay, as called for in the contract, as soon as it is concluded. He has, therefore, the right to demand payment, even before embarking on the job which he was hired to do. However, if he does not do the job described in the attorney deed, so much so that the time for the job/of being attorney expires, the attorney deed is cancelled, in which case he has to return the money to the principal.

## **Bill of Exchange**

Q1802: A person bought a piece of land for a particular price. A third party owed the same amount to the buyer. The buyer referred the seller to the third party to get the money. However, the third party bought the piece of land for himself and paid for it without the knowledge of the first buyer. Is the first transaction in which the seller agreed to get the price from the third party valid or the second one?

A: The second sale is fuḍūlī and dependent on the permission of the first buyer unless it is concluded after a valid cancellation of the first transaction.

## **Mustahabb Alms**

Q 1803: The Imam Khomeini Aid Committee has put many containers and boxes in houses, streets, and public places at different cities and villages to collect mustahabb alms and hand it over to the poor. Is it permissible to pay the personnel working for this committee a certain percentage of these boxes' money as a bonus in addition to their monthly salary and allowances? Also, is it allowed to give some of this money to those who play a role in collecting it, although they are not regular employees of the charity?

A: Paying an amount of money collected through charity boxes to the personnel and employees of the committee as a bonus in addition to their salaries paid by the committee is problematic. Rather, so far as the consent of the owners of the money regarding this is not confirmed, it is impermissible. But there is no problem in paying those who help in collecting the boxes' contents as their standard wages provided that their help is needed for collecting the money and giving it to needy persons especially when it is apparent that the money owners agree upon this.

Q1804: Is it allowable to give alms to the beggars found in streets or those who knock on doors asking for money? Or is it better to pay it to orphans and the poor or to give it to the Imam Khomeini Aid Committee?

A: It is preferable to give mustahabb alms to the humble and religious needy person. Also, it is no problem if you give it to Imam Khomeini Aid Committee even by throwing it in the alms boxes. But obligatory alms should be handed over to the deserving poor individually by the person himself or by his attorney. However, in case one knows that those who are in charge of the Imam Khomeini Aid Committee collect money from boxes and give to the deserving poor persons, there would be no problem in putting obligatory alms in these boxes.

Q 1805: What is one's duty with respect to the beggars who live on money and food they beg and make a bad impression of the Islamic society especially after the government's decision on gathering them? Is it permissible to give them alms?

A: Try your best to give alms to those needy persons who are humble and religious.

Q 1806: I am a servant in a masjid. As my work increases during the month of Ramadan, some of the benevolent people give me some money as assistance. Am I allowed to take it?

A: what they give you is a kind of favor which is ḥalāl for you and there is no objection to receiving it.

## Deposits and Loaned Properties

Q1807: A fire gutted a factory. Among the losses were goods that were deposited in trust in the factory. Should the person in charge of the factory or its owner be made to pay compensation to the owners of these goods?

A: If the fire was not attributed to anybody's action, nor was there negligence in safeguarding the deposited goods in the factory, no one should be made to pay compensation for the loss of goods.

Q1808: A person deposited his will with another person. It was agreed that after the death of the testator, the person entrusted with the will would hand it over to the deceased's elder son. He refused to do so. Does this amount to a breach of trust?

A: Refusing to hand the deposit over to the party appointed by the depositor is a kind of treachery.

Q1809: While I was doing my national service, I received some personal effects. However, after completing my service, I failed to hand those items back to my military unit. What should I do? Would it be sufficient to pay the value of the items in money to the Treasury?

A: In case the items were given to you by the army barracks as a loan, it is obligatory on you to return the very items if they are still with you. If not, in that they have been either damaged or lost due to negligence or delay in returning, you have to pay them the equivalent value of these items. Otherwise, you need not worry.

Q1810: A trustworthy person was asked to carry a certain amount of money to deliver it to some people who live in another town. While en route, they were robbed. Should they indemnify the loss?

A: The person entrusted with the money should not be held responsible to compensate it as long as their negligence or improper handling of the money is not proved.

Q1811. I received, from the trustees of a masjid, funds that were donated for the purpose of carrying out certain repairs to the building of the masjid. However, the funds, along with my personal belongings, were lost. What should I do?

A: The person entrusted with the money should not be made to

pay compensation if there was no negligence or improper handling on their part in safeguarding it.

## Leaving a Will

Q1812: Before their martyrdom, some soldiers directed in their wills that one third of their estate should be spent bolstering the defenses [of the Islamic Republic]. And since the purpose behind such work has ended, how should one go about dealing with such a provision?

A: Assuming that the purpose could no longer be served by the provision in the will, the money earmarked for the goal should revert to the inheritors. However it is, as a matter of caution, better spent in charitable work with their permission.

Q1813: In his will, my brother has directed that one-third of his estate should be spent in looking after the people who were displaced by the war in a particular town. Since there are no such people left in that town, what can be done?

A: The money must be given to those people who were displaced and found refuge in that town, even though they might have already been repatriated to their hometowns or housed somewhere else. Yet unless the spending is confined to the displaced people in that town in particular, the money should revert to the inheritors.

Q1814: Is it permissible for someone to stipulate in their will that half of their estate be spent on holding a memorial service for them after they have passed away?

A: There is no objection to providing for one's funeral as there is no ceiling to that. However, the provision in the will of the deceased is enforceable in only one third of the entire estate. Any amount over and above the one-third share should be subject to the consent and permission of the heirs.

Q1815: Is leaving a will obligatory so much so that one could be sinful if they do not do it?

A: Should the person keep other's belongings or have in their possession some property that carries a liability, be it to the people or in the form of religious dues, of which they could not discharge their responsibility, it is obligatory on them to leave a will. Otherwise, it is not obligatory.

Q1816: A man directed in his will that something not more than one-third of his estate should go to his wife. He made his eldest son the executor of the will. However, the rest of the would-be inheritors objected to this arrangement. What should

the executor do?

A: If the share being designated amounts to one-third, or less, of the estate, there is no case for the inheritors' objecting to it. Indeed, it is obligatory on them to abide by it.

Q1817: What is the ruling in the matter of the denial, by the inheritors, of the existence of a will?

A: It falls to the person who claims the will to prove that in a shar'ī way. If it is established, it has to be adhered to provided that the matter is confined to one-third or less of the estate. Accordingly, neither the denial of, nor the objection by, the inheritors is of any consequence.

Q1818: A person instructed in his will that some of his property should be spared to pay for religious tithes due from him. This was witnessed by a number of people of impeccable character, including one of the man's sons. However, some of the inheritors did not agree to this arrangement, demanding the distribution of the entire estate amongst the heirs. What can be done?

A: Assuming that the will is proven, by way of shar'ī evidence or the inheritors admitted the will, they have no right in demanding the inclusion, in the estate, of property that was earmarked by the testator in his will to be spared if it is less than one third of the entire estate. It is obligatory on them to spend it in the avenues the testator had set forth.

However, if it is established according to shar' that the deceased owed money to other people, or religious dues of financial nature, such as khums, zakāt, kaffārah or of both financial and physical nature like hajj, or the inheritors admitted that although the deceased did not provide for the same in his will, it is obligatory on them to set aside a sum equivalent to these debts from the whole estate and divide the remainder amongst themselves.

Q1819: A person directed in his will that his arable land should be used for repair work of the masjid. However, his inheritors sold the property. Can the will still be valid? And have the inheritors the right to do so?

A: If the will means that the arable land, itself, is to be sold to spend the proceeds in repair work for the masjid and the value of the property is not more than one-third of his estate, the instructions in the will should be implemented and there is no

objection to selling the land. But, if the testator meant that the profit from the land would be spent in this avenue, the inheritors had no right to sell the land.

Q1820: A person instructed in his will that a plot of land, among his property, should be reserved to pay for hiring someone to perform prayer and fast, which he missed during his lifetime, and in other charitable causes. Is it permissible to sell this land or should it be deemed an endowment?

A: Unless it is known that the testator's intention was to leave the land as it is and spend the returns, i.e. rather, he wanted the very land to be spent for him, the [provision in the] will should not be construed as that concerning endowment. Accordingly, there is no harm in selling the land and using the proceeds in the avenues he directed provided that the total value does not exceed one-third [of his estate].

Q1821: Is it permissible for someone to set aside one-third of his estate or deposit the same with another person to be spent in his cause after his death?

A: There is no objection to it provided that the remainder of his estate, i.e. the inheritors' share, is equivalent to double the amount that has been set aside.

Q1822: A person asked his father, as a provision in the will, to hire someone to perform prayer and fasting for him. Now, that the person has disappeared, is it obligatory on his father to execute the will?

A: Unless the death of the testator is established in any sharī way or the executor is convinced that this is the case, hiring someone to perform the lapsed prayer and fasting on his behalf is not valid.

Q1823: My father has directed in his will that a masjid should be built on one third of his land. Since there are already two masjids adjacent to that land and because of the pressing need for school buildings, is it permissible to build a school on the land instead of a masjid?

A: It is not permissible to act contrary to the will by building a school instead of a masjid. However, if it is known that the deceased's intention was not building a masjid on that particular land, there is no objection to selling it and spending the proceeds in building a masjid somewhere else where it is needed.

Q1824: Is it permissible for someone to make a provision in his will that, after his death, his body is to be put at the disposal of medical students for dissection or is it ḥarām to do so as it amounts to muthlah?

A: It seems that the religious sources indicating prohibition of muthlah or the like are dealing with some other affairs and do not include dissection of the deceased's body in which an important interest lies. Apparently, there is no objection to dissection on the provision of observing respect for the Muslim deceased's body, which serves as an axiom in this type of issues.

Q1825: If someone has instructed in their will that certain parts of their body be donated to the hospital, or a particular person, is such a will valid?

A: The validity and enforceability of such a will cannot be ruled out so long as the removal of the parts from the body does not amount to disrespect to the body itself. Therefore, there is no objection to enforcing the will.

Q1826: Is the permission of the inheritors, during the lifetime of the testator, to spend more than one third of the estate sufficient to make the will enforceable? Assuming that it is sufficient, is it permissible for the inheritors to change their mind after the death of the testator?

A: The permission of the inheritors, in the lifetime of the testator, is sufficient to make the will valid and enforceable insofar as the excess amount to the one-third share is concerned. It is not permissible for them to revoke the permission after the death of the testator. Such retraction is of no consequence.

Q1827: In his will, a person has instructed that the prayer and fasting he missed during his lifetime should be performed after his death. He got martyred in the war, leaving behind a furnished house. If his possessions were to be sold to pay for hiring a person to do the job, this would leave his inheritors facing hardship, especially his fledgling children. What should the inheritors do about the will?

A: If the martyr did not leave any property, it is not obligatory on anyone to act upon the will. However, it is obligatory on the eldest son, among his children, to perform the missed prayer and fasting on behalf of his father when he reaches the age of shar'ī puberty. If the deceased left behind an estate, one third

of it should be spent in the avenues he prescribed. The need of the inheritors, and the fact that they are still young, are not sharī reasons for not complying with the will.

Q1828: In order for the will to be valid, should its named beneficiary exist at the time of writing it?

A: In order for the will to be valid insofar as the transfer of property [from the testator to the beneficiary] is concerned, the beneficiary should exist, even if it is an unborn fetus, even before the stage of ensoulment so long as it will be born alive.

Q1829. In a written will, a person appointed an executor to enforce his will. He appointed another person to act as an overseer, without specifying the boundaries of his authority. What should the boundaries of the authority of this supervisor be?

A: Assuming that the power given to the executor in the will is absolute, it is not obligatory on the executor to consult the overseer in any matter, although it is closer to caution. However, the overseer's role is to supervise the work of the executor.

Q1830: In his will, the deceased appointed me as the supervisor and his son as the executor of his will. Since the death of the son, I have become the only administrator of the will. However, for personal reasons, I have become increasingly busy, so much so that I hardly have time to attend to matters relating to the will. Is it permissible for me to change the areas in which the returns of one-third of the estate is going to be spent by giving them to a certain department to spend the income in charitable causes and for the poor and the needy registered by that department?

A: The supervisor has no right to independently implement the provisions stipulated by the deceased in the will, even after the first executor's death, unless he becomes the executor after the death of the first executor as provided for in the will. Otherwise, the supervisor should resort to the authorized religious authority with a view to appointing someone else to replace the dead executor. At any rate, it is not permissible to encroach upon the will of the deceased or alter it in any way.

Q1831: Someone has instructed in his will that they pay a sum of his money to someone else to recite verses of the Noble Qur'an in the Eminent City of Najaf or he endowed a property

for the same purpose. The executor of the will or the person in charge of the endowment cannot [for reasons beyond their control] send the money to Najaf to hire someone to do so. What should they do?

A: If it is feasible to spend the money for the recitation of the Noble Qur'an in the Eminent City of Najaf, albeit in the near future, it is obligatory to execute the will.

Q1832: Prior to her death, my mother instructed me to spend the proceeds from the sale of her jewelry in charitable avenues on Thursday nights. I have done so ever since her death. What should I do in the event of traveling to a non-Muslim country?

A: Unless it is known that her intention was to spend the money on Muslims and non-Muslims alike, the spending should be confined to the Muslims only, albeit by depositing the money with a trusted person in a Muslim country to spend it for Muslims.

Q1833: In his will, a person has instructed that parts of his land should be sold and the proceeds spent in holding memorial services and other charitable causes. The sale of the land to a third party would put the inheritors in an unbearable situation. So, is it permissible for them to buy the land for themselves and pay for it by installments whereby they can spend the money in the avenues the testator had named with the knowledge of both the executor and the supervisor?

A: In itself, there is no objection to the buying of the land by the inheritors themselves. As for paying for it by installments, there is no harm in that provided that an equitable price is paid for the land, that both the executor and the trustee see that an interest is served [in this way], and that the installments are not going to be a hindrance to the [smooth and timely] execution of the will. All of this, though, is dependent on the knowledge that the intention of the testator was not the selling of the land for cash and spending the proceeds in the first year.

Q1834: On his deathbed, a person appointed two people, one as executor and the other deputy. However, later on he changed his mind and informed both the appointees of his new decision. He wrote another will whereby he appointed one of his relatives in his absence as the executor. With the existence of the second will, would the first one still be valid? Suppose

that the first two people, who were appointed by the deceased as his executors in the first will, acted according to the now revoked will, would their action be unlawful, so much so that they must repay the second executor what they had already spent from the deceased's property?

A: After the deceased had changed his mind, during his lifetime, and dismissed the first executor, the latter should not have acted upon the will, after he had been told of his dismissal. However, any disposal of property by the dismissed executor should be dependent on the agreement of [the shar'ī] executor. If the latter did not approve it, the dismissed executor must be made to pay compensation.

Q1835: In his will, a person directed that certain property should be given to one of his sons. Two years later, this person changed his will. Would this change of heart be shar'ī? And suppose that the person is ill, to such an extent that he needs care, would the responsibility of providing such care fall on the shoulders of his eldest son, who is the executor of his will, or should it be shared among all his inheritors?

A: There is no legal impediment to changing one's mind regarding the will one wrote provided that one does it while still enjoying a healthy mental condition. In this case, the recent will is valid according to shar'. As for the provision of care, it has to be catered for by employing a nurse with money paid by him [the father]. If he cannot afford it, the responsibility should rest equally with all those, among his children, who can afford it. Therefore, it should not fall solely on the shoulders of the executor.

Q1836: In his will, my father has appointed me as the executor. After the estate was divided, one third of it was put aside. Is it permissible for me to sell it to be spent in the avenues he named?

A: If he had directed that one third of this estate should be spent in the avenues he so described, there is no objection to selling the share, having taken it out of the entire estate, and using it in the avenues described in the will. However, if the instruction was specifically confined to the disposal of the returns of the share of one-third, it is not permissible to sell the property itself, even for spending the proceeds in the avenues stipulated in the will.

Q1837: A person appointed an executor and a supervisor. However, he did not specify what the appointees should do, especially in matters relating to the bequeathed share of one-third of his estate. What should the executor do regarding the administration of the share?

A: If it is at all possible to discern the intentions of the testator, even by weighing the evidence and consulting the local tradition and custom, the executor should act according to his understanding of the testator's intention and the areas of expenditure. Otherwise, the will would be deemed void due to its ambiguity and because the areas of expenditure are not specified.

Q1838: In his will, a person has directed that all fabrics, whether sewn or unsown, and others should go to his wife. What could the word "others" mean? Does it imply his movable properties or those of a value less than fabrics?

A: Unless the meaning of the word "others" that is mentioned in the will is known from the context, and the intention of the testator fathomed, this word cannot be acted upon because of its loose, as well as ambiguous, meaning. As for applying it to any of the assumptions outlined in the question, this is left to the approval of the heirs and their satisfaction.

Q1839: In her will, a woman directed that one third of her estate should be spent on performing eight years of prayer that she had missed during her lifetime. She further instructed that the remainder should be spent on khums, repayment of maẓālim, and in other charitable causes.

However, the executor knew for sure that she didn't have to perform any prayer. Yet, he hired a person to perform prayer on her behalf for two years and paid them from the share of one-third of the estate; he spent the remainder in the war effort, khums, and repaying maẓālim. What is the position of the executor?

A: It is obligatory that the provisions of the will are adhered to as the deceased has stipulated. It is not permissible for the executor to overlook any of it. Any money the executor spent contrary to the testator's wish should be compensated with the executor's own money.

Q1840: In his will, a person has instructed that the two executors he appointed should act according to the provisions

stipulated therein. However, clause 3 of the will requires that all the property left by the testator be collected, that his debts be paid, and that his share of one-third of the estate then be set aside and spent according to clauses 4, 5, and 6. There was another requirement, i.e., after the lapse of 17 years, the remaining amount still outstanding from the share of one-third of the estate be given to the poor among the heirs.

Both the executors of the will could not manage to set aside the share of one-third of the estate, let alone act according to the above quoted provisions, even after the lapse of the appointed period of time. The inheritors claimed that the will has become void due to the time lag and that the executors have no right to remain in control of the estate of the deceased any more. What is your opinion about the matter? And what should the executors do?

A: Neither the will nor the power of the executors become void due to the delay in executing the will. Indeed, it is obligatory on the executors to act upon the will in spite of the time that may have passed. It is not permissible for the inheritors to harass the executors to execute the will unless their authority has been restricted by a time span and it is expired.

Q1841: The inheritance of a person was divided among his heirs, each of whom had officially registered his own share with the authorities. Six years later, one of the inheritors claimed that the deceased had verbally instructed him to give part of a house to one of his sons. A number of women testified in his favor. Should such claim carry any weight?

A: Neither the time factor nor the official completion of the distribution of the inheritance should detract from the validity of the will provided that it [the claim] is proved in a shar'ī way. So, if the claimant succeeded in proving his claim, all the parties have to act upon it. Otherwise, it is obligatory on each and every inheritor who admitted the will as being genuine to abide by the provisions of the will insofar as their respective share of the inheritance is concerned.

Q1842: In his will, a person appointed two people, one as executor and the other as overseer. This official appointment was confined to performing hajj on his behalf with money paid from the proceeds of selling a piece of land belonging to the testator. Meanwhile, a third person claimed that he had already

performed hajj for the deceased of his own accord, i.e. without informing the executor or the overseer. After some time, the executor passed away. What should the overseer do in this case? Should he spend the proceeds to perform hajj for the deceased or give it to the claimant as compensation?

A: If it was incumbent on the deceased to perform hajj and he wanted to discharge his responsibility by appointing a person to do it on his behalf, the performance of hajj by the third person would be sufficient. However, the latter should not demand payment from anybody for what he has done.

Otherwise, both the executor and the overseer should act upon the will of the deceased by arranging for hajj to be performed on his behalf with money paid from the proceeds of the sale of the land. Should the executor die before executing the will, the overseer should consult an authorized religious authority.

Q1843: Is it permissible for the heirs to make the executor pay a certain amount towards performing any outstanding prayer and fasting on behalf of the deceased? And what should the executor do in this respect?

A: Acting upon the provisions of the will of the deceased rests with the executor. He must go about the fulfillment of those provisions as he sees fit. However, the heirs have no right to meddle in his affairs.

Q1844: A person wrote a will which he kept with him. He got killed in a fire. No one knows the contents of the will. Someone does not know whether he is the only executor or whether there might be another executor as well. What should he do?

A: Having established the will, the executor must act upon those provisions of the will he is certain were not altered in any way and pay no attention to the possibility that another person may be the executor as well.

Q1845: Is it permissible for the testator to appoint an executor who is not among his immediate inheritors? Has anybody the right to object to that?

A: Choosing and appointing an executor whom the testator thinks fit for the job is the latter's prerogative alone. The appointee should not necessarily be among his heirs. The heirs should have no right to object to that.

Q1846: Is it permissible for some of the inheritors, without consulting other inheritors or seeking permission of the

executor, to defray hospitality expenses from the estate?

A: If they wanted to enforce the provisions of the will, this is the responsibility of the executor of the will and they have no right to do so without the permission of the executor. Yet, if they want to spend from the shares of the inheritors in the estate, this should be met with the approval of all the inheritors. Otherwise, it will be deemed usurpation of the shares of other inheritors.

Q1847: A testator named three different executors in his will as the first, the second, and the third executor. Who among them is considered the executor? Is it the first one or all of them?

A: This depends on the intention of the testator. So, unless it is known from the evidence that they are jointly, or successively, responsible for executing the will, they should reach a consensus to act upon the will jointly.

Q1848: Someone appointed three persons to enforce his will jointly, but they failed to agree on the execution of the will, how would their differences be reconciled?

A: If the executors of a will failed to agree on the execution of the will, they should consult authorized religious authority.

Q1849: I am the eldest son of my father, hence I am responsible for performing any outstanding prayer and fast my father owed. However, my father has directed in his will that one-year of prayer and fast should be performed. How should I go about the fact that more than one year of prayer and fast is outstanding?

A: The instructions of the deceased to clear any outstanding prayer and fast should be catered for from his share of one-third of the estate if he has directed thus. Accordingly, it is within your right to hire a person to perform the outstanding prayer and fast. Should the outstanding duration be more than what he directed in his will, you have to perform it on his behalf, albeit by hiring a person to do it with money paid from your own pocket.

Q1850: A testator has directed in his will that his eldest son should perform hajj on his behalf with money paid from the proceeds of the sale of a piece of land he left. However, since the son could not secure the government permission to go to hajj at a good time and due to the spiraling cost of the journey,

the proceeds of the sale of the land have become insufficient to pay for the expenses of hajj. Since this is the case, is it obligatory on the rest of the inheritors to help the eldest son out in order to enable him to act upon the will of the testator, or is it his responsibility alone?

A: As the question goes, the rest of the inheritors should not have any responsibility towards bearing any expenses arising from the journey to hajj. However, if performing hajj did become obligatory on the testator and the proceeds of the sale of land are not sufficient to meet the expenses of hajj by proxy, even from the *mīqāt*, the shortfall of the expenses of a hajj, performed from the *mīqāt*, has to be met from the whole estate.

Q1851: An inheritor can provide a proof, by way of a receipt or a testimony that the testator has paid an amount of money as religious tithes. Should the inheritor still be liable to pay the religious tithes of the estate?

A: The existence of a receipt or a testimony of witnesses that the deceased was paying religious tithes is not a legal proof of a disclaimer that he did not owe any religious tithes. If he declared that such tithes were still outstanding, or the inheritors came to such a conclusion, it is obligatory on them to clear what the deceased had admitted to, or they themselves have concluded to be the case, by catering for it from the whole estate. Of course, they are not required to pay anything else.

Q1852: A person has directed in his will that one-third of his property be set aside to be spent on his behalf. However, in a footnote to the will, he mentioned that the one-third share should be met from the proceeds of the sale of a house, which he instructed to be sold after 20 years from his departure. How should this share be calculated? Should it be confined to the house or the entire estate, especially if the proceeds of the sale of the house were not sufficient to make the one-third share?

A: By what he wrote in the will and its footnote if he meant to determine only the house as the one-third while its value does not exceed the one-third after the debts are deducted, then, the one-third includes only the house to which the deceased is entitled. The same ruling is applicable if he wanted to earmark the house for the one-third expenditures, while the value of the house is equal to the one-third of the estate after debt

deduction. Otherwise, some other properties among the estate should be added to the house to make it one-third of the estate.

Q1853: After 20 years of the death of her husband, and 4 years since her daughter sold her share of the estate, the wife of the deceased produced a document claiming that the entire estate of her husband belonged to her. However, she has maintained that she was in possession of this document all these years, yet she preferred to remain silent.

Should the division of the estate among the heirs be ruled invalid, and so, the sale of the daughter's share? Assuming that it is void, is it correct to annul the subsequent property deed which is held by the buyer of the property that was sold by the daughter?

A: Even if we assume that the will, which has been produced by the mother, is genuine beyond any doubt, her silence and non-objection all this period since the death of her husband, and her daughter's receipt of her share of the estate and its subsequent sale, are considered a tacit agreement by her to what has taken place.

Accordingly, she has no right to demand from her daughter to return what she had received of the estate. Nor has she the right to demand the return of the property from the buyer. Thus, the sale of the property by the daughter is deemed valid and it can, thus, remain in the ownership of the buyer.

Q1854: A martyr has directed in his will that his father should sell the house which belongs to him to pay for his debt in case he was unable to do that without selling the property. He further instructed that a certain amount of money should be spent in charitable avenues, the proceeds from the sale of the land should be given to his uncle, expenses arising from hajj by his mother should be paid, and that money should be paid on his behalf to perform a number of years of outstanding prayer and fast that he missed.

However, his brother married his widow and moved to live in the same house, which she bought in part. The brother incurred some money as a result of repairs he carried out to the property, with money paid in part from the proceeds of the sale of the gold coin which belonged to the son of the martyr.

What is the view on the brother's having a free hand in the estate of the martyr and the property owned by his son [orphan]?

And is he justified in making use of the salary allocated to the martyr's son, noting that he is raising him and catering for his needs?

A: All the property of the martyr should be pooled. After the payment of any debts owed by him, one third of the remainder should be allocated to carry out the provisions made in the will, i.e. the performance of prayer and fast on his behalf, the payment of expenses arising from sending his mother to perform hajj, and suchlike. The remaining two-thirds and whatever left over from the one-third share should be divided among the inheritors of the martyr, i.e. his parents, son, and widow in accordance with the Holy Book and Sunnah.

However, all actions concerning the house and all other possessions of the martyr should be carried out with the agreement of the inheritors and the legal guardian of the minor child. Whatever the brother has spent on the repairs carried out to the house, without the permission of the legal guardian of the child, has to be borne by him alone, i.e. without deducting them from the property of the child.

Similarly, he can neither spend the proceeds of selling the gold coin, nor the salary of the child on the expenses arising from the maintenance work carried out to the property. Furthermore, he has no right to spend any money that belongs to the child, either on himself or on the child unless he obtains the permission and agreement of the legal guardian of the child. Failure to do so should result in his indemnifying anything paid from the child's belongings. Purchasing the property should meet with the permission of the inheritors and the legal guardian of the child.

Q1855: A testator has stipulated in his will that all his property, including three hectares of fruit groves, was subject to muṣālaḥah, thus after his death: Two hectares should go to some of his children, and one hectare allocated to the special provisions he has made for himself. However, after his death, it transpired that the total area of the groves is less than two hectares.

Should the instructions, he outlined in his will stand as they are, or should they be treated in a general sense, i.e. a will concerning his estate after his death? And after the discovery that the area of the groves is less than two hectares, should they be

allocated to his children, thus making the provision of the one hectare redundant, or should the matter be tackled differently?

A: Unless it had materialized that, during his lifetime, the muṣālahah he has made is correct and legal, in that both the benefactor and the beneficiary had agreed to the muṣālahah, the instructions contained in the will would be treated as a will [in a general sense].

Accordingly, the provisions he made in the will with regard to the shares of the fruit groves for his children and himself should only be applicable to one third of the entire estate at the ratios of two hectares and one hectare respectively of the actual area of the groves. Anything in excess of the one-third share is dependent on the permission of the inheritors. If such permission is not forthcoming, the excess amount would be treated as inheritance for them.

Q1856: A person transferred all his property to the ownership of his son, on the understanding that after the death of his father he would pay his sisters certain amounts of money, in lieu of their shares of the inheritance. However, one of his sisters was not present at the time when the distribution of the inheritance took place. She returned home and demanded from her brother that her share be paid. The brother turned down the request. After several years he offered to give her her share of the inheritance, but after the currency has lost much of its purchasing power. The sister insists that she be paid the real value of the sum of money; her brother accuses her of demanding the payment of ribā. What is the ruling in the matter?

A: Provided that the transfer of the property to the ownership of the son, and the provisions made in the will for paying the females certain amounts of money were done properly and according to shar‘, each of them is only entitled to receive the particular amount allocated to her.

However, based on caution, the two parties should reach a settlement on the difference in the value of currency, i.e. when the payment was made and at the death of the testator, should the currency have depreciated. This is not regarded as ribā.

Q1857: During their lifetime, my parents directed that a plot of arable land they own should be allocated, as their legitimate share of one-third of the estate after their death, to pay for the expenses arising from their funeral, others relating to the

performance of prayers and fasting they may have missed during their lifetime, and the like. Being their only son, and since they had no cash left after their death, I paid all the expenses from my own pocket. Is it permissible for me to retrieve what I spent from the share of one-third they have provided for in their will?

A: It is permissible for you to defray the expenses you incurred as a result of acting upon the provisions of the will provided that you had the intention of deducting the same from their share of one-third of the estate. Otherwise, it is not.

Q1858: In his will, a person has directed that one third of the property, which has been occupied by his wife, should be allocated to her after his death, as long as she remained unmarried. Since the widow did not marry after the lapse of her waiting period, and she does not contemplate marrying again for the foreseeable future, what would the position of the executor and the inheritors be vis-à-vis the execution of the will?

A: For the time being, they should give the property to the widow as directed in the will. However, this transfer of property should be made contingent upon the widow not remarrying. If she gets married, the inheritors have the right to revoke the arrangements and retrieve the property.

Q1859: Having decided on the division of our joint inheritance from our father, which he in turn had inherited from his father so that our uncle and grandmother have a share in it, they produced a thirty-year-old will, stating that, besides the share of the inheritance, they should be given a certain amount of money of his estate. However, they paid themselves the specified amount of money at the current rates. The result has been that they got much more than the original amounts that had been provided for in the will. Are they legally justified in what they have done?

A: It is a caution that they reach a settlement regarding the difference in purchasing power of the currency.

Q1860: A martyr has directed in his will that the carpet he owned be donated to the Holy Shrine of Imam Ḥusayn (a.s.) in Karbalā, Iraq. However, should we leave this carpet for safe-keeping in the house, until such a time comes when we would be able to take it to the shrine, as directed by the will, it might sustain damage. So, is it permissible for us, in the meantime, to

leave it in the masjid to avoid any damage it could sustain?

A: Should the preservation of the carpet from any damage be dependent on keeping it in the masjid, on a temporary basis, then there is no objection to doing so.

Q1861: A person has directed in his will that specified amounts of profits from his property should be donated to the masjids and other charitable avenues. However, all his property was usurped. Salvaging the property would require some expense. Is it permissible to defray the expenses from the estate? And is the possibility of restoring the property from usurpation sufficient for the will to be deemed valid?

A: There is no objection to providing for the payment of the expenses arising from salvaging the property from the hands of the usurper from the profits of the property left by the testator pro rata. It is sufficient for the validity of the will that the property can meet the expenses arising from the provisions of the will, even after the efforts put into retrieving the property from the hands of the usurper. That is, even by spending some money in the process.

Q1862: A person has directed in his will that all his property, movable and immovable, should be transferred to the ownership of his only son, thus denying his six daughters their shares in the estate. Can such a will be deemed enforceable? If not, how should one go about distributing the estate among the six daughters and one son?

A: There is no objection to considering the said will valid in a general sense. However, it should be enforced as far as one third of the entire estate is concerned. The dispensing of any thing over and above the one-third share is dependent on the permission of all the inheritors. Thus, if the daughters object to giving their consent, each of whom should receive a share of inheritance of the remaining two thirds of the estate.

Accordingly, the distribution of the estate of the father should be divided into 24 parts. The son should receive 8/24 of the estate as one third and 4/24 thereof as his share in the remaining two thirds. Each one of the daughters should receive 2/24. In other words, one half of the entire estate goes to the son, whereas the second half should be divided between the six daughters.

## Usurpation

Q1863: A person bought a piece of land for his minor child. He noted the sale on a piece of paper. After being mature according to shar', the child sold the land to a third party. The inheritors of the person laid a claim to the land to the effect that it was theirs. Are they justified in contesting the right of the child, given the fact that the name of the father is not mentioned in the document?

A: Mentioning the name of the child in the document per se is not a yardstick for ownership. However, if it is established that the father bought the land with his own money, and then relinquished it to his son by way of gift or *şulḥ*, the land is rightfully his. If, after his shar'ī puberty, he sold it to a third party in a proper way, no one has the right to contest the buyer's ownership of the land or take it away from him.

Q1864: I have been among a chain of people who changed hands in buying the same plot of land. However, I built a house on the land. A person has come forward, claiming that the land is his. He produced a document, dating back to the days prior to the revolution, to this effect. Accordingly, he filed a lawsuit against me and a number of my neighbors. Would my exercising the right of ownership over this land amount to usurpation?

A: Buying the land from the previous proprietor should, according to the sharī'ah, be deemed correct, and so is the ownership of the land. So unless the claimant establishes his legal ownership of the land in court, he has no right to contest the ownership of the present proprietor of the land.

Q1865: In order to minimize the amount of tax levied on the property, the father made arrangements to transfer its ownership to his minor son. After his shar'ī puberty, the son is now claiming that the property is his. It is a fact that, all along, the property has been at the disposal of the father. If the son takes control of the property and exercises the right of ownership over it without the permission of the father, would he be deemed a usurper?

A: If the father, who bought the property with his own money, still has the property at his disposal, i.e. even after the son became mature according to shar', the latter should have no right

to contest the right of ownership of the property of his father, nor should he have it at his disposal. That is unless the son establishes that his father gave him the property by way of gift and transferred its ownership to him, for the presence of his name in the property deed per se is not a sufficient proof of ownership.

Q1866: Fifty years ago, a person bought a plot of land. Since the name of "The High Mountain" is mentioned in the property deed as the boundary of the land, he is claiming the ownership of millions of square meters of common land and scores of old houses built on it. It is to be noted, however, that the person did not use those lands and the houses. Furthermore, there is no evidence that could indicate the ownership of those lands for the last centuries. He further alleges that the prayer of the people conducted on this land and property is not shar'ī because of the alleged usurpation. What is the view on this matter?

A: If the land that falls between the land that has been bought and the said mountain is derelict land with no previous owner or some people had it at their disposal and transferred it to the present occupiers, any party who actually exercises the right of ownership over any part of the land or the properties is deemed the rightful owner of what they have control over. Thus, all the actions concerning the property they take are deemed correct and shar'ī. That is unless the claimant establishes, with a competent judicial authority and in accordance with the shar', that he owns the land and property.

Q1867: Is it permissible to build a masjid on a piece of land that had been confiscated by a court injunction without the consent of its previous owner? And is it permissible to hold prayers and other acts of religious worship in such a masjid?

A: If the land had been taken away from its previous owner by the order of a shar'ī court, or in accordance with law that is being enforced by the Islamic state, or the shar'ī ownership of the claimant is not proven, using the land is not contingent upon the permission of the person who is claiming ownership or the previous owner. Accordingly, there is no objection to building the masjid on the land. Nor is there an objection to holding prayer and other religious rituals there.

Q1868. Some property was in the hands of the heirs for generations on end. The property was usurped by someone who became the owner. After the triumph of the Islamic revolution, the property was taken away from the usurper. Should the ownership of the property revert to the inheritors or have they precedence over others to buy it from the state?

A: Having control over something by way of inheritance should not necessarily mean the actualization of ownership. Nor should it give [the inheritors] the right to buy the property. Nevertheless, it is a shar'ī indication of ownership unless the contrary is proven. If it was proved that they did not own the property or, for that matter, it was proved that the property belongs to some other people, they [the inheritors] have no right to claim it back or ask for compensation. Otherwise, they should have the right to restore the very property or the compensation thereof by virtue of their being holders of the actual control.

## Placement under Guardianship and Signs of Maturity

Q1869: A man died and left behind a daughter and a son who is a ward due to incompetence. Is it permissible for his sister to have the right of disposal over his property by virtue of being his guardian?

A: One person does not have guardianship over one's incompetent brother. However, should he have no paternal grandfather and if the dead father did not leave a will appointing someone to be the guardian of the brother, the guardianship over him and his property rests with the authorized religious authority.

Q1870: What is the criterion for determining the age of maturity for boys and girls, is it the solar year or the lunar one?

A: The yardstick is the lunar year.

Q1871: In order to know whether a person has matured according to shar', how can one determine the specific date of birth in accordance with the lunar year, i.e. the day, the month, and the year?

A: It can be reached at by calculating the difference between the lunar year and the solar one if the date of birth according to the solar year is known.

Q1872: Is it right to consider a boy below the age of 15 years, who had a nocturnal emission, as mature by shar'?

A: Yes, he can be considered as mature by shar' due to nocturnal emission, because it is one of the signs of maturity.

Q1873: If there was a ten percent chance that the other two signs of adulthood, i.e. other than the age of shar'ī puberty, appeared before the specified age of shar'ī puberty how can one go about it?

A: The probability that they appeared first is not sufficient to conclude that maturity has set in.

Q1874. Does sexual intercourse count as a sign of shar'ī puberty which, in turn, leads to the upholding of obligatory religious duties? If the person in question was not aware of it, until three years later, should they perform ghusl? Would those acts of worship they performed during this period, whose acceptability is dependent on their being ritually pure, be considered void?

A: Having a sexual intercourse per se, i.e. without ejaculation, should not count among the signs of sharī puberty. However, it is a good reason for having ghusl, which should be performed once the person is mature. Moreover, should there not be at least one sign of sharī puberty, they cannot be declared mature by shar'. Therefore, they are not duty-bound to embark on any religious obligations. If the person, who was not yet mature, became junub by way of a sexual intercourse and performed prayer and fasting without performing ghusl after becoming mature, it is obligatory on them only to repeat the prayers — not fasting — provided that they were not aware of janābah.

Q1875: A number of students, boys and girls, of our institute became mature in terms of their age. However, having noticed that they were not mentally capable, I arranged for them to take an IQ test. As a result, their mental age was less than normal by at least one year. Yet, some of them cannot be declared as being insane outright, because many of them are aware of social and religious matters. Should such diagnosis be considered on a par with a conventional medical examination?

A: The criterion for religious duties becoming obligatory upon any person is their sharī puberty, in addition to being recognized, as a sane person. The varying levels of intelligence and comprehension are not a criterion and have no bearing whatsoever on this matter.

Q1876: In some religious texts, a discriminating child has been defined thus, "The child who can differentiate between good and bad". What is meant by "good and bad", and what is the age of discrimination?

A: The yardstick for determining what is good and what is bad is the common view. However, the child's circumstances and the local customs, tradition, and ethical code should be taken into consideration. As for the age of discrimination, it varies from one person to another, especially, in terms of talent, discernment, and intelligence.

Q1877: Is the experience of having a period by a girl who has not yet completed her ninth year, a sign of her sharī puberty, especially if the blood has all the properties of menstrual blood?

A: This is not a sign of her sharī puberty, nor is the blood

treated as that of menstruation, even if it has the properties of menstrual blood.

Q1878: Before his death, a person gave a sum of money to his nephew as a gesture of appreciation for the services he performed. However, the property of the deceased person had been frozen by a court injunction. The nephew spent the money his uncle had given him on the expenses of the funeral and other matters concerning the deceased. Is the court justified in demanding that the nephew return the sum of money he got from his uncle?

A: Should the money that was given by the uncle be among his frozen property, or it was the property of others, the uncle should not have given it to his nephew. By the same token the recipient should have no right of ownership over the money. Accordingly, the court has the right to demand the return of the money. Otherwise, no one has the right to retrieve the money.

## Silent Partnership

Q1879: Is silent partnership in other than gold and silver currencies permissible?

A: There is no objection to a silent partnership being conducted in banknotes that are used nowadays. It is not permissible, though, to be conducted in merchandise.

Q1880: Is it all right to make use of a silent partnership contract in domains such as production, services, distribution, and trade? And are the contracts of present-day silent partnerships outside the commercial arena concluded under this definition, legal?

A: A silent partnership contract should be confined to investing the capital in trade, i.e. buying and selling only. Using it under this title in the domains of production, distribution, services, and others is not permissible.

However, there is no objection to resorting to other shar'ī contracts such as ju'ālah and ṣulḥ.

Q1881: I took a sum of money from a friend of mine by way of a silent partnership. It was agreed that I would return the money with an extra amount added to it after a period of time. I gave part of this money to another friend who was in need of it. It was agreed with the latter that he would settle one-third of the mark up. Is this type of dealing legitimate?

A: Taking money from someone on condition that it would be paid back after a while with an extra amount added to it does not fall under the silent partnership type of contract. It is a ribā-bearing loan that is ḥarām. Taking the money as silent partnership does not amount to borrowing. The money will not become the property of the working partner. In other words it remains the property of the original owner. However, the working partner can still trade in it. They [the owner and the working partner] share the profits made in accordance with the partnership they agreed. The recipient of the money has no right to lend any of it to a third party, nor has he the right to give it to the others under a silent partnership deal unless it is done with the consent of the owner.

Q1882: What is the view on borrowing money under the title of "silent partnership" from people who charge between 4% and 5% monthly as a "profit" according to the contract?

A: Borrowing money in this way has nothing to do with silent partnership. Indeed, it is borrowing with ribā that is ḥarām. It will not become ḥalāl by deceptively giving it another name, although the loan contract is correct and the borrower becomes the owner of the money he borrowed.

Q1883. A person gave another a sum of money to trade in it on the condition that he pays the owner a monthly sum as profit and bear the loss. Is this kind of deal legitimate?

A: There is no harm in the agreement between the two parties if it is based on a proper and shar‘ī silent partnership. Nor there is any harm in making a provision in the process that the working partner gives the owner a monthly portion of his proportional share of profit on account and bears the loss.

Q1884: I gave a person a sum of money to import a number of vehicles on condition that we equally share the profits arising from the sale. After a while, he gave me a sum of money, saying that it was my share of the profit. Is it permissible for me to take that money?

A: If you gave him the money by way of a silent partnership, he then bought the vehicles and sold them, and paid you your share of the profit, the money is yours by shar‘.

Q1885: A person deposited a sum of money with another person to trade in it on the condition that he would receive a sum of money on account. At the end of the year they agreed to prepare the profit and loss account of the business. If the owner of the money and his partner agreed to settle the profit and loss, is this acceptable?

A: There is no harm in the payment of money to the person if it was based on a proper and shar‘ī silent partnership deal, and the owner of the money took from the working partner a monthly a portion of the profits on account so that the exact amount would be calculated later. Nor is there any harm in the partners’ settling their dues at the end of each year. Yet, should it take the form of a loan on the condition that the borrower would pay a monthly share of the profit to the lender, then they would make a settlement at the end of the year of what each of them owes the other, this indeed is a ribā-bearing loan that is ḥarām. Accordingly, the provision contained therein is void, although the loan contract is correct. Moreover, it shall not become ḥalāl for them because they

agreed to settle their respective dues. Therefore, the lender has no right to receive any profit, neither is he obliged to bear any loss.

Q1886: A person took a sum of money from another by way of a silent partnership. It was agreed that the working partner takes two thirds of the profit and one third goes to the owner of the money. The working partner bought goods and sent them to his hometown. On the way, the goods were stolen. Who should bear the loss?

A: The loss of capital or trading money wholly or in part shall be borne by the owner provided that the working partner, or any other party, is not to blame for acting unjustly. However, it is defrayed by the profit unless it was agreed that the working partner bears the loss.

Q1887: Is it permissible to give or take money with the intention of trading and making profit that is to be shared between the two parties as they see fit, without this being described as ribā?

A: If giving or taking the money was done with the intention of trading by way of a loan, all the profit should go to the borrower. Any damage or loss should be borne by him too. The lender has a right to nothing apart from the compensation for the actual money he lent, i.e. he should not demand any share of the profit. Yet, if the money was given or taken by way of silent partnership, getting any returns thereof should be dependent on the materialization of a proper and legal contract between the two parties, in accordance with all required conditions. Among them is the agreement that each receives a certain percent of the profit. Otherwise, both the money [capital] and the profits made from trading with it should go to the owner. The worker should receive compensation for his labor.

Q1888: Since banking transactions cannot be considered a true silent partnership because the bank does not bear a share of any loss, should the money received by the depositors as profit for their money be considered ḥalāl?

A: The bank may not be party to sharing the loss arising from money it has made available to businessmen by way of a silent partnership. Yet, this should not necessarily mean that such a partnership is invalid. Nor should it mean that the partnership contract is merely nominal and formal. There is no legal

barrier to the owner, or his agent, stipulating, within the framework of the contract, that the working partner bears the damage and loss of the money owner. Therefore, the silent partnership espoused by the bank, as the agent of the depositors, is ruled sound and the profits made thereof, that go to the money owners, are ḥalāl unless it is proved that the transaction was nominal and invalid for a reason.

Q1889: I gave a sum of money to a jeweler to invest in buying and selling. Since the jeweler always makes a profit, i.e. without a loss, is it permissible for me to demand from him the payment of a certain amount of money by way of profit? If this proves problematic, is it permissible for me to take some items of jewelry instead of the profit? Should there still be a problem; can the payment of the profit be made to me through an intermediary? And finally should it still be problematic, can the payment of the money be made to me by way of a present?

A: For the silent partnership to be operative, the determination of the share of profit due to the money owner and the working partner should be made by any ratio, such as one third, one fourth, one half, etc. In other words, the partnership shall not be sound if it is entered into on the basis of the monthly payment of a certain amount of money to the owner as a profit of the capital he provided, irrespective of whether the monthly amount is paid in cash or in goods.

Whether the owner received the amount of money directly or through an intermediary is immaterial. The same goes for the receipt of a certain amount of money as a share of the profit or by way of a present from the working partner in return for trading with the owner's money. However, there is no objection to stipulating that the owner may receive monthly a portion of the profit on account, after it is made, so that the exact amount is calculated at the end of duration of the silent partnership.

Q1890. A person collected a sum of money from different people with the intention of trading with it and giving them proportionate shares of the profit. What is the view on such a deal?

A: There is no harm in that provided that he combined their money for trading with the permission of the owners.

Q1891: Is it correct to stipulate in a binding contract that the working partner pays the provider of the money a certain amount of money each month as his share of the profit and to make muşālahah as to the difference between this amount and the actual proportionate share of money owner in the profit? In other words, is it permissible to include, in a binding contract, a condition that goes against the provisions of a silent partnership?

A: There is no objection to that if the condition is to make muşālahah over the owner's proportionate share of the profit, after it is made, in return for a certain amount of money payable to him each month. Yet, should the condition be to determine the owner's share as the profit of the monthly amount, this runs contrary to the nature of the silent partnership and is, therefore, invalid.

Q1892: A businessman received a sum of money from another as part of the capital of a silent partnership. It was agreed that the recipient gives the provider of the money a particular percentage of the profit. The businessman added the received amount to his existing capital and carried on doing business with the combined funds. However, at the outset he knew that it would be difficult to determine the monthly ratio of the profit the added amount could make. Thus, both the parties agreed to do muşālahah over any decrease/ increase in the amount. Is the silent partnership contract legally sound?

A: The inability to determine the amount of the monthly profit that could be made from the invested capital should not affect the validity of the silent partnership contract provided that it fulfils all the other conditions that are necessary for its validity. So, there is no objection to that if the two parties agreed on investing the money by way of a silent partnership according to the legal framework and then agreed to make muşālahah regarding dividing the made profit, i.e. after they gained the profit, the capital owner agrees to exchange his share of the profit for a certain amount of money in a şulḥ contract.

Q1893: A person gave another a sum of money to be invested in a silent partnership. It was agreed that a third party stood as a surety. If the man entrusted with the money disappears, has the provider of the money the right to demand compensation from the surety?

A: There is no objection to requiring a surety for the funds provided for a silent partnership, as the question goes. Should the working partner run away with the money that has been provided as capital for the partnership, or should he willfully and unjustly damage it, the money owner has the right to demand compensation from the surety.

Q1894: A worker who was entrusted with the money of several people by way of investment in a silent partnership lent a sum of money, either from the pooled funds or from that which belongs to a particular person, without the permission of the owner/s. Can he be considered un-trustworthy by virtue of having an unwarranted free hand in the money at his disposal?

A: His trustworthiness can turn into dishonesty if he gave a loan to another person without the permission of the owner. He should then indemnify the loan, in case it is not repaid. However, he should still be considered trustworthy insofar as the rest of the funds are concerned; unless it is proved that he has acted unjustly.

# **Part 17**

## **Banking**

Q1895. Is it incumbent on the person who borrows money from the banks to ask the permission of authorized religious authority, or his agent when the bank demands payment of ribā? And is it permissible to borrow without any pressing need?

A: In essence, borrowing, even if it is from a state bank, does not require the permission of an authorized religious authority. As to loan contracts per se, they are valid, even ribā-based. However, if ribā-based, as a matter of religious duty it is ḥarām to embark on them, irrespective of whether you get it from a Muslim or a non-Muslim, an Islamic state or a non-Islamic state. The only leeway is circumstances of extreme necessity where committing a sin can be tolerated. No ḥarām borrowing can become ḥalāl with the permission of an authorized religious authority. Indeed, there is no case for permitting it. However, there could be room for doing away with the ḥarām aspect in this case, i.e. by not intending to pay the extra amount, albeit the borrower may know that the bank is going to charge him anyway. The permissibility of a ribā-free loan does not hinge on the circumstances of necessity and need.

Q1896: The housing bank in the Islamic Republic grants loans to people to buy, build, or refurbish their own property. Having bought the property or refurbished it, the bank retrieves the loan from the borrower by installments. However, the total sum paid back will be larger than the one that had been granted in the first instance. Is there any legal justification for the payment of the extra amount over and above the amount of the loan?

A: It is known that the banks do not grant the money by way of loan, rather it is in accordance with a valid and shar‘ī contract, such as partnership, ju‘ālah, rent, or the like. However, there is no harm in these transactions provided that the shar‘ī provisions therein are respected.

1897: Some banks grant an increase of 3% to 20% on the money deposited with them. As a means of circumventing the dabbling in ribā, is it permissible to treat this increase as a compensation for the depreciation in the purchasing power of the money deposited and thus allowing for inflation?

A: If the profits have been realized as a result of investing the deposited money on behalf of the customer according to a valid

and shar'ī contract, they cannot be treated as ribā. Without doubt, they are profits made from a shar'ī transaction.

Q1898: What is the ruling in the matter of working in banks that deal with ribā, especially if there are no other jobs to do?

A: If the work in the bank is, in any way, related to ribā-based transactions, it is not permissible. However, the claim that no other ḥalāl employment by which to earn a living is available is not a valid reason to dabble in ḥarām business.

Q1899: We bought some property through the housing bank. It was agreed that we repay the money the bank gave us by monthly installments. Is this type of transaction valid as per shar', and did we become the owners of the property?

A: There is no objection to that, should the bank have bought the property for itself, then sold it to you by installments.

Q1900: Under the title of partnership or any other deal, the banks grant loans to interested customers for building houses. The banks charge between 5% and 8% increase [interest] on the amount of loan. What is the ruling on this type of loans, especially with this surcharge?

A: Taking the money from the bank under the title of partnership or any other proper and shar'ī transaction cannot be deemed a loan or borrowing. Nor should the profits made by the bank of these shar'ī transactions be considered ribā that is forbidden. There is no objection to taking the money under any of those titles to buy or build property. Nor is there any objection to having the right of possession over the property. However, even if it is deemed a loan with a surcharge, the borrowing contract per se is valid and the borrower can use the money, although the usurious borrowing ḥarām.

Q1901: Is it permissible to receive the interest paid on money deposited with the banks of non-Islamic countries, irrespective of whether the owners were among the People of the Book or polytheist? Is it permissible to have the right of disposal over such money, regardless of whether or not the depositor made it conditional that he be paid the interest?

A: In the given case, it is permissible to take interest, even if it was with the condition of taking such interest.

Q1902: If some of the shareholders of the bank are Muslim, is it permissible to receive the interest?

A: There is no objection to receiving interest from the shares of

non-Muslims. It is not permissible to receive interest from the share of a Muslim. That is, where depositing the money with the bank is with the condition of getting interest and ribā or for the purpose of receiving it.

Q1903: What is the ruling in the matter of taking interest on the money deposited with the banks in Islamic states?

A: It is not permissible if the money was deposited under the title of loan and that the payment of interest was made conditional or with that anticipation/intention.

Q1904: Where the bank charges interest on the loans it grants, can one circumvent this by, say, buying one thousand bank notes for cash to be repaid by twelve monthly installments with the surcharge, or by buying from the bank twelve bills of exchange, totaling one thousand two hundred, for one thousand in cash provided that the total of these bills be settled in twelve months?

A: Such fallacious transaction which is nothing but a way to escape the dabbling in ribā-bearing loan is ḥarām and invalid.

Q1905: Can the transactions of banks in the Islamic Republic of Iran be deemed sound? What is the ruling in the matter of buying property and other things with money borrowed from banks? What is the view on performing ghusl and prayer in the property? And is it permissible to receive the profits arising from depositing money with these banks?

A: Generally speaking, the transactions carried out by the banks in accordance with the laws passed by the Islamic Consultative Assembly, and sanctioned by the esteemed Council for Safeguarding the Constitution should be all right. Accordingly, they are deemed valid.

The owners of the capital can have any profit arising from investing the capital in accordance with any proper Islamic contract.

Taking a loan from the banks to buy a property or other things should be without a problem provided that it is done in accordance with one of the aforesaid contracts. However, if it took the form of a ribā-bearing loan, it is ḥarām as a matter of a religious duty. Yet, the loan contract is concluded; the borrowed money can be had by the borrower, who should, as a result, have the right to use it and to possess whatever is bought with this money.

Q1906: Is the interest taken by the banks in the Islamic Republic on loans granted to people to buy property or livestock, agriculture etc. ḥalāl?

A: If it were true that the banks grant these amounts for building or buying property or other purposes under the title of loan, there would be no doubt that the paid interest was ḥarām according to shar‘. Therefore, the banks would have no right to demand payment of such interest. However, banks give the money, apparently, according to one of a host of shar‘ī contracts, such as silent partnership, partnership, ju‘ālah, or rent. For example, one way could be that the bank shares the property as a partner by paying part of the constructing expenditure. The bank then sells its share to the other partner to be paid by the latter by installments within, say, twenty years. Another way could be by renting the property to the other partner for a given period of time and rent. Accordingly, there is no problem in taking the money or paying the mark-up which the bank puts for such a transaction. Thus, such transactions have nothing to do with the loan granting and the interest levied thereof.

Q1907: I obtained a loan to set up a joint venture. I gave half of the amount of the loan to a friend of mine and made it conditional that he would pay all the interest due to the bank. Is what I have done shar‘ī?

A: If the granting of the money by the bank was on the understanding that the bank was party to the joint venture, that both the parties were aware of, the recipient has no right to dispose of it in any other avenue, let alone lend it to a third party. The recipient should treat the money as a safe deposit with him to be used in the agreed way. Otherwise, the very money should be returned to the bank.

Q1908: A person procured a sum of money from a bank to fund a silent partnership. However, they did so by presenting forged documents. It was agreed that the money would be returned to the bank, over a certain period of time, plus the surcharge. If the bank was unaware of the false documents, would the money be treated as a loan and the interest paid by the borrower as ribā? And what is the view if the bank was aware of the falsification of documents?

A: If the validity of the silent partnership contract depended on

the genuineness of the documents that were the basis of the contract, the contract would be null and void. On the assumption that the documents were false, taking receipt of the money from the bank cannot be deemed a proper way of borrowing. Nor is it deemed a silent partnership. It would, instead, be considered a procurement of money by way of illegal transaction. Thus, it should be returned to the bank together with any profits made from trading thereof. This is so if the bank was unaware of the situation. If the bank official was aware of the falsity of the papers, the money obtained should be treated as usurped property.

Q1909: Is it permissible to deposit money with a bank and authorize its officials to invest the same in any shar'ī transaction without demanding a specific share of the profits, but on the understanding that the bank would give the investor his share of the profits every six months?

A: There is no objection to this type of deposit if the money is left with the bank with unrestricted freedom, i.e. even choosing the type of investment and specifying the investor's share of the profit on their behalf. Nor is there any objection to taking the profit made by investing the money in a legal transaction. There should also be no problem if the investor was ignorant of the size of their share of the profits at the time of depositing the money.

Q1910: Is it permissible to deposit money in long-term savings accounts in the banks of non-Islamic countries that are either in enmity with the Muslims or having treaties with them?

A: In itself, there is no objection to depositing money in the banks of non-Islamic countries provided that this would not lead to strengthening their economic and political power that they might use against Islam and the Muslims. Otherwise, it is not permissible.

Q1911: What should become of the dealings with banks of all sorts that exist in Muslim countries, among which are banks owned by repressive regimes, non-Muslim countries, or privately owned ones, whether by Muslims or non-Muslims?

A: There is no objection to being party to any shar'ī and permissible transaction conducted with the banks. As for ribā-based transactions and taking ribā from Muslim banks or

institutions, they are not permissible unless the capital of the bank is owned by non-Muslims.

Q1912: It has been the practice in Islamic banking that depositors receive licit profit for their money that the bank invests in different fields and ways. Is it permissible for individuals to adopt the same practice, i.e. lending money to people in the marketplace to invest as they see fit?

A: Should the money given to the other party be in the form of a loan with the condition that the recipient pays monthly or yearly interest at a certain percentage, such a transaction is ḥarām as a matter of religious law and the interest taken on the loan is treated as ribā that is ḥarām, albeit the loan contract per se is valid. Yet, if the money is deposited with the other party to invest it in a sharī type of work and in accordance with a sharī contract and the money owner gets a given share of the profits made, such a transaction is sound and the profits made thereof are treated as ḥalāl gains. Therefore, it makes no difference whether it is a person, a bank or another legal entity.

Q1913: If the banking system is based on ribā, what is the view on using it for depositing/borrowing money?

A: There is no objection to depositing money with the bank under the title of a ribā-free loan. Nor is there any objection to borrowing money from the bank on a ribā-free basis. As for ribā-based borrowing, it is absolutely ḥarām as a matter of religious law, albeit the loan contract per se is valid.

Q1914: I procured money from the bank to fund a silent partnership venture. Is it permissible to make use of this money to buy property?

A: The capital of a silent partnership is deemed a deposit with the recipient. Thus, the latter should have no right of disposal over the money, except for trading in it as the contract between the two parties dictates. Should the recipient, unilaterally, spend the money in any other avenue; his action would amount to usurpation.

Q1915: A person received a sum of money from a bank for investing in trade. It was agreed that the bank would be a partner and receive a share of the profits. If the business made a loss, would the bank share the loss?

A: In a silent partnership, the loss would be borne by the

capital and its owner. It would be made up by profit. However, there is no objection if the two parties conclude the contract with the provision that the working partner sustain the loss wholly or partly.

Q1916: A person opened a savings account with a bank. After a while, the bank gave the depositor a profit. What is the view on such a profit?

A: If the money was deposited in the savings account as a loan in order to get interest, the transaction is based on interest, or it is stipulated; it is not permissible to receive such a profit, because it is ribā that is ḥarām. Otherwise, there is no problem in it.

Q1917: There is an investment scheme whereby the customer leaves a sum of money, on a monthly basis, in a deposit account for five years untouched. At the end of the period, the bank gives the depositor an amount on a monthly basis for the rest of his life. What is the view on this type of investment?

A: The said transaction has no shar'ī basis. Indeed, it is ribā-based.

Q1918: What is the view on long-term deposit accounts whereby the money attracts profit calculated as a percentage?

A: There is no problem in depositing money with the bank with the purpose of investing it in any of the shar'ī transactions. Nor is there any problem in taking the profit made thereof.

Q1919: A person took a sum of money from the bank for a certain purpose. However, they did not actually mean to use in that avenue, but spent it in a different one. They might as well have changed their mind and spent the money for some other more pressing need. What is the ruling in this matter?

A: If giving the money by the bank and its receiving by the customer was done by way of loan, it is correct. The borrowed money should be the property of the borrower who is, therefore, free to spend it in any avenue they wished, albeit it is obligatory on them, as a matter of religious duty, to abide by the condition, if it was stipulated, that they should spend the money in a particular avenue.

Yet, if giving the money by the bank and its receiving by the customer was under the title of silent partnership, for example, the contract is not sound if it was nominal. Accordingly, the money would still be the property of the bank and the recipient

should have no right to use. Moreover, if they were serious in concluding the contract under which they got money from the bank, the money is considered as trust and it is not permissible to use it in an avenue not stipulated in the contract.

Q1920: A person received a sum of money from a bank to fund a silent partnership. After a while, he repaid the money, by installments, to the bank alongside its share of the profit. However, the bank employee who received those installments embezzled the money by forging the documents as he confessed before the court. Should the person who procured the money for the silent partnership in the first place still be liable to pay it back to the bank?

A: If the phased repayment of the money to the bank was made according to the procedure in place, and the embezzlement of the money by the bank employee was not originated from the borrower acting irresponsibly, the latter should not stand to compensate the money. The employee who embezzled the money should make the compensation.

Q1921: Is it obligatory on the banks to notify the account holders of the prizes they won by lot?

A: This should follow the procedure applied by the bank, in that should the payment of the prizes to the rightful owners be dependent on the notification of the bank, such notification becomes obligatory.

Q1922: Is it permissible, as a matter of religious law, for the bank officials to pay of the profits generated by the money deposited by the customers to any person or legal entity?

A: If the profits are the property of the bank, it is up to the bank to deal with them according to the procedure in place. Yet, if the profits are the property of the depositors, it is at their disposal.

Q1923: Banks pay depositors monthly interest. This interest is fixed even before the money is invested. Furthermore, the depositor does not bear a loss. So, is it permissible to deposit money for the purpose of getting the interest or is such a transaction *ḥarām* because it is *ribā*-based?

A: Should leaving the money with the bank be by way of loan in order to obtain the interest, this clearly is a *ribā*-based loan that is *ḥarām* as a matter of religious duty. Any profit to be made thereof is *ribā* that is illicit. Alternatively, there is no

harm in depositing the money with the bank for investment in a shar'ī and ḥalāl transaction. Fixing the rate of interest before investing the money and non-sustainment of any expected loss by the depositors are immaterial to the validity of the provisions of the contract.

Q1924: If the mukallaf was aware of certain improprieties in certain transactions that are done by some bank employees, such as silent partnership and credit sales, is it permissible for the mukallaf to deposit their money with the bank in order to obtain profits?

A: Should the mukallaf be convinced that the bank employees were investing his money in an illegal transaction, it is not permissible for him to either receive the profit made thereof or make use of it. However, how could he be so sure, given the volume of the depositors' funds and the wide range and volume of transactions conducted by the bank, many of which are legitimate and proper transactions?

Q1925: In implementation of agreements between employees and employers, some companies and government departments deduct certain sums of money from the salaries/wages of their employees and deposit the same with a bank for investment. The employees get their share of the profit proportionate to their contributions. Is this transaction correct and, therefore, permissible? And what is the view on the profit made?

A: Should depositing the money with the bank take the form of a loan with the condition of getting the interest based on it or with that intention, saving the money with the bank would be ḥarām and the interest gained would also be ḥarām as a matter of religious duty. Therefore, it cannot be had nor used. However, there is no objection to such money savings, to the profit made through a shar'ī contract and paid to the customer, or the mark up paid by the bank if the purpose is to leave the funds with the bank for safekeeping or any other shar'ī purpose, yet without making the procurement of interest conditional or anticipating such interest. In this case there is no objection to taking receipt of the extra money which is considered as the property of the depositor.

Q1926: Is the bank management right in promising to grant banking facilities to the holders of savings accounts, should they leave the money in their accounts untouched for, say, six

months, noting that this is done as an incentive to customers to deposit their money in such accounts?

A: There is no harm in such an undertaking. Nor is there any harm in the bank's granting banking facilities as an incentive to depositors.

Q1927: Some bank employees, whose job is to receive payments from customers to settle their electricity and water bills, are left with some money over and above the bills' amounts. For example, some customers do not demand the change back. Is it permissible for the employee to have such money for himself?

A: The extra money should go to those who paid it in the first instance. The recipient should return the funds to their rightful owners if he knew them. Otherwise, they should be treated as money of an anonymous owner. Therefore, it is not permissible for the employee to take it for himself unless he is sure that the owners gave him the money by way of gift or have given it up.

## **Bank Prizes**

Q1928: I deposited a sum of money in a savings account with the national bank. After a while, the bank gave me some money under the title of prize.

What is the view on taking receipt of such money?

A: There is no objection to having the prize and to using it.

Q1929: Prizes are granted for deposits by way of ribā-free loans. What is the view on receiving such prizes? What is the view on depositing the money with the intention of receiving the prize? And assuming that taking receipt of such prizes is permissible; would the money be liable to khums?

A: There is no problem in depositing money by way of ribā-free loans and the prize given thereof. The prize should not be liable for payment of khums.

Q1930: The savings accounts holders did not approach the bank to receive the prizes they won, either because they were not aware or for some other reason. Is it permissible for the bank to use the prizes or to distribute them among its employees?

A: Neither the bank nor its employees have the right to own the prizes unless it is done with the permission of the winners.

## **Working in the Banking Sector**

Q1931: I am a bank employee, working in a branch abroad. By virtue of being in that country, we have to abide by the rules and regulations applied in the banking system, among which is handling ribā-based transactions. Is it permissible for me to work as part of that banking system? If so, what is the view on the salary I receive from the income of that branch of the bank?

A: Generally speaking, there is no objection to accepting the task. However, it is not permissible to handle ribā-based transactions. Any wages or salary paid for that particular work cannot be accepted. Yet, there is no harm in taking receipt of the salary that is given to you from the income of the bank branch, barring the knowledge of any illicit money within the salary you receive.

Q1932: Is it permissible to take receipt of the salary for working in such bank departments as credits, accountancy, and administration?

A: There is no harm in working in any of the abovementioned banking departments. Nor is there any harm in receiving the salary paid for working there unless the work is related in any way to a ḥarām transaction.

## **Rules of Checks and Bills of Exchange**

Q1933: What is the ruling in the matter of selling post-dated checks or bills of exchange for less than their nominal value for cash?

A: There is no objection for the creditor to sell to the debtor the nominal amount of the post-dated check or bill of exchange for less for cash. As for selling it to a third-party for less, it is not right.

Q1934: Can the amount of the check be considered cash, so much so that the debtor can say that they settled the debt by giving it to the creditor?

A: The check cannot be treated in the same way cash can. The settlement of the debt, by way of writing a check to the creditor or the seller is dependent on whether or not receiving it is considered as receiving its amount. This, however, is governed by different circumstances and people.

## **Insurance**

Q1935: What is the view on life insurance policies?

A: There is no objection to them in shar'.

Q1936: Is it permissible to use the health insurance cards for people other than the holder's own family? And is it permissible for the cardholder to put it at the disposal of other people?

A: It is not permissible to use the health insurance cards by any person who is not covered by the insurance policy. As for others making use of it, this should call for compensation [i.e. they should pay for it].

Q1937: In accordance with the provisions of the life insurance policy, the insurer should pay the beneficiaries — determined by the insured — a sum of money at the event of his death. Should the estate of the deceased not be sufficient to pay off his debts, is it permissible for the creditors to get back their money through the compensation the insurance company would pay?

A: This is governed by the provisions of the insurance contract. If the agreement was that the company, on the death of the insured, pays the amount to his appointed beneficiary/ies, the paid amount cannot be treated as part of the deceased's estate. It goes to the appointed beneficiary/ies.

# **Part 18**

## **State Property**

Q1938: For a year now, I have in my possession some public property. I want to release myself from it. What should I do?

A: Should the public property in your possession belong to a particular government department, you should return it to that department if it is feasible. Alternatively, you should return it to the Treasury.

Q1939: I made personal use of the public assets of Muslims. What should I do to be released? And what is the threshold of the employee's personal use of public funds? If it was done with the permission of the officials concerned, how should it be treated?

A: There is no objection to employees making use of public properties during official hours. Yet, it is confined to the extent that it is conventional, necessary, needed and job circumstances indicate that the employees are allowed to use it. The same goes for the permission of the person in a place of legitimate authority. Should the way you have gone about making use of the public property fit any of these two ways, you need not worry. However, should the personal use be outside the remit of what is traditionally acceptable or has been enjoyed without authoritative permission, you have to return the very item to the state coffers if it is available or the value thereof if it is not. You should also pay to the state coffers the normal hiring charge for the item, if applicable.

Q1940: After the medical board examination, the state granted me a disability allowance. I doubt whether or not I am entitled to receive that level of allowance because the decision specifying the degree of my disability might have been affected by the fact that I am familiar with the members of the medical board, in that I might have received special treatment. Taking into consideration that I was injured badly so that I may deserve even more, what should I do?

A: There is no harm in your receiving the level of allowance that is commensurate with your level of disability as has been decided by the examining medical board unless you are sure that you are not eligible to receive the money.

Q1941: I work for a government department. On one occasion, I received, by mistake, three times the salary that is normally due to me. At the time, I informed the accountant of the department. However, I have not returned the extra money I

received by mistake, in spite of the fact that four years have already passed since I received the money which was a part of yearly budget. How should I go about returning the money?

A: The accountant's mistake cannot be deemed a shar'ī reason to take the extra amount you received without being entitled to it. You are, therefore, required to return the erroneously received money to the department concerned, albeit it belongs to the budget of previous years.

Q1942: According to the regulations in force, members of the holy defense forces who have been maimed in action are given special concessions when borrowing money provided that the level of their disability is 25% or more. Is it permissible for me to make use of this concession, although my disability falls short of that percentage? Assuming that this has actually been the case, is it permissible for me to spend the borrowed money?

A: Whoever is not entitled, according to the laid down conditions and concessions, to borrow from the state coffers, they should have no right to do so. Nor should they have the right to make use of the loan procured in this way.

Q1943: What is the ruling in the matter of the property of an Islamic or non-Islamic state? In other words, does the property belong to the state or is it considered property of an anonymous owner?

A: The property of the state, albeit non-Islamic, is lawfully deemed in the ownership of the state. It should be treated as that whose owner is known. Nobody can use it unless with the permission of the authority who has the right to use it.

Q1944: In non-Islamic countries, is it obligatory to respect the ownership rights, whether those of the state or individuals? Is it permissible to make use of the facilities available at the learning centers in avenues other than those they are legally provided for?

A: The rules that respect for the property of others is obligatory and that it is ḥarām to use it unless with the consent of the owner are general. There should be no distinction between public property and personal one. Nor should there be any distinction between Muslim land and non-Muslim land. By the same token, whether the owner is Muslim or non-Muslim is immaterial. Generally speaking, forbidden use of, and

involvement in, the property of others amounts to usurpation and commission of a ḥarām act. The user is liable for payment of compensation.

Q1945: Is it permissible for a university student to use an expired luncheon voucher, and what is the view on the food acquired in this way?

A: It is not permissible to use an invalid luncheon voucher to procure food. The food thus procured amounts to an act of usurpation and is, therefore, ḥarām. Its cost should be indemnified.

Q1946: The students of universities and other institutions of higher education are given material aid such as food, stationery, etc. Is it permissible for the employees working in these universities and institutions to receive the same?

A: It is not permissible to include the university employees in the granting of allowances that are exclusively given to university students working for their degrees.

Q1947: Some directors of state departments have a number of vehicles at their disposal for official use. Is it permissible for them to make use of them in their personal capacity?

A: It is not permissible for directors, officials, and all other employees to use for their private affairs anything of the public property unless they legally obtained the permission of the related state department.

Q1948: What is the view on misappropriation of funds earmarked for hospitality expenses, i.e. when it is used in other avenues?

A: Spending public funds in avenues other than those they have been allocated for amounts to usurpation and should, therefore, be refunded unless it has been done with legal permission from the senior official.

Q1949: A government employee claims that the department he is working for owes him unpaid wages and allowances. Nevertheless, he is either unable to prove his case by way of documents or may not be in a position to claim the restoration of such rights. Can such an employee allow himself to take the equivalent from the funds at his disposal?

A: Such a person should not have the right to settle his claim from the public funds entrusted to him. If he has any claim, he

should have no alternative but to approach the competent authority and prove his case.

Q1950: The Water Organization introduced some fish in a dam lake. The lake already has its own fish stock, i.e. from the river flowing into it. The Organization markets the fish and distributes the profit among its employees. Ordinary people are banned from fishing in the lake. Is it permissible for other people to fish there?

A: The fish that are in the dam lake are the property of the Water Organization, although the lake water may contain fish brought into it by the water flowing from the river. Thus, fishing in the lake waters is dependent on the permission of the Organization.

## **Working for State Departments**

Q1951: Is it permissible for government officials to hold congregational prayer during working hours? Assuming it is not permissible, can they still hold it provided that they compensate whatever time they spent praying by working extra time after the official working hours?

A: Because the daily prayers are important, the fact that emphasis has been placed on holding them at the inception of their prescribed times, and given the high merit of congregational prayer, it is most appropriate that the employees work out an arrangement whereby they can hold congregational prayer at the beginning of its prescribed time and in the shortest time possible. However, every caution should be taken not to let this arrangement be misused in such way as to delay the work of other people.

Q1952: A practice by some education centers has been noticed, whereby some members of the staff work as supply teachers in other schools, during official working hours and with the permission of their superiors, and get paid for it. Is it permissible for such officials to do so and receive payment for their services?

A: The permission of the immediate supervisor to let his subordinate work as a supply teacher during official working hours is governed by the extent of his remit. Yet, since the government official receives a salary for working certain hours, he has no right to receive an additional salary [amount] for his work in other schools during the same official working hours.

Q1953: Is it permissible to have lunch during working hours?

A: There is no objection to it provided that it does not take a long time and cannot lead to delaying administrative work.

Q1954: Is it permissible for the employee to attend to his own private affairs during working hours if he has plenty of time to do that and he cannot utilize his idle time in working in other government departments?

A: As for attending to one's own private affairs at the place of work during working hours, this is governed by the rules and

regulations in force and the permission of the official concerned.

Q1955: Is it permissible for government employees to hold and take part in commemorative ceremonies and congregational prayers during working hours?

A: There is no objection to holding congregational prayers, and lecturing on Islamic law and teachings or the like for congregation in the blessed month of Ramadan and other days of religious importance provided that it does not violate the rights of the clientele.

Q1956: We work for a military establishment. Since we have to move between two different places, some of our colleagues utilize the journey in attending to some personal matters that may take a long time. Do we have to seek permission for this type of personal concern?

A: Attending to personal matters during official working hours needs permission from an official authorized to do so.

Q1957: Close to our workplace there is a masjid. Is it permissible for us to go and say our prayer at the masjid during official working hours?

A: There is no harm in going to the masjid to take part in congregational prayer that is held at its prime time provided that no similar congregational prayer is held at the place of work. However, one should provide for preliminaries of prayer in order to minimize the period of absence from work during the official hours.

Q1958: An employee works overtime a number of hours every month. Is it permissible for the manager of the department to double the number of hours worked, or give him extra hours, as an incentive? Should there be a problem, what is the view on the overtime money already received in this way?

A: It is not permissible to give false information and receive money for overtime hours that never existed. Any extra money that has been received without entitlement should be returned pro rata. However, should there be regulations allowing the superior to double the overtime hours worked, he can do so. By

the same token, the employee can take the money paid for overtime hours approved by his boss.

## State Laws

Q1959: An employee worked during the absence of the specialist, so much so that he gained enough experience to be a specialist himself. Is it permissible for such a person to approach his superiors with the intention of providing him with written evidence that he did the job in order to make use of this document in the privileges the specialization would confer on him?

A: Making use of the previous experience and specialization's privileges and proving it by way of obtaining a certificate from the official authorities is governed by the rules and regulations in place. However, if the certificate was obtained dishonestly, or contrary to the regulations, the person should not seek to obtain it and make use of it.

Q1960: Certain household goods, such as carpets and refrigerators, were offered in a government outlet for sale at officially fixed prices. However, since demand outstripped offer, the showroom manager resorted to selling the goods by way of lottery, on the understanding that the proceeds from the ticket sales would be used in charitable causes. Is there a legal objection to selling the goods by way of lottery?

A: When offering the goods to the customers, it is obligatory on the salesperson concerned to set the same conditions as they got them from the officials.

Accordingly, they have no right to alter these conditions by replacing them with others of their own. The intention to spend the proceeds from selling the tickets in charitable causes is not a valid reason for altering the conditions of sale.

Q1961: Should the prices of merchandise go up either suddenly or gradually, is it permissible to sell the same at the going prices?

A: There is no objection to selling them for the going equitable prices.

Q1962: A person gave another an antique. It was transferred to the latter's inheritors after his death. Should it be deemed rightfully theirs? Yet, since it is more appropriate to put this antique at the disposal of the state, have the inheritors the

right to demand compensation?

A: Being an antique should not detract from the fact that it could be privately owned. Thus, it does not cease to be the property of the owners if they acquired it lawfully. Any shar'ī consequences that may arise from the private ownership should be upheld. Should there be any state rules and regulations aimed at preserving the historic relics and valuable items, the owners' legal rights must be taken into consideration. Yet, if the person acquired the item in question unlawfully, i.e., contrary to Islamic law or the rules of the Islamic state that should be respected, they should not be deemed the rightful owners of the item.

Q1963: Is it permissible to smuggle consumer goods, such as fabrics, clothes, and rice from the Islamic Republic to sell them in the Persian Gulf countries?

A: It is not permissible to violate the rules of the Islamic Republic System.

Q1964: Should government departments devise regulations that go against Islamic injunctions, is it permissible for the employee to disobey such regulations?

A: It is not permissible to obey a state law which contravenes Islamic injunctions.

Q1965: What is the view on flouting traffic rules and regulations and the law of the land in general?

A: In case they do not contravene the law of Islam and neglecting them amounts to chaos or to breaching other's rights, one should observe them.

Q1966: In order for foreign students of universities to enjoy concessions and privileges enjoyed by home students, they can opt for naturalization. So, is it permissible for the students to apply for naturalization, noting that they can still renounce their newly acquired nationality and revert to their original one?

A: There is no objection to changing nationality of a citizen of the Islamic state unless such an act contravenes the laws in force, leads to any vile consequence, or is considered as an

insult to the Islamic state.

Q1967: Is it permissible for the employees, or customers, of foreign companies to ignore the procedures, rules and regulations devised by these companies, especially if such an act could lead to besmirching the image of Islam and Muslims?

A: Every mukallaf should respect the rights of others, even those of non-Muslims.

## **Taxes and Fees**

Q1968: I bought a house and agreed with the seller that we pay the government stamp duty between us. The seller suggested that we declare a reduced price for the property so that we can pay less duty. Should I bear the difference in tax between the actual price and the false one?

A: It is obligatory on you to pay your outstanding share of the tax that is levied on the actual value of the house.

Q1969: It is common practice among the people of our neighborhood that if the government is not an Islamic one and practices sectarian policies against followers of Ahlul-Bayt (a.s.), it is not obligatory to pay water and electricity charges. Is it permissible to do so?

A: It is not permissible. Rather, it is obligatory on everyone who has made use of the water and electricity to pay any charges incurred to the state, even though it might not be Islamic.

# **Part 19**

## **Endowments**

Q1970: In order for an endowment trust to be valid, is it conditional that the special words should be pronounced? Assuming so, is it necessary to be in Arabic?

A: For an endowment deed to be operative, it is not necessary to be done in words. Indeed, it should be effective enough if it is concluded in a de facto manner. However, if it is done in words, it is not necessary to articulate it in Arabic.

Q1971: A person directed in his will that his orchard should be assigned as an endowment for fifty years where the returns should be used in hiring someone to say prayers and perform fasts on his behalf. He further instructed that after the lapse of the first fifty-year period, the endowment should pay for charity work during the celebrations of the Night of Qadr (destiny) of Ramadan. The trustees of the will are the man's four sons. Since the orchard has fallen into a state of disrepair and can hardly yield anything, can his sons sell the property and use the proceeds to hire someone to perform 200 years of prayer and fasting on deceased's behalf?

A: The way the endowment trust has been set up could have two implications. If the donor meant to make use of the endowment for himself and others consecutively, it is void insofar as the deceased is concerned; as for the others, it should be deemed an endowment effective from a later time, whose validity is not clear-cut.

If the intention of the deceased was that the income generated by the endowment for fifty years is to be used for himself, there is no legal objection to deeming it shar'ī and valid. Assuming the validity of the endowment, as long as it is feasible to maintain the orchard in good condition to spend the income it generates in the avenues described in the will and endowment deed — even by spending some of the returns for its upkeep and repairs so that it carries on generating revenue, or by leasing the land for building or any other purpose — and spending the money in the avenues described in the will and endowment deed, it is not permissible to sell or change it.

Otherwise, there is no objection to selling it [the orchard] and buying property that can generate income to be spent in the avenues of the will and endowment deed.

Q1972. I built a building in a village intending it to be used as a masjid. Since there are already two masjids in the village,

it clearly doesn't need another masjid. The village is in desperate need for a place of learning. It is to be noted, however, that neither an endowment deed has been concluded, nor a prayer performed at the premises as praying in a masjid. I am prepared to change my intention by placing the building at the disposal of the Education Department. What is the ruling in this matter?

A: Building the place with the intention of rendering it a masjid per se, without handing the building over to the worshippers to hold prayer there, is not sufficient to realize the endowment. Indeed, the property is actually still at the disposal of the landlord; he is, therefore, free to do with it whatever he wishes. Thus, there is no objection to giving possession of the building to the Education Department.

Q1973: Should money donated to buy tools and appliances for the ḥusayniyyahs/masjids be deemed as endowment, or do the tools bought require uttering endowment formula?

A: Raising money in itself does not amount to endowment. However, after the purchase of the tools for the ḥusayniyyahs and making them available for use at the premises, a de facto endowment comes into force, i.e. without the need to pronounce an endowment formula.

## **Endowment Conditions**

Q1974: Should one be coerced into endowing something, can it still be valid?

A: If the donor was coerced into making the endowment, such an endowment cannot be valid unless the consent of the person in question followed. Yet, even if the consent was later granted, the question remains problematic.

Q1975: Some Zoroastrians built a hospital and set it aside as an endowment for charitable causes for one thousand years. However, in view of the mechanics of Shi'ah jurisprudence, is it permissible for the trustees of the endowment to act contrary to the conditions laid down in the endowment deed, which stipulates that if the proceeds from the hospital were more than the expenditure, extra beds have to be bought and added to the existing ones in the hospital?

A: Setting up an endowment by a non-Muslim is as valid as that set up by a Muslim. Accordingly, assigning the hospital by way of an endowment for charitable purposes for one thousand years is legally sound, even though the end of the duration is specified. Therefore, it is obligatory on the trustees to act according to the provisions laid down in the endowment deed. They should have no excuse for ignoring or trampling them.

## **Conditions Concerning the Trustees of Endowments**

Q1976: Is it permissible for the trustee who has been appointed by the donor of the endowment or the judge to be remunerated for the services he is rendering and can he pay someone else who is doing the work on his behalf?

A: The trustee of the endowment, whether appointed by the endower or the judge, is entitled to receive normal wages from the proceeds of the endowment if no specific wages is determined by the endower.

Q1977: A court ordered that another person, beside the official trustee, be appointed to oversee the administration of the endowment. Is it permissible for the official trustee provided that he is authorized, to appoint his successor without consulting the person who has been appointed by the court?

A: If the court order in appointing the supervisor alongside the official trustee to oversee his work was to cover all aspects of the administration of the endowment even the appointment of the new trustee, he has no right to go it alone in appointing the successor without consulting the supervisor.

Q1978: The owners of the properties adjacent to a masjid donated parts of their property to be annexed to the masjid with a view to extending it. After consultation with the Islamic scholars, it was agreed that a separate title deed be drawn up for the newly donated land. However, the person who built the masjid, and who is the current trustee, refused to agree to this arrangement, requesting that the donated land be noted on the title deed of the existing endowment trust. He further demanded that he should be the trustee of the entire endowment. Has he the right to demand that and is it obligatory that his demands are met?

A: The jurisdiction over the land that has recently been annexed to the masjid, the drafting of the endowment deed, and the appointment of the endowment trustees should all belong to the new donors. The existing trustee should have no right to object to that.

Q1979: The trustees of a ḥusayniyyah wrote a bylaw. If some provisions of the bylaw run against the spirit of the endowment deed itself, would it still be legally binding to abide by them?

A: The trustee of the endowment has no right to adopt any provisions that could contravene the nature of the endowment. It is also not permissible to abide by the counter provisions.

Q1980: Should there be a group of trustees entrusted with the running of the endowment, is there a sharʿī justification for some of them to run the endowment without consulting the remaining trustees? Should there be a dispute between them, are they justified in sticking to their own positions without having recourse to the authorized religious authority?

A: Should the endower have appointed them as trustees without specifying anything else and there is no evidence that some of them or the majority of them could act independently of others, none, and not even the majority, can have independence in running the entire endowment or parts thereof. Indeed, it is obligatory on them to reach unanimity through consultation. Should there arise a dispute or a difference of opinion among them, it is obligatory on them to take recourse, in the matter, to the authorized religious authority who should make it binding on them to agree.

Q1981: If some trustees oust other trustees, is it effective?

A: It is not effective and valid unless the endower has delegated him the right to do so.

Q1982: If some trustees accused one or more of the other trustees of being dishonest and insisted on discharging them, how could the issue be resolved?

A: It is obligatory for them to approach the authorized religious authority to investigate the case.

Q1983: A person set aside property by way of a public endowment. According to the endowment deed, he appointed himself a trustee of the endowment and after his death his eldest son. In it, he drew up a list of duties and responsibilities to facilitate the administration of the endowment. Has the Department of Endowments the right to deprive the trustee of all his

responsibilities or part thereof?

A: As long as the trustee appointed by the endower is doing his job in accordance with the provisions of endowment deed, administering of endowment rests with him as the endower stipulated in the deed and as per Islamic law; it is not valid to alter his remit laid down by the endower within the endowment formula.

Q1984: By way of endowment, a person designated a piece of land for a masjid to be built. He directed that its trusteeship should be his own offspring for generations to come. In their absence, he further instructed that the trustee should be the imam of the masjid who can hold the five daily prayers at the masjid. As a result, the imam was the trustee. But he had a stroke that prevented him from holding congregational prayers in the masjid. The board of imams appointed another imam to lead the prayers there. Should the trusteeship of the ill imam cease? Or should he maintain his office as trustee and appoint a replacement?

A: Assuming that he was trustee in his capacity as the imam of congregational daily prayers in the masjid, his trusteeship should cease by virtue of his incapacity to be imam of the masjid because of illness or for any other reason.

Q1985: A person dedicated the proceeds of his property to be spent, by way of endowment, in certain charitable avenues, such as the provision of financial help to the descendants of the Prophet (s.a.w.) and holding commemorative assemblies. Now, even with the higher rate of returns from the rent of the property, some interested parties insist on offering less rent than the market price for cultural, political, social, or religious reasons or because of the unfavorable financial position of potential tenants. Has the Endowments Department the right to lease the endowment as a going concern for less than the market price?

A: It is obligatory on the trustee and the officials of the Endowments Department to act in the interest of the endowment when renting the property to potential tenants and agreeing on the rent. However, there is no objection to renting the property at a discounted price with due regard to the special

circumstances of the tenants, or because of the importance of the work being conducted on the rented premises, so that it should eventually serve the purpose of the endowment. Otherwise, it is not permissible.

Q1986: The late Imam [Khomeini], may his soul rest in peace, has ruled that there can be no trustee for any masjid. Does this fatwā cover the property that forms part of the masjid itself, such as that dedicated to holding preaching sessions? Assuming that this is the case, and in recognition of the fact that many masjids have properties that are designated for charitable causes and have official trustees — who have a working relationship with the Endowments Department — is it permissible for the trustees of such endowments to abdicate their responsibility, especially in the light of the fatwā of the late Imam that stresses the fact that the trustee cannot relinquish his responsibility and should abide by the provisions laid down by the donor in the endowment deed without prejudice?

A: The ruling that the masjid cannot lend itself to a trusteeship is confined to the masjid proper. It does not go beyond that to cover the properties endowed to the masjid, let alone those endowments that are dedicated to preaching in the masjid and the like. Therefore, there is no objection to the appointment of trustees for private and public endowments, even in such cases like endowments for providing furniture, lighting, and water to the masjid or to keep it clean.

The appointed trustee has no right to abdicate his responsibility of running the trust. Indeed, in discharging his duties, the trustee should be guided by the provisions laid down by the donor in the endowment formula, even if it is done by appointing a deputy to discharge them for him. It is not permissible for anyone to interfere or make problems for him.

Q1987: Is it permissible for people other than the sharʿī trustee of the endowment to meddle in the affairs of the trust, so much so that they change the provisions laid down in the endowment deed? Are such people justified in their demands from the trustee to hand over the land to a person whom the trustee does not deem fit?

A: The running of the endowment in accordance with the

provisions laid down by the donor in the endowment deed is the exclusive preserve of the sharī trustee. In the absence of an appointed trustee by the donor, the trusteeship belongs to the ruler of Muslims. Thus, other people have no right to interfere in the matter. Furthermore, no one, including the sharī trustee, should have the right to alter the beneficiaries of the endowment or the purpose for which the profit is spent, nor has anyone such right as to change or amend the provisions laid down in the endowment deed.

Q1988: Should the donor appoint someone supervisor of the endowment and make it conditional that they are not discharged only by the ruler of Muslims, have they the right to resign their office?

A: By obligatory caution it is not permissible for the supervisor of the endowment, after he has accepted the appointment, to resign his office. Nor is the trustee of the endowment permitted to do so.

Q1989: In an endowment deed, some of which is private and some public, the donor has stipulated that in the event of death of the present trustee, the trusteeship should be vested in the next eldest and most competent member among the male generation for generations to come, giving preference to the first generation over the second. A person of the first generation is suitable to assume the role of trustee, yet they declined to hold the office, agreeing that his younger brother, whom they think competent, to take over. Is it permissible for the younger person to be the trustee of the endowment, especially if they can fulfill all the requirements?

A: It is permissible for the person, who is qualified to be a trustee, not to accept it. But, if he accepts it, he cannot resign. However, they can appoint someone to run the trust on their behalf provided that the latter is trustworthy and capable. It is not permissible for the person from the next generation to assume the trusteeship of the endowment when there is someone else from the previous generation who accepted to act as trustee.

Q1990: Some beneficiaries of the endowment, who deemed

themselves suitable to be trustees, approached the authorized religious authority with the request to sanction their appointment to a trusteeship. The authorized religious authority did not accede to their request, as he was not impressed that they are up to the challenge. Can they still object to the appointment of the person who is more suitable to be a trustee, under the pretext that he's younger than them?

A: He who is not entitled to be a trustee has no right to apply for the office of trustee. Nor has he the right to object to the appointment of another person who is more suitable to be trustee.

Q1991: The appointed trustee of an endowment was found to be negligent and irresponsible. Is it permissible to discharge them and appoint someone else in their place?

A: Negligence and irresponsibility alone cannot be sufficient legal grounds for discharging the appointed trustee and replacing him. The matter has to be referred to the authorized religious authority who can order him to properly discharge his responsibilities vis-à-vis the endowment deed. If this was not forthcoming, he would order him to choose a suitable person to run the endowment on his behalf or the authorized religious authority would appoint that second person alongside him.

Q1992: Who should take overall charge of the upkeep of the tombs of the descendants of the Imams (a.s.), that are scattered across Iranian towns and villages, and the collection and expenditure of the donations and vows? And has anyone the right to claim the ownership of the land where the descendants of the Imam are buried and the immediate area around their tombs that is used as graveyards, from old time?

A: The trusteeship of the holy places and public endowments, that have no trustees, belongs to the Leader of Muslims. The authority to appoint trustees for such endowments has now been vested in his representative in the Office of Endowments and Charitable Affairs. The land where the descendants of an Imam are buried and the surrounding area used from old as a burial ground for Muslims are deemed public endowments unless the contrary is proven by shar'ī evidence before a judge.

Q1993: Is it permissible for all the beneficiaries of an endowment, who happened to be Muslim, to put forward to the Endowments Office the name of a non-Muslim with a view to appointing him as trustee of the endowment?

A: Appointing a non-Muslim a trustee of an Islamic endowment is not permissible.

Q1994: Who can be called an appointed trustee by the donor and who cannot? And should the donor appoint a trustee for the endowment and give him the authority to appoint a successor, can the successor be called a fully-fledged trustee?

A: The appointed trustee is the person appointed by the donor when uttering the endowment formula. If the donor made a provision, at that time, authorizing the trustee to appoint the next trustee; there is no objection to his appointing a successor after him. The person who is appointed by the original trustee is deemed as though the donor appointed him.

Q1995: Has the trustee of an endowment the right to abdicate his responsibility in favor of the Endowments Office?

A: The trustee of an endowment has no right to do so. However, there is no objection to appoint the Endowments Office, or anyone else as his deputy, to run the trust for him.

Q1996: The court appointed a person to oversee the work of the trustee of an endowment who was accused of negligence in running the endowment.

After the trustee had been exonerated, and since passed away, has the supervisor the right to have a say in the decisions and actions taken by the deceased trustee, especially when such decisions and actions were taken years before the appointment of the supervisor? Is it right to say that the remit of his responsibility should be confined to the period between the date of the court appointment and the date the trustee died? Since no action was taken by the court to relieve the supervisor of his responsibility after passing judgment proving the innocence of the trustee, should he relinquish his responsibility from the date of the judgment, or should this hinge on the order of the court?

A: If the appointment of the supervisor alongside the official

trustee was because he was charged with negligence in his duties to run the trust, he should have no right to meddle in or express any opinion about anything outside the remit of his responsibility. His authority as overseer of the work of the accused trustee should have come to an end with the passing of the sentence of exoneration. Furthermore, in view of the death of the previous trustee, and transfer of trusteeship to someone else, the said supervisor should no longer have right to interfere in the running of the trust. Nor has he the right to oversee the work of the new trustee.

## Conditions Concerning Endowed Properties

Q1997: A group of people raised a sum of money with a view to buying some property and using it as a ḥusayniyyah. Should their work in raising the money entitle them to set up the endowment under the title of ḥusayniyyah or do they have to take a power of attorney from the donors?

A: If they were acting as agents for the donors in preparing the property to be used as a ḥusayniyyah after they had bought it, setting up the endowment deed in their capacity as agents of the donors would be valid.

Q1998: Can natural forests and public grazing lands — that no one did anything to bring them into existence — be designated as endowment trusts, especially when they are enshrined in Article 45 of the Constitution of Islamic Republic as anfāl?

A: For the endowment to be valid, the property has to be lawfully owned by the would-be donor. Since natural forests and public grazing lands, that constitute anfāl and public property, i.e. not private property, no one has jurisdiction over designating them as endowments.

Q1999: A person bought a share of arable land and registered it in the name of his son. Is it permissible for him to set the land aside for charitable purposes?

A: Registering the property in the name of someone is not a criterion for sharʿī ownership of the person in whose name the property was registered.

Should the father, having bought the land and registered it in the name of his son, have granted the land to his son whereby the latter actually took possession of it, he has no right to set it aside as endowment because he is no longer the owner of the land. Yet, if he had transferred the title deed to the name of his son and remained the de facto owner of the land, he would still be its sharʿī owner. He should, therefore, have the right to assign it as an endowment.

Q2000: Is it permissible for the Municipality to endow its land for public establishments?

A: This is subject to the remit of the authority of the

municipality and the nature of the property. Should it be among the properties which can be endowed by shar' for public establishments, such as dispensary, hospital, masjid, etc., there is no objection to that. However, the municipality should have no jurisdiction over the lands earmarked for its sole purposes.

## **Conditions Concerning the Beneficiary of Endowment**

Q2001: A group of people built a masjid on a plot of land donated by Lands Organization. However, a dispute erupted among them as to the nature of the endowment, i.e., whether to make it public or private. What is the ruling in the matter?

A: The masjid is among public endowments. The beneficiaries are not confined to a particular group, or tribe. As for giving it a name, there is no objection to naming it after one person or a group of people. However, the people who took part in building the masjid should not contest that.

Q2002: The leader of a misguided sect endowed all his property for the group. In view of the fact that the validity of any endowment hinges upon that it should serve a legitimate interest and the fact that the aims, beliefs and deeds of this sect are corruptive, erroneous, and false, is the endowment deed valid and eventually the use of the endowment legitimate?

A: If it is proved that the purpose behind setting the endowment up is a ḥarām one and subservient to committing that which is sinful, such an endowment deed is void and null. Thus, the use of the property in such a lawfully forbidden avenue is invalid.

## **Endowment Terminology**

Q2003: Has the public at large who take part in commemorative assemblies, and in whose interests the ḥusayniyyah was established, the right to interfere and come up with certain interpretations to the clauses of the endowment deed?

A: In trying to understand the provisions laid down in the endowment deed, should they be of a opaque nature or an ambiguous one, reference has to be made to the context and common view. Therefore, no one has the right to interpret them according to their opinion.

Q2004: A building was endowed for the use of theology students. Is it permissible for the public at large to make use of it?

A: If the place was endowed for the exclusive use of theology students or for theology studies, it is not permissible for others to make use of the place.

Q2005: In an endowment deed, the following provision was made, "There should be an elected board of trustees from the people". Does this phrase indicate who the electors should be? However, assuming that this is not the case, who should be eligible to elect the trustees?

A: Apparently the said phrase means that the public must take part in the election of the board of trustees.

Q2006: The description of "The senior and most suitable" could be a prerequisite to making the eldest among the beneficiaries take overall charge of an endowment. Is it obligatory to prove such seniority and suitability, or does the mere fact of being the eldest allow us to suppose that both the qualities do exist?

A: All requirements for becoming a trustee should be assured.

Q2007: A person endowed all his property for holding assemblies commemorating the martyrdom of Imam Ḥusayn. In the event of his death, he directed that his sons, and their descendants after them, should be the trustees of the endowment. He further instructed that one third of the profit of the property be allocated to the trustee of the endowment. If, at any stage, there were children, male and female, of the first, second, and

third generations, can they collectively be deemed trustees? Assuming that the trusteeship of the endowment is vested in them, should the distribution be equal among both the sexes?

A: In the absence of any indication in the context that the pecking order among the inheritors be respected, i.e. the older generation should take precedence over the younger one, all the generations, at any given time, should collectively and equally be trustees, and one third of the profit is divided among them equally irrespective of whether they are male or female.

Q2008: If the donor directed that the trusteeship of the endowment, after his death, be vested in the Islamic scholars and mujtahids, has anyone among the Islamic scholars, who has not attained the level of *ijtihād*, the right to be trustee?

A: If there is no evidence that the donor has confined the meaning of "Islamic scholars" to the mujtahids among them, there is no objection to anyone of the Islamic scholars to be the trustee, even though they might not have attained the level of *ijtihād*.

## Rules of Endowment

Q2009: A group of people pulled down the library building to annex it to the masjid. The library is situated between the school of the masjid and the kitchen of the ḥusayniyyah that is adjacent to the masjid. The result is that the newly created space has become part of the masjid. They did this without obtaining the approval of the appointed trustee. Can their action be sanctioned as valid? And is it permissible to hold prayer in the newly created space?

A: If it is proved that the land, where the library used to be, was dedicated to the library, no one should have the right to change its use or annex it to the masjid. Nor is it valid to hold prayer in that place. Whoever was involved in tearing down the library building has to restore it to its original state. Conversely, there is no objection to holding prayer in the place.

Q2010: Is it permissible to endow a piece of land to be used as a masjid temporarily e.g. for ten years so that it would become the property of the owner after that?

A: It is invalid to do so under the category of temporary endowment. As a result, it does not become a masjid. But one can allocate it to praying people for a certain period of time under the category of ḥabs.

Q2011: A piece of land, which is held in trust, is adjacent to a cemetery. The cemetery has no more space to accommodate more graves. The site of the land makes it ideal to be annexed to the graveyard. Is it permissible to go ahead and turn it into a graveyard?

A: It is not permissible to change the use of the land that is held in trust to that of a graveyard if it was originally dedicated to some other use. However, if it was held in trust so that the proceeds are to be spent for a purpose, there is no objection to leasing it from its shar'ī trustee for the purpose of using it as a burial ground. That is, if the trustee is of the opinion that it is in the best interest of the trust.

Q2012: Some plots of endowed land were in a site that was appropriated by the state for a development project to build new

roads, state buildings, and public parks. The appropriation was made without the permission of the shar'ī trustee and without compensation. Is this permissible?

Can one conclude that the party benefiting from these lands should be made to compensate the price of the lands and the proceeds that would otherwise have accrued from them? Is it obligatory that the permission of the authorized religious authority be sought to pay the compensation or allocate other lands in replacement of the appropriated ones? And finally is it permissible for the Endowments Office or the shar'ī trustee to agree on the amount of compensation, without losing sight of the interest of the endowment?

A: No one has the right to make use of the endowment without the permission of the shar'ī trustee. Nor should anyone have control over an income-generating property of endowment, before it has been leased from the shar'ī trustee. It is not permissible to sell or exchange the endowment — utilizable for the purpose it has been donated — for another. Should someone damage the endowed property, the perpetrator has to stand to pay compensation.

Should anyone make use of the endowment without permission of the shar'ī trustee, they have to pay an equitable rent. Such payments should be made to the shar'ī trustee who should spend it in the avenues identified in the endowment deed. In doing so, there is no difference between a person, establishment, or government department. It is permissible for the trustee of the endowment, without approaching the authorized religious authority, to agree with the party currently making use of the trust, or that which has caused damage/loss to it, the amount of rent or compensation provided that it is in the interest of the endowment.

Q2013: There is a public footpath on land that is held in trust. Since residential houses have been built on adjacent private land, it has become necessary to widen the footpath. Is it permissible to widen the footpath from both its sides on a 50-50 basis? Supposing that this is not feasible, is it permissible to lease the required area of the land from the trustee to go ahead with the widening project?

A: It is not permissible to [build] a footpath or a road on the

endowed land unless it is absolutely necessary or building the road would be subservient to the endowment itself. However, there is no objection to leasing the land held in trust to widen the footpath, safeguarding the interest of the endowment in the process.

Q2014: Twenty years ago a plot of land was donated, by way of endowment, to be used as a graveyard. The donor made himself trustee and after his death a cleric, whose name was mentioned in the original charter of the endowment, should be appointed a trustee. He further directed that, after the death of the cleric, the trustee should be elected according to a certain mechanism. Has the present trustee the right to alter all, or some of, the provisions laid down in the endowment deed or add new ones to them? And should this change affect in any way the main objective behind setting the endowment up, such as turning the land into a car park, would the endowment still be valid?

A: Neither the endower nor the trustee has the right to change or alter the purpose of the endowment, especially after it has been realized by actual transfer of it. It is not permissible for endower or trustee to change some of the provisions laid down in the endowment deed or add new ones to them. It does not cease to be endowment following the change in its purpose.

Q2015: A person donated his shop for setting up a fund — affiliated to a masjid — for the granting of ribā-free loans. The donor passed away and the shop remained closed down and in a state of disrepair for several years. Is it permissible to utilize it in some other way?

A: If the shop's endowment for setting up the ribā-free loan fund has been concluded, since now there is no need for such a fund in that particular masjid, there is no objection to making use of it for setting up such a fund for other masjids. If there is no need for that as well, it can be used for any good purpose.

Q2016: By way of endowment, a person gave a plot of arable land for the recitation of the story of martyrdom of Imam Ḥusayn (a.s.) and holding commemorative gatherings on the occasion of the martyrdom of Imam Ali (a.s.). However, in his

will, he asked one of his inheritors to put the land at the disposal of the Ministry of Health to build a dispensary on it. What is the ruling in the matter?

A: It is not allowed to change the endowment from one that is generating income to be spent for a purpose to another in which the very endowment property is used. However, there is no objection to leasing the land to build the dispensary and spend the profit in the avenue the original endowment deed has specified provided that it is in the best interest of the trust.

Q2017: Is it permissible to build masjids or ḥusayniyyahs on already endowed lands?

A: The endowed land cannot be the subject of a new endowment deed for the purpose of building a masjid, a ḥusayniyyah, or anything else. It is not permissible to give it away for free to build a place for prayer or any public facility. However, there is no objection to leasing it from the sharʿī trustee to build a place for religious worship, a school, or a ḥusayniyyah on it. The rent generated should be spent in the avenues specified in the endowment deed.

Q2018: What is meant by a public endowment and a private endowment? Some people are of the opinion that it is permissible to change the advantage of a private endowment to that not intended by the donor, by, say, making it a private property. Is this true?

A: The generality or specificity of the endowment is determined by the purpose for which it was originally set up. A private endowment is that which is dedicated to one particular person, such as an endowment for one's offspring or for somebody else and their offspring. A public endowment is that which is set apart for a purpose of public interest, such as masjids, recreation places, and schools. The third type of endowment is that which has at heart the welfare of a particular group of people, i.e. under a generic title, such as the poor, the orphans, the sick, and the financially destitute traveler.

In essence, there is no difference in all these three types of endowments. There are, though, differences in the rules and effects of each one of them. For example, for the endowment of public services, as well as the generic title one, to be

concluded, it is not a condition that someone should accept the endowment deed as the other party [i.e. the beneficiary], nor should there exist the beneficiary at the time of uttering the endowment formula. Yet, in a private endowment they are considered as prerequisites. Furthermore, public utility endowments, such as masjids, schools, graveyards, and bridges cannot be sold under any circumstance, even if they fall into a state of disrepair. This is contrary to the private and generic title endowments whose income is to be spent for specified purposes, in that it is permissible to sell and replace them in certain exceptional circumstances.

Q2019: There is an old copy of the Holy Qur'an in a manuscript form that was donated to the masjid. Since it is now showing signs of wear and tear, is it obligatory to obtain the approval of the Religious Authority to restore it?

A: There is no need for a special permission from the Religious Authority to restore the covers and the papers of the Holy Qur'an and keep it in the same masjid.

Q2020: Does usurping an endowment and disposing of it in avenues other than those specified in the endowment deed call for compensation? And does damaging the property held in trust precipitate the compensation in kind or the value thereof, such as demolition of the property or turning the land held in trust into a road?

A: In a private endowment, such as that dedicated to serving the interests of [one's] offspring, as well as in an income-generating public endowment, the usurpation of the endowment and having a free hand in it in avenues other than those specified in the endowment deed, or without the permission of the beneficiaries in the first one, and the permission of the sharī trustees in the second one, calls for compensation in kind as well as the compensation of the benefit reaped.

Therefore, the profits from which the rightful users are prevented, whether or not used by the usurper, should be compensated for.

The endowment property should be returned if it still exists or the kind/value thereof if it has been damaged, lost, or disposed of [by the usurper]. The compensation received in lieu of the

returns should be spent in the avenues specified in the endowment, and the compensation for the actual property held in trust replaces the lost endowment.

In the case of usurping a public utility endowment, such as masjids, schools, bridges, and graveyards whose beneficiaries are the public at large or the endowment whose beneficiaries are named groups of people [such as the poor and the sick], the usurper, who had used the benefits from these endowments for a different purpose, should stand to compensate the profits in kind insofar as the schools, and public baths are concerned, but not those of the masjids, graveyards, holy places, and bridges. If the actual property held in trust is damaged or lost, the usurper should stand to pay compensation in kind or the value thereof. The value should be spent in replacement of the lost endowment.

Q2021: A person designated his property, by way of endowment, for holding assemblies commemorating the martyrdom of Imam Ḥusayn in the village. Since it is no longer feasible for the trustee to hold such assemblies in the village itself, can he do the same in the town where he lives?

A: If the endowment is specifically for holding the commemorative gatherings in the village itself, and as long as it is feasible to comply with the instructions [contained in the endowment deed] in the village itself — albeit by appointing someone else to do so on his behalf — the trustee should not resort to moving the function to some other place. Indeed, it is obligatory on him to appoint someone else to hold these gatherings in the village.

Q2022: Is it permissible for the neighbors of a masjid to make use of the electricity supply of the masjid for their own private business provided that they pay the cost, if not more, of the power used to the supervisors of the masjid? And is it permissible for the masjid's administration to give permission to others to use the power supplied to the masjid?

A: It is not permissible to make use of the electricity supplied to the masjid for private purposes. Nor is it permissible for the administration of the masjid to grant such permission.

Q2023: For many years now, a water spring has been set apart, by way of endowment, for public use. Is it permissible to supply its water through a pipe grid to different places, including residential homes?

A: There is no objection to making use of the water provided that installing the water pipes does not change the endowment, that the use is not made in avenues other than those specified in the endowment deed, and that this does not constitute any hindrance to the beneficiaries having access to the water. Otherwise, it is not permissible.

Q2024: A land was held in trust for the purposes of holding commemorative gatherings and serving the interest of theology students. This land is situated to the side of the main road of the village. Some villagers want to build another road on the other side of the land. Suppose that the building of the new road will lead to the appreciation of the price of the land held in trust, is this permissible?

A: The rise in the price of the land held in trust as a result of building the new road on part of it is not a shar'ī justification to occupy it, i.e. by making it a road.

Q2025: A house that is annexed to the masjid was designated by way of endowment as a residential home for the imam of the congregational prayers. However, the house is no longer capable of accommodating the increasing number of the imam's family, let alone his guests. The imam has a house that needs some repairs. He also ran into debt arising from the house. Is it permissible for him to rent the house held in trust and spend the rent in settling his debt or repairing his house?

A: If the house was held in trust for the use of the imam of congregational prayer to live in, he has no legal right to rent it, even by way of making use of the rent in settling his debt or repairing his house. Should the house not be big enough to meet his family requirements, those of his guests and members of the public who visit him; he can devise a schedule to use the house for consultation during different times of the day and night. He could also make the house available to another imam of congregational prayer to live in.

Q2026: A caravansary was endowed to generate income from travelers passing by. The trusteeship of, and proceeds from, the endowment used to be vested in the imam of a masjid situated opposite the inn. In view of the fact that the matter was not properly explained to the mujtahids at the time, the inn was demolished and a ḥusayniyyah built on the same site. Should the proceeds of the new place be used for the purposes of the original building?

A: No one has the right to change the caravansary held in trust as a public endowment, whose proceeds were intended for special purposes, to an endowment dedicated to serve a public interest, such as ḥusayniyyahs. It is, therefore, imperative to restore the building of the inn to its original state so that its facilities can be rented to the caravan owners and travelers and the proceeds spent in the avenue specified by the donor. However, it is permissible for the sharʿī trustee [to forgo the previous arrangement], should he see that the interest of the trust is best served, now and in the future, by renting the [new] place to hold acts of religious worship and spend the rent in the avenue specified in the endowment deed.

Q2027: A shop was built on a piece of land that forms part of the precinct of a masjid. Is it permissible to ask for the payment of sarqoflī?

A: This should be left to the jurisdiction of the sharʿī trustee who should take the interest of the trust into consideration. That said, the building of the shop on the site that belongs to the masjid should have been carried out in a proper and sharʿī manner. Conversely, it is obligatory that it is pulled down and the land restored to the precinct of the masjid.

Q2028: For planning or technical reasons precipitated by the need to develop certain sites into projects such as dams, power stations and public parks, some government departments find themselves appropriating endowed land. Should the executing parties of these projects be liable for paying compensation or rent?

A: Insofar as private endowments are concerned, the beneficiaries have to be approached with a view to buying or leasing the endowed land from them.

As for the endowments whose proceeds are dedicated to certain groups of people, they have to be rented from the sharī trustee. The proceeds from the rent should be spent in the avenue prescribed in the endowment deed. However, if the property is disposed of in any way, compensation should be paid to the sharī trustee so that he can buy another property in replacement of the original endowment and the proceeds generated thereof spent in the avenue specified in the endowment deed.

Q2029: A few years ago, a person leased a business property that was half built. The tenant paid the landlord sarqoflī. He then finished building the property with money from the rent of the property with the permission of the landlord. During his tenancy, the tenant bought from the landlord half of the property. The sale was officially registered. The landlord now claims that the property was an endowment. The trustee is demanding the payment of sarqoflī again. How do you adjudge the matter?

A: If it is proved that the land on which the property was built is an endowment, or that the tenant admitted that, all the concessions conceded by the so-called landlord should no longer be binding. Indeed, it is obligatory to sign up to a new contract with the sharī trustee so that the tenant could continue making use of the said property. The tenant can demand the so-called landlord to pay him back.

Q2030: If we know that a certain property is an endowment, although the avenue in which the proceeds are to be spent is not known, how should the residents and farmers, making use of the land, go about the matter?

A: Should the endowed land have a trustee, the parties making use of the land should approach him with a view to leasing the land. Otherwise, they should bring the matter up with the authorized religious authority.

As to the avenues for which the endowment should be spent, there are different cases as follows:

a) we doubt whether the beneficiaries belong to category a, b, or c but there are some people who belong to all the possible categories, then, we should spend the proceeds for them e.g. the property was endowed for the descendants of the Holy

prophet (a.s.), the poor, or religious scholars, then we give it to the poor religious scholars among the descendants of the Holy Prophet (a.s.);

b) the foresaid case but we cannot find some people who belong to all the possible categories then three cases are recognized:

1) the categories are maḥṣūrah, in which case, we should draw a lot to determine the beneficiaries;

2) The categories are not maḥṣūrah but are related to some groups of people, in which case, the proceeds are ruled as the property of an anonymous owner. It is obligatory to give them to the poor;

3) The categories are not maḥṣūrah but are related to some purposes like a masjid, a bridge a shrine, etc, in which case, it is obligatory to spend the proceeds for projects of common interest among the categories.

Q2031: A piece of land has been used for many years now as a public graveyard. The dead body of one of the descendants of the Imams (a.s.) is buried there. Some 30 years ago a bathroom was built to be used for performing ghusl for the dead bodies of Muslims. It is not known whether the land is held in trust as a public graveyard or a private one — for the tomb of the descendant of the Imam. Nor is it known whether the building of the bathroom was sharʿī? Is it permissible to use the bathroom for performing ghusl to the Muslim dead?

A: It is permissible to wash the Muslim dead in that bathroom, as they have been doing all this time. It is also permissible to lay the dead to rest in that land that constitutes part of the precinct of the mausoleum unless one is sure that it is against the purpose of the endowment.

Q2032: It is widely believed that some lands in our area used for agriculture are an endowment of the mausoleum of one of the descendants of the Prophet (s.a.w). The trustees of the endowment are the living descendants of the Prophet (s.a.w), residing in the area. However, there is no proof pointing to the fact that the lands were endowed. It is said that they used to have a title deed that was lost in a fire. Under the previous regime, members of the public had testified that the land was

endowed just to spare the lands any pending distribution. It is also said that the lands were donated to the existing trustees by one of the region's ruler, as a mark of respect, and in order to exempt them from paying taxes. What is the ruling in the matter?

A: The availability of a written document is not a condition to prove the endowment of the property. Indeed, the declaration of the person who has the land at his disposal, or his heirs after his death, that it is an endowed property is a sufficient proof of endowment. Precedence is another way of proving the endowment, i.e. any action with regard to the property in its capacity as a trust. The testimony of two just men, or the common knowledge that leads to peace of mind that it is in their ownership is an admissible way to prove the same. On the availability of any of these proofs, the property is ruled to be an endowment. Otherwise, the property should be deemed privately owned by the holders of the actual control.

Q2033: Can a five-century-old endowment deed be relied on as a proof of the property held in trust?

A: The endowment deed alone cannot be relied on as a legal proof of the endowment of the property unless one is certain that its contents are correct.

However, if among the old people the property is famous as an endowment or the person in control of the property admits its endowment so that it may make one know it for sure or to become certain about it, or there is an established practice, i.e., they went about running the property as an endowment, the property is ruled to be an endowment. At any rate, passage of time should not render the endowed property to cease to be so.

Q2034: I inherited three shares of river water from my father. I have been given to understand that the said shares were part of 100 shares, 15 of which are endowments. It is not known whether the three inherited shares were among the seller's privately owned shares or constituted part of the 15 endowment shares. What should I do? Should the sale of the three shares be rendered invalid, thus giving me the right to return them to the seller, who is still alive, to refund me the sale price?

A: If, at the time of sale, the seller was the rightful owner of the water shares he sold, even though he did not know that the shares he sold were his own private property or those of the trust, the sale can be ruled valid, the purchaser should be the rightful owner of the purchased shares, and the property can be transferred, by way of inheritance, to the deceased's heirs.

Q2035: A cleric donated part of his property, of fields and groves, to be a private endowment. He noted that in the title deed of the trust. This was witnessed by a number of Islamic scholars. Is this arrangement sufficient to render the endowment valid?

A: If it is proved that, in addition to drawing up and finalizing the endowment deed, the donor handed over the actual property to the beneficiaries or the shar'ī trustees, who in turn had the property at their disposal, the said endowment is ruled valid and binding.

Q2036: A piece of land was donated to the Health Office to build a dispensary or a health centre on it. The officials have yet to proceed with the building work. Is it permissible for the donor to reverse his decision and retrieve the land? And is handing the land over to the Office per se sufficient to realize the endowment, or should this hinge on the building itself?

A: Should the handing over of the land by the landlord to the Health Office have been done after endowing it in a shar'ī manner so that it was at their disposal as the shar'ī trustees, he has no right to revoke his decision and retrieve the land. Yet, if at least one of the two conditions was not realized, he has the might to get his land back.

Q2037. A plot of land was donated by its owner for building a masjid on it. This was witnessed by the cleric of the neighborhood and two just witnesses. After a while, a group of people took control of the land and built houses on it. What should those people, as well as the trustees, do?

A: If, after the endowment is done, the land that was meant to be held in trust was handed over to the shar'ī trustee or the beneficiaries of the endowment, all the rules and conditions governing endowments should apply. Therefore, others building houses for themselves on the land would amount to usurpation.

Thus, they should pull down the buildings and relinquish the land to the sharī trustee. Conversely, the land should still be in the ownership of its rightful owner and any action over the land by other parties is dependent on the permission of the owner.

Q2038. Eighty years ago, a person bought a plot of land. After his death, his inheritors carried out certain transactions in connection with it. The buyers passed away. Their inheritors became the holders of the actual control. Forty years ago, they officially registered the land in their names and built houses on it. A person has now come forward, claiming that the land has been endowed for the benefit of the children of the original owner and that he did not have the right to sell it. It is worth mentioning that during the eighty years no one laid a claim to the ownership of the land. There is neither a document nor a testament that could be relied on to prove the claim. What should the position of the rightful owners of the land be?

A: If the claimant is unable to prove in a sharī way his claim of endowment and impermissibility of selling the land, all the transactions carried out are valid and the holders of actual control of the property should be deemed as the owners.

Q2039: The Municipal Authority leased, from the sharī trustee of an endowment, two irrigation canals that pass through some arable land. The third canal, which was held in trust for the benefit of theology students of the neighborhood and the offspring of the donor, has dried up. As a result the land surrounding it became derelict. The Lands Authority wants to take control of the land because it was not cultivated for many years. Can this be right?

A: The land held in trust cannot be stripped of its title as a result of leaving it uncultivated, even for years on end.

Q2040: There are lands adjacent to the Holy shrine of Imam Riḍā (a.s.) that are held in trust. There is also in the sanctuaries of this property grazing patches and forests. Some official departments issued an order rendering the grazing patches and forests as though they are some kind of anfāl. They did so in compliance with the rules and regulations governing grazing lands and forests. Are the sanctuaries deemed part of the land held in trust?

A: The grazing lands and forests bordering the lands held in trust are treated in the same way as the endowment lands if they are part of their precincts.

Accordingly, the rules and regulations governing *anfāl* and public property should not apply. The final arbiter in identifying the sanctuary and its area is local tradition and expert opinion.

Q2041: Forty years ago I donated a property to build a refuge for orphans on it. The trust, verified by the Office of Endowment, has been running ever since. Of late, someone has produced a copy of a document stating that the land had, for the past three centuries, been held in trust. Since the original document does not exist, the document in question does not mention the name of the trustee, there has never been a precedent of any practice that the land had been held in trust then, and since the holders of the actual control reject the claim, can this document be a hindrance to the continuation of the existing endowment for the purpose it was set up to serve?

A: The endowment deed alone, whether original or copy is not a legal proof of the endowment. So long as the previous endowment cannot be established in a valid way according to Islam, the existing one is deemed valid and fully operational.

Q2042: A person donated a piece of land for a *ḥusayniyyah* to be built on it. However, the land has become a public road leading to the village. What is left of it is an area of 42 square meters. Is it permissible for the owner to restore it to his ownership?

A: Should this have happened after the endowment formula is uttered and the property turned over to the trustees or the beneficiaries, the remaining land should still be deemed part of the entire land held in trust. Therefore, it is not permissible for the donor to rescind his decision. Otherwise, it should remain part of his own property; he also can exercise the right of disposal over it.

Q2043. Is it permissible for an inheritor who has a share in the estate to donate it all by way of endowment? And is it valid to draw up the endowment deed in his name alone?

A: It is valid in his share of the estate alone. As for the shares

of the rest of the heirs, this is dependent on their permission.

Q2044: A person bequeathed his property to his sons by way of endowment. After his death the Religious Endowments Authority, without due attention to the provisions laid down in the endowment deed, registered the endowment in the names of the man's children, i.e. male and female. Should this mean that the daughters become eligible to have shares of the land?

A: Registering the names of the females alongside the males in the title deed of the land held in trust is not sufficient for their entitlement to shares of the proceeds of the land. If it is proved that the land was bequeathed exclusively to the male children, it should be theirs alone.

Q2045: A century ago, a property situated on a riverbank was held in trust. In compliance with the law banning the sale of lands held in trust, an official title deed was issued confirming that the said property is held in trust. However, the government turned the property into a mining site. Does this render it *anfāl* or should it remain an endowment?

A: If it is proved that the land was legally made an endowment, no one, whether individual or government has the right to appropriate it. It should, therefore, remain an endowment, coming under the umbrella of the rules governing endowments.

Q2046: In a teaching centre, there is a laboratory. The land on which the laboratory was built used to be part of an adjacent cemetery which is still in use.

The employees use the laboratory to say their prayer. Is the prayer performed in that place valid?

A: Unless it is proved that the land of the existing laboratory is held in trust as a burial ground, there is no harm in saying prayer there. Nor is there any harm in having the right of disposal over the place in any [legitimate] way. However, if it is proved by way of valid evidence that it is an endowment designated only for burial of the dead, it should be restored to its original state and made available for that purpose. Rulings of usurpation are applicable to the installations erected on the land.

Q2047: There are two adjacent business properties that are held in trust, each of which has its own donor and endowment deed. In other words, they are two independent entities. Is it permissible for the tenant of both the properties to open up a door between them?

A: Making use of the property held in trust and having free hand in it, albeit with the interest of the other endowment property, should be according to the provisions laid down in the endowment deed and subject to the permission of the trustee. The tenant, therefore, has no right to go it alone by opening a door between the two properties to pass through because he happened to be the tenant of the next-door trust.

Q2048: Some priceless manuscripts and books that are found in some centers and private homes are held in trust in those places. Some of these gems are on the road to ruin because of neglect. Is it permissible to transfer these manuscripts and books to a special room in the central library to preserve them from wear and tear, and eventual loss, without changing the nature of the original charter of the endowment?

A: It is not permissible to move these priceless books to another place, so long as it was made conditional, at the time of finalizing the endowment deed, that the benefit derived from them should be where they are kept provided that it is viable to keep them in good condition. Alternatively, there is no objection to transferring them from where they belong to some other place where they can be maintained in good condition.

Q2049: A person donated some grazing land by way of endowment for the sole benefit of the holy places. The trustee of the endowment leased part of the land to some people. Over the years, the tenants built residential houses and business properties on the land that was not suitable for pasture. They also developed the grazing land into arable land for crops and fruit trees.

a. In view of the fact that natural grazing lands are considered a kind of *anfāl* and public property, was the original endowment valid and can it still be so?

b. Since there has been a change of use and a development of the site which made it more attractive, how should one go

about fixing the rent?

c. Since the grazing land has been developed into fully fledged groves and fields by the tenants themselves, should the tenants pay the same rent, i.e. that of grazing land, or should the rent be on a par with the existing state of the land?

A: After it has been established that the pasture was endowed, as long as it is not proved that the grazing land was a kind of *anfāl* at the time of setting up the endowment, and if the donor was the rightful owner of the land, setting it up as endowment is ruled correct and *sharī*.

Therefore, it cannot be stripped of its title as endowment by the mere fact that the tenants have turned it into fields, groves and residential property. Indeed, if they have secured the right of disposal over the land held in trust by way of leasing it from the *sharī* trustee, it is obligatory on them to pay the rent agreed in the original lease contract. The trustee should spend the rent in the avenue specified in the endowment deed. Should putting the land at their disposal have been done without a proper permission from the *sharī* trustee, the tenants are liable to pay an equitable rent for the duration they had actual control.

However, if, at the time of declaring the trust, the land was derelict or *anfāl* or the donor was not its rightful owner, the endowment is invalid. That which the holders of actual control have reclaimed of the land by virtue of developing it into fields, orchards, and residential houses for themselves in accordance with the laws and regulations is rightfully theirs. As for the remaining parts of the land that maintained its original state, i.e. remained derelict, it is considered part of the natural resources and *anfāl*. It should, therefore, be put at the disposal of the Islamic state.

Q2050. A woman, who has a one-sixth stake in some jointly owned land, sets up an endowment trust for the entire property. Can this arrangement be deemed valid, or is it so insofar as her share is concerned? Assuming that it is valid, is it correct to hold the jointly owned land in trust before partitioning/distributing it? And if holding the share of the jointly owned land in trust before the distribution is valid, what should the position of the other partners be?

A: There is no legal barrier to setting up a trust concerning the

share in a jointly owned property, even before partitioning it provided that it can be of use to the beneficiaries, even after partitioning. However, endowing the entire property by one of the joint owners is dependent on the permission of all the owners. The partners have the right to demand the partitioning of the property to have their shares separate from that of the endowment.

Q2051: Is it permissible to revoke the provisions laid down in an endowment deed? And should it be so, what are the boundaries for such revocation?

Can time be a determining factor in abiding by the provisions of the endowment?

A: It is not permissible to flout the sharʿī provisions laid down by the endower in the endowment deed unless it is impossible or unbearably difficult to observe those provisions. Length of time has no part to play in the process.

Q2052: Some lands that are held in trust have watercourses that have stones and mineral deposits. Do these stones and mineral deposits form part of the endowment?

A: Big rivers and flood water courses, that border the lands held in trust or cut across them, are not part of the endowment, except those areas that have, by tradition, been deemed sanctuaries of the endowment. Such sanctuaries should be accorded the same treatment as the endowment itself. As for the stones and mineral deposits found in the streams that are held in trust, they should be treated as though they were part of the endowment.

2053: A theology school building fell into disrepair. The proceeds, from its endowment, were deposited in the bank. Since rebuilding the school with these proceeds takes a long time, can the money be deposited in a savings account where it can yield some returns?

A: It is the legal duty of the trustee to spend the proceeds of the endowment in the avenues specified in the endowment deed. However, there is no problem in leaving the money with the bank, in a savings account, until such a time when it becomes possible to spend it appropriately provided that this

would not lead to any delay in spending it in the avenues of the endowment in due course. Nor is there a problem in making some profit from the deposited money to spend it for the purposes mentioned in the endowment deed provided it is made by way of a legal contract.

Q2054: Can the land, endowed for the Muslim public good, be leased to a non-Muslim?

A: If the endowment is of the income generating type, there is no objection to leasing it to a non-Muslim provided that it is in the interest of the endowment.

Q2055: A few months ago, the dead body of a cleric was buried in endowed land. This was done with the permission of the endowers. Someone has come forward, claiming that the burial was not permissible in the land. What is your view on the matter? Supposing that the claimant was right, would paying money in compensation for using the land for burial solve the problem?

A: There is no problem in that provided that the burial of the dead body in the endowed land does not contravene the purpose of the endowment.

Conversely, it is not permissible. In this case, if the dead body should be exhumed to be buried somewhere else, as a matter of caution, before it is decomposed unless exhumation is unbearably difficult or violates the sanctity of the [dead believer]. In any case, paying money or compensating for the land in kind would not solve the problem.

Q2056: some property was held in trust for the exclusive benefit of the male children of a donor for generations to come. Should the endowment cease as a result of the beneficiaries relinquishing, for any reason, their rights in the endowment? How should the succeeding generations react to this relinquishment? What should the position of the sharī trustee of the endowment vis-à-vis the rights of future generations be?

A: The endowment does not cease to exist by the previous beneficiaries foregoing their rights. Such relinquishment by the former generation should not affect the rights of the succeeding generations. Nor should it render the endowment

redundant. When their turn to benefit from the endowment comes, the succeeding generations have every right to demand their share in full.

Even if it was legally permissible for the older generation to sell the property held in trust, they should have bought a replacement property for the benefit of the future generations. The trustee should run the endowment with the interest of all the generations at heart.

Q2057: In the matter of lack of evidence as to how to go about dividing the proceeds of endowment between the beneficiaries, among the offspring of the testator, which procedure should come into play here? Would the law of inheritance apply or the division be equal?

A: If it is not known that the endowment is designated equally between all of the beneficiaries or in accordance with their share of inheritance, it is ruled as an endowment for them equally and the proceeds are given to male and female beneficiaries of each category equally.

Q2058: For many years now, it has not been possible to send the proceeds of an endowment to the beneficiary — an Islamic seminary in a particular city.

Substantial amounts have since accrued. Is it permissible to spend the proceeds on other Islamic seminaries in other countries?

A: The duty of the sharī trustee or the Endowments Authority is to collect the proceeds of the endowment and spend the same in the avenues specified in the endowment deed. However, if, temporarily, it is not feasible to send the money to the city where it should be spent, it has to be kept until such a time comes when it would be possible to send it to its intended destination. If it becomes impossible to send the proceeds to the Islamic seminary designated in the endowment deed, even in the near future, there is no objection to spending it on the Islamic seminaries in other regions.

## Habs

Q2059: A person made his land ḥabs for a sharī purpose in the hope that they would have it again at the end of the duration of relinquishing it for charitable purposes. Can they benefit from the reacquired land in the same way they can with their other property?

A: If the donor was the rightful owner of the land and they made it ḥabs according to the sharī rules and regulations, the ḥabs is valid. Thus, all the provisions and consequences should apply. After the duration of the ḥabs came to an end, the land should revert to the ownership of the owner and be treated like any other property of theirs.

Q2060: The owner of some property made it permanent ḥabs for a valid purpose or directed in his will that one-third of his property to be permanent ḥabs so that the proceeds would be spent for a particular purpose, but his inheritors considered it as inheritance, put their names in the title-deed and sold it to others. Do the rulings of endowment — i.e. it is ḥarām to treat it as one's own property and sell it to others — apply to ḥabs property as well?

A: The property or one-third estate which was made ḥabs permanently has the same rulings as an endowment. Therefore, dividing it among inheritors as inheritance and selling it are invalid.

## **Sale of Endowment and Changing its Use**

Q2061: A person donated a piece of land for a ḥusayniyyah to be built on it. The ḥusayniyyah was built. However, a group of people turned a part of the ḥusayniyyah into a masjid. They are now holding congregational prayers in the place as though it were a masjid. Can their action be sanctioned, and should it follow that the rules governing masjids can apply to what seems to be a de facto masjid?

A: Neither the donor nor anyone else has the right to turn the ḥusayniyyah, that has been the subject of the endowment, into a masjid. Thus, it cannot be deemed a masjid. Nor can the rules and regulations governing masjids be applied to it. However, there is no problem in holding congregational prayers there.

Q2062: A person sold a piece of land they inherited and signed a binding contract to this effect. After a while, it transpired that the land was held in trust.

Would this revelation render the sale null and void? If this is so, should the vendor compensate the buyer for the price he paid for the land, at the time of sale, or should he pay the current market price?

A: After it had been found that the sold land was an endowment and that the vendor had no right to sell it, the sale is invalid. Accordingly, it has to be restored to its original status, i.e. a trust. The vendor has to pay back the price he received from the buyer for the land. As to decrease in purchasing power of the money, they should reach an agreement as per obligatory caution.

Q2063: A century ago, a person made his property endowment for his male offspring. He made a provision in the endowment deed that in the event of any of beneficiaries becoming poor by shar'ī definition, they should have the right to sell their shares to the other beneficiaries. A few years ago some of them took this option and sold their shares to the other shareholders. Some people have raised some objections as to the legality of such a sale on the grounds that the property was an endowment. It is to be noted, however, that this is a private

endowment. That said, would the sale and purchase, which were carried out in accordance with the provisions laid down by the endower, be sanctioned?

A: There is no objection to any beneficiary who has become poor to sell his share to the other beneficiary provided that the condition stipulated by the endower in the endowment deed is proved. Accordingly, such a sale should be deemed valid.

Q2064: I donated a piece of land to the Ministry of Education to build a school on it. However, after further research and consultation, I have found out that if the land were sold, it would fetch a price sufficient for building several schools in other parts of the town. I approached the said Ministry with a view to selling the land under its auspices in order to build a number of schools in the southern part of the town or in deprived areas. Is it permissible for me to do that?

A: If, after the endowment deed is concluded, the land was actually handed over to the Ministry of Education, in its capacity as the recipient of the endowment, you have no right of disposal over the land any longer. Nor do you have the right to revoke the trust. However, if the special formula of endowment — even in a language other than Arabic — was not uttered, or if the Ministry did not take actual possession of the land, it would still be in your ownership and you have the right of disposal over it.

Q2065: The gold, weighing 3 kg. and adorning the domes of a holy shrine, had been stolen on two occasions. However, it was retrieved on both occasions. In order to prevent future robbery, is it permissible to sell the gold and spend the proceeds on repairing the building of the holy shrine?

A: The mere fear of losing the gold, whether as a result of robbery or in any other way, is not a sharʿī reason to sell it. However, if the sharʿī trustee sees it considerably feasible — due to some evidence — that the gold has been kept [as a reserve fund] to spend on the maintenance of, and other expenditure on, the holy shrine, or it was absolutely necessary to repair the building, and there were no funds available to carry out the work, there is no objection to selling the gold and spending the money in carrying out the necessary repairs to

the holy shrine. It is advisable for the Endowments Authority to supervise the maintenance work.

Q2066: A person set up an endowment trust of arable land and irrigation water for the benefit of his sons. Since he has many sons, the cost of cultivating the land is high, and the yield is low, nobody seems to be keen on tilling the land. If the situation remains thus, the land would turn into a wasteland. Is it permissible to sell the property and spend the proceeds in charitable causes?

A: It is not permissible to sell or alter the endowment so long as it is feasible to benefit from it in the avenue specified in the endowment deed, even by leasing it to some of the beneficiaries or to a third person with a view to spending the rent in the appropriate avenue. Another way could be by changing the use of the property held in trust. If it is not at all feasible to make it of use, it is permissible to sell it. However, should this course of action be taken, it is obligatory to buy other property with the proceeds made in order to spend the same in the avenues specified in the endowment deed.

Q2067: A pulpit was donated to a masjid. It transpired that it is not feasible to make use of the pulpit because of its height. Is it permissible to exchange it for another suitable one?

A: There is no objection to modifying the pulpit if it is not at all possible to make use of it in its present form, neither in the intended masjid nor in other masjids.

Q2068: Is it permissible to sell the land held in a private trust that was acquired by the donor by virtue of the execution of the Land Reform Act?

A: If, at the time of endowing the land, the donor was the rightful owner of the property, and his action was done in a proper and sharʿī manner, neither he nor anyone else can sell, buy, change, or alter the property held in trust, even though it is a private endowment. That said, it is perfectly sharʿī to sell or buy the property in exceptional circumstances.

Q2069: My father donated a piece of land that boasts few palm trees with the intention of using the proceeds in feeding the

public during the commemoration of the martyrdom of Imam Ḥusayn (a.s.) in Muḥarram and the Night of Destiny (Qadr) in Ramadan . A century on, the palm trees can hardly yield anything. Being the eldest son of my father and his appointed agent, is it permissible for me to sell the land and build a school with the proceeds of the sale so that it can be a source of continuous charity for his soul?

A: If the land is held in trust, it is not permissible to sell or exchange it under the pretext that the trees have become fruitless. Indeed the trees should be exchanged for palm seedlings — even by spending some money on it — with a view to spending the proceeds in the avenues prescribed in the endowment deed where possible. Otherwise, the land has to be put to use in some other way, such as leasing it — either for cultivation or building houses, in order to spend the proceeds accrued in the appropriate avenues.

Generally speaking, it is not permissible to sell, purchase, or exchange the land, so long as it is feasible to make use of it in any way possible. However, there is no objection to selling the palm trees, should they have become fruitless. The proceeds from the sale can pay for new palm shoots where possible. If this is not feasible, the proceeds could be spent in the avenues described in the endowment deed.

Q2070: A person donated building materials to a masjid. Some of these materials have become surplus to the requirements of the building. Is it permissible to sell the extra materials and use the proceeds in settling the outstanding debts incurred by the masjid management and in meeting its needs?

A: Should the building materials and machinery have been designated for the purpose of building a masjid and were no longer the donor's own property, the useful ones cannot be sold — even for another masjid. Instead, what could be used of these materials, in the intended masjid or in other masjids, should be directed to serve those purposes. If the donor has confined the use of the materials to building this very masjid, the surplus materials should revert to his ownership where he can have the right of disposal over them.

Q2071. A person made his private library an endowment for his male offspring. Since none of his offspring has become a

clergyman, the books were left to gather dust. Termite damaged some. Others are on the road to ruin. Is it permissible for the inheritors to sell those books?

A: Should the person have made the endowment conditional on his sons becoming theology students and eventually clergymen, such kind of endowment is null and void to start with, because it was made dependent on a particular requirement. If the endowment was set up for their benefit, yet none of them had the capacity to do so, even sometime in the future, such kind of endowment is valid.

It is, therefore, permissible for them to put the books at the disposal of other people who have the capacity to benefit from them. The same applies if the endowment was made for the benefit of those who can use them, in which case the sons, should they be the trustees; have to put the books at the disposal of those people. However, they have no right to sell the books.

Q2072: A piece of arable land, which is held in trust, was higher than the adjacent lands. Therefore it was impossible to water it. Now it is leveled out. The extra soil was heaped in the middle of it, preventing any efforts to cultivate it. Is it permissible to sell the extra soil and spend the proceeds on an adjacent holy shrine?

A: Should the surplus soil prove a hindrance to making use of the land held in trust, there is no objection to clearing and selling it with a view to spending the proceeds in the avenue specified in the endowment deed.

Q2073: A number of business properties, built on a land held in trust, were leased to the existing tenants without charging them *sarqoflī*. Can the tenants ask potential tenants to pay such *sarqoflī*? Assuming it is permissible for them to do so, to whom should the *sarqoflī* go, i.e. to the tenants or to the endowment trust — so that the proceeds could be spent in the avenues specified in the endowment deed?

A: If the *shar'ī* trustee, while not losing sight of the interest of the endowment, gave permission to charge *sarqoflī*, the latter should be treated as part of the proceeds of the trust. Such income should, therefore, be spent in the avenue described in the endowment deed. Should the trustee withhold such permission, any transaction would be deemed unlawful. Accordingly,

if the contracts were concluded, the recipient of the money should return it to the buyer. However, the existing tenants, who had no right to ask for the payment of sarqoflī in the first instant — yet sublet the properties for sarqoflī, should have no right to appropriate this money.

## Rules Concerning Graveyards

Q2074: What is the ruling in the matter of appropriating a public cemetery with a view of building private property on it? What is the view on procuring a title deed to this effect? Is such a cemetery considered a type of public endowment? Should holding actual control of the land by private individuals amount to usurpation? Should the holders of actual control of the land pay rent? If this is so, where should the proceeds be spent? And finally, what should be the fate of the buildings erected on the land?

A: Procuring the title deed of the public cemetery per se is not a shar'ī proof of ownership. It does not act as an excuse to usurp it either. The fact that it is a public cemetery is not a shar'ī proof that it is a kind of endowment for the purpose of burying the dead in it either. However, if, according to common view, the place is a kind of public facility used as a burial ground, or any similar use, or there is shar'ī evidence that it is a kind of endowment for burying the Muslim dead, the control exercised by these people over the land for their own personal use should be treated as usurpation, which is ḥarām to embark on. Thus, they should relinquish control of the burial ground, demolish the installations, and restore the land to its original state. Yet, holding them liable for payment of rent for using the land is not proven [not a clear-cut matter].

Q2075: A 35-year-old cemetery was demolished by the Council and turned into a public park. During the era of the previous regime, a number of buildings were erected on the land of the cemetery. Is it permissible for the competent authority to rebuild such facilities?

A: It is not permissible to have any one of these in the land: Build any installations, hold actual control of it, or make any change or alteration. That is, if [a] the land is endowed for the purpose of burying the Muslim dead, [b] the building work would entail exhuming the dead bodies or desecrating the graves of the pious, the scholars, or the believers, or [c] the land is a public facility needed to be used by the public. Otherwise, it is permissible in itself.

Q2076: A piece of land was endowed for burying the dead. The cemetery contains the graves of one of the descendants of

the Imams (a.s.) and some martyrs. Since there is no suitable land to use by the youth for outdoor sporting activities, is it permissible to use the graveyard for this purpose provided that Islamic code of practice is upheld?

A: It is not permissible to change the cemetery into a playground. Nor is it permissible to have right of disposal over the land held in trust in avenues other than those specified in the endowment deed. Furthermore, it is not permissible to desecrate the graves of Muslims and the beloved martyrs.

Q2077: Is it permissible for the visitors of one of the holy shrines to park their cars inside a century-old cemetery that is no longer used as a burial ground?

A: There is no harm in it provided that the act is not tantamount to desecrating the graves of Muslims, as seen in the common view. It should also not constitute a nuisance to the visitors of the holy shrine.

Q2078: Funeral directors prevent the digging of new graves beside some existing ones. Is there a sharʿī reason for that? Are they justified in what they are doing?

A: No one has the right to reserve land around the graves of their relatives and, thus, prevent the believers from burying their dead in the public cemetery provided that the latter is held in trust or made available for the public to bury their dead.

Q2079: By virtue of a court order, a person came to own a piece of land situated beside the cemetery that is no longer capable of accommodating more graves. Is it permissible to use the land for burial of the dead, after securing permission of the landlord?

A: If the actual owner can be deemed the rightful owner of the land, there is no objection to making use of it with his consent and permission.

Q2080: A person donated a piece of land to be used as a burial ground and made it a public cemetery for Muslims. Is it permissible for the board of trustees to charge people a fee for burying their dead there?

A: They have no right to demand payment of anything for burying the dead in a public graveyard that has been designated as an endowment. However, there is no objection to their charging a fee for providing any sort of service to the cemetery or

the relatives of the dead in connection with burying their loved ones.

Q2081: Due to the non-availability of a piece of land in the town centre to build an information centre on it, is it permissible to build the centre in the derelict part of an old cemetery?

A: It is not permissible if the public cemetery was designated as an endowment for burying the Muslim dead, or the building of the centre would entail exhuming the dead bodies or desecrating the graves of Muslims. Otherwise, there is no objection to that.

Q2082: As a mark of respect for the martyrs, who were residents of our village and are buried elsewhere, it is planned to install memorial stones carrying their names in the village cemetery. Is this permissible?

A: There is no objection to building symbolic graves. However, it is not permissible to prevent other people to bury their dead in that place. This should be so if the land is held in trust for the purpose of burying the dead.

Q2083: We have planned to build a medical centre on a piece of derelict land situated on the periphery of the cemetery. However, we could not absolutely conclude that the land was not used, sometime in the past, as a burial ground. This is borne out by the fact that the residents disagree among themselves one way or the other. What they seem to agree on is that there are dead bodies buried around the piece of land intended for building the medical centre. What should we do?

A: There is no objection to it unless it is [a] proved that the land is held in trust for the purpose of burying the Muslim dead as an endowment, [b] the land is a designated public place for the residents to hold ceremonies on it, or [c] building the medical centre would lead to exhuming the bodies of the believers or subject their graves to an act of desecration. Otherwise, it is not permissible.

Q2084: The area where we live is in need of a masjid or a health centre. There are no lands available to build any of these two projects, apart from an unused piece of land that belongs to the cemetery. It is intended that the proceeds from leasing the piece of land to these public services be spent for the needs of the cemetery itself. Is it permissible to lease this land, especially since nothing is known about the specific

nature of holding it in trust?

A: If the land was held in trust for exclusive use as a burial ground, it is not permissible to lease or use it to build a masjid, a medical centre, or any other facility. However, it is permissible to put the land to use in any way that could render a service to members of the public in the area provided [a] it is not known by way of evidence that it has been held in trust for burying the dead, [b] it has not been designated as a public place for use as a burial ground for the residents, [c] it did not contain any grave, and [d] its owner is not known.

Q2085. The Water and Electricity Board intends to harness the power of water in generating electricity by building a number of dams. Among these projects is building a dam across the Karoon River. The area, which will be flooded by the dam lake, contains an old cemetery. Going ahead with the project is dependent on tearing down the graves in this cemetery. What is your view on the matter?

A: There is no objection to tearing down the old graves, containing bodies already turned into dust. It is not permissible to pull down the graves, containing bodies that have not yet turned into dust. Nor is it permissible to exhume the bodies that have not yet turned into dust. However, there is no objection to building the project at the same place if, considering economic or social situations, it is necessary to do so and moving the project from that area to another one, or sparing the cemetery by rerouting the course of water, is proved very difficult or unbearable.

That said, this should be carried out by moving the graves, containing bodies that have not yet turned into dust to some other place provided that the exhumation as such is not realized, in that it could be done by moving the bodies along with the surrounding soil. Should any dead body get exposed in the process, it should be moved and buried somewhere else.

Q2086: There is a plot of land that is adjacent to an existing cemetery. There seems to be no sign of any graves in the said land. However, at some stage in the past, it might have been a cemetery. Is it permissible to have disposal over this land by building a facility for social services?

A: If the land is part of the public cemetery that is held in trust for the purpose of burying the dead, or is considered, in the

common view, the precinct of the cemetery, it should be treated in the same way the cemetery is. It is, therefore, not permissible to hold actual control of it.

Q2087: Is it permissible for anyone to buy a piece of land to be used for burial and building a grave over it before one actually dies?

A: If the place where the grave will be built is lawfully owned by others, there is no harm in buying it. Should the piece of land be held in trust for the purpose of burying the believers' dead, it is not right to buy or reserve it for oneself, for it entails preventing others from making use of the land to bury their loved ones.

Q2088: Is it permissible to open up a walkway for pedestrians through the cemetery where it could lead to removing a number of twenty-year-old graves?

A: There is no objection to building a pathway through the graves provided that the ceremony is not an endowment, and this would lead neither to exhuming the dead bodies of Muslims, nor desecrating the graves.

Q2089: Is it permissible to build a masjid on the land of a derelict cemetery, especially when it is not known whether or not it is held in trust?

A: There is no objection to doing so provided that the land of the cemetery is not: [a] an endowment, [b] private property, or [c] a facility for the public at large and building the masjid does not entail desecrating the graves or exhuming the bodies of Muslims.

Q2090: A piece of land has been a burial ground since a century ago. A few years ago, excavations in the land revealed the ashes and bones of the dead. Is it permissible for the Council to sell this land?

A: It is not permissible to either sell or buy the land if the cemetery was endowed. However, if the excavations lead to exhuming the bodies of the dead, this is also ḥarām.

Q2091: The Ministry of Education partitioned a somewhat old cemetery for the purpose of building a school on the partitioned land. The Ministry has done this without obtaining the approval of the residents. However, the school is now up and running. The students perform their prayer at the premises. What is your view on the matter?

A: There is no harm in making use of the school, nor is there harm in holding prayer at the premises provided that there is no evidence pointing to the fact that the land on which the school was built was endowed for the purpose of burying the dead, that it is not a public service facility for burying the dead or for some other use, and that it is not private property.

# **Part 20**

## **Glossary**

Word	Definition
'ādil	of a person in whom piety is so deeply embedded that he does not commit a sinful act on purpose.
'Aliyyullāhī	a member of the sect that believes that Imam Ali (a.) is Allah.
'āriyah	to loan something — which you have the right to use — to somebody for free.
'aṣr	the third daily prayer said by a Muslim.
'īd	a religious festival celebrated as a happy occasion.
'Īd of Adḥā	the tenth day of the last month of the lunar calendar. On this day the Muslims in Minā sacrifice animals.
'Īd of Fitṛ	a religious festival celebrated on the first day after the month of Ramadan by Muslims.
'Īd of Ghadīr Khum	the eighteenth day of the last month of lunar calendar. On this day Imam Ali (a.) was declared by the Holy prophet (s.a.w.) as his successor.
'irfān	mysticism.
'ishā'	the fifth daily prayer said by a Muslim.
'menopause'	the time when a woman stops menstruating provided that she has completed fifty years (for a sayyidah sixty years).
'puerperium'	nifās , i.e., usually only a few days of puerperium.
a poor person	a person who does not have, and is not able to acquire, enough money/property to pay his yearly expenses or that of his dependants.
Abulfadl al-'Abbās	a brother of Imam Ḥusayn (a.).
adā'	(to perform religious rites) on time.
adhān	the call to prayer.
Ahlul-Bayt (a.)	the Household of the Holy Prophet (s.a.w.).
al-Ḥujjah	one of the epithets of the last Imam (a.).
al-mazālim	the property you owe to an unknown/inaccessible person.

an prayer	an obligatory prayer performed on the occurrence of eclipses, etc. detailed information about which is available in the chapter on āyāt prayers.
anfāl	a part of the property at the disposal of an infallible imam (a.) or his vicegerent due to their rule over the Muslims.
Aṣḥāb al-Kisā'	the Five Infallibles (a.).
authorized religious authority	a competent mujtahid or his representative.
Āyah al-Kursī	the verses 255-7 of the baqarah chapter.
Ba'thist	of the Ba'th Party which ruled Iraq during the Saddam era.
bā'ir	unusable land.
Basīj	certain volunteer forces.
basmalah	it is the abbreviation for 'bismillāhir raḥmānir raḥīm'.
blood money	compensation paid to the heirs of a killed person or to somebody who is injured.
dawr	repetition of qaḍā' prayers to ascertain their performance in order.
de facto contract transaction	a contract/transaction concluded practically and not by pronouncing its special formula.
dhikr	any expression containing the remembrance of Allah. The ṣalawāt upon the Holy Prophet Muhammad (s.) and his household is one of the best dhikrs.
dhimmī	a non-Muslim among the People of the Book who lives under the protection of an Islamic government under special terms.
dinar	a gold coin weighing 3.6 grams.
Du'ā' Tawassul	a certain supplication in which one asks the help of Allah through the intercession of the Infallibles.
endowment (waqf)	to allocate some property to be used — whether the very property or its profit — by certain people or for a public cause.

fajr	before the morning adhān a brightness (called false fajr) appears on the eastern sky, when it expands (called true fajr), it is the starting time for the morning adhān/prayer.
farsakh	a unit of distance equal to 5.625 km.
Fātiḥah	the first chapter of the Holy Qur'an.
fatwā	a mujtahid's clear cut opinion about a jurisprudential issue.
Fātimah Zahrā' (a.)	al-The beloved daughter of the Holy Prophet (s.a.w.) who married Imam Ali (a.).
fuḍūlī	of a contract, e.g., a purchase or a marriage, concluded on behalf of somebody without their permission.
ghinā'	voice of a human being produced in an undulating pattern to create the effect of rapture that is suitable for gatherings of merrymaking and sin. It is ḥarām to engage in this type of singing; as well as to listen to it.
ghusl	taking a bath/shower in certain manners intending nearness to Allah.
hoarding	to keep and hoard goods needed by people expecting a rise in the price while there is no other centre to supply it.
ḥukm	not fatwā; the order of the Jurist Leader regarding administration of the Islamic Country or issues related to Muslims in general.
ḥabs	a transaction similar to waqf (endowment). However, unlike waqf, you may make something ḥabs temporarily.
ḥadith	a word of the Holy Prophet Muhammad (s.a.w.) or that of the Infallible Imam (a.).
ḥajj tamattu'	al-a set of rites that pilgrims to Mecca perform in the last month of the lunar calendar.
ḥalāl	of a work permissible to do or food allowed to eat.
ḥarām	forbidden, an act which leads to Divine punishment.

hāshimī	of a descendant of Hāshim, the Holy Prophet's ancestor, through paternal lineage.
ḥiḍānah	nursing and bringing up a child.
ḥijāb	girls' covering in accordance with rules of Islam.
ḥisbī	of affairs to which the Legislator does not consent to be neglected and rest with the Jurist Leader or his representative, like managing the property of an orphan who does not have a shar'ī guardian.
ḥusayniyyah	a place dedicated to religious ceremonies about Imam Ḥusayn (a.).
i'tikāf	to stay and fast in a masjid at least for three days in order to worship Allah.
ijtihād	(enjoying requirements) to infer shar'ī rules from the Glorious Qur'an, traditions, etc.
Ikhlāṣ	a chapter of the Glorious Qur'an.
Imam (a.)	Riḍā the eighth Imam (a.).
iqāmah	a special dhikr to be said after adhān and before prayer.
Ismā'īlī	of a member of the sect that believes that Ismā'īl — a son of the Sixth Imam (a.) — was his successor.
istiḥāḍah	in some cases the blood women see is referred to as istiḥāḍah.
istikhārah	istikhārah literally means to ask [Allah] for good. It is a way of removing a state of indecision through consulting the Glorious Qur'an or prayer beads. One may resort to istikhārah if pondering and consulting experienced trustworthy people fails to remove the state of indecision.
jafr	a kind of divination.
jāmi' masjid	a masjid built in the city for the gathering of most of the residents of that city without being specific to a particular tribe or group of people.
janābah	the state of being junub.

ju'ālah	a kind of contract in Islam, e.g., a person declares that he will pay certain amount of money as compensation to whoever does a certain work.
ju'l	the compensation determined in a ju'ālah contract.
Junub	of a person after having sexual intercourse or discharging manī.
ka'bah	the cube-shaped holy building at Mecca, to which Muslims face when they pray.
kaffārah	atonement done/paid for a sin.
kāfir	a non-Muslim.
karāhah	being disliked in Islamic law but not forbidden.
khums	twenty percent of annual savings from one's income or that of certain properties. It contains two equal portions: the imam's portion and the sayyids' portion.
kifā'ī	of an obligatory act which is discharged if performed by anyone.
kitābī (plural : the People ofan the Book/ahl al-kitāb)	A non-Muslim with a Book, i.e., a Jew, a Christian, the People ofan, a Zoroastrian or a Sabaeen. A non-Muslim other than the above-mentioned is referred to as non-kitābī.
Kurr	of an amount of water not less than 384 liters in volume.
la'ib	game; jest; fun.
lahw	irrational useless acts.
Ma'sūmah (a.)	The beloved daughter of the seventh Imam (a.) whose shrine is located in Qum.
ma'ūnah	the money one spends on himself and his dependants provided that it does not exceed one's station as judged by common people.
madhī	a liquid that comes out after foreplay. It is pure and does not invalidate wuḍū'.
maghrib	starting time for the fourth daily prayer, i.e., when the redness in the eastern sky disappears.
maḥram	a person who is ḥarām for one to marry and/or it is permissible for one to see them without ḥijāb. There are three categories of maḥrams: a)

	blood-maḥrams like aunts and uncles; b) maḥrams by marriage like spouse, mother in law, father in law, son in law, daughter in law; and c) maḥrams through breast feeding.
makrūh	of an act disliked but not forbidden in Islamic law.
manī	certain liquid discharged from a mature person at the time of orgasm.
marji'	a qualified Islamic scholar you consult about jurisprudence.
marji'iyah	the state of being a marji'.
Marwah	see 'sa'y'.
masjid	a mosque.
mīqāt	one of a few select places where a pilgrim to Mecca dons special clothing and starts the rituals.
mītah	of an animal which has not been slaughtered, hunted or fished in accordance with Islamic law.
mudāwarah	the act of receiving khums and lending it back to the giver by the authority in charge of khums or the marji' when the giver owes some khums but is not able to pay.
Muḥarram	the first month of the lunar calendar on the 10th of which Imam Ḥusayn (a.) and his companions were martyred.
mujtahid	a great scholar in Islam who is able to do ijtihād.
mukallaf	a sane person who has reached the age of sharī puberty.
mustaḥabb	of an act desired in the shar' but there is no punishment in case you neglect it.
muṣālahah	reconciliation and mutual agreement; the name for a certain contract in Islamic law.
mutajazzī	of a person who is mujtahid only regarding some issues in Islamic jurisprudence.
mujtahid	
muthlah	to cut off a person's ear, nose, or lip.
nadhr	to commit oneself to a course of action, which is desired in the shar', by reciting a special formula.

nāfilah prayers	mustahabb prayers.
najāsah	the state of being najis.
najis	not pure. One should not eat najis food. Wearing najis clothes during prayer makes it invalid.
Nawrouz	The 20th/21st of March corresponding to the New Year's Day in the Islamic Republic of Iran celebrated in some other countries as well.
non-maḥram	of a person who is not maḥram to somebody else.
qaḍā'	of an obligatory action not performed on time.
qalīl	of an amount of water less than 384 liters in volume.
qayyim	a person appointed by the authorized religious authority or specified in the will of the deceased to be in charge of affairs of a ward.
qiblah	the direction toward the Ka'bah.
qiṣāṣ	punishment of a killer or a person who injured someone else to the same extent by the injured party or by the heirs of who was killed.
qunūt	a part of prayer performed in the second rak'ah in which a supplication is recited.
rahn	the property made as security for a debt/loan; deposit made at the time of renting a house.
rak'ah	a part of prayer consisting of one rukū', two prostrations, etc.
raml	a kind of divination.
rebelliousness (of a wife)	not observing the rights of one's husband.
ribā	there are two kinds of ribā: a) Loan ribā, i.e., the mark up paid by the borrower to the lender. It is ḥarām if the loan contract is concluded on the explicit/implicit condition of the mark up. b) Ribā of a sale transaction, i.e., to sell an item - normally sold by weight/ volume - in exchange for something of the same category in Islamic law plus extra.

risālah	a book on practical laws of Islam according to a certain marji'.
riyā'	to do a good act/worship intending for other than Allah in order to show off and seek status among people.
rukṅ	a part of some forms of worship such as hajj or prayer that are so necessary that the worship becomes invalidated if it is neglected even unintentionally.
rukū'	a part of prayer in which one bows down and puts the hands on the knees.
sa'y	to walk to and fro between Şafā and Marwah in a long passage adjacent to the Masjid al-ḥarām.
Şafā	see 'sa'y'.
saḥar	the time before the morning adhān.
salaf/salam	to buy something for which you pay now but receive the goods later.
salām	the Islamic greeting of "peace".
salām of the prayer	the last part of the prayer.
Sarqoflī	a right or preference that in some countries a businessman or shopkeeper is maintained to have to his place of work due to his making it popular, attracting customer, or that he was the first man who rented the place, etc.
sayyid	a male descendant of Hāshim - the Holy Prophet's ancestor/ the grandfather of 'Abbas, Ja'far, Abū Tālib, Ḥārith, 'Abdullāh - through paternal lineage.
Sayyidah	a female descendant of Hāshim - the Holy Prophet's ancestor/ the grandfather of 'Abbas, Ja'far, Abū Tālib, Ḥārith, 'Abdullāh - through paternal lineage.
Sha'bān	the month before Ramadan.
shaf'	a two-rak'ah mustaḥabb prayer said before waṭr prayer.
shar'	or the Muslim code of religious law.
sharī'ah	
shar'ī	

sharī'ah		the Islamic law.
Shawwāl		the month after Ramadan.
solar year	hijrī	a type of calendar common in the Islamic Republic of Iran starting on the first day of spring and calculated from the migration of the Holy Prophet (s.a.w.) to Medina.
Sunnah		word, act or confirmation of the infallibles.
Şāhib Zamān	al-	an epithet for the Twelfth Imam (may Allah bring forward his reappearance).
şalawāt		"Allāhumma şalli 'alā Muhammad wa āli Muhammad".
Şulḥ		a contract through which both parties declare their agreement on something such as the transfer of some property, discharge from debt, or relinquishment of a right.
ta'zīr		the punishment whose quantity and quality - unlike ḥadd - is determined by the authorized religious authority.
tab'īḍ taqlīd	in	to follow one marji' on some issues and (an)other marji'/s on other issues.
tajāfī position		to sit in a special position as if ready to stand up, i.e., in a congregational prayer when the imam is saying tashahhud but it is not the time for the follower to say it due to delay the latter sits in this way.
Tajwīd		Phonetics of the Arabic language.
takbīrah iḥrām	al-	the first takbīrah with which the prayer starts.
takiyahs		a certain place for religious ceremonies.
taqlīd		to follow a mujtahid as far as Islamic law is concerned.
tarakḥkuṣ limit		a place outside the city from where a traveler may shorten his prayer and break his fast in some cases, i.e., where one cannot hear the city's adhān.
tasbīḥāt ba'ah	al-ar-	the phrase 'subḥānallāhi wal ḥamdu lillāhi wa lā ilāha illallāhu wal lāhu akbar' said in the third and forth rak'ahs of a prayer.

tashahhud	a part of prayer said in the second and the last rak'ah of a prayer in a sitting position.
tawriyah	to say something intending other than what is normally understood from it, this is a way to refrain from telling a lie.
tayammum	the dry ablution.
the Ja'fari	Islamic law according to Imam Ṣādiq (a.) ob-
jurisprudence	served by the shī'ah denomination.
the People of the Book	see kitābī.
turbah	earth from the grave of Imam Ḥusayn (a.).
tahārah	a state of having ghusl and wuḍū'; a state of not being najis.
wadhī	A liquid that occasionally comes out after discharging semen. It is ruled pure and does not invalidate wuḍū'.
wadī	A liquid that occasionally comes out after urinating. It is ruled pure and does not invalidate wuḍū'.
watr	a one-rak'ah prayer said as the last part of the mustahabb night prayer.
watan	a city/place where you were born and grew up or which you choose as your permanent residence.
wilā'ī	authoritative.
wilāyah	the special authority the Prophet (s.a.w.) and the Infallible Imams (a.) enjoy over human beings, etc.; the custody/guardianship of a ward by certain people.
wuḍū'	ablution.
wuḍū'less	see wuḍū'.
zakāt	a religious tax paid on certain crops, animals, and gold and silver coins under certain conditions. This term is also used for what Muslims pay at the end of the month of Ramadan.

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IN THE AGE OF INFORMATION  
IGNORANCE IS A CHOICE

*"Wisdom is the lost property of the Believer,  
let him claim it wherever he finds it"*

*Imam Ali (as)*