

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
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THE HAJJ

According to
Five Schools of Islamic Law

Vol. IV

By Muhammad Jawad Maghniyyah



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CONTENTS

Preface	
The Ḥajj	1
The Conditions for the Ḥajj	6
Istinābah (Deputation)	13
Al-‘Umrah	20
The Forms of the Ḥajj	25
The Iḥrām	33
Iḥrām, Its Wājibāt and Mustahabbāt	36
Restrictions of Iḥrām	44
Tawaf	59
Sa’y and Taqṣīr	76
The Wuqūf in ‘Arafāt	86
The Wuqūf in Muzdalifah	93
At Minā	98
Jamrat al-‘Aqabah	99
Hady	103
Between Makkah and Minā	117
The Dhū al-Ḥijjah New Moon	123
Ziyārah of the Greatest Prophet (s)	126
History of Al-Ḥaramayn Al-Sharīfayn	127

PREFACE

The Islamic *fiqh* (jurisprudence) is divided into several sections: *'ibādāt* (rituals) that include: ritual purity (*tahārah*), prayers (*ṣalāt*), fasting (*ṣawm*), alms (*zakāt*), one-fifth (*khums*) and pilgrimage (*hajj*). These six chapters are included in the first part of the Book *al-Fiqh 'alā al-madhāhib al-khamsah* (*Fiqh* according to five schools of Islamic Law), which was published first by Dār al-'Ilm li al-Malāyīn, achieving unprecedented circulation, that prompted this foundation to republish it for the second, third and fourth time, all of which have run out of print.

The second section of Islamic *fiqh* contains the Individual conditions (*al-'Aḥwāl al-shakhsiyyah*), that include: marriage, divorce, will and bequest, endowment (*waqf*) and legal disability (*hajr*), which constitute the second part of the book published by Dār al-'Ilm li al-Malāyīn, whose copies have run out of print.

Some honourable personages suggested to the Dār to republish the two parts in one volume, of which the first part to be *'ibādāt* and the second *al-'Aḥwāl al-Shakhsiyyah*. The Dār has complied, as the subject of the two parts being one, by the same author. I hope that this work will be beneficial for the readers.

The Almighty Allah is the guarantor of success.

AUTHOR

The Ḥajj

THE HAJJ

The Acts of the Ḥajj:

At the beginning, in order to make it easier for the reader to follow the opinions of the five schools of fiqh about various aspects of Ḥajj, we shall briefly outline their sequence as ordained by the Shari'ah.

The Ḥajj pilgrim coming from a place distant from Mecca assumes *ihrām*¹ from the *mīqāt*² on his way, or from a point parallel to the closest *mīqāt*, and starts reciting the *talbiyah*.³ In this there is no difference between one performing 'Umrah *mufradah* or any of the three types of Ḥajj (i.e. *tamattu'*, *ifrād*, *qirān*). However, those who live within the *ḥaram*⁴ of Mecca assume *ihrām* from their houses.⁵

On sighting the Holy Ka'bah, he recites *takbīr* (i.e. اللهُ أَكْبَرُ, 'God is the greatest') and *tahlīl* (i.e. لا إِلَهَ إِلَّا اللهُ, 'There is no god except Allah') which is *mustahabb*⁶ (desirable, though not obligatory). On entering Mecca, he takes a bath, which is again *mustahabb*. After entering al-Masjid al-Ḥarām, first he greets the Black Stone

The Hajj

(al-Hajar al-'Aswad)—if possible kisses it, otherwise makes a gesture with his hand—then makes the *tawāf* (sevenfold circumambulation of the Ka'bah) of the first entry, which is *mustahabb* for one performing *Hajj al-'ifrād* or *Hajj al-qirān*. Then he offers the two *rakā'āt* of the *tawāf*, again greets the Black Stone if he can, and leaves al-Masjid al-Harām. After this, he remains in the state of *ihram* in Mecca. On the day of *tarwiyah*, i.e. the eighth day of the month of Dhū al-Hijjah, or if he wants a day earlier, he goes forth towards 'Arafāt.

If the pilgrim has come for '*Umrah mufradah* or *Hajj al-tamattu'*, he performs the *tawāf* of the entry, which is obligatory (*wājib*) for him, and prays the two *rakā'āt* of the *tawāf*. Then he performs the *sa'y* between Safā and Marwah, and, following it, the *halq* (complete head shave) or *taqsīr*⁷ (partial shortening of the hair of the head). Then he is relieved of the state of *ihram* and its related restrictions, and things prohibited in *ihram* become permissible for him, including sexual intercourse.⁸ Then he proceeds from Mecca after assuming *ihram* for a second time, early enough to be present at the *wuqūf* (halt) at 'Arafāt (referred to as '*mawqif*', i.e. the place of halting) at noontime on the ninth of Dhū al-Hijjah. Assumption of *ihram* on the day of *tarwiyah*, i.e. eighth Dhū al-Hijjah, is preferable.

The Hajj pilgrim, irrespective of the type of Hajj he intends to perform, turns towards 'Arafāt, passing through Minā. The period of the *wuqūf* at 'Arafāt is, for

The Hajj

the Ḥanafī, Shāfi'ī, and Mālikī schools, from the noon of the ninth until the day break of the tenth; for the Ḥanbalī school, from the daybreak of the ninth until the daybreak of the tenth; and for the Imāmiyyah, from non until sunset on the ninth, and in exigency until the daybreak of the tenth.⁹ The pilgrim offers invocations (*du'ā'*) at 'Arafāt, preferably (*istihbāban*) in an imploring manner.

Then he turns towards Muzdalifah (also called al-Mash'ar al-Ḥarām), where he offers the *maghrib* and '*ishā'* prayers on the night of the 'Īd (i.e. the tenth of Dhū al-Hijjah). Offering the two prayers immediately after one another is considered *mustahabb* by all the five schools. According to the Ḥanafī, Shāfi'ī, and Ḥanbalī schools, it is obligatory to spend this night (i.e. the night of the 'Īd) at Muzdalifah; for the Imāmiyyah, it is not obligatory but preferable. After the daybreak, he makes the *wuqūf* at al-Mash'ar al-Ḥarām, which is *wājib* for the Imāmiyyah and *mustahabb* for other schools. And at Muzdalifah, preferably, he picks up seven pebbles to be thrown at Minā.

After this, he turns towards Minā before sunrise on the day of 'Īd. There he performs the ritual throwing of stones, called *ramy*, at Jamarāt al-'Aqabah, no matter which of the three kinds of Hajj he is performing. The *ramy* is performed between sunrise and sunset, preferably (*istihbāban*) accompanied by *takbīr* and *tasbīḥ* (i.e. proclaiming God's glory by saying سُبْحَانَ اللَّهِ, 'How far God is from every imperfection!'). Then if a non-Meccan on *Hajj al-tamattu'*, he should slaughter the sacrificial

The Hajj

animal (a camel, cow or a sheep), by agreement of all the five schools. However, it is not obligatory for one on *Hajj al-ʿiḥrām*, again by consensus of all the five schools. For one on *Hajj al-qirān*, the sacrifice is obligatory from the viewpoint of the four Sunnī schools, and for the Imāmiyyah it is not obligatory except when the pilgrim brings the sacrificial animal (*al-hady*) along with him at the time of assuming *iḥrām*.

For a Meccan performing *Hajj al-tamattuʿ*, the sacrifice is obligatory from the viewpoint of the Imāmiyyah school, but not according to the four Sunnī schools.

After this, he performs the *ḥalq* or *taqṣīr*, irrespective of the kind of Hajj he is performing. After *ḥalq* or *taqṣīr*, everything except sexual intercourse becomes permissible for him according to the Ḥanbalī, Shāfiʿī and Ḥanafī schools, and according to the Mālikī and Imāmiyyah schools, everything except intercourse and perfume.

Then he returns to Mecca on the same day, i.e. the day of the ʿĪd, performs the *tawāf al-ziyārah*, prays its related two *rakaʿāt*, regardless of which kind of Hajj he is performing. After this, according to the four Sunnī schools, he is free from all restrictions including that of sexual intercourse. Then he performs the *saʿy* between Ṣafā and Marwah if on *Hajj al-tamattuʿ*, by agreement of all the five schools. For the Imāmiyyah school, the *saʿy* after *tawāf al-ziyārah* is also obligatory for one performing

The Ḥajj

Hajj al-qirān and *Hajj al-'ifrād*. But for other schools, it is not obligatory if the pilgrim had performed the *sa'y* after the *tawāf* of first entry, otherwise it is.

For the Imāmiyyah, it is obligatory for all the types of Hajj to perform another *tawāf* after this *sa'y*. Without this *tawāf*, called *tawāf al-nisā'*, one is not relieved of the interdiction of abstinence from intercourse.

Then the pilgrim returns to Minā on the same day, i.e. the tenth, where he sleeps on the night of the eleventh, performs the threefold throwing of stones (*ramy al-jamarāt*) during the interval from the noon until the sunset of the eleventh—by consensus of all the five schools. For the Imāmiyyah, the *ramy* is permissible after sunrise and before noon. After this, on the day of the twelfth, he does what he had done the day before. All the legal schools agree that he may now depart from Minā before sunset. And if he stays there until sunset, he is obliged to spend the night of the thirteenth there and to perform the threefold *ramy* on the day of thirteenth.

After the *ramy*, he returns to Mecca, before or after noon. On entering Mecca, he performs another *tawāf*, *tawāf al-wadā'* (the *tawāf* of farewell), which is *mustahabb* for the Imāmiyyah and Mālikī schools and obligatory for the non-Meccans from the viewpoint of the remaining three. Here the acts of the Ḥajj come to conclusion.

The Hajj

The Conditions for the Hajj:

The conditions (*shurūṭ*) which make the Hajj obligatory (*wājib*) for a Muslim are: maturity (*bulūgh*), sanity (*ʿaql*), and 'capability' (*istitāʿah*).

The Proviso of Bulūgh:

The Hajj is not obligatory for children, regardless of whether a child is of the age of discretion (*mumayyiz*) or not (*ghayr mumayyiz*). For a *mumayyiz* child, the Hajj is voluntary and valid. However, it does not relieve him/her of the obligation to perform the obligatory Hajj (called *ḥijjat al-ʾIslām*) later as an adult possessing *istitāʿah*; this, in case he/she does not attain adulthood before the *wuqūf*. On this all the five schools of fiqh are in agreement.

It is permissible for the guardian (*walī*) of a *ghayr mumayyiz* child to take him along on the Hajj pilgrimage. In that case, he puts on the child the dress of *iḥrām*; instructs him to say the *talbiyah*, if the child can say it well, or otherwise says it himself on the child's behalf; and is cautious lest the child commits some act unlawful (*ḥarām*) for the pilgrims (*ḥujjāj*). The accompanying guardian also tells him to perform every act that the child can perform himself, and what he cannot,

The Hajj

the guardian performs it on the child's behalf.

The schools of fiqh differ on two questions relating to the Hajj of a *mumayyiz* child: firstly, whether his Hajj is valid, irrespective of the permission of the guardian; secondly, whether he is relieved of the obligation of Hajj if he attains adulthood before *mawqif*. According to the Imāmiyyah, Ḥanbalī, and Shāfi'ī schools, the guardian's permission is a provision for the *ihrām* to be valid. According to Abū Ḥanīfah, the idea of validity is inapplicable to the child's Hajj, even if *mumayyiz*, and regardless of whether he obtains the permission of the guardian or not; because, according to him, there is nothing to a child's Hajj except its significance as an exercise (*Fath al-Bārī, al-Mughnī, al-Tadhkirah*). According to the Imāmiyyah, Ḥanbalī and Shāfi'ī schools, if the child attains adulthood before *mawqif*, his obligatory duty of Hajj (*ḥijjat al-Islām*) is thereby fulfilled. And according to Imāmiyyah and Mālikī schools, the duty is fulfilled if he renews *ihrām* (as an adult), otherwise not; which means that he should start the Hajj all over again from the beginning. (*al-Tadhkirah*)

Insanity:

Basically the condition of insanity relieves a person of all duties. Even if he were to perform the Hajj, and presumably in the way expected of a sane person, it would not fulfil his obligatory duty were he to return to

The Hajj

sanity. If his insanity is periodic, when regained for a sufficiently long interval it is *wājib* for him to perform the Hajj with all its conditions and in all its details. However, if the interval of sanity is not sufficient to perform all the acts of the Hajj, he is quit of the obligation.

Istiṭā'ah:

All the five schools of fiqh agree that *istiṭā'ah* is a requirement for the Hajj duty to become obligatory, as mentioned by the Qur'ānic verse: *مَنْ اسْتَطَاعَ إِلَيْهِ سَبِيلًا* ("...if he is able to make his way there").¹⁰ However, there is disagreement about the meaning of *istiṭā'ah*. In hadīth it has been defined as consisting of "*al-zād wa al-rāhilah*". '*Al-rāhilah*' implies the expenses of to and fro journey to Mecca, and '*al-zād*' stands for the expenses required for transport, food, lodging, passport fees, and the like. Moreover, the funds needed to meet such expenses must come out of the surplus after paying one's debts, after arranging for one's family's livelihood, meeting the requirements of one's source of income (such as land for a farmer, tools for a craftsman, capital for a tradesman, and so on), and without compromising the security of his life, property and honour. All schools agree about it except the Mālikīs, who say that the duty of Hajj is obligatory for anyone who can walk. The Mālikīs also do not consider the necessity of providing for the living expenses of the family. Rather, they consider it compulsory for one to sell

The Hajj

off his essential means of life, such as land, livestock, tools, and even books and unessential clothes. (*al-Fiqh 'alā al-madhāhib al-'arba'ah*)

If a person upon whom the Hajj duty is not obligatory due to absence of *istitā'ah*, takes upon himself the burden and performs the Hajj, in case he attains *istitā'ah* afterwards, is his first Hajj sufficient or should he perform the Hajj once again? According to the Mālikī and Hanafī schools, yes, repetition is not compulsory. According to the Hanbalī school, yes, but a duty left unattended, such as an unpaid debt, must be discharged.

According to the Imāmiyyah school, it does not suffice the obligation of Hajj if he attains *istitā'ah* afterwards, because the provisional is inseparable from the provision both in its presence and its absence. The Hajj performed before the attainment of *istitā'ah* is considered supererogatory (*nafl*). Later, with its realization, repetition of the Hajj becomes obligatory.

Immediacy (al-Fawr):

The Imāmiyyah, the Mālikī, and the Hanbalī schools consider the obligation (*wujūb*) of the Hajj duty to be immediately applicable (*fawrī*); i.e. it is not permissible to delay it from the moment of its possibility. It is sinful to delay, though the Hajj performed with delay is correct and fulfils the obligation. The author of *al-Jawāhir* says:

The Hajj

The immediacy of the obligation of Hajj means that it is necessary to take initiative to perform the Hajj in the first year of attaining *istitā'ah*, and failing that at one's next earliest opportunity.... Thereafter, there is no doubt about the sinfulness of the delay if one were to forgo the first opportunity in the case of absence of another.

According to the Shāfi'i school, the obligation of Hajj is not immediate (upon attainment of *istitā'ah*); rather one may delay it and perform it when he wishes.¹¹ According to Abū Yūsuf, the Hajj is an immediate obligation. Muḥammad ibn al-Ḥasan considers delay (*tarākhī*) permissible. Abū Ḥanīfah has no explicit text on the matter, though some of his contemporaries state that he implicitly believes in the immediacy of the obligation.

Secondary Issues Related to Istitā'ah:

Women and the Hajj:

Are there any additional conditions for women with regard to performance of the Hajj? All the five schools agree that it is not required that a woman should obtain the husband's permission for the obligatory Hajj duty, nor may he prevent her from undertaking it. However, there is a difference of opinion about whether the Hajj is obligatory upon her or not if she does not find a husband or a *mahram*¹² to accompany her on the journey.

The Hajj

According to the Imāmiyyah, Mālikī and Shāfiī schools, the *mahram's* company or that of the husband is not at all a condition, regardless of whether she is young or old, married or unmarried; since the *mahram's* company is a means of her safety, not an end in itself. Accordingly, we have two cases: either she feels confident of her security on the journey, or she doesn't. In the first case, the Hajj is obligatory upon her and the *mahram's* company is irrelevant. In the second case, she lacks the requirement of *istitā'ah*, in spite of the *mahram's* company. Accordingly, there is no essential difference between a man and a woman in this respect.

According to the Ḥanbalī and Hanafī schools, the company of the husband or *mahram* is a provision for the woman's Hajj, even if she were old. It is not permissible for her to perform the Hajj without his company. The Hanafī school further stipulates the condition that her location should be at a distance of three days' journey from Mecca.

Bequest (al-Badhl):

Al-Mughnī, a text of Ḥanbalī fiqh, states: "If a person bequeaths money to another, it is not binding upon him to accept it, and it does not make the recipient *mustatī'* (possessing *istitā'ah*), irrespective of whether the bequeather is a relative or a stranger, regardless of whether the bequest suffices for the expenses of the journey and

The Hajj

food. According to al-Shāfi'i, if the bequest is made by one's son, enough to enable him to undertake the Hajj journey, the Hajj becomes obligatory. This, because it enables him to perform the Hajj without having to bear a stranger's favour or without any accompanying encumbrance or harm.

According to the Imāmiyyah school, if the bequest is an unconditional gift made without the provision of performing the Hajj by the recipient, the Hajj is not binding, irrespective of who makes the bequest. But if the bequest is made with the condition that one perform the Hajj, the acceptance of the bequest is binding and may not be rejected, even if the bequest is made by a stranger: since it makes him *mustatī* to undertake the pilgrimage.

Marriage:

What if one has only enough money either to get married or to perform the Hajj? Which of them is prior? The Ḥanafī text *Fath al-qadīr* (vol. II, "*Bāb al-Hajj*") mentions this question being put to Abū Ḥanīfah, who, in his reply, considered that priority lies with the Hajj. The generality (*itlāq*) of this answer in which he gives priority to the Hajj, taking into consideration that marriage is obligatory under certain conditions, allows us to conclude that for Abū Ḥanīfah delay in Hajj is not permissible.

According to the Shāfi'i, Ḥanbalī and

The Hajj

Imāmiyyah scholars, marriage has priority if there is likelihood of distress (*haraj*) or difficulty (*mashaqqah*) in refraining from marriage. In that case priority does not lie with the Hajj. (*Kifāyat al-'akhbār, al-Mughnī, al-'Urwat al-wuthqā*)

Khums and Zakāt:

Payment of the *khums* and *zakāt* has priority over the Hajj. The condition of *istiṭā'ah* is not realized until both are paid off, like other kinds of debts.

Istiṭā'ah by Chance:

If someone travels to a place in the vicinity of the holy city of Mecca, on business or for some other purpose, and his stay continues until the Hajj season, and if it is possible for him to reach the Holy Ka'bah, he thereby becomes *mustatī'*. And if he were to return home without performing the Hajj, by consensus of all the schools, he is not relieved of the obligation.

Istinābah (Deputation):

The Islamic duties (*ibādāt*) are divisible into three categories, depending on a duty's nature whether it mainly involves bodily acts or financial expenditure.

1. The purely bodily *ibādāt* are those which,

The Hajj

like fasting (*ṣawm*) and prayer (*ṣalāt*), do not involve any financial aspect. According to the four Sunnī schools, such duties cannot in any circumstance be delegated to a proxy (*nā'ib*), either on behalf of a living or a dead person. But according to the Imāmiyyah school, taking a *nā'ib* is permissible on behalf of a dead person, though not for a living person, to perform *ṣawm* and *ṣalāt* for him, and under all circumstances.

2. The purely financial *'ibādāt* are those which do not involve bodily acts, such as *khums* and *zakāt*. In such *'ibādāt*, all legal schools agree, it is permissible to take a *nā'ib*. It is permissible for one to depute another to take out *zakāt* and pay other kind of alms (*ṣadaqāt*) from his assets.

3. The duties which involve both bodily and financial aspects, such as the Hajj, which requires such bodily acts as *ṭawāf* (circumambulation of the Ka'bah), *ṣā'y* (to and fro movement between Marwah and Safā), *ramy* (the symbolic throwing of stones), and financial expenditures such as for the journey and its accompanying requirements. All the five legal schools agree that one who is capable of undertaking the Hajj in person and fulfils all the conditions thereof, should do so himself in person. It is not permissible for him to depute another to undertake it, and if he does so it would not relieve him of his obligation to perform it himself. If he does not do it in his life, according to the Shāfi'i, Ḥanbalī and Imāmiyyah schools, he is not relieved of the duty because of the

The Ḥajj

preponderance of the financial aspect, and it is obligatory to hire someone to perform the Ḥajj with a similar expenditure. In case he does not make a will for the Ḥajj, the amount should be taken out from his undivided heritage.¹³

According to the Hanafī and Mālikī schools, he is relieved of the obligation due to the bodily aspect; but if he mentions it in his will, the expense is taken out from the one third of his inheritance—like all other bequests—and if he doesn't, *istinābah* is not obligatory.

The Physically Incapable (al-Qādir al-'Ajiz):

One who meets all the financial conditions for the Ḥajj pilgrimage but is incapable of undertaking it personally due to old age or some incurable disease, all the legal schools agree, is relieved of the obligation of performing the Ḥajj in person, for God says: وَمَا جَعَلْنَا عَلَىٰ كُمْ (...and He has laid no impediment in your religion...).¹⁴ However, it is obligatory upon him to hire someone to perform the Ḥajj for him. But if he doesn't, is it a negligence of a duty whose fulfilment continues to remain upon him? All the legal schools, with the exception of the Mālikī, agree that it is obligatory upon him to hire someone to perform the Ḥajj for him. The Mālikī says that the Ḥajj is not obligatory upon one who is incapable of undertaking it in person. (*al-Mughnī*, *al-Tadhkirah*)

The Hajj

Furthermore, if a sick person recovers after deputing someone to perform his Hajj, is it obligatory upon him on recovery to perform the Hajj in person? According to the Hanbalī school, another Hajj is not obligatory. But according to the Imāmiyyah, Shāfi'ī and Hanafī schools it is obligatory, because what was fulfilled was the financial obligation, and the bodily obligation has remained unfulfilled.

Istinābah in al-Hajj al-Mustahabb:

According to the Imāmiyyah and Hanafī legal schools, one who has performed the *Hijjat al-'Islām*, if he wants to depute another for a voluntary, *mustahabb* Hajj, may do so, even if he is capable of undertaking it in person. But according to the Shāfi'ī school, it is not permissible. There are two narrations from Aḥmad ibn Hanbal, one indicating prohibition and the other permission. According to the Mālikī school, it is permissible for an incurable sick person and for one who has performed the obligatory Hajj to hire another for the Hajj. The Hajj so performed is valid, though *makrūh* (reprehensible). It is not considered as the Hajj of the hirer (*musta'jir*) and is counted as the *mustahabb* Hajj of the hired (*ajīr*). The hirer gets the reward for providing assistance in the performance of the Hajj and shares the blessings of the prayers offered. When the Hajj is performed for the benefit of a dead person, irrespective of

The Hajj

whether he has asked for it in his will or not, it is counted neither as fulfilment of the duty (*farḍ*) nor as a supererogatory (*nafl*) act, nor does it relieve him of the duty of the obligatory Hajj. (*al-Fiqh 'alā al-madhāhib al-'arba'ah*)

The Conditions for the Nā'ib:

The *nā'ib* should fulfil the conditions of: *bulūgh* (adulthood), *'aql* (sanity), belief in Islam, exemption from the duty of obligatory Hajj, and ability to perform the Hajj properly. A man may represent a woman and a woman may represent a man, even if both the *nā'ib* and the one whom he represents have not performed the Hajj before.¹⁵

Should the *nā'ib* commence the journey from his own place or that of the deceased whom he represents, or from one of the *mawāqīt*? According to the Ḥanafī and Mālikī schools, the *nā'ib* should commence the pilgrimage journey from the place of the deceased, if he has not specified the starting point; otherwise according to his wish. According to the Shāfi'ī school, the pilgrimage commences from one of the *mawāqīt*; if the deceased person has specified one, then the *nā'ib* must act accordingly, otherwise he is free to choose one of the *mawāqīt*. According to the Ḥanbalī school, the *nā'ib* must start from the place that the deceased was obliged to begin from if he had performed the Hajj himself, and not from

The Hajj

the place of his death. If the deceased person had attained *isti'ā'ah* at a place to which he had migrated, later returning to his own place, the *nā'ib* should start from the place of migration, not from the deceased person's home, except when the distance (between his home-town and the place of migration) is less than what is required for *qaṣr* in prayers performed by a traveller.¹⁶

According to the Imāmiyyah school, the Hajj is classified into *mīqātī* (i.e. one which starts from one of the *mawāqīt*) and *baladī* (i.e. one which starts from the town of the deceased). If the deceased has specified one of these two kinds, then the one specified. If he has not specified, any one of the two may be performed. Otherwise the Hajj is *mīqātī* and, if possible, starts from the *mīqāt* nearest to Mecca, or else the *mīqāt* nearest to the town of the deceased. The cost of *al-Hijjat al-mīqātiyyah* is taken out from the undivided legacy in the case of obligatory Hajj, and the expense exceeding the cost of *al-Hijjat al-mīqātiyyah* is taken from the one third. (*al-Jawāhir*)

Delay by the Nā'ib:

Once the *nā'ib* is hired, it is obligatory for him to act with immediacy. He may not postpone the Hajj beyond the first year. Also, it is not permissible for him to deputise another, since the duty is his own. If we do not know that he actually went on the pilgrimage and performed all its essential acts, or if we doubt whether he

The Ḥajj

performed them correctly and properly or not, or whether he failed to fulfil any of its obligatory essentials, then we assume that he acted correctly and properly, unless there is proof to the contrary.

Change of Purpose by the Nā'ib (al-'Udūl):

According to the Ḥanafī and Imāmiyyah schools, if one specifies to the *nā'ib* a particular kind of Ḥajj, such as *Ḥajj al-'ifrād*, or *Ḥajj al-qirān*; then it is not permissible for him to make any change. However, if a particular town was specified as the starting point and the *nā'ib* starts from another town, the purpose of the one who hires him is considered as fulfilled if the said specification was not really intended by the hirer; i.e. if by mentioning the route he meant the Ḥajj itself, and not the route specifically. (*al-Tadhkirah*, *al-Fiqh 'alā al-madhāhib al-'arbā'ah*)

The Hajj

AL-'UMRAH:

The Meaning of 'Umrah:

The word '*umrah* in common speech "visit", but in the Sharī'ah it means paying a visit to the *Bayt Allāh al-Ḥarām* (the Sacred House of God, i.e. the Holy Ka'bah) in a specific form.

The Kinds of 'Umrah:

The 'Umrah is of two kinds: the first which is performed independently of the Ḥajj (called *al-'Umrat al-mufradah al-mustaqillah 'an al-Hajj*), and the second kind which is performed in conjunction with the Hajj (*al-'Umrat al-mundammah ilā al-Hajj*). The *al-'Umrat al-mufradah*, the independent 'Umrah, all the five legal schools agree, can be performed at all times of the year, though it is meritorious to perform it during the month of Rajab according to the Imāmiyyah, and in Ramadān according to the four Sunnī schools. The time of the conjugate 'Umrah, which is performed before the Hajj and in the course of the same journey by the Hujjāj coming to the Holy Makkah from distant countries, by consensus of all five schools, extends from Shawwāl to Dhūl Hijjah.

The Hajj

However, there is disagreement among legists about the month of Dhūl Ḥijjah, whether the entire month or only the first ten days belong to the Ḥajj season. Anyone who performs the conjugate 'Umrah is considered relieved of the obligation to perform the *al-'Umrāt al-mufradah* by those who believe in its being obligatory.

Difference Between the Two Kinds of 'Umrah:

The Imāmiyyah scholars make a distinction between *al-'Umrāt al-mufradah* and *'Umrāt al-tamattu'*, citing the following reasons:

1. The *Tawāf al-nisā'* (to be explained later) is obligatory in *al-'Umrāt al-mufradah*, not in the *'Umrāt al-tamattu'*, and according to some jurists is forbidden.

2. The time of *'Umrāt al-tamattu'* extends from the first of the month of Shawwāl to the ninth of Dhū al-Ḥijjah, whereas *al-'Umrāt al-mufradah* can be performed at all times of the year.

3. The pilgrim (*mutamir*) performing the *'Umrāt al-tamattu'* is required to shorten his hair (*al-taqṣīr*), whereas the *mutamir* of *al-'Umrāt al-mufradah* can choose between shortening his hair or completely shaving his head (*al-ḥalq*), as shall be explained later.

4. The *'Umrāt al-tamattu'* and the Ḥajj occur in the same year, which is not the case with *al-'Umrāt al-mufradah*.

Karrārah, in his book *al-Dīn wa al-Ḥajj 'alā*

The Hajj

al-madhāhib al-'arba'ah, says that, according to the Mālikī and Shāfi'ī schools, for the *mu'tamir* of *al-'Umrat al-mufradah* all things are permissible, even sexual intercourse, after the shortening of hair (*al-taqṣīr*) or the head shave (*al-ḥalq*), irrespective of whether he brings along with him the sacrificial offering (*al-hady*) or not. But according to the Ḥanbalī and Hanafī schools, the *mu'tamir* gets away with *al-taqṣīr* or *al-ḥalq*, if he does not bring the sacrificial offering; otherwise he remains in the state of *iḥrām* until he gets through the Hajj and the 'Umrah on the day of sacrifice (*yawm al-nahr*).

The Conditions of the 'Umrah:

The conditions for the 'Umrah are essentially the same as mentioned in the case of the Hajj.

The Status of 'Umrah:

According to the Ḥanafī and Mālikī schools, the 'Umrah is not obligatory but a highly recommended *sunnah* (*sunnah mu'akkadah*). But according to the Shāfi'ī and Ḥanbalī schools and the majority of Imāmiyyah legists, it is obligatory (*wājib*) for one who is *muṣtaṭī'*, and desirable (*muṣtaḥabb*) for one who is not *muṣtaṭī'*. In support, they cite the Qur'ānic verse: *وَاتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ ...* (Perform the Hajj and the 'Umrah for Allah.¹⁷ (*Fīqh al-Sunnah*, vol. V; *al-Fīqh 'alā al-madhāhib*

The Ḥajj

al-'arba'ah; al-Jawāhir; al-Mughnī)¹⁸

The Acts of the 'Umrah:

According to *al-Fiqh 'alā al-madhāhib al-'arba'ah*, whatever is *wājib* or *sunnah* for the Ḥajj is also *wājib* and *sunnah* for the 'Umrah. But the 'Umrah does differ from the Ḥajj in certain respects: there is no specific time for performing the 'Umrah; it does not involve the halt (*wuqūf*) in the plain of 'Arafāt; neither the departure thenceforth to al-Muzdalifah; nor the *ramy al-jamarāt*.¹⁹ The Imāmiyyah book *al-Jawāhir* mentions that: "The obligatory acts (*af'āl* or *ā'māl*) of the Ḥajj are twelve: *ihrām*; the *wuqūf* at 'Arafāt; the *wuqūf* at al-Mash'ar al-Harām; the entry into Minā; the *ramy*; the *dhibh* (sacrifice); its related *taqsīr* or *halq*; the *tawāf* (the sevenfold circumambulation of the Ka'bah), and its related *raka'āt* (units of the length of prayers); the *sa'y*; the *tawāf al-nisā'*, and its related *raka'āt*. The obligatory acts of *al-'Umrat al-mufradah* are eight: *niyyah* (intention); *ihrām*;²⁰ *tawāf*; its related *raka'āt*; the *sa'y*; the *taqsīr*; the *tawāf al-nisā'*; and its related *raka'āt*."

This indicates that all the legal schools agree that the acts of the Ḥajj exceed those of the 'Umrah by the acts associated with the *wuqūf*. Moreover, the Imāmiyyah school considers it obligatory for the performer of the *al-'Umrat al-mufradah* to perform a second *tawāf*, the *tawāf al-nisā'*. Similarly the Mālikī school differs from

The Ḥajj

others in considering *halq* or *taqṣīr* as non-obligatory for *al-'Umrat al-mufradah*.

Two Subsidiary Issues:

1. The obligation (*wujūb*) of *al-'Umrat al-mufradah* is not connected with the *istiṭā'ah* for the Ḥajj. If, supposedly, it is possible for a person to go to Mecca at a time other than that of the Ḥajj and not possible at the time of the Ḥajj, then the 'Umrah instead of the Ḥajj becomes obligatory for him. If he dies without performing it, its expense is taken out from his heritage.²¹

Similarly, if one has *istiṭā'ah* for *Hajj al-'iṣrād* instead of the 'Umrah, it becomes obligatory upon him; because each of them is independent of the other. This applies to *al-'Umrat al-mufradah*. As to '*Umrat al-tamattu'*, which shall be explained later, its *wujūb* depends upon that of the Ḥajj, since it is a part of it.

2. According to the Imāmiyyah, it is not permissible for one intending to enter the Holy Mecca to cross the *mīqāt* or enter its *ḥaram* (sacred precincts) without getting into the state of *iḥrām*, even if he has performed the Ḥajj and the 'Umrah many times before. Only when the exit and entry recur several times during a month, or when after entering the city as a *muhrim* he goes out and re-enters for a second time in less than thirty days, it is not obligatory. Therefore, *iḥrām* with respect to entry into Mecca is comparable to the *wudū'* before

The Ḥajj

touching the Holy Qur'ān. This clearly demonstrates the baselessness of the lie that the Shī'ah do not consider al-Bayt al-Ḥarām as sacred, and that they pretend to perform the Ḥajj for the sake of polluting the holy sanctuaries. (!)

According to Abū Hanīfah, it is not permissible to go beyond the *mīqāt* and enter the *ḥaram* without *ihrām*, but entry into the remaining area is permissible without *ihrām*. Mālik does not agree with this, and two opinions are ascribed to al-Shāfi'ī on the matter.

This much of discussion about the 'Umrah is sufficient for throwing light upon it, so that the reader may grasp its difference with the Ḥajj, though only in some aspects. What we shall say later will offer further clarification.

The Forms of the Ḥajj:

All the five legal schools agree that there are three kinds of Ḥajj: *tamattu'*, *qirān*, and *ifrād*. They also agree that by *Ḥajj al-tamattu'* is meant performance of the acts of the 'Umrah during the months of the Ḥajj. The acts of the Ḥajj itself are performed after getting through the 'Umrah. They also agree that by *Ḥajj al-'ifrād* is meant performing the Ḥajj first and then, after getting through the acts of the Ḥajj, getting into the state of *ihrām* for performing the 'Umrah and its related acts. The four Sunnī legal schools agree that the meaning of the *Ḥajj*

The Hajj

al-qirān is to get into *ihrām* for the Ḥajj and the 'Umrah together. Then the *talbiyah* uttered by the pilgrim is: لَبَّيْكَ
اللَّهُمَّ بِحَجِّ وَعُمْرَةٍ

According to the Imāmiyyah school, the *Hajj al-qirān* and *Hajj al-'ifrād* are one and the same. There is no difference between them except when the pilgrim performing the *Hajj al-qirān* brings the *hady* at the time of assuming the *ihrām*. Then it is obligatory upon him to offer what he has brought. But one who performs the *Hajj al-'ifrād* has essentially no obligation to offer the *hady*. In brief, the Imāmiyyah do not consider it permissible to interchange two different *ihrām*'s,²² or to perform the Ḥajj and the 'Umrah with a single *niyyah* (intention) under any condition; but the other legal schools permit it in *Hajj al-qirān*. They say that it has been named '*al-qirān*' because it involves union between the Ḥajj and the 'Umrah. But the Imāmiyyah say that it is because of the additional feature of the *hady* accompanying the pilgrim at the time of *ihrām*.²³

According to the four Sunnī legal schools, it is permissible for the pilgrim, Meccan or non-Meccan, to choose from any of the three forms of the Ḥajj: *al-tamattu'*, *al-qirān*, or *al-'ifrād*, without involving any *karāhah* (reprehensibility). Only Abū Ḥanīfah considers *Hajj al-tamattu'* and *Hajj al-qirān* as *makrūh* for the Meccan. The four Sunnī legal schools also differ as to which of the three kinds of Ḥajj is superior to the others. The best according to the Shāfi'ī school is *al-'ifrād*, and

The Hajj

al-tamattu' is superior to *al-qirān*. According to the Hanafī school, *al-qirān* has greater merit than the other two. The best according to the Mālikī school is *al-'ifrād*, and according to the Ḥanbalī and Imāmiyyah schools is *al-tamattu'*.

According to the Imāmiyyah school, *Hajj al-tamattu'* is obligatory upon one living at a distance of over forty-eight miles from Mecca, and he may not choose any other kind except in emergency. The *Hajj al-qirān* and *Hajj al-'ifrād* are performable by the people of Mecca and those living around it within a distance of forty-eight miles, and it is not permissible for them to perform except one of these two kinds. The Imāmiyyah base their argument on this verse of the Qur'an:

....فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ
يَجِدْ فَصِيَامَ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ تِلْكَ عَشْرَةٌ
كَامِلَةٌ ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلَهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ...

Moreover, according to the Imāmiyyah school, it is not permissible for one obliged to perform the *Hajj al-tamattu'* to change over to something else, except for the problem of shortage of time available, or, in the case of women, due to impending menses. In those cases it is permissible to change either to *al-qirān* or *al-'ifrād* on condition that the 'Umrah is performed after the Ḥajj. The limit of the shortage of time is failure to be present at the

The Hajj

wuqū' in 'Arafāt until noon.

For one whose duty is *al-qirān* or *al-'ifrād*, such as the natives of Mecca or those from its surrounding region, it is not permissible to change to *al-tamattu'*, except in exigency (such as the fear of impending menses). After explaining this position of the Imāmiyyah school, the author of *al-Jawāhir* says, "I have not come across any different opinion on this matter."

And all the five legal schools agree that the *hady* is not compulsory for one performing *Hajj al-'ifrād*, though better if performed voluntarily.

NOTES:

1. '*Ihrām*' is the state of pilgrim sanctity, which a pilgrim of Hajj or 'Umrah assumes on reaching *mīqāt* (see note No. 2). A pilgrim in the state of *ihrām* is called '*muhrim*'. (Tr.)

2. *Mīqāt* (pl. *mawāqīt*) refers to a number of stations outside Mecca from where the pilgrims intending Hajj or 'Umrah assume *ihrām*. They are: (1) Dhū al-Hulayfah (specifically, Masjid al-Shajarah), (2) Yalamlam; (3) Qarn al-Manāzil; (4) al-Juhfah; (5) three points situated in the valley of al-'Aqīq: al-Maslakh, al-Ghamrah, and Dhāt al-'Irq. Those pilgrims whose houses are nearer to Mecca than to any of the above *mawāqīt*, assume *ihrām* from their houses. (Tr.)

3. The *talbiyah* is *wājib* according to the Imāmiyyah, Hanafī, and Mālikī schools, and *mustahabb* according to the Hanbalīs Its time is the moment of beginning of *ihrām*.

4. The area roughly within a radius of six miles, with the Holy Ka'bah at the centre, is called '*haram*', the sacred and inviolable territory of the sanctuary of the Holy Ka'bah. See the

The Ḥajj

brief discussion under the subheading; “*The Limits of the Harams of Mecca and al-Madīnah*” in the present article. (Tr.)

5. According to the Imāmiyyah school, *Ḥajj al-tamattu* is obligatory for non-Meccans, and Meccans may choose between *Ḥajj al-qirān* and *Ḥajj al-ifrād*. According to the four Sunnī schools, there is no difference between a Meccan and a non-Meccan with regard to choice of any particular kind of Ḥajj, except that according to the Hanafī school *Ḥajj al-tamattu* and *Ḥajj al-qirān* are *makrūh* for the Meccan.

6. The *tawāf* of the first entry or the arrival (called *tawāf al-quḍūm*) is *mustahabb* from the viewpoint of all except the Mālikī school, which regards it as obligatory.

7. According to the Imāmiyyah school, one is free to choose between *halq* and *taqṣīr* if on ‘*Umrah mufradah*. But a pilgrim on *Ḥajj al-tamattu* is required to perform *taqṣīr*. Also according to the Imāmiyyah, it is obligatory for one on ‘*Umrah mufradah* to perform, after the *halq* or *taqṣīr*, a second *tawāf*, the *tawāf al-nisā*’, before which sexual intimacy is not permissible to the pilgrim. According to the four Sunnī schools, one is free to choose between *halq* and *taqṣīr* in both. They do not require the pilgrim of Ḥajj or ‘*Umrah* to perform *tawāf al-nisā*’, and according to the Mālikī school *halq* or *taqṣīr* is not obligatory on one performing ‘*Umrah mufradah*.

8. According to the Imāmiyyah school, the *mutamatti* (pilgrim on *Ḥajj al-tamattu* and its conjugate ‘*Umrah*) acquires *tahlīl* (i.e. relief from *ihrām*) after *taqṣīr*, even when he brings along with him the sacrificial animal (*hady*). But according to the other schools, the *mutamatti* who assumes *ihrām* for ‘*Umrah* from the *mīqāt* obtains *tahlīl* on *halq* or *taqṣīr* when not accompanied by *hady*; but if he has brought along with him the *hady*, he remains in the state of *ihrām*. However, according to them, the pilgrim of ‘*Umrah mufradah* obtains *tahlīl* regardless of whether the *hady*

The Hajj

accompanies him or not. The author of *al-Mughnī*, after making the above statement, says, "I have not come across a contrary opinion on this matter."

9. According to the Imāmiyyah school, the halt in *'Arafāt* is obligatory for the entire period of time. But according to the other schools, a moment of halt is sufficient. All the legal schools are in agreement that offering the *zuhr* (noon) and *'aṣr* (afternoon) prayers immediately after one another is *mustahabb*, because the Prophet (s) had done so.

10. The Qur'ān, 3:97.

11. Although the times have tended to support this opinion, and even though the traditions in favour of immediacy (*al-fawr*) of the duty of Hajj are open to criticism and controversy, but it leads towards negligence, and gradually towards abandonment of this sacred rite. Accordingly, the stress on immediacy is preferable, being more conducive from the viewpoint of the necessity to preserve the vitality of the Islamic faith.

12. *Mahram* is a male relation with whom marriage is not permissible; viz: father, grandfathers, sons, grandsons, brothers, sons and grandsons of one's sister or brother, etc.

13. The Imāmiyyah, Shāfi'ī, and Mālikī schools permit hiring another person to perform the Hajj for a fee. The Hanafī and Hanbalī schools do not consider it permissible. Nothing more than the expenses of journey, food and lodging may be given to the hired, they say.

14. The Qur'ān, 22:78.

15. One who has not performed the Hajj before is called *ṣarūrah*. According to the Shāfi'ī and Hanbalī schools, if one who has not performed the Hajj before, undertakes it on behalf of another, the Hajj performed is considered his own. But according to the Mālikī, Hanafī, and Imāmiyyah schools, the Hajj performed depends on his intention (*niyyah*).

16. The minimum distance required for *qasr* in *zuhr*.

The Hajj

'aṣr and 'ishā' prayers is 8 parasangs (approximately 44 kms. or 27.5 miles). (Tr.)

17. The Qur'ān. 2:196.

18. According to *al-Mughnī*, Aḥmad ibn Ḥanbal did not consider the 'Umrah as being obligatory for Meccans, for the reason that the most important act of the 'Umrah is *tawāf* (circumambulation of the Ka'bah) which they do and it suffices them.

19. In the book *al-Fiqh 'alā al-madhāhib al-'arba'ah*, it is the author's wont to give the text followed by a commentary and notes. In the text, he states the points of consensus of all the four Sunnī schools, the different position of each is given in the commentary. What we have quoted here is taken from the text, not from the commentary.

20. According to *al-Dīn wa al-Ḥajj 'alā al-madhāhib al-'arba'ah*, by Karrārah, one of the things which distinguishes the 'Umrah from the Ḥajj is that its *ihrām* is not assumed from any of the *mawāqīt* specified for the Hajj. From the Imāmiyyah viewpoint, there is no difference between the *mīqāt* for one performing 'Umrah and the *mīqāt* for one on Hajj with regard to *ihrām*.

21. The Imāmiyyah author of *al-Madārik* says: "The better known and sounder of opinions is that the obligation of 'Umrah is independent of the obligation of Ḥajj." The author of *al-Jawāhir* states, "The statements of fuqahā' are not free of confusion... the one which appears sounder is that those who live far away from Mecca are relieved of the obligation of 'Umrah *mufradah*, and that which is obligatory upon them is 'Umrah *al-tamattu'*, whose *wujūb* is related to that of Hajj.

22. According to *al-Jawāhir*, *al-Madārik*, *al-Hadā'iq* and other Imāmiyyah works on fiqh, it is not permissible for one already in the state of *ihrām* to assume *ihrām* for another purpose, until he completes all the acts of the rite (Hajj or 'Umrah) for which he had assumed *ihrām*.

The Ḥajj

23. Ibn 'Aqīl is alone among Imāmiyyah legists in agreeing with the Sunnī legists in that the acts of both the Ḥajj and the 'Umrah may be performed with a single *ihrām* in *Hajj al-qirān*.

THE IHRAM:

Mawāqīt al-'Ihrām:

The *ihrām* is compulsory for all the various kinds of Hajj as well as 'Umrah, and is regarded as their basic element (*rukṅ*) by the Imāmiyyah, and as obligatory by other schools. All the five schools agree that the *mīqāt* of the people of al-Madīnah from where they assume *ihrām* is Masjīd al-Shajarah, also known as Dhū al-Hulayfah;¹ for the pilgrims of al-Shām (which includes the Syrians, the Lebanese, the Palestinians and the Jordanians, noting further that the routes have changed from what they used to be in the past), Morocco and Egypt the *mīqāt* is al-Juhfah;² for the pilgrims of Iraq, it is al-'Aqīq;³ for those from Yemen and others who take the same route, it is Yalamlam.⁴

According to the Imāmiyyah, *Qarn al-Manāzil*⁵ is the *mīqāt* for the people of al-Tā'if and those who take their route towards Makkah. But according to the four Sunnī schools, it is the *mīqāt* of the people of Najd. The *mīqāt* for those from Najd and Iraq according to the Imāmiyyah is al-'Aqīq. All the legal schools agree that these *mawāqīt* also apply to those who in their journey

The Hajj

take similar routes, even though they may not be natives of those regions. For instance, if a Syrian starts on Hajj from al-Madīnah, it is permissible for him to assume *ihrām* from Dhū al-Ḥulayfah; if he starts on Hajj from Yemen, his *mīqāt* is Yalamlam; if from Iraq, then al-‘Aqīq, and so on. If one does not pass the mentioned *mawāqīt* on his route, the *mīqāt* for him is the place parallel to any one of them.

If someone lives at a place nearer to Makkah than any of the prescribed *mawāqīt*, then he assumes *ihrām* from the place of his residence. For someone who resides in Makkah itself, his *mīqāt* is Makkah. For one performing the *al-‘Umrat al-mufradah*, the *mawāqīt*, according to the Imāmiyyah, are the same as for the Hajj.

Ihrām Before Mīqāt:

The four Sunnī legal schools agree on the permissibility of assuming *ihrām* before the point of *mīqāt*, but disagree as to which has greater merit. According to Mālik and Ibn Ḥanbal, *ihrām* before *mīqāt* is more meritorious (*aḥdal*). According to Abū Ḥanīfah, the merit lies in assuming *ihrām* while starting the Hajj journey from one’s town. Two opinions are ascribed to al-Shāfi‘ī in this regard.

However, according to the Imāmiyyah school, *ihrām* before *mīqāt* is not permissible except for one who intends to perform the ‘Umrah in the month of Rajab and

The Hajj

is afraid of missing it if *ihram* is delayed until *mīqāt* is reached, and for one who makes a vow (*nadhhr*) to assume *ihram* before the *mīqāt*. (*al-Tadhkirah, Fiqh al-Sunnah*)

Ihram after Mīqāt:

There is consensus among all the legal schools that it is not permissible to cross the *mīqāt* without *ihram*, and one who does so must return to the *mīqāt* for assuming *ihram*. If he does not return, according to the four Sunnī schools, his Hajj is correct though he should offer a *hady* in atonement. But if there be any impediment, such as fear of insecurity on the way or shortage of time, there is no sin. This, regardless of whether there are other *mawāqīt* before him on his path or not.

According to the Imāmiyyah, if he has deliberately neglected to assume *ihram* at the *mīqāt* while intending to perform the Hajj or the 'Umrah, if he does not turn back to the *mīqāt*, there being no other *mīqāt* before him from which he can assume *ihram*, his *ihram* and Hajj are invalid, whether he had a valid pretext for not returning or not. But if his failure to assume *ihram* at *mīqāt* was on account of forgetfulness or ignorance, if it is possible to return, he must do so; but if it is not possible, then from the next *mīqāt* before him. Otherwise he ought to assume *ihram* as far as possible outside the *haram* of Makkah, or within it; though the former is preferable.

The Hajj

(*al-Tadhkirah, al-Fiqh 'alā al-madhāhib al-'arba'ah*)

Ihrām before the Hajj Months:

According to the Imāmiyyah and Shāfi'i schools, the *ihrām* before the months of the Hajj is invalid if assumed with the purpose of Hajj, though it is valid when assumed for the purpose of the 'Umrah. They cite in this regard the Qur'ānic verse (2:197): ... الْحَجُّ أَشْهُرٌ مَّعْلُومَاتٌ... But according to the Ḥanafī, Mālikī and Hanbalī schools, it is permissible with *karāhah*. (*al-Tadhkirah, Fiqh al-Sunnah*)

Ihrām, Its Wājibāt and Mustahabbāt:

The Mustahabbāt of Ihrām:

There is no disagreement among the legal schools with respect to the *ihrām* being an essential *rukn* of the 'Umrah and all the three forms of the Hajj, namely, *tamattu'*, *qirān* and *ifrād*. Also, there is no difference of opinion that *ihrām* is the first act of the pilgrim, irrespective of whether his purpose is 'Umrah *mufradah*, or any of the three forms of Hajj. There are certain *wājibāt* and *mustahabbāt* related to the *ihrām*.

The legal schools agree that it is *mustahabb* for anyone intending *ihrām* to cleanse his body, clip his fingernails, shorten his moustaches, and to take a bath (even for women undergoing *hayd* or *nifās*, for the aim is

The Hajj

cleanliness). It is also *mustahabb* for one intending Hajj to abstain from cutting the hair of his head from the beginning of the month of Dhū al-Qi'dah, to remove the hair from his body and armpits, and to enter *ihrām* after the *zuhr* (noon) or any other obligatory prayers. It is also *mustahabb* to pray six, four or at least two *raka'āt*. However, freedom from the state of ritual impurity (*hadath*) is not a condition for the *ihrām* to be valid.

According to the Ḥanafī and Mālīkī schools, if water is not available, one is relieved of the duty to take the bath (*ghusl*), and *tayammum* as an alternative is not permissible. According to the Ḥanbalī and Shāfi'ī schools, *tayammum* substitutes *ghusl*. The Imāmiyyah jurists differ on this matter, some consider it permissible, others not.

According to the Imāmiyyah school, it is *mustahabb* to leave the hair of the head uncut, but according to the Shāfi'ī, Ḥanafī and Ḥanbalī schools, it is *mustahabb* to shave the head. (*al-Fiqh 'alā al-madhāhib al-'arba'ah*)

According to the Ḥanafī school, it is *sunnah* for one who wants to assume *ihrām* to scent his body and clothes with a perfume whose trace does not remain after *ihrām* except the smell. According to the Shāfi'ī school, it is *sunnah*, except when one is fasting, to apply perfume to the body after the bath. Also, perfuming the clothes does not matter. According to the Ḥanbalī school, one may perfume the body; and the clothes with *karāhah*. (*al-Fiqh 'alā al-madhāhib al-'arba'ah*)

The Ḥajj

According to the Ḥanafī, Mālikī and Shāfiī schools, it is *mustahabb* for the *muhrim* to pray two *raka'āt* before assuming *ihrām* after the noon prayer or any other obligatory prayer. If he has no obligatory prayer to make at the time of *ihrām*, he should offer six, or four or at least two *raka'āt* for the *ihrām*. (*al-Jawāhir*)

Al-'Ishṭirāṭ:

Al-Muḥaqqiq al-Hillī, the Imāmiyyah scholar, in his work *Tadhkirat al-ḥuqahā'*, says that for one intending *ihrām* it is *mustahabb* to make a condition with God at the time of assuming *ihrām*, by saying:

اللَّهُمَّ إِنِّي أُرِيدُ مَا أَمَرْتَنِي بِهِ، فَإِنْ مَنَعَنِي مَانِعٌ عَنِ تَمَامِهِ
وَحَبَسَنِي عَنْهُ حَابِسٌ فَاجْعَلْنِي فِي حِلٍّ.

O God, indeed I wish to fulfil Thy command, but if any impediment keeps me from completing it or a barrier obstructs me from it, exonerate me.

Abū Ḥanīfah, al-Shāfiī, and Ahmad ibn Hanbal also consider it *mustahabb*. However, this *ishtirāṭ* does not help in relieving one of the obligation of the Ḥajj if he were to encounter an impediment which keeps him from getting through it.

The Hajj

The Wājibāt of Ihrām:

The *wājibāt* of *ihrām*, with some difference between the legal schools on some points, are three: *niyyah* (intention); *talbiyah*; and putting on of the clothes of *ihrām*.

Al-Niyyah:

Obviously *niyyah* or intention is essential to every voluntary act; for every such act is motivated by conscious intent. Therefore, some scholars have pointed out that had we been assigned a duty to be performed without intention it would have been impossible to be carried out. However, when the question of intention is raised in relation to the pilgrim (of the Hajj or the 'Umrah), what is meant is whether he becomes *muhrim* solely on account of the *niyyah* or if something else is required in addition, acknowledging that *ihrām* is void if assumed frivolously or absent-mindedly.

According to the Hanafī school, *ihrām* is not considered to commence solely with intention unless it is accompanied by the utterance of the *talbiyah* (*Fath al-qadīr*). According to the Shāfi'ī, Imāmiyyah and Hanbalī schools, the *ihrām* is assumed merely by *niyyah* (*al-Jawāhir, Fiqh al-Sunnah*). The Imāmiyyah add that it is obligatory for the *niyyah* to coincide with the commencement of *ihrām*, and it is not sufficient for the

The Hajj

act of *niyyah* to occur in the course of assuming *ihram*. Also while making the *niyyah* it is essential to specify the purpose of *ihram*, whether it is Hajj or 'Umrah, whether it is *Hajj al-tamattu'*, *Hajj al-qiran* or *Hajj al-'itrād*, whether he is performing the Hajj for himself or as a *nā'ib* of someone else, whether for the obligatory Hajj (*Hijjat al-Islām*) or for something else. If one assumes *ihram* without specifying these particulars, postponing their determination to future, the *ihram* is invalid. (*al-Urwat al-wuthqā*).

According to the Hanafī text *al-Mughnī*, "It is *mustahabb* to specify the purpose of *ihram*. Mālik is of the same opinion. Two opinions are ascribed to al-Shāfi'i. According to one of them, it is adequate if one assumes *ihram* with a general, non-specific purpose of pilgrimage... without determining the exact purpose, whether Hajj or 'Umrah. The *ihram* thus assumed is valid and makes one a *muhrim* Afterwards, he may select any of the kinds of pilgrimage." All the five schools agree that if one assumes *ihram* with the intention to follow another person's intention, his *ihram* is valid if the other person's purpose is specific. (*al-Jawāhir; al-Mughnī*)

The Talbiyah:

That the *talbiyah* is legitimate in *ihram* is acknowledged by all the five schools, but they disagree as to its being *wājib* or *mustahabb*, and also about its timing.

The Hajj

According to the Shāfi'ī and Ḥanbalī schools, it is *sunnaḥ*, preferably performed concurrently with *ihrām*. However, if the intention to assume *ihrām* is not accompanied by *talbiyah*, the *ihrām* is correct.

According to the Imāmiyyah, Ḥanafī,⁶ and Mālikī schools, the *talbiyah* is obligatory, though they differ about its details. According to the Ḥanafī school, pronouncement of *talbiyah* or its substitute—such as *tasbīḥ*, or bringing along of the sacrificial animal (*al-hady*)—is a provision for *ihrām* to be valid. According to the Mālikī school, the *ihrām* neither becomes invalid if *talbiyah* is recited after a long gap of time, nor if it is not pronounced altogether. However, one who fails to pronounce it must offer a blood sacrifice.

According to the Imāmiyyah, neither the *ihrām* for *Hajj al-tamattu'*, nor *Hajj al-'iḥrād*, nor their conjugate 'umrahs, nor for *al-'Umrat al-mufradah*, is valid without *talbiyah*. However, one who intends to perform *Hajj al-qirān* may choose between *talbiyah*, *ish'ār*⁷ or *taqlīd*; *ish'ār* for this school being exclusively restricted to a camel, though *taqlīd* may apply to a camel or the other forms of *hady*.

The Formula of Talbiyah:

The formula of *talbiyah* is:

لَبَّيْكَ اللَّهُمَّ لَبَّيْكَ، لَا شَرِيكَ لَكَ لَبَّيْكَ، إِنْ أَلْحَمَدُ وَالنَّعْمَةُ لَكَ

The Hajj

وَالْمُنْكَ لَا شَرِيكَ لَكَ

All the legal schools agree that *tahārah* is not a proviso for pronouncing *talbiyah*. (*al-Tadhkirah*).

As to its occasion, the *muhrim* starts reciting it from the moment of *ihrām*, being *mustahabb* for him to continue it—all the five schools agree—until the *ramy* of *Jamarāt al-‘aqabah*. To utter it loudly is *mustahabb* for men (not for women), except in mosques where prayers are offered in congregation, particularly in the Mosque of ‘Arafāt. According to the Imāmiyyah school, it is *mustahabb* to discontinue reciting the *talbiyah* on sighting the houses of Makkah. A woman may recite the *talbiyah* just aloud enough to be heard by herself or someone near her. It is also *mustahabb* to proclaim blessings on the Prophet and his Family (ṣ). (*al-Tadhkirah; Fiqh al-Sunnah*).

The Muhrim's Dress:

All the five schools agree that it is not permissible for a *muhrim* man to wear stitched clothing, shirts or trousers, nor may he cover his face. Also, it is not permissible for him to wear shoes (*khuffān*) except when he cannot find a pair of sandals (*na‘lān*),⁸ and that after removing the covering on the back of the heels from the base. A woman, however, should cover her head, keep her face exposed, except when she fears that men may ogle at her.

The Hajj

It is not permissible for her to wear gloves, but she may put on silk and wear shoes (*khuffān*). According to Abū Ḥanīfah, it is permissible for a woman to wear gloves. (*al-Tadhkirah*; Ibn Rushd's *al-Bidāyah wa al-nihāyah*)

The book *al-Fiqh 'alā al-madhāhib al-'arba'a* under the heading 'That which is required of one intending *ihrām* before he starts to assume it', states. "According to the Hanafī school... among other things he wears *izār* (loin-cloth) and *ridā'* (cloak). The *izār* covers the lower part of the body from the navel to the knees. The *ridā'* covers the back, the chest and the shoulders, and its wearing is *mustahabb*.

According to the Mālikī school, it is *mustahabb* to wear *izār*, *ridā'*, and *na'lān*; but there is no restriction on wearing something else that is not stitched and does not encircle any of the parts of the body. According to the Ḥanbalī school, it is *sunnah* to put on a new, white and clean *ridā'* and *izār* together with a pair of *na'lān* before assuming *ihrām*. According to the Shāfi'ī school, the *ridā'* and *izār* should be white, new or washed ones.

According to the Imāmiyyah school, the *ridā'* and the *izār* are obligatory, preferably (*istiḥbāban*) of white cotton. The *muḥrim* may put on more than these two pieces of clothing on condition that they are not stitched. Also it is permissible to change the clothes in which one commenced *ihrām*, though it is better to perform the *tawāf* in the same *ridā'* and *izār* as worn at

The Hajj

the beginning. All the requirements of the dress for *salāt* apply to the dress of *ihrām*, such as *tahārah*, its being non-silken for men, not made of the skin of an animal eating whose flesh is not permissible. According to some Imāmiyyah legists, clothing made of skin is not permissible (in *salāt* and *ihrām*).

In any case, the disagreement between the legal schools about the *muḥrim*'s dress is very limited. This is well indicated by the fact that whatever is regarded as permissible by the Imāmiyyah is also considered permissible by the remaining schools.

Restrictions of *Ihrām*:

There are certain restrictions for the *muḥrim*, most of which are discussed below.

Marriage:

According to the Imāmiyyah, Shāfi'i, Mālikī and Hanbalī schools, it is not permissible for the *muḥrim* to contract marriage for himself or on behalf of another. Also he may not act as another's agent for concluding a marriage contract, and if he does, the contract is invalid.

Furthermore, according to the Imāmiyyah school, he may not act as a witness to such a contract.

According to Abū Ḥanīfah, marriage contract is permissible and the contract concluded is valid. According

The Hajj

to the Ḥanafī, Mālikī, Shāfi'ī and Imāmiyyah schools, it is permissible for the *muḥrim* to revoke divorce of his former wife during the period of her *'iddah*. According to the Ḥanbalī school, it is not permissible. From the viewpoint of the Imāmiyyah, if one enters a marriage contract with the knowledge of its prohibition, the woman becomes *ḥarām* for him for life merely by the act of concluding the contract, even if the marriage is not consummated. But if done in ignorance of the interdiction, she is not prohibited to him, even if consummation has been affected. (*al-Jawāhir; Fiqh al-Sunnah; al-Fiqh 'alā al-madhāhib al-'arba'ah*)

Intercourse:

All the five legal schools agree that it is not permissible for the *muḥrim* to have sexual intercourse with his wife, or to derive any kind of sexual pleasure from her. If he performs intercourse before *tahīl*⁹ (i.e. relief from the state of *iḥrām*) his Hajj becomes void, although he must perform all its acts to the conclusion. Thereafter, he must repeat the Hajj the next year, performing it 'separately' from his spouse.¹⁰ The seclusion is obligatory according to the Imāmiyyah, Mālikī and Ḥanbalī schools, and voluntary from the viewpoint of the Shāfi'ī and Ḥanafī schools. (*al-Ḥadā'iq; Fiqh al-Sunnah*)

Moreover, according to the Imāmiyyah, Shāfi'ī, and Mālikī schools, besides the fact that his Hajj becomes

The Hajj

invalid, he must sacrifice a camel in atonement, and according to the Hanafī school, a sheep.

All the five legal schools agree that if he commits intercourse after the first *tahlīl* (i.e. after the *ḥalq* or *taqsīr* in Minā, after which everything except intercourse—and also perfume according to the Imāmiyyah school—become permissible for the pilgrim), his Hajj is not void, nor is he called upon to repeat it. Nevertheless, he must offer a camel, according to the Imāmiyyah and Hanafī schools and according to one of the two opinions ascribed to al-Shāfi‘ī. But according to the Mālikī school, he is obliged to offer a sheep only. (*al-Hadā‘iq; Fiqh al-Sunnah*).

If the wife yields willingly to intercourse, her Hajj is also void, and she must sacrifice a camel in expiation and repeat the Hajj the year after. But if she was forced, then nothing is required of her, but the husband is obliged to offer two camels: one on his own behalf, and the second on hers. If the wife was not in the state of *ihrām*, but the husband was, nothing is required of her, nor is she obliged to offer anything in atonement, nor is anything required of the husband on her account. (*al-Tadhkirah*).

If the husband kisses his wife, his Hajj is not void if it does not result in ejaculation. On this all schools are in agreement. But according to the four Sunnī schools, he is obliged to make a sacrificial offering in atonement even if it be a sheep. The Imāmiyyah author of

The Hajj

al-Tadhkirah says, the sacrifice of a camel is obligatory only if the kiss is taken with sexual desire, otherwise he should sacrifice only a sheep. If he ejaculates, the Hajj is void according to the Mālikī school, but remains valid according to the other schools, although he should make an offering in atonement, which is a camel according to the Hanbalī school and a group of Imāmiyyah legists, and a sheep according to the Shāfiī and Hanafī schools. (*al-Hadā'iq; al-Mughnī*)

Use of Perfume:

All the legal schools agree that the *muhrim*, man or woman, may not make use of any perfume, either for smelling, or for applying on himself, or for scenting edibles. Indeed it is not permissible to wash the dead body of a *muhrim*, nor to perform *huniūt* upon it by applying camphor or any other kind of perfumery. If the *muhrim* uses perfume forgetfully or on account of ignorance, he needs not make any offering in atonement according to the Imāmiyyah and Shafiī schools. But according to the Hanafī and Mālikī schools, he must make a sacrificial offering (*fidyah*). In this relation two different opinions are ascribed to Aḥmad ibn Hanbal.

However, when one is forced to use perfume on account of disease, it is permissible and no *fidyah* is required. According to the Imāmiyyah school, if one uses perfume intentionally, he must offer a sheep, irrespective

The Hajj

of the use, whether applied to the body or eaten. However, there is nothing wrong in the *Khalūq* of Ka'bah even if it contains saffron, and the same applies to fruits and aromatic plants. (*al-Jawāhir*)

Use of Kohl:

Al-Tadhkirah states: "There is consensus among the Imāmiyyah legists on the point that darkening the eyelids with kohl or applying a kohl containing perfume is not permissible for the *muhrim*, man or woman. Apart from that (i.e. *ihrām*) it is permissible." According to the author of *al-Mughnī*, "Kohl containing antimony is *makrūh*, and does not require any *fiḍyah*. I haven't come across any different opinion on this topic. However, there is no *karāhah* in use of kohl without antimony, as long as it does not contain any perfume."

Shortening of Nails and Hair; Cutting of Trees:

All the five legal schools agree about impermissibility of shortening the nails and shaving or shortening of the hair of the head or the body in the state of *ihrām*, *fiḍyah* being required of the offender.¹¹ As to cutting of trees and plants within the *ḥaram*, all the legal schools agree that it is impermissible to cut or uproot anything grown naturally without human mediation. Al-Shāfi'i states that there is no difference between the

The Ḥajj

two with regard to the prohibition, and *fidyah* is required for both: cutting of a big tree requires *fidyah* of a cow, and of other plants of a sheep. According to Mālik, cutting of a tree is a sin, though nothing is required of the offender, regardless of whether it has grown with or without human mediation.

According to the Imāmiyyah, Ḥanafī, and Ḥanbalī schools, cutting of something planted by human hands is permissible and does not require a *fidyah*; but anything grown by nature requires *fidyah*, which is a cow according to the Imāmiyyah for cutting a big tree and a sheep for cutting smaller plants. According to the Ḥanafī school, the owner of the tree is entitled to a payment equivalent to the cost of the *hady*. (*Fiqh al-Sunnah, al-Lum'ah*)

All the five schools agree that there is no restriction for cutting a dry tree or for pulling out withered grass.

Looking into a Mirror:

It is not permissible for a *muhrim* to look into a mirror, and all the five schools agree that there is no *fidyah* for doing so. However, there is no restriction on looking into water.

The Ḥajj

of Henna:

According to the Ḥanafī school, it is permissible for the *muhrim*, man or woman, to dye with henna any part of his body, except the head. According to the Shāfiʿī school, it is permissible, with the exception of hands and feet.

According to the Ḥanafī school, dyeing is not permissible for the *muhrim*, man or woman. (*Fiqh al-Ḥanafīyah*) The predominant view among the Imāmiyyah schools is that dyeing is *makrūh* not *ḥarām*. (*al-Lum'ah*)

of Shade; Covering the Head:

All the five schools agree that it is not permissible for the *muhrim* man to cover his head voluntarily. According to the Mālikī and Imāmiyyah schools, it is not permissible for him to immerse himself under water until the head is completely submerged, although it is permissible for him, in all five schools except the Shāfiʿī, to wash his head or pour water over it. The Mālikīs say that with the intention of the hands it is not permissible to remove dirt by washing. If he covers the head forgetfully, nothing is required of him according to the Imāmiyyah and Shāfiʿī schools, but a *fidyah* is required according to the Ḥanafī school.

All the schools, with the exception of the Shāfiʿī, hold that it is impermissible for the *muhrim* to shade his head while moving. Neither it is permissible for him to

The Hajj

ride an automobile, an aeroplane or the like, which are covered by a roof. But it is permissible while walking to pass under a shadow.¹² If one needs shadow in case of exigency, such as illness or intense heat or cold, it is permissible, but a *kaffārah* is required according to the Imāmiyyah school. All the five schools agree that it is permissible for the *muhrim* when stationary in a place to be under the shade of a roof, wall, tree, tent, etc. According to the Imāmiyyah school, it is permissible for a woman to use shadow while moving about. (*al-Tadhkirah*)

Stitched Clothing and Ring:

All the five schools agree that it is forbidden for the *muhrim* man to wear stitched clothes and clothes which encircle body members, e.g. turban, hat and the like. These are permissible for women, with the exception of gloves and clothes which have come into contact with perfume. According to the Imāmiyyah school, if the *muhrim* wears stitched clothes forgetfully, or in ignorance of the restriction, nothing is required of him. But if one wears them intentionally to protect himself from heat or cold, he should offer a sheep. Also according to them it is not permissible to wear a ring for adornment, but it is permissible for other purposes. Also, it is not permissible for woman to wear jewelry for the sake of adornment.

The Hajj

'Fusūq' and 'Jidāl':

God, the most Exalted, says in the Quran:

...فَلَا رَفَثَ وَلَا فُسُوقَ وَلَا جِدَالَ فِي الْحَجِّ...

'...There should be no obscenity, neither impiety, nor disputing in Hajj....' (2:197).

In the above verse, the meaning of '*rafath*' is taken to be sexual intercourse, to which reference has been made earlier. '*Fusūq*' is taken to mean lying, cursing, or commission of sins. In any case, all of them are forbidden for the pilgrims of Hajj and the non-pilgrims as well. The stress here is meant to emphasize abstention from them in the state of *ihram*. The meaning of '*jidāl*' is quarrelling. According to an Imāmiyyah tradition from al-ʿImām al-Sādiq (ʿā), he is reported to have said, "It (i.e. '*jidāl*' in the above-mentioned verse) means using such expressions as 'Yes, by God!' or 'No, by God!' in conversation. This is the lowest degree of *jidāl*."

According to the Imāmiyyah school, if the *muhrim* tells a lie for once, he must offer a sheep; if twice, a cow; if thrice, a camel. And if he swears once taking a veritable oath, there is nothing upon him; but if he repeats it three times, he is obliged to sacrifice a sheep.

The Hajj

Cupping (Hijāmah):

All the five schools agree on permissibility of cupping in case of necessity, and the four Sunnī schools permit it even when not necessary as long as it does not require removal of hair. The Imāmiyyah legists disagree on this issue; some of them permit it and others not. (*al-Tadhkirah; al-Fiqh 'alā al-madhāhib al-'arba'ah*)

Hunting (al-Ṣayd):

All the five schools are in agreement about the prohibition on hunting of land animals, either through killing or through *dhabh*, and also on guiding the hunter or pointing out the game to him in the state of *ihrām*. Also prohibited is meddling with their eggs and their young ones. However, hunting of the animals of water is permitted and requires no *fidyah*. This, in accordance with the Qur'ānic verse:

أَحْلَلْنَا لَكُمْ صَيْدَ الْبَحْرِ وَطَعَامَهُ مَتَاعاً لَكُمْ وَلِلسَّيَّارَةِ وَحَرَّمْنَا عَلَيْكُمْ صَيْدَ الْبَرِّ مَا دُمْتُمْ حُرُمًا وَاتَّقُوا اللَّهَ الَّذِي إِلَيْهِ تُحْشَرُونَ *

Permitted to you is the game of the sea and the food of it, as a provision for you and for the journeyers; but forbidden to you is the game of the land, so long as you remain in the state of ihrām: and fear God, unto whom you shall be mustered. (5:96)

The Hajj

The prohibition on hunting within the precincts of the *haram* apply to the *muhrim* and the non-*muhrim* (*muhill*) equally. However, outside the *haram*, the prohibition applies only to the *muhrim*. If the *muhrim* slaughters a game, it is considered *maytah* (a dead animal not slaughtered in accordance with ritual requirements), and its flesh is unlawful for all human beings. The five legal schools agree that the *muhrim* may kill a predatory bird called *hada'ah*, crows, mice and scorpions. Others include wild dogs and anything harmful.

According to the Imāmiyyah and Shāfi'i schools, if the game hunted on land resembles some domestic beast in shape and form (like the oryx, which resembles the cow), he has the choice between: (1) giving the meat of one of similar beasts of his livestock in charity after slaughtering it; (2) estimating its price and buying food of the amount to be given in expiation and charity to the needy, distributing it by giving two *mudds* (the *mudd* is a dry measure equal to 800 grams) to every individual; (3) fasting, a day for every two *mudds*.

The Mālikīs hold the same viewpoint, except that, they add, the price of the hunted animal itself should be estimated, not that of its domestic equivalent. The Hanafīs say that one who hunts in the state of *ihrām* should arrange for the estimated price of the hunted animal, whether there is a domestic animal similar to it or not. When the price has been estimated, he is free to

The Hajj

choose between: (1) purchasing livestock of the money and giving its meat away in charity; (2) giving it from his own livestock; (3) purchasing food of the amount to be given away in charity; (4) fasting, a day for every *mudd* of food to be given away. (*al-Tadhkirah; Fiqh al-Sunnah*) In this connection all the legal schools base their position on this Qur'anic verse:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرْمٌ وَمَنْ قَتَلَهُ مِنْكُمْ
مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِنْكُمْ
هَدِيًّا بِأَلْغِ الْكَعْبَةَ أَوْ كَفَّارَةً طَعَامٍ مَسَاكِينَ أَوْ عَدْلٌ ذَلِكَ صِيَامًا
لِيَذُوقَ وَبَالَ أَمْرِ عَفَا اللَّهُ عَمَّا سَلَفَ وَمَنْ عَادَ فَيَنْتَقِمِ اللَّهُ مِنْهُ
وَاللَّهُ عَزِيزٌ ذُو انْتِقَامٍ*

O believers, slay not the game while you are in the state of ihrām. Whosoever of you slays it willfully, there shall be reparation--the like of what he has slain, in livestock, as shall be judged by two men of equity among you, as offering on reaching the Ka'bah; or expiation--food for poor persons or the equivalent of that in fasting, so that he may taste the mischief of his action. God has pardoned what is past; but whoever offends again, God will take vengeance on him; God is All-mighty, Vengeful. (5:95)

The meaning of the phrase *يَحْكُمُ بِهِ ذَوَا عَدْلٍ* in the above verse is that two equitable (*ādil*) witnesses should judge whether a certain domestic animal is similar to the

The Hajj

hunted wild beast. The meaning of the phrase هَدْيًا بِالْغَنَاءِ الْكُفْبَةِ is that he should slaughter the equivalent livestock and give its meat in charity on arrival in Makkah.

According to the Imāmiyyah work *al-Sharā'i*, "Every *muhrim* who wears or eats anything forbidden for him should slaughter a sheep, regardless of whether his action was intentional, forgetful, or on account of ignorance."

The Imāmiyyah and Shāfi'i schools agree that no expiation (*kaffārah*) is required of someone who commits a *harām* act forgetfully or in ignorance, except in the case of hunting, in which case even killing by mistake requires *kaffārah*.

The Limits of the Harams of Makkah and of Al-Madīnah:

The prohibition of hunting and cutting of trees applies both to the *haram* of Makkah and that of al-Madīnah. According to *Fiqh al-Sunnah*, the limits of the *haram* of Makkah are indicated by signs in five directions, which are one-meter-high stones fixed on both sides of the roads. The limits of the *haram* of Makkah are as follows: (1) the northern limit is marked by al-Tan'im, which is a place at a distance of 6 kms. from Makkah; (2) the southern limit is marked by Idāh, 12 kms. from Makkah; (3) the eastern limit is al-Ja'rānah, 16 kms. from Makkah; (4) the western limit is al-Shumaysī, 15 kms. from Makkah.

The Ḥajj

The limits of the *ḥaram* of the Prophet's shrine extend from 'Īr to Thawr, a distance of 12 kms. 'Īr is a hill near the *mīqāt*, and Thawr is a hill at Uḥud.

Al-'Allāmah al-Ḥillī, an Imāmiyyah legist, states in his work *al-Tadhkirah* that "the *ḥaram* of Makkah extends over an area of one *barīd* by one *barīd* (1 *barīd*=12 miles), and the *ḥaram* of al-Madīnah extends from 'Āyir to 'Īr.¹³

NOTES:

1. Dhū al-Hulayfah, nowadays known as Bi'r 'Alī or Ābyār 'Alī, is at a distance of about 486 kms. from Makkah to the north and 12 kms. from al-Madīnah. (Tr.)

2. Al-Juḥfah, lies a distance of about 156 kms. from Makkah to the north-west. (Tr.)

3. There are three points in the valley of al-'Aqīq, 94 kms. from Makkah in the north-east, from where *iḥrām* is assumed: al-Maslakh, al-Ghamrah, and Dhāt al-'Irq. According to the Imāmiyyah *fuqahā'*, it is permissible to assume *iḥrām* from any of these points, though al-Maslakh is considered best, then al-Ghamrah, and then Dhāt al-'Irq. (Tr.)

4. Yalamlam is a mountain of the Tahāmah range, lying at a distance of 84 kms. from Makkah (Tr.)

5. Qarn al-Manāzil, the *mīqāt* for those coming from al-Tā'if, lies at a distance of 94 kms. east of Makkah.

6. According to the Ḥanafī school, bringing along of *hady* substitutes the *talbiyah*, as mentioned by Ibn 'Ābidīn and the author of *Fath al-Qadīr*.

The Hajj

one intending to perform the *Hajj al-tamattu'* after getting through the acts of 'Umrah—the second step is (as shall be explained later) *wuqūf* in 'Arafāt. In other words, one who enters Makkah with the sole purpose of 'Umrah or *Hajj al-tamattu'* performs *tawāf* before everything else, then *sā'y* and then *taqṣīr*. After this, if on *Hajj al-tamattu'*, he assumes *ihrām* for a second time; but he is not required to perform another *tawāf* after this *ihrām*. The *tawāf* (pertaining to the Hajj acts), as we shall explain, comes after getting through the *wuqūf* at 'Arafāt and passage through Minā.

Kinds of 'Umrah in View of the Ahl al-Sunnah:

The imams of the four Sunnī schools distinguish between three kinds of *tawāf*:

1. Tawāf al-Qudūm: It is the *tawāf* performed by the 'outsiders', (i.e. those coming from outside Makkah and from beyond its outskirts within a radius of 88 kms.) on entry into Makkah. It is similar to the two *raka'āt* of *ṣalāt* performed as *tahīyyat al-masjid* (lit. 'greeting of the mosque'), and so is also called '*tawāf al-tahīyyah*'. The four Sunnī schools agree on its being *mustahabb*, and no penalty is required for default according to all except the Mālikīs who require a blood sacrifice.

2. Tawāf al-Ziyārah: This *tawāf* (also called

The Ḥajj

'*tawāf al-'ifādah*') is performed by Ḥajj pilgrims after getting through the acts of Minā, the *ramy* of *jamarāt al-'aqabah*, the sacrifice (*dhibh*), and the *ḥalq* or the *taqṣīr*. The pilgrim performs this *tawāf* on returning to Makkah. It is called '*tawāf al-ziyārah*' because it is performed on the visit (*ziyārah*) to the Ka'bah after leaving Minā. It is called '*tawāf al-'ifādah*' because the pilgrims pour forth ('*ifādah*' means 'pouring forth') into Makkah from Minā. It is also called '*tawāf al-ḥajj*' because by consensus of all the schools it is *rukṅ* of the Ḥajj.

After performing this *tawāf* all things become permissible for the (Sunnī) Ḥajj pilgrim, even sexual intimacy with women. The Imāmiyyah, who disagree, say that sex is not permitted before performing the *ṣā'y* between Ṣafā and Marwāh followed by a second *tawāf*, which they call '*tawāf al-nisā'*.' This shall be further clarified presently.

3. Ṭawāf al-Wadā': It is the last *tawāf* performed by the *Hujjāj* before departing from Makkah. The Ḥanafī and Ḥanbalī schools consider it obligatory, though all that is required of the defaulter is a sacrifice. The Mālikīs consider it *mustahabb* and do not require any penalty for the default. Al-Shāfi'ī has two opinions on this matter. (*al-Mughnī*, *al-Fiqh 'alā al-madhāhib al-'arba'ah*, *Fiqh al-Sunnah*)

The Hajj

Kinds of Tawāf from the Imāmiyyah Viewpoint:

The Shī'ah agree with the Sunnī schools about the legitimacy of the above three kinds of *tawāf*, and regard the second *tawāf*, i.e. *tawāf al-ziyārah* as a *rukṅ* of the Hajj whose omission makes the Hajj invalid.¹ However, the first kind, i.e. *tawāf al-quḍūm* is considered *mustahabb*, and may be omitted. Regarding the third, i.e. *tawāf al-wadā'*, they agree with the Mālikī school in its being *mustahabb*, there being nothing on the defaulter.

However, the Shī'ah add another kind of *tawāf* to the above three, the *tawāf al-nisā'*: which they consider obligatory, its omission being impermissible in 'Umrah *mufradah* as well as in all the three kinds of Hajj (i.e. *tamattu'*, *qirān*, and *ifrād*). They do not permit its omission except in case of 'Umrat *al-tamattu'*, considering the *tawāf al-nisā'* performed during the course of *Hajj al-tamattu'* as sufficient. The schools of the Ahl al-Sunnah state that there is no obligatory *tawāf* after the *tawāf al-ziyārah*, after which sexual intimacy is permissible. The Shī'ah say that it is obligatory upon the pilgrim, after performing *tawāf al-ziyārah* and the *sa'y*, to perform another *tawāf*, the *tawāf al-nisā'*, which derives its name precisely because of the sanction of permissibility of relations with women (*nisā'*) following it. They say that if the pilgrim defaults in regard to this *tawāf*, sexual relations are forbidden for man and woman (for men even the conclusion of marriage contract), unless he/she

The Ḥajj

performs it in person or deposes another to perform it on his/her behalf; and if he/she dies without performing it or without deposing someone to do it for him/her, it is incumbent upon the heir (*walī*) to have it performed on the behalf of the dead person. According to them, even in case of a *mumayyiz* child who fails to perform the *ṭawāf al-nisā'* while performing the Ḥajj, even if he omits it by mistake or on account of ignorance, women are forbidden to him after adulthood nor he may conclude a marriage contract (*'aqd*) unless he performs it himself or deposes another for the job.

To summarize, the Shī'ah consider three *ṭawāf*'s to be obligatory for the pilgrim on the *Ḥajj al-tamattu'*: (1) the *ṭawāf* of the conjugate 'Umrah, of which it is *rukṅ*; (2) the *ṭawāf al-ziyārah* (or *ṭawāf al-ḥajj*), which is a *rukṅ* of the Ḥajj; and (3) the *ṭawāf al-nisā'*, which is also an obligatory part of it, though not a *rukṅ* similar to the *Sūrat al-Fātihah* in relation to the *ṣalāt*. The Ahl al-Sunnah agree with the Shī'ah in all except *ṭawāf al-nisā'*, which they do not recognize. However, of a pilgrim on the *Ḥajj al-'ifrād* or *Ḥajj al-qirān*, only two *ṭawāf*'s are required by the Shī'ah.²

Entry into Makkah:

All the schools agree that it is *mustahabb* for one entering Makkah to take a bath, pass through its heights during the approach towards the city, enter through

The Hajj

Bāb Banī Shaybah, raise his hands on sighting al-Bayt al-Ḥarām, pronounce *takbīr* and *tahlīl*, and to recite whatever he can of certain prayers prescribed by tradition. The Mālikīs, however, disagree about the *istihbāb* of raising the hands for the *duʿā*.

Thereafter, he approaches the Black Stone; if possible kisses it or caresses it with his hand or else just makes a gesture with his hand, and prays.

According to the Imāmiyyah, it is *mustahabb* while entering the *haram* of Makkah to be barefooted, to chew the leaves of a plant called 'adhkhir' used for refreshing the mouth, or to clean the mouth to purge its odour.

The Provisos (Shurūt) of Tawāf:

According to the Shāfiʿī, Mālikī, and Hanbali schools ritual purity (*tahārah*, i.e. freedom from *hadath* and *khath*) is required; thus the *tawāf* of one who is *Junub* or a woman undergoing *ḥayḍ* or *niḥās*, is not valid. Also, it is necessary to cover one's private parts completely as in *ṣalāt*.

The author of the *Fiqh al-Sunnah* (p. 154, 1955) says: "In the opinion of the Hanafīs, freedom from *hadath* is not an essential requirement. However, it is an obligation whose omission may be compensated through a blood sacrifice. So, if one performs *tawāf* in the state of minor impurity (*hadath asghar*) his/her *tawāf* is valid.

The Hajj

though one is required to sacrifice a sheep. If *tawāf* is performed in the state of *janābah* or *hayḍ*,³ the *tawāf* is valid, though the sacrifice of a camel is required during the pilgrim's stay in Makkah."

According to *al-Fiqh 'alā al-madhāhib al-'arba'ah* (vol.I, p. 535, 1939): "The *tahārah* of the clothes, the body, and the location of prayer (in *ṣalāt*) is (only) a highly recommended sunnah (*sunnah mu'akkadah*) from the Ḥanafī viewpoint; (this is true) even of *tawāf*, there being no penalty even if all the clothes are completely ritually unclean (*najis*)."

According to the Imāmiyyah, *tahārah* (from *hadath* and *khathath*) is a proviso for validity of an obligatory *tawāf*. In the same way, covering the private parts (*ṣatr al-'awrah*) with a ritually clean cloth legitimately owned (*ghayr maghsūb*) is also a requirement. Moreover, it should not be made of silk or the skin of an animal whose flesh may not be eaten, nor made of golden fabric —requirements which are the same as for *ṣalāt*. It may be said that the Imāmiyyah are even more stringent with regard to *tawāf* than *ṣalāt*. They consider a blood spot of the size of a *dirham* as pardonable for one performing *ṣalāt*, but not for one performing *tawāf*. Further, they consider wearing of silk and gold as impermissible even for women during *tawāf* (which is permissible for women in *ṣalāt*). According to the Imāmiyyah, circumcision is a requirement for *tawāf*, without which it is invalid, both for an adult man and a

The Hajj

child (*al-Jawāhir, al-Ḥadā'iq*).

The manner of Performing Ṭawāf:

According to the Imāmiyyah and Ḥanbalī schools, the purpose or *niyyah* must be specified in every *ṭawāf*; but according to the Mālikī, Shāfi'ī and Ḥanbalī schools, a general *niyyah* for the Ḥajj is sufficient and no separate *niyyah* for *ṭawāf* is required. (*al-Jawāhir, Fiqh al-Sunnah*)

As pointed out earlier, *niyyah* as a motive behind all voluntary actions is an inevitable and necessary matter; as such, debate and controversy regarding it is futile.

Ibn Rushd, in his *Bidāyat al-mujtahid*, writes: "The Sunnī legists are in consensus on the opinion that every *ṭawāf*, whether obligatory or not, begins from the Black Stone (and according to the *Fiqh al-Sunnah* ends thereat). The pilgrim, if he can, kisses it, otherwise touches it with his hand. Then, with the Ka'bah on his left, starts moving towards the right to make the seven circumambulations, walking with a moderately fast pace (*ramal*) during the first three rounds and with an ordinary pace during the last four rounds. (The *ramal*² applies to the *ṭawāf al-quḍūm* performed on entry into Makkah by the 'Umrah and Hajj pilgrim, not one on *Ḥajj al-tamattu'*; also no *ramal* is required of women pilgrims). Then he kisses al-Rukn al-Yamānī" (the south-western corner or

The Ḥajj

rukṅ of the Ka'bah which falls before the one with the Black Stone mounted on it during the anti-clockwise rounds made during *tawāf*.—Tr.).

According to the Imāmiyyah, there are certain things obligatory (*wājib*) in *tawāf*; they are as follows:

1. The *niyyah*, to which reference has already been made.

2. The *tawāf* should be made on foot, and in case of inability on a mount. Many Imāmiyyah fuqahā' do not recognize this requirement and a group of them explicitly permit *tawāf* on a mount. They cite the precedent of the Prophet (s) who performed *tawāf* on camelback, according to traditions in *al-Kāfī* and *Man lā yahduruhu al-faqīh*.

3. The condition that the *tawāf* should begin and end at the Black Stone is stated in this manner in many books of fiqh: "The *tawāf* should be begun at the Black Stone, so that the first part of one's body is in front of the first part of the Black Stone. Then the pilgrim begins moving with the Black Stone on his left, ending the last circumambulation exactly in line with the point where he commenced his first, thus ensuring that the seven rounds are completed without advancing or falling behind a single step or more. The danger of advancing or falling behind necessitates that the first circumambulation should commence at the beginning of the Black Stone; because if begun in front of its middle, one cannot be sure of having advanced or fallen behind some steps; and if one began

The Hajj

from its end, then the beginning may not be said to have commenced from the Black Stone....” and so on and so forth.

The author of the *Jawāhir al-kalām* makes elaborate critical remarks about this kind of meticulousness, which show his balanced and moderate taste and temperament. This is the substance of what he has to say: “The difficulty and the exasperating *haraj* (impediment) inherent in realizing such a requirement is not concealed.... To give it consideration is to fall into silly scruples. The debate is similar to the depraved and unseemly musings of madmen.⁵ And it has been narrated of the Prophet (ﷺ) that he performed *tawāf* on camelback, and attaining this kind of precision is infeasible when on a mount.”

That which can be understood from the remarks of the author of *al-Jawāhir* is that he agrees with the author of *al-Sharāʿi*, who confines himself to this statement, without adding another word: “It is obligatory to begin and end the *tawāf* at the Stone.” It means—as is also apparent from his above-mentioned remarks—that in the opinion of the author of *al-Jawāhir* it is sufficient to fulfil this condition in the commonly understood sense. Al-Sayyid al-Hakīm, in *al-Munsik*, holds a similar position when he says, “The pilgrim performing *tawāf* should begin a little before the Stone with the intent of performing what is really obligatory. When he performs in this fashion he knows that he began at the Stone and

The Ḥajj

finished thereat.”

4. The Ka‘bah must be on the left during *tawāf*. According to al-Sayyid al-Khū‘ī, it is sufficient to realize this requirement in the commonly understood sense (i.e. without giving scrupulous attention to precision); slight shifts of direction do not matter as long as the movement meets the requirement in the ordinary sense. According to him the only crucial factor is satisfaction of the requirement in its ordinary sense.

5. The Hajar Ismā‘īl must be included in *tawāf*. That is the circumambulation should be made around it and without entering it,⁶ and it should be kept to the left while making the *tawāf*. Thus if one passes between it and the Ka‘bah during *tawāf*, making it fall to his right, the *tawāf* becomes invalid.

6. The body should be completely out of the Ka‘bah (because God says *وَلْيَطَّوَّفُوا بِالْبَيْتِ الْعَتِيقِ*, which means that *tawāf* should be made around and so outside the Ka‘bah, not inside it). Also if one were to walk on its walls or on the protruding part of its walls’ foundations, the *tawāf* would be invalid.

7. The *tawāf* should be performed between the Ka‘bah and the rock called Maqām Ibrāhīm, which is a stone on which Abraham (‘ā) stood during the building of the Ka‘bah.

8. The *tawāf* should consist of seven rounds, no more no less. Obviously, recognition of these points requires an informed guide to indicate them to the pilgrims.

The Hajj

After finishing *tawāf*, it is obligatory to offer two *rak'ah*'s of *salāt* behind the Maqām Ibrāhīm regardless of the crowd; but if it is not possible, one may offer the prayer in front of it, and if that, too, is not possible, anywhere in al-Masjid al-Harām. It is not permissible to begin a second *tawāf* without performing the two-*rak'ah* prayer. If one forgets performing them, it is obligatory on him to return and perform them. But if returning were not feasible, he can offer them wherever he can. This is true of the obligatory *tawāf*. But if the *tawāf* were a *mustahabb* one, he can offer the two *rak'ah*'s wherever he can. (*al-Tadhkirah, al-Jawāhir, al-Hadā'iq*)

This shows that the jurists of all the legal schools are in agreement over certain points: the *tawāf* starts and ends at the Black Stone; the Ka'bah should be on the left during *tawāf*; the *tawāf* should be made outside the Ka'bah; seven rounds should be made; kissing the Black Stone and the Rukn is *mustahabb*. However, they disagree with respect to the permissibility of break between successive rounds of the *tawāf*. According to the Mālikī, Imāmiyyah, and Hanbalī schools, continuity without break (*muwālāt*) is obligatory. According to the Shāfi'ī and Hanafī schools, it is *sunnah* (i.e. *mustahabb*) to observe *muwālāt*, so if there is a substantial break between the rounds without any excuse, the *tawāf* is not invalidated. (*Fiqh al-Sunnah*) Similarly according to Abū Hanīfah, if one leaves off after the fourth round, he must

The Hajj

complete his *tawāf* if he is in Makkah; but if he leaves Makkah, he must compensate it with a blood sacrifice. (*al-Tadhkirah*)

The schools disagree with respect to the necessity of the *tawāf* being undertaken on foot. The Ḥanafī, Ḥanbalī, and Mālikī schools consider it obligatory. According to the Shāfiī school and a group of Imāmiyyah scholars it is not obligatory and one may perform *tawāf* on a mount. Also, they disagree with respect to the two-*rak'ah* prayer (*rak'atān*) after *tawāf*. According to the Mālikī, Ḥanafī, and Imāmiyyah schools, the *rak'atān*—which is exactly like the daybreak prayer—are obligatory. The Shāfiī and Hanbalī schools regard it as *mustahabb*.

The Mustahabbāt of Tawāf:

The book *Fiqh al-Sunnah*, discussing the topic under the heading “*Sunan al-tawāf*”, states, “Of things which are *sunnah* in *tawāf* are: kissing the Black Stone while starting the *tawāf*, accompanied with *tahlīl* and *takbīr*, to raise the two hands as in *ṣalāt*, to greet the Stone by drawing one’s hands upon it (*istilām*), to kiss it soundlessly, to lay one’s cheek on it if possible, otherwise to touch it only.” Other *mustahabbāt* are: *idṭībā’*⁷ for men, *ramal*, and *istilām* of al-Rukn al-Yamānī.

According to *al-Lum’at al-Dimashqiyyah*, an Imāmiyyah work, of things *mustahabb* in *tawāf* are: to

The Hajj

halt in front of the Black Stone, to make the prayer later offered with the hands raised, to recite the Sūrat al-Qadr, remember Allāh—subhānahu wa ta'ālā. to walk peacefully, to draw one's hand on the Black Stone, to kiss it if possible otherwise to make a gesture, to draw one's hand on every corner of the Ka'bah every time one passes by or to kiss it, to draw one's hand on al-Mustajār—which is in front of the door and before al-Rukn al-Yamānī—during the seventh round, and to keep oneself as near as possible to the Ka'bah. To speak during *tawāf*, apart from *dhikr* and recitation of the Qur'ān, is *makrūh*.

The Ahkām of Tawāf:

According to the Imāmiyyah, if a woman undergoes *hayd* during *tawāf*, she discontinues *tawāf* and performs *sa'y*, if it happens after the fourth round. Then she completes the *tawāf* after attaining *tahārah*, and she is not required to repeat the *sa'y*. But if the *hadath* occurs before completing the fourth round, she waits until the day of 'Arafah. If by that time she regains *tahārah* and is in a position to complete the remaining acts, she does so. Otherwise her Hajj is converted to *Hajj al-'ifrād*.

As mentioned earlier, the Hanafīs permit *tawāf* for a woman in the state of *hayd*, and do not require *tahārah*. According to the Hanafī work *Fath al-Qadīr*, one who leaves three or fewer rounds of the *tawāf al-ziyārah* should sacrifice a sheep; if four, he remains in

The Ḥajj

the state of *ihrām* as long as he does not complete the rounds of *ṭawāf*. But if he leaves off more than four rounds, it is as if he had not started the *ṭawāf* at all.

According to the Imāmiyyah, if after completing the rounds of *ṭawāf* one doubts whether he performed them correctly as required by the Shari'ah or whether he performed the exact number of rounds, his doubt is of no consequence. His *ṭawāf* is considered valid and complete and there is nothing upon him. But if the doubt occurs before finishing the *ṭawāf*, he should consider whether he has performed at least seven rounds, such as when he doubts whether he made seven or eight rounds. If he is certain of having performed seven rounds, then his *ṭawāf* is considered valid. However, if he is not certain of having performed seven rounds—as in the case when he doubts whether he is in his sixth or seventh round, or in his fifth or sixth—in that case his *ṭawāf* is invalid and he should start afresh. It is preferable in such a case to complete the present *ṭawāf* before starting afresh.⁸ This is true of a *wājib ṭawāf*. In case of a *mustahabb ṭawāf*, the basis is the least number of rounds under seven one is certain of having performed, regardless of whether the doubt occurs during or after the last round.

For the non-Imāmiyyah schools, the rule is the least number of rounds one is certain of having performed—a rule which is similar to the one they apply to the doubt in the number of *rak'ah's* of *ṣalāt*.

These are the *aḥkām*, the *mustahabbāt*, and the

The Hajj

wājibāt of *ṭawāf*, which, like the *rukūʿ* and *sujūd* in *ṣalāt*, is always the same in all cases, whether as a part of the 'Umrah *muṭradah*, 'Umrat *al-tamattuʿ*, *Hajj al-qirān*, or *Hajj al-ʿifrād*, and regardless of whether it is *ṭawāf al-ziyārah*, *ṭawāf al-nisāʿ*, *ṭawāf al-quḍūm*, or *ṭawāf al-wadāʿ*.

As mentioned above, the *ṭawāf* is the next act after *ihrām* in 'Umrat *al-tamattuʿ*; but in the Hajj its turn comes after the pilgrim has gone through the rituals of Minā (on the 'Īd day) as shall be explained later.

NOTES:

1. According to the author of *al-Hadāʾiq*, Hajj is invalid if *ṭawāf* is omitted intentionally, but not if omitted by mistake; although it is obligatory to perform it after omission.

2. According to Ibn Rushd, in his *Bidāyah*, the four Sunnī schools agree that the pilgrim of *Hajj al-tamattuʿ* and its related 'Umrah is required to perform *ṭawāf* twice; the one on *Hajj al-ʿifrād* is required to perform *ṭawāf* once. They disagree regarding *Hajj al-qirān*, in which case according to al-Shāfiʿī, Mālik, and Ahmad ibn Hanbal, one *ṭawāf* is required, but two according to Abū Hanīfah.

3. According to *al-Jawāhir*, *al-Masālik*, *al-ʿUrwat al-wuthqā* and other works of Imāmiyyah *fiqh*, it is not permissible for one in the state of *janābah* or *ḥayd* to enter or pass through al-Masjid al-Ḥarām or Masjid al-Rasūl (al-Madīnah), to say nothing of tarrying (*makth*) therein. However, it is permissible for one in the state of *janābah* or *ḥayd* to pass, without stopping or halting, through other mosques.

The Hajj

4. '*Ramal*' means walking fast, without running making a rush. According to the Imāmiyyah work *al-Liṭā'ah*, *ramal* is *mustahabb* in the first three rounds of *tawāḥ* in the *ḥajj* position which is exactly the same as that of the four schools.

5. The author of *al-Jawāhir* makes this remark comparing those who stipulate such kind of condition for *tawāḥ* to others with a similar attitude with regard to the *ḥajj* of *salāt*.

6. Hajar Ismā'īl ibn Ibrāhīm ('ā) is the place where his house was built, and there he buried his mother.

7. By '*idṭibā'*' is meant the style of wearing the *ḥijāb* whose hanging sides are drawn under the right armpit and thrown over the left shoulder. In the book *al-Fiqh al-madhāhib al-'arba'ah*, the *istihbāb* of *idṭibtā'* is ascribed to the Hanafī, Shāfi'ī, and the Ḥanbalī, not to the Mālikī schools.

8. This is in agreement with the *fatāwā* of al-Sayyid al-Hakīm and al-Sayyid al-Khū'ī.

SA'Y AND TAQSIR

Sa'y:

All the schools agree that *sa'y* follows the *tawāf*, or its *rak'atayn* for those who consider them *wājib*. So also they agree that one who performs *sa'y* before *tawāf* should revert and perform his *tawāf* first and then the *sa'y*. I haven't come across any opinion holding that the *sa'y* must immediately follow the *tawāf* (*muwālāt*).¹

The Mustahabbāt of Sa'y:

According to the book *Fiqh al-Sunnah*, it is *mustahabb* to ascend the hills of Ṣafā and Marwah, and, facing the Holy Ka'bah, to pray to God for some religious or secular matter. It is well known that the Prophet (ﷺ), going out from Bāb al-Ṣafā until he could see the Ka'bah. Facing it, he thrice declared the Unity of God and magnified Him; then praising God he said:

لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ لَهُ، لَهُ الْمُلْكُ، وَلَهُ الْحَمْدُ، يُحْيِي
وَيُمِيتُ، وَهُوَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ، لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ، أَنْجَزَ

The Hajj

وَعَدَهُ، وَنَصَرَ عَبْدَهُ، وَهَزَمَ الْأَحْزَابَ وَحْدَهُ.

There is no god except Allah. He is One, and has no partner. To Him belongs the Kingdom and the Praise. He gives life and makes to die and He is powerful over every thing. There is no god except Allah. He is One. He has fulfilled His promise and granted victory to His slave, vanquishing all the parties (of the infidels). He is One.

The *mustahabbāt* of *sa'y* according to the Imāmiyyah book *al-Jawāhir* are the following: to draw one's hand on the Black Stone; to drink from the water of Zamzam and to sprinkle it on oneself; to leave [al-Masjīd al-Ḥarām] through the door facing the Black Stone; to ascend the Safā; to face al-Rukn al-'Irāqī; to praise God (*ḥamd*) and magnify Him (*takbīr*); to prolong one's stay al-Safā; and, after seven *takbīrs*, to say three times:

لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ، لَا شَرِيكَ لَهُ، لَهُ الْمُلْكُ، وَلَهُ الْحَمْدُ، يُحْيِي
وَيُمِيتُ، وَهُوَ حَيٌّ لَا يَمُوتُ، بِيَدِهِ الْخَيْرُ، وَهُوَ عَلَى كُلِّ شَيْءٍ
قَدِيرٌ.

After this he recites the prayer recommended by tradition (*al-du'ā' al-māthūr*).

As can be seen from the above, there is no divergence in this matter between the Shī'ah and the Sunnī schools, except for some difference of expressions used. Also, I have not come across any jurist who regards

The Ḥajj

tahārah (from *hadath* and *khath*) as obligatory for *sa'y*; most of the schools have expressly stated its being only *mustahabb* and the same is true (except for the Shāfi'i) of the drawing of the hand (*istilām*) on the Black Stone before leaving for *sa'y*.

Also, all the schools are explicit about the *istihbāb* of covering the distance between 'the Milayn' (an expression used by the Hanafis and Mālikīs) or 'the intervening distance' (*wasat al-masāfah*, an expression used by Shāfi'īs) or 'between the Minaret and the Alley of the Pharmacists' (as Imāmiyyah say) with a fast pace (*harwalah*).² Without doubt, an informed guide is necessary to enable the pilgrims to recognize the points designated as 'Milayn' or 'the Alley of the Pharmacists' (Zuqāq al-'Atṭārīn), or 'the Minaret'.

The Way of Performing Sa'y:

Although there is agreement between the schools about the necessity of *sa'y*, they disagree about its being an essential part (*rukn*) of the rites of Ḥajj. According to the Imāmī, Shāfi'i, and Mālikī schools, it is a *rukn*; according to Abū Ḥanīfah, it is not a *rukn*, though a *wājib*. Two different traditions are narrated from Aḥmad ibn Ḥanbal. (*al-Tadhkirah, Fiqh al-Sunnah*)

All are agreed on the number of *ashwāt* (sing. *shawṭ*) being seven, and that the performer of *sa'y* (i.e. *sā'i*) should begin at Ṣafā going towards Marwah, and

The Hajj

return again to Safā,³ covering this distance seven times. Thus the pilgrim makes four *ashwāt* going from Safā to Marwah and three *ashwāt* while returning from Marwah to Safā, beginning his first *shawt* from Safā and finishing the seventh at Marwah.

The schools disagree as to the permissibility of making the *sa'y* on a mount in spite of the ability to walk, and all of them, with the exception of the Hanbalīs, permit it regardless of whether one can walk or not. The Hanbalīs say that it is permissible only for one who cannot walk.

I have not come across any opinion regarding continuity (*muwālāt*) between the *ashwāt* as *wājib*,⁴ with the exception of the Hanbalīs, who, as also mentioned by the author of *al-Fiqh 'alā al-madhāhib al-'arba'ah*, consider it *wājib*. Also, it is said of Mālikīs that according to them if the gap between the *ashwāt* were to become inordinate, one should begin *sa'y* afresh; but if the gap were not prolonged, such as when one discontinues for selling or purchasing something, it is forgivable.

Note:

Al-Sayyid Muḥsin al-Ḥakīm, in his book on the rites of Hajj, says, "It is obligatory, while going and returning, to keep one's face turned towards one's destination.... Therefore, if someone were to turn his face away from it or were to walk backwards, or in a lateral

The Ḥajj

way, it is not correct. However, there is nothing wrong in turning the face this way and that way while continuing to face the destination in the course of movement.” He means that it is obligatory that the body should face Marwah while going and should be toward Ṣafā while returning, and it is not permissible to make the approach with only a shoulder facing the direction of the destination—as may happen due to overcrowding of the pilgrims; also, while moving, the face in particular should remain in the right direction.

Al-Sayyid al-Khūī makes a similar statement in his work on the rites of Ḥajj; his words are: “It is *wājib* to face Marwah while going and to be towards Safā while returning. Thus if one turns his back towards Marwah while going and towards Ṣafā while returning, it does not satisfy [*lam yujzi*], i.e. the conditions for a correct *sa’y*. Also, one should not turn towards his right or left, neither should he turn back either during the going (*dhahāb*) or during the return (*iyāb*).

The Ahkām of Sa’y:

One who cannot perform the *sa’y*, either on foot or on a mount, may depute another to perform it on his/her behalf, and the Ḥajj would be correct. There is nothing wrong in looking to the right or the left or turning back to look during the coming and the going.

If someone makes more than seven *ashwāt*

The Hajj

intentionally, his *sa'y* is invalid, but not if the lapse was unintentional. If one were to have doubts about the number of the *ashwāt* performed after finishing his *sa'y*, it is assumed to have been correct and nothing is required of him. The author of *al-Jawāhir* bases this *hukm* about the doubt after finishing on the principle of negation of *haraj*, as well as on tradition.

However, if the doubt were to occur before finishing the *sa'y*, the author of *al-Jawāhir* says that there is no difference of opinion about, nor any objection against, the invalidity of the *sa'y* in case of any doubt about the number of the *ashwāt* performed, whether of having exceeded or fallen short of the required number. In both cases the *sa'y* at hand is invalid. If one suspects one's having begun from Ṣafā, his *sa'y* is correct. But if he thinks that he might have started from some other place, it is invalid. Also if one suspects the number of *ashwāt* already performed, and does not know how many one has completed, one's *sa'y* is invalid

If one has recorded the number of *ashwāt* performed, but doubts whether one started the first one from Ṣafā or Marwah, he should consider the number of his present *shawt* and the direction he is facing. If, for instance, the number is an even one (2, 4, or 6) and he is at Ṣafā or facing it, his *sa'y* is correct; because this shows that he had begun at Ṣafā. Similarly, if the number is odd (3, 5, or 7) and he is at Marwah or facing it. But if the case is reverse, that is in an even *shawt* he is facing

The Hajj

or in an odd one facing towards Şafā, his *sa'y* is valid and should be begun anew. (*al-Jawāhir*)

According to the other schools, the rule is to perform a minimum one is certain of having performed, as in the case of *ṣalat*. (*Kifāyāt al-'akhyār*)

According to Abū Ḥanīfah the Hajj is not valid even if the *sa'y* is omitted altogether, because it is a *ruk'n* and can be made good by a sacrifice. (Ibn Qayyim's *al-Mīzān*)

According to Ahmad ibn Hanbal and Mālik, it is necessary to shave (*halq*) or shorten the hair (*taqṣīr*) of the head. According to Abū Ḥanīfah the same of a small portion of the head is sufficient: according to the Shāfi'ites cutting of three hairs suffices. (Karrārah's *al-Dīn al-Ḥalāl*)

According to the Imāmiyyah, in *taqṣīr* one has a choice of performing it by shortening either the hair of the head, the beard, or the mustaches or the nails.

All the five schools agree that *taqṣīr* is an obligatory rite, though not a *ruk'n*. According to al-Sayyid al-Sayidī, its relationship to Hajj is the same as that of the *ḥajj* with respect to the *ṣalāt*, because the *muhrim* is required to perform it after it of his state of *ihrām* in the same way as one performs the *ṣalāt* after the *salām*.

The Ḥajj

The *taqṣīr* or the *ḥalq*, whatever be the divergence of opinion about them, is to be performed once during *ʿUmrah mufradah* and twice during *Ḥajj al-tamattuʿ*. The details follow.

Taqṣīr in ʿUmrah:

According to the Imāmiyyah, one performing *ʿUmrat al-tamattuʿ* has to perform *taqṣīr* after the *saʿy*; it is not permissible for him to perform *ḥalq*. After it everything forbidden to him in the state of *ihrām* becomes permissible. But if he performs *ḥalq*, he should sacrifice a sheep. However, if he is on *ʿUmrah mufradah*, he may choose between *ḥalq* and *taqṣīr*, regardless of whether he brings along with him the *hady* or not.

If the *taqṣīr* is omitted intentionally, in case one had planned to perform *Ḥajj al-tamattuʿ* and had assumed *ihrām* before performing the *taqṣīr*, his *ʿUmrah* is invalid and it is then obligatory upon him to perform *Ḥajj al-ʿiḥrām*: that is, the rites of Ḥajj followed by *ʿUmrah mufradah*, and it is better for him to do Ḥajj again the next year.⁵

According to non-Imāmiyyah schools, one has a choice between *taqṣīr* and *ḥalq* after finishing his *saʿy*. As to relief from the state of *ihrām*, if one were performing a non-*tamattuʿ ʿUmrah*, he obtains relief from *ihrām* after *ḥalq* or *taqṣīr*, regardless of whether the *hady* accompanies him or not. But if one is performing *ʿUmrat*

The Hajj

al-tamattu', he is relieved of *ihrām* if not accompanied by the *hady*; but if accompanied he remains in the state of *ihrām*. (*al-Mughnī*)

Taqṣīr in Hajj:

The second type of *taqṣīr* is a part of the rites of all the various kinds of Hajj—*tamattu'*, *qirān*, or *iḥrād*—to be performed by Hajj pilgrim after the *dhabh* or *nahr* (animal sacrifice) in Minā. All the schools agree that here one has a choice between *taqṣīr* and *halq*, *halq* being more meritorious. They disagree, however, in regard to one with matted hair, whether he must shave his head or if, like others, he also has a choice between *halq* and *taqṣīr*. The Ḥanbalī, the Shāfi'ī, and the Mālikī schools prescribe only *halq* for him, but the Imāmiyyah and the Hanafī give him the same choice as others.

All the legal schools agree that women don't have to perform *halq*, rather, they may perform only *taqṣīr*.

Abū Ḥanīfah and a group of Imāmiyyah legists say that one who is bald, completely or partially, as when only the frontal portion of the head is hairless, must nevertheless draw the razor over the [hairless portion of the] head. The rest only consider it *mustahabb* (*al-Ḥadā'iq, Fiḥ al-Sunnah*)

According to the Imāmiyyah, the *halq* or the *taqṣīr* is obligatory in Minā. Therefore, one who departs

without *ḥalq* or *taqṣīr* should return to perform either of the two, regardless of whether his lapse was intentional or not, and despite the knowledge or out of ignorance. However, if it is difficult or infeasible for him to return, he may perform it wherever he can.

As to the rest, they say that it should be performed within the *ḥaram*. (*Fiqh al-Sunnah*)

All agree that sex is not permitted after the *ḥalq* or the *taqṣīr*. The Mālikīs include perfume as also being impermissible. The Imāmiyyah include with the above two hunting (*ṣayd*), which is forbidden because of the respect for the sanctity of the *ḥaram*. Apart from these three things, the rest are permissible by the consensus of all the five schools. For the four Sunnī schools, everything, including sex, becomes permissible after the *ṭawāf al-ziyārah*. As for the Imāmiyyah, sex and perfume are not allowed until after the *ṭawāf al-nisā'*.

We conclude this section with the words of al-'Allāmah al-Hillī in his *Tadhkirah*:

If [the pilgrim] departs from Minā without *ḥalq* or *taqṣīr*, he returns to perform it there--an obligation if within the reach of possibility. But if his returning is not possible, he performs *ḥalq* wherever he is, sending his hair to be carried to Minā to be buried there, which if he cannot there is nothing upon him.... The time for *ḥalq* is on the day of 'Īd, by consensus, for the Almighty has said [in Qur'ān]: وَلَا تَحْلِقُوا رُءُوسَكُمْ حَتَّىٰ يَبْلُغَ الْهَدْيُ مَحَلَّهُ

;"And do not shave your head until the sacrifice reaches its [specified] destination." (2:196); and the place of the sacrifice (*hady*) is Minā on the day of 'Īd. it has been recorded that the Prophet (s) performed first *ramy*, then *nahr*, and then *ḥalq*, at Mina on the 'Īd day.

We shall have occasion to refer to the *ḥukm* about the *ḥalq* performed prior to the *dhabḥ* while discussing later the rites of Minā.

THE WUQŪF IN 'ARAFĀT:

The pilgrim performing 'Umrah *mufradah* or *Hajj al-tamattu'* first assumes *ihrām*, then performs *ṭawāf*, offers the *rak'atayn*, then performs *sa'y*, then *taqṣīr*. This order is obligatory, and in it while the *ihrām* precedes all the other steps, the *ṭawāf* precedes the *ṣalāt*, the *ṣalāt* is prior to the *sa'y*, and at the end is *taqṣīr*.⁶

The Second Rite of Hajj:

The rites of Hajj, as in the case of 'Umrah, start with *ihrām*. However, the rite which is next to *ihrām* in the case of Hajj, and is considered one of the *arkān* of Hajj by consensus, in the *wuqūf* (halt) in 'Arafāt, there being no difference whether one is on *Hajj al-'ifrād* or *Hajj al-tamattu'*, although it is permissible for those on *Hajj al-'ifrād* or *Hajj al-qirān* to enter Makkah to

The Hajj

perform a *tawāf* after assuming *ihrām* and before proceeding to 'Arafāt. This *tawāf* (called *tawāf al-quḍūm*) resembles the *rak'atayn* called *tahiyyat al-masjid*, recommended as a mark of respect to a mosque. Al-Sayyid al-Ḥakīm, in his book on the rites of Hajj, says, "It is permissible for one intending *Hajj al-qirān* or *al-'ifrād* to perform the *mustahabb tawāf* on entering Makkah and before proceeding to *wuqūf* [in 'Arafāt]." Ibn Ḥajar, in *Fath al-Bārī bi Sharḥ al-Bukhārī*, writes: "All of them [the four legal schools] agree that there is no harm if one who has assumed *ihrām* for *Hajj al-'ifrād* performs a *tawāf* of the (Holy) House," that is, before proceeding to 'Arafāt. One on *Hajj al-tamattu'*, as said, should perform the *tawāf* of *'Umrat al-tamattu'* instead of the *tawāf al-quḍūm*.

Before the Halt in 'Arafāt:

There is consensus among the legal schools that it is *mustahabb* for the Hajj pilgrim to go out from Makkah in the state of *ihrām* on the day of Tarwiyah (the 8th of Dhū al-Ḥijjah), passing towards Minā on his way to 'Arafāt.

According to the Imāmiyyah books *al-Tadhkirah* and *al-Jawāhir*, it is *mustahabb* for one intending to proceed towards 'Arafāt not to leave Makkah before offering the *zuhr* and *'aṣr* prayers. The four Sunnī

schools say that it is *mustahabb* to offer them at Minā. (*al-Mughnī*)

In any case, it is permissible to proceed to 'Arafāt a day or two before that of Tarwiyah, in particular for the ill, the aged, women, and those who are clustrophobic. Also it is permissible to delay until the morning of the 9th so as to arrive at 'Arafāt by the time when the sun crosses the meridian (*zawāl*).

I have not come across any jurist who considers it *wājib* to spend at Minā the night before the day of *wuqūf* at 'Arafāt, or to perform some rite there. Al-'Allāmah al-Ḥillī, in his *Tadhkirah*, writes: "To spend the night of 'Arafah at Minā for resting is *mustahabb*; but it is not a rite, nor is there anything against one who doesn't do it." *Fath al-Bārī* and *Fath al-Qadīr* have something similar to say.

The word 'rest' (for *istirāhah*) used by al-'Allāmah al-Ḥillī does not need to be explained, for travel in the past used to be exhausting; so he considered it *mustahabb* for the pilgrims to stay for the night at Minā so as to arrive looking fresh and in good spirits at 'Arafāt. But travel today is quite a pleasure. Therefore, if one spends the night of 'Arafah in Makkah, going to 'Arafāt the following morning, or after the *zuhr* prayer, passing through Minā on his way—as the pilgrims' practice is nowadays—that is sufficient and there is nothing wrong in that. The pilgrim will return to Minā later after the halt in 'Arafāt, for the *ramy al-Jamrah*—but to that we shall

come later.

The Period of the Halt in 'Arafāt:

There is consensus among the legal schools that the day of the halt in 'Arafāt is the 9th of Dhū al-Hijjah, but they disagree as to the hour of its beginning and end on that day. According to the Hanafī, the Shāfi'i, and the Mālikī schools, it begins at midday on the 9th and lasts until the daybreak (*fajr*) on the tenth. According to the Hanbalī school, from the daybreak on the 9th until daybreak on the tenth. According to the Imāmiyyah, from midday on the 9th until sunset on the same day, for one who is free to plan; and in case of one in an exigency, until the following daybreak.

It is *mustahabb* to take a bath for the *wuqūf* in 'Arafāt, to be performed like the Friday bath. There is no rite to be performed in 'Arafāt except one's presence there: one may sleep or keep awake, sit, stand, walk around or ride a mount.

The Limits of 'Arafāt:

The limits of 'Arafāt are 'Arnah, Thawbah, and from Nimrah to Dhū al-Majāz, which are names of places around 'Arafāt. One may not make the halt in any of those places, neither in Taht al-'Arāk, because they are outside 'Arafāt. If one were to make the halt in any of those

places, his Hajj is invalid by consensus of all the schools, with the exception of the Mālikī, according to which one may halt at 'Arafāt though he will have to make a sacrifice.

The entire area of 'Arafāt is *mawqif* (permissible for the *wuqūf*) and one may make the halt at any spot within it by consensus of all schools. Al-'Imām al-Ṣādiq ('ā) relates that when the Prophet (s) made the halt at 'Arafāt, the people crowded around him, rushing along on the hoof-prints of his camel. Whenever the camel moved, they moved along with it. (When he saw this), the Prophet said, "O people, the *mawqif* is not confined to where my camel stands, rather this entire 'Arafāt is *mawqif*," and pointed to the plains of 'Arafāt. "If the *mawqif* were limited to where my camel stands, the place would be too little for the people." (*al-Tadhkirah*)

The Conditions Applicable to the Halt:

Tahārah (ritual purity) is not a condition for the halt at 'Arafāt, by consensus of all the schools. According to the Imāmiyyah and the Mālikī schools, the halt at 'Arafāt must be made with prior intention (*niyyah*) and with the implied knowledge that the place where he is halting is indeed 'Arafāt. Thus if he were to pass on without knowing, or know without intending the *wuqūf*, it is not considered *wuqūf* as such.

According to the Shāfi'i and the Mālikī schools, neither intent nor knowledge is a condition. All that is

The Hajj

required is freedom from insanity, intoxication, and loss of consciousness. According to the Ḥanafīs, neither intent, nor knowledge, nor sanity is a condition; whosoever is present in 'Arafāt during the specific period, his Hajj is correct, intent or no intent, whether he knows the place or not, whether sane or insane. (*Fiqh al-Sunnah, al-Tadhkirah*)

Is it necessary to make the halt in 'Arafāt for the full specified period, or is it sufficient to be present there for some time, even if it is for a single moment?

According to the Imāmiyyah, there are two kinds of periods for the halt, depending on whether one arrives at a time of his own choice (*ikhtiyārī*) or the time is forced upon him by circumstances beyond his control (*iḍṭirārī*). In the case of the former, the period of halt for him is from midday on the ninth until sunset on the same day; in the case of the latter, the period lasts until the daybreak of the tenth. So one who can make the halt from noon until sunset for the entire period, it is *wājib* upon him; although halt not for the entire period but halt for a part of it is *rukṅ* [that is without it the Hajj would not be valid], the rest being merely a *wājib*. This means that if someone omits the halt his Hajj is invalid for not performing a *rukṅ* of it. But if one makes a short halt, he has omitted only a *wājib* which is not *rukṅ*, and so his Hajj does not lose its validity [on this account]. Moreover, if someone cannot make the halt for the entire *ikhtiyārī* period, due to some legitimate excuse, it is sufficient for him to make the halt for a part of the night of 'Īd.

According to the Shāfi'ī, the Mālikī, and the Hanbalī schools, mere presence even if for a single moment, is sufficient. (*al-Fiqh 'alā al-madhāhib al-'arba'ah, Manār al-sabīl*)

According to the Imāmiyyah, if one leaves 'Arafāt intentionally before the midday, he must return and there is nothing upon him if he does. But if he doesn't, he must sacrifice a camel, and if that is beyond his means fast for 18 days in succession. But if the lapse were by oversight and he does not discover it until the time is past, there is nothing upon him, on condition that he is present at the halt in al-Mash'ar al-Ḥarām in time. But if he remembers before the period expires, he must return as far as possible, and if he doesn't he must sacrifice a camel.

The Mālikīs say that one who makes the halt in 'Arafāt after the midday and leaves 'Arafāt before the sunset, he must repeat the Ḥajj the following year if he does not return to 'Arafāt before the daybreak (on the 9th). But all other legists say that his Ḥajj is complete. (Ibn Rushd's *Bidāyah*)

According to *al-Fiqh al-muṣawwar 'alā madhhab al-Shāfi'ī*, "if one forgets and omits the halt, it is obligatory upon him to change his Ḥajj into 'Umrah, and then complete the remaining rites of Ḥajj after performing its rites; also he must repeat the Ḥajj in the immediate following year."

It is *mustahabb* for one performing the halt in 'Arafāt to: observe *ṭahārah*; face the Holy Ka'bah; and do

a lot of *du'ā* and *istighfār*, with due surrender, humility, and with a heart-felt presence before God.

THE WUQÛF IN MUZDALIFAH:

The halt in Muzdalifah is the next rite after the halt in 'Arafāt, by consensus of all the schools. They also agree that when the Ḥajj pilgrim turns to Muzdalifah (where al-Mash'ar al-Ḥarām is situated) after the halt in 'Arafāt, he is acting in accordance with the following Divine verse of the Qur'ān:

...فَإِذَا أَقَضْتُمْ مِنْ عَرَفَاتٍ فَاذْكُرُوا اللَّهَ عِنْدَ الْمَشْعَرِ
الْحَرَامِ وَادْكُرُوهُ كَمَا هَدَىٰكُمْ ...

When you pour forth from 'Arafāt, then remember Allah in al-Mash'ar al-Ḥarām, remembering Him in the way you have been shown. (2:198)

Also, there is agreement that it is *mustahabb* to delay the *maghrib* (sunset) prayer on the night preceding the 'Īd day until Muzdalifah is reached. The author of *al-Tadhkirah* writes that when sun sets in 'Arafāt, then one should go forth before the (*maghrib*) prayer towards al-Mash'ar al-Ḥarām and recite there the supplication prescribed by tradition. The author of *al-Mughnī* says, "It is *sunnah* (i.e. *mustahabb*) for one leaving 'Arafāt not to offer the *maghrib* prayer until Muzdalifah is reached,

The Hajj

whereat the *maghrib* and the '*ishā*' prayers should be offered together. There is no difference regarding this, as Ibn al-Mundhir also points out when he says: "There is consensus among the '*ulamā*', and no divergence of opinion, that it is *sunnah* for the Ḥajj pilgrim to offer the *maghrib* and the '*ishā*' prayers together; the basis for it is that the Prophet (s) offered them together.' "

All the legal schools, with the exception of the Hanafī, agree that if one were to offer the *maghrib* prayer before reaching Muzdalifah and not offer the two prayers together, his *ṣalāt* is nevertheless valid despite its being contrary to what is *mustahabb*. Abū Hanīfah does not consider it valid.

The Limits of Muzdalifah:

According to *al-Tadhkirah* and *al-Mughnī*, Muzdalifah has three names: Muzdalifah, Jam', and al-Mash'ar al-Harām, its limits are from al-Ma'zamayn to al-Hiyād, towards the valley of Muhassir. The entire Muzdalifah is *mawqif*, like 'Arafāt, and it is legitimate to make the halt at any spot inside it. According to *al-Madārik*, it is a settled and definite matter among the Imāmiyyah legists that it is permissible, in case of overcrowding, to ascend the heights towards the hill, which is one of the limits of Muzdalifah.

The Ḥajj

The Night at Muzdalifah:

Is it obligatory to spend the entire night of ʿĪd at Muzdalifah, or is it sufficient to halt in al-Mashʿar al-Ḥarām even for a moment after the daybreak? (It is assumed, of course, that the meaning of *wuqūf* is mere presence: one may be walking around, sitting or riding a mount, as in the case of the halt at ʿArafāt).

According to the Ḥanafī, the Shāfiʿī, and the Hanbalī schools, it is obligatory to spend the entire night at Muzdalifah and the defaulter is required to make a sacrifice. (*al-Mughnī*) According to the Imāmiyyah and the Mālikī, it is not *wājib*, though meritorious. This is what Shihāb al-Dīn al-Baghdādī the Mālikī, in his *Irshād al-sālik*, and al-Hakīm

and al-Khūī have confirmed. However, no one has considered it a *rukʿn*.

As to halting in al-Mashʿar al-Ḥarām after the daybreak, Ibn Rushd, in *al-Bidāyah wa al-nihāyah*, cites the consensus of the Sunnī fuqahāʾ to the effect that it is one of the *sunan* (sing. *sunnah*) of the Ḥajj, not one of its *furūd* (duties; sing. *farḍ*).

According to *al-Tadhkirah*, "It is obligatory to halt in al-Mashʿar al-Ḥarām after the daybreak, and if someone were to leave intentionally before the daybreak after halting there for the night, he must sacrifice a sheep. Abū Ḥanīfah also says that it is obligatory to halt after the daybreak. The rest of the schools permit departure after

The Hajj

midnight.” Therefore, with the exception of the Imāmiyyah and the Ḥanafī schools, others permit departure from Muzdalifah before the daybreak.

The Imāmiyyah say that the time of halt in al-Mash‘ar al-Ḥarām is of two kinds: the first (*ikhṭiyārī*) is for one who has no reason for delaying, and that is the entire period between the daybreak and the sunrise on the day of ‘Īd; whoever leaves advertently and knowingly from the Mash‘ar before the daybreak and after being there for the whole or part of the night, his Ḥajj is not invalidated if he had halted at ‘Arafāt, although he must sacrifice a sheep. If he had left the Mash‘ar on account of ignorance, there is nothing upon him, as made explicit in the above quotation. The second (*idṭirārī*) is for women and those who have an excuse for not halting between the daybreak and the sunrise; their time extends to midday on the day of ‘Īd. The author of *al-Jawāhir* says that there is both textual evidence (from hadīth) as well as consensus to support the above prescription, and the *fatāwā* of al-Sayyid al-Hakīm and al-Sayyid al-Khūī are also in accordance with it. The latter has not stated midday as the *idṭirārī* time limit, but says that it is sufficient to make the halt after sunrise.

The Imāmiyyah also say that the *wuqūf* in the two specified periods of time is a *rukṅ* of the Ḥajj. Therefore, if someone does not perform it altogether either in the *ikhṭiyārī* period for the night or in the *idṭirārī* period, his Ḥajj is invalid if he hadn’t spent the night

The Ḥajj

there; but not if the default was on account of a legitimate excuse, on condition that he had performed the halt at 'Arafāt. So one who fails to make the halts at 'Arafāt and the Mash'ar, neither in the *ikhtiyārī* nor in the *idtirārī* period, his Ḥajj is invalid even if the failure was on account of a legitimate reason. It is obligatory upon him to perform Ḥajj the year after if the Ḥajj intended was a *wājib* one; and if it was a *mustahabb* Ḥajj, it is *mustahabb* for him to perform it the next year. (*al-Jawāhir*)

The halt in al-Mash'ar al-Ḥarām is held in greater importance by the Imāmiyyah than the one in 'Arafāt; that is why they say that one who loses the chance to be present at the halt in 'Arafāt but participates in the halt at the Mash'ar before the sunrise, his Ḥajj is complete. (*al-Tadhkirah*)

Mustahabbāt of the Mash'ar:

According to the Imāmiyyah it is *mustahabb* for one performing Ḥajj for the first time to put his feet on the ground of the Mash'ar. (*al-Jawāhir*)

According to the Imāmiyyah, the Shāfi'i and the Mālikī schools, it is *mustahabb* while leaving for Minā to gather seventy pebbles, for the *ramy al-jamarāt*, at Muzdalifah. The reason for this, according to the author of *al-Tadhkirah*, is that when the Ḥajj pilgrim arrives in Minā he should not be detained by anything from the rite of the *ramy*. Ibn Ḥanbal is narrated to have said that the

The Hajj

pebbles may be gathered from any place: and there is no disagreement that it suffices to gather them from whatever place one wishes.

The maintenance of *tahārah*, the pronouncing of *tahlīl*, *takbīr*, and *du'ā'* (the prescribed one or something else) is also *mustahabb*.

AT MINĀ:

All the schools are in agreement that the rites after the halt at al-Mash'ar al-Harām are those of Minā, and that departure from Muzdalifah is after the sunrise, and one who leaves before sunrise, passing beyond its limits, according to al-Khūī, must sacrifice a sheep as *kaffārah*.

At Minā one performs several rites which continue from the Day of Sacrifice (*yawm al-nahr*), or the day of 'Īd, until the morning of the thirteenth or the night of the twelfth. The *wājibāt* of Hajj are completed in Minā. The three days following the day of 'Īd (the 11th, 12th, and the 13th) are called "*ayyām al-tashrīq*."⁸

Three rites are obligatory at Minā on the day of 'Īd: (1) *ramy* of the Jamrat al-'Aqabah; (2) *al-dhabh* (slaughtering of the sacrificial animal); (3) *halq* or *taqṣīr*. Agreeing that the Prophet (s) performed first the *ramy*, then the *nahr* (or *dhabh*) and then the *taqṣīr*, the schools disagree whether this order is obligatory and if it is impermissible to change that order, or if the order is only

The Hajj

mustahabb and may be altered.

According to al-Shāfiī and Aḥmad ibn Ḥanbal, there is nothing upon one who changes the order. Mālik says that if someone performs *halq* before the *nahr* or the *ramy*, he must make a sacrifice; and if he was performing *Hajj al-qirān* then two sacrifices. (Ibn Rushd's *al-Bidāyah*). According to the Imāmiyyah, it is a sin to change the order knowingly and intentionally, although repetition is not required. The author of *al-Jawāhir* says, "I have not found any difference of opinion on this point", and *al-Madārik* states that the jurists are definite on this point.

Now we shall deal with each one of these rites under a separate heading.

Jamrat al-'Aqabah:

The Number of Jimār:

Ramy al-jimār, or the symbolic throwing of pebbles performed in Minā, is obligatory upon all pilgrims of the Hajj, whether *tamattu'*, *qirān* or *iḥrād*. This rite is performed ten times during the four days. The first *ramy*, in which only one point called Jamrat al-'Aqabah is stoned, is performed on the day of 'Īd. On the second day, i.e. 11th of Dhū al-Ḥijjah, the three *jimār* are stoned, and again every three on the third and the fourth day. This applies to the Hajj pilgrim who spends the night of the

The Hajj

twelfth in Minā; otherwise there is no *ramy* for him on that day.

Jamrah of the Tenth of Dhū al-Hijjah:

The legal schools agree that it suffices to perform the *ramy* of the Jamrat al-‘Aqabah any time from sunrise until sunset on the tenth of Dhū al-Hijjah, but disagree as to its performance before or after that period. According to the Mālikī, the Ḥanafī, the Ḥanbalī and the Imāmī schools, it is not permissible to perform the *ramy* of the Jamrat al-‘Aqabah before the daybreak, and if performed without an excuse, must be repeated. They permit it for an excuse like sickness, weakness, or insecurity (fear). According to the Shāfi‘ī school, performing the rite earlier is unobjectionable, for the specified period is *mustahabb* not *wājib* (*al-Tadhkirah*, Ibn Rushd’s *Bidāyah*). However, if delayed until after sunset on the day of ‘Īd, according to Mālik, the defaulter must make a sacrifice if he performs the rite during the night or the next day. According to the Shāfi‘īs, there is nothing upon him if he performs the rite of *ramy* in the night or the next day. (Ibn Rushd’s *Bidāyah*)

According to the Imāmiyyah, the time of this *ramy* extends from sunrise until sunset on that day. If forgotten, the rite must be performed the next day. If again forgotten, on the 12th, and if one fails again, it can be performed on the 13th. But if one forgets until one has

The Ḥajj

left Makkah, he may carry it out the following year, either himself or through a deputy who carries it out on his behalf.⁹

The Conditions of Ramy:

There are certain conditions for the validity of *ramy al-jamarāt*:

1. *Niyah*: stated by the Imāmiyyah explicitly.
2. That each *ramy* must be carried out with seven pebbles; there is agreement on this point.
3. The pebbles must be thrown one at a time, not more; again there is consensus on this point.
4. The pebbles must strike the known target; there is also consensus on this point.
5. The pebbles must reach their target through being thrown (*ramy*); thus if they are tossed in some other manner, it does not suffice according to the Imāmī and the Shāfiī schools, and is not permissible according to the Hanbalī and the Ḥanafī schools. (*al-Mughnī*)
6. The pebbles must be of stone, not of other material, like salt, iron, copper, wood or porcelain, etc.; this is accepted unanimously by all the schools except that of Abū Ḥanīfah, who says that it is all right if pebbles are made of some earthen material, such as porcelain, clay or stone. (*al-Mughnī*)
7. The pebbles must be 'new', that is, not used for *ramy* before; the Ḥanbalīs state this condition expressly.

The Hajj

Tahārah is not a condition in *ramy*, though desirable.

The Imāmiyyah say that it is *mustahabb* that the pebbles be about the size of a finger tip and rough, neither black, nor white, nor red. The other schools say that their size must be about that of the seed of a broad bean (*bāqilā'*).

The Imāmiyyah also say that it is *mustahabb* for the Hajj pilgrim to perform all the rites facing the *Qiblah*, with the exception of the *ramy* of the Jamrat al-'Aqabah on the day of 'Īd, which is *mustahabb* to perform with one's back towards the *Qiblah*, since the Prophet (ﷺ) had performed this rite in that way. The other schools say that facing the *Qiblah* is *mustahabb* even in this rite.

Also, it is *mustahabb* to perform the *ramy* on foot (though riding a mount is permissible), not to be farther from the Jamrah than 10 cubits, to perform it with the right hand, to recite the prayers prescribed by tradition and other prayers. Following is one of the prayers prescribed by tradition:

اللَّهُمَّ اجْعَلْهُ حَجًّا مَبْرُورًا، وَذَنْبًا مَغْفُورًا.. اللَّهُمَّ إِنَّ هَذِهِ
حَصِيَّاتِي، فَأَحْصِي لِي، وَأَرْفَعْهُنَّ فِي عَمَلِي .. اللهُ أَكْبَرُ. اللَّهُمَّ
أَذْهِبِ الشَّيْطَانَ عَنِّي .

O God, make my Hajj a blessing, a forgiving of my sins.... O God, these pebbles of mine, reckon them and place them high in my actions.... God is Great.

The Ḥajj

O God, repel Satan from me.

Doubt:

What if one doubts whether the pebble thrown has struck its target or not? It is assumed not to have hit. If one doubts the number thrown, he may count from the least number of which he is sure he has thrown.

Jamrat al-‘Aqabah is the first rite performed by the Ḥajj pilgrim in Minā on the day of ‘Īd, which is followed by the *dhabh*, then *halq* or *taqsīr*. After that he proceeds to Makkah for *ṭawāf* the same day. On this day, there is no other rite of *ramy* for him. Now we shall proceed to discuss the sacrifice (*hady*).

Hady:

The second obligatory rite in Minā is the *hady* or animal sacrifice. The issues related to it are: (1) its kinds, *wājib* and *mustahabb*, and the various kinds of *wājib* sacrifice; (2) regarding those for whom the *hady* is *wājib*; (3) the requirements of the *hady*; (4) its time and place; (5) the legal rules about its flesh; (6) the substitute duty of one who can neither find the *hady* nor possess the means to purchase one. The details are as follow:

The Hajj

The Kinds of Hady:

The *hady* is of two kinds; *wājib* and *mustahabb*. The *mustahabb* sacrifice is the one mentioned in the following verse of the Qur'ān: *فَصَلِّ لِرَبِّكَ وَأَنْحِرْ** 'So pray unto the Lord and sacrifice' (108:2), which is interpreted as a commandment to the Prophet (ﷺ) to sacrifice after the 'Īd day prayer. A tradition relates that the Prophet (ﷺ) sacrificed two rams, one white and the other black.

According to the Mālikīs and the Hanafīs, the sacrifice is obligatory for every family once every year; it is, they say, similar to the *zakāt al-fitr*. The Imāmiyyah and the Shāfi'ī schools say that the *mustahabb* sacrifice can be carried out in Minā on any of the four days, the day of 'Īd and the three days following it (called *ayyām al-tashrīq*). But at places other than Minā the sacrifice may be carried out only during three days: the day of 'Īd, and the 11th and the 12th. According to the Ḥanbalīs, the Mālikīs, and the Ḥanafīs, its time is three days whether in Minā or elsewhere. In any case, the best time for the sacrifice is after sunrise on the day of 'Īd during a period sufficient for holding the 'Īd prayer and delivering its two *khutbahs* (sermons).

The obligatory sacrifices, in accordance with the Qur'ānic text, are four: (1) The sacrifice related to *Hajj al-tamattu'* in accordance with the verse:

...فَإِذَا أَمِنْتُمْ فَأَمِّنْتُمْ فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ

The Ḥajj

الْهَدْيِ...

...If in peacetime anyone of you combines the 'Umrah with the Ḥajj, he must offer such sacrifice as he can... (2:196)

(2) The sacrifice related to *ḥalq*, which is a *wājib* open to choice, in accordance with the verse:

...فَمَنْ كَانَ مِنْكُمْ مَرِيضًا أَوْ بِهِ أَذًى مِنْ رَأْسِهِ فَفِدْيَةٌ مِنْ صِيَامٍ
أَوْ صَدَقَةٍ أَوْ نُسُكٍ..

But if any of you is ill or suffers from an ailment of the head, he must offer a fidyah either by fasting or by alms-giving or by offering a sacrifice. (2:196)

(3) The sacrifice related to the penalty (*jazā'*) for hunting, in accordance with the verse:

..وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعَمِ يَحْكُمُ بِهِ
ذَوَا عَدْلٍ مِنْكُمْ هَذَا يَأْتِي لَعْنِ الْكُفَّةِ...

He that kills game by design, shall present, as an offering near the Ka'bah, a domestic beast equivalent to that which he has killed, to be determined by two honest men among you;.... (5:95)

(4) The sacrifice related to "*iḥṣār*" [some hindrance which keeps one from completing the rites of Ḥajj, such as illness

The Hajj

or interruption due to an enemy], in accordance with the following verse (*al-Tadhkirah*):

...فَإِنْ أَحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ...

If you cannot offer such sacrifice as you can afford... (2:196)

Besides the above four, there are also the obligatory sacrifices related to any of the following: '*ahd*' (pledge), *nadhr* (vow), *yamīn* (oath). In what follows we shall discuss *hady* as one of the rites of Hajj.

For Whom is Hady Wājib?

The *hady* is not obligatory, by consensus of all the schools, upon one performing '*Umrah mufradah*', nor on one performing *Hajj al-īfrād*. Similarly, there is consensus regarding its being obligatory upon the non-Makkan pilgrim on *Hajj al-tamattu'*. The four Sunnī schools add that it is also obligatory upon the pilgrim on *Hajj al-qirān*.

According to the Imāmiyyah, it is not obligatory on one on *Hajj al-qirān* except with *nadhr* (vow), or when he brings along with him the sacrificial animal at the time of assuming *ihrām*.

There is disagreement regarding whether the Makkan performing *Hajj al-tamattu'* must offer a sacrifice

The Hajj

or not. According to the four Sunnī schools, the *hady* is not *wājib* upon him. *Al-Mughnī* states that “there is no disagreement among scholars that the sacrifice of *tamattu’* is not *wājib* on those living in the neighbourhood of al-Masjīd al-Harām.” The Imāmiyyah say that if the Makkan performs *Hajj al-tamattu’* the *hady* is obligatory upon him.¹⁰ This is stated by *al-Jawāhir* where it says, “If the Makkan were to perform *Hajj al-tamattu’*, the *hady* is *wājib* upon him according to the widely held (*mashhūr*) opinion [of the Imāmī fuqahā’].

The legal schools, however, agree that the obligatory *hady* is not one of the *arkān* of Hajj.

The Requirements of the Hady:

The *hady* must meet the following requirements:

1. It must belong to cattle, such as camel, cow, sheep, or goat, by consensus of all the five schools. As stated by *al-Mughnī*, according to the Ḥanafī, the Mālikī, the Shāfi’ī and the Ḥanbalī schools: if a sheep, it must be at least six months; if a goat, of one year; if a cow, of two years; and if a camel of five years. This agrees with the Imāmiyyah view as stated by *al-Jawāhir*, with the difference that the camel must have entered its sixth and the goat its second year.

Al-Sayyid al-Ḥakīm and al-Sayyid al-Khū’ī have said that it suffices if the camel has entered its sixth and the cow or the goat its third. As to the sheep, they

The Ḥajj

add, to be cautious, the sheep must have entered its second.

2. The sacrificial animal must be free of any defect, and, by consensus, must not be one-eyed, lame, sick or old and decrepit. There is disagreement, however, regarding its acceptability in case of castration, being without horns or with broken ones, missing or mutilated ears or tail. Such are not acceptable according to al-Sayyid al-Ḥakīm and al-Sayyid al-Khūī, but acceptable according to the author of *al-Mughnī*.

Al-'Allāmah al-Hillī, in *al-Tadhkirah*, says that female camel and cow and male sheep and goats are to be preferred, although the permissibility of the converse in the two cases is not disputed by any school. The author of *al-Mughnī* says that the sex of the sacrificial animal is irrelevant.

The Time and the Place of the Sacrifice:

As to the occasion of the sacrifice, it is, according to the Mālikī, the Ḥanafī, and the Ḥanbalī schools, the day of 'Īd and the two days following it. Abū Ḥanīfah adds that this time is specific for the sacrificial rite of *Ḥajj al-qirān* and *tamattu'*; but for the others he sets no such time limit. The Mālikīs do not recognize any difference between various kinds of *hady*, as mentioned by *al-Fiqh 'alā al-madhāhib al-'arba'ah*.

The Ḥanbalīs say that if the sacrifice is made before its time, it must be made again. If after its time: in

The Hajj

case of *mustahabb* the lapse of time cancels it; and in case of *wājib* it must be fulfilled. According to the Ḥanafīs, slaughtering the sacrificial animal before the three days of ʿĪd is not sufficient, but is if done later though a *kaffārah* is required for the delay. According to the Shāfiʿīs, the time of the obligatory sacrifice for *Hajj al-tamattuʿ* starts with *ihrām*; therefore, performing it earlier [than the day of ʿĪd] is permissible, and there is no time limit for delaying, although it is best performed on the ʿĪd day. (*al-Fiqh ʿalā al-madhāhib al-ʿarbaʿah*)

The Imāmiyyah regard *niyyah* as being obligatory in slaughtering (*dhabh* or *nahr*), and say that its time is on the day of ʿĪd; although it is acceptable until the third day following it, or even until the end of Dhū al-Hijjah, although the delay is a sin. The author of *al-Jawāhir* reports that there is no divergence [among Imāmi legists] on this point, even if the delay is without a [legitimate] excuse. It is not permissible, according to the Imāmiyyah, to make the sacrifice before the 10th of Dhū al-Hijjah.

As to the place, it is the *Haram*, according to the Ḥanbalī, the Shāfiʿī, and the Ḥanafī schools, which includes Minā¹¹ and other places, as mentioned above while discussing *ihrām* and the limits of the *harams* of Makkah and al-Madīnah.

According to the Imāmiyyah, there are three conditions for slaughtering the *hady* in Minā: (1) that the *hady* must have been brought in the *ihrām* assumed for

The Hajj

Hajj, not in the *ihrām* for 'Umrah; (2) the pilgrim should have halted for some time of the night with the *hady* in 'Arafāt; (3) he should have made the resolve to make the sacrifice on the day of 'Īd or the following day. Also the Imāmiyyah say that the pilgrim of *Hajj al-tamattu'* may make the sacrifice nowhere but in Minā, even if his Hajj is supererogatory. But the *hady* brought along in the *ihrām* of 'Umrah is to be slaughtered in Makkah. (*al-Tadhkirah*)

In any case, for all the schools offering of the sacrifice is legitimate and preferable at Minā. Ibn Rushd says that the consensus of the 'ulamā' is in favour of slaughtering the *hady* at Minā. Secondly, the difference between the Imāmiyyah and the other schools is that the Imāmiyyah specify Minā, while others allow an open choice between Minā and other places inside the *haram* of Makkah.

The Flesh of the Hady:

The Ḥanbalīs and the Shāfi'īs say that the flesh of the *hady* whose slaughtering inside the *haram* is *wājib* is to be distributed among the poor inside it. The Ḥanafīs and the Mālikīs say: it is permissible to distribute it inside or outside the *haram*. The Shāfi'īs say: one may not (oneself) eat the flesh of a *wājib hady*, but that of a voluntary or *mustahabb hady* is permissible. The Mālikīs say: with the exception of the sacrifice made as *fiḍyah* for hurting someone (*adhā*), hunting, or sacrifice vowed (*nadhr*)

The Ḥajj

specifically for the poor, and the voluntary *hady* which dies before reaching its destination, the flesh of the *hady* may be eaten in all cases. (*al-Mughnī, al-Fiqh 'alā al-madhāhib al-'arba'ah, Fiqh al-Sunnah*)

The Imāmiyyah say: a third of the flesh should be given to the poor believers; another third to other believers, even the well off; and the remaining third may be consumed by the pilgrim. (*al-Jawāhir, al-Sayyid al-Ḥakīm and al-Sayyid al-Khūī in their books on the manāsik of Ḥajj*).

The Substitute Duty (al-Badal):

All the legal schools agree that when the Ḥajj pilgrim cannot find the *hady* nor possesses means to acquire one, its substitute is to keep fasts for ten days, three of which for successive days, are to be kept during the Ḥajj days and the remaining seven on returning home. This is in accordance with the Divine verse:¹²

..فَمَنْ لَمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ
تِلْكَ عَشْرَةٌ كَامِلَةٌ ...

...But if he lacks the means let him fast three days during the pilgrimage and seven when he has returned; that is ten days in all. (2:196)

The criterion of capacity to offer the *hady* is

The Ḥajj

ability to arrange one in the place, and when it can't be done the duty of *hady* is changed into that of the fasts. This holds even if the pilgrim should be a man of means in his own homeland. This is because the obligation is specific to the occasion and so is the capacity to fulfil it. A similar case is that of availability of water for *ṭahārah*.

Dhabḥ by a Wakīl:

It is preferable that the Ḥajj pilgrim should slaughter the *hady* himself, though it is permissible to ask someone else to do it, because it is one of the rites in which delegation is possible. The one deputed (*wakīl*) makes the *niyyah* of slaughtering on behalf of the one who deposes, and it is better that both of them should make the *niyyah* together. According to the Imāmiyyah it is *mustahabb* for the pilgrim to put his hand on that of him who slaughters or at least be present at the time of slaughtering.

Shaykh 'Abd Allāh al-Māmqānī, in *Manāhij al-yaqīn*, writes: "If the *wakīl* makes an error in mentioning the name of the one who appoints him, or forgets his name altogether, there is no harm in it." There is a good point here, for it is related from one of the Imams (*ā*) that in a marriage ceremony the *wakīl* made a mistake while mentioning the bride's name or mentioned some other name. The Imam (*ā*) said, "It doesn't matter."

The Hajj

Qāni' and Mu'tarr:

In regard to the verse 36 of the *Sūrat al-Hajj*:

...فَكُلُوا مِنْهَا وَأَطِعُوا الْقَانِعَ وَالْمُعْتَرَّ...

...and eat of their flesh and feed with it the *qāni'* and the *mu'tarr*....(22:36)

al-Imām al-Ṣādiq (‘ā) said, “The *qāni'* is the (poor) man who is content with what you give him and does not show his displeasure and does not frown or twitch his mouth in irritation. The *mu'tarr* is one who comes to you for charity and presents himself.”

The Substitute for Camel Sacrifice:

If the sacrifice of a camel is obligatory upon someone, through *kaffārah* or *nadhr*, and he cannot arrange it, he must sacrifice seven sheep one after another, and if that is not possible fast for 18 days. (*al-Tadhkirah*)

The Hajj

Taqlīd and Ish'ār:

'*Taqlīd*', in this context, means putting a shoe or the like in the neck of the sacrificial animal. '*Ish'ār*' means making an incision in the right side of the hump of a camel or cow and letting it be stained by blood. The Sunnī jurists regard *ish'ār* and *taqlīd* as *mustahabb* except Abū Hanīfah, who says that the *taqlīd* of the sheép and the camel is *sunnah*, but *ish'ār* is by no means permissible due to the pain it causes to the animal. (*al-Mughnī*) We all favour kind treatment of the animals, and at the same time we are all Muslims. Islam has permitted the slaughtering of animals and even made it obligatory in case of *hady*, as Abū Hanīfah also concedes by his act and verdict. In this light, *ish'ār* is more entitled to permissibility.

Charity to Non-Muslims:

Al-Sayyid al-Khūī, in his book on the rites of Hajj, says, "The Hajj pilgrim giving something in charity (*sadaqah*) or gifting the meat of the slaughtered animal, may give the latter to anybody he wishes, even a non-*mu'min* or a non-Muslim.

In general the Imāmiyyah permit the giving of non-*wājib sadaqāt* or making of endowment (*waqf*) in favour of a Muslim or a non-Muslim. Sayyid Abū al-Hasan al-ʿIṣfahānī, in his *Wasīlat al-najāt*, says: "In giving of *mustahabb sadaqah*, poverty or possession of

The Hajj

īmān or *islām* is not a condition for the recipient. He may be a well-to-do man, a non-'Imāmī, a Dhimmī, and a total stranger (not a blood relation of the giver of charity)." Al-Sayyid al-Kāzim, in the appendices of *al-'Urwat al-wuthqā*, permits giving of *ṣadaqah* even to a warring infidel (*kāfir ḥarbī*).

The Burning or Burying of Slaughtered Animals:

It is a custom among Hajj pilgrims nowadays that they offer money to whoever would accept the *hady*,¹³ which he on receiving either buries or throws away because the number of the slaughtered animals is great and nobody around to make use of their meat. Throughout whatever I have read I did not come across anyone who should raise a question about the permissibility or otherwise of this practice. In 1949 a group of Egyptian pilgrims asked the al-'Azhar for a *fatwā*, asking the permission for giving the price of the *hady* as help to the needy. In reply, al-Shaykh Maḥmūd Shaltūt, in Vol. 1, No.4 of the journal *Risālat al-'Islām* which was issued by the Dār al-Taqrīb at Cairo, considered it obligatory to make the slaughter even if it should require burning or burial of the bodies of the slaughtered beasts. I contested his opinion in a long article which appeared in two successive numbers of the above-mentioned journal in the year 1950. When the Dār al-'Ilm li al-Malāyīn, Beirut, wanted to bring out a new edition of my book *al-'Islām*

The Hajj

ma'a al-hayāt, I included it also with a title “*Hal ta'abbadanā al-Shar' bi al-hady fī hāl yutrak fīhi li-al-fasād?*” (“Does the Sharī'ah command us to make the sacrifice in order to rot?”). There, I have drawn the conclusion that the *hady* is obligatory only when one can find someone to eat it or where it is possible to preserve the meat through drying or canning. But when the sacrifice is solely carried out for destruction through burning or burying, its permissibility in the present conditions seems doubtful and questionable. Anyone who wishes to see the details of my argument may refer to the second edition of *al-'Islām ma'a al-hayāt*.

Later I came across a tradition in *al-Wasā'il* which confirmed my position, and which the author had placed in the Book of *udhiyyah* (sacrifice) in a section entitled “*Bāb ta'akkud istiḥbāb al-'udhiyyah*”. The tradition reads:

عَنِ الصَّادِقِ عَنِ آبَائِهِ عَنِ رَسُولِ اللَّهِ (ص) أَنَّهُ قَالَ: ﴿إِنَّمَا جُعِلَ
هَذَا لِأَصْحَابِي لِتَشْبِعَ مَسَاكِينُكُمْ مِنَ اللَّحْمِ فَأَطْعِمُوهُمْ.﴾

From al-Sādiq ('ā), from his ancestors, from the Prophet (s), that he said: “This sacrifice has been instituted to feed the poor among you with meat. So feed them.”

Although this tradition is related particularly to voluntary sacrifice, it also throws light on the purpose behind

The Hajj

al-hady al-wajib.

Between Makkah and Minā:

As mentioned, the first rite in Minā on the 10th is *ramy* of Jamrat al-‘Aqabah, after that the offering of *hady*, and then thirdly, *halq* or *taqsir*. We have already discussed the third under the head “Halq or Taqsir.” We have referred to the rule about doing the *halq* or *taqsir* before the *dhabh* when discussing the order of the rites under the head “In Minā”, where the reader will find its details.

When the pilgrim completes his rites in Minā on the day of ‘Id (such as *ramy* and *dhabh*), he returns to Makkah to perform the *tawaf al-ziyarah*; then he offers its related *rak’atayn* and performs the *sa’y* between Şafā and Marwah. According to the four Sunnī schools, he returns to Minā after that *tawāf* and everything becomes permissible to him thereupon, even sex. According to the Imāmiyyah, he has to perform another *tawāf*, the *tawāf al-nisā’*, and offer its related *rak’atayn*. Sex does not become permissible to the pilgrim, from the Imāmiyyah viewpoint, without this *tawāf*, which we have already discussed in detail above.

The Night at Minā:

After completing the *tawāf*, the pilgrim must

The Hajj

return to Minā during what are called Layālī al-Tashrīq, which are the nights of the 11th, 12th, and 13th—with the exception of him who being in a hurry departs after midday and before sunset on the 12th; there being nothing against him who leaves under these circumstances on the third day, in accordance with the verse:

...فَمَنْ تَعَجَّلَ فِي يَوْمَيْنِ فَلَا أَتَمَّ عَلَيْهِ...

...He that departs on the second day incurs no sin....

(2:203)

According to Abū Ḥanīfah, to stay overnight in Minā is *sunnah* not *wājib*. Those who consider it *wājib* agree that it is a rite and not a *rukṅ*. They disagree, however, regarding the necessity of *kaffārah* upon the defaulter. According to Aḥmad ibn Ḥanbal, there is none; according to al-Shāfiʿī, a *mudd* (*al-Tadhkirah*, *al-Mughnī*, *Fiqh al-Sunnah*); and according to Mālikīs, a sacrifice (al-Zarqānī's *sharḥ* of Mālik's *Muwattaʿa*). According to the Imāmiyyah, "If one spends the night at a place other than Minā, there is nothing upon him if he spends it at Makkah praying all the night until morning; but if the night is spent there without prayer, or somewhere else, in prayer or otherwise, he must sacrifice a sheep, even if the default was on account of oversight or ignorance". (al-Sayyid al-Hakīm's *Manāḥij al-nāsikīn*).

There is no obligatory rite for the nights in

The Hajj

Minā, though spending them in prayer and worship in *mustahabb*.

Ramy during the Ayyām al-Tashriq:

The schools agree that there is no rite except *ramy* of the three *jimār* everyday during the three days called *ayyām al-tashriq*, regardless of whether the pilgrim is performing *Hajj al-tamattu'*, *al-'ifrād* or *al-qirān*. As to the number of pebbles and other things they have been mentioned under "Jamrat al-'Aqabah."

According to the Imāmiyyah, the time of *ramy* on each of the three days extends from sunrise until sunset, midday being the preferable hour. The other schools say that it extends from midday until sunset, and if done earlier should be repeated. Abū Ḥanīfah permits *ramy* before midday only on the third day. *Ramy* after sunset is permissible only for those with a [valid] excuse.

All the five schools are in consensus about the number of *jimār* and the way of performing the *ramy* on the three days. Below is the way of its performance as described by *al-Tadhkirah* and *al-Mughnī*:

The pilgrim performs *ramy* on each of the three days by throwing 21 pebbles, seven in each of the three times. He begins at the first *jamrah*, al-Jamrat al-'Ūlā, which is the farthest of them from Makkah and nearer to Masjīd al-Khayf. It is *mustahabb* to toss the pebble in a fashion called *hadhf*, from the left side standing at Baṭn

The Ḥajj

al-Masīl, and to say *takbīr* with every pebble that is thrown and to pray.

After that, he proceeds to the second *jamrah*, called al-Jamrat al-Wustā, halts at the left side of the way, and, facing the *Qiblah*, praises Allāh and prays for blessings upon the Prophet (s), then moving ahead a little prays, and then throws the pebbles in the same way as above, then pauses and prays after the last pebble.

Then he moves on to the third point called *Jamrat al-'Aqabah*, and performs the rite of *ramy* as before, without any pause after finishing. With this the rites of *ramy* for the day are complete.¹⁵

The total number of pebbles thrown on the three days is 63 (that is, if one spends the night of the 13th in Minā), 21 each day. With the seven thrown on the day of 'Īd the total number is 70.

The author of *al-Tadhkirah*, after the above description, says that there is no difference of opinion about it. The author of *al-Mughnī* makes a similar remark, adding that Mālik has opposed the raising of hands.

The description of the rites of *ramy* given by the author of *al-Mughnī* is similar if not exactly the same as the one given above by the author of *al-Tadhkirah*.

All schools, except Abū Hanīfah, agree about the order of the *ramy* of the *ḡimār*, and that if one of them is stoned out of turn, then it is obligatory to repeat the rite in the correct order. Abū Hanīfah says that the order is not binding. (*al-Tadhkirah*, *al-Mughnī*)

The Ḥajj

The *ramy* may be performed on foot or from a mount, though the former is better. It is permissible for one who has an excuse that someone else may perform it for him, and there is nothing upon one if he omits the *tabbīr*, the prayer or the pause after the second *jamrah*.

If the *ramy* is delayed by a day intentionally, or on account of ignorance or oversight, or is put over completely until the last day of Tashrīq and is performed on a single day, the pilgrim does not incur a *kaffārah* according to the Shāfi'īs and the Mālikīs. Abū Ḥanīfah says that if one, two, or three pebbles are delayed by a day, for every pebble delayed a poor man must be fed; if four are delayed by a day, a sacrifice becomes essential. All the four schools are in consensus that if one does not perform the *ramy* at all until the days of Tashrīq are past, he is not obliged to perform the rite later any time. But they disagree as to the related *kaffārah*, which, according to the Mālikīs is sacrifice regardless of some—even one—or all of the pebbles being omitted; according to the Ḥanafīs the sacrifice is required for omitting all, and for fewer one must feed a poor man for every pebble omitted. The *kaffārah* according to Shāfi'īs is a *mudd* of food for every pebble if two are omitted; for three a sacrifice becomes obligatory. (Ibn Rushd's *Bidāyah, al-Mughnī*)

The Imāmiyyah say, if the *ramy* of one or more *jimār* is forgotten, the rite must be performed during the days of Tashrīq; but if forgotten altogether until one reaches Makkah, the pilgrim is obliged to return to Minā

The Hajj

to perform them if the days of Tashrīq are not past; otherwise he must perform the rite himself the following year, or depute another to perform it; in any case there is no *kaffārah* upon him. (*al-Tadhkirah*) This agrees with the *fatāwā* of al-Sayyid al-Hakīm and al-Sayyid al-Khūī, with the difference that the former regards the legal grounds in favour of the obligation of completion of the rite as stronger (*aqwā*), whereas the latter considers it as dictated by caution (*ahwat*), and both agree that intentional omission of *ramy* does not invalidate the Hajj.

We referred earlier to the consensus of all the schools that it is sufficient for the Hajj pilgrim to remain for only two days of Tashrīq in Minā and that he may depart before the sunset on 12th; if he remains until sunset, it is obligatory upon him to stay overnight and perform the rite of *ramy* on the 13th. The Imāmiyyah, however, say that the permissibility of leaving on the 12th is only for one who has not violated the prohibition on hunting and sex in the state of *ihrām*; otherwise he is obliged to remain in Minā on the night of the 13th.

Offering *ṣalāt* in the Masjid al-Khayf at Minā is *mustahabb*, so also on the hill called Khayf. (*al-Tadhkirah*)

On returning to Makkah after the rites of Minā, it is, according to Imāmīs and Mālikīs, *mustahabb* to perform the *ṭawāf al-wadāʿ*, which, according to Hanafīs and Hanbalīs, is *wājib* for non-Makkans and those who do not wish to stay on in Makkah after returning from Minā. There is no *ṭawāf al-wadāʿ*, nor any *ṭidyah*, for women

The Ḥajj

who enter their periods before the departure, even from the viewpoint of those who consider the *ṭawāf* as obligatory; however, it is *mustahabb* for her to bid farewell to the House from the door nearest to it and without entering al-Masjid al-Ḥarām.

Here we conclude the discussion about the rites of Ḥajj.

THE DHŪ AL-HIJJAH NEW MOON:

It happens often that the Dhū al-Hijjah new moon is established for a non-Imāmī scholar, and he declares its sighting, and the authorities of al-Ḥaramayn al-Sharīfayn make it compulsory for all pilgrims to follow his ruling, regardless of whether the new moon has been established for an Imāmī *mujtahid* or not. In such a case, what is an Imāmī pilgrim to do about the *wuqūf* in ‘Arafāt and other rites related to specific dates and times if he cannot act according to his own school of fiqh? Is his Ḥajj invalid if he makes the halt with others, performing all the rites simultaneously with them?

Al-Sayyid al-Ḥakīm, in his *Manāhiḥ al-hajj* (1381 H.), p. 91, says: “When the non-Imāmī authority (*hākim*) rules that the new moon has been sighted, so that the halt in ‘Arafāt takes place on the 8th of Dhū al-Hijjah and the halt in the Mash‘ar on the 9th, then on the principle of *taqiyyah*, or the fear of being harmed, the halt with others is valid and relieves one of the duty. The same

The Hajj

holds in case of a *nā'ib* undertaking Hajj on another's behalf or one on a *mustahabb* Hajj of oneself or that of another. Also, there is no difference with respect to fulfilment of the duty whether he knows or not that the ruling (of the non-Imāmī *hākim*) is contrary to the reality.”

Al-Sayyid al-Khū'ī in *Manāsik al-hajj* (1380 H.), p. 80, says: “When the new moon is established for a non-Imāmī *qādī* and he rules that it has been sighted, but the sighting of the new moon is not established for the Shī'ah 'ulamā', to follow others in making the halt is obligatory and satisfactory of the Hajj duty if there is a probability of the ruling being correct. One who acts contrary to the dictates of *taqiyyah* and the possibility of being harmed, thinking that legal caution lies in acting contrary to them, has committed something forbidden and his Hajj is invalid.”¹⁶

There is no doubt that God desires ease not hardship for His servants, and there is hardship in repeating the Hajj another time, even for one who has the means to undertake it more than once. But what should a poor man do who returns the next year to find the same thing to have occurred again? Should he keep on repeating the pilgrimage, two, three, or four times... until it coincides with the ruling of his school? May God's peace and benedictions be upon Amīr al-Mu'minīn, the Sayyid al-Waṣiyyīn, who said:

إِنَّ اللَّهَ كَلَّفَ يَسِيرًا، وَلَمْ يُكَلِّفْ عَسِيرًا، وَأَعْطَى عَلَى الْقَلِيلِ
كَثِيرًا.

The Hajj

كثيراً.

God has assigned duties which are easy to fulfil not difficult to cope with; and He rewards much for little.

Besides, we know that such kind of things happened during the era of the Infallible Imams (*ā*) and not one of them is known to have commanded the Shī'ah to repeat the Hajj. It is on this basis that al-Sayyid al-Hakīm, in *Dalīl al-nāsikīn*, says, "To fall in with the ruling of the non-Imāmī *qādī* is permissible; this is in accordance with definitive practice from the times of the Imams (*ā*), which has been to follow them (i.e. the non-Imāmīs) in the halt (at 'Arafāt), and no other alternative has ever been suggested."

However, al-Sayyid al-Shāhrūdī, in his *Manāsik al-hajj*, says, "It is permissible to follow, in regard to this question, the *fatwā* of the absolute *mujtahid* (*al-mujtahid al-muṭlaq*) who considers it permissible." To tell the truth, to me this kind of thing is not digestible when coming from a *mujtahid muṭlaq*, although I have read and heard such things from more than one *mujtahid* whom the common people follow. Because, a *mujtahid muṭlaq* in his *fatwā*s should either take an affirmative or a negative stand, and if he doesn't, has no right to be a legal authority (for *taqlīd*). Someone may say that it is not a condition for being *mujtahid muṭlaq* that he should never

The Ḥajj

abstain from giving a definitive *fatwā* or give up caution (*iḥtiyāt*) in some matter, for 'caution is the path of salvation' (*al-'iḥtiyāt sabīl al-najāt*). In answer I would say, this is an obvious fallacy. Because, *iḥtiyāt* in a matter is something, and giving a *fatwā* to consult someone else is another matter. In fact when the *mujtahid* sees the necessity of *iḥtiyāt* in a matter, he does not give a *fatwā* upon it—as is the practice of legal authorities regarding several issues.

ZIYĀRAH OF THE GREATEST PROPHET (ﷺ):

The *ziyārah* of the Greatest Prophet—may Allah's peace and benedictions be upon him and his Family—is a highly *mustahabb* duty. He is reported to have said, "Whoever visits my grave after my death is like one who has migrated with me in my life." He also said, "A *ṣalāt* in my mosque is like a thousand ones offered elsewhere with the exception of al-Masjīd al-Ḥarām, as to which a *ṣalāt* there is equal to a thousand in my mosque." It is emphasized that the *mustahabb ṣalāt* in the Prophet's Mosque should be offered between his tomb and the *minbar*, where, a tradition says, is a 'garden of the gardens of Paradise.' To visit all other mosques of al-Madīnah, like Masjīd Qubā, Mashrabat Umm Ibrāhīm, Masjīd al-'Aḥzāb, etc. and also the graves of the martyrs, in particular that of Hamzah (ʿā) at Uḥud, is also *mustahabb*. Also *mustahabb* is paying visit to the tombs of the Imams (ʿā) buried in

The Hajj

al-Baqī, viz., al-'Imām al-Ḥasan, al-Imām Zayn al-'Ābidīn, al-Imām al-Bāqir, and al-'Imām al-Ṣādiq, who upon whom all be peace and best of blessings.

As to the *ziyārah* of Fāṭimah ('ā), the mother of al-Ḥasan and al-Ḥusayn, it is as important as that of her father, of whom she is a part (*biḍ'ah*). There are several reports about the location of her honoured tomb, of which the most probable seems to be the one according to which she was buried in her house adjacent to her father's mosque. When the mosque was extended by the Umayyads, the grave also came to be included inside it. This is what Ibn Bābawayh (al-Shaykh al-Ṣadūq) believed. We think this is highly probable, because it agrees closely with the tradition that her grave is in a garden between the grave (of the Prophet) and the *minbar*. Allah alone has knowledge of everything.

HISTORY OF AL-ḤARAMAYN AL-SHARĪFAYN:

The Ka'bah:

'It is the first temple ever to be built for men, a blessed place a beacon for the nations' (3:96) and the most ancient of them in the Middle East. It was first built by Ibrāhīm, the ancestor of the prophets, and Ismā'ī, his son, and the Qur'ān quotes them praying as they raised its walls:

وَأَذِّنْ رَفَعُ إِبْرَاهِيمَ الْقَوَاعِدَ مِنَ الْبَيْتِ وَأَسْمِعِلْ رَبَّنَا تَقَبَّلْ مِنَّا
إِنَّكَ أَنْتَ السَّمِيعُ الْعَلِيمُ *

The Hajj

أَنْتَ أَتَى السَّمِيعُ الْعَلِيمُ *

And when Ibrāhīm and Ismā'īl raised up the foundations of the House [and dedicated it, saying]: 'Our Lord, accept this from us; Thou hear all and know all'. (2:127)

Ismā'īl gathered the stones and Ibrāhīm put them on one another until the walls were raised to the height of a man. Then the Black Stone was put in its place. According to tradition, the Ka'bah (*al-Bayt al-'Atīq*) was nine cubits high and had an area of twenty by thirty cubits when Ibrāhīm (*ā*) built it. It had two doors, but was without a roof. As to the Black Stone, it is said to have been brought by Gabriel from heaven. It is also said that Adam brought it along with him on his descent from Paradise, that at first it was snow-white and was blackened by the deeds of men, and so on. There is no harm in not believing any of these stories and the like, nor are we obliged to establish their verity, nor to know the origin of the Stone. All we are obliged to do is to revere it because the Prophet (*ṣ*) considered it sacred and revered it. If someone asks the secret behind the Prophet's regarding this stone as sacred, all we can say is that only God and His Apostle know best.

According to some traditions the Ka'bah stood as Ibrāhīm and Ismā'īl had built it until it was rebuilt by Quṣayy ibn Kilāb, the fifth ancestor of the Prophet (*ṣ*). The structure built by Quṣayy stood until the time when the

The Ḥajj

Prophet was 35 years old, when a great flood demolished its walls. The Quraysh rebuilt it. When the walls were raised to a man's height the clans disputed as to who should receive the honour of lifting the Black Stone into its place. They almost came to war with one another, if it was not for their making Muḥammad the arbiter amongst themselves. The Prophet's solution was to spread a cloak on the ground. Then taking up the Black Stone he laid it on the middle of the garment. "Let the eldest of each clan take hold of the border of the cloak," he said. "Then lift it up, all of you together." When they had raised it to the right height, he took the Stone and placed it in the corner with his own hands.

May God's benedictions and His mercy be upon you, O Apostle of God! You raised the Stone first with your noble hands from the ground and then put it into its place again with your hands. Thus you made God and man well pleased with you. This event was a definite evidence of your superiority over all, and of your being a 'mercy for all the worlds', before your declaration of the apostlehood as after it. Your act was a clear sign that you were the bearer of a Divine mission, and that those who rejected you were enemies and opponents of the truth and of humanity.

The Ka'bah remained in its condition until Yazīd ibn Mu'āwiyah became caliph and till 'Abd Allāh ibn al-Zubayr challenged his sovereignty over the Ḥijāz. Yazīd's forces installed catapults on the hills around

The Hajj

Makkah and bombarded the Ka'bah with tens of thousands of stones. The Ka'bah caught fire which finally demolished its structure. Ibn al-Zubayr repaired it as it was before without making any changes, and he put a wooden fence around it. When 'Abd al-Malik ibn Marwān came to power, Ibn al-Zubayr was besieged by his forces under al-Hajjāj ibn Yūsuf, who ultimately killed Ibn al-Zubayr after causing damage to a part of the Ka'bah. Al-Hajjāj rebuilt the demolished portions and made some changes in the walls as they used to be, and also had one of its doors (the 'western door') blocked.

The Ka'bah remained in the altered condition after al-Hajjāj's repairs until the year 1040/1630 when its walls collapsed due to heavy rains. Thereat the Muslims from every corner gathered together to restore it and collected contributions from various regions of the Muslim world to rebuild it in the form as it stands to this day.

The Prophet's Mosque:

When the Prophet came to al-Madīnah after the migration, the first thing that he built there was the mosque. Afterwards he built the houses by its side. At first its area was 30 by 35 metres, which the Prophet (ﷺ) extended, making it 57 by 50 metres.

There was no *minbar* in the mosque at the time of its making. The Prophet (ﷺ) used to deliver his sermons leaning against one of the pillars, which were made of

The Hajj

trunks of date-palms. Later, the Companions built a wooden *minbar* with two steps. 'Umar ibn al-Khattāb, during his reign, extended the mosque by five metres on southern and western sides and fifteen on the northern. He left untouched the eastern side where the dwellings of the Prophet's wives were situated.

'Uthmān ibn 'Affān demolished the mosque and rebuilt it, extending it in area by an amount almost equal to the one before by 'Umar and left the houses of the Prophet's wives untouched. The building remained as 'Uthmān had made it until al-Walīd ibn 'Abd al-Malik demolished it again and extended it on all sides, and including even the houses of the Prophet's wives, together with that of 'Ā'ishah, thus making the Prophet's tomb a part of the mosque.

The building constructed by al-Walīd stood until 266/879 when al-Mahdī, the 'Abbāsīd caliph, greatly extended its northern side. The building endured until the year 654/1256 when a fire broke out bringing down the roof and burning doors and the Prophet's *minbar*. The Mamlūk sultān al-Zāhir rukn al-Dīn Baybars I (658—676/1260— 1277) ordered its reconstruction and the mosque was restored to its original form before the fire.

In 886/1481, lightning struck the mosque destroying all the building except the chamber of the Prophet's tomb and a dome in the mosque's courtyard. It was rebuilt by the Mamlūk king al-'Ashraf Sayf al-Dīn Qait Bay (872—901/1467—95) in a fashion better than

The Hajj

before. In the 10th/16th century the Ottoman sultān Salīm had it renovated, building the *mīhrāb* (niche) on the western side of the *minbar* and which is still there. In the 13th/19th century the Ottoman sultān Mahmūd II (1223—1255/1808—1839) had the green dome constructed. During the same century the mosque again needed repairs, which were carried out by the orders of the Ottoman sultān. This time, the engineers dismantled the old building little by little gradually building in its place the new structure which was completed in 1277/1861.

وَصَلِّ اللّٰهُمَّ عَلٰى مُحَمَّدٍ وَاَهْلِهِ الطَّاهِرِيْنَ، وَعَرَفْ بَيْنَنَا
وَبَيْنَهُمْ، وَاَرْزُقْنَا شَفَاعَتَهُمْ يَوْمَ نَلْقَاكَ، يَا مُبَدِّلَ السَّيِّئَاتِ
بِأَضْعَافِهَا مِنَ الْحَسَنَاتِ... إِنَّكَ ذُو الْفَضْلِ الْعَظِيمِ.

NOTES:

1. Al-Sayyid al-Hakīm says: “It is not obligatory to hasten to perform the *sa'y* after finishing the *ṭawāf* and its *salāt*, but it is also not permissible to delay voluntarily until the next day.” Al-Sayyid al-Khū'ī says, “It is binding on one not to make a considerable delay without need in performing the *sa'y* after the *ṭawāf* and its *salāt*, and it is not permissible to delay it intentionally until the next day.” I say, these verdicts of the two scholars are supported by *ṣahīh* ahādith.

2. *Harwalah* is a kind of walk which resembles that of a camel when it wants to pick up speed. According to the Imāmiyyah, if the one performing the *sa'y* is riding, he should spur it to make the beast walk faster.

The Ḥajj

3. The author of *al-Mizān* quotes Abū Hanīfah to the effect that he does not see any objection in the converse, i.e. performing of the *sa'y* by starting at Marwah and finishing at Ṣafa.

4. Al-Sayyid al-Ḥakīm in his book on the *manāsik* of Ḥajj says that *muwālāt* (continuity of succession) is not required in the *ashwāt* of the *sa'y*, and it is permissible to separate or interrupt them--even after a single *shawt*--and to pick up the count again after the break.

5. This agrees with the *fatwā s* of al-Ḥakīm and al-Khū'ī. Al-Ḥakīm, however, distinguishes between one who forgets (*nāsī*) and one who is ignorant (*jāhil*); he excuses the first not the latter, who is included with the willful defaulter (*'āmid*).

6. Al-Shaykh 'Abd al-Muta'al al-Ṣa'idī says: This order is obligatory in the rites of 'Umrah, but in the rites of Ḥajj there is no order of sequence between the *ṭawāf* and the *halq*, or between the *sa'y* and the *wuqūf* at 'Arafāt. See *al-Fiqh al-muṣawwar 'alā Madhhab al-Shāfi'i*.

7. This act of the Prophet (ṣ) makes the grounds for the Imāmiyyah for the permissibility of offering the two prayers together, because the Prophet (ṣ) had said, صَلَّى اللَّهُ مَا رَأَيْتُمُونِي ، أَصَلِّي ، "Pray in the same way as you see me praying." The fact that something is permitted at one time or a place suggests its permissibility in all places and at all times, unless there is some textual proof (*naṣṣ*) to show that it is particular and not general. But there is no *naṣṣ* in favour of its being particular (*takhṣiṣ*). Therefore offering the two prayers together is permissible in general and at all times and in all places.

8. There is disagreement about the Ayyām al-Tashrīq as to whether they comprise two or three days. As to their naming, it is because during those days the pilgrims used

The Ḥajj

to dry strips of the meat of the sacrificed animals in the sun.

9. This is in agreement with the *fatwās* of al-Ḥakīm and al-Khū'ī.

10. As mentioned earlier, the Makkan's duty, according to the Imāmiyyah, is either *Ḥajj al-qirān* or *al-ʿifrād*; but according to the other schools, he can choose one of the three types.

11. The distance of Minā from Makkah is one parasang (approx. 4 miles).

12. It may be noted that whenever there is an explicit text of the Qur'ān there is also agreement and consensus between the Islamic schools of fiqh and no difference between the Sunnīs and the Shī'ah. The divergence of opinion between them arises either on account of the absence of *naṣṣ* (text), or its being synoptic (*mujmal*), or its weakness, or its contrariety with another text, or in its interpretation and application. This is a definite proof of the fact that all of them are derived from a single source.

13. Al-Sayyid al-Ḥakīm says, "The duty to offer the *hady* in *saduqah* does not remain if one cannot do it... and when the poor man would not accept it without money, it is not obligatory."

14. *Hadhf* means a certain way of tossing in which the pebble is held under the thumb and tossed by the back of the index finger.

15. Al-Sayyid al-Ḥakīm says that it is desirable that the third *ramy* should be done with one's back toward the *Qiblah*. According to *al-Mughnī* it should be done facing the Ka'bah.

16. Our teacher al-Sayyid al-Khū'ī makes the absence of knowledge (that the *fatwā* of the non-Imāmī authority about the sighting of the new moon is contrary to

The Hajj

fact) a condition for the Hajj being satisfactory of the duty. But al-Sayyid al-Hakīm considers the knowledge of its contradiction with reality or absence of such knowledge indifferent to the Hajj (performed on the basis of the non-Imāmī faqīh's declaration) being satisfactory of the duty. Here we affirm al-Hakīm's position, because we understand from the necessary grounds for *taqiyyah* that the 9th is a requirement for *wuqūf* in 'Arafāt when that requirement can be satisfied in presence of security and absence of any fear of harm. But in case of insecurity and fear this condition does not stand, exactly like the requirement for *sajdah* (prostration) in *salāt* that it should be made on something which is not edible or wearable (*ghayr al-ma'kul wa al-malbūs*)--a requirement which applies to conditions when security is present and which falls in case of insecurity and fear.
