

LEGAL OPINIONS
ON
MATTERS OF JURISPRUDENCE
(Masa'il-e-Fiqh wa Fatawa-i-Najm)

By

Afzal ul Ulama Hazrath Maulana
Syed Najmuddin^{RH}

**(Former President, Council of the Mahdavia Scholars of
India)**

English Translation By

Mr. Shaik Chand Sajid

M Phil

Published By

Mahdavia Foundation USA

Title: **Legal Opinions on Matters of
Jurisprudence**
(Masa'il-e-Fiqh wa Fatawa-e-Najm)

Author: **Faqih e zama Afzalul Ulama Hazrath**
Moulana Syed Najmuddin^{RH}
(Former President, Majlis Ulema e
Mahdavia Hind)

Translator: **Mr. Shaik Chand Sajid M Phil**

First Edition: 2024/1445 AH

Printer: **Balaji graphics.**

Publisher: **Mahdavia Foundation**
405 Reagan Drive
Oswego, IL 60543 USA
1 630 550 6487

Website: **WWW.Promisedmehdi.com**

EMAIL: **Mahdaviafoundation@Promisedmehdi.com**

Contents

**Published for the *Esaal e Sawab* to
Hazrath Haseen Banu Sahiba^{RH} W/O
Hazrath Syed Ruhullah Sahib^{RH}
(Daughter of Hazrath Faqih e Zamaan
Afzal ul ulama Syed Najmuddin Sahib
Qibla Mujtahidi^{RH})**

Translator's Note	v
FOREWORD.....	vii
FAQIH E ZAMAAN	x
FOREWORD.....	Error! Bookmark not defined.
Afzal'ul Ulama Hazrat Maulana Sayyed Najmuddin ^{RH} - A Brief Introduction.....	xvi
The Dream of Khaleel ^{AS}	1
<i>Tashah'hud</i> and Forefinger	10
Repetition of the Congregation.....	18
Matrimony in Absentia.....	24
Provisos of the Contracting of Marriage	46
Forgiving Unpleasant Chats and Religious Precepts.....	112
Virtues of the Tenth Day of Muharram	119
Visiting the Graves.....	132
The Women and Visit To Graves	150
Shortening of the Prayer	158
Religious Provisions about Photo	166
The Animals Slaughtered in Europe	175
Sadaqa e Fitr: The Alms Given at the End of Ramadan	201
Why only gold or silver is a standard measure for determination of Nisab.....	216
The Prayer and Supplication for Rain	231

Translator's Note

In the name of Allah the Beneficent the Merciful

All praise be to Allah the Almighty, the Creator of the universe, the Compassionate and the Merciful. Peace and Blessings of Allah be upon Muhammad, the last Messenger of Allah and Syed Muhammad of Jaunpur, the Promised Mahdi and Caliph of Allah, deputed for the guidance of mankind, and May Allah be pleased with their Companions and descendants.

Literally *Fiqh* means understanding, comprehension and knowledge, and in Islamic perspective *Fiqh* means the jurisprudence in Islam, a science of Islamic laws encompassing all aspects of life. In fact, these laws have been derived from the Holy Qur'an and the words and the deeds of the Messenger of Allah ^{PBUH} by the Companions and their followers but compiled later on by some eminent jurists of different schools of thought, and they differed in interpretation of these laws. Hence, the four schools of jurisprudence are usually quoted in legal opinions (*Fatawa*).

The followers of Hazrath Syed Muhammad Mahdi Mau'ood^{AS} are not bound to follow the doctrine of any one particular Imam, but the one which is the best and excellent (*Aaliyat*). Afzal ul Ulama Hazrath Syed Najmuddin^{RH} who was the President of Majlis Ulema-i-Mahdavia Hind till his

last breath was indeed a great jurist of his period and served the community in particular and the Islamic world in general through his judicious and prudent legal opinions on different issues.

This book is a collection of very few of his articles with legal opinions which are very useful and enlightening. Indeed, it is a privilege for me to render them into English. In fact, translating any religious book from one language to another is not an easy task, as finding accurate equivalent of religious and legal terms in another language is very difficult. However, I have tried my best to use accurate or at least the nearest equivalent words, as this book mostly consists of legal issues.

I am thankful to Allah for guiding me and giving me the strength and ability to complete the task. I pray to Allah to make this book a source of knowledge and guidance.

Shaik Chand Sajid

FOREWORD

Haz. Faqeer Dr. Syed Ali Shafee (Daira Nau)

In the name Allah, the Beneficent, the Merciful,

Peace be upon Mohammad, the Paragon of Mankind

This book “*Legal Opinions on Matters of Jurisprudence*” in translation by Hazrath Maulana Syed Najmuddin^{Rh} is in fact a judicious collection of various articles put together in the form of a rainbow with seven colours (**VIBGYOR**) covering seven various aspects of life in connection to Islam. It begins with the dream of Hz. Ibrahim Khalilullah^{As} to give us the true meaning of Islam (*submission of oneself to the will of Allah*) and it has philosophical overtones when all the three people concerned --Ibrahim^{As}, Bibi Hajera^{As} and Ismail^{As} agreed totally to the will of Allah to submit themselves in spite of the relentless efforts made by Satan at every step to dissuade them. This maiden article is fully substantiated by Quranic quotations.

Once, the true meaning of Islam is established (chapter -1) the other crucial aspects of life like prayers --- obligation towards Allah (chapter 2,3,10&15),

obligation towards mankind (chapter 6&7) where in the importance of *Ashura* for Mahdavia Community is celebrated, Marriage (chapter 4&5) which is thoroughly dealt with in detail, Ziarat (chapter8&9), modern innovation like photo & slaughter in Europe (chapter 11&12) and ultimately the importance of economics in Islam (chapter13&14). These are seen as various colors of a rainbow.

No doubt, this book is basically of Islamic Jurisprudence. It’s a matter of great discernment that the book is devised in such a manner that different weightage is given to various chapters depending upon the importance of each topic and its treatment. The whole book is thoroughly substantiated by Quranic quotations, wherever necessary. In each chapter there is a specific conclusion about each topic as per its importance. Jurisprudence is a very prosaic topic but treated in this book with the help of short stories and anecdotes, making it interesting and appealing. The various tenets of jurisprudence enshrined in this book are like the colors of rainbow, separate yet united and covers almost all walks of life.

To conclude, this book in English is handy for the new generation who does not have any access to the Urdu and the Arabic languages, especially for the Muslims of the western world, and particularly Mahdavia

community abroad. There is an ample coverage of the matrimonial aspects of life and visiting of shrines by ladies which has become an important and controversial issue of life. The animal-slaughter in Europe and America and the religious provision of the photo are seminal for the western world. As also, the economic aspects of Islam with the standardization of the bullion and nisaab are of great importance. This compendium is an outcome of the efforts of many people. The service rendered by the translator is in fact a yeoman service to the modern community. I pray for all of them to bless by Allah in the Hereafter. *Amen.*

FAQIH E ZAMAAN

*Abul Faiz Syed Ahmed
Joint Editor Noor e Vilayath*

Praise be to Allah, the Lord of the heavens and the earth, the creator of wisdom and knowledge, He knows everything that comes from the earth, descends from the sky, and ascends to the sky. I affirm that Hazrath Muhammad ﷺ is his messenger and also his servant. I affirm that Hazrath Syed Muhammad Jaunpuri is the Caliph of Allah and the Promised Mahdi. Thousands of blessings and peace be upon these two divine personalities. It is my good fortune and privilege to express my thoughts on this book containing the *fatawa* of Hazrath Afzal ul Ulema Maulana Syed Najamuddin Sahib Qibla^{RH}, Allah Tabarak Wa Taala said to Hazrath Ibrahim^{AS} on one occasion, "I am knowledgeable, and I love those who have knowledge". Here, Allah Tabarak wa Ta 'ala has not indicated any specific knowledge, rather it is the knowledge that benefits mankind, which brings the servants closer to Allah. There is also a hadith that Allah Almighty makes him a religious jurist whom Allah wants to bless. Who would not want Allah to bless him? Fortunate are those servants of God whom Allah, the Exalted chooses to be a jurist. It is a fact that jurists have been benevolent to mankind in every age, despite the vicissitudes of the times, they have served as protectors of Shariat. Among such jurists, there is the personality of Afzal ul Ulema Hazrath Maulana Syed Najamuddin Sahib Qibla^{RH}. He had deep knowledge of the Book of Allah, the Sunnah of the Messenger of Allah ﷺ, the Ahadith, the rulings of the Imams, and the Fiqh. The most

important thing that stood out in his personality was that he was well versed in all types of religious sciences, which is evidenced by this compilation of his edicts (*Fatawa*).

Hazrath Mahdi^{AS} the Promised One ordained to adopt excellence (*Qaul e Azimat*) in any matter of religion from among the edicts of the four Imams of Islamic jurisprudence, or the four schools of Islamic jurisprudence. On any Islamic matter, one of the edicts among the four will be deemed to be based on excellence (*Aaliyath*), the other three would be permissible (*Rukhsath*), thus Mehdi Mawood^{AS} ordained to follow the one based on excellence. This saying of Imamuna Mehdi Mawood^{AS} about excellence was always the guiding light in all the edicts (*fatawa*) of Hazrath Maulana Syed Najmuddin Sahib^{RH}. We can clearly feel this factor in his *fatawa*. A Jurist is one who has commanding knowledge of all aspects of religion, which is essential for a jurist. His edicts (*fatawa*) gave stability to the religion in this era and helped in protecting *Shariat* and *Tariqat*. Despite the passage of half a century, scholars are gaining knowledge from his *fatawa*. For a long time, voices were being raised from all sides that all his *fatawa* should be compiled and brought to the public. Allah Ta'ala has granted us *Tawfiq* and this translation of collection of *fatawa*, which was earlier published in Urdu, is in your hands by the grace of Allah and grace of Khatamain^{AS}. It is a valuable addition to its subject matter.

Many of his articles have been glorified by national academic journals. *Fatawa* are hereby published on twenty jurisprudential and religious issues. The articles published are on some important topics. In particular, the terms of Nikah, Europe's *zabiha*, along with high-level issues of

jurisprudence, why the standard for *Nisab* is gold or silver, and "Sadaqa al-Fitr" have gained public acceptance.

The salient features of *fatawa* of Hazrath Faqih e Zamaan Afzal ul Ulama Maulana Syed Najamuddin Qibla^{RH} are simplicity and eloquence. The reader would be pleasantly surprised by the depth of knowledge imparted and portrayed in these *fatawa*, with references to the books, most of us may not even have heard about. There are different styles and types of writings, but it is not easy for every pen to write a simple and heart-warming text. This requires vast knowledge of the subject matter, command over language, hard work and dedication. Like two and two is four, his straight talk is in such delightfully simple words, it is said that it sticks to the memory. His *fatawa* are on various topics. At the time of marriage in our Mahdaviya community four conditions are mentioned. On the inquiry in this connection, he has given a very eloquent and detailed handwritten *fatwa* on about 45 pages. Apart from this, he cleared many misconceptions by giving a *fatwa* regarding the sighting of new moon (*Hilal*). which are included in this book.

In the end, I pray that the people of knowledge and the general public be able to benefit from this book, because Maulana^{RH} tried with great effort and zeal to present the real spirit of Islam, depicted in this book.

PUBLISHER'S NOTE

In the name of Allah the Beneficent, the Merciful

It has been by the Grace of Allah *Sub'hana wa Ta'aala* that Mahdavia Foundation USA had the privilege to launch the very first Mahdavia website WWW.Promisedmehdi.com. The Foundation has also published quite a few books for the benefit of the community, both in English and Urdu. This book in your hands is a collection of (15) articles and legal opinions (*Fatawa*) published in "*Noor-e-Hayat*", out of the hundreds of articles, on different important issues rendered by a great legist of his time Afzal Ul Ulama Hazrath Maulana Syed Najmuddin Saheb Mujtehdi Ahl E Bichpidi^{RH}, the former President of the Council of the Mahdavia Scholars of India (*Majlis e Ulama E Mahdavia Hind*) and published occasionally in different magazines. Indeed, he made a massive contribution towards dissemination of legal awareness in the matters of jurisprudence usually faced by the Muslims. Particularly, the article on the "Provisions of the Contract of Marriage" (*Shara'it-e-Nikah*) is very informative and explicative of the merits of four provisions usually stipulated at the time of wedding and demerits thereof if not adhered to. Similarly, the Matrimony in Absentia, the lawfulness and

unlawfulness of the animals slaughtered in Europe and other western countries has been discussed in depth, and the legal opinion on gold and silver being the only standard measure for determination of *Nisab* and *Sadaqat ul Fitr* are very enlightening.

Usually, brevity is maintained in legal opinions (*Fatawa*), but Hazrath Syed Najmuddin Saheb^{RH}, in most of the cases, have discussed and explained every aspect of the issue in detail in a convincing and simple language but with a taste of eloquence. A large number of his articles and *fatawa* were published in the journals *Al-Musaddiq*, *Noor-e-Hayat* and *Noor-e-Wilayat* etc but a few of them have been included in this book, and some other articles have been included in another book "*Safina-i-Najm*" which was already published by the Mahdavia Foundation, which is trying to preserve and bring out our literature. There was a great demand to bring out a compendium of his legal opinions (*Fatawa*) on different juristic issues, hence the Urdu version of the book "*Masa'il-e-Fiqh wa Fatawa-i-Najm*" was published by Mahdavia Foundation USA in the year 2013. Now, we are pleased to bring out it's English version "*Legal Opinions on Matters of Jurisprudence*" rendered into English by Mr. Shaik Chand Sajid on the occasion of the 40th death anniversary of Hazrath Syed Najmuddin Saheb^{RH}.

We are grateful to all those brothers in faith whose contribution towards collection, compilation and publication of these materials cannot be ignored, which include, Mrs. Hazrath Abul Fatah Syed Jalaluddin Yadullahi editor *Noor E Hayat* Monthly, Hazrath Maqsood Ali Khan Saher, Mr. Abul Faiz Syed Ahmed Abid, Mr. Shaik Chand Sajid and Mr. Syed Noor Mohammed Nizami. We are grateful to Mr. Shaik Chand Sajid once again for translating this book from Urdu to English language and pray Allah to bless all of them with His Mercy, guidance, and health, and make this treatise a source of guidance and legal awareness in the matters of Islamic laws for the seekers of truth. For more information on Mahdavia faith and belief please visit our website WWW.Promisedmehdi.com *Ameen.*

Samad A. Syed
General Secretary
Mahdavia Foundation

Date: December 5th, 2024

Afzal ul Ulama Hazrath Maulana Syed Najmuddin^{RH} - A Brief Introduction

By Muhib e Millath Hazrath Maqsood Ali Khan
Saheb

Indeed, Hyderabad is known as a center of excellence in preservation and promotion of Islamic sciences, and it produced several eminent and outstanding scholars who have served the Islamic world through their expertise and exceptional knowledge and intelligence. Hazrat Syed Najmuddin^{RH} was one of such distinguished scholars who made a massive contribution towards dissemination of Islamic knowledge, particularly in the field of legal awareness through his legal opinions (*Fatawa*) on different matters of jurisprudence in an explicating and lucid manner. Undoubtedly, he was a great jurist.

Born on 22nd day of Safar 1320 AH/1902 AD in a saintly family, he renounced the world (*Tark-e-duniya*) as per Mahdavia tenets at a tender age of 13 years on the hands of his father Hazrat Syed Mahmood^{RH}. He was naturally inclined towards acquiring explicit and intrinsic knowledge (*Uloom-e-Zahiri wa Batini*) since childhood and such quest for

knowledge continued till his last breath. He acquired knowledge and education from his maternal grandfather Hazrath Allama'tul Asr Maulana Syed Nusrat^{RH}, Bahrul Uloom Allamah Hazrath Syed Ashraf Shamsi^{RH} and his maternal uncle Hazrath Maulana Syed Shahabuddin^{RH}.

Hazrath Maulana Syed Najmuddin^{RH} was a *fakir* in the real sense, who had resigned to the Will of Allah and always found to be forgiving and patient, remained confined to the mosque most of the time busy in remembrance of Allah. His simplicity and good behavior attracted the masses. He was well versed with almost all branches of Islamic knowledge, particularly in the matters of divine knowledge (*Ma'arifat*), Tafsir, Hadith, Fiqh, Theology and reasoning etc. His expertise in jurisprudence (*Fiqh*) is evident from his numerous articles and legal opinions, most of which were published in the magazines; *Daira*, *Al-Musaddiq*, *Noor-e-Hayat*, *Noor-e-Wilayat* etc. in addition to several books. Some of his works published include: *Tanvir'ul Absar*, *Be'sat-e-Mahdi Ahadith ko Roshni Mein*, *Risala Iq'tida*, *Mahdaviyat A'in-e-Islam* etc. He was busy in proof-reading of the seventh part of Arabic tafsir "*Lawami'ul Bayan*" by his mentor Allamah Shamsi^{RH} after manual typesetting, as there were no computer or DTP except lithography at that time, but it

remained incomplete because of his illness. He used to walk on foot from Begumbazar to Chhattabazar for this work.

He left this transitory world on 22nd day of Shaw'wal 1405 AH/11th July 1985 at the age of 85 years, leaving behind a treasure of knowledge for the benefit of the generations to come, and was laid to rest in the Hazirah of his ancestor, Hazrath Bandagi Miyan Shah Qasim Mujtahid-e-Giroh^{RH} at Musheerabad, Hyderabad. He performed Hajj twice and paid a visit to the shrine of Hazrath Syed Muhammad Mahdi Mau'ood^{AS}, the Caliph of Allah at Farah Mubarak (Afghanistan) in 1964. He served as President of the Council of the Mahdavia Scholars of India (*Majlis Ulama-i-Mahdavia Hind*) till his death.

A special issue of the monthly magazine "*Noor-e-Vilayat*" was brought out to pay tributes to his services to religion and the community, comprising articles from the intellectuals and poetical tributes from the poets of the community, and it was suggested in its Editorial to publish his articles and legal opinions in a book form. Another issue of this magazine was also published in July 1989 consisting of his articles.

It is a matter of pleasure that a collection of his articles entitled "*Safina-i-Najm*" and another book "*Masa'il-e-Fiqh wa Fatawa-i-Najm*" consisting of

(15) articles and legal opinions on Juristic matters, which are very comprehensive and explicative, lucid and impressive have been published by Mahdavia Foundation USA, and now they are bringing out this English version of “*Masa’il-e-Fiqh*” rendered by Mr. Shaik Chand Sajid which may be immensely helpful to young generation who are not familiar with Urdu.

It will be a matter of ingratitude if we do not extend our thanks to Mrs. Hazrath Abul Fatah Syed Jalaluddin, Mr. Shaik Chand Sajid, Mr. Abul Faiz Syed Ahmed Abid and Mr. Syed Noor Mohammed Nizami for their co-operation in compilation of the Urdu version of this book. May Allah reward and bless them all. *Amen*.

In the name of Allah, the Beneficent the Merciful

The Dream of Khaleel^{AS}

(Rooya e Khaleel)

The custom of sacrifice or the practice of slaughtering an animal has been continuing since the sons of Adam^{AS} or humankind established their authority on the world. For instance, the sacrifices offered in the court of Allah by Habel and Qabel is mentioned in the Holy Qur’an, among which one was accepted by Allah while the other was rejected. This is clear proof of our above claim. But any particular month or day of a year is not stipulated for such type of sacrifice. In the Shari’ah of Muhammad^{PBUH}, the specification of the tenth day of the month of Zilhajja is originally linked to the dream of Hazrath Ibrahim Khaleelullah^{AS}, based on which, he decided to slaughter his beloved son Hazrath Ismail^{AS} with his own hands. Therefore, we will discuss here the pros and cons of the dream of Hazrath Ibrahim^{AS}.

Before we comment anything on the dream of Khaleel, it must be known that the dreams of the prophets^{AS} are similar to or from among the revelations (*Wahy*), and Allah had caused such dreams to become true, whose intent is to strengthen such evidence which reinforces the veracity or affirms the justifiability of the

prophets^{AS}. As a matter of fact, humans have only two conditions; wakefulness and sleep. The trueness in both such conditions only will establish the complete and final level of veracity and righteousness of the Prophets^{AS}. Secondly, the interpretation of every dream and its execution will not be the same. Dreams are categorized into three kinds as per their status. The first kind of dream is the one whose interpretation is exactly the same as the dream. For instance, the Messenger of Allah^{PBUH} had a dream before the conquest of Makkah, that he has entered the Ka'abah, later on Makkah was conquered and he entered the sacred mosque. Allah has mentioned this event in the Holy Qur'an: ***“Truly did God fulfill the vision of His Apostle: Ye shall enter the Sacred Mosque, if God wills”*** (48:27)

The second type of dream was that which necessitated reinterpretation and explanation, like Yousuf^{AS} (Joseph) had a dream that the sun, the moon and eleven stars had prostrated before him. Here, the eleven stars denote his eleven brothers, the sun as his father and the moon as his mother.

The third type of dream is that which occurred contrary to the interpretation. For example, Ibrahim^{AS} (Abraham) had a dream that he is slaughtering his son, whereas an adult male sheep was actually slaughtered

later in place of his son.

A detailed account of this point is that Hazrath Ibrahim^{AS} invoked blessings of Allah: ***“O my Lord! Grant me a righteous (son).”*** (37:100). His prayer was accepted, and glad tidings of a patient son were given. Later, Bibi Hajira gave birth to a baby boy who was named Ismail^{AS} by old and aged Ibrahim^{AS}, while the scribe of destiny had already entered the divine decree on the divine tablet that the Seal of the Prophets^{PBUH} would be born from his race. Precisely, when Ismail^{AS} was able to walk and work with parents, Ibrahim^{AS} had the dream which necessitated, in compliance of the divine command, the slaughter of his beloved son, as well as sacrificing the mortal love of his only and beloved son over the eternal love of Allah.

Imam Fakhruddin Razi^{RH} said that this matter requires determination; whether Ibrahim^{AS} saw slaughtering of the son in dream or there was any allusion to indicate towards this act. The commentators of Qur'an have clarified that Ibrahim^{AS} was told in the dream that “Allah orders you to slaughter this son”. First time he became anxious and apprehensive whether it was a divine revelation or the satanic suggestion, but when he had same dream continuously for three days, he became sure that indeed this is a

divine command. The same narration proves that Ibrahim^{AS} saw such a thing in the dream, which was indicating towards the slaughter of the son, but the Qur'anic verse does not support it, as mentioned in Qur'an that Ibrahim^{AS} told his son Ismail^{AS}: ***“He said: O my son! I see in vision that I offer thee in sacrifice.”*** (37:102) *Allah knows the truth.*

In the morning of the tenth day of the month of Zilhajja, Hazrath Ibrahim^{AS} was going towards Mina, a small valley near Makkah, and Hazrath Ismail^{AS} was following his father. Being a child, he got tired and asked his father; “Where are we going?” He replied: “Towards that valley to cut some wood.” Ismail^{AS} kept quiet and followed his father.

Thereafter, such amazing and exemplary conversation takes place which is quoted very often by the historians and the commentators of Qur'an. The cursed Satan who is always on lookout for such occasions, appeared before Bibi Hajira^{RZ} in the guise of a holy man and asked her: “Do you know where Ibrahim^{AS} has taken your son Ismail^{AS}?” She said: “They have gone towards that valley to collect wood.” Satan said, “This is not true; Ibrahim^{AS} has taken your son there to sacrifice him.” Bibi Hajira was surprised and said: “How can it be? He loves Ismail^{AS} very much.

How can a father intentionally kill his son?” He said: “Ibrahim^{AS} says that Allah has ordained him to do so.” Then Bibi Hajira said: “If Allah has ordered then Ibrahim^{AS} must obey His order, I cannot make an objection in this matter. If Ibrahim^{AS} wants, he can sacrifice me too, after the son, in the name of Allah. Disappointed with the ambitious reply of Bibi Hajira, Satan met Ismail^{AS} on the way and asked him: “Where are you going?” He replied that he is going along with his father to collect the wood. Satan said: “No, your father is taking you to sacrifice you.” Ismail^{AS} asked: “Why”. Satan said: “He says that Allah has ordered him to do so.” Then Ismail^{AS} said: “If this is the divine command, then I have no excuse, he must do it and I am ready for it.” Disappointed from here too, Satan met Ibrahim^{AS} and asked about his destination. He said that he was going to the valley for some work. The Satan asked him: “Is it correct that the Satan has ordered you in the night to sacrifice your son and are you really going to sacrifice him. If so, dispel such devilish insinuation from your heart.” Ibrahim^{AS} recognized him and said, “Go away! O enemy of Allah! I will definitely comply with the divine command.”

Indeed, in such a difficult situation even the saintly people were found to be floundering and could

not withstand it and lost their patience. But the resolute and unswerving stand taken by Hazrath Ibrahim^{AS}, his God-fearing wife Bibi Hajira and minor son Ismail^{AS} has created such an example of the obedience to Allah and His divine commands, which none would be able to set till the Day of Judgement. Indeed, Hazrath Ibrahim^{AS} is a Friend of Allah (*Khaleelullah*), His elite servant and a distinguished Prophet. The level of patience and endurance, firmness, resolution, and perseverance shown by him during difficult times is his characteristic feature. The consent of the mother to sacrifice her son in the name of Allah and willingness of the innocent child to get sacrificed in the name of Allah was most amazing.

Precisely, when the father and the son both reached the destination, Hazrath Ibrahim^{AS} told Ismail^{AS}: ***“O my son! I see in vision that I offer thee in sacrifice: Now see what thy view is!”*** Ismail^{AS} said: ***“O may father! Do as thou art commanded: Thou will find me, if God so wills one practicing Patience and Constancy!”*** (37:102) Then Hazrath Ibrahim^{AS}, in compliance with the divine command, resolved not only against paternal love but also human nature, to offer and sacrifice his son, the consolation of the eye. Ismail^{AS} asked his father to carefully fasten his hands

and legs first, to avoid any kind of movement because of pain, lest you may feel pity, also keep away your clothes to save them from blood stains, which may sadden his mother, and the reward may be reduced. He also suggested him to sharpen the knife properly and move it with speed on his throat, and convey his last salaam to his mother, and handover his clothes to her so that it may give solace to her. Ibrahim^{AS} looked at his son affectionately and said: “Indeed you helped me in fulfilling the Will of Allah.” Then Ibrahim^{AS} laid down his son facing towards Ka’abah, fastened his hands and feet and started moving the knife swiftly over his throat, but it had no impact because of the blessings of Allah^{SWT}. He again sharpened the knife twice or thrice but failed. Thinking that he might be unsuccessful by looking at the face of his son, he turned him around and laid him prostrate on his forehead, but again failed.

There the angels prayed to Allah^{SWT} imploring His^{SWT} mercy on that old-aged father and a ransom for the innocent child. Actually, it was a trial. Jibrail^{AS} (Gabriel) carried a ram (male sheep) in compliance with the divine command, and when he saw Ibrahim^{AS} trying to sacrifice his son, started calling ***“Allah is the Greatest, Allah is the Greatest.”*** Ibrahim^{AS} heard this

voice and withheld his hands, and when saw Gabriel^{AS} carrying a ram, then he said, “*There is no deity but Allah, Allah is the Greatest*”. Ismail^{AS} heard the voices of his father and Gabriel^{AS} and when he learnt that the sacrifice of a ram has been ordered in lieu of him, he said “*Allah is the Greatest and praise is for Allah*”. This incidence has been quoted in Qur’an: “***So when they had both submitted their wills (to God), and he laid him prostrate on his forehead (for sacrifice), We called out to him, O Abraham, thou hast already fulfilled the vision! – thus indeed do We reward those who do right. For this was obviously a trial, and We ransomed him with a momentous sacrifice.***” (37:103-107)

In fact, such sacrifice is the substitute for the sacrifice of a son, and this practice continued from the period of Ibrahim^{AS} to the period of the Messenger of Allah^{PBUH}, which is called as *Adhiya* (Sacrifice), and he^{PBUH} emphatically ordered to follow this Sunnah. When asked, he^{PBUH} said that this is the *Sunnah* of your father Ibrahim^{AS}.

In short, this unbearable trouble was a trial for Ibrahim^{AS} to see how far he would prefer the love of Allah^{SWT} and His^{SWT} command over the love of his beloved and innocent son, because the children are

most lovable and desirable as per human nature, and he cannot tolerate even a slight distress to his children, then how can he endure to sacrifice with his own hands. The real intent of Allah^{SWT} was fulfilled when Ibrahim^{AS} succeeded in this trial. Indeed, such was the pinnacle of the compliance of divine command that an old-aged father agreed to sacrifice his innocent child, who was just seven- or thirteen-year-old, seeking the pleasure of Allah^{SWT}. It proves that the heart of Khaleel^{AS} was so filled with the love of Allah^{SWT}, even he did not hesitate to sacrifice his innocent and only son, the earning of his whole life and comforter, for the pleasure of Allah^{SWT}.

***Tashah'hud* and Forefinger**

In addition to the *Fara'iz*, *Wajibaat* and *Sunan*, sitting (*Qa'idah*) is also a compulsory part of the prayer (*Salat*). As per the book "*Charagh-e-Deen-e-Nabawi*" (page-37), the first sitting (*Qai'dah Oola*) is essential (*Wajib*) while the last sitting is obligatory (*Farz*). On both occasions, recitation of *Tashah'hud* is *Wajib*. But, during recitation of *Tashah'hud*, when the worshipper reaches *La Ilaaha Il'lallah*, some people raise the forefinger of their right hand, while some of them do not. Hazrath Afzal ul Ulama Moulana Al-Hajj Syed Najmuddin Saheb^{RH} compiled a detailed article, long ago, highlighting the reality and basic facts about this matter. Now necessary excerpts from that article are reproduced in the special issue of '*Noor-e-Hayaat*' (*Meelad* Number)

Among the eminent jurists, except Imam Abu Hanifa^{RH}, other three jurists; Imam Shafa'ie^{RH}, Imam Malik^{RH} and Imam Ahmed bin Hanbal^{RH} opine that the raising of the forefinger of only right-hand during recitation of *Tashah'ud* in first as well as second sitting (*Qai'dah*) is a mandatory *Sunnah*. Whereas the preceding jurists belonging to Hanafite doctrine are not

convinced, therefore, the reliable texts are silent on this issue and do not permit it, even prohibited in most of the Hanafite edicts (*Fatawa*). Accordingly, it is mentioned in "*Durr ul Mukhtar*": "As per edict, one should not raise the forefinger while reciting *Ash'hadu al La Ilaaha Il'lallah* in *Tashah'hud*. Same has been mentioned in "*Fatawa Aalamgiriya*", "*Khulasa*", "*Muzmarat*" and "*Kubra*" as an adopted and decreed doctrine: "Do not signal with forefinger while reciting *Ash'hadu al La Ilaaha Il'lallah* in *Tashah'hud*." Most of the Hanafite jurists do not consider it as permissible and referred to as execrable (*Makrooh*) in "*Muniyat'ul Musalli*" and "*Tab'een*". The author of "*Radd ul Muhtar*" says that most of the Hanafite jurists do not raise forefinger.

In short, in the classical books of jurisprudence like *Al-Walji*, *Tajnees*, *Umdat'ul Mufti*, *Fatawa Zaheeriya*, *Khulasa-e- fatawa*, *Tatarkhaniya* and *Jami'ul Muzmarat* etc. not raising the forefinger is considered as a decreed doctrine. But it is proved by the genuine narrations in the books of *Ahadith* like *Mu'atta Imam Malik*, *Sahih Muslim*, *Tirmizi*, *Abu Dawood*, *Nasa'ie*, *Ibn Maja*, *Musnad Imam ibn Hanbal*, *Sunan Bayhaqi*, *Tabrani*, *Abdur Razzaq*, *Musannaf Ibn Abi Shayba* etc. that the Messenger of Allah^{PBUH} used to

signal with forefinger while reciting *Tashah'hud*. Therefore, the later jurists of Hanafi school of jurisprudence have decreed it as *Sunnah*, based on such narrations. Accordingly, the author of the book *Durr ul Mukhtar* has first mentioned the doctrine of the preceding jurists and then that of the following jurists.

Preceding scholars consider it as permissible, but the unanimous proposition is the one which was rectified by the commentators. The later jurists of *Hanafi* school of jurisprudence like Imam kamaluddin Ibn Humam, Halabi, Behansi Baqani, and Shaikhul Islam have relied upon the precept that the finger must be raised while reciting *Tashah'hud*, as it was the practice of the Messenger of Allah^{PBUH}. The jurists have attributed such proposition towards Imam Muhammad and Imam Abu Hanifa, and it is mentioned in *Durr ul Mukhtar* that the same is cited in *Imali* that Imam Abu Yousuf followed the same doctrine that the finger must be raised. In a way, all our three Imams; Imam Abu Hanifa, Imam Abu Yousuf and Imam Muhammad have opined that the forefinger must be raised. Further, Imam Muhammad had quoted in *Mu'atta*: "It is narrated by Abdullah bin Omer^{RZ} that while sitting for *Tashah'ud*, the Messenger of Allah^{PBUH} used to keep his right hand on right knee and raise the forefinger

after folding all other fingers inside, and the left hand on left knee. Imam Muhammad says that we are following the Messenger of Allah^{PBUH}, and same is the opinion of Imam Abu Hanifa.

It is mentioned in *Durr ul Mukhtar* that the indication must be with the forefinger of the right hand in such a way that the finger should be raised while reciting *La Ilaaha* and bring down while reciting *Il'lallah*. It is also cited in the same book as well as in *Fath'ul Qadeer (a tafseer)* that the gesturing with forefingers of both the hands is execrable (*Makrooh*). The Hanafite jurists say that only the forefinger of right hand must be used for gesturing. If it is being cut or physically unable to be raised, then any other finger from right or left hand should not be used for gesturing.

Similarly, the fingers should not be kept open at the time of gesturing, rather the fingers should be closed inside, and the forefinger should be used for gesture. Allamah Ibn Abideen writes in *Radd ul Muhtar*: "The usual practice of keeping the fingers open at the time of indication is not valid." It is mentioned by none other than the author of *Radd ul Muhtar*, which proves that gesturing with open fingers is not the doctrine of Hanafites. Ibn Abideen has

confuted in *Radd ul Muhtar* that signaling with open fingers is not the doctrine of Hanafiya. There are only two schools of thought: No gesturing altogether or gesturing with the fingers closed inside. Two methods of closing the fingers are cited in *Radd ul Muhtar*:

“One method is while reciting *La Ilaaha Il'lallah*, making a circle by joining the thumb and middle finger of the right hand, keeping the little and ring finger inside towards the palm, and gesturing with forefinger. The other method is to keep the fingers in a particular way to make a numeral of 53 (Arabic numeral ٥٣). In this process, the middle finger and adjoining two fingers are held together and closed inside to touch the palm, and the thumb is kept on the middle joint of middle finger, and the forefinger is raised to make a gesture at the time of negation or recitation of *La Ilaaha* and lowered at the time of affirmation or recitation of *Il'lal'lah*.”

Allamah Ibn Abideen writes:

“It is evident from these narratives that the traditional (*Masnoon*) gesture is the one which is made by forming the numeral of 53 (٥٣ as cited above) but making gesture by keeping the fingers open is not mentioned in any narrative.”

Thereafter Ibn Abideen writes that there are only two propositions in our Hanafite doctrine:

1. A well-known proposition among Hanafites is to keep the fingers open while reciting *Tashah'hud* and not to raise forefinger for gesture.
2. Keep the fingers open till the recitation of *Tashah'hud* and make a circle when reached *La Ilaaha Il'lal'lah* and gesture with forefinger. In this process, raise the forefinger while reciting *La Ilaaha* and put it down at *Il'lal'lah*.

The second proposition is credible in the opinion of later or modern jurists of the Hanafi school of jurisprudence, as the same practice of the Messenger of Allah^{PBUH} is evident from the genuine *Ahadith*, and the same practice is found to be valid by the three eminent jurists: Imam Abu Hanifa^{RH}, Imam Abu Yousuf^{RH} and Imam Muhammad^{RH}. Hence, Imam Ibn Humam cited in *Fath'ul Qadeer* that the first proposition (not raising the finger) which is widespread and practiced by Hanafite is contrary to the tradition and knowledge.

The purport of Imam Ibn Humam is that the raising of forefinger in *Tashah'hud* is a genuine *Sunnah* and also evident from the propositions of Hanafites and other eminent jurists. Though the preceding jurists are

not convinced, but the practice of raising the forefinger is not against the wisdom and narratives, because gesturing with finger while reciting *La Ilaaha Il'lal'lah* fulfils the process of negation and affirmation with word and deed, and they conform to each other. Therefore, gesturing with the finger along with the tongue conforms to common sense and not gesturing is against common sense. Similarly, when gesturing with finger is proved by the genuine traditions and propositions of Imam Abu Hanifa^{RH}, Imam Abu Yousuf^{RH} and Imam Muhammad^{RH}, it conforms to narratives, and not gesturing is against the narratives. Hence, the gesturing is in conformity with the common sense and narratives, and not gesturing is against them.

Accordingly, such practice is mandated and desirable in the opinion of most of the Hanafite jurists. The Seal of the Jurists Allamah ibn Abideen writes in *Radd ul Muhtar*:

“It is cited in *Muheet* that the raising of forefinger at the time of negation (*Nafi*) and putting it down at the time of affirmation (*ithbaat*) is a *Sunnah*. Hazrat Imam Azam^{RH} and Imam Muhammad^{RH} opine the same, and a large number of *Ahadith* and narratives are found in this regard, therefore,

practicing it is more preferable.”

To be precise, the raising of finger and not raising it, both precepts are practiced regularly by the Hanafites, and both have been endorsed by the jurists. However, in view of the later jurists of Hanafi school of jurisprudence, the second precept which insists on raising the forefinger is more preferable. *Allah knows best and His knowledge is more perfect.*

(Published in “Noor-e-Hayat” March 1977)

Repetition of the Congregation

In view of the queries about lawfulness or unlawfulness of holding a second congregation, once the prayer has already been offered in congregation in any mosque, the details of this issue are given below.

The jurists have categorized the mosque into two types: Mosque of the locality and the mosque on the way. The mosque of the locality has been defined as the one where the *Imam*, *Mu'ezzin* (the caller of *Azaan*) and worshipers are known and appointed, whereas the mosque on the way is the one which is situated on a highway and there is not any prescribed *Imam* or *Mu'ezzin* in that mosque, which means, there is no regular arrangement of *Azaan* (Call to prayer) and to congregate on. The travelers will come and offer prayers. It is mentioned in *Radd ul Muhtar*: “A ‘Mosque of the Locality’ is the one where the Imam and the worshipers are known and have been appointed, whereas, in case of the ‘Mosque on the Way’ there is no fixed Imam and *Mu'ezzin*, and the people will come in groups, offer prayer and go away.”

There are separate injunctions for both types of mosques. If the prayer has been performed in congregation along with *Azaan* and *Iqamat* in the local mosque, then the second congregation along with *Azaan* and *Iqamat* in the same mosque is execrable (*Makrooh*), as mentioned in *Durr ul Mukhtar*:

“After the conduct of the congregational prayer along with *Azaan* and *Iqamat* in a local mosque, repetition of the congregation by calling another *Azaan* in the same mosque is execrable. However, if the mosque is situated on a highway, or there is no prescribed Imam and *Mu'ezzin* in any mosque, then repetition of the congregation along with calling *Azaan* and *Iqamat* in such a mosque is not execrable.”

The clarification given by Allamah Abideen on this issue is summarized below:

“After performance of the first congregational prayer along with *Azaan* and *Iqamat* in a local mosque where the Imam and the *Mu'ezzin* have been appointed, conduct of another congregation with *Azaan* and *Iqamat* is execrable in such mosque. *Azaan* should not be called in case of the repetition of congregation. However, in case of the

mosque located on the way and there is no Imam and Mu'ezzin appointed therein, and the people come in groups and offer prayer with congregation, then there is a consensus that calling *Azaan* and *Iqamat* for each congregation is permissible, even preferable.” (1/577)

Absolutely, the congregation is not the issue here, however, the jurists (*Fuqaha*) have termed such congregation as execrable which is performed with *Azaan*, which means, multiple congregations are not execrable if offered without *Azaan*. Only for this reason, the jurists have made the congregation conditional upon ‘*Azaan* and *Iqamat*’, which implies that the repetition of such congregation is execrable which is conducted along with *Azaan*.

Azaan is an emphasized Sunnah (*Sunnah Mu'akkada*) and offering prayer in congregation in the mosque but without *Azaan* is execrable, because, in the holy life of the Messenger of Allah^{PBUH} and during the period of the four Orthodox Caliphs (*Khulafa e Rahideen*) as well as the virtuous predecessors, only one congregation was conducted for every prayer (*Salaat*), as the congregation is also an emphasized sunnah. The reward will be more if the gathering in the

congregation is more. In case of the repetition of congregation in a mosque, less number of people would assemble, and the reward would also be reduced. Therefore, had the repetition of the congregation justified, the people would have been tardy in attending the congregation on its stipulated time, and multiple small congregations will be held, thus causing reduction in reward. Hazrath Anas^{RZ} said: “If the companions of the Messenger of Allah^{PBUH} could not attend the congregation, they used to pray alone in the mosque, not in congregation. This was a sort of discipline and admonition from the Prophet^{PBUH} for not attending the congregational prayer on time.”

Therefore, some of the jurists opined that the second congregation should not be conducted once the first one was held, and the people should pray separately. Accordingly, the same is mentioned as the real doctrine and literal meaning of the narration in *Fatawa Zaheeriya*, and same is cited in the books of Imam Muhammad^{RH}. But Allamah Ibn Abideen wrote that such statement is against the consensus (*Ijma'*). A narrative of Imam Azam^{RH} is quoted in *Sharh Munyat'ul Musalli* that the second congregation is execrable if the persons are more than three, otherwise not. In the opinion of Imam Abu Yousuf^{RH}, irrespective

of the number of worshipers, the second congregation is execrable if conducted as per earlier pattern, and not execrable if the pattern is changed. The change of pattern is defined in *Fatawa Bazzaziya* as the priest of second congregation should stand away from the niche (*Mehrab*) in the mosque, then the second congregation will not be considered as execrable. It is mentioned in *Fatawa Tatarkhaniya* and *Fatawa Walwajiya* that the proposition of Imam Abu Yousuf^{RH} is an acceptable opinion. (*Radd ul Muhtar*).

This proves that the injunction of detestation (*Karahat*) stated by Imam Muhammad^{RH} and Imam Azam^{RH} is applicable only when the second congregation is conducted similar to the first one, like calling *Azaan* etc. In such circumstances, the change of pattern suggested by Imam Abu Yousuf^{RH} is necessary for elimination of the injunction of detestation.

There will be no question of detestation or execration if the congregations are held repeatedly but without calling *Azaan*. It is mentioned in *Kitab ul Fiqh alal Mazahib al Arba'a*: “Without calling *Azaan* and *Iqamat*, repetition of the congregation in the mosque of a locality is not execrable,” which means, the repetition of congregation is execrable only when *Azaan* is called

for every congregation. It is quoted in *Radd ul Muhtar*: “There is a consensus of opinion on validity of the repetition of congregation without calling *Azaan* in a mosque.”

Similarly, it is cited in *Fatawa Aalamgiriya*: “In the mosque of a locality, where the priest and the worshipers are known and they have already performed prayer in congregation, then again calling *Azaan* for prayer is not valid. However, second congregation without calling *Azaan* is permissible as per unanimity of opinion.”

Therefore, repetition of the congregation after calling *Azaan* is preferable in such a mosque where the priest and the *Mu'ezzin* are not appointed. Whereas the repetition of the congregation after calling *Azaan* is disapproved to the point of being forbidden in a local mosque where the priest and the *Mu'ezzin* have been appointed. If *Azaan* is called, the priest should stand away from the niche to avoid the injunction of execration. However, the repetition of congregation is not execrable, as per unanimous opinion, if *Azaan* is not called, and the priest is not required to change the place, and *Iqamat* also can be called for every prayer.

Matrimony in Absentia

Performance of matrimonial rites in absentia is valid, which means the bride and the bridegroom are not present in the session of contracting of the marriage. Usually, the bride will not be present in such a session, only positive affirmation by her guardian or authorized proxy (*Vakeel*) is a prevalent practice and a permanent tradition. If the bridegroom also is not present in the matrimonial session but had authorized any proxy, then such proxy may admit the acceptance in presence of two witnesses or contracting of the marriage (*'Aqd*) is also valid if a letter has been received from the bridegroom, and two persons have read that letter and bore witness to the acceptance by the bridegroom. It is mentioned in *Ad-Durr ul Mukhtar*:

“The contracting of the marriage (*Nikah*) is not valid if the bridegroom, despite being present in the matrimonial session, just writes down his acceptance on a paper. However, the contracting of marriage can take place through correspondence of an absent person, on the condition that the witnesses became aware of his acceptance by reading his letter.”

Allamah Ibn Abideen, as an explanation to this text from *Durr ul Mukhtar*, has quoted from *Fath'ul Qadeer* that Imam ibn Humam wrote:

“Just as the contracting of marriage (*Nikah*) is valid on oral acceptance of a person in the matrimonial session, it is also valid through his correspondence in absentia. For example, a person wrote to a woman that he wants to marry her. After receiving the letter, if the woman read out the letter in presence of the witnesses and stated that she has given her person in his matrimony/marriage or said that so-and-so person has expressed his desire to marry me and you bear witness that I have married him, then, such marriage is valid.”

Similarly, it is mentioned in *Fatawa Alamgiriya*:

“The marriage is valid if a person wrote to a woman that I have married you, and the woman accepted it in presence of the witnesses, and the witnesses have heard the conversation of the messenger and the contents of the letter.”

Accordingly, the proposal and consent conducted by the authorized representatives (*Vakeel*) of the bride and

the bridegroom is permissible in absence of both in the marriage ceremony. It is evident from *Ahadith* and biographies that the Messenger of Allah^{PBUH} had married the mother of the Believers Umme Habibah^{RZ} in absentia, when she was in Ethiopia (Habash). A detailed account of this impressive event of the marriage of the Prophet^{PBUH} is given below.

The name of Umme Habibah^{RZ} was Ramlah, a daughter of Abu Sufyan^{RZ} and sister of Ameer Ma'aviya^{RZ}. Abu Sufyan^{RZ} was an oppressive enemy of the Prophet^{PBUH}, Islam and Muslims. However, after embracing Islam, he performed heroic deeds in the service of Islam. Hindah, the wife of Abu Sufyan^{RZ} and mother of Umme Habibah^{RZ} was such a tyrannical enemy of Muslims, that after martyrdom of Hazrath Hamza^{RZ} in the battle of Uhad, she slit open his abdomen and chewed his liver. Later on, all of them embraced Islam by the Grace of Allah, but Umme Habibah^{RZ} had embraced Islam several years prior to her parents and brother. She was married to Ubaidullah bin Hajash, who too had converted to Islam on her persuasion. When the infidels of Makkah resorted to troubling the Muslims, both migrated to Ethiopia along with other Muslims, as per advice of the Prophet^{PBUH}, and stayed there for a long time. There Ubaidullah converted to Christianity, hence

she got separated from him, and he died later on as an infidel. The Messenger of Allah^{PBUH} came to know about the sufferings and patience as well as the religious constancy of Umme Habibah^{RZ} when he had already migrated to Madinah Munawara from Makkah. In the earlier days of Muharram 7 AH, he addressed a letter to Negus (Najashi) the Emperor of Ethiopia, who had embraced Islam by then, and sent through Amr bin Umayyah al-Zameeri, and asked him to send a proposal of marriage to Umme Habibah^{RZ} and accept her in my marriage on behalf of me. After receiving the sacred letter, Negus sent his personal maid Afraha to Umme Habibah^{RZ} and requested her to appoint and send an authorized representative (*vakeel*) to him who may accept the proposal of marriage on her behalf. Hearing such delightful news, Umme Habibah^{RZ} gifted silver bangles, anklets and some rings to Afraha, and sent Khalid bin Sayeed^{RZ}, who too was residing in Ethiopia along with other Muslims, as her authorized representative. Negus held his court on the same day and invited all Muslims and Hazrath jaffer Tayyar^{RZ}, the brother of Hazrath Ali^{RZ}, who was staying in Ethiopia after migrating from Makkah, and after praise of Allah and encomium (*Na'at*) on the Holy Prophet, he said: "I have accepted Umme Habibah^{RZ} the

daughter of Abi Sufyan in the marriage of the Messenger of Allah^{PBUH} in lieu of four hundred Dinar as dower (*Mah'r*).”

Hazrath Khalid bin Sayeed^{RZ} also delivered a brief sermon and said: “I have given Umme Habibah^{RZ} daughter of Abi Sufyan^{RZ} in the marriage of the Messenger of Allah^{PBUH}.”

Negus, the Emperor of Ethiopia invited the courtiers and all the Muslims to a post-marital feast (*Valimah*), as he knows that such feast is a sunnah of the prophets. All the invitees left after taking food. Negus paid four hundred dinars to Umme Habibah^{RZ} through Khalid bin Sayeed^{RZ} as dower on behalf of the Messenger of Allah^{PBUH}, and sent aloes-wood (Ood), musk, saffron and ambergris (*Amber*) etc. through Afraha, as gifts from his queens and other women. Umme Habibah^{RZ} offered fifty dinar more to Afraha, but she refused and said that the emperor had forbade her from taking anything, even she returned the gifts taken earlier and declared that she too had embraced Islam, and also requested to communicate to the Prophet^{PBUH} about her acceptance of Islam. Thereafter, Negus sent Umme Habibah^{RZ} most respectfully along with Sharhabeel Hasana to the Messenger of Allah^{PBUH}

in Madinah, and he^{PBUH} was delighted to hear the details of the events that had taken place and looking at the gifts. In reply to Afraha’s message, he^{PBUH} said: “May peace and blessings of Allah be with her.”

Abu Sufyan^{RZ}, who had not yet embraced Islam, was in Makkah. After learning about this marriage, he said that Umme Habibah^{RZ} had married such a person who is undoubtedly most revered and pious. He, in the same state of infidelity, came to Madinah from Makkah for renewal of a treaty with the Messenger of Allah^{PBUH}, and met her daughter Umme Habibah^{RZ}. When he tried to sit on the cushion or throne where the Prophet^{PBUH} used to sit, she objected and prevented him. Offended, Abu Sufyan^{RZ} asked, “that place is not suitable for me to sit, or I am not suitable to sit there?” Umme Habibah^{RZ} replied that you are an idolater, therefore, I cannot allow you to sit on the floor of the Messenger of Allah^{PBUH}. Abu Sufyan^{RZ} told her that she had gone astray and left after talking for some time.

This is a situation where both the parties to marriage; the Messenger of Allah^{PBUH} and Umme Habibah^{RZ} are not present in the marriage ceremony, and their delegates have represented them and performed the ritual of proposal and consent (*Ijab-o-*

qubool). Based on this, the jurists (*Fuqaha*) have opined: “Just as the contracting of marriage (*Nikah*) is valid through oral confirmation, it is also valid through correspondence.”

If both the parties are present for contracting the marriage, and perform the ritual of proposal and consent, face-to-face, in presence of two witnesses, then the presence of the guardian or authorized proxy (*vakeel*) is not necessary. The same is indicated in a *Hadith*:

“The contracting of marriage (*Nikah*) is valid, if the man and the woman perform the ritual of proposal and acceptance in presence of two sane and adult Muslims.”

It denotes that the presence of at least two persons is necessary for contracting of marriage, as the announcement or publicity is a stipulation of the contracting of marriage, and such condition is fulfilled with presence of two witnesses. Even if the man and the woman told the witnesses not to publicize, then also the *Nikah* is valid, only the desirable (*Mustahab*) condition is omitted, as it was not publicized widely.

The Proposal and acceptance (*Ijab-o-Qubool*) is

a juristic (*Fiqhi*) term. Whoever speaks first among the parties to marriage, is known as the ‘Proposal’ (*Ijab*) and later one is ‘Acceptance’ (*Qubool*). This conversation of proposal and acceptance must be in past tense, such as, I have married or I have accepted, and present tense and future tense is not valid. It is invalid if said ‘I will marry’, as the future tense is merely non-existent, and the imperfect form (I accept) is a collection of the present and the future, therefore, the contracting of marriage is not valid with these forms.

Since the contracting of marriage is everlasting, it becomes valid with such words which have perpetuity. Therefore, one must necessarily say ‘I have married’ or ‘I have given my person to you’ or ‘gifted’ or ‘bestowed’ etc. But such *Nikah* will be considered as erroneous, where the words that are used do not convey possession and continuance. Some ignorant priest or orator asks the proxy (*Vakeel*): Have you permitted? The proxy replies: yes, which imply that the proxy has permitted his client (woman who had authorized him). As a matter of fact, there is no sense of ‘possessory right’ in permission and lease, therefore, *Nikah* is not valid, as mentioned in *Ad-Durrul Mukhtar*: “The contracting of marriage is not valid with the words

'*Ijarat*'(Lease) and '*Ijazat*' (Permission),” because '*Ijarat*' means leasing out. Anything, if leased out, do not confer the right of absolute possession, but benefit is derived from such thing till a stipulated period. Similarly, the word '*Ijazat*'(Permission) also does not speak of possession, hence, usage of these words would render the *Nikah* erroneous.

If both the parties are not present in ceremony of the contracting of marriage, their delegated proxies can conduct the ritual of proposal and acceptance, just as Negus the Emperor of Ethiopia proposed on behalf of the Messenger of Allah^{PBUH} and Khalid bin Sayeed^{RZ} accepted on behalf of Umme Habibah^{RZ}. However, delegation of authority to anybody is not required if the bride and the bridegroom both are physically present, and presence of two male witnesses is enough for the ritual of 'proposal and acceptance' by both the parties. Hazrath Imam Mahdi Mau'ood^{AS} has performed *Nikah* with Bibi Bonji^{RZ}, the mother of the believers, in the same manner. She is a descendant from Hazrath Khaja Moinuddin Chishti Ajmeri^{RH}. Her first husband Malik Bakhkhan^{RZ} had expired. As a widow, being a seeker of Allah, she was living in the Daira, in the company of Imamuna^{AS}. Imam^{AS} used to expound the Holy Qur'an (*Bayan-e-Qur'an*) once in a week in the congregation

of ladies. During the travel to Khurasan, he stayed at Thhatta, and on Friday during the explanation of Qur'an he said: "If Allah offered something to somebody but he did not accept, it will not be given even if he request later on."

This is not the occasion to explain the intricacies of this narrative. Briefly it can be said that the holy person of Imam^{AS} is a divine blessing, repository of the vision and treasure-house and source of the divine secrets. The seekers of Allah are aware of his revered lofty status and derive benefit from his sacred companionship. Hazrath Mahdi^{AS} told Bandagi Malik Burhanuddin^{RZ} that in the verse "***Ye will not attain unto piety until ye give (Freely) of that which ye love***" (3:92) the 'piety' refers to Allah Himself. Allah will not be attained unless you give your precious thing to Allah. Malik Burhanuddin^{RZ} gave away his sword and horse in the name of Allah, saying these things are most precious for me. Imam Mahdi^{AS} asked; why? He said that these things protect his life. Imam Mahdi^{AS} commented: Which implies the life is more precious, and Allah is asking for it. Bandagi Miyan Malik Burhanuddin^{RZ} renounced the world and stayed in the company of Imam^{AS} and is even included in twelve companions who were given the glad-tidings, and was

the first husband of Bibi Fatima^{RZ}, the daughter of Imam Mahdi^{AS}.

Just like a seeker of Allah is required to surrender his most precious thing, 'life' to Allah, the symbol of the perfection of his faith (*Iman*) is to respect and admire the greatest blessing of Allah. Bibi Bonji^{RZ} had already surrendered her life to Allah by renouncing the world and living in the company of Imam^{AS}. Now, it was the only way to surrender her being (person), like 'life' to accept the divine gift, to his sacred person. She got up in the gathering, approached Imam^{AS} and said: I am submitting myself to you without seeking any maintenance allowance, and my only desire is that I should be regarded among your wives on the Day of Resurrection. Imam^{AS} accepted the proposal and summoned Miyan Lad Mohajir^{RZ} and Qazi Habeebullah Mohajir^{RZ} and said that Bibi Bonji^{RZ} had surrendered herself to me for the sake of Allah, you both bear witness. They heard the proposal and acceptance from the mouth of Mahdi^{AS} and Bibi Bonji^{RZ} and left. In this case of the contracting of marriage, both the parties are present, hence, presence of any delegated agent (*vakeel*) is not required, and two witnesses are enough for the validity of *Nikah*.

The contracting of marriage is not acceptable if both the parties and their agents too are not present, but one of them has sent a letter of proposal from his place and the other has sent a letter of consent from his place, because the ritual of the proposal and consent is not taking place in front of two witnesses. It is also not permissible, if supposedly the groom wrote in presence of two witnesses that he has accepted so-and-so woman in his marriage, and the bride also wrote in front of two witnesses that she has accepted so-and so man in her marriage, because the witnesses of the 'proposal' are different from those of the 'consent', and the 'proposal' and 'consent' are taking place at two different places. Moreover, just as the same witnesses are compulsorily required for the 'proposal and consent', same sitting is also a precondition. The *Nikah* is not acceptable if the proposal and the consent are carried out at two different places. Similarly, it is also not acceptable if any man proposes and woman accepts while walking, because the place of proposal will be different from the place of consent.

Accordingly, the *Nikah* will be considered as appropriate, if 'proposal and acceptance' is carried out by any one of the parties to the marriage who is present in the matrimonial assembly and speaks with his/her

mouth, and the other one is absent but speaks through his/her agent or a letter, because, in this case, the witnesses are same for the proposal and the consent, and the sitting is also same. The *Nikah* can also be conducted through telephone and trunk-call (nowadays, through video-call) after dispelling ambiguity or doubt, if any and by making proper arrangements, but the ritual of ‘proposal and acceptance’ must take place at one place and the witnesses must be same. Therefore, it is a precondition that the same people must be the witnesses for ‘proposal’ as well as for ‘acceptance’ in the same meeting held for *Nikah*, either accepted by the agent (*vakeel*) of a party legally competent to contract the marriage (bride/bridegroom) or his/her letter is produced or his /her acceptance is heard on phone and trunk-call (video-call) by the witnesses. The *Nikah* will be invalid if any one of these conditions is not fulfilled. Allamah Ibn Abideen writes:

“The *Nikah* is not valid if the woman says in presence of witnesses that she had married so-and-so person, because the witnesses must listen to the proposal and the consent from the man and the woman both, for validation of marriage. Therefore, the witnesses must be caused to hear the letter of acceptance by the man, or they must

be informed of such acceptance through another means.”

Accordingly, the witnesses must be aware of the consent by the man or the woman, whoever is absent, through a letter or an authorized agent. If there is neither letter nor the agent, the same witnesses must listen to his/her acceptance on phone or trunk-call (WhatsApp/Video-call etc.), as it is a precondition for *Nikah*.

The appointment of any agent (*vakeel*) by the bride or bridegroom is permissible, but such agent cannot designate any other person as agent. As per the juristic procedure: “Any agent cannot appoint other person as an agent.” (*Radd ul Muhtar* 2/407). If any person other than the authorized agent has performed the ritual of ‘proposal and acceptance’, such contracting of marriage is known as ‘*Nikah-e-Fuzooli*’ as it has been performed by an unauthorized agent, and validity of such *Nikah* depends on the approval of the bride or bridegroom. However, if the bride or the bridegroom has authorized their agent to designate another person as an agent, then the ‘proposal and acceptance’ conducted by other agent is valid.

It is not necessary for the bride or the bridegroom

to make a witness for appointing any agent, because, making any witness is not a precondition for the validity of the advocacy (*Sehat-e-vakalat*), and the same precept is applicable for appointment of an agent for the purpose of *Nikah*. It is mentioned in *Radd al Muhtar*: “Making any witness is not a precondition for validity of the advocacy, if someone is designated as an agent (*vakeel*) for the ritual of ‘proposal and acceptance’ in the contracting of marriage (*Nikah*).”

It means, the advocacy (*vakalat*) will be considered as reliable, if the agent of bridegroom says that I have accepted so-and-so woman in the marriage of my client, or the agent of bride says that I have accepted so-and so person in the marriage of my client, and witnesses are not required for certainty and credibility of their statement, however, witnesses are made as a precautionary measure, to be used if required at any time of need. Allamah Ibn Abideen writes: “The advantage of making witness on advocacy is that it can be proved with the help of witnesses, if the agent disclaims his role as an agent.”

Accordingly, two witnesses bear witness to the advocacy of the agent designated by the bride, in the prevalent system, as a precautionary measure. In

addition to bearing witness to the advocacy, they also witness the permission taken from the bride for getting married, as the guardian designates someone as an agent, but the willingness and permission of the bride is also an essential factor, if she is sensible and had attained majority. Therefore, these witnesses will be present when the agent is seeking permission from the bride, hence, such practice is unavoidable. However, in case of the marriage in absentia, it will suffice if the bridegroom writes to anybody to accept so-and-so woman in my marriage or designate anybody as his agent through trunk-call (WhatsApp/Video call), and witnesses are not required in such a case, because, they are not the witnesses to the ritual of ‘proposal and acceptance’, and the whole gathering is the witness to it. Hence, the witnesses are not required for his advocacy, if someone represents the bridegroom, though it is expedient as a precautionary measure. However, it must be remembered that the person designated as an agent (*vakeel*) must have accepted such responsibility. Supposedly and incidentally, if the agent retracts and disclaims his role as an agent after marriage and says that he had just repeated the statement of the guardian, in such a case, the agent will be viewed as a stranger, as if, an unauthorized person

has given away somebody's daughter in marriage of someone. Such marriage is known as *Fuzooli* as per Islamic law (Performed by unauthorized agent), and its validity depends on the consent of the guardian or the bride. For this reason, the agent is made to admit that his advocacy (*vakalat*) is authentic, and he is asked: "Is your advocacy is genuine in all aspects?" This is a meaningful and eloquent sentence. In reply, the agent admits and acknowledges that his *vakalat* is authentic, which denotes the guardian has designated him as an agent, which he has accepted, and these are the witnesses.

It is also an important matter that the agent and the witnesses are made to prove the advocacy (*vakalat*). It is sufficient if the ritual of 'proposal and acceptance' is carried out only once by the bride or her agent and the bridegroom or his agent, but the usual practice of repeating three times is certainly commendable. As a matter of fact, saying anything repeatedly enables even a stupid person to understand thoroughly, and impresses the heart and mind of an intelligent person. Indeed, the repetition of speech or conversation is more helpful in memorization, and repetition of speech in important matters is the habitual practice (*Sunnah*) of the prophets as well as *Sunnah* of the Messenger of

Allah^{PBUH}. It is cited in the biographies of Muhammad^{PBUH} that, "whenever he invoked blessings of Allah, greeted the gathering and conveyed any important thing, he used to repeat it thrice."

Accordingly, the number three or repetition thrice in case of important words and deeds has been made compulsory by *Shari'ah* of Muhammad^{PBUH}, for accomplishment of the task. For instance, washing the organs only once is obligatory (*Farz*) in ablution (*Wuzu*), but by washing every organ three times, the Messenger of Allah^{PBUH} said: "This is my (method of) ablution, and the prophets used to perform ablution in the same way." This statement signifies the rationale and advantage of such repetition.

Imam Bukhari has created a chapter for this and said that the matter should be repeated three times to make it more clear and mentioned that the Messenger of Allah^{PBUH} has repeated his maxim several times: "Keep away from telling lies." Hazrat Anas^{RZ} narrated: "In case of any important matter, the Messenger of Allah^{PBUH} used to repeat it thrice, and the listeners would understand it well."

On the occasion of '*Hajja-tul-Wada*' in the year 10 AH which was the last Hajj of the Prophet^{PBUH}, he

mounted on his she-camel *Qaswa* in the plains of Arafat on 9th Zul'hijja and delivered an extensive sermon, which included the injunctions, guidance and admonitions. After conclusion of the sermon, he said that Allah will ask you about me on the Day of Judgement, what will you say? One lakh forty-four thousand Muslims were present, all of them unanimously replied: "Indeed, you have delivered the divine commands to us, accomplished the task of prophet-hood and admonished us perfectly. The Prophet^{PBUH} heard this answer and started raising his forefinger towards the heavens and bringing it down pointing towards the people and saying thrice: "O Lord! Be a witness to what your servants are saying about me."

Precisely speaking, this was the habit of the Prophet^{PBUH} to repeat three times, any important utterance to make it understood by the listeners, and also while invoking blessings of Allah, hence the same practice has been adopted by the whole *Ummah* as desirable (*Mustahab*) and traditional (*Masnoon*), for execution and accomplishment of any task.

The contracting of marriage (*Nikah/Aqd*) is defined as the confession by a man and a woman, in

presence of two sensible and adult Muslims, that they are husband and wife. The presence of the guardian or the agent is not required if the bride and the bridegroom are present.

Usually, the bride will not be present in the gathering of *Nikah*, and her agent represents her. If the bride and the bridegroom both are not present, their authorized agents can perform the ritual of 'proposal and acceptance', which is called 'Marriage in Absentia'. In this case, both the parties can carry out such ritual through their agents or correspondence or phone-call (WhatsApp/Videocall), subject to the condition that the ritual of 'proposal and acceptance' is carried out in accordance with the provisions of the Islamic Law. As per procedure, the agent of the bride will 'propose' in presence of two witnesses, in the gathering assembled for marriage, and the same persons would be the witnesses to the acceptance by the bridegroom in the same gathering. There are three ways to conduct the Marriage in Absentia:

1. The bridegroom sent a letter and the witnesses to the 'proposal' read it and became acquainted with his consent.

2. Or the bridegroom has designated someone as his agent, who will accept the 'proposal' on behalf of his client, in the presence of the same witnesses.
3. Or the bridegroom expresses his consent by himself on the phone, and the witnesses to the 'proposal' listen to it in the same gathering assembled for marriage.

Among these three methods, the third and last one requires utmost care and proper arrangements. Making a phone call from faraway places at a fixed time is difficult. Hence, it will be appropriate if the witnesses to 'proposal' can hear the words of acceptance from him in a short span of time. Otherwise, a simple procedure is that the bridegroom designates someone as his agent through a letter or phone-call, and that agent, in the gathering held for marriage, admits the acceptance in front of the same witnesses to the proposal.

Another most simple method is that the bridegroom should write a letter to someone saying, 'I have accepted so-and-so woman in my marriage', and that letter is read out in the gathering held for marriage, or the witnesses to the 'proposal' become aware of his acceptance.

Both these methods are very simple and suitable. It is not necessary to receive a letter from the bridegroom on the same day on which the wedding is held, or the appointment of someone as his agent at the same time through phone-call. The bridegroom can designate someone as his agent through a letter or phone call or inform them about his willingness, prior to the date and time fixed for the wedding.

(Published in 'Noor-e-Hayat' July 1976)

Provisos of the Contracting of Marriage (*Nikah*)

In the Mahdavia Community, the bridegroom is made to accept, and stand committed to the four conditions stipulated by *Shari'ah*, along with deciding the dower (*Mehr*), immediately after the *Nikah* sermon is delivered at the time of performing the ritual of the proposal and the acceptance (*Ijab-o-Qubool*). Later on, these provisos are explained in brief, and this practice is continuing for 400 years, but nobody tried to explain away these provisos in detail. Approximately forty years ago, someone sought advice or legal opinion through ten questions (*Istifta*) from Hazrath Afzal ul Ulama Moulana Syed Najmuddin Sahib^{RH}, the President of *Majlis Ulama-e-Mahdavia Hind* on necessity, efficacy, importance, statutory position in Islamic law (*Shari'ah*) and points of view of the religious leaders of the four schools of thought, about these customary provisos. Accordingly, he not only issued a brief edict (*Fatwa*), but also compiled a detailed explanation. Later, a summary of the

fatwa as well as the explanation was published in the monthly magazine "*Noor-e-Hayat*" in the months of March, April and May 1976.

In present times, when these provisions are explained in the gathering of the wedding, some people feel as disgusting and think that they are not essential, though these provisos are exactly in accordance with the Islamic law (*Shari'ah*). Therefore, this explanation is being published in view of their necessity, importance and comprehensiveness.

Since more or less four hundred years, the bridegroom is made to accept, and stand committed to the four provisos at the time of *Nikah*. One of them which is very important, notable and prevalent is: "The bride shall have her own discretion of choice." Such a condition is known as 'the proviso of exercise of the power of choice' (*Shart-e-takhay'yur*) in the juristic term. Such practice of the contraction of marriage (*Nikah*) with a proviso to give her the right to exercise the power of choice, as per the Islamic law, is continuing since the time of ancestors.

This proviso is neither essential for the validity of *Nikah* nor it makes any difference if not complied

with it after *Nikah*. It is not incumbent upon the woman to exercise her power of choice without any reason, yet it depends entirely upon her own accord. She can utilize this proviso if she considers it judicious, in case of any intense compulsion. In view of its implied benefits, an explanation is utmost necessary. The advantage of this proviso is that, just like a man having a choice to pronounce divorce whenever he desires, the right to divorce is reserved for the woman too through this proviso, because in some cases the man do not divorce her, but the woman needs it earnestly.

But one should not be oblivious of the fact that such separation entirely depends on discretion of the woman. It is not essential for the woman to get herself separated from the man, by exercising her choice, if such condition is not fulfilled, which is essential for the divorce, nor it will have any effect on the *Nikah* if the man did not comply with such condition.

Two types of *Nikah* sermons are currently used in the community:

1. Compiled by Hazrath Allamah Bandagimian Abdul Malik Sujawandi Aalim Billah^{RZ}, in which he had made this first condition a part of the 'Proposal' (*Ijab*), and in view of its

necessity, pre-eminence and advantages, this sermon gained popularity in the whole community since more than four hundred years. The sermon (*Qutba*) compiled in Persian language by Hazrath Aalim Billah^{RZ} is very eloquent and mostly used in the community. Its rhymed prose and melody are very fascinating for the hearts of the listeners, and being in Persian, most of the people enjoy and understand it.

2. The other sermon of *Nikah* has been compiled by Hazrath Bandagi Miyan Shah Qasim Mujtahid-e-Giroh-e-Mahdavia^{RH}. He added the following three conditions to the proviso stipulated by Miyan Aalim Billah^{RZ}:

- (i) Continue to pay the maintenance allowance (*Nan-o-nafqah*).
- (ii) Pay the dower (*Mahr*) on demand.
- (iii) Do not take her out of the religious circle, and do not prevent her from going to parents' house.

The sacred personage of Hazrath Bandagi Miyan Shah Qasim^{RH} is a confluence of both the external (*Zahir*) and the internal (*Batin*) knowledge. The way he caused to assign the rights and choices to woman while bearing

in mind the authority of man with such perspicacity, it throws light on his prudence and perfection of understanding. All of these four conditions are very extensive, which provide all kinds of ease and facilities, as if put something in a nutshell. Only its tenor and motives are required to be comprehended and utilized at the time of need.

Hundreds of years have passed when Hazrath Shah Qasim Mujtahid e Groh^{RH} had accomplished the task of compiling the Provisos of the Contracting of Marriage (*Shara'it-e-Nikah*), but the responsibility of its explanation and interpretation remains on the shoulders of the community. Probably, Allah the Almighty had predestined such a task for me, **one of his descendants**. Though my health is deteriorating, and leisure time is insufficient, in view of the ever-advancing age, I thought it more appropriate to accomplish the task right now.

From among these four provisos, the first proviso or condition equips the woman to get divorced by herself without being divorced by the man. Such a precept is not mentioned in the remaining three provisos included in the sermon compiled by Hazrath Shah Qasim^{RH}, and as a consequential result of these conditions, the

judgement would be in favor of the woman, if a case is filed with a judge (*Qazi*) in case of any differences. Now, the necessity, utility, purpose and advantages of the proviso of exercise of the power of choice' (*Shart-e-takhay'yur*) that "The bride shall have her own discretion of choice" will be discussed. The other conditions would be deliberated upon later, if Allah Wills.

As per Islamic law, the divorce is absolutely a prerogative of the husband. Although in certain circumstances such as the man is found to be impotent, the judge has a right to uncouple the husband and the wife, but in most of the cases, except impotency, the judge (*Qazi*) has no right to get them separated, and unless the husband pronounces divorce, the wife cannot become divorced. Obviously, she cannot marry again without divorce or separation, though, in some unavoidable circumstances, the relationship becomes strained to such an extent that getting divorced or getting separated from the husband through an order of the judge becomes essential for the wife, because, neither the mode of life remains graceful nor the conjugal relationship persists, as a result, she cannot opt for second marriage. Even in case of such an acute compulsion, neither the husband would pronounce

divorce, nor a judge may cause separation. In such circumstances, the woman would be afflicted with various types of difficulties and would be rendered mere helpless.

Similarly, among the adversities faced by the woman, one such distress is the missing (untraceable) husband, because of which, the woman remains afflicted for years together or even lifelong. In such a case, in the opinion of Imam Malik^{RH} and as per narratives of Imam Shaafa'ie^{RH} and Imam Ahmad^{RH}, the woman can go for second marriage after four years, but with the order of a judge. But as per the doctrine of Imam Azam^{RH}, the woman is not permitted to marry again unless (1) the death of the man is ascertained (2) all people of his same age have died (3) he had completed the age of 90 years. In short, several such causes are there which compels the woman to seek divorce, but she cannot get it.

Therefore, to get rid of such unavoidable helplessness, whenever required, the practice of the contracting of marriage with a rider of the proviso of exercise of the power of choice' (*Shart-e-takhay'yur*) is in vogue in the Mahdavia community since the time of ancestors. As a result, the woman will no longer be in need of divorce

from husband, and if felt necessary, she can get divorced by herself, on the basis of this condition. The contracting of marriage with this proviso conforms to the doctrine of Imam Azam^{RH}. However, this condition is not required in the view of Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad bin Hanbal^{RH}, as the woman has a right to approach the judge for divorce, if the man failed to pay the maintenance allowance, as mentioned in *Kitab 'ul Fiqh al'al Mazahib al Arba'a*:

“There is unanimity among Imam Malik, Imam Shafa'ie and Imam Ahmad bin Hanbal on the matter that the man would be forced to give divorce if he failed to provide the maintenance allowance.”

In the doctrine of Imam Ahmad bin Hanbal^{RH}, even after providing the maintenance allowance, if the husband failed to discharge his conjugal duty for four months, the woman can get herself divorced through the judge. Same is mentioned in the book cited above:

“Hanbalites say that the woman can appeal before the judge seeking a divorce, if the husband failed to discharge his conjugal duty in every four months, and the judge can secure divorce for her. Even as per the doctrine of Imam Ahmad bin

Hambal^{RH}, the judge is authorized to order separation if sought by woman, in case the husband has undertaken journey for more than six months.”

On the contrary, Imam Azam^{RH} opines that the judge is not authorized to order divorce, even if the husband is present or in journey, and not providing the maintenance allowance and also not having sexual intercourse, in both circumstances the woman cannot become divorced unless the husband pronounce divorce by himself. However, the judge is authorized to order separation if the husband is found to be impotent, but the woman cannot strive for divorce if copulated even once, and no copulation took place thereafter throughout the life, whether the husband is present or on journey or untraceable, the judge has no authority to order separation under any circumstances.

However, the stipulation of the condition, at the time of *Nikah*, that the woman shall have discretion of the right to divorce, is permissible in the opinion of Imam Azam^{RH}. Imam Azam differs from other three Imams of jurisprudence in respect of the causes where judge can order separation. Since this is a matter of allowed (*Halal*) and prohibited (*Haram*), and the prudence requires one to adapt the doctrine of Imam Azam^{RH},

therefore, the same doctrine of Imam Azam^{RH} is generally followed by the Mahdavia Community. Accordingly, the proviso currently used in our community, and which empowers the woman to get divorced by self, is a derivative from an important law as per the doctrine of Imam Azam^{RH}, and it is based on an injunction of the Hanafite jurisprudence, which stipulates:

“Just as the divorce is a prerogative of man and he can divorce a woman whenever he wishes to. Similarly, the Hanafite jurisprudence also permits the woman to put forward a condition, at the time of *Nikah*, that she too would have the discretion of the right to divorce. If the man has accepted this condition, it will become a legal provision, and the man is bound to comply with such stipulation, and the woman secures a legal right to act in accordance with such a condition.”

It is mentioned in *Durr ul Mukhtar*: “If a man had married a woman with a condition that the woman shall have the discretion to exercise her choice to divorce, then such condition is valid.”

It denotes, such condition is a legal provision and enforceable. Based on the same condition, the woman

is legally empowered to get herself divorced and become separated from man, any time and under any circumstances, even after receiving the maintenance allowance and continuance of conjugal relationship, Allamah Shami has further clarified this matter in *Radd ul Muhtar*, which is summarized below:

“Such condition should be put forward by the woman, which means, she should say first of all that I have married you on the condition that my discretion shall be in my hands, and I would get myself divorced by self whenever I desire and would become divorced. If the man has accepted such condition, in such a case, the woman would be having the right to exercise her choice and get herself separated from the man, but it is necessary that such condition must have been propounded first by the woman and the man has accepted it. Whereas, if the man proposes such condition and say, ‘I have married you on a condition that your discretion would be in your hands’ and the woman had accepted it, though *Nikah* is valid, but the condition is not valid, which means, the woman will not have her discretion in her hands and she cannot get herself divorced by self.”

Sometimes a woman who had been divorced three times (Triple Talaq) may have a need of such condition to remarry. For instance, Zaid pronounced divorce to Hinda thrice, which is known as ‘Binding or Irrevocable Divorce’ (*Talaq Mughallaza*). In such a case, even if she desires, she cannot remarry Zaid^{RZ}, unless she has undergone the process of “*Halalah*”, in which she is required to marry another man and get divorce from him. Therefore, it is essential for her to marry someone and get divorce from him, to be eligible to remarry Zaid^{RZ}, the first husband. But the woman is apprehensive about getting divorce from second husband, as promised by him. In such a scenario, the juristic proposition suggests that the woman should marry with a provision of the right to withdrawal (*Shart-e-Takhay'yur*), which would enable her to get divorced by self. It is written in *Durr ul Mukhtar*:

“If the woman is apprehensive that the man would not divorce her, then she, at the time of marriage, should say that: “I have married you with a condition that my discretionary power would be in my hands.”

These juristic propositions prove that the woman, as per Islamic law, has a right to keep her discretionary power

of divorce, at the time of marriage, for herself, which empowers her to get divorced by self, whenever she desires.

When the Islamic law has bestowed such facility, there is no reason to deprive the woman of her legal right. There is no time fixed for adversities, nor would they notify in advance. Prudence calls for caution that the rights of the woman should not be ignored during the cheerful moments on the day of wedding. Don't know what type of necessities and constraints this mute woman may come across in future, who may be aware or unaware of the issues, bound with the social relationships and not permitted to open her mouth, hence, as a precautionary measure, and taking advantage of the legal provision enshrined in the doctrine of Imam Azam^{RH}, the woman is empowered to exercise her choice (of withdrawal), in the Mahdavia community, and the legal provision requires the woman to propound such condition and the man is made to accept it (at the time of marriage).

It must be kept in mind that this provision has a very wide range of scopes, which says: "Her marriage is valid with a condition that she will have her power of choice in her hands," and this provision provides

absolute power to the woman, without any condition, to keep her right of discretion for herself. But in the Mahdavia community, such absolute freedom has not been provided to woman that she may get herself divorced and get separated from man, because, if such power was made absolute for woman, as envisaged in the provision, she would exercise such power and get herself separated from man, even in case of a trivial strife or a small mistake by man or even without any controversy. In such a scenario, the household affairs, rearing of children and the social set-up would be deranged. In view of such gravity of the matter, the perspicacious ancestors of Mahdavia community as a precautionary measure, did not convey absolute power to the woman to get herself separated from the man whenever she desires, but made such absolute power conditional on the proviso:

“If the man failed to perform the conjugal duties for one year in case of journey and six months in case of presence, the woman shall have the right (to exercise the power of choice) reserved for her.”

This provision does not mean that the stipulated condition has been fulfilled and the woman had lost her discretionary power, if the man travelled after marriage

and returning after one year and performed the conjugal duty once, or in case of presence at home copulated only once anytime in six months. This is not the correct purport of the provision, as it did not serve any purpose. In fact, the Hanafite jurisprudence stipulate that the man has undertaken a journey or present at home after marriage, if copulated only once, the right of the woman is annulled, and the woman cannot seek divorce with the help of a judge, even if he did not copulate throughout life. For this reason, the woman had to stipulate such condition that she will have the right to divorce if the process of copulation did not continue to take place, though she may not exercise her right (definitely she will not), but such provision has been stipulated to save her, whenever required, from such difficult situation. The tenor and motive of this provision is that such condition would be still enforceable, and the discretionary right of the woman would prevail as usual, even if copulation takes place once in a year in case of journey and once in six months in case of presence.

The stipulation of one year and six months is a further relaxation provided by the woman, otherwise the provision has a larger scope. If the woman keeps the absolute power in her hands by saying “I have married

you on the condition that my discretionary power is in my hands” then on the basis of such absolute provision, if the man continue to carry out the conjugal duty, pay the maintenance allowance regularly and does not commit any kind of cruelty, even then the woman would be having the power to get herself separated from the man whenever she desires. But our ancestor did not leave her this powerful, and prudently bound her absolute power with a suitable interval of non-copulation.

The logic behind making non-copulation a reasonable condition for divorce is that it cannot be recompensed through any means, and there is no way out for woman except divorce. Whereas restoration of other rights such as maintenance allowance and dower etc. trampled by the husband is possible, only divorce is not the recourse to such situations, but the woman can take legal course of action for restitution of her rights. For instance, the woman could file a suit if the husband refused to pay maintenance allowance or the dower (*Mahar*) and prevention of cruelty is also possible, but if the husband is fond of sensual pleasure, leading an immoral life and being polygamous inclined towards other wives or disgusted for any reason and not inclined towards her; all such dreadful conditions cannot be restored by

anyone. Being a physical act, there is no recourse to it, be it the administration of justice, arbitration by the council of village elders or admonition, without natural and mental inclination towards her. For very same reason, a polygamous person, as per Islamic law, must essentially maintain equality and justice in all domestic affairs, including only “staying for the night” though copulation is not a condition, because such act is not under his control. The Messenger of Allah^{PBUH}, even after maintaining absolute justice and equality among his Holy Wives, used to say about this act:

“O Lord! Whatever was in my possession, I have given away to my wives equitably, so pardon me for the choice which I do not possess.”

This edict is indicative of the same natural disposition. Under these circumstances, only way out for the woman, if she desires, is to get herself separated from the man, therefore other omissions of the man were ignored for seeking divorce, as their reparation is possible without divorce. In view of above, by making the non-copulation a cause of separation, the absolute power of woman to exercise her choice has been bound with a suitable interval of non-copulation, based on which the woman, if so desires, can get herself

divorced, whenever required.

Accordingly, based on such prudence, and taking advantage of the legal provision, Hazrath Allamah Bandagimian Abdul Malik Sujawandi Aalim Billah^{RZ} had made this condition a part of the proposal (*Ijab*), to protect her rights and empower her in case of any exigency. At the time of marriage, the man is addressed with such condition on behalf of the woman, in the following manner:

“Miss D/o..... is given in your marriage in lieu of dower.....with a condition that, six months in case of presence and one year in case of journey, if your person did not reach her person, her discretion would be in her hands. So, with such a condition and such a dower, do you solicit and accept her?”

In reply, the man admits and declares “I have solicited and accepted” which implies the acceptance of both the condition as well as the dower.

This provision is a kind of facilitation not obligation, which means the woman is not obliged to exercise her power of choice and get herself divorced even in absence of such requisite situation. However, if the

woman is willing to tolerate all kinds of oppression and distress caused by husband, then a question of any enmity and contention does not arise. But she can take advantage of this provision in case of unavoidable circumstances. There is no harm in narrating such a provision even if the situation did not warrant its utilization but can be utilized in case of necessity. Anyhow, it must be kept in mind that the intent and objective of this provision is based on certain principles.

The woman acquires the right to get herself divorced or separated from the man without being divorced by him, only by way of this provision. In case of the remaining three conditions, such provision has not been made applicable that the wife would have her discretionary power in her hands, if the husband did not fulfill these conditions, however, they may serve the purpose if a suit is filed before a judge for settlement of the maintenance allowance or recovery of the dower (*Mahar*) etc. as the judge would decide in favor of the woman. Hence, the woman is not authorized to get herself divorced, if the husband failed to fulfill any condition except the 'first condition, and in case of enmity the wife would be seen as justified.

The first provision or condition is worthy of being written in golden letters, and its necessity and utility cannot be expressed in words. The experience testifies that the woman decides to get herself separated from the man in most of the unpleasant circumstances, but the divorce being a prerogative of man, she is rendered helpless. In such cases, this is the only provision which is helpful to the woman and can be utilized by her, if such condition was stipulated at the time of marriage, and she can get herself divorced in case of non-copulation in addition to other atrocities.

Besides, such provision can also be utilized in some specific cases. For instance, if this provision was not stipulated at the time of marriage, and the man is found to be impotent, the woman would face great difficulties. The woman cannot get herself divorced unless divorced by the man, as a result, she is required to refer the matter to a judge. The judge would give respite to the man for one year for the purpose of treatment, and all three seasons of the year should have passed by, because, sometimes, the seasonal effects would also affect the health. Even after one year if the man is proved to be inefficient and refused to give divorce, the judge would

get them separated by his own discretion. However, if the marriage was conducted with such provision, the woman can exercise her right of discretion and get herself separated without passing through such difficult stages.

Impotency is of two types. First, in case of the impotency of the man, if the woman appeals in the court, the judge has the discretion to get them separated, provided it is proved that the man had not discharged his conjugal duty at least once after marriage. In such a case of impotency, the advantage of that particular provision is that the woman can get herself divorced, without going to judge, and without facing the disgrace and bustles of the court.

The second type of impotency is that the man was healthy at the time of marriage and also performed the conjugal duty, but later on turned insane and mad or befalls impotency because of any physical shock or illness. Though he became incapable for the whole life, but in such case even the judge has no right to get them separated, as mentioned in *Durr ul Mukhtar*:

“If the man turned insane or impotent after copulating once, the woman is deemed to have been received her right, and now the judge cannot

get them separated.”

Precisely speaking, in those cases of impotency and insanity based on which even the judge has no right to cause separation, and the man also would not divorce, the woman has the discretion to get herself divorced by exercising her power of choice provided by such condition. In other words, in spite of the impotency and insanity, where the judge is unable to cause separation between husband and wife, there also the woman can take advantage of this provision. She is neither required to lodge a complaint of impotency to judge nor to wait for a long period of one year for judgement, nor required to be disgraced by practical demonstration of sexual relationship in presence of the female servants of the judiciary. She is free to exercise her right or not, there is no coercion and compulsion on her, but it will have unpleasant effect on her domestic life, and there is an apprehension that the Satan will subdue her, and she may go the way of wickedness, even then the husband is not giving divorce, though she is desirous of getting divorce, in such a case this provision can be utilized handily.

The cases of impotency occur rarely, and this provision is not attributed to such a particular situation

and neither described only for this purpose, however, this provision is very effective and useful in case of both types of impotency, be it natural or caused later on. Usually, in spite of having virility and capability, the cases of non-copulation come to fore because of the difference of temperaments, estrangement, unfavorable nature of circumstances and other reasons which cause the woman to be afflicted with different kinds of troubles. Even if she tolerates the quitting of sexual relationship, the lack of necessities of life and means of livelihood and spiritual torments become unbearable for her. In such a situation, when the man is neither giving nor willing to give divorce, such provision is found to be very useful. This provision facilitates the woman, if she so desires, to get divorced by self from the man based on non-copulation alone, even if other mistakes, atrocities and omissions committed by him are ignored.

These are the situations where the man is present, and the woman is getting divorced in his presence. Besides, in another situation the man is not present at his place, but it is known with certainty that he is alive and safe at some other place. Now more than one year has passed of his absence and since the sexual intercourse did not take place for one year, the woman

can take advantage of this provision, if she felt it necessary.

Another most terrible situation is the husband is missing and untraceable, and it is not known whether he is alive or dead. In such a case, the woman would still be considered as his wife and cannot perform second marriage unless: (1) the death of the man is not confirmed positively (2) all the people of his same age do not die (3) he had not completed the age of 90 years. However, if such provision were stipulated at the time of marriage, and such dreadful situation arises anytime, the woman would have the discretion to declare herself divorced. Whereas, in the absence of such a provision, she would for lifelong remain helpless and even a judge would also be unable to cause separation.

Though mere procedure of 'proposal and consent' (*Ijab-o-Qubool*) is sufficient for successful conduct of marriage, but the woman becomes entrapped in such a way that even in case of acute necessity she cannot get divorced unless the man divorces her. Nowadays, the entire world is performing the same type of simple marriages, which is causing confusion and disturbance. If we too remain content with mere 'proposal and consent' though it will not

affect the validity of marriage, but the woman will remain helpless. However, her vulnerability can be recompensed with the help of other conditions in general and this special condition in particular.

It is incumbent upon every member of the community to consider carefully and ensure her welfare and prosperity, comfort and tranquility in future when he is handing over his beloved daughter to somebody. It is improper to usurp the legal rights of a speechless woman and divest her of lawful freedom. Every person gifts a lot of money and effects, as per his capacity, in the name of dowry (*jahez*) and thinks that he had discharged his paternal duty, but he doesn't know what may befall in future and what kind of agonies and afflictions she will be subjected to by the husband. Therefore, the foresight calls for a precautionary measure to bid farewell to her armed with full legal freedom and protection, otherwise, it must be kept in mind that, in spite of providing so much money and gifts as dowry, he is bidding farewell from his house, to his beloved daughter or sister or any relative, as a mere pauper, poor and penniless.

Similarly, the esteemed priests (*Murshideen-e-Kiram*) also have a responsibility to protect the legal

rights (*Huqooq-e-Shara'ie*) of their female disciples. It is incumbent upon them, not to deprive the woman of the rights, facilities and freedom bestowed on her by the *Shari'ah* of Muhammad^{PBUH}. For the same reason, the priest or spiritual guide of the woman used to perform the rites and deliver sermon in our community since a long time. This tradition is based on such wisdom and prudence that the priest (*Murshid*) would particularly take care of the legal rights of his disciple, but nowadays, such practice of designating the priest of woman as *Khateeb* has become a mere formality, and the real purpose has been lost.

Although, all such provisos in general and this specific proviso in particular are such unique in the matter of importance and efficacy that the whole Islamic world cannot quote its precedent. An incidence is quoted here for instance. A few decades ago, Nawab Sarwar Jung was a secretary in the court of King Asif Jah VI (the sixth Nizam of Hyderabad) and was residing at Chanchalguda and was a devout devotee of Hazrath Late Syed Saheb Miyan Saheb, Sajjada of Daira Chanchalguda, a famous priest of our community. Once, the Nawab got the rites of marriage in his family performed by Hazrath Syed Saheb for the sake of auspiciousness. A large number of scholars,

religious chiefs and nobles of Hyderabad were present in the gathering of the wedding. As usual, Hazrath Syed Saheb recited the sermon (*Khutba*) compiled by Miyan Aalim Billah^{RZ}, and addressed the bridegroom with following words:

“MissD/o..... is given in your marriage in lieu of dower.....with a condition that, six months in case of presence and one year in case of journey, if your person did not reach her person, her discretion would be in her hands. So, with such a condition and such a dower, do you solicit and accept her?”

Listening to these appealing words, the whole gathering was moved and appreciated greatly, and most of the people impromptu exclaimed “I wish such provision should be introduced in our community too.” Similarly, on another occasion of marriage at Hyderabad in the year 1976, Hazrath Miyanji Miyan Saheb S/o Hazrath Ashraf Miyan Sahib^{RH} (*Daira e Nau*) performed the rites, and when he repeated the ‘proviso’ along with the sermon, a great scholar and director of Daira’tul Ma’arif Mr. Abdul Wahab Bukhari stood up and spontaneously embraced the deliverer of sermon (*Qari’un Nikah*) and congratulated him and said that he

had never heard such a comprehensive sermon till today. Hazrath Sa’adi^{RH} has told the truth:

Ignorant near ones are far away and distant but perceptive are nearby.

The first symptom of the misfortune and decline of any community is their contemptuous attitude towards their own good things and considering every bad thing of other communities as good. This is not the occasion to go in detail. Take for instance the four provisos usually stipulated at the time of the wedding. All these provisos are like jewels and only a jeweler knows their real value.

We are ignorant of the religion and sagacity, and do not have the prudence and knowledge of Islamic jurisprudence. Instead of recognizing the achievements of venerable elders and holding it up, our incapable commonsense considers these provisions as a matter of the past. Even we are disinclined to include them in the restrictive or penal ordinances of Islam (*Hudood-e-Shari’at*) and provide a place in the orbit of etiquette. Other provisions will be discussed later on, but now deliberation is going on the first condition, against which a voice of protest was raised that it is out of etiquette. The text of such provision is: *“If your person*

did not reach her person, her discretion would be in her hands.”

The purport of this objection is that such substance of immodesty should not be expressed in the gathering of marriage. There are two answers for such an objection: Accusatory and Factual. With regard to the accusation, those who raise objection on the decency of such provision should ponder over the fact that the characteristic quality of ‘etiquette’ is hard to find in present days. Since a long period of hundreds of years, no one denounced this provision as being indecent, and as a matter of fact, every defect is considered as skill or perfection and every act of shamelessness has become etiquette, in the present days.

Europe is weeping and lamenting by granting liberty to the women, and now the situation has turned uncontrollable, and the disorder prevalent there is incurable now. Instead of learning a lesson from the remorseful situation in Europe, we Muslims are blindly following them in their footsteps. Leave aside the conduct and character of the man, it will be elaborated later on, now just permit to say about women that the drama, cinema, circus, museum, exhibition, shopping, strolling in markets, semi-nudity, unveiling, co-

education in colleges, seating arrangement in buses and all such evils being created by such freedom are interpreted by us as broad mindedness, and tolerated them cheerfully. The pen and the speech are aghast about what to write and what to say about it.

It means we are happy and satisfied with these circumstances and becoming addicted to tolerating every obscenity with great patience and pleasure, and our power of tolerance is increasing day by day. Let us see what happens next?

In such circumstances, amazingly the listening to the commands of Allah and His Messenger^{PBUH} in the gathering of men only is intolerable for us in spite of the fact that there was no obvious indecency in speech,

The factual answer to that objection is that the good and bad aspects of everything are not conditional on our intellect and discretion but depend on the commandments of Allah and His Messenger^{PBUH}. Goodness or badness of anything is decided as per their decree. Similarly, the promulgation of their injunctions, whatever type they may be, is commendable, not contemptible. The Holy Qur’an, Hadith and books of jurisprudence are full of thousands of issues concerning the mutual relationship of the man and woman and the

marriage and divorce. Their learning and teaching, and education and propagation cannot be stopped just because these injunctions are believed to be against etiquette. Ultimately, what would be the means to describe them, and how the people would be acquainted with them? The religion of the Messenger of Allah^{PBUH} had spread through the Companions^{RZ}, but the Holy Wives and other female companions also participated. In addition to other mothers of the faithful, (2210) traditions (*Ahadith*) have been related by the mother of the believers Hazrath Ayesha Siddiqah^{RZ} alone, most of which are concerned with the issues of the women, domestic matters and sexual relationships. In this treasure of *Ahadith*, which contain the delicate and sensitive issues of men and women, how can they be spread? Common people are not literate with Arabic, therefore, to make them conversant with such issues and injunctions which are the essential part of the religion, translating them into Persian or Urdu languages is necessary. However, every language has its own beauty of expression, where any sense can be expressed in a decent and cultured manner leaving out obscenity and indecency, but they cannot be dropped altogether. If omitted, how can the transmission of the injunctions of Allah and his Messenger^{PBUH} take place?

During his caliphate, Hazrath Umar Farooq^{RZ} was strolling at night in the streets of Madinah Munawara. He heard the voice of a woman singing some couplets of love, whose husband was posted at the war front. Hazrath Umar^{RZ} immediately rushed towards his daughter and Holy Wife of the Messenger of Allah^{PBUH} Hazrath Hafsa^{RZ} and asked her: “How many days a woman can put up with the absence of a man?” She bent down her neck bashfully. He insisted: “What is the matter of shame? Allah the Almighty never felt ashamed in the matter of truth, you must reply to my question.” Hazrat Hafsa^{RZ} turned her face from him and put forward four fingers of her hand, which was an indication that a woman can exercise self-restraint for four months. Hazrath Umar^{RZ} issued orders that no soldier should remain on (religious) war duty for more than four months, and they must be transferred every four months.

In short, disclosure of the truth is also essentially required, be it through the allusion or indication like Hazrath Hafsa^{RZ} did. Hence, in the case of the provision under discussion, instead of using the words copulation, cohabitation, coition and sexual intercourse etc. the allusion and choice of garbed and cultured words by Hazrath Aalim Billah^{RZ} to express the

concept of this provision in a civilized manner is unparalleled. Any other decent way of phraseology, better than this, is impossible. Accordingly, this proviso can be pronounced, without any hesitation, in the gathering of nobles.

Precisely speaking, this proviso is necessary and very useful, and it must be made a part of the ‘proposal and consent’ in continuation of the old practice. Just as it forms the part of the sermon compiled by Hazrath Miyan Aalim Billah^{RZ}, or as per the sermon of Hazrath Shah Qasim^{RH} the bridegroom is made to accept briefly the four provisos at the time of ‘proposal’ and this and other provisos must be incorporated in the Marriage Document.

If the dignitaries, intellectuals and responsible persons of the community think fit, the best course of the implementation of these provisos and making them compulsory for the whole community is to insert this and other provisos along with the other matters of marriage in the memorandum of those who perform the rites and deliver sermon at the time of marriage. The bridegroom, the father or guardian of bride, agents (*vakeel*), witnesses and the deliverer of sermon must put their signatures on the document. In this situation,

uttering “Do you solicit and accept the four legal conditions” along with the sermon is enough. It will not be necessary to repeat the provisions, as the marriage document is credible which already contains the signatures. The woman can take advantage of this document if required. Hence, ignoring this provision and considering it as ignoble and unnecessary is synonymous to causing injustice to woman and depriving her of her legal right.

This provision is not aimed at invalidation of the power enjoyed by man over the woman. Hazrath Aalim Billah^{RZ} and Hazrath Shah Qasim^{RH} have taken this fact into consideration. The superiority of man over woman is an admitted fact. Allah the Almighty says: ***“Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means.”*** (4:34)

This verse denotes that Allah has given the man sovereignty over the woman and made him her protector. There are certain logics behind this, such as Allah has bestowed superiority to man over woman in terms of knowledge and course of action, which is a divine gift. Secondly, the kindness of men that they

spend their wealth on women, such as they bear the cost of living, pays dower and provides the necessities of life and their means of livelihood. In view of this, the obedience to man is essential for woman. Accordingly, Allah further says in the next verse: ***“The righteous women are devoutly obedient, and guard in (the husband’s) absence what God would have them guard.”***(4:34), which means, they protect themselves and the property of husband.

Among the scholars of India, Moulvi Abul Kalam Azad and Moulvi Maududi Saheb, disregarding the unambiguous Qur’anic injunctions and Ahadith, tried to prove the concept of the equality of man and woman with reference to Holy Qur’an, and stated that no one has superiority over other. For instance, Abul Kalam Azad writes in the commentary of chapter “Yousuf”: “Nothing is there in the Qur’an which can prove that the woman is inferior to man.” (*Tarjuman’ul Qur’an* Vol-II, Page 267)

Maududi Saheb also followed the same principle with some additions. While explaining the verse ***“Men are in charge of women”*** he clearly writes that “Allah did not intend to confer any honor and dignity”. (*Tafheem’ul Qur’an* Vol-I Page 349), which means,

though Allah used the word ‘preference’ (*Fazi’lat*) but He did not intend to confer eminence and preference, but the divine knowledge, denotes such meanings which negates the preference. Whereas the virtuous ancestors have interpreted this verse as “The man is a chief and boss of the woman.” Even the man can punish the woman as an admonishment if she is disobedient, because he is more prominent and distinguished than her, and for the same reason the prophecy and kingship has been reserved for men (*Tafseer-e-Kabeer*).

The circumstances of the revelation of this verse are also same that the man is superior to woman. Once, Hazrath Sa’ad bin ar-Rabi’ slapped his wife Habibah for disobedience. She approached the Messenger of Allah^{PBUH} along with her father Zaid and complained against the husband. The Messenger of Allah^{PBUH} told her to take revenge. She left and while still on the way, Allah revealed this verse ***“The men are in charge of women.”*** The Messenger of Allah^{PBUH} called back the father and his daughter and said, “We liked something but Allah preferred another thing, and whatever is preferred by Allah is more appropriate.” (Rooh’ul Ma’ani etc). Look, the concept of the equality of man and woman is being interrupted here.

The same commentators of *Taarjuman'ul Qur'an* and *Tafheem'ul Qur'am* kept quiet when they reached the verse **“But men have a degree (of advantage) over them.”** (2:228). Here something has been kept secret, though the preference and pre-eminence of men over women is clearly evident from this verse, then why such hesitation?

Imam Bukhari has narrated a tradition in the chapter *“Kufran'ul Asheer”* that the Messenger of Allah ^{PBUH} said: “I have seen a very formidable scene that the women were found more in the Hell. When Companions^{RZ} asked the reason, he said it was because of infidelity (*Kufr*). The Companions asked: “Do they not believe in Allah?” He said: “No, they are disobedient and ungrateful to their husbands (Which also denotes infidelity) and said: “If you do a favor to any woman throughout your life, and something unpleasant ever happened, she will say that she had not seen anything good in you.”

Imam Bukhari also narrated in other chapters that the Messenger of Allah ^{PBUH} graced the gathering of women after Eid prayer and addressed them: “You people should make efforts to pay charities and alms (*Zakat*), as I have seen the entrants in the Hell are mostly

women. The women asked the reason. He said: “You curse each other and remain ungrateful to your husbands. Despite being deficient in the matter of religion and intellect, you ruin the men who are perfect in the religion and wisdom.” The women asked, “What is the deficiency in our religion and wisdom?” He said: “Did not Allah specify the testimony of a woman as half of the man’s testimony?” They said: “Yes.” He said that this is the deficiency of intellect. Again, he asked: “Are you not deprived of the prayer and the fasting during the course of menses? The women said: “Yes”. He said: “This is a religious loss.”

Those who are trying to prove the equality of grades, through all angles, between the man and woman should consider the natural disparity in the view of *Ahadith* and decide how far their theory is correct.

In fact, this is not the objective of this provision to affect the authority of man, or the woman become ungrateful to man. The woman had neither kept her absolute power in her hands nor propounded the provision that “I will get myself divorced whenever I desire.”

Such absolute discretion is legally permissible and implementable, but such a situation may cause great

disturbance sometimes, as mentioned earlier. Further, she could have put forward a condition that, if the man marries another woman, or take her along with him on journey or did not pay the maintenance allowance or reluctant to pay the dower or cause any physical or spiritual hardship etc, etc, in such a case “My discretion would be in my hands.”

But the woman neither kept such absolute discretion in her hands nor made any minor and domestic difference as a precondition for divorce. However, if the affliction of cruelties by man become unbearable and the conjugal relationship is also not maintained, then taking advantage of the provision “six months in case of presence and one year in case of journey” she can get away from his clutches, if she so desire, but this measure too is not essential for her. If she is willing to live with patience and gratitude, she will be rewarded by Allah and grateful in the eyes of people, and if felt necessary, she can take advantage of this provision.

The gist of the above discussion is the woman is permitted to reserve her discretion of divorce for herself, as per Islamic law. If she wants to exercise her right, she should declare herself divorced on the basis of such a provision. There will be no controversy if the

husband admits and recognizes the existence of such provision, and the wife would become divorced without being divorced by the husband. However, if the husband refused to acknowledge such condition, the onus of proof lies on the woman, and the woman will refer the matter to a judge for settlement of dispute. Hence, it is mentioned in *Fatawa Aalamgiriya*:

“If the woman asserts her claim over the husband that he had granted the discretionary power to her, such claim would be not maintainable (The judge will not take any action). However, if the woman get herself divorced in accordance with the provision and files a lawsuit claiming that she had got herself divorced on the basis of the provision and pleads for orders of the occurrence of divorce and obligation of the dower, such case will be heard.”

Similarly, it is mentioned in *Durr ul Mukhtar*: “If the woman claimed that my husband had granted me the right to my divorce, such claim will not be heard. However, the case will be heard if she files claim after getting herself divorced on the basis of such provision.”

In the sense of these juristic propositions, if the

contracting of marriage was factually performed with such a proviso that the discretion of the woman will be in her hands, and now if she desires to get herself separated from the man on the basis of this provision, the procedure is the woman should first divorce herself and become divorced. After declaration of divorce and separation, the man will not have any right to raise objection because of this provision. Supposedly, if the man denied that such a provision was stipulated at the time of marriage, the woman will be required to refer the matter to a judge. But there is a religious and legal sensitivity in this matter. The woman should not claim before the judge that the marriage was performed with this condition, therefore issue orders for causing separation and divorce, and such claim will not be admissible. However, the claim should be in such a manner that the woman should get herself divorced, then file an appeal before the judge that I have got myself divorced on the basis of this condition, but this is not acceptable to husband, therefore decree the occurrence of divorce as well as the payment of dower. Such petition will be admissible, and the judge will call for the proof from woman. If she proved the existence of such condition with the help of two witnesses, the judge would ratify the occurrence of divorce.

Consequently, the wife will become absolutely divorced, and the husband will not have any right of objection. If he has any objection even after decree, religiously it will not be credible. Now the woman will be absolutely free and independent after completion of the probationary period (*Id'dat*).

In addition to the condition “the woman will have her discretionary power in her hands in a particular situation”. Hazrath Bandagi Miyan Shah Qasim Mujtahid e Giroh^{RH} has added three more conditions in the sermon compiled by him, which are very useful, sensible and judicious, and such a comprehensive and preventive that there is no room for any change. Supposedly, if anything is diluted, it will result in the loss of any of the benefits, and any addition will be superfluous. Accordingly, in addition to the condition “Her discretionary power would be in her hands” included in the sermon compiled by Miyan Aalim Billah^{RZ}, agreeing to it, Hazrath Shah Qasim^{RH} added three more conditions, as mentioned below after the first condition:

1. For six months in case of presence and one year in case of journey/absence, if your person did not reach her person, her discretionary power would

be in her hands.

2. The woman should not be kept in need of food, clothes, maintenance allowance and other means of sustenance. When required, the husband should perform the outdoor duties like fetching water, fuel, goods from the market etc. and keep the wife indoors and should not hurt her for any reason.
3. Pay the dower whenever demanded by wife, if does not have, promise to pay it or get it forgiven. Somehow keep her satisfied.
4. Do not take her beyond the religious limits as far as possible, and do not prevent her from going to parent's house.

Summary of these conditions:

1. Within six months in case of living together after marriage, and till one year in case of journey, if the conjugal duty is not carried out, the woman shall have the right to take her own decision. Which means, she shall have the discretion to get divorced by self, if she so desires.
2. Continue to provide the means of sustenance and keep her indoors and do not harass her.
3. Pay the dower whenever demanded or promise to pay or get it waived.

4. Keep her within religious limits as far as possible, and do not prohibit her from visiting the parent's house.

Out of these four conditions or provisions, only the first condition confers the right of divorce to woman, while the other three conditions do not grant such power. The advantage of these conditions is that the judiciary or the council of village elders (*Panchayat*) would deliver judgment in favor of the woman, or she can assert her right based on these conditions.

In the above lines, the essentiality and advantages of the first condition has been deliberated briefly, Now the remaining three conditions will be discussed respectively.

Second Condition: Maintenance

It pertains to the means of sustenance and private necessities of the wife. As per jurisprudence (*Fiqh*), providing the means of sustenance or the maintenance allowance (*Naf'qah*) to wife is an essential duty of the husband. (*Fatawa Aalamgiriya*). If the husband failed to provide the maintenance, the wife has a right to refer the matter to a judge for determination of the maintenance for her, because, as per Islamic law, the husband is bound to provide the food, clothes and

residential house to wife, as *Nafqah* implies these three things. These topics have been explicitly discussed in the books of jurisprudence, as to what kind of and up to what extent such responsibilities are essential for a man to conduct. An example is mentioned here which will show the extensiveness and comprehensiveness of religious issues. Leaving aside the issues of residence and clothes, in respect of the food and other necessities of life to be provided to woman, the clarifications provided by the jurists entitled to independent opinion (*Mujtahid*) with regard to bringing of water only, are worth seeing. All of them opine unanimously that bringing water from outside is the responsibility of man. Hence, the doctrine of Imam Aazam^{RH} is cited in the book *Kitab ul Fiqh al'al Mazahib al Arba'a*:

“Bringing water for taking bath (*Ghusl*), ritual ablution (*Wuzu*) and washing is a responsibility of the man.”

The doctrine of Imam Malik^{RH} is mentioned as:

“Fetching water in sufficient quantity for drinking, washing and post-coition bath (*Ghusl-e-janabat*), and also washing of woman’s clothes is a responsibility of man.”

The doctrine of Imam Shaafa’ie^{RH} is mentioned in the same book as: “Fetching water is incumbent upon the man for the purpose of drinking, cleaning and for the bath necessitated for woman because of the man.”

It means, in the opinion of Imam Shafa’ie^{RH} the man has to provide water only for the post-coition bath as it became obligatory on woman just because of the man. But it is not incumbent up on the man to provide water, if the woman is required to take bath after menses, puerperal haemorrhage (*Nifas*) and nocturnal ejaculation (*Ehtilam*).

Imam Ahmad bin Hanbal^{RH} opines: “Fetching necessary water for the purpose of cleaning and purity, bath, ritual ablution and drinking is a responsibility of the man.”

The comprehensiveness and all-embracing nature of the religious laws are such graceful that the quantity and purpose for which the man is bound to and not bound to bring water is clearly mentioned therein.

Similarly, another question might have arisen, as to who is responsible for washing the clothes of a woman. In the opinion of three jurists, the woman

herself is responsible, but Imam Malik^{RH} says that this is incumbent up on the man, and the same Maliki doctrine has been adapted by our elders. Hence, in some of the editions, the words “Washing of Clothes” included in the conditions laid down by Shah Qasim^{RH}, are the indications towards such religious laws, which we are not ready to hear at all. Either our sense of honor is active or we get overwhelmed with shame.

In our community, only water and firewood are mentioned along with the condition of maintenance, ignoring other necessities of life. Its real objective is to keep the woman indoors and perform the outdoor task by self, just as the Messenger of Allah^{PBUH} divided the domestic affairs between Fatima’tuz Zohra^{RZ} and Hazrath Ali^{RZ}, in such a way that the internal work should be done by Bibi Fatima^{RZ} and outdoor jobs by Hazrath Ali^{RZ}. Based on this principle, the jurists have defined the responsibilities of man and woman in detail. Today, looking at our means of livelihood and way of life, we cannot discard these religious issues as unnecessary. If Grace of Allah is with someone and absolved of such responsibilities, then why feel disgraced and ashamed of these provisions? He should be grateful to Allah for relief from such responsibilities. Not everyone is rich and enjoys the means of

accomplishment. The condition of bringing water, fuel and other necessities from the market will be definitely applicable on a poor and indigent person of this community.

This fact should never be neglected that the religious injunctions are meant for all the Muslims living throughout the world, not for only few lakh people living in the city of Hyderabad. Plenty of water is available in some of the houses, and some of them don’t need firewood as fuel, as electric stoves, cookers, washing machines and laundries are easily available, hence this provision will not be applicable to them. But millions of Muslims throughout the world are still deprived of such facilities. Leave aside the Arabian and African deserts where the water is not found for miles together, even now some of the villages just few miles away from Hyderabad are facing the scarcity of water and firewood. In case of any dispute between the husband and wife on providing the water and firewood in such places, the religious decision will go in whose favor? Obviously, the Shari’ah of Muhammad^{PBUH} will return such responsibility to man, either he should provide the outdoor necessities or arrange to provide.

The law is applicable to all irrespective of the rich or

poor, however they are exempted on whom the condition is not applicable. They should prostrate and adore Allah as thanksgiving for blessing them with wealth, and bustling is not necessary for them. But what the incapable one should do? Should he sit at home and send his wife to market for water and firewood? The religious injunction requires the man to carry out such task by himself and keep the wife indoor. The law cannot be diluted to suit the rich persons, as the rich and the poor all are equal in the view of religious laws (*Shari'ah*), and it is incumbent up on all of them to comply with them, and they must feel their responsibility as per their status. The Holy Prophet^{PBUH} himself used to go to market for shopping and keep his Holy Wives indoors. Once, he purchased something and picked-up. Abu Huraira^{RZ} who was accompanying requested him to give it. The Prophet^{PBUH} said: “One should hold his thing by himself.” It means, performing our own job or our domestic job is not a disgrace.

Imamuna Hazrath Mahdi Mau'ood^{AS} was travelling towards Khurasan. He broke his journey and stayed at a place, and it was the turn of Bibi Malkaan^{RZ} on that day. He came to her room but there was no water. He picked up the water pot and went to the spring of water, filled it up and carried it to *Daira*, where Malik

Bakhkhan^{RZ} requested him to handover the pot, but he refused. Anyhow he persuaded and took the pot over his head, and Hazrath Mahdi^{AS} continued to walk along with him. At the entrance of the room, Imam^{AS} took back the water pot and entered the room and asked Bibi^{RZ} to hand over his share (*Sawiyat*) of the day. She gave a bread made with sorghum along with some vegetable dish, which was given in turn to Malik Bakh'khan^{RZ} and asked him to eat, as Allah had given it. He sat down there itself and started eating. When finished, he said: “Meeranji! I myself was a noble of Patan and lived in the courts of the kings of Gujarat and had a chance several times to dine on their dining table, but the taste I enjoyed today with this bread and dish was not available on such royal dining tables (Piece of cloth spread on ground for serving dishes).”

Those who taunt smiling furtively on the condition “The husband should bring the water and firewood” should ponder over its real objective, which is included in the same condition that “the wife should be kept indoors” and the husband should provide the necessary things from outside. This objective is the essence of this provision, which has been arrived at from the ideal life pattern of the Messenger of Allah^{PBUH} and Imam Mahdi^{AS}, that the Prophet^{PBUH} did not send his Holy

Wives to market and Mahdi^{AS} did not ask his wife to bring water, but they did it by themselves. Their deeds clearly delineated the duties of the husband and the wife. In view of the epitome of the practices of the Prophet^{PBUH} and Imam Mahdi^{AS} and the juristic issues, Hazrath Shah Qasim^{RH} maintained that the wife should be kept indoors as far as possible, and the husband should take up the outdoor jobs and cited the water and firewood as per requirement of that period. Fetching water and firewood does not imply that it cannot be brought through a servant, but at the same time, carrying water pot and the bundle of firewood on our head, and washing the clothes of wife with our hands is a precondition of the contraction of marriage. It implies that the man should be sensible in respect of his responsibilities, perform outdoor jobs himself, keep the wife indoors and do not force her to unveil and go for shopping. Even if such details are not necessary in the present scenario, these words would suffice to express such condition: *“Continue to provide food, water, clothes and other necessities of life (Naan-o-Naf’qah) and keep the wife indoors.”*

As a matter of fact, even if only maintenance (*Nafqah*) is made a condition, it also includes and covers all of its components and derivatives, but to criticize and

ridicule such provision is not permissible and is contemptuous to the Shari’ah of the Messenger of Allah^{PBUH}. Here a question arises, whether making ‘maintenance’ a precondition was essential? When, even in the absence of such a condition, the husband was bound to provide maintenance as per religious law. A simple answer to this question will be that all and sundry will not be aware of juristic matters, hence, the purpose of describing this provision might be to enlighten the husband about his responsibilities. It will have no significance and meaningfulness if this provision is expressed only for this purpose, as the woman is entitled to receive the maintenance without such provision but with the help of the judge. Then what is the benefit of making it a provision? It will be a superfluous attempt. But Hazrath Shah Qasim Mujtahid e Groh^{RH} had stipulated it as a condition, and if perceived carefully, the real answer and advantage of making it a condition is that a disobedient woman who has left the home is not entitled to the maintenance, and even a judge will not pass a decree in her favor, if the husband proved her as disobedient. Similarly, a minor wife who is not fit for coition and enjoyment is also not entitled for maintenance from the husband. The advantage of making the payment of maintenance a

condition is that, if the woman is disobedient or minor and incapable of coition and enjoyment, even then she will become entitled to maintenance, because these reasons do not render the marriage as null and void. Therefore, as per this condition, she is entitled to maintenance in spite of being disobedient and minor till *Nikah* is valid, and the judge may pass decree in her favor, on the basis of such stipulated condition, if the matter is referred to a court.

The implicit advantage behind stipulation of the payment of maintenance as a condition by a magnanimous scholar Hazrath Shah Qasim^{RH} is that the woman will remain entitled to maintenance till the validity of marriage in such circumstances where she is not entitled to, like disobedience or minority etc. Hence, Hazrath^{RH} (Shah Qasim^{RH}) has guided towards this delicate juristic matter by stipulating the payment of maintenance as a condition, which is very much advantageous for the woman.

Third Condition: Pay Dower on Demand

There are two types of dower (*Mah'r*) as per religious laws: Deferred (*Mo'aj'jal*) and Instant (*Mu'aj'jal*).

The duration of time for payment of Deferred Dower is extendable till the death of husband or divorce, and the husband cannot be forced to pay the dower till death or divorce, which means that it is also a loan, and paying it earlier is most commendable. If not paid by husband, the woman has no right to file a claim before a judge for dower without his death or divorce.

The Instant or Prompt Dower is payable instantaneously or on demand. The woman has a right to file the claim if not paid. She can refuse to go with husband on journey and even she has a right to withhold herself, if not paid. Hence, the dower is usually settled as 'Instant' in our community through this provision, which has an advantage that the woman, if she so desire, can file a claim for recovery of dower and the judge may pass decree based on proof, even without being divorced by husband or his death.

The dower is also a form of loan. Just like loan, the dower too can be get waived off. Therefore, a part of the conditions is: "If could not pay the dower on demand, make a promise to pay or get it waived off."

It is necessary to clear up a misunderstanding. Usually, it is said that the contraction of marriage

(*Nikah*) will not be valid if the man though accepted the dower but had no intention to pay. In other words, he will continue to commit sin, though this is not true. Whether the dower is less or more, mere acceptance is enough, and the intention is not credible. The marriage is valid even without fixation and acceptance (of dower), yet the similar dower (*Mahr-e-Mithl*) (to the extent of the dowers of the women of her rank and of the ladies of her father's family) becomes applicable.

There will be no impact on *Nikah* and no fear of committing sin, if the dower is not paid or not forgiven and there is no intention to pay it, however the intention of non-payment is a cause of loss in the Hereafter. Non-payment and the intention of non-payment both things are improper for the following two reasons:

1. Just like the matter of the rights of mankind (*Huqoo 'qul Ibad*) will be decided on the Day of Judgement, and the virtues or good deeds of the oppressor will be assigned to the oppressed one and his sins will be assigned to the oppressor, in the same manner, on a complaint by a woman that the husband has not paid her loan (*Mahr*), order will be passed to transfer the sins of the woman to man, and the good deeds of the man to woman.
2. It is evident from some narratives that, just like a person

having no intention to repay the loan will be deemed as a thief, similarly a man who had accepted the dower, less or more, but failed to pay and have no intention to pay, will be deemed as a fornicator on the Day of Resurrection. In brief, the contract of marriage (*Nikah*) will not be impacted for having no intention to pay the dower, but one must keep in mind that the payment of dower is obligatory, hence try to pay it.

Fourth Condition: It has two parts. First, do not take her out beyond religious limits. Second, do not prohibit her from going to parents' home. This second part is absolutely in agreement with religious matters. It is mentioned in *Durr ul Mukhtar* and *Fatawa Aalamgiriya*:

“The jurists have passed a decree (*Fatwa*) that the husband should not prevent his wife from visiting parents' home on every Friday (Once in a week).”

Even in absence of such a provision, the husband should not prevent her from visiting parents' house, but if prohibited by husband, the wife should refrain from it. The advantage of narrating such proposition in the form of a proviso is the woman if went to her parents' house without permission, will not become disobedient on the basis of this condition, as she is exercising her

right granted by such proviso, and the husband cannot escape from paying the maintenance of those days.

The provision of not taking her out of the religious limits is also based on a juristic proposition, which requires the wife should be kept in the locality of pious and well-behaved people. The author of *Durr ul Mukhtar* writes:

“The man will be ordered to keep his wife in the neighborhood of well-behaved people, where she should not feel horrified.”

Allamah Shami^{RH} writes in *Radd ul Muhtar*: “The husband can keep his wife wherever he wants, but within the vicinity of virtuous people.”

Fatawa Aalamgiriya says: “The judge would order the husband to put up the wife among virtuous people.”

Accordingly, dwelling within religious limits is also a section of this principle. “*Daira*” is a particular term in the Mahdavia community. Though, the original form of *Daira* is missing today, but the purpose of living within a limited orbit is to facilitate the woman in performance of religious obligations. In our community, the women are more religious minded than men. The woman by living with the coreligionist

Mahdavis can utilize the company of her teacher, spiritual guide, venerable elders and relatives in the matters of religion, and such a place comes within the ambit of religious limit for her. If the woman is not ready to leave that place, showing concern for the matters of her life and death, the husband cannot force her to leave, based on this proviso.

Hazrath Shah Qasim^{RH} had included this condition in the provisos of the contract of marriage with great perspicacity. Just as the proviso which insists on living within religious limits was necessary in the preceding times, now also it’s necessity cannot be denied in this period of deterioration. In fact, the concept and essence of this provision is not to cause obstruction for woman in accomplishment of religious obligations. Living in *Daira* was an important necessity of the time, which has been mentioned particularly by Hazrath Shah Qasim^{RH}, otherwise, dwelling in *Daira* is not the actual objective, but the real intent of this proviso is to propound, non-interference of the man in religious matters of the woman, as a condition and cause him to admit it.

Although, payment of dower, maintenance, providing residence to wife in the vicinity of virtuous

people and not preventing her from going to parents' house, is compulsory for husband as per the Islamic law, then why these things are introduced as a provision and termed as the religious conditions?

The answer is, though the dower is payable compulsorily by the husband, but unless the dower is not categorized as 'prompt' (*Mu'ajjal*) through this proviso, the woman will have no right to claim it. However, this provision empowers her to claim and receive the dower without being divorced or death of the husband. Similarly, sometimes the husband is not bound to pay maintenance to wife. The intent behind introducing the maintenance as a proviso is to authorize the woman to receive maintenance till the validity of marriage in such circumstances where the husband is absolved of such responsibility.

The religious proposition is that she should be allowed to visit parents' house, but she must refrain if prohibited by husband, otherwise she will become disobedient and thus not entitled to maintenance. Nonetheless, she will not become disobedient hence deserve the maintenance by stipulating this thing as a proviso.

Similarly, the advantage of introducing 'living in

religious limits' as a condition is, in case the husband keeps her separate from the locality of well-behaved and virtuous people, or in other words interfere in her religious affairs, the religious judge will rule in her favor. In spite of that, by displaying "***The men are in charge of women***" if prevent her from going to parent's home and interfere in religious matters, in such case, the woman is helpless and would be rewarded by Allah, and the man is answerable for not honoring his words and would be called to account by Allah.

These provisos or conditions are termed as religious or lawful provisos (*Shara'it-e-shara'iyah*), as they are of two types: Perfect Proviso (*Shart-e-Sahih*) and Imperfect Proviso (*Shart-e-Fasid*).

The proviso which is contrary to the necessities and exigencies of the contract of marriage (*Nikah*) is an imperfect or depraved proviso. For instance, the dower, maintenance and sexual relationship are inevitable parts of *Nikah*, which cannot be denied, such as, the contract of marriage was executed with conditions that there will be no dower, the woman will not seek maintenance and the husband will not copulate, and being inseparable parts of the marriage, these are Imperfect Provisos, and from legal point of view, the

Nikah is valid but the provisos are invalid. In spite of such a proviso, the wife is entitled to seek the dower and the maintenance, and the husband is bound to pay, and he can establish the sexual relationship. The jurists have mentioned the religiously legal standpoint: “The *Nikah* is not rendered invalid with a depraved condition, but the condition itself becomes invalid.”

It means, the provisos which are contrary to the essentials of *Nikah* are invalid, unreligious and unenforceable. However, the provisions which are not inconsistent with the inherent elements of *Nikah*, and both the parties to the contract of marriage have agreed to them, are valid, lawful and enforceable. Hence, among the provisions currently in force in our community, one condition “Her discretion would be in her hands” is the permitted one by the religious law (*Shari’ah*). The provision insisting on the payment of maintenance, which is an inexcusable necessity of *Nikah*, is further confirmed and enjoined. Similarly, keeping the wife in the company of virtuous people and not prohibiting her from visiting parents’ house are themselves religiously lawful matters, but the man is made to stand committed and bear in mind, with the help of this provision. To be precise, the provision or condition which is not contrary to the essential

elements of the contract of marriage (*Nikah*) and also agreed upon by both parties, such proviso becomes a religiously lawful condition. Hence, from this viewpoint, Hazrath Shah Qasim^{RH} had applied the term “Religious Provisos” to these conditions in his sermon.

The man is made to admit the acceptance of these provisions immediately after ‘proposal’ (*Ijab*) in the sermon compiled by Hazrath Shah Qasim^{RH}, and the man is addressed to in this manner: “*Do you solicit and acceptD/o..... in your Nikah in lieu of dower () and with four religiously lawful conditions?*”

This is accepted by the man in general and thereafter the provisions are described in detail. Any objection cannot be raised as to what is the benefit of describing such provisos after the ritual of ‘proposal and consent’, as they are null and void after the end of *Nikah*, and now they remain merely as “promise”, and the man has a discretion to fulfill his promise or not, the provisos will not be applicable. In fact, such an objection is not valid, because the procedure adopted by Hazrath Shah Qasim^{RH} is based on a religiously lawful regulation, which says that the affirmation in brief necessitates admission of details. For example, the

one who professes the abridged creed (*‘Iman-e-Muj’mal*) is also an affirmer of the detailed creed (*‘Iman-e-Mufas’sal*). Similarly, bearing testimony that “There is no deity except Allah, Muhammad is the Messenger of Allah” implies belief in unity of Allah (Monotheism) and its relevant matters, His being with attributes, Holy Prophet and all of his injunctions and whatever is brought by the Prophet^{PBUH}. The brief declaration that “The Promised Mahdi (*Mahdi Mau’ood*) had come and departed” implies complete confirmation, such as the belief and submission to the being of Mahdi^{AS} (*Zaat-e-Mahdi*), relevant matters of Mahdiyath and all injunctions and edicts (*Faramin*) of Mahdi^{AS}. Similarly, a brief admission of acceptance of four provisos of the contract of marriage implies acceptance of all relevant details, which have been well-known since hundreds of years in the community. Usually, hearing the words “Four Conditions” the mind of the listener shifts towards the details, yet they are repeated after the sermon for reminding, but the man is not made to declare acceptance again.

The importance and necessity of these provisos can be evaluated from the fact that these provisos have been made a part of ‘proposal and consent’ (*Ijab-o-Qubool*) by the venerable elders who have compiled the

sermons of *Nikah* used in our community. Hence, prior to four hundred years, Hazrath Aalim Billah^{RZ} had done a great favour to women by causing to assign the right to “Divorce by self” in accordance with the religious laws. Similarly, Hazrath Shah Qasim^{RH}, through his unique juridical acumen and unparalleled sagacity, had prescribed three more comprehensive and preventive conditions which encompass the worldly and religious benefits for women, and which provide solutions to various problems faced by them.

All these four provisos are their memorable works and valuable resources created by our venerable ancestors through their leadership, guidance, sagacity and expertise in Islamic laws, which are being ravaged by us. These provisos are ridiculed today and viewed without foresight. Either they are described at all or if described, not utilized when required, because of lack of awareness. The listeners frown and presence of outsiders causes irritation, and we find ourselves unable to convince the objectors. Instead of proving the objector as an ignorant, we prove our ignorance, and blame the intelligence and wisdom, and knowledge and excellence of our worthy ancestors, though the importance and advantage of all such provisions in general and the first condition in particular is such

distinctive that any precedent is not found in the whole Islamic world. This matter is worthy of consideration as to how far we have fulfilled our responsibility? How much we secured the religiously legal position of a speechless and helpless woman? And what reward did she get in return of her devotion and respect to us?

If the importance and usefulness of the provisos is not considered, and the rights and discretions awarded to woman are not preserved, and performed 'proposal and consent' only, then nothing remarkable is done. Even an official judge (*Qazi*) can perform this task more perfectly, marriage record is maintained and used whenever required, but in such circumstances the distinctive features of *Nikah* prevailing in Mahdavia community will not persist. This point too was in view of this *Faqeer* in addition to other matters in not accepting the official register of marriage. If we too remain content with just 'proposal and consent' and do not preserve the religiously lawful rights of the woman, then what will be the difference between us and a *Qazi*? This important point needs serious consideration by the priests or spiritual guides and dignitaries of the community.

Forgiving Unpleasant Chats and Religious Precepts

As per Islamic law, there are two types of responsibilities on every Muslim which must be fulfilled compulsorily. They are: (1) Rights of Allah (*Huqooq'ullah*) and (2) Rights of Mankind (*Huqooq'ul Ibaad*). For instance, prayer, fasting, pilgrimage and almsgiving etc. and other religious duties are purely the Rights of Allah, which must be essentially fulfilled and refraining from it is a sin. If a servant is incapable or deficient in fulfillment of such deeds, Allah is empowered to forgive His right by virtue of His graciousness and mercifulness.

The other matters which must be fulfilled essentially by a Muslim with regard to another Muslim, as per Islamic law, are known as the Rights of Mankind, which is further clarified in a *Hadith*:

“A Muslim is a brother of another Muslim, neither oppress nor disappoint him and neither falsify nor humiliate him. By gesturing thrice towards his holy chest, said that the piety and fear of Allah is here (A perfect heart will make the whole body

perfect, and if the heart is defective, the whole body will become deficient). Again said: “Anyone can be considered as malicious just for insulting his Muslim brother, and that the blood, property and dignity of a Muslim are unlawful for another Muslim.”

The summary of this obligatory edict is that a Muslim should not target another Muslim with oppression for any reason whatsoever, be it on his person or by embezzlement in his property or vexation by disgracing him, hence the oppression by a Muslim on another one is absolutely forbidden. Censuring the oppression, it is cited in another *Hadith*: “The oppression will be a cause of darkness for the oppressor on the Day of Judgement.”

Another proposition from some worthy ancestors is: “Do not oppress on the weak, otherwise you will be treated as a vicious in the Hereafter.”

This is a religious regulation that Allah forgives His rights, but never forgives the rights of human beings, unless they do not forgive by themselves, who were subjected to the oppression or usurpation. This concept has been explained in a *Hadith* with the help of a clear example, which encompasses all kinds of the rights of

mankind. Jabir^{RZ} narrated that the Messenger of Allah^{PBUH} said:

“Keep away from backbiting as this sin is greater than fornication. The Companions^{RZ} asked the reason. He said that if a man sometime commits fornication and repents thereafter, Allah accepts his repentance, but never pardons the backbiting unless the person subjected to backbiting does not forgive him.” (*Shar’h Arbayeen Nuwavi*)

Another narrative is found in the same book:

“A person will be given his record of deeds, but he will not find any good deed therein. He will entreat Allah! Where are my prayers, fasts and other deeds of obedience? Allah will pronounce the judgement that all your good deeds have been handed over to such person whom you had subjected to backbiting. Another person will be given his record of deeds in his right hand, and he will find such good deeds therein which he had not done, and he will be informed that the good deeds of those people are credited to you who have subjected you to backbiting, but without your knowledge.”

Not only backbiting, all other oppressions will face the same situation that unless the oppressed one does not pardon, it will not be omitted from the responsibility of the oppressor. Since the Day of Resurrection is a Day of Reward, not the Day of Deeds, there will be no chance for taking revenge for any misdeed or to forgive each other's oppression, but this is a Day of Retribution, therefore the good deeds of the oppressor will be given to the oppressed one, and the sins of the oppressed one will be credited to the oppressor.

Not respecting the rights of human beings in the world and unjustly subjecting someone to oppression or usurping somebody's lawful right and not discharging the religious responsibilities will be censured and will not only result in loss of good deeds but also humiliation and disgrace in the Hereafter. If someone's property is stolen or usurped, the scene of the humiliation to be faced in presence of the gathering on the Day of Judgement is depicted in a *Hadith*:

The Messenger of Allah^{PBUH} said: "Beware! Be afraid of Allah. If you have stolen somebody's camel and lest you are made to carry him on your neck in the Hereafter while he is crying or a cow on the neck mooing or a goat with bleating"

(*Shar'h Jam'e Saghir by Manawi*)

This is not only the case of backbiting or theft of cattle, which is quoted just as an example by the Prophet^{PBUH}. Even if usurped the right of any Muslim brother or caused physical or spiritual pain or stolen his property, then it is utmost necessary to get such oppressions pardoned before death and in this world only. Otherwise, you will have to relinquish your good deeds in lieu of them and face humiliation in the Hereafter.

Our Imam Hazrath Mahdi Mau'ood^{AS} had once given a hint at the same religious matter and said that the rights of mankind should be get pardoned from the servants only. Accordingly, when Hazrath Shah Naimath^{RZ} met him for the first time and apprised him of his circumstances, he said: "Whatever sins you have committed regarding Allah, repent for them, Allah is most forgiving and merciful, Allah himself will pardon them, but the sins concerned with the people can be pardoned by the people only. Whatever sins you have committed with the people, get them pardoned by the people themselves."

It is established from this true edict that getting the rights of human beings pardoned by themselves is utmost necessary, and complying with this edict, the

Mahdavia community adheres to this practice more regularly, as Hazrath Mahdi Mau'ood^{AS} had honored us with lofty teachings of the purification of heart, piety and the quest for the vision of Allah and its essentials.

Further clarification of this matter is that the belief in heart, oral declaration and acting upon the commands and prohibitions prescribed by Allah and His Messenger^{PBUH}, as explained by the Prophet^{PBUH} is necessary, whether concerned with the rights of Allah or the rights of human beings. In both cases, after the belief in heart and oral declaration, acting upon them according to the intention of the Prophet^{PBUH} is necessary. Any deed against the intent of the Prophet^{PBUH} is deemed as a deficient deed, which can be recompensed by penitence in case of the rights of Allah, but in the case of the rights of human beings it should have been pardoned by the servant himself, as said by the Messenger of Allah^{PBUH}: “Allah never forgives the backbiting unless pardoned by the targeted person.”

In fact, Allah and His Messenger^{PBUH} have ordained the Muslims to behave nicely and properly with each other and prohibited them from oppression. If any Muslim could not follow such command, it can

be recompensed through repentance, and this practice, in Mahdavia terms, is known as seeking forgiveness for unpleasant chats or “Said and heard or said and done” (*Kaha Suna* or *Bola Chaala*).

These words are very comprehensive and encompass all kinds of laxity and negligence in the matter of deeds. In this process, a person admits his shortcoming before other and requests him saying: “If I have usurped your right or ever defamed you or targeted with backbiting or inflicted any kind of physical or spiritual pain on you or used your property without your permission, in any of such cases please forgive me for the sake of Allah.”

Though any day or date is specifically not fixed for such admirable deed, and like penitence, forgiveness too can be sought till the end of life. However, it is better and necessary to recompense the shortcomings in our deeds whenever we become aware of it.

Here, it is felt pertinent to clarify that Allah had accorded superiority to some of the months and some of the days of those months and made these days and nights a source of expiation of sins and purification of hearts for the Ummah of Muhammad^{PBUH}. The tenth

day of Muharram is one of such sacred days, bestowed with honor and superiority. Hence, Hazrath Adam^{AS}, Hazrath Ibrahim^{AS} (Abraham) and Hazrath Moosa^{AS} (Moses) were brought into being by Allah on this day. The penitence of Hazrath Adam^{AS} and Hazrath Dawood^{AS} (David) was accepted on this day. Hazrath Idrees^{AS} (Enoch) and Hazrath Isa^{AS} (Jesus) were raised to heavens on this day. The ark of Noah rested on Al-Joodi (A mountain of Al-Jazeera near Al-Mosil) on this day. Hazrath Ibrahim^{AS} from the fire of Namrood (Nimrod), Hazrath Yunus^{AS} (Jonah) from the abdomen of a fish. Hazrath Ayyub^{AS} (Job) from the illness and agony, and Hazrath Moosa^{AS} (Moses) from the mischief of Pharaoh, were rescued on this day.

The heaven and earth, mountains and oceans, tablet and pen recording the divine decree and all angels were created on this day and the first ever rainfall occurred on the tenth day of Muharram. Probably, because of such virtues, Allah the Almighty had selected this day for the martyrdom of Hazrath Imam Hussain^{RZ}. It is also proved from *Ahadith* that the Day of Resurrection will occur on the tenth day of Muharram. *If Allah Wills.*

An incidence is found in the holy biography of

the Messenger of Allah^{PBUH} that during his mortal illness he said: “If I owe anything to anybody or caused harm to anyone’s life, property or dignity, then take revenge from me in this world only.” All the gathering was struck with consternation after listening to these words, however, one person got up and claimed some small loan. The Prophet^{PBUH} ordered to be paid.

It is cited in some narratives that Hazrath Imam Hussain^{RZ} had sought forgiveness from the members of caravan before martyrdom. Most probably, adhering to his deed, such custom is continuously practiced in Mahdavia community, and in view of the virtues and excellent qualities of this day, such practice is being connected with this day.

To be precise, the people get themselves relieved of responsibilities of the rights of human beings in this world only, and such deed is utmost necessary and exactly in accordance with the commands of Allah and the Messenger of Allah^{PBUH}. *Allah Knows the Best with Perfection.*

Virtues of the Tenth Day of Muharram

A legal opinion (*Fatwa*) was published in the magazine “*Noor-e-Hayat*” in the month of April 1967 regarding seeking forgiveness from others for the unpleasant chats on tenth day of Muharram, which was a masterpiece of the Council of the Mahdavia Scholars of India. The seeker of opinion wants to know the reality of the practice of seeking forgiveness on tenth day of Muharram which is prevalent in Mahdavia community. There are two parts of this question:

1. What is the reason or necessity of seeking forgiveness?
2. Why is this custom specifically linked to the tenth day of Muharram?

First part is very important from religious point of view and requires further clarification. It was answered intelligently and explicitly, and its beneficence was explained in view of the rulings (*ahkaam*) of Allah and the Messenger of Allah^{PBUH} and the losses to be incurred if such traditions are not practiced was clarified with its several aspects. All such deliberation was published in “*Noor-e-Hayat*” spread over four

pages, which clearly proves the significance, necessity and authenticity of such custom practiced in Mahdavia community. The people, for the first time, came to know that following such practice is utmost necessary and exactly conforms to the commands of Allah and the Messenger of Allah^{PBUH}, and its implementation will be a source of several benefits, but negligence and considering it as disgrace will result in the humiliation and loss in the Hereafter.

The gist of the answer provided for the second part of the question is that this practice is not conditional to the tenth day of Muharram, however preferable if done on this day, as the virtues of this day are an admitted fact. In fact, such deeds should be carried out daily or weekly or every month, however it will be safe if carried out at least once in a year. Since this custom is practiced on the tenth day of Muharram in our community, the questioner wants to know the privilege of the month of Muharram and its tenth day out of the twelve months. It's answer was also necessary to satisfy the questioner, hence the virtues of this particular day were also elucidated, but a doubt was cast that *Ibn Jawzi* and *Shawkani* have declared it as analogous, therefore, such doubt is cleared in the following lines.

The virtues and merits of the month of Muharram and the tenth day of Muharram are proved from the genuine *Ahadith*, as narrated by Imam Tirmizi and Imam Nasa'i that the Messenger of Allah^{PBUH} said: "Observing fast in Muharram, the month of Allah is more preferable after the month of Ramadan."

It is narrated in *Sahih Muslim* and *Abu Dawood* that the Messenger of Allah^{PBUH} was asked as to which fasts are preferable after the fasts of the month of Ramadan? He said: "Observe fast in Muharram as it is the month of Allah."

"Someone asked Hazrat Ali^{RZ}: In which month fasts should be observed after the month of Ramadan. He replied that the same question was posed to the Messenger of Allah^{PBUH} in my presence, and he said: If you want to fast after Ramadan, better to fast in the month of Muharram, as this is the month of Allah, and there is one particular day in this month, when Allah had accepted the repentance of one community, and will accept the repentance of another community on this day." (*Tirmizi*)

It is evident from these *Ahadith* that the Messenger of Allah^{PBUH} had revealed that Muharram is

the month of Allah, and the day referred to as virtuous by him is the tenth day of Muharram.

This is the excellent quality of the month of Muharram, and excellence of the tenth day of Muharram is evident from a narration by Hazrat Abdullah ibn Abbas^{RZ} recorded in *Bukhari* and *Muslim*:

"When the Messenger of Allah^{PBUH} reached Madinah, he observed that the Jews are fasting on tenth day of Muharram. He enquired about it. The Jews said that this is a sacred day and Moses^{AS} and the sons of Israel were rescued by Allah from his enemy Pharaoh on this day and Moses^{AS} himself had observed fast on this day. He said: We have more rights on Moses^{AS} than you. Hence, he observed fast on tenth day of Muharram and ordained others to do so."

These words are found in *Abu Dawood* that the Messenger of Allah^{PBUH} said:

"Moses^{AS} observed fast as a thanksgiving for deliverance from enemy, and we observe fast on this day as a mark of respect."

The augustness and excellence of the tenth day of Muharram is evident from this edict.

An exalted (*Mar'fu'*) Hadith is narrated by Abu Huraira^{RZ} in Ibn Abi Shaybah:

“Observe fast on tenth day of Muharram, as the Apostles^{AS} too used to fast on this day, hence you too should observe fast.”

Dailami and *Bazzaz* have narrated an exalted *Hadith* by Abu Hurairah^{RZ} that the Messenger of Allah^{PBUH} said: “The tenth day of Muharram was the Day of Festivities for the people preceded before you, hence observe fast on that day.”

It is cited in *Bukhari* and *Muslim*: “The Messenger of Allah^{PBUH} himself observed fast on tenth day of Muharram and ordained others to do so.”

The virtues of fasting on tenth day of Muharram are defined in a Hadith cited in *Sahih Muslim*:

“The Messenger of Allah^{PBUH} was asked about fasting on the tenth day of Muharram. He said that the fasting on this one day becomes expiation for the sins of last one year.”

A narration from Abu Qatadah^{RZ} is mentioned In *Tirmizi* that the Messenger of Allah^{PBUH} said:

“I have faith that Allah will make the fasting on tenth day of Muharram a source of expiation for the sins of one year.” In short:

1. It is evident from the *Ahadith* of Muslim, Tirmizi, Abu Dawood and Nasa'i that Muharram is the month of Allah.
2. It is evident from the *Ahadith* of Bukhari, Muslim and Abu Dawood that the Messenger of Allah^{PBUH} used to observe fast on the tenth day of Muharram and ordained others also to observe fast.
3. It is evident from a narration in Abu Dawood that the Messenger of Allah^{PBUH} considered this day as honorable.
4. It is evident from the *Ahadith* narrated in Ibn Abi shaybah, *Dailami* and *Bazzaz* that the preceding Apostles used to observe fast on that day and it was a Day of Festivities for preceding nations.
5. It manifests from the *Ahadith* mentioned in *Muslim* and *Tirmizi* that the sins of one year are pardoned in lieu of fasting for one day on tenth day of Muharram.

Since there was no scope for such lengthy deliberations in legal opinion (*Fatwa*) and no intention to explain the virtues of the fast on tenth day of Muharram, therefore not deduced from any of these *Ahadith*. However, such

Ahadith were included in the *Fatwa*, from which the virtues of the tenth day of Muharram are comprehensible. Hence, it is cited in the book “*Nafhat-e-Nabawiya fi faza’il-e-Aashuriya*” by Shaikh Khamradi:

“A large number of Traditions are found in respect of the superiority of tenth day of Muharram, such as, the penitence of Adam^{AS} was accepted on this day, the throne of Allah, heaven and earth, sun, moon, stars and the paradise were created on this day. Ibrahim Khaleelullah^{AS} was born and even saved from the fire of Nimrood on this day. Moosa^{AS} and his companions were rescued from their enemy Pharaoh and Pharaoh and his colleagues drowned in the river Nile on this day. The ark of Nooh^{AS} rested on the hilltop *Joodi* on this day. Suleman^{AS} was bestowed with a great dominion on this day. Yunus^{AS} was rescued from the abdomen of a fish on this day. The eyesight of Yaqoob^{AS} was restored on this day, Yousuf^{AS} was rescued from a well on this day, Ayyub^{AS} was recovered from illness on this day and the first ever rainfall occurred on this day.”

Indeed, all of these events are authentic and

undisputed. Shaikh Khamradi did not write that the occurrence of all such incidents on tenth day of Muharram are proved from exalted (*Marf’u*) *Ahadith*, however used the word “*Aathar*” (manifestations) which denotes that the virtues of the tenth day of Muharram have been gathered from the *Hadith* of the Messenger of Allah^{PBUH} as well as from the propositions of the Companions^{RZ} and their successors (*Taba’in*). The legal opinion (*Fatwa*) was also compiled carefully, and all such events reported to have been occurred on tenth day of Muharram were not granted the status of being genuine *Ahadith*. As a matter of fact, some of the events such as the deliverance of Moses^{AS} from the mischief of Pharaoh, observance of fast by the Messenger of Allah^{PBUH} on this day considering it as sacred and ordering others to fast. Similarly explaining the virtues of tenth day of Muharram he said that this fast on this day is a source of expiation for the sins of one year, and also said that Muharram is the month of Allah, and one day in this month is such that the repentance of a community was accepted by Allah on this day. All such virtues and merits have been substantiated by *Bukahri*, *Muslim* and other books amongst six

authentic collections of *Ahadith*. The occurrence of other events on tenth day of Muharram has been established by the propositions of the Companions^{RZ} and their successors.

Ibn Jawzi's standard of evaluation is very high and mostly he declared the genuine *Ahadith* too as incorrect. Abdul Haq Muhaddith Dehlavi too has quoted his opinion in his book "*Ma Thabata bis-Sunnah*". Shawkani belongs to the scholars of *Ahle-Hadith*, and except his school of thought, most of the *Ahadith* are usually declared as "weak" by him without any reason. Even they are doubtful about the occurrence of the Day of Resurrection on tenth day of Muharram, despite of the fact that the occurrence of the Day of Resurrection on tenth day of Muharram is proved from *Ahadith*. Imam Qurtubi etc. have written such narrations. Hence, the elders of Mahdavia community used to seek forgiveness before sunrise on tenth day of Muharram, lest the sun rises from the west, the door of repentance is closed, and the Day of Resurrection occurs.

Even doubt has been cast on the matter of seeking forgiveness by Imam Hussain^{RZ} on the eve of martyrdom. There is no harm if such narration is not

found in any book. Even the legal opinion was also not based on such incidence but shown as just a probability that the stipulation of tenth day of Muharram might be based on it in our community.

Historians habitually record some events in detail and some others in brief, even they omit some events considering them unnecessary and unimportant. But a general rule says: "Not speaking about anything does not mean its non-existent."

Let any Sunni or Shi'ah historians write such deed of Imam Hussain^{RZ} or not, but such custom is regularly practiced in our community, and it is worthy of his^{RZ} dignity and exactly conforming to the Qur'an and *Hadith*. His grandfather Muhammad the Messenger of Allah^{PBUH} also pursued the same practice before death. There is no reason to be pensive if Imam Hussain^{RZ} followed his grandfather^{PBUH}. In our opinion the attribution of this deed to Imam Hussain^{RZ} is correct and established. We don't require ratification and authentication by others. We follow the proverb: "Insiders know the best about the matters of inside."

In some of the priestly families of Mahdavia community it is a common belief that Hazrath Imam Mahdi Mau'ood^{AS} also sought forgiveness on tenth day

of Muharram, hence adhering to his^{AS} deed, same practice is followed and must be followed on that particular day. The objector too has recognized that the practice of seeking forgiveness belongs to Mahdavia community but has a doubt that the virtues of the day are unoriginal to which such deed is attributed, but this is wrong. The virtues and merits of the tenth day of Muharram have been specified and established by the genuine *Ahadith*. The events said to have occurred on tenth day of Muharram are the facts established by the traditions of the Companions^{RZ} etc. All such occurrences are of historical standing and not concerned with matters of belief and faith. They appertain to sermonizing, persuasion and admonition and oratory. Supposedly if there is any kind of weakness in such events, the scholars have opined that the inference with weak *Ahadith* in the matter of preferable deeds is permissible. Neither it will make any difference in the matter of faith, nor it will amount to the violation of any stipulated matter, if some of the events and affairs of the Apostles^{AS} are presumed to have occurred on tenth day of Muharram.

Visiting the Graves

As per the religious injunctions and unanimous opinion of the chief jurists as well, paying a visit to graves is desirable (*Mus'tahab*) and recommended (*Man'doob*). The unanimous doctrine of the four chief jurists is cited in *Kitab'ul Fiqh al'al Mazahib al Ar'ba'a*:

“Visiting the graves is recommended for seeking the admonition and reminding ourselves of the Hereafter.”

The deed rewarded by Allah if performed and not penalized if omitted is known as *Sunnah* and *Mustahab* or *Mandoob* in juristic terminology.

In the initial stages of Islam, the Messenger of Allah^{PBUH} had prohibited from visiting the graves but permitted later on. The summary of the *Ahadith* narrated by Abdullah ibn Masood^{RZ} in *Ibn Majah*, Buraydah^{RZ} in *Tirmizi*, Abu Huraira^{RZ} in *Abu Dawood*, Anas^{RZ} in *Musannaf ibn Abi Shaybah* and *Mustadrak* is that the Messenger of Allah^{PBUH} said:

“Earlier I had prohibited you from visiting the graves but now I permit you, as visiting the graves

soften the hearts, make the eyes tearful, awaken a desire to lead a pious and ascetic life and reminds one of the Hereafter, but do not talk in obscene language in the graveyard.”

In these *Ahadith*, the Messenger of Allah^{PBUH} has generally permitted paying a visit to the graves, hence evidently it is applicable to men and women both. Allamah ibn Abdul Birr writes:

“Just like the prohibition for visiting the graves was general, the permission also is general. When the prohibition has been revoked and permission has been made common, the visit to the graves by men and women both is permissible.” (*Umda'tul Qari Sharh Bukhari*)

In the view of some of the jurists, visiting the graves by women is execrable (*Makrooh*) and unlawful. Their argument is based on a *Hadith* narrated by Abu Huraira^{RZ} and recorded by *Ibn Majah* and *Tirmizi* that:

“The Messenger of Allah^{PBUH} had cursed the women who visit the graves.”

But Imam Tirmizi himself wrote below regarding this *Hadith*:

“This was spoken by the Messenger of Allah^{PBUH} regarding the women before granting permission to visit the graves, but when permitted to visit the graves, the women too are included in such permission.”

This narrative of Imam Tirmizi is corroborated by another narrative of Bukhari: “When the Messenger of Allah^{PBUH} saw a woman weeping in the graveyard, told her to “Be afraid of Allah and keep patience.” She did not recognize him and said: “The calamity befallen upon me has not befallen upon you.” The people present there reprimanded her; what did you say and to whom? He is the Messenger of Allah^{PBUH}. She rushed towards him and apologized. He again persuaded her to keep patience.”

As an explanation to this *Hadith*, Allamah Ayni writes in *Umda'tul Qari*:

“It denotes, the Messenger of Allah^{PBUH} did not prohibit her from visiting the graves, but instructed her to be devout and patient, and this implies the permissibility of visiting the graves for women.”

Hafiz Asqalani writes in *Fat'hul Bari Sharh Bukhari*:

“It is evident from this *Hadith* that paying a visit to the graves is permissible irrespective of the pilgrim is either a man or a woman.”

Allamah Ayni writes that, once Hazrat Ayesha Siddiqa^{RZ} was returning from a graveyard. Abdullah bin Malikah^{RZ} asked her, where from she is coming from? She replied that she had been to the grave of her brother Abdur Rahman^{RZ}. He said that the Messenger of Allah^{PBUH} had prohibited the women from visiting the graves. Hazrat Ayesha^{RZ} replied; though prohibited earlier but permitted later on.

It is mentioned in Muslim Sharif that Hazrat Ayesha^{RZ} asked: O Messenger of Allah^{PBUH}! What should I say when I visit a place of burial? He told her to say:

As-Salaamu ala ahl'ad diyar minal momineena wal muslimeneena wa yar'ham'ullahu al-mustaqdimeena minna wal mustakhireena wa inna in'sha Allahu bikum lahiqoon.

“Peace be upon you the people living in the land of believers and Muslims and may Allah have mercy upon the earlier and the later ones and we too would be joining you if Allah wills.”

It is evident from this Hadith that the Messenger of Allah^{PBUH} not only permitted Hazrath Ayesha^{RZ} but also taught her the method of visiting the graves.

Imam Tirmizi has cited this reason for reprehensibility (*Karahiyat*) of visiting the graves by women:

“Some of the people said that the reason for the execration of visiting the graves by women is the impatience and a lot of apprehension among them.”

Imam Qurtubi writes: “It means, in absence of any of such things, nothing prevents the women from visiting the graves, as the remembrance of death is necessary for the men and the women alike.”

Except the condition of wailing, the Hanafite jurists have decreed in general that visiting the graves by women is permissible without any abhorrence, if they do not indulge in wailing and committing any unlawful things in the graveyard. It is mentioned in *Fatawa Aalamgiriya*:

“The jurists have a different opinion about visiting the graves by women is permissible or not. Shamsul A'imma Sarkhasi^{RH} says the more correct

view is that there is no objection to it.”

It is cited in *Durr ul Mukhtar*:

“There is no objection to visiting the graves even by women.”

Allamah Shami writes in its commentary *Radd ul Muhtar*:

“Some of them say that it is not permissible for women, but more correct view is that the permissibility of visiting the graves by women is a proven fact.”

It is specified in *Bahrur Ra'iq*:

“It is clarified in the book “*Mujtaba*” that visiting the graves is recommended. Some of the people hold it as unlawful for women, but actually it is permissible for men and women both.”

It is mentioned in *Miraqi al-Falah*:

“Some of the people hold it unlawful for women but most factual and decreed view is that it is permissible and Sunnah as well for both the men and the women.”

As an explanation to this statement, Imam Tahtawi writes:

“Visit to graves is permitted for women if there is no (fear of) immorality, and both men and women have the permission to visit the graves. Even Hazrath Fatima'tuz Zohra^{RZ} used to visit the shrine of Hazrath Hamzah^{RZ} every Friday in Madinah, and Hazrath Ayesha^{RZ} to the shrine of her brother Abdur Rahman^{RZ} in Jannatul Mu'alla.

Accordingly, it is evident from genuine *Ahadith* and propositions of the jurists that paying a visit to graves is highly recommended and desirable for men and women alike, and its virtues and rewards cannot be given up for some deterrents. For instance, the possibility of mingling of men and women should be avoided. The men should refrain from going when women are there, and women should desist if men are visiting the graves, or separate timing should be maintained for them. Similarly, other improper things too can be rectified and prevented through sagacity and exhortation, but neither men should refrain from visiting the graves nor prevent the women from doing so, as both things are uncalled for. Both of them have equal right to derive benefit from paying a visit to the

graves with religious decorum. Allamah Ibn Abideen writes:

“The practice of visiting the graves should not be avoided for the fear of some objectionable and malicious acts, such as mingling of men and women. In fact, paying a visit to the graves is a rewarding deed, which cannot be avoided for such reasons, and such misdeeds should be rectified and prevented.”

Hence, visiting the graves is permissible as well as recommended and desirable for women too, but with a condition that they should visit the graveyard religiously veiled and desist from evils and forbidden acts and refrain from wailing, lighting a lamp and other acts which are religiously unlawful. It is preferable to remember our death, take a warning from the dead, pray Allah for salvation of the relatives and other believers buried there and have an intention to seek blessings from shrines of the saints.

The method of visit to graves is mentioned in *Fatawa Aalamgiriya*:

“It is desirable (*Musta’hab*) to offer two units (*Rak’at*) of prayer in our home before leaving for visiting the

graves and recite *Surah Fatiha* and *Aayatul Kursi* once and *Surah Ikhlas* thrice in every unit and bestow the reward of this prayer to the deceased. Allah the Almighty will illuminate the grave of the deceased and reward the one who offered prayer manifold. Do not engage in useless talks and deeds on the way. Remove shoes when entering the graveyard, turn the back towards *Qibla* and face towards the deceased and recite this *Salaam*:

“*As-Salaamu alaikum ya ah’lal quboor minal muslimiina wal momineena an’tum lana sal’fun wa nahnu tab’un wa inna insha’allahu bikum lahi’qoon yar’ham’ullahu al-mustaqdimeena minna wal musta’khireena wa as-alul’lahu lana wa lakum al-aafiya yagh’firullahu lana wa lakum wa yar’hamna wa iyya’kum.*”

After finishing this *Salaam*, stand at left side of the grave facing towards *Qibla* and recite *Surah Fatiha*, *Aayatul Kursi*, *Surah Iza Zulzilatul Arz* and *Surah Al-Hakum’ut Takathur*, and bestow its reward to the deceased.

It is mentioned in the said *Fatawa* that: The preferable days for visiting the graves are Monday, Thursday, Friday and Saturday. The best timings are

after Friday prayer, after sunrise on Saturday and earlier or later time of the day on Thursday. Paying a visit to the graves is desirable in the night of *Bara'at*, earlier ten days of the month of *Zul-hijja*, tenth day of Muharram and other sacred days.”

It is cited in *Radd ul Muhtar*: “Whatever chapters and verses of the Qur’an can be recited easily, recite them and bestow the reward to the deceased”

It is mentioned in *Durr ul Mukhtar* with reference to a *Hadith*:

“Reciting *Surah Ikhlas* (11) times in the graveyard and sharing its reward with the dead persons buried there will earn a greater reward.”

Allamah Ayni writes that the Messenger of Allah^{PBUH} said:

“If *Surah Yaaseen* is recited in the graveyard, Allah the Almighty will reduce the torment for the dead buried there on that day.”

There is a difference of opinion on the matter of placing flowers on the graves. Maliki school of jurisprudence does not agree to it, whereas the Hanafi and Shafa’ie school of jurisprudence consider it as

commendable and decreed as permissible. Such difference of opinion is based on a *Hadith* narrated by Abdullah ibn Abbas^{RZ} and cited by Imam Bukhari, which is summarized below:

“The Messenger of Allah^{PBUH} passed by two graves, heard a sound and said that both of them are suffering from torment, and this punishment is not because of any grave sin but just because one of them was careless about urine and the other was involved in backbiting. The Prophet^{PBUH} took a branch of date-palm, halved it and placed one each on these graves. When the Companions^{RZ} asked the reason, he said that until these branches are not dried up, I hope their suffering will remain alleviated.”

Some of the interpreters of Hadith including the Malikite school of theology consider it as a prerogative of the Prophet^{PBUH} and prohibit others from doing so, in spite of the fact that neither he declared it as his privilege nor prohibited his Ummah from such practice. Therefore, Allamah Ayni Hanafi writes in *Shar’h Bukhari*: “If such deed was his own privilege, he might have informed others.”

Hafiz Asqalani has written in his *Shar’h Bukhari* that one of the Companions Buraydah al-Khasib^{RZ} had

directed that two branches of date-palm should be kept on his grave, which shows that, if such deed was a prerogative of the Messenger of Allah^{PBUH}, Buraydah^{RZ} would not have adopted it. Hence, Hafiz Asqalani wrote: “It means, the authenticity of placing the branches of date-palm on a grave is proven from the practice of the Messenger of Allah^{PBUH}.”

Allamah Ayni writes in *Umdatul Qari Shar’h Bukhari* that such a purpose can be served not only with a branch of date-palm but also with a branch or leaves of any of the trees.

Indeed, the statement of Allamah is correct. Only greens and freshness are required on that occasion, however, the branch of a date-palm dries up lately, and the same was available to the Prophet^{PBUH} at that time. Just like the date-palm and its branches are available abundantly and easily in Arabian countries, the flowers are easily and sufficiently available in large quantities in our country. Therefore, using flowers or other green leaves in place of the branch of a date palm cannot be considered as wrong and undesirable. The main point of this *Hadith* is the statement of the Prophet^{PBUH} that the punishment will remain mitigated till the leaves are not dried up, and he neither dedicated this deed to

himself nor prohibited others from doing so. Thus, the permissibility of placing the flowers or leaves of any tree on the graves is proved from this *Hadith*, and besides other manners of conveying reward of virtuous deeds (*‘Isal-e-sawab*), this method too is certainly valid and even perfectly in accordance with the practice of the Prophet^{PBUH} (*Mas’noon*). Most of the jurists hold it as valid based on this *Hadith*.

Moreover, it is cited in *Miraqi al-Falah*: “Cutting off the trees and green grass from inside the graveyard is execrable, as they are engaged in glorification of Allah till they are fresh, and the mercy of Allah descends wherever the remembrance and glorification of Allah is carried out, and consequently the corpse receives comfort and peace.”

Commenting on this, Imam Tahtawi cited this *Hadith* and wrote that the Prophet^{PBUH} had placed a branch of date-palm on the grave, which may symbolize anything which is moist and damp. Later on, he wrote: “Some of the later eminent Hanafite jurists have decreed that the usual practice of placing the flowers and green leaves on the graves becomes *Sunnah* because of this *Hadith*.”

It is mentioned in *Fatawa Qazi Khan* that the

greens and vegetation should not be removed from the graveyard. Allamah Ibn Abideen wrote in *Bahrur Ra'eq* that removing the greens and green grass from graveyard is execrable, as they glorify Allah until they are fresh, the mercy of Allah descends, and the corpse gets comfort. Continuing his statement, he referred to this *Hadith* and said: "Because the green leaves glorify Allah and according to this Hadith, placing green and fresh branches of trees on the grave is a recommended Sunnah. The permission of the usual practice of placing the flowers on graves in our times is also consistent with this Hadith. In addition to Hanafites, a group of Shafa'ie jurists too hold it permissible to place the flowers on graves."

Obviously, when the wild grass and vegetation etc, glorify Allah and the mercy of Allah descends consequently and the corpse are blessed with comforts, then if the same thing is placed on graves in the name of Allah and prayed to Allah to bestow the reward of such glorification (*Tasbeeh*) to the corpse till they are fresh, such practice exactly conforms to the intent of this *Hadith*. Hence, the jurists are of the opinion that a fresh twig or leaves of any tree can be placed on graves in adherence to the practice of the Messenger of Allah^{PBUH}, because the process of glorification will be

more perfect in case of fresh leaves than dry leaves, and a kind of life is also found in them. In the case of flowers, the fragrance and freshness both qualities are present in them. Hence, the jurists have preferred flowers, as mentioned in *Fatawa Aalamgiriya*: "Placing rose and other flowers on a grave is approved and commendable."

Despite the cited Hadith, the deed of the Companion Hazrat Buraydah^{RZ} and the propositions of the jurists, the opinion of some of the Hanafi scholars that placing the flowers on graves is unlawful and innovation (*Bid'at*) is not worthy of consideration. When the opinions of Allamah Ibn Taymiyah and Ibn Qayyim on some issues were not considered, then what is the significance of their isolated opinion, analogous thoughts and reinterpretations? A large number of the scholars of Traditions (*Muhad'diseen*) and jurists consider such practice as lawful and commendable, and we too follow the same line of thought. The flowers placed on the grave of Miyan Haji Mali^{RZ} in presence of Hazrath Mahdi^{AS} remained fresh till forty days. After Hazrath Mahdi^{AS} was laid to rest, first of all Bandagi Meeran Syed Mahmood Thani Mahdi^{RZ} and then all the Companions and migrants have placed flowers on his grave. We believe that the lawfulness of such practice

is justifiable beyond any doubt.

Raising the hands at the time of a visit to graves is also valid. Imam Ghazali^{RH} narrated in *Ahya'ul Uloom* with reference to Abu Amamah that a Companion Hazrath Anas bin Malik^{RZ} had raised his hands while visiting the shrine of the Messenger of Allah^{PBUH} and offered salutation to him.

In the beginning of this article, it was already mentioned that the visit to graves was initially prohibited but later permitted by the Messenger of Allah^{PBUH}. Basically, the reason was to totally remove the effects of infidelity on their lives during the pre-Islamic times. The infidels and polytheists were involved in idolatry and prostration to the graves. When Islam got strengthened and firmly established in their hearts and there was no fear of worshiping and prostrating the graves, he granted the permission and said that visiting the graves reminds of the Hereafter and awakens the desire to lead a pious and ascetic life. Such prohibition and later permission indicate that the visit to graves was lawful in fact and the prohibition was temporary. In view of this fact, visit to graves should be carried out according to the practice of the Prophet^{PBUH} and without any trace of polytheism. The

Messenger of Allah^{BUH} used to visit the graveyards of *Baqee* and *Uhad* and only pray for salvation. This is the method of visiting ordinary graves.

The biographers write that the Prophet^{PBUH} kissed the grave of his mother. (*Seerat-e-Muhammadiya*). A famous Companion Abu Ayyub Ansari^{RZ} narrates that he had rubbed his cheeks on the sacred grave of the Messenger of Allah^{PBUH}. Hazrath Imamuna Mahdi Mau'ood^{AS} came to Daulatabad and sat down meditating facing towards Qibla near the head of the grave of Momin Arif^{RH} for some time. He also stayed in seclusion (*E'tikaf*) for a week in the mausoleum of Shaikh Sirajuddin Junaidi^{RH} at Gulbarga.

As per the general rules of the transmitters of Prophetic traditions (*Muhad'diseen*), the weak *Ahadith* can be used for inference on the matters of the virtues of deeds, and these narratives are authentic in the view of biographers. Therefore, there is no objection to adoration of the shrines of saints and drawing blessings from them. Except for these things, **refraining** from any kind of worship to graves is compulsory.

The visit to graves should not be ignored. It is evident from *Ahadith* that the blessings of Allah should

be invoked for remission (*Magh'firat*) of the dead, and if they had remained responsible for any rights of others, it should be paid or tried to get it pardoned, so that they are absolved of and liberated from the torments of the grave and the Hereafter as well. Allamah Qastalani quotes in *Mawahib-e-Laduniya* from *Ausat* of Tabrani:

“It is narrated by Anas^{RZ} that the Messenger of Allah^{PBUH} said: “My Ummah is blessed with divine mercy, enters the grave with sins, and will be raised absolved of the sins from grave, because their sins will be pardoned in response to the invocation of the blessings of Allah by the believers for their forgiveness. Hence, the visit to a grave is a blessing for the dead.”

The Women and Visit to Graves

I am receiving letters since last few days from several places with a request to put in writing a detailed article justifying the lawfulness and unlawfulness of the practice of visiting the graves by women. Since I am not able to pen a detailed answer on health grounds, a brief clarification is given for the satisfaction of the questioners.

In the initial stages of Islam, the Messenger of Allah^{PBUH} had prohibited from visiting the graves but permitted later on and said: “Earlier I had prohibited you from visiting the graves but now I permit you, as visiting the graves reminds one of the Hereafter.”

The summary of the *Ahadith* narrated by Abdullah ibn Masood^{RZ} in *Ibn Majah*, Buraydah^{RZ} in *Tirmizi*, Abu Hurayrah^{RZ} in *Abu Dawood*, Anas^{RZ} in *Musannaf ibn Abi Shaybah* and *Mustadrak* with differences of words is that the Messenger of Allah^{PBUH} said: “Visiting the graves reminds one of the Hereafter.”

In these *Ahadith*, the Messenger of Allah^{PBUH} has generally permitted the practice of visit to graves, hence

it is applicable to men and women both, like the verse “Establish worship and pay the poor due.” (2:43) despite being in masculine plural form, is applicable to both men and women. Hence, the permission for both to visit the graves is proved, because, just like men it is also necessary for women to seek the admonition from graves and remind oneself of the Hereafter by visiting the graves.

Allamah ibn Abdul Barr writes:

“Just like the prohibition for visiting the graves was common, the permission too is common. When the prohibition is revoked and permission is made common, the visit to the graves by men and women both is permissible.” (*Umdat ul Qari Sharh Bukhari* – Page 76)

In the view of some of the jurists, visiting the graves by women is execrable (*Makrooh*) and unlawful. Their argument is based on a *Hadith* narrated by Abu Hurairah^{RZ} and recorded by *Ibn Majah* and *Tirmizi* that:

“The Messenger of Allah^{PBUH} had cursed the women who visit the graves.”

But Imam Tirmizi himself wrote below regarding this *Hadith*:

“This was spoken by the Messenger of Allah^{PBUH} regarding the women before granting permission to visit the graves, but when permitted to visit the graves, the women too are included in such permission.”

This narrative of Imam Tirmizi is corroborated by another narrative of Bukhari: “When the Messenger of Allah^{PBUH} saw a woman weeping in the graveyard, told her to “Be afraid of Allah and keep patience.” She did not recognize him and said: “The calamity befallen upon me has not befallen upon you.” The people present there reprimanded her; what did you say and to whom? He is the Messenger of Allah^{PBUH}. She rushed towards him and apologized. He again persuaded her to keep patience.”

As an explanation to this *Hadith*, Allamah Ayni writes in *Umdat ul Qari*:

“It denotes, the Messenger of Allah^{PBUH} did not prohibit her from visiting the graves, but instructed her to be devout and patient, and this implies the permissibility of visiting the graves for women.”

Hafiz Asqalani writes in *Fath ’ul Bari Sharh Bukhari*:

“It is evident from this *Hadith* that paying a visit to

the graves is permissible irrespective of the pilgrim being a man or a woman.”

Allamah Ayni writes that, once Hazrath Ayesha Siddiqah^{RZ} was returning from a graveyard. Abdullah bin Malikah asked her, where she is coming from? She replied that she had been to the grave of her brother Abdur Rahman^{RZ}. He said that the Messenger of Allah^{PBUH} had prohibited the women from visiting the graves. Hazrath Ayesha^{RZ} replied; though prohibited earlier but permitted later on.

It is mentioned in *Muslim Sharif* that Hazrath Ayesha^{RZ} asked: O Messenger of Allah^{PBUH}! What should I say when I visit a place of burial? He told her to say:

As-Salaamu ala ahl'ad diyar minal momineena wal muslimineena wa yar'ham'ullahu al-mustaqdimeena minna wal mustakhireena wa inna in'sha Allahu bikum lahiqoon.

“Peace be upon you the people living in the land of believers and Muslims and May Allah have mercy upon the earlier and the later ones and we too would be joining you if Allah wills.”

It is evident from this Hadith that the Messenger of Allah^{PBUH} not only permitted Hazrat Ayesha^{RZ} but

also taught her the method of visiting the graves.

Imam Tirmizi has cited this reason for reprehensibility (*Karahiyat*) of visiting the graves by women:

“Some of the people said that the reason for the execration of visiting the graves by women is the impatience and a lot of apprehension among them.”

Imam Qurtubi writes: “It means, in absence of any of such things, nothing prevents the women from visiting the graves, as the remembrance of death is necessary for the men and the women alike.”

Except the condition of wailing, the Hanafite jurists have decreed in general that visiting the graves by women is permissible without any abhorrence, if they do not indulge in wailing and committing any unlawful things in the graveyard. It is mentioned in *Fatawa Aalamgiriya*:

“The jurists have a different opinion about visiting the graves by women is permissible or not. Shamsul A'imma Sarkhasi^{RH} says the more correct view is that there is no objection to it.”

It is cited in *Durrul Mukhtar*:

“There is no objection to visiting the graves even by women.”

Allamah Shami writes in its commentary *Radd ul Muhtar*:

“Some of them say that it is not permissible for women, but more correct view is that the permissibility of visiting the graves by women is a proven fact.”

It is specified in *Bahr ur Raiq*:

“It is clarified in the book “*Mujtaba*” that visiting the graves is recommended. Some of the people hold it as unlawful for women but is actually permissible for men and women both.”

It is mentioned in *Miraqi al-Falah*:

“Some of the people hold it unlawful for women but most factual and decreed view is that it is permissible and Sunnah as well for both the men and the women.”

As an explanation to this statement, Imam Tahtawi writes:

“Visit to graves is permitted for women if there is no (fear of) immorality, and both men and women have the permission to visit the graves. Even Hazrath Fatima’tuz Zohra^{RZ} used to visit the shrine of Hazrath Hamzah^{RZ} every Friday in Madinah, and Hazrath Ayesha^{RZ} to the shrine of her brother Abdur Rahman^{RZ} in Jannatul Mu’alla.

Accordingly, it is evident from genuine *Ahadith* and propositions of the jurists that paying a visit to graves is highly recommended (*Mandoob*) and desirable (*Musta’hab*) for men and women alike. The deed rewarded by Allah if performed and not penalized if omitted is known as *Sunnah*, *Mustahab* and *Mandoob* in juristic terminology. Allamah Ibn Abideen writes:

“The practice of visiting the graves should not be avoided for the fear of some objectionable and malicious acts, such as mingling of men and women. In fact, paying a visit to the graves is a rewarding deed, which cannot be avoided for such reasons, and such misdeeds should be rectified and prevented.” (*Radd ul Muhtar*)

Therefore, it is evident that any recommended and desirable deed should not be avoided for the fear of the possibility of mingling of men and women.

However, it can be tried to achieve the objective without sustaining any loss. For instance, the men should refrain from going when women are there, and women should desist if men are visiting the graves, or separate timing should be maintained for them. Moreover, a condition can be stipulated that the women should wear the religious veil and desist from evil and objectionable deeds and should not commit any of the unlawful things like wailing and lighting a lamp etc.

Shortening of the Prayer

Literally *Qasr* means shortening, curtailment, reduction etc. The short prayer denotes offering two units (*Rak'at*) of prayer instead of four in case of only obligatory (*Farz*) prayers *Zuhr*, *Asr* and '*Isha*. Allah the Almighty says: ***“When you travel through the earth, there is no blame on you if you shorten your prayers, for the fear the Unbelievers may attack you.”*** (4:101)

Just like the shortening of prayer is permitted in this verse in fearful circumstances, the same is permitted in the *Ahadith* in case of peaceful conditions too. Accordingly, it is evident from certain *Ahadith* that the Messenger of Allah^{PBUH} had offered whole prayer in journey and also shortened it sometimes. There is a well-known *Hadith* narrated by Hazrath Ayesha^{RZ} that she used to offer whole prayer in journey, and she said that the Messenger of Allah^{PBUH} too used to offer whole prayer in journey and also shorten it sometimes.

It is narrated by Hazrath Anas^{RZ} that the Companions of the Messenger of Allah^{PBUH} used to travel together. Some of them would offer the whole prayer and others shorten it, but none of them raised any objection. After substantial and profound

consideration of the concept of the Qur’anic verse, variations in *Ahadith* and soundness and weakness of the narratives, the conclusion reached by the jurists entitled to interpretation (*Muj’tahideen*) on this matter is known as doctrine or school of jurisprudence (*Maz’hab*), and the followers of one Imam would adhere to his opinion only.

In fact, none of the Imams have any objection to absolute permissibility of the shortening of prayer (*Namaz-e-Qasr*). However, the chief jurists have proposed different specifications for it. For instance, Imam Azam^{RH} considers the shortening of prayer as essential (*Wajib*), Imam Malik^{RH} as *Sunnah*, Imam Shafa’ie^{RH} as permissible (*Rukh’sat*), and as per a narrative, Imam Shafa’ie^{RH} and Imam Ahmad^{RH} both hold it as preferable.

The doctrine of Imam Azam^{RH} is mentioned in *Fatawa Alamgiriya* as “We Hanafites deem the shortening as essential.” The doctrine of Imam Malik^{RH} is cited in *Kitab’ul Fiqh al’al Mazahib al Arba’a*: “The followers of Imam Malik^{RH} say that the shortening of prayer is an emphasized Sunnah (*Sunnah Mu’ak’kadah*) and more emphatic than the congregational prayer.”

The doctrine of Imam Ahmed ibn Hanbal^{RH} is mentioned as: “In the opinion of Imam Ahmad^{RH} the shortening of prayer is valid (not *wajib* or *sunnah*) however preferable, but not reprehensible if whole prayer is offered.”

The doctrine of Imam Shafa’ie^{RH} is mentioned as: “The followers of Imam Shafa’ie^{RH} opine that the shortening of prayer is valid and loftier than the whole prayer.” But the author of *Hidayah* quoted the proposition of Imam Shaafa’ie that offering four units of prayer is obligatory on a traveler, however permissible and concessionary if shortened the prayer. Just like observing fast by a traveler while in journey is excellent (*Aaliyat*) and breaking the fast (*Iftar*) is a concession (*Rukh’sat*), offering whole prayer by a traveler is excellent and shortening of prayer is a permitted concession, offering whole prayer by a traveler is excellence and shortening is a concession. Even whole or shortened prayer, both are obligatory in the view of some of the Shaafa’ie jurists. The traveler has a choice to offer the prayer in whole or shortened, as mentioned by Imam Ibn Rushd Andalusī in *Bidayat ul Mujtahid*: “The Shaafiite believe that offering of payer in whole or shortened both are obligatory in case of journey, and the traveler is at liberty to adapt anyone

of them.”

In short, only Imam Azam^{RH} believes that the shortening of prayer is *Wajib*, but according to Imam Malik^{RH}, Imam Shaafa’ie^{RH} and Imam Ahmad^{RH}, the shortening of prayer is neither *Wajib* nor compulsory, and negligence regarding it does not amount to sin. The distance and intention of travel are two important conditions for validity of shortening the prayer. The shortening of prayer is not valid if travelled throughout the world without making intention, hence whole prayer must be offered, as mentioned in *Durr ul Mukhtar*: “He who travelled throughout the world without making intention (*Ni’yat*) should offer the whole prayer.”

It means, the shortening of prayer is not valid if traveled the whole world but with an intention of one or two destinations or stages of journey. There is a difference of opinion on the matter of distance to be traversed for shortening of prayer to become *Wajib* in the opinion of Imam Azam^{RH} and permissible in the views of other eminent jurists.

This doctrine of Imam Azam^{RH} is cited in *Fatawa Alamgiriya*: “The minimum distance in which the provisions are changed, is three days.” But for

convenience, the Hanafite jurists, assuming the distance usually covered in three days, have changed it to leagues (*Far’sakh*). some say 15 or 18 or 21 *Far’sakh*.

Imam Sarkhasi^{RH} writes that the decreed distance traversed in three days is 18 *Far’sakh*. As per *Durr ul Mukhtar*, one *Far’sakh* is equal to three legal miles, and one mile is equal to four thousand yards (*Shara’ie/legal*), and one yard is equal to 24 inches. Hence, 18 *Far’sakh* will be equal to 54 legal miles. The English mile is equal to 1,760 yards and one yard is equal to 36 inches. If the legal miles are converted to English miles and to Kilometers, 54 miles will be equal to 92 English miles approximately and 148 Kilometers.

Hence, in the view of Imam Azam^{RH}, shortening of prayer is compulsory if traveling with an intention to cover the distance of three days or 148 kilometers, but not necessary if the distance is lesser than this. However, the shortening of prayer is permissible in the opinion of Imam Malik^{RH}, Imam Shafa’ie^{RH} and Imam Ahmad^{RH} if travelling with an intention to cover the distance of only two days, and they assumed its distance as 16 *Far’sakh*. Hence mentioned in *Kitab’ul Fiqh al’al Mazahib al Arba’a*:

“Imam Malik, Imam Shaafa’ie and Imam Ahmad opine that a distance equal to 16 *Far’sakh* is required to necessitate shortening of prayer. In view of the availability of swift mode of travel, a distance of three days or 148 kilometers according to the doctrine of Imam Aazam^{RH} and a distance of two days or 132 kilometers according to other three eminent jurists, even if covered within few hours or a moment through car, rail or aircraft, the rules prescribed for journey and traveler becomes applicable, hence mentioned in the same book:

“It is not necessary to cover the distance of three or two days within same length of time (2-3 days). The injunctions of shortening the prayer will become applicable even if someone covered this distance in lesser time or even within a moment.”

It is evident from these explanations that the shortening of prayer is considered as essential (*Wajib*) by Imam Azam^{RH}, Sunnah by Imam Malik^{RH} and preferable (*Afzal*) by Imam Ahmad^{RH}, but offering the whole prayer is not reprehensible. As per the doctrine of Imam Shafa’ie^{RH}, some of them believe it as preferable, but the author of *Hidaya* says it is a permitted concession (*Rukh’sat*) and offering the whole

prayer is an act of excellence in the opinion of Imam Shafa’ie^{RH}. Imam Ibn Rushd wrote that some of the Shafiites do not differentiate between the whole and the shortened prayer, both are obligatory, and the worshiper has a choice to adopt whole or shortened prayer.

Irrespective of these deliberations, it is evident from the sacred biography of Hazrath Imamuna Mahdi Mau’ood^{AS} that he did not offer the shortened prayer continually. During a period of 23 years, after migrating from Jaunpur till his death, only one narrative is found that he offered shortened prayer in *Badli, Gujarat*, which proves permission not essentiality. Probably for this reason, the saintly ancestors of Mahdavia community did not adhere to the shortened prayer, because, in addition to the doctrine of Imam Shaafa’ie^{RH} that offering of whole prayer is an act of excellence, the deed of Hazrath Mahdi^{AS} was also in their sight, which does not establish the essentiality.

It is specified in *Fatawa Aalamgiriya* that the shortening of prayer is not valid in case of *Sunnah* prayers, hence they must be offered in whole. There is unanimity among the scholars of *Ahle Sunnah* and Mahdavi scholars also believe that “The truth is

revolving and prevalent among the four chief jurists.” It denotes that the doctrine of every Imam is correct in itself, and everyone should follow his concerned Imam. Mahdavis also believe that the adaptation (*Taqleed*) is necessary, but they are not bound to follow and confined to any one particular Imam. They adhere to excellence, cautiousness, and prudence in the points of difference among chief jurists. Usually, the adaptation of religious preceptors guides towards excellence.

The scholars of Mahdavia community deliberated judiciously on this matter too. The famous and authoritative scholars of the community like Hazrath Maulana Syed Nusrath^{RH}, Maulana Syed Ashraf Shamsi^{RH} and Hazrat Maulana Syed Shahabuddin^{RH} did not shorten the prayer in long journeys. They offered whole prayer in the journey for Hajj and to Farah Mubarak, and this ignorant faqir too followed the same practice.

To be precise, shortening of the prayer is not an essential act (*Wajib*) in the doctrine of all the chief jurists. Only Hanafites believe that the shortening of prayer is essential and negligent is guilty of a sin. Mahdavis are not exclusively Hanafite, hence they are not bound to follow the Hanafite doctrine and will not

attract the blame of being guilty of a sin for neglecting an essential act. However, those offering complete prayer and those offering shortened prayer should not criticize each other.

Religious Provisions about Photo

The painting or sculpture of a human or animal has been declared as forbidden in Islamic law to eliminate and eradicate the practice of idolatry from its foundation, which means the sculpturing of living beings is unlawful. It is strictly prohibited in *Ahadith* and threatened of terrible punishment for painters and sculptors of living beings, as it amounts to laying the foundation of and supporting the idolatry, and also becoming an associate in the attribute of Allah as being a Creator. In fact, making the statues of living beings for the purpose of worship is absolutely unlawful and a mortal sin, as worship is permissible only to Allah, who is alone and has no partners. Making, possessing, and displaying the statues is invalid and unlawful. The level of severity of unlawfulness of sculpturing and painting for such vicious purpose maintained in *Ahadith* conforms to the customs and circumstances prevalent in that period. Such intensification and severe restriction on painting was utmost necessary in the initial stage of Islam because the fervor of statuary and idolatry was deeply rooted in the lives of the people

during pre-Islamic times, interdiction, and invalidity of which has been described by the Prophet^{PBUH} in several ways. The spirit behind such prohibition is to stop idolatry. Therefore, keeping in view the reasons and intentions of the Hadith, the religious preceptors, jurists, and scholars of Islam have deliberated profoundly on the matter of photography and making of a picture, and elucidated the matter carefully.

The word ‘Picture’ (*Tasweer*) is commonly used in Arabic language, which is applicable to corporeal and incorporeal both forms. The linguistics say: “So and so person has drawn or painted a picture of so-and-so, which denotes shape or floral pattern or design. Accordingly, any shape made with wood, stone, soil, iron, copper, brass, silver, gold and clothes etc. any material will be called as picture, and any artistic work handcrafted or painted on paper, walls, floor, and ceiling or made a tracing of anything, will also be called a picture. But the Islamic law strictly prohibits the sculpturing of living beings with any material or solid things for the purpose of worship. Therefore, the jurists have framed different and specific rules for corporeal sculpture or painting and photography, but the people have mixed up the point at issue and assumed all kinds of pictures as unlawful and invalid.

The jurists have written with unanimity that the picture of non-living things like trees, mountains and buildings etc. is permissible, whether sculptured in material shape or drawn on a paper, because they are usually not worshiped. However, the shapes of a living being, be it a human or animal, sculptured with material and solid things for a vicious purpose of idolatry or fixed as an idol and honored and respected, are absolutely unlawful. It is mentioned in *Kitab ul Fiqh al'al Mazahib al Arba'a*:

“The Prophet^{PBUH} has declared the picture as unlawful, which implies the shapes, figures and statues made for the vicious purpose of worship. The maker of these things is liable to severe punishment if he made them with the intention of idolatry. It is a mortal sin if these shapes and images have resemblance to the idols, and they stir up the wicked longings and spurious thoughts. Carving of such statues, preserving them, and using for recreation is unlawful.”

Recreation means, not for the purpose of worship and honor, but for decoration, elegance, and exhibition, and making such statues and evincing interest in them is also not permissible. Besides lost labor, it amounts to

imitation of and emulating with the attribute of Allah as a Creator. Indeed, Allah is the real Creator. Allamah Ibn Abideen writes in *Radd ul Muhtar*:

“Making a picture is absolutely not permissible, because it establishes similitude with the attribute of Allah being a Creator.”

Some of the jurists, based on this, have opined that attending a post-wedding feast (*Valimah*) is not permissible in such a home or place where a whole bodied statue of any human or animal has been erected. Imam Malik^{RH} too endorsed this opinion, as mentioned in *Kitabul Fiqh al'al Mazahib al Arba'a*:

“Attending a post-wedding feast is permissible in such a place where a full-bodied statue of any human or animal has not been erected.”

The reason behind stipulation of “whole-bodied” is because there is no objection to such a statue which has no head or any vital organ which is necessary for life. The statues carved for the vicious purpose of worship are unlawful and invalid. However, such statues are exempted from this injunction which had been made for a valid purpose, as mentioned in the book cited above:

“Making human statues for a valid purpose such as learning and teaching is permissible, and it does not amount to sin.”

The example of valid purpose given by the jurists includes dolls of human shape usually given to girls to make them learn, by means of play, the house-keeping matters and child-rearing methods, and such practice is lawful and valid. Hence mentioned in the same book:

“Sculpturing for a valid reason is permissible. Hence, the jurists have opined that the making, buying, and selling of small dolls for girls is permissible, as the objective is to teach them the child-rearing methods, and such “valid reason” is enough to make the sculpturing lawful and permissible.”

Similarly, making pictures on the floor of the house and pillows etc. is permissible because they are not revered and respected like idols but trampled under-foot. Hence, there is no trace of idolatry in these pictures. Accordingly mentioned in this book:

“Hence, the pictures made on the material usually spread on floor of the house like carpet, sheets, pillows and seat cushions are permissible, because

their disgrace is evident in such a condition, therefore, like idols, no such respect or reverence can be suspected for them.”

The presence of the pictures of prophets in the coffin or ark (*Taboot*) with *Sakinah* (Tranquility and peace) is evident from certain narratives. This coffin was in possession of Shis^{AS} (Seth) after his father Hazrath Adam^{AS} and reached Yaqoob^{AS} through Ismail^{AS} and Ibrahim^{AS} changing hands from generation to generation. The sons of Yaqoob^{AS} are known as “Bani Israel”, who possessed this ark for a long time, and ultimately came into the possession of Moosa^{AS} wherein, he used to keep all his belongings, miraculous rod (staff) and shoes etc. The turban of Haroon^{AS} was also kept in that box. A tyrant king Jaloot (Goliath) over-powered the sons of Israel and took away the ark with *Sakinah* with him. The sons of Israel requested the prophet of that time Hazrath Shamuil^{AS} (Samuel) to appoint a king for them. Shamuil^{AS} said that Allah has raised Talut (Saul) as your king, but the sons of Israel did not like him. Hazrath Shamuil^{AS} said that the sign of his being appointed by Allah as your king is that the ark with *Sakinah* will return to you again. Allah has mentioned this episode in the Holy Qur’an: “***And (further) their Prophet said to them: “A***

Sign of his (Talut's) authority is that there shall come to you the Ark of the Covenant, with (an assurance) therein of security from your Lord, and the relics left by the family of Moses and the family of Aaron, carried by angels.” (2:248)

Imam Baghawi writes in *Tafsir Ma'alim'ut Tanzil*: “That Ark containing the pictures of the Prophets^{AS} was descended on Adam^{AS}.”

Though sculpturing and idolatry were prohibited and unlawful in the eras of every prophet, still the ring of Hazrath Daniyal^{AS} (Daniel) had the pictures of his childhood with two tigers protecting him. When this ring was presented to Hazrath Umar Farooq^{RZ}, he examined and handed it over to Abu Moosa Ash'ari^{RZ} but did not show any aversion. (*Hashiyah Miraqi al-Falah by Tahtawi*)

Moreover, such small size pictures and statues can be made and used which are not usually worshiped. Abu Hurayrah^{RZ} was having a ring with pictures of two flies. Hazrat Ameer Mu'awiyah^{RZ}, during his caliphate, had minted the golden coins with (probably his) picture, as mentioned in “*An-Nuqud'ul Islamiyah*”:

“The Dinar minted by Amir Mu'awiyah^{RZ} was

having a picture depicting standing posture with a hanging sword.”

These examples prove that making small size material pictures (statues) is permissible which are not worshiped. Hence the prayer will not become reprehensible (*Mak'rooh*) if a coin with any picture is kept in the pocket.

The above cited injunctions are related to the pictures made with solid materials as a statue, but as per the doctrine of Imam Azam^{RH}, making picture of living beings on a cloth is also permissible, as mentioned in *Kitabul Fiqh al'al Mazahib al Arba'a*:

“Hanafites say that making the pictures of nonliving beings like tree etc. is permissible, and the picture of living beings like human or animal is also permissible if made on sheet, pillow and floor or drawn on a paper, because such practice is a kind of humiliation.”

Imam Malik^{RH} also holds the same opinion, as mentioned in the same book:

“The picture in corporeal form is unlawful, however, there is a difference of opinion if not in corporeal form but made on paper, clothes, walls, and roof. Some of

the jurists consider it absolutely permissible.”

Imam Shaafa’ie and Imam Ahmad bin Hanbal say the reflection of pictures on a screen is permissible, provided that the unlawful things and actions are not involved.

To be precise, these propositions and narratives indicate that such pictures are unlawful in Islamic law, which are called as idols, which were being made by Arab idolaters for the purpose of worship. If such types of pictures and statues are made for the vicious purpose of worship or revered like idols or kept because of their similarity with idols, then such thing is unlawful. However, there will be no objection if made as a toy for a valid purpose like education and training of the girls. Similarly, making small size corporeal images is permissible, which are not usually worshiped. The pictures found on the floor and pillow and usually trampled under the foot is permissible, however the curtain on the door with pictures is not permissible, and just like cloth, making pictures of human and animal on a paper or copying or printing is also permissible.

Hence, taking photographs for passport, examination hall-ticket and any official purpose as well as photography on paper on the occasion of any

ceremony is permissible. Similarly, the photos can be taken for passport for the purpose of Hajj and pilgrimage to holy places, because when the statues made with solid material for any valid purpose are lawful, then a religious purpose is involved here. Moreover, the photo pasted on a passport is not made with any solid material, but a reflection on paper, and a picture on paper is lawful and permissible in the view of the chief jurists particularly Hazrat Imam Azam^{RH}.

The Animals Slaughtered in Europe

I am receiving letters since few days seeking legal opinion on permissibility and consumption of meat of the animals slaughtered in Europe and USA by the Muslims living there. Though it can be answered in two words; yes or no, it will not satisfy the seekers of truth (questioners) and they will remain anxious to know the reasons for lawfulness and unlawfulness. In fact, some of the scholars of Egypt and Iraq have decreed that the meat of the animal slaughtered by People of the Book (*Ahle Kitab*) is lawful. But such a brief answer will not serve the purpose, hence a detailed explanation is given, though lengthy but useful to understand the reasons of lawfulness and unlawfulness of the meat of animals slaughtered in Europe, and incidentally most of the issues may come to fore which may be required sometimes. Usually, I would explain the pros and cons of any issue and its relevant matters. Please do not get confused and try to understand as far as possible.

The meat of the animals slaughtered in Europe is permissible or not, to understand this it is necessary to

consider few things, such as who is slaughtering, method of slaughter, whether the name of Allah is invoked at the time of slaughter or not and what is the arrangement of cooking. To consider any animal as lawful, Allah has laid down certain conditions: ***“Forbidden to you (for food) are: dead meat, blood, the flesh of swine, and that on which hath been invoked the name of other than Allah; that which hath been killed by strangling, or by a violent blow, or by a headlong fall, or by being gored to death; that which hath been (partly) eaten by a wild animal; unless ye are able to slaughter it (in due form); that which is sacrificed on stone (altars); (forbidden) also is the division (of meat) by raffling with arrows: that is impiety.”*** (5:4)

The foremost thing declared as unlawful, beside others, by Allah in this verse is the “dead meat” which means that the animal died naturally before being slaughtered is unlawful, as its blood is absorbed in its flesh, and since the blood contains stench and poisonous nature, hence such meat is injurious to health. Immediately after dead meat, the blood too has been declared as unlawful for such reason of stench and poisonous nature, and this reason also served as an answer to the objection raised by infidels when they

say; it is strange to say the one killed by Allah is unlawful, and killed by you is lawful. After this, amongst all animals, one particular animal “swine” has been declared as unlawful and worst. It not only eats filthy things but extremely shameless too. The cuckoldry usually committed by it is such a shameful and contemptible quality which is not tolerated by any human or animal, but it proudly commits adultery with a female. Probably the shamelessness and immodesty prevalent nowadays in Europe is the effect of its meat. The Muslims living in Europe must strictly refrain from using such meat. These three things; dead meat or carcasses, blood and swine are impure and unclean in themselves. Moreover, some things become unlawful because of improper belief. For instance, the animal slaughtered by invoking the name of other than Allah, though lawful by itself, but since it was not slaughtered by invoking the name of its real owner (Lord) which holds the authority on life and death, therefore such depravity in belief too inhibits its lawfulness. Later on, clarified (in the verse) that animal which had been killed by strangling, or by a violent blow, or by a headlong fall, or by being gored to death or eaten by a wild animal; all these are categorized as carcass or dead meat and unlawful, as they died without being

slaughtered in a proper way and impure blood is stuck in the flesh. Then says the animal slaughtered by invoking the name of other than Allah is unlawful, and such animal too is unlawful which has been slaughtered on any altar, which means slaughtered with reverence in slaughterhouses and places of worship of the infidels and the People of the Book (*Ahle Kitab*).

There are two ways of purification: Slaughter by necessity (*Zabh Izti'rari*) and Slaughter by choice (*Zabh Ikh'tiyari*). The slaughter by necessity is also known as involuntary or uncontrolled, which means the animal is not in our possession and out of control, hence cannot be slaughtered in a proper way, then his body is injured with a sharp object and the blood is shed, which is religiously lawful. Such a process is also known as hunting. It is mentioned in *Durr ul Mukhtar*:

“The necessary slaughter means (the animal is wild and uncontrollable, fleeing beast or flying bird) to shed the blood by injuring his body from anywhere.”

Similarly, if any animal like a cow, bull, goat etc. fell down in a well and slaughtering them is not possible, then its blood is shed by causing injury with a sharp object, it is sufficient for them to become lawful (Halal).

The other type is slaughter by choice (*Zabih Ikhtiyari*), which denotes the animal is in our possession and control and it is possible to slaughter in accordance with the Islamic law. One of its traditional (*Mas'noon*) methods is killing (*Nahr*) and the other is widely known method. *Nahr* means the lawful slaughtering of a camel by spearing it in the hollow of the throat, near the breastbone by a sharp object, as a result the blood will shed, and he will fell down because of weakness. The same is mentioned by Allah in Holy Qur'an: ***“Therefore to thy Lord turn in Prayer and sacrifice (a camel).”*** (108:2). A widely known method of slaughter by choice is to cut between the throat and the head of the breastbone in such a way that all the four vessels; two jugular veins, the windpipe and the gullet have been cut. It is necessary, in the opinion of Imam Azam^{RH}, to cut at least three of them. This is called “Slaughter by choice” (*Ikhtiyari*). The animals which are friendly and in possession must be sacrificed in this manner only, as cited in *Durr ul Mukhtar*:

“The familiar animals must be sacrificed with the method of ‘slaughter by choice (*Ikhtiyari*)’, because the ‘involuntary slaughter (*Iztirari*)’ is required when the ‘slaughter by choice’ is impracticable.”

Hence, it is proved that, if the animal is under control and can be slaughtered by laying it down, then slaying by neck in standing position is irreligious method. It is narrated by *Dar Qutni* that the Messenger of Allah^{PBUH} sent Budayl bin Warqa to make an announcement on the hills of Mina that “the place for slaying an animal is between the throat and the head of the breastbone.”

This edict denotes the animal should not be slaughtered from upon the neck which results in cutting of spinal cord first, but it should be cut below the neck to ensure cutting of the windpipe first. The wisdom behind such edict of the Prophet^{PBUH} is the animal usually dies immediately after cutting of the spinal cord and the vessels will cut after its death, which is not permissible. In fact, as per the slaughter by choice, death after cutting of the vessels of neck is necessary, to become lawful (*Halal*). Accordingly, in compliance to such sacred intention, the jurists have opined:

“Slaughtering an animal from upon the neck is reprehensible (*Mak'rooh*), provided that it remains alive till the vessels are cut. If did not remain alive till the cutting of vessels (and died immediately after cutting of the spinal cord), then eating such

meat is unlawful, because the animal died before being slaughtered properly.”

Such familiar animals which must be slaughtered by the process of slaughter by choice are usually slaughtered in Europe by slitting with machines upon the neck, which is absolutely irreligious method, and creates a doubt that the animal might have died before the vessels are cut. In such a case the meat of that animal is unlawful, and it will be near to unlawful (*Mak'rooh Tahrimi*) even if died as a result of vessels being cut. Further details on the animals slaughtered in Europe will be deliberated later on.

In addition to the slaughter by necessity (*Iztirari*) and slaughter by choice (*ikhtiyari*), another way of sacrifice mentioned in the Holy Qur'an is “hunting” in which case, a trained animal or a beast is used for hunting, and if the game (prey) is kept on hold by the animal used for hunting, then it must be slaughtered as per law. The game will be lawful, if it had died after being torn by the trained animal, because if any animal is torn by a trained dog or panther etc. its blood will shed, hence it will come in the ambit of” ***unless ye are able to slaughter it (in due form)***” hence absolutely lawful. With regard to the trained animals

and the game (prey) Allah says: ***“And what ye have taught your trained hunting animals (to catch) in the manner directed to you by Allah: Eat what they catch for you.”***(5:5)

The explanation of this verse is found in this *Hadith* narrated by Imam Bukhari^{RH} that the Messenger of Allah^{PBUH} said:

“If the trained hunting animal has detained the game (prey) for you, and you find it alive, then slay (*Zabh*) it, if it was killed but not eaten (by trained animal), you can eat it, however, if eaten then do not eat it.”

It means, the trained dog, panther, and hawk etc. wounds and kills the game but never eats. The training will be considered incomplete if eats it, as if not hunted for the hunter but for self. The same fact is cited in a Hadith recorded by Bukhari: “If the dog has eaten any part of the game, it is unlawful (do not eat) because the dog has caught the game for self.”

If an untrained dog too has caught hold of a game and it is found to be alive, then it must be slain, as the Prophet^{PBUH} said: “If the game wounded by an untrained dog is found alive, slay and eat it.”

Wounding the game by a trained dog and shedding of blood is necessary (for lawfulness). The game is lawful if died after shedding of blood. However, if the dog kills the game by strangling or dashing against on the ground with violence, then such game is unlawful. It is mentioned in *Durr ul Mukhtar*:

“It is not permissible to eat if the blood is not poured out after being wounded by a dog or an arrow.”

It means, the death of the game caused after being wounded by a dog or arrow also equals to the slaughter (*Zabih*). For this reason, the animal killed by the impact of a blow caused with stick or by throwing pebbles is considered unlawful, as the blood has not poured out. This rule must be kept in mind that it is permissible if the death of a game has been caused certainly by a wound, and not permissible if died because of load or blow. Similarly, the animal killed by gunshot comes under the ambit of ‘blow’ hence unlawful. It is cited in *Durr ul Mukhtar*:

“The game killed with a heavy edged pellet is unlawful, as it died because of heavy blow, not by the edge or speed.”

The pellet is thrown from a catapult or bow, but hunting birds with such method is unlawful. Imam Bukhari^{RH} writes that Abdullah bin Umar^{RZ} has declared the game killed by pellet as unlawful, just like the animal killed with heavy pebble or stick is unlawful, as it dies because of blow not wound. The four chief jurists are unanimous on its unlawfulness, and the lawfulness of pellet attributed towards Imam Malik^{RH} is incorrect. Just like pellet, the bullet fired from a gun too comes under the same rule, as the animal died because of the intensity of the blow not because of wound and shedding of blood, which has been described in the Holy Qur’an as ‘fatally hit’. Obviously, the bullet of a gun is heavier than a pellet and comes out with intensity, and the animal dies because of its load and blow, hence unlawful. In fact, the gun was invented later on, but its comparison with pellet is valid. Some of the people believe that the animal killed with a bullet is lawful, but such assumption is not correct.

Invocation of the name of Allah is necessary while sending the trained dog, hawk, or female hawk in pursuit of the game. Adi bin Hatim^{RZ} used to enquire with the Messenger of Allah^{PBUH}, about the issue of hunting. Once the Prophet^{PBUH} said:

“When you send your dog in pursuit of a game, repeat the name of Allah, then if the dog holds the game for you, and you find it alive, then slay it, but if you find your dog has killed it, and not eaten of it, then eat it.”

Same rules apply to arrow that the invocation of the name of Allah is necessary while shooting an arrow. It is lawful to eat if the animal died after being wounded. The Prophet^{PBUH} told Adi bin Hatim^{RZ}: “When you shoot an arrow at game, repeat the name of Allah.”

Abu Dawood narrated that the Messenger of Allah^{PBUH} said: “When you send a dog or hawk, repeat the name of Allah, and whichever animal they hold for you, you can eat it.”

Once Adi bin Hatim^{RZ} said: “O Messenger of Allah^{PBUH}! I used to send my dog by repeating the name of Allah, but find another dog near the game, it is not verily known which of the dogs killed it; mine or other, what is the rule in such a case? He^{PBUH} said: “You do not eat it, as you have not invoked the name of Allah on the other dog.”

It means, it is not sure that your dog has killed

the game, on which you had invoked the name of Allah. Possibly the other dog might have killed it, therefore, it is better not to eat it as a precaution.

This juristic formula, deduced from the following sacred edict, must be kept in mind which is useful on all occasions:

“In the case of unlawful things, the imaginary point is like a proved one.”

The animal wounded by a trained dog or hawk or arrow is found alive, it must be slain, as mentioned in *Durr ul Mukhtar*:

“The one who sends the dog or hawk or shoots an arrow, finds the game alive and the chances of its survival are more than a slaughtered animal (*Maz’booh*), then it is essential (*Wajib*) to slaughter it.”

The life of the slaughtered one (*Hayat-e-Maz’booh*) is such a span of life in which the game wounded (by dog, hawk, arrow) is not expected to survive for more than a day. It is not essentially required to slay the game which is on the point of death, as it is lawful even if not slain. Same is the unanimous doctrine of Imam Azam^{RH}, Imam Abu Yousuf^{RH} and

Imam Muhammad^{RH}. As per another narrative, Imam Azam^{RH} opines that the slaying of the game in case of the life of slain animal is necessary. In short, not only the permitted animal can be slain, the animal hunted by a trained dog, panther or hawk etc. too can be eaten, provided that the hunting animals are trained and sent by invoking the name of Allah, and they hold back the animal alive or kill after wounding it. The sign of a dog being trained is his catching game without eating it, if eats then it is not (completely) trained. The game eaten by the hunting dog is unlawful in the view of Imam Azam^{RH} but lawful in the opinion of Imam Malik^{RH} and Imam Shafa'ie^{RH}. Similarly, a hawk is considered as trained when she attends to the call of her master, however her eaten game is considered permissible by all of the chief jurists. If the dog starts eating by self and the hawk does not return to her master, then it will be assumed that the dog and the hawk have caught the game for themselves, not for the master, hence unlawful.

In addition to the game, the animals permitted by Allah and the Messenger of Allah^{PBUH} must be slaughtered according to the law of *Zabih* and by invoking the name of Allah. Allah has laid down a condition for permissibility of the flesh of animal in

both positive and negative manners: ***“So eat of (meats) on which Allah’s name hath been pronounced, if ye have faith in His Signs.”*** (6:118) and said: ***“Eat not of (meats) on which Allah’s name hath not been pronounced: that would be impiety.”*** (6:121)

The doctrine of Imam Azam^{RH} and Imam Ahmad bin Hanbal^{RH} amongst the jurists entitled to independent opinion is that the animal on which Allah’s name is not pronounced intentionally is unlawful, but if by mistake then lawful. However, Imam Malik^{RH} opines that meat of such animal is unlawful on which the name of Allah is not pronounced even by mistake. Imam Shafa'ie^{RH} says it is lawful even if a Muslim does not pronounce the name of Allah willfully at the time of slaying. However, invoking Allah’s name is traditional (*Mas’noon*).

As per unanimous opinion, the meat of an animal slaughtered by an idolater is not permissible even if he pronounces the name of Allah thousand times. With regard to the People of the Book (Christians and Jews) Allah has commanded: ***“This day are (all) things good and are made lawful unto you. The food of the People of the Book is lawful unto you and yours is lawful unto them.”*** (5:6)

Undoubtedly the food referred to in this verse stands for the meats of a slain animal (*Zabiha*), otherwise all unlawful things like wine and swine etc. would become lawful. When the food denotes the meats of a slain animal, it refers to such meat of slain animal which has been slain according to law, which means, the People of the Book should also slay by pronouncing the name of Allah or at least Allah's name should be in their heart. It is known from the word 'good things' that only such food is lawful for us on the dining table of the People of the Book which is good (*Tayyib*) or can be eaten if a Muslim himself has slaughtered according to law by invoking the name of Allah. Eating unlawful, impure and dead animal offered by the People of the Book is not permissible, as had been forbidden by the words "**good things**".

There is a difference of opinion among the jurists entitled to independent opinions in respect of the animal slain by the People of the Book, which is summarized here.

In the view of Imam Malik^{RH}, invoking the name of Allah (*Tasmiya*) is a precondition for a Muslim, but he does not insist on the same condition for the People of the Book, and consider the animal slain by them as

permissible even if they willfully omit invocation of name of Allah. (*Kitab ul Fiqh al'al Mazahib al Arba'a*).

His conclusion is based on an incidence of the expedition of Khaybar, in which a Jewish woman treated the Messenger of Allah^{PBUH} with meat, and he consumed it without enquiring about the invocation of Allah's name while slaying. Hence, it is assumed that he had exempted the People of the Book from invocation of the name of Allah at the time of slaughter. But other jurists (*Imams*) consider such argument as weak because it is not established beyond doubt that the Jews of Arabia were slaughtering without pronouncing the name of Allah or in the name of other than Allah, and the Prophet^{PBUH} had consumed it knowingly. When it cannot be established that the Jews used to slay the animal without invoking the name of Allah, then it cannot be deduced from this *Hadith* that the Prophet^{PBUH}, by consuming the animal slain by them, had exempted the People of the Book from invocation of the name of Allah. The point to be considered is the People of the Book be it Jews or Christians, are not idolaters or polytheists. They were the followers of glorious prophets and holy books like Torah and Bible and our Prophet^{PBUH} might be aware that they slaughter by invoking the name of Allah, therefore, he did not

enquire about this matter. Hence, such deed of the Prophet^{PBUH} did not imply exemption to the People of the Book by him.

In the view of Imam Shaafa'ie^{RH}, pronouncing the name of Allah is not at all a condition, neither for Muslims nor for the People of the Book. Just like slaying by a Muslim without invoking the name of Allah is permissible, same is permissible in case of the People of the Book, however, unlawful if they slaughter in the name of other than Allah. Imam Shafa'ie^{RH} based his argument in the matter of inessentiality of the invocation of Allah's name on this verse: ***“Say: I find not in the Message received by me by inspiration any (meat) forbidden to be eaten by one who wishes to eat it, unless it be dead meat, or blood poured forth, or the flesh of swine, for it is an abomination or, what is impious, (meat) on which a name has been invoked, other than Allah’s.”*** (6:145)

Referring to this verse, Imam Shaafa'ie^{RH} says that such slaying is not unlawful on which Allah's name has not been invoked, but only that which has been slain in the name of other than Allah, which is sinfulness. But other jurists do not accept such argument. This is a scholarly and ambiguous point of discussion.

Imam Shaafa'ie^{RH} put forth another argument that, the Companions^{RZ} once told the Messenger of Allah^{PBUH} that some people are living in the surroundings of Madinah, and they are selling the meat here, and it is not known verily whether they pronounce Allah's name or not, at the time of slaughter. Is that meat permissible for us to eat or not? The Prophet^{PBUH} said: “You yourself pronounce the name of Allah on it and eat.”

This Hadith is narrated by Hazrath Ayesha^{RZ} and included in most of the six authentic books of Hadith like Abu Dawood, Nasa'ie and Bukhari etc. Imam Shaafa'ie^{RH} reached the conclusion from this Hadith that the invocation of Allah's name, at the time of slaughter, is not necessary even for a Muslim, but other Imams say that this argument too is not correct. Such a situation was arisen in the initial stages of Islam, as mentioned in *Mu'atta* by Imam Malik^{RH}, when the Arabs of Madinah had newly converted to Islam and were not habituated to slaughter by invoking the name of Allah, and all of the Companions of the Messenger of Allah^{PBUH} were aware that the invocation of the name of Allah is necessary on slain animal, and this is a precondition for it to be lawful.. Based on this situation, they submitted that the new converts to Islam are slaughtering animals in their villages and bringing it to

Madinah for sale, and it cannot be ascertained whether they have invoked the name of Allah at the time of slaughter or not, hence what is the order with regard to such meat. If the invocation of Allah's name at the time of slaughter was not a precondition, then the Prophet^{PBUH} might have replied that the slaughtered animal is lawful, but he said that you yourself invoke Allah's name. It means, when a Muslim is slaughtering, definitely he might have invoked Allah's name, hence, you need not inquire about it. If you have any doubt, then you pronounce Allah's name by yourself and consume it. Here a rule has been disclosed that in case of the slaughter by unacquainted Muslim villagers, it is not necessary for you to investigate, whether they have pronounced the name of Allah or not. Hence avoidance from it is not necessary unless its unlawfulness is proved beyond any doubt. In short, it is not established from the *Hadith* of Ayesha^{RZ} that the invocation of Allah's name is not essential, yet the purport is evinced that one should have good opinion about Muslim. Supposedly and circumstantially if a Muslim has not invoked the name of Allah, regard it a result of mistake and forgetfulness. Same is the doctrine of Imam Azam^{RH}. Accordingly, it is cited in a *Hadith* that the Companions^{RZ} inquired about the permissibility of an

animal slaughtered by a Muslim without pronouncing Allah's name. The Prophet^{PBUH} said that the name of Allah exists in the heart of every Muslim. Once he said: "A Muslim slaughters the animal in the name of Allah only, whether he invoke Allah's name or not."

The soundness of this *Hadith* had been discussed in depth in *Nasb ur Raya*. Subject to the condition of soundness, this *Hadith* is related particularly to Muslims, not the People of the Book.

In short, in the view of Imam Shaafa'ie^{RH}, pronouncing the name of Allah at the time of slaughter is not a precondition for both the Muslims and the People of the Book as well, and slaughtered animal is permissible even if Allah's name is not pronounced intentionally. (*Kitab 'ul Fiqh al'al Mazahib'il Arba'a*).

The doctrine of Imam Malik^{RH} was discussed earlier that the animal slaughtered by the People of the Book is permissible even if they intentionally omit the name of Allah. (*Kitabul Fiqh*).

Imam Ahmad ibn Hanbal^{RH} opines that the People of the Book must pronounce Allah's name while slaughtering, otherwise such animal is unlawful if omitted willfully. However, it is permissible if do not know whether they have

invoked the name of Allah or not. (*Kitabul Fiqh*).

In the opinion of Imam Azam^{RH}, the animal slaughtered by the People of the Book is permissible provided they have not invoked the name of someone other than Allah. Even if they have not invoked the name of Allah, then just like Muslims, having good opinion about them, their slain animal would be considered lawful. The doctrine of Imam Aazam^{RH} cited in *Kita'bul Fiqh al'al Mazahib'il Arba'a*, *Fatawa Aalamgiriya* and other books of Hanafite jurisprudence is summarized below:

“The animal slaughtered by the People of the Book is permissible only if they; the Jews or the Christians, have not slain the animal in the name of other than Allah, for instance in the name of Jesus, Cross or Hazrat Uzair. Further, the animal slaughtered by them is not lawful if any Muslim present there has heard the name of other than Allah is invoked by them, however, if the Muslim has not heard anything, then one must have good opinion about them just like a Muslim and consider the animal as lawful. Moreover, the animal slain by them is lawful even if no Muslim was present and nothing was heard about it at the time of slaughter.”

Undoubtedly, the animal slaughtered by the

People of the Book is permissible, and Allah has made it lawful for us. The Messenger of Allah^{PBUH} had consumed the animal slaughtered by them and the four orthodox Imams too have declared it permissible. No Muslim throughout the world can dare to call it unlawful. In fact, the Muslims are allowed to consume the animal slaughtered by a Christian or a Jew, but the point to be considered is the method of slaughter adapted in Europe and America, and the arrangements of cooking the meat adapted in the restaurants.

This was already discussed that the animal in our possession and control must be laid down and slaughtered in such a manner that all the four vessels; the windpipe, the gullet, and two jugular veins are cut. Such a method is called Slaughter by Choice (*Ikhtiyari*). The familiar animal must be slain through this method only, not by wounding through any other method.

Nowadays, the animals are slaughtered by machines in Europe, which is an irreligious method. Cutting the neck with machine in standing posture of an animal, causes the amputation of spinal cord and cerebellum, which may result in its instant death, but it is necessary for being lawful that the animal should die

as a result of the pouring out of the blood after slitting the vessels of the neck. The animal is absolutely unlawful if it dies immediately after slashing of the spinal cord, and if supposedly died after slitting of the vessels of neck, the jurists have declared such animal as disapproved to the point of being forbidden (*Mak'rooh-e-Tahrimi*).

First of all, the method of slaughter adapted in Europe is unlawful, and secondly because of such method, the animal would be definitely disapproved to the point of being forbidden even if there is no presumption of being dead or carrion. In such a scenario, the flesh of an animal slain with machine will be nearer to unlawful, and omission of the invocation of Allah's name will be an additional factor. Probably, some of the Jews are committed to the practice of invocation of Allah's name at the time of slaughter, but the Christians have totally forgotten Allah. Even then, if a good opinion is maintained about them as suggested by the jurists that they might be bearing Allah's name in their hearts, the execrable flesh of animals slain with machine is cooked in such vessels, which are polluted with wine and the flesh of swine. Moreover, the flesh is not cooked in clean and purified utensils for Muslims, and as a matter of fact, even cooking the lawful,

permissible and undoubted flesh in such unclean utensils is not permissible. Imam Tirmizi^{RH} and Imam Bukhari^{RH} have recorded a narration by Abu Tha'laba Khashni^{RZ} that he told the Messenger of Allah^{PBUH} that "we are cooking in the utensils of the People of the Book and drinking water from them, is it permissible?" The Prophet^{PBUH} told him to use such utensils after washing them properly. This has been narrated in Tirmizi, but as per Bukhari, the Prophet^{PBUH} told him to refrain from eating in such utensils, however in case of any compulsion, it would be better to wash them before use. It is evident from the narration of Bukhari that the Prophet^{PBUH} had communicated his vehement disapproval, though the animal slain by the People of the Book is lawful (*Halal*), and even if assumed as disapproved to the point of being forbidden (*Mak'rooh Tahrimi*) by reason of the method of slaughter, their vessels are unclean and impure for us, as they do not abstain from the wine and the swine.

In spite of these facts, some of the scholars from Egypt and Iraq have decreed that the animal slaughtered by the People of the Book is lawful. This decree is deemed to be correct if the animal has been slaughtered by the People of the Book themselves and cooked in their properly washed vessels or in our

vessels, then it will be lawful and permissible. But in view of the method of slaughter as well as the manner in which the food is cooked and supplied in those hotels, this decree altogether requires a review by those scholars, because the animal slaughtered with machine is disapproved to the point of being forbidden, and the People of the Book do not abstain from the wine and the swine, and their vessels are impure.

Therefore, in the view of the cited *Ahadith*, unless the animal is not slaughtered according to the prescribed law, and separate vessels are not available for Muslims, eating meats in the restaurants of Europe is not permitted for Muslims. In certain places, the animals are so heavy that they cannot be laid down for slaughter, hence there is no objection if weakened or rendered unconscious with medicine or by hitting with a bullet, but the animal must be slaughtered before his death. In such a case, the flesh will not become execrable (*Mak'rooh*) like the one slain with a machine, however the impurity of the vessels will remain, which must be avoided.

Sadaqa e Fitr: The Alms Given at the End of Ramadan

Allah the Almighty says in the Holy Qur'an: ***“But he will prosper who purifies himself. And remembers the name of his Guardian-Lord, and prays.”*** (87:14&15)

The explicit meaning of this verse is that he will prosper in the world and in the Hereafter, who set right his self, believed in Allah by giving up the infidelity and polytheism, remembered the name of Allah and prayed by purifying his heart and body from the explicit and implicit impurities and adorned with correct beliefs and pious deeds.

All these words *Tazak'ka*, *Taz'kiya* and *Zakat* denote purification and getting purified, hence the slaughter is also called *Zakat*, because the animal, after being slaughtered, gets purified from the impure blood which is harmful to health. Similarly, dissociating ourselves from sins, temptations and sensual cravings is called as the purification of mind, and according to this meaning, spending wealth in the name of Allah is

also known as ‘*Zakat*’, as this charity purifies the wealth. Allah says in Qur’an: **“Of their wealth take alms, that so thou mightiest purify and sanctify them; and pray on their behalf.”** (9:103)

The commentators of Qur’an have diverse opinion on the intended meaning of purification and prayer. Some of them say; getting purified denotes good behavior with the parents. Some others opine that; quitting the backbiting, giving up the love for this world, incessant remembrance of Allah, forbearance in case of afflictions, recitation of Holy Qur’an and sincerity etc are the implied meanings of purification. However, others have taken the obligatory alms (*Zakat*) as the meaning of *Tazak’ka* and five times prayers for prayer.

A group of commentators of Qur’an and worthy ancestors are unanimous that this verse has been revealed in respect of the almsgiving on the occasion of festival (*Sadaqat ul Fitr*) and the prayer of festival. Accordingly, Hazrath Ali^{RZ} said that the word ‘*Tazak’ka*’ is derived from *Zakat*, and the alms given at the end of Ramadan comes under the provision of *Zakat*. Hence, ‘purification’ (*Tazak’ka*) stands for the almsgiving on the occasion of festival (*Sadaqat ul fitr*),

‘remembrance of Allah’ for glorification and ‘prayer’ for the prayer of the festival. Hazrath Ali^{RZ} argues that the ‘*Zakat*’ is mentioned after ‘prayer’ everywhere in the Qur’an, like **“And be steadfast in prayer and give *Zakat*.”** (2:110), but in this verse, Allah has given precedent to *Zakat* over Eid prayer and even remembrance of Allah, which implies some special circumstances, in which all these three things should take place in proper order, which is nothing but the payment of alms at first, then going to the place of Eid prayer by chanting the exaltation of Allah (*Takbeerat*) and offering Eid prayer.

There is a possibility of casting doubt on such explanation of the verse, as this verse was revealed in Holy Makkah, and the practice of almsgiving at the end of Ramadan and offering Eid prayer was made essential in the city of Madinah. Accordingly, neither alms were given nor Eid prayer was offered in Makkah. A simple answer to such objection is that though the verse was revealed in Makkah, but it was destined in divine knowledge that the alms giving, and Eid prayer shall be implemented in Madinah, because there is no obligation to occur both the revelation and implementation at the same time. It is valid if any injunction or prediction comes first and implemented

later on. For instance, another verse was revealed in Makkah: **“Soon will their multitude be put to flight, and they will show their backs.”** (54:45) Hazrath Umar^{RZ} says that he was surprised when this verse was revealed, thinking about the people who would be routed by the Muslims. After migration to Madinah from Makkah, innumerable infidels were routed by a few Muslims in the expedition of Badr, and the Messenger of Allah^{PBUH} was reciting the same verse, then I realized that this verse is related to the military expedition of Badr. Similarly, Allah says: **“And thou art an inhabitant of this City.”** (90:2). This verse also was revealed in Makkah. One of its different explanations is that the shedding of blood is forbidden in Makkah, but Allah says that it is permitted for you. Accordingly, when Makkah was conquered after several years of migration (*Hijrath*), the armed battle within Makkah was made permissible for the Prophet^{PBUH} for a day, and he ordered killing of hardcore infidels within the limits of *Ka’abah*.

Similarly, the verse **“But he will prosper who purifies himself. And remembers the name of his Guardian-Lord, and prays.”** (87:14&15) was though revealed in Makkah but was divinely destined to become operational in Madinah. Accordingly, in the

year 2 AH or one and half years after migration, the fasts of Ramadan were declared obligatory (*Farz*) on 10th day of Sha’ban, and the Prophet^{PBUH} delivered a sermon at the end of Ramadan or one or two days before Eid and said: “Allah the Almighty has made almsgiving at the end of Ramadan obligatory for you. Give one *Sa’a* (a measure of capacity) wheat or barley for two persons, be a free person or a slave or a minor or a major.” (*Fath’ul Qadeer*)

It is mentioned in *Durr ul Mukhtar* that the Messenger of Allah^{PBUH} used to deliver same sermon at the end of every Ramadan and wrote: “The almsgiving at the end of Ramadan is essential (*Wajib*) and the narrative in a Hadith that the Prophet^{PBUH} had made it obligatory, denotes he had stipulated it, because there is unanimity amongst Ummah that the refuter of *Sadaqat ul fitr* is not an infidel.”

On the basis of the apparent meaning of the Hadith, a narrative is found with reference to Imam Shaafa’ie^{RH} that he had declared it obligatory. Hazrath Abdullah bin Umar^{RZ} narrates that the Messenger of Allah^{PBUH} had made the almsgiving at the end of Ramadan as essential (*Wajib*), and the doctrine of the four orthodox Imams including Imam Shaafa’ie^{RH} is

the same.

In short, Allah has made, in this verse, welfare and prosperity conditional upon two types of devotion: financial and physical. In the view of Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad^{RH}, almsgiving at the end of Ramadan is an essential duty of every Muslim who possesses the required provisions for the day of Eid, and same doctrine is followed by Mahdavia community.

In the doctrine of Imam Azam^{RH}, such almsgiving is essential for those who possess minimum quantity of property (*Nisab*), which means the one who owns 200-dirham silver which is equal to 48 tolas, 7 masha, 2 ratti and 2 jau, over and above his actual requirement,

Almsgiving on behalf of minor children is a duty of father, but not for the adult and sane children. Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad^{RH} maintain that the husband is essentially bound to give alms on behalf of the wife, but Imam Azam^{RH} does not agree to it.

In the opinion of Imam Azam^{RH}, the time of its obligation starts from dawn on the day of Eid, but other

three orthodox Imams say that the almsgiving becomes an essential duty after sunset in the night of Eid. As a result of such difference of opinion, if anyone dies in the night of Eid but before dawn, he has not omitted the essential duty in the view of Imam Azam^{RH}, but other three Imams consider him as failed to perform an essential duty, and his heirs should pay on his behalf. The payment of alms before dawn is valid in the opinion of Imam Azam^{RH}, and such obligation is considered to have been fulfilled if paid days or months before the day of Eid. However, payment of such alms prior to the month of Ramadan is not valid in the view of Imam Shaafa'ie^{RH}, and Imam Malik^{RH} and Imam Ahmad^{RH} hold it valid if paid two days prior to the day of Eid.

All the four orthodox Imams are unanimous that the failure to pay the alms by the end of the day of Eid does not absolve him of such duty and he will remain liable to pay throughout his life.

The Eid prayer too is essential (*Wajib*) and giving alms before going for the prayer is desirable (*Musta'hab*). It is narrated by Hazrath Abu Sayeed Khudri^{RZ} that the Messenger of Allah^{PBUH} used to distribute his alms before going for the Eid prayer and

instruct others to do the same and recite the verse ***“But he will prosper who purifies himself. And remembers the name of his Guardian-Lord, and prays,”*** while going for the Eid prayer, and the Companions^{RZ} too followed this practice. Hazrath Abdullah bin Mas’ood^{RZ} said that May Allah bestow His Mercy on he who gave the alms first then offered the Eid prayer and recited the same verse. It was the usual practice of Hazrath Abdullah ibn Umar^{RZ} to enquire whether the alms on behalf of him have been paid or not. If the answer is affirmative then he will proceed for the prayer, if not then he will instruct to pay the alms first before going for prayer and say that Allah has revealed the verse ***“But he will prosper who purifies himself. And remembers the name of his Guardian-Lord, and prays,”*** in respect of this obligation only. Once Hazrath Usman Ghani^{RZ} could not pay the alms at the end of Ramadan before Eid prayer, hence he liberated a slave as expiation for this mistake. The Messenger of Allah^{PBUH} said: “O Usman! Even if you set free a hundred slaves, it will not match the reward you could have earned if paid the alms before prayer. Hazrath Ali^{RZ} said that the one who paid the alms first, went to the place of worship for Eid prayer chanting exaltation of Allah (*Takbeerat*) and prayed, he prospers as per the

glad tidings given in this verse.

The important objective of making the almsgiving at the end of Ramadan an essential duty has been described in a Hadith, which is summarized below: “The almsgiving before the festival at the end of Ramadan (*Sadaqat ul Fitr*) has been declared as essential duty (*Wajib*) because it recompenses the shortcomings, absurdity and derangements occurred during the course of fasting and purifies the fasting person from sins. The other objective is to help the poor and needy through alms and enable them also to have something to eat on the day of festival.”

It is mentioned in another Hadith: “Make the poor and needy free from want or begging on the day of festival,” so that they are not deprived of the celebrations of Eid and need not beg for it.

Waki’ bin Jarrah (the pupil of Imam Azam^{RH} and mentor of Imam Shaafa’ie^{RH}) and Hassan Basari^{RH} say that the relevance of the fasting and the alms given at the end of Ramadan are similar to the relevance between the prayer and the prostrations of forgetfulness (*Sajda tus Sahw*), which means the way in which any mistake committed in the prayer is recompensed with the Prostration of Forgetfulness, the fasting person too

is purified with the help of *Sadaqat ul Fitr* from the sins like lies, theft, backbiting etc. committed during the course of fasting.

In addition to this, the *Sadaqat ul Fitr* becomes expiation for our minor sins and also helps the poor to celebrate the festival, and the acceptance of the fasting persons by Allah depends on the payment of alms at the end of Ramadan. Hence the Messenger of Allah^{PBUH} said: “The fast of Ramadan remains suspended between the heavens and the earth, and never rise up to Allah without payment of the alms at the end of Ramadan.”

It is mentioned in another Hadith that Allah provides two green feathers to the fast suspended between the skies and the earth, if the alms are paid at the end of Ramadan, which helps the fast to fly and reach seventh heaven, and Allah orders to keep that fast in one of the lamps of the empyrean (*Arsh*) till the fasting person reached there. Precisely speaking, the Messenger of Allah^{PBUH} had made almsgiving at the end of Ramadan an essential duty (*Wajib*) for every man and woman, whether they observe the fast or not. Every person is bound to pay the alms on behalf of self, minor children, adult and wise children and those who are insane and all dependents for whose maintenance

he is responsible.

Regarding the quantity of items given as alms at the end of Ramadan, it is mentioned in “*Hidayah*”:

“The alms (or charity prescribed for *Eid ul Fitr*) consist of half a *Sa’a* of wheat, flour, parched barley meal (*Sat’too*) and raisins, and one *Sa’a* in case of dates or barley.”

As per Imam Azam^{RH}, anything other than above can be given by reckoning the price of the specified items, as mentioned in *Fatawa Aalamgiriya*:

“It is not permissible to give anything other than the specified thing in the same quantity, but equal to the price of such stipulated thing.”

For instance, the prescribed quantity of wheat to be given in charity (*Fitra*) is half a *Sa’a*, but it is not permissible to apply such quantity to any other unspecified thing, yet it can be given in the quantity available for the price of half a *Sa’a* wheat. Suppose we have sorghum and want to give it in charity (*Fitra*), and the price of half a *Sa’a* wheat is two rupees, then the quantity of sorghum available for two rupees can be given in charity.

As per the doctrine of Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad^{RH}, the prescribed quantity of all specified things to be given in charity, such as wheat, flour, *sattu*, raisins, dates and barley is one *Sa'a*, and it is not permissible to give their price. However, Imam Shaafa'ie^{RH} opines that, in addition to the specified things, every such thing can be given in charity which is grown from earth and taking out its tithes (*Ushr*) is compulsory. Further, Imam Ahmad^{RH} says that only nutritious things must be given in charity. But Imam Azam^{RH} maintains it as permissible even if the price of the specified things is given in charity in lieu of those things. The jurists write that "It is more beneficial for the poor." It means, compared to grains, giving its price will be more useful and advantageous for the poor and needy, hence in the opinion of Imam Azam^{RH}, giving the price in charity is not only permissible but preferable too. Mahdavia community also follows the doctrine of Imam Azam^{RH}.

It must be remembered that the later jurists belonging to the four orthodox schools of jurisprudence have decreed (*Fatwa*) that the Zakat, Alms given at the end of Ramadan (*Sadaqat ul Fitr*) and the things offered as expiation, precisely all kinds of charities (*Sadaqaat*) can be given to *Sadaat* (Holy Prophet's

descendants through his daughter Fatimah^{RZ}). The Mahdavis also adhere to this practice.

Regarding the weight of *Sa'a*, it is cited in *Durr ul Mukhtar*: "The *Sa'a* relied upon by Hanafite jurists is such a vessel or measure which can hold the lentils equal to the weight of 1040 dirham, and the *Shara'ie* dirham is defined as equal to 14 carats and the carat is equal to 5 grains of barley, hence one dirham is equal to 70 grains of barley. It can also be explained in another way; 5 grains of barley are equal to one carat and 14 carats are equal to one dirham and 1040 dirham are equal to one *Sa'a*, which means the weight of one *Sa'a* is equal to 72,800 grains of barley.

As per *Fatawa Aalamgiriya*, one *Sa'a* is equal to 8 *ratl* of Baghdad and one such *ratl* is equal to 20 *istar* which equals to 4.5 *misqal*, and the *misqal* and the *dinar* are same and equals to 20 carats. It can be arranged in this manner: 5 grains of barley=one carat, 20 carats=one *mis'qal*, 4.5 *mis'qal*=one *istar*, 20 *istar*=one *ratl*, 8 *ratl*=one *Sa'a*. It means: 100 grains of barley=one *mis'qal* and 720 *mis'qal*=one *Sa'a*, accordingly 2000 grains of barley=one *Sa'a*.

In Arab countries, the *Sa'a* is determined as per the weight of a *dirham* and a *dinar* both, and both of

them have a difference of 3 *tolas*. The author of *Durr ul Mukhtar* has preferred the weight of a dirham, which means a *Sa'a* is equal to 72,800 grains of barley, and we have adapted the same.

The measure of *Sa'a* is currently in vogue in Arabian countries like Iraq, Syria, Egypt and other Islamic countries. The measures *Sa'a*, *Oqiya*, *Dirham* and *Misqal* are not used in India, hence their conversion to local measures; *Ratti*, *Masha*, *Tola* and *Ser* are necessary. The *Ratti* is measured in different weights; 2 or 3 or 4 grains of barley are taken as equal to one *Ratti*. 8 *Ratti*=One *Masha*, 12 *Masha*=One *Tola* and 80 *Tolas*=One *Ser*. The current weight 'Kilo' is equal to 87 *Tolas* and 10 grams is equal to 11 *Mashas*.

1. If 2 grains of barley are taken as 1 *Ratti*, then 72,800 grains of barley will be equal to 379 *Tolas* and 2 *Masha*, half of which will be 189 *Tola* and 7 *Masha* or 2 *Ser*, 29 *Tola* and 77 *Masha*. (One *Fitra*).
2. If 3 grains are taken as 1 *Ratti*, then 72,800 grains of barley will be equal to 252 *Tola*, 9 *Masha*, 2 *Ratti* and 2 Grains. If rounded off it will be 253 *Tola* or 1 *Sa'a*. Half of which will be 126 *Tola*, 6 *Masha* or 1 *Ser*, 46 *Tola* and 6 *Masha*. (One

Fitra).

3. If 4 grains are taken as 1 *Ratti*, then 72,800 grains of barley will be equal to 189 *Tola* and 7 *Masha*, and half of which will be 94 *Tola*, 9 *Masha* and 4 *Ratti*, which is the weight of one *Fitra*. On conversion it will become 1 *Ser*, 14 *Tola*, 9 *Masha* and 4 *Ratti* or one kilo and 107 gram in current weight.

Out of these three weights of a *Sa'a*, the No. 2 is moderate, hence adapted by us, and same measure (3 grains= 1 *Ratti*) is used to determine the weight of an *Uqiya*. Accordingly: 5 grains of barley= 1 *Carat*, 14 *Carat*= 1 *Dirham*, 40 *Dirham*= 1 *Uqiya*, which means 70 grains= 1 *Dirham*.

At the rate of 3 grains of barley per one *Ratti*, one *Dirham* will be equal to 2 *Masha*, 7 *Ratti* and 1 grain, and if multiplied by 40, the product will be 9 *Tola*, 8 *Masha*, 5 *Ratti* and 1 Grain, which is the weight of one *Uqiya* prevalent in our community. In short, since ancient days and being average of the weights, we have adapted 3 grains of barley as equal to one *Ratti*. For instance, there was a difference of opinion amongst Arabs in respect of the equivalent of ten dirham, like 5, 6 or 10 *Misqal*, which was resulting in litigations during trade and transactions. The matter was referred to

Hazrath Umar Farooq^{RZ} for adjudication during his Caliphate. He struck the average of all the three weights and divided 21 by 3, the quotient was 7. Hence, he ordered that 10 dirham shall be considered as equal to 7 Misqal.

Similarly, 2 or 3 or 4 grains of barley are converted to *Ratti*. Adhering to the practice of Hazrath Umar Farooq^{RZ}, to resolve the differences, the three weights 2, 3 and 4 should be added, to obtain a total of 9, if the same is divided by 3, the quotient will be 3. Hence, we have accepted 3 grains of barley as equal to one *Ratti*.

The gist of all these deliberations is that the legal weight of one *Sa'a* is equal to 72,800 grains of barley, and at the rate of 3 grains per *Ratti*, the *Sa'a* will be equal to 253 Tola, half of which will be 126 Tola and 6 Masha, which will be the weight of wheat, to be given in charity for one *Fitra*. Nowadays, the metric system of measures is in vogue, in which a kilogram is equal to 87 Tolas, hence it is more preferable to give 1.5 Kg wheat which is equal to 130 Tolas and 6 Masha, in excess of 4 Tolas. *Allah knows the Best.*

Why only gold or silver is a standard measure for determination of Nisab

The following Note by Dr. Ghulam Dastagir Rasheed, Former Head, Dept. of Persian, Osmania University was published, with above caption, in “Siasat” daily dated 30th November 1976:

“Few years ago, Maulvi Jalaluddin Hussami, the elder son of Maulana Hussamuddin sahib had published a question seeking legal opinion on the matter that, usually a person who is liable to pay Zakat as an obligatory duty or essentially sacrifice animal, is the one who possesses 7.5 Tolas of gold or 52.5 Tolas of silver. Today, the price of 7.5 tolas of gold has increased manifold and the price of 52.5 tola silver has declined. Then how both are equally liable to pay Zakat? Islam being a religion of justice and equity, how its injunctions may have disparity. So far none of the scholars or jurists has provided a convincing answer.

Being a very reasonable question, myself and my sincere colleague Maulana Ahmed Hussain Khan, Former Professor of Arabic, Osmania University started research on this matter, and found an important point in “*Sharh Hidayah*” by Maulana Ameer Ali, a first-rate scholar and jurist, that the cost of 7.5 tola gold and 52.5 tola silver was the same in those days, hence the possessors of both kinds of property were equally made liable to pay the Alms. Maulana Ahmed Hussain Khan said that there is an enormous difference today in the prices of both metals, hence it is difficult for the one who owns the prescribed limit of silver.

As a result of various economic revolutions, gold slowly gained the position of standard money, but silver could not. Moreover, the prices of gold shot up after election of Jimmy carter as President of America. During the course of such discussions, luckily an internationally renowned scholar Maulana Syed Abul Hassan Ali Saheb, the Director of *Nadwat ul Ulama* arrived in Hyderabad, and he also agreed that the prices of both metals were same in those days, but the matter still remained under active deliberation and none of the jurists entitled to independent opinion came forward with a solution. This matter comes to fore particularly on the occasion of sacrifice (*Eid’ul Azha*). We hope that

our newspapers would publish this ‘Note’ and help the Muslims to overcome such confusion, as prolonged delay and lack of attention towards such an important matter is unbecoming and improper.”

Surprisingly, there was no response on this appeal from any quarter till date, in spite of being an important issue faced by Muslims every year on the occasion of the Festival of Sacrifice. Hence, we solicited help and requested Hazrath Afzal ul Ulama Maulana Syed Najmuddin Saheb, the President of the Council of the Mahdavia Scholars of India (*Majlis e Ulama e Mahdavia Hind*), to enlighten us on the matter of minimum requirement of property (*Nisab*) which necessitates one to sacrifice animal. We are grateful to him for accepting our request and rendering a detailed and lucid solution to such an important matter, which is brief though, but very useful and informative on the issues of Zakat and Sacrifice, and the same is published here. (Editor, Noor-e-Hayat).

The minimum amount of property (*Nisab*) liable to payment of the Zakat, the Alms given at the end of Ramadan (*Sadaqat ul Fitr*), quantities thereof and the sacrifice is well defined and determined in the Islamic law (*Mansoosi*), which is not at all open for alteration.

Any Muslim having 20 dinar or 7.5 tola gold or 200 dirham which is equivalent to 52.5 tola silver, must pay as Zakat, half a dinar as 1/40 part of 20 dinar or 5 dirham as 40th part of 200 dirham. Obviously, everyone is liable to pay as per his capacity. A person having 20 dinar gold is required to pay half a dinar and who has 200 dirham silver is required to pay 5 dirham, hence there is no question of injustice or inequity in the case of Zakat, and all are equally responsible. The minimum amount of liability (*Nisab*) for sacrifice is 200 dirham silver, and same is the *Nisab* of silver for the purpose of Zakat. But usually, it is said that the one who is liable to pay Zakat is also liable to offer sacrifice, which means, the one who possesses 7.5 tola gold or the one who possesses 52.5 tola of silver is equally responsible for sacrifice, in spite of the fact that their prices are very much different. Here a question arises as to how both are equally responsible in spite of differences in prices, and this will amount to deviation from the norms of justice. The simple answer to such question will be the same that the prices of 7.5 tola of gold and 52.5 tolas of silver was same in the initial stages of Islam, but now this proportion of the rate is changed, hence it is not justifiable to hold both liabilities (*Nisab*) as equal.

As per the Hanafite jurisprudence, the actual

Nisab for sacrifice is 200 dirham silver. Anyone having 200 dirham or 52.5 tolas of silver or anything equivalent to its price over and above a home, clothes and other necessary items must essentially sacrifice an animal.

Regarding the essentiality of sacrifice, the author of *Hidayah* writes in *Kitabul Az'hiyah*:

“The minimum amount of liability (*Nisab*) which makes one essentially liable (*Wajib*) to give alms at the end of Ramadan (*Sadaqat ul Fitr*), also makes one liable to essentially sacrifice the animal.”

Obviously, possession of 7.5 tolas of gold is not the minimum amount of liability (*Nisab*) prescribed for almsgiving at the end of Ramadan. It is mentioned in *Durr ul Mukhtar*:

“The condition obligating the sacrifice of animal includes Islam, standing and affluence to such a level which obligates the almsgiving.”

In continuation, writes about *Sadaqa e Fitr*, (the alms given at the end of Ramadan):

“The same amount of liability (*Nisab*) which

obligates *Sadaqat ul Fitr*, also obligates the sacrifice of animal and payment of maintenance (*Nafaqah*) to the relatives, and the one who owns that much amount of property is considered as affluent hence it is not permissible to pay Zakat to him.”

It means, the benchmark (*Nisab*) of 200 dirham is concerned with three things: (1) Prohibition or exclusion from (receiving) charity (being affluent), (2) Obligation of giving alms (*Fitra*) and (3) obligation of sacrificing animal. Hence, it is written in *Hidayah*:

“This amount of property (*Nisab*) obligates the sacrifice of animal and almsgiving at the end of Ramadan, but payment of Zakat is not permissible to such a person who owns the prescribed amount of property (*Nisab*).”

It is written in *Fatawa Aalamgiriya*:

“One of the conditions for obligation of sacrifice of animal is opulence. The opulence which obligates the almsgiving at the end of Ramadan, the same affluence obligates the sacrifice of animal, but the conditions obligatory for Zakat are not applicable to sacrifice of animal.”

The author of *Durr ul Mukhtar* and Allamah Ibn Abideen in its commentary *Radd ul Muhtar* writes in *Kitab Bab ul Masraf* that the one who owns 200 dirham is a rich person. To be precise, the *Nisab* (200 dirham) for almsgiving at the end of Ramadan and for sacrifice of animal is one and the same, and the same is applicable for Zakat. But the conditions which obligate Zakat are not the same for sacrifice. For instance, the condition for obligation of Zakat is that the property should be held in possession for one complete year and should grow, however, there is no such condition of possession for one year and growth therein, in case of the sacrifice. The person becomes obliged to sacrifice an animal even if he becomes owner of the minimum amount of property (*Sahib-e-Nisab*) on the day of sacrifice itself. The minimum requirement (*Nisab*) for obligation of sacrifice has been lucidly explained in *Kitab ul Fiqh al'al Mazahib al Arba'a*:

“The Hanafite say that the sacrifice is compulsory for the one who has the capability to sacrifice an animal and who possesses 200 dirham silver, or objects equal to the value of 200 dirham silver over and above the dwelling-houses, articles of clothing and household furniture.”

The matter is clear now that the fixed amount of property (*Nisab*) for almsgiving at the end of Ramadan and sacrifice of animal is one and the same (200 dirham silver), but in my opinion the misunderstanding on the matter of sacrifice was created because of this statement in *Fatawa Alamgiriya*:

“The sacrifice is compulsory for an affluent person and it appears from the apparent meaning of the narration that the affluent denotes a person who possesses 200 dirham silver or 20 dinar gold.”

The apparent meaning of narration means the book of Imam Muhammad^{RH} which contains the most authentic issues and injunctions of Hanafite jurisprudence. It appears that the value of 200 dirham silver and 20 dinar gold was same till the age of Imam Muhammad^{RH} who died in the year 189 AH, hence there was no scope of objection to say that the sacrifice of animal is compulsory (*Wajib*) for those who own 20 dinar or 7.5 tola of gold and also for those who possess 200 dirham or 52.5 tola of silver. But such equation was incidental, not legal that it cannot be changed. This was the market rate which is prone to fluctuation. Hence, same thing happened, and the equation could not survive, and the minimum fixed amount for sacrifice

remained the same as 200 dirham. The Hanafite jurists after the period of Imam Muhammad^{RH} also did not mention the criterion of 20 dinar.

This must be kept in mind that when a person having 200 dirham silver is obliged to sacrifice animal, then the sacrifice is compulsory, in the first place, for the one who possess 20 dinar or 7.5 tola of gold or any quantity of gold equivalent to the value of 200 dirham silver.

To be precise, the sacrifice of animal is obligatory (*Wajib*) for a rich person, and a rich person is defined in legal terms as the one who owns 200 dirham, as clarified by Imam Muhammad^{RH}, hence written in *Jamay'us Sagheer*:

“Zakat should not be given to a person who owns 200 dirham and can be given if he possesses less than 200 dirham.”

It means, the possessor of 200 dirham is considered as rich and not eligible to receive the charity, and the one who possesses less than 200 dirham is a poor and eligible to receive the charity.

Sadar Shaheed (D 536 AH) a distinguished Hanafite jurist and mentor of the author of *Hidayah*

writes in *Sharah Jamay'us Sagheer*:

“Anyone possessing 200 dirham is legally considered as rich, but Zakat is not obligatory on him, because the growth in wealth is a condition for obligation of Zakat. Hence, anyone possessing property worth 200 dirham which is in excess of his necessities and such capital is not invested in business, then Zakat is obligatory on him, but being rich, he is not eligible to receive the charity, however he is obliged to give alms at the end of Ramadan (*Sadaqat ul Fitr*) and also sacrifice an animal on the day of *Eid ul Azha*.”

Hence, in the view of Hanafites, the standard measure to determine the minimum required property (*Nisab*) is silver. Anyone possessing 200 dirham or 52.5 tola of silver or he is in possession of any property equal to 200 dirham in excess of his daily needs, then he is obliged to sacrifice animal. There is no difference of opinion on the legality of Sacrifice itself, however there is diverse opinion in the matter of its legal status. Hazrat Imam Aazam Abu Hanifa^{RH} says the sacrifice is essential (*Wajib*), and the one who has neglected the sacrifice even after possessing 200 dirham, has omitted an essential duty (*Tark-e-Wajib*) which is a sin, and he

will be called to account. However, Imam Abu Yousuf^{RH} and Imam Muhammad^{RH}, the pupils of Imam Azam^{RH} hold the sacrifice as Sunnah, but the opinion of Imam Azam^{RH} is widely accepted.

Among the three chief jurists, Imam Malik^{RH} and Imam Shaafa'ie^{RH} consider the sacrifice as an Emphasized Sunnah (*Sunnah Mu'ak'kada*) but Imam Ahmad^{RH} as Sunnah. The one who offers sacrifice will be rewarded by Allah but the one who omitted will not be called to account. Another narration is attributed to Imam Malik^{RH} that it is an essential duty (*Wajib*).

None of the three chief jurists have stipulated any minimum requirement (*Nisab*) for sacrificing animal, which means the possession of 200 dirham is not necessary.

In the doctrine of Imam Malik^{RH}, after purchasing the sacrificial animal if there is no any obstacle, then it must be sacrificed, and one should offer sacrifice by borrowing money if he is capable of paying back the loan.

In the view of Imam Shaafa'ie^{RH}, it is enough if he can afford the price of animal after meeting the necessary expenditure of himself and his family.

Imam Ahmad^{RH} opines that the animal should be sacrificed by borrowing money, provided that he is able to repay the loan.

Till now, the matter of the minimum amount of property required to determine the liability of Zakat (*Nisab*) was deliberated in detail. However, an important point; the equivalency of 20 dinar with 7.5 tolas of gold and 200 dirham with 52.5 tolas of silver requires further study and research. The statement of the author of “*Ghayt’ul Autar*” creates apprehension. The same equation mentioned by Doctor Saheb is cited in *Kitab’uz Zakat*, and *Kitab’ul Az’hiya* and 20 dinar are shown as equal to 7 tolas and 20 dirham as equal to 57 rupees.

It is reported in *Durr ul Mukhtar* that 5 grains of barley are equal to one carat, 14 carat = 1 dirham, and 20 carat = 1 Mis’qal, which means one dirham is equal to 70 grains of barley and one Mis’qal is equal to 100 grains of barley.

Our current measures are Ratti, Masha and Tola. Usually, 3 grains of barley = 1 Ratti, 8 Ratti = 1 Masha and 12 Masha = 1 Tola, hence 1 legal dirham = 2 Masha and 7.33 Ratti, and 1 Mis’qal = 4 Masha and 1.33 Ratti. Therefore, 20 dinar will be equal to 6 Tola, 11 Masha

and 2.67 Ratti. Similarly, 200 dirham will be equal to 48 Tola, 10 Masha and 2.33 Ratti.

If rounded off for convenience, 20 dinar will be equal to 7 Tola and 200 dirham will be equal to 49 Tolas. *Allah knows the Best.*

for publication in “Noor-e-Hayat” for the benefit of the people.
(Syed Mahmood Yadullahi)

الخطبة الأولى

استغفروا لله واتوب اليه تسعاً سبحان محى الاموات وسميت الاحياء ومد بر امر
الآخرة والاولى سبحان من يعلم ما في السموات العلى وما في الارض السفلى
سبحان من يريكم البرق خوفاً وطمعا وينشئ السحاب الثقال ويسبح الرعد بحمده
والملائكة من خيفة ويرسل الصواعق فيصيب بها من يشاء وهم يجادلون في الله
وهو شديد المحال . سبحان من يسبح له السموات السبع والارض ومن فيهن وان
من شئى الايسح بحمده ولكن لا يفهمون تسبيحهم انه كان حليماً غفورا يخرج الحي
من الميت ويخرج الميت من الحي ويحيى الارض بعد موتها وكذلك تخرجون
سبحان سامع الاصوات باعث الاموات ومجيب الدعوات ومقدر الاموات والعالم بما
كان وبما هو آت سبحان من علورائي دعلم و اجصى وقدر و قضى وحكم
وامضى وانه هو اضحك وابكى وانه هو مات واحيى وانه هو يبسط الرزق لمن
يشاء من عباده ويقدر له وهو الذي جعل من الماء كل شئى حتى وهو الذى ينزل
الغيث من بعد ما قنطوا وينشر رحمته وهو الولي الحميد احمده في جميع الاوقات
والآناء واشهد ان لا اله الا الله وحده لا شريك له مستحق التوحيد والثناء واشهد ان
محمد عبده ورسوله خاتم الرسل والانبياء واشهد ان محمدا ن المهدي الموعود خاتم
الاولياء قد جاء ومضى صلى الله عليهما وعلى آلهما واصحابهما صلاة دائمة بلا
انقضاء يا قوم استغفروا ربكم ثم توبوا اليه يرسل السماء عليكم مدرارا يزدكم قوة
الى قوتكم ولا تتولوا مجرمين فاستغفروه ثم توبوا اليه ان ربي قريب مجيب ،
واستغفروا ربكم انه كان غفارا يرسل السماء عليكم مدرارا ويمددكم بأموال وبنين
ويجعل لكم جنات ويجعل لكم انهارا ، فاستغفروه ثم توبوا اليه ان ربي رحيم و دود .
استغفر الله ربي واتوب اليه استغفر الله ربي واتوب اليه استغفروا لله ربي واتوب
اليه اللهم ان كثرة الذنوب حبيت هنا غيث سمانك فنتوب اليك ونستغفرك فسهل
لنا قتنا غيثنا ها طلا تسيل به الشعاب وتروى به الطواب اللهم أن تهلكنا فبقهيج
اعمالنا وان ترحمنا فبرحمتك لا صاعرنا واطفالنا اللهم اغنا بارسال السحاب
وانزال الامطار من لجة بحر عميق زخار حتى تصلح زروعنا وضروعنا وتفرح
به قلوبنا وتفرح به كربنا الذى لا يكون فيه اضرار اللهم اكتب السلامة والعافية
علينا وعلى سائر المومنين اللهم اجعل هذا البلد آمناً مطمئناً من كل الآفات والافكار

The Prayer and Supplication for Rain

The Prayer and Supplication for Rain was arranged by a youth organization “Bazm-e-Mahdavia” on Thursday 14th July 1966/24th Rabi I 1376AH at 5:30 PM in Hazirah of Miyan Syed Raj Muhamma^d, and a revered and leading spiritual guide of our community Afzal ul Ulama Miyan Syed Najmuddin Saheb, the President of the Council of the Mahdavi Scholars of India was requested to lead the prayer, which he accepted. Approximately 500 people including the elders and children gathered for the prayer.

First of all, Hazrath Afzal ul Ulama delivered an informative speech on tenor and purport of the prayer for seeking rain and lead the prayer. Thereafter he delivered a comprehensive and eloquent sermon and prayed to Allah with such humility that it was reflected in his voice, and the worshippers were saying “Amen”.

Since the supplication was made from the bottom of the heart along with hundreds of people, the prayer was accepted by Allah, and rainfall started within two hours which continued for several days, which resulted in growth of greenery, and the people felt relieved. Since most of the people are not aware of the procedure of the prayer and supplication for seeking rain. I have obtained the copy of the sermon delivered by him, and compiled a brief report on the prayer conducted, and handed in

ربنا ظلمنا انفسنا وان لم تغفر لنا وترحمنا لنكونن من الخاسرين

الخطبة الثانية

الحمد لله الحمد لله نحمد ونستعينه ونستغفره و نو من به ونتوكل عليه ونعوذ بالله من شرور انفسنا ومن سنيات اعمالنا فمن يهديه الله فلا مضل له ومن يضلل الله فلا هادي له اشهدان لا اله الا الله وحده لا شريك له واشهد ان محمدا عبده ورسوله ، نقر و نصدق ان المهدي الموعود قد جاء ومضى فأما به صلى الله عليهما و على آلهما واصحابهما اجمعين اما بعد فيا عباد الله المومنين

Literally *'Is'tis'qa* means seeking water from some other person, and in religious terms the Prayer at the time of drought invoking Allah's mercy for rain is known as 'the Prayer for Rain' (*Salat ul Is'tisqa*). Such Prayer for Rain has been proven by the Holy Qur'an, Sunnah of the Messenger of Allah^{PBUH} and unanimity of Ummah. Allamah Ibn Nujaym writes in *Bahr ur Ra'iq*:

“A story of Noah^{AS} is cited in the Holy Qur'an. It is established in most of the *Ahadith* that the Messenger of Allah^{PBUH} had invoked Allah for rain several times, and the orthodox Caliphs (*Khulafa-e-Rashidin*) also adhered to it. The ancestors and their successors are unanimous on its validity and necessity and none of them denied it.”

It is mentioned in the Holy Qur'an that Noah^{AS} addressed his community when they were subjected to drought because of their disobedience: **“Ask forgiveness from your Lord, for He is Oft-forgiving; He will send rain to you in abundance; Give you increase in wealth and sons; and bestow on you gardens and bestow on you rivers (of flowing water).”** (71:10-12).

A detailed account of the points is that Noah^{AS} reached the age of one thousand years. He continued to invite his people towards Allah, unity of Allah (*Tawhid*) and asked them to refrain from sinfulness for hundreds of years, but they refused to turn back from their rebellious attitude. Allah punished his people with drought, parched rivers, dried-up canals, deserted fields and gardens, death of cattle for lack of fodder, and those survived they had no milk. More severe punishment for their infidelity and sinfulness was the sterility of their women. The drought or famine is of two types: (1) Dearth of goods – scarcity of grains, food, fruits and vegetables etc. because of the cessation of rainfall. (2) Dearth of right people – Extinction of male children. The people of Noah^{AS} were afflicted with both types of drought. The land was dried up, unable to grow any food. The wombs of their women turned barren and

unable to bear children. According to some narratives, there was no birth of a baby boy for forty or seventy years. In such a situation Noah^{AS} told them to: ***“Ask forgiveness from your Lord, for He is Oft-forgiving....*** That is to say: “I was trying to convince you for years together, but you did not heed, Allah punished you at last, and you are afflicted with both the dearth of goods and dearth of men. At least now turn to Allah and ask forgiveness from Him, He is very forgiving, He will pardon all of your past sins and the drought you are facing will be eliminated, in such a way that: ***“He will send rain to you in abundance; Give you increase in wealth and sons; and bestow on you gardens and bestow on you rivers (of flowing water).”***

Similarly, the people of Hood^{AS} (*Eber*) did not believe in him. They were agriculturists. Allah punished them with cessation of rainfall for three years continuously. Allah says in Qur’an that Hood^{AS} tried to convince and admonish his people: ***“And O my people! Ask forgiveness of your Lord, and turn to Him (in repentance): He will send you the skies pouring abundant rain, and add strength to your strength: so turn ye not back in sin!”*** (11:52)

It means, Hazrath Hood^{AS} made a promise to his people

that, if you turn to Allah and believe in Him, He will remove the troubles faced by you, and provide you plentiful rain, make your gardens and fields blossom, add to your financial and physical strength, cause increase in wealth and sons, and increase your spiritual strength also, provided that you turn to Him with humility and do not rebel against Him.

On the basis of these verses, Imam Azam^{RH} concluded that the truth and the reality behind the Prayer for Rain is repentance only, because Allah had made the descent of rainfall conditional on penitence and seeking forgiveness, not on the prayer. Hence, Nooh^{AS} and Hood^{AS} have asked their people to repent and seek forgiveness of Allah if they want rainfall. Imam Azam^{RH}, based on this, maintains that the repentance and seeking forgiveness is enough for seeking rain.

It is evident from *Ahadith* that the Messenger of Allah^{PBUH} had invoked Allah’s blessings for rain even without offering any prayer (*Muslim*), and sometimes offered prayer too for rain (*Bukhari*). Since the Messenger of Allah^{PBUH} did not maintain regularity in the matter of the prayer for rain, Imam Azam^{RH} does not consider the Prayer for Rain with congregation as Sunnah, but believes it as lawful, and holds it as

commendable. (*Kitab'ul Fiqh al'al Mazahib'al Arba'a*) but the pupils of Imam Azam^{RH}, Imam Abu Yousuf^{RH} and Imam Muhammad^{RH} hold the Prayer for Rain as Sunnah. Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad bin Hanbal^{RH} opine that the Prayer for Rain is an Emphasized Sunnah (*Sunnah al Mu'akkadah*). Since Imam Azam^{RH} holds it as lawful and commendable, then certainly the supplication along with the prayer is a more perfect way of seeking rain, and the Hanafite jurists have adapted the same doctrine.

The reason behind such difference of opinion amongst the chief jurists entitled to independent opinion (*A'immah-i-Mujtahideen*) is the two types of practices adapted by the Messenger of Allah^{PBUH}, prayer for rain with supplication and supplication without prayer for seeking rain. Both such deeds are rightful and Sunnah of the Messenger of Allah^{PBUH}. As a matter of fact, one such deed of the Messenger of Allah^{PBUH} was for the people of superfluous knowledge and the other for saintly people, one is for the common people and the other for distinguished people. He^{PBUH} used to take the people along with him to the outskirts of Madinah and sought rain from Allah by invoking His mercy through supplication, sometimes after prayer and sometimes

without prayer, and sometimes by supplicating on the pulpit of Prophet's Mosque during the sermon, and heavy rain starts immediately. Such a position is not for all and sundry but exclusively reserved for the saints and specific people.

The saintly people of the Mahdavia community, because of the adherence to the Prophet^{PBUH}, were placed on such a lofty position. Though they were sitting in their rooms but were strolling over and above the planets. They were not concerned with the world and the worldly people and remained free from the effects of prosperity and famine of the times. Always busy in the remembrance of Allah and free from other voluntary deeds. But sometimes the requests made by the common as well as the specific people compelled them to beseech rain from Allah, and just like the invocation on the pulpit by the Prophet^{PBUH}, a movement of their lips was enough to excite the sea of divine mercy. One such incident is narrated that the people of Bijapur, who were facing drought, pleaded with Hazrath Bandagi Miyan Aziz Muhammad^{RH}, the maternal grandson of Hazrath Bandagi Meeran Syed Mahmood Sani Mahdi^{RZ} to pray for rainfall. After turning his attention towards Allah, he advised the people to offer something in the name of Allah

(*Nazrullah*), rainfall will start. The people followed his direction and offered food to the poor and needy in the name of Allah, and immediately the rain started pouring.

Hence, the saintly people endowed with the real and apparent conditions as well as perfect leadership qualities, they were not required to go to any forest for the prayer, and no such narrative is found that our worthy ancestors had offered prayer for rain. But during this period of decadence and ignorance from the knowledge and deeds, what relation we can claim to have with them? Those saintly people followed the Sunnah of the Prophet^{PBUH} like his supplication on the pulpit. Now it is incumbent upon us, the sinful people to follow the other Sunnah of the Messenger of Allah^{PBUH}, go to outskirts, offer the prayer for rain and invoke Allah's blessings for rain after seeking forgiveness and repentance, and then expect the blessings of Allah.

The Prayer for Rain (*Namaz-e-Is'tisqa*) is to be offered just like the prayer of Eid; two units (*rak'at*) loudly with congregation but without calling the *Azaan* and *Iqamat*, and without repetition of the extra words of the exaltation of Allah (*Takbirat*). It is preferable to

recite Chapter 87 (*Al-A'la*) in the first unit and Chapter -88 (*Al-Ghashiya*) in the second unit of the prayer. The suitable time for such Prayer for Rain, as per Imam Malik^{RH}, is from sunrise to the decline of sun. Imam Azam^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad bin Hanbal^{RH} maintain that the Prayer for Rain can be offered throughout the day, even permissible during the execrable timings (*Auqat-e-Makrooha*) in the opinion of Imam Shaafa'ie^{RH}, but not permissible in the doctrine of Imam Azam^{RH}. It means, the Prayer for Rain too should not be offered in the timings when the voluntary prayer (*nafil*) is not permissible.

Just like Eid prayer, the Imam should deliver the sermon after prayer in the case of the Prayer for Rain too, but with a difference that "*Allahu Akbar*" is repeated several times in the sermon of Eid, but "*As'tagh firullah wa Atoobu Ilaihi*" should be recited in the sermon of the Prayer for Rain. Another difference is that the sermon (*Qutba*) is delivered on a pulpit as per traditional method (*Masnoon*) on the occasion of Friday and Festivals, but the Imam should deliver the sermon by standing on the ground level after offering the Prayer for Rain, as standing on a pulpit is execrable. While delivering sermon, the Imam should face his back towards Qibla and deliver two sermons, with a

brief interval by sitting down for a while, just like the sermons of Friday and two great festivals. However, only one sermon is enough in the opinion of Imam Abu Yousuf^{RH}.

While delivering the sermon, the practice of turning around the sheet of cloth by the Imam is a traditional method, in which the right corner is turned towards left and the left towards right and the bottom towards top. The jurists say that the bottom should be brought to top if the sheet is square shaped, and if circular just like a cloak or jacket, the right side should be turned towards left. Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad bin Hanbal^{RH} say that all those present must follow such method, but in the opinion of Imam Azam^{RH}, the practice of turning around the sheet by Imam only is enough, others are not required to follow him.

After completion of the sermon, the Imam should turn his face towards Qibla and Invoke Allah's blessings (*Du'a*), as mentioned in *Radd ul Muhtar*:

“The prayer for Rain is the invocation of Allah (*Du'a*). The Imam should face towards Qibla and invoke blessing of Allah with both the hands raised, and all others should remain seated and say

Aameen, Aameen.”

It is desirable (*Mustahab*) to give charity before going for the Prayer for Rain. It is mentioned in a Hadith that Allah inflicts plague on them when immorality and sinfulness increases in a society and imposes drought when the people stop payment of alms (*Zakat*).

It is better to come for the Prayer wearing dirty, torn and patched clothes with humility and submission, and bring the poor, needy and old aged men and women and children and make them pray. It is cited in a Hadith:

“Allah helps you and provides the means of subsistence to you just because of the poor and needy people.”

The Messenger of Allah^{PBUH} said in another Hadith:

“If there were no youths who are humble and submissive, grazing animals, elderly people bowing for prayer and suckling infants, Allah's punishment would have been imposed on you.”

Therefore, it is desirable to bring the elderly people and children for such prayer, even suckling

infants getting them separated from their mothers as the prudence behind this is the cries of the children will touch and melt the hearts of the people and enhance humility among them and make the ocean of divine mercy excited. (*Radd ul Muhtar*)

It is also desirable to drive the animals towards the forest at the time of such prayer for rain, as Allah causes the rainfall because of these speechless animals, and listens to their speechless supplications. Once there was a drought like situation during the period of Hazrath Sulaiman^{AS}. He took all the people along with him for the prayer, then he saw an ant with her legs being raised towards sky. He asked the people to return and said that your supplications have been answered just because of this ant.

In case of excessive rain, prayer for its reduction is also permissible. Once, the Messenger of Allah^{PBUH} was delivering the sermon on Friday. Someone informed him that we are dying, and the animals and the fields have been destroyed because of the lack of rain and requested him to pray to Allah for rain. During the course of sermon, the Prophet^{PBUH} prayed: O Allah! Cause to rain, O Allah! Cause to rain, O Allah! Cause to rain. The narrator says that they saw the clouds rising

instantly and started to pour down the rain, which continued for eight days. The same person came on next Friday and informed the Messenger of Allah^{PBUH} that the excessive rain is causing loss of life and property, houses and agricultural fields have been washed away. The Prophet^{PBUH} smiled and prayed Allah during the course of sermon: O Allah! Cause to rain, not on us but in our surroundings, mountains, valleys and the places of vegetation where the water is required. The narrator says the rainfall instantly stopped, the weather was cleared, and the sun appeared.

If the rain did not start after one time prayer for rain, then it should be continued daily till the rain starts, and such practice is termed as *Masnoon* by Imam Malik^{RH}, Imam Shaafa'ie^{RH} and Imam Ahmad bin Hanbal^{RH}, however, in the doctrine of Imam Azam^{RH} the prayer for rain should not be offered on fourth day if already offered continuously for three days.

Family Tree and Place of Burial :

**1 Hazrath Syed Muhammad Jaunpuri Mahdi e Mau'ood^{AS}
(Farah Mubarak Afghanistan)**

**2 Hazrath Bandagi Miran Syed Mahmood Sani e Mahdi^{RZ}
(Bhelot Gujarat)**

**3 Hazrath Bandagi Miran Shah Yaqub Hasan e Vilayat^{RZ}
(Daulatabad Maharashtra)**

4 Hazrath Bandagi Miyan Syed Yousuf^{RH} (Daulatabad)

**5 Hazrath Bandagi Miyan Syedna Shah e Qasim
Mujtahid e Groh^{RH} (Musheerabad Hyderabad)**

**6 Hazrath Bandagi Miyan Syed Meeranji^{RH}
(Tigriya Rajasthan)**

**7 Hazrath Miyan Syed Ashraf Saidanji^{RH}
(Tigriya Rajasthan)**

8 Hazrath Miyan Syed Najmuddin^{RH} (Tigriya Rajasthan)

**9 Hazrath Miyan Syed Miranji^{RH} (Bichpadi)
(Founder of Daira Bichpadi Rajasthan)**

**10 Hazrath Miyan Syed Zainulabedin^{RH}
(Founder Daira Alampur Telangana)**

11 Hazrath Miyan Syed Nusrath^{RH} (Alampur)

**12 Hazrath Miyan Syed Mahmood Meeran Saheb Miyan^{RH}
(Alampur Telangana)**

**13 Hazrath Miyan Syed Roshan Munawwar Khajazade
Miyan^{RH} (Musheerabad, Hyderabad)
(Founder Daira Bichpadi at Begum Bazar Hyderabad)**

**14 Hazrath Miyan Syed Mahmood Meeran Saheb Miyan^{RH}
(Musheerabad, Hyderabad)**

**15 Afzal ul Ulama Hazrath Miyan Syed Najmuddin^{RH}
(Hazirah Hazrath Bandagi Miyan Shah Qasim Mujtahid e
Groh^{RH} Musheerabad Hyderabad)**