



# **The Shi'ah - The Divine Code of Living**

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## Preface

The Imamiyah Shi'as believe that an ordinance or order of the Islamic code exists for every matter of life. The Divine Law has not even ignored the "diyat" (conciliation money) for injury of a very minor nature. There is no action of a "mukallaf" (a sane, adult person) which does not come under the scope of the following definitions: "wajib" (compulsory); "haram" (unlawful); mustahabb (desirable); makruh (undesirable) and mubah (lawful).

Whether it is a matter of mutual transactions, trade, marriage or a promise and a pledge, the religious code will certainly guide us as to whether it is right or wrong.

The personality of the Holy Prophet (s.a.w.) was the fountainhead of all divine orders. God the Almighty conveyed these orders to the last Prophet (s.a.w.) through "wahy" (revelation through Jibril) or "ilham" (divine inspiration). The Holy Prophet (s.a.w.) communicated them to the people according to the circumstances prevailing, particularly to those companions who had been close to him at all times, so that they might carry on the mission of preaching throughout the whole world.

There were many ordinances however which could not be taught, because the time for them was not opportune, or because there was no need for them during the time of the Prophet (it is also possible that they could not be promulgated for some particular reason known only to God). Hence some orders were known while some remained secret.

The Holy Prophet entrusted these secret ordinances to his (divinely appointed) vicegerents. Later every "wasi" (vicegerent) communicated them to his successor, so that, according to the need of the hour and the spirit of the time, they might be made public.

The Holy Prophet taught as much as he thought proper for the situation and as much as the companions could understand according to their intellect. The recipients of this teaching were blessed according to their own capacity. It also happened that one companion received a positive order concerning a certain matter, and others heard a negative order in a matter resembling the former. The result was that the act was one but orders were (seemingly) two.

We must ask what the cause of this difference was. The reality of the situation was such that each matter was slightly different from the other: each had a particular distinguishing aspect. Those present who reported what happened at the scene, either did not pay attention to this or that peculiarity, or, if they did recognise it, did not mention this or that particular aspect. Because of inaccurate description of the circumstances, traditions may appear to contradict each other, but in reality they each apply to different circumstances.

This inaccuracy caused difficulties in recognising the exact meaning of an instruction given to us by the Prophet. Accordingly, the companions who had the honour of close companionship with the Prophet supported "ijtihad". That is they realised the necessity for a thorough investigation of the text of the hadith and the situation in which it occurred.

The different aspects of the hadith were probed, since the apparent meaning of the tradition is often different from the real aim of the codifier. It has been pointed out earlier, that these difference were largely due to faulty copying or shortcomings on the part of the reporters.

Those companions of the Holy Prophet (s.a.w.) who were just and trustworthy and who were also reporters of traditions sometimes reproduced the statement of the Prophet (s.a.w.) in exactly the same words in which they had heard it, while sometimes, in place of the text of the tradition, they would state the order or commandment which was inferred from the tradition in question.

In the first instance their position is that of a reporter or traditionalist, and in the second they have the position of learned scholars who declare their opinion about the meaning of the hadiths; the latter are also called "mujtahids".

All Muslims who do not have this ability and so therefore follow the opinion of the mujtahid, are called "muqallid". The act of acting on the verdicts of a mujtahid is called "taqlid".

After a thorough examination of this matter we find that during the time of the Holy Prophet (s.a.w.), the door of ijthihad was open and the companions of the Prophet (s.a.w.) themselves acted upon it; of course at that time ijthihad was not so strong as it is today, because the people could ask the Prophet (s.a.w.) directly about any matter they were not sure of.

As time passed, however, and relations between the Arabs and non-Arabs increased, there were difficulties in understanding the correct meanings of the Arabic language. The number of traditions and reports became larger.

Among them were very many doubtful and fabricated traditions. At this stage it was not easy to test the validity of the religious orders. Accordingly "ijthihad" grew stronger and the modes of analysis of hadith were refined: scholars began to distinguish between correct and the faulty statements. The principle of preference was put into practice after a thorough investigation of two conflicting hadiths. Among the Imamiyah sect this blessing still exists.

We may observe, moreover, that all people are from one of two groups according to whether they have knowledge or not. Those without knowledge have to seek the help of the other group in all matters of which they are ignorant. Similarly in the religious world there are also two classes: the learned mujtahid and the ignorant muqallid.

As a matter of principle, the people of the second class should turn to the people of the first class in order to learn what they themselves do not know. Like all other Muslims the Shi'a believe that all religious orders are based upon the "kitab" (Qur'an), and the "sunnah" (the sayings, practise or approval of the Prophet, and, in Shi'ite Islam, the Imams). They add to these "aql" (intellectual reasoning) and "ijma" (consensus of opinion).

The Imamiyah sect do not agree with others in the following matters. Firstly, the Shi'as never act upon "qiyas" (arrival at decisions through analogy and reasoned supposition) because their Imams have on many occasions said that if supposition is allowed in religious matters the entire structure of religion will be dashed to the ground. We would have stated in

detail the evils of such a method had not the aim of this book been merely to outline the fundamentals of Shi'a beliefs.

Secondly, if a tradition of the Holy Prophet (s.a.w.) comes through the Ahlu 'l-bayt (a.s.) it is reliable, otherwise it is unacceptable. The unauthentic traditions, reported by persons like Abu Hurayrah, Samrah ibn Jundub, Marwan ibn Hakam, 'Imran ibn Hattan al-Kharji and 'Amr ibn al-'As for example, have no value in our eyes. Even the Sunni 'ulama' have strongly condemned these reporters, and have revealed the selfish or political motives for their reporting false hadiths.

Thirdly, as we have seen, the door of "ijtihad" is still open and shall remain open forever. Among the majority community, however, the doors of ijtihad are locked. When and on what basis this practice started cannot perhaps be adequately answered even by their 'ulama' themselves.

Besides these three matters, all other differences pertain to the articles of practice.

One who, by reasoning and logic, gains the power of drawing conclusions and making inferences can be said to have reached the rank of being able to do ijtihad; the mujtahid however should possess certain other qualities if we are to accept what he says about the divine code to be followed. The most important quality is that he possess a sense of "adalah" (justice).

"Adalah" means that quality of the inner spirit with which a man can abstain from carnal desires and can develop a command over the correct performance of compulsory acts. In other words it is the state of fear of God which always permeates the just man's mind. It is of several degrees, the highest being the degree of "ismah" (infallibility) which is a condition for the Imamate.

Besides this there are necessary or obvious matters (those matters which pertain to sure knowledge in which there is neither "taqlid" nor "ijtihad", for instance the compulsion to "sawm" (fasting) and "salat" (prayers).

Similarly the fundamentals of religion are also beyond the sphere of "taqlid", because they are matters for personal investigation on the part of every adult person: this search to determine for oneself the truth and reality of the fundamentals of Islam depends on the corresponding sagacity, understanding and cognition of each individual and cannot be left to the opinion of others. All other matters concerning the articles of practice come under the scope of "ijtihad" and "taqlid".

indeed every action of man is encompassed by this code of religion. Hence to know the corresponding law for each action is very necessary. There are only two ways of arriving at this knowledge: taqlid or ijtihad. It should be remembered that it is incumbent on each Muslim to make use of one of these two ways; if not, he will have to suffer punishment on the Day of Judgement. We may describe a Muslim's actions in the following way:

a) Some actions are concerned with God and His servants. These are called "ibadat" (acts of service or slavery). Their correctness depends upon one's making the intention of coming closer to God. "Ibadat" may be either physical, like "salat" (prayer), "sawm" (fasting) and "hajj" (making the pilgrimage to Makkah), or financial like "khums" (a giving of one-fifth of

certain commodities: e.g. booty of war, treasure-trove, wealth from mineral desposits), "zakat", "kaffarat" (fines or penalties).

b) Some actions pertain to the individual and his relations with society. They are of two kinds: involving agreement between two persons (such as mutual transactions and marriage), and others involving the decision of just one party (for instance "talaq" (divorce) and "itq" (the setting free of a slave)).

c) Some actions are purely individual and personal; for example, eating, drinking and the clothes one chooses to wear.

Fiqh (Jurisprudence)

Fiqh deals with all the orders and commandments which govern the previously mentioned actions. The most important acts of 'ibadat are six in number: two are purely physical ("salat" and "sawm"), two are purely "financial" ("khums" and "zakat"), and two are common to each category ("hajj" and "jihad"). God, the Almighty, says:

"You should perform jihad with your wealth and yourselves." (jahidu bi amwalikum wa anfusikum). Finally, "kaffarat" (penalties) are special kinds of punishments for particular crimes.



## 1. Salat (prayer)

Like all other Muslims, the Shi'as too regard "salat" as one of the pillars of religion. This prayer is a means of bringing God's servant near to Him. If one does not perform the prayer, the relation between God and His servant is broken. That is why the traditions of Ahlu 'l-bayt (a.s.) say that not offering the prayer even once or twice is the distinguishing mark between infidelity and Islam.

According to the religious code "salat" has great importance. No other act of worship can bear comparison with it. The Imamiyah sect unanimously believe that anyone who does not perform "salat" is a great sinner: moreover he has no place in Islamic society. He is neither credible nor trustworthy-One is even permitted to criticize him behind his back. There are very strict orders about "salat"; five kinds of "salat" are compulsory;

1. The five daily prayers.
2. The "salatu 'l-jum'ah" (the Friday prayers)
3. "Salatu 'l-ayat" (on the occasion of a solar or lunar eclipse, an earthquake, or any frightening natural event).
4. "Salatu 'l-'idayn" (the salat of 'idu 'l-fitr and 'idu'l-azhar).
5. "Salatu Ka'bah).

In addition, an adult person may make "salat" compulsory for himself by making a promise or taking an oath to perform a certain number of prayers or by accepting a reward for performing prayers under certain conditions.

Besides these, all other kinds of salat are "nawafil" (supererogatory prayers). The most important "nawafil" are those attached to the five daily prayers, which are twice the number of units of the compulsory prayers (that is thirty four units). The total number of units of both "nawafil" and compulsory prayers is thus fifty one.

Here we remember an interesting incident which Raghīb al-Isfahani wrote about in his distinguished book "al-Muhadirat". We learn that during the days of Ahmad ibn 'Abdu 'l-'Aziz there was a man named Kanani in Isfahan. Ahmad was learning the correct way to do the prayers and the basic Shi'a beliefs from Kawani.

One day Ahmad's mother happened to see them during a lesson and she said to Kanani: "Oh master, you have made my son a Rafidi! (one of the Rafidah - i.e. a particularly zealous Shi'a). Kanani immediately retorted: "Foolish woman! The Rafidah perform fifty one units of prayer daily, and your son does not perform even one unit out of the fifty one. How can he be one of the Rafidah?"

The "nawafil" of the month of Ramadan are of great blessing and significance. Their number is one thousand. Our Sunni brothers also perform these prayers, but in congregation (jama'ah), and they are known among them as "tarawih" from the Shi'a point of view these prayers are not permissible in congregation (jama'ah), because only the Friday prayer is a compulsory congregational prayer. For details one can refer to the tens of thousands books which contain elaborate and explicit descriptions of the correct way to perform the various compulsory or recommended prayers, and the numerous recitations and invocations which are especially associated with each prayer.

According to the religious code correct "salat" depends upon three things. Firstly, there are certain conditions which have to be fulfilled before the actual performance of the prayers, although they are not included in the salat itself; these conditions are so important that salat becomes absolutely void if they are not attended to.

They are six in number. (1) 'Taharah' (one must be in state of ritual purity); (2) Time (each compulsory prayer, and most of the recommended prayers, are to be performed. "at a particular time); (3) Qiblah (that is one should face the 'Ka'bah); (4) Covering (dress); (5) Intention (one must make the intention to perform the prayer according to that particular prayer); (6) Place (it must be lawfully occupied; and the place for prostration must be pure and clean).

Secondly, the constituent parts of salat are of two kinds: they are either considered to be a fundamental part of the prayer and thus absolutely compulsory, or not. There are four compulsory actions. (1) Takbiratu 'li'hram (that is the initial "allahu akbar"); (2) qiyam (standing to perform the prayer); (3) ruku' (bending forward) and finally sujud (prostration on the ground).

Likewise there are four conditions which are compulsory but do not make the salat void if, for example, one unintentionally does not fulfill them: (1) qira'ah (the reading of Surah al-Hamd and one other complete surah); (2) dhikr, tashahud and the final salam. One must be still and in a state of remembrance throughout the prayer. Adhan and iqamah before the start of the prayer are both strongly desirable (indeed almost compulsory).

The following invalidate the prayer: anything which breaks one's state of wudu', turning one's back on the qiblah, and excessive movement. Any other action (which is not a fundamental part of the prayer) such as talking, laughing, weeping, looking to the right or left, eating or drinking invalidate the prayer if done intentionally.

To purify oneself, ready for any act of 'ibadat (such as prayer), one must make either wudu' (the minor purification) or ghusl (the major purification). In case of absence of water, or for some other reason like illness, unbearable cold, shortness of time, when it is not possible to do either of these two acts of purification, their substitute is "tayammum" (cf. the Qur'an which indicates this method of purification: *fa tayammumu sa'idan tayyiban - so perform tayammum on pure earth - Surah al-Ma'idah*).

The scholars of jurisprudence and the lexicographers give various meanings for the word "sa'id". Some of them say it only means dust, and some say that it means all kinds of pound (including sand, fragments of rocks, stones, and mineral substances). We have limited our ascription of salat to fundamentals: more detailed studies may be found in numerous other works.

## 2. Sawm (Fasting)

According to the Shi'a faith, sawm (plural siyam), fasting, is a pillar of the Islamic code. There are four kinds of siyam: wajib (compulsory), mustahabb (recommended), haram (forbidden) or makruh (undesirable). The fasts made incumbent by the shari'ah (code of religion) are those of the Holy month of Ramadan.

Other fasts become incumbent for some specific reason, for instance "sawm kaffarah" (the penalty fast), "badal"(in lieu of sacrificing an animal), in lieu of someone else, "nadr" (as a vow, or oath).

The fasts of the months of Rajab and Sha'ban are desirable as well as other fasts too numerous to mention in this brief work. Fasting on the two 'id days and "ayyam at-tashiq" (the three days after hajj) is forbidden; to fast on the days of 'Ashurah and 'Arafat are undesirable (according to many the 'Ashurah day fast is strictly forbidden).

Details concerning the conditions and actual performance of a certain fast, as well as the courtesies (adab) and recitations associated with each, may be found in the large number of books on this topic. The Shi'as are extremely particular about the Ramadan fasts: many of them would rather die of thirst or hunger than not undertake it.

### **3. Zakat (Taxation)**

We may consider salat and sawm as two acts of worship ('ibadat) whose immediate basis is physical rather than spiritual. Zakat is of an entirely different nature. According to the Shi'as, after salat in rank comes "zakat" (taxation); indeed from some of the traditions of the Holy Imams (a.s.) it is understood that if somebody does not give "zakat" his salat also is invalid. Like all other Muslims the Imamiyah consider "zakat" compulsory on nine things: Animals - camels, cows, goats; Grains - wheat, barley, dates, raisins; Money - gold, silver coins.

Besides these, zakat on other things, such as all kinds of merchandise, horses and crops is desirable. The precise conditions and regulations can be found in the appropriate books of jurisprudence.

It is interesting to note that all the rules are in basic conformity with those of the "fiqh" of the four Sunni schools of thought, Hanafi, Shafi'i, Maliki and Hanbali. Among those entitled to receive zakat are the poor and the needy, according to God the Almighty's command in Surah at-Tawbah: *innama 's-sadiqatu li 'lfuqara' wa 'l-masakin.*

Zakatu 'l-fitr (poor-tax on the day or 'idu 'l-fitr) is compulsory for every adult and sane person who can financially support himself and his wife and children and other members of the household dependent on him. Its quantity is one "sa" (approximately 3 kilos) of wheat, barley, or dates on behalf of every individual.

The nature of zakat is basically the same; whether from the point of Shi'a or Sunni fiqh.

#### 4. Khums

"Khums" which is another kind of tax, is compulsory on five things: the booty taken from an enemy in war; the pearls and minerals drawn from the sea; hidden treasures mineral substances extracted from the land; and lawfully gained money which has been mixed with unlawful money, or profits gained from business, or land transferred to a "dhimmi" (a Christian or a Jew, living within the Muslim nation) from a Muslim.

The obligation of "khums" is based on the command of Almighty God : "Know that the one fifth of what you get as booty is the share of God, the Prophet (s.a.w.), the relations, the orphans, the beggars and the wayfarers" (Surah Anal). Moreover, we believe that "khums" is a right which God the Almighty particularly reserved for the descendants of Muhammad (s.a.w.).

Since charity is unlawful for the children of the Holy Prophet (s.a.w.) (they can not receive zakat), "khums" is a kind of compensation from the bounty of God the Almighty.

"Khums" is divided into six parts: three are for God, the Prophet (s.a.w.) and his kith and kin; and the other three parts must be paid to the holy Imam, when he is present. However, "khums" should be handed over to the representative of the Imam, that is the "just mujtahid", when the former is in occultation, The Imam is to use these funds to protect the religion of Islam and to complete the development plans of the Muslim nations.

This is the real purpose for which it is to be used; it must be stressed that Sayyid Muhammad Alusi wrote in a rather flippant manner in his commentary on the Qur'an when he said: "In these days the money accumulated from "khums" should be placed in the cellar."

This, in fact, refers to a fictitious story current among certain of our Sunni brothers, which relates that the Shi'as say that their Imam disappeared in a cellar; we need hardly point out that occultation of the Imam had not the slightest connection with the aforementioned cellar.

The Ithna Ashari Shi'as go to visit the cellar at Samarra, because it was the place where the Holy Imam used to offer "tahajjud" (mustahab night prayers). Also that was the place where the father and the grandfather of the Holy Imam used to offer prayers to God, the Almighty.

The remaining three parts of "khums", as we have said, are the right of the poor people of the Hashimi family (that is the family of the Prophet).

Such were the commandments of "khums" which have been followed from the time of the Holy Prophet (s.a.w.) until now. After the death of the Holy Prophet (s.a.w.), the Muslim rulers suppressed this right to "khums" of the Al Hashim (the progeny of the Prophet) and instead collected the money into the baytu 'l-mal in order that they themselves could control its use. This family, who had no right to "zakat", were now also deprived of "khums".

It seems that Imam Shafi'i himself, in his book entitled "Am", pointed out that the descendents of the Prophet (s.a.w.), for whom "khums" was set aside in place of charity, can neither be given anything out of the prescribed charities, nor may they take it, and if the giver of charity knowingly gives it to them he will have to forego his heavenly reward.

Moreover, he adds: "if they have been deprived of the right of "khums" it does not mean that charity and other such things which are unlawful for

them will become lawful." Indeed, since the people in power did away with this "right" altogether the books of jurisprudence of the majority community are quite silent upon this topic and not surprisingly Imam Shafi'i has omitted to mention this topic in his books on "fiqh".

In all Shi'a books of "fiqh", "khums" has been given a special chapter just like "zakat". (we must admit however that the learned scholar Hafiz Abu 'Ubayd al-Qasim ibn Salam (died 224 A.H.), in his great work "Kitab al-amwal", dealt with all the problems of "khums", including the ways in which it should be spent, in a special chapter. Most of the points he discussed are in perfect consonance with Shi'a beliefs (vide pages 303-349).

## 5. Hajj

According to the Shi'a faith, 'hajj' (the pilgrimage to Makkah) is one of the pillars of Islam. One who abstains from performing this duty when he is able must die the death of a Jew or a Christian as a punishment for his failing. Anyone who refuses to obey this divine command has come close to the threshold of being a "kafir". God refers to such a person in Sural Al 'Imran: "wa man kafara fa in allaha ghani un 'an al 'alamin - anyone who commits "kufr" should know that God is independent of all the worlds."

Hajj is a kind of financial and physical "jihad". Indeed hajj should be called the true jihad, and jihad should be called the true hajj. If we ponder over their relationship a little carefully this hidden meaning and basic harmony between the two will become quite apparent.

Hajj becomes obligatory for a Muslim under the following conditions: he should have reached the age of puberty and be sane of mind; moreover he should have sufficient financial means, be in good health and the route leading to Makkah should be open and safe for travel. Should these conditions be fulfilled, hajj becomes immediately "wajib" (compulsory), but once performed, a person need never go again in his lifetime. Hajj is of various kinds:

(1) "Hajj afraad". The basis of this is the holy verse: "For the sake of God, hajj is compulsory for those who can reach there" (Al 'Imran: 97).

(2) "Hajj Qur'an". It is mentioned in the verse: "Complete hajj and 'umrah for the sake of God" (Al Baqarah: 196).

(3) "Hajj tamatu". This hajj is mentioned in the following verse: "Whoever wishes to continue the 'umrah to hajj should offer the sacrifice which, he can afford" (Al Baqarah: 190).

Each of the above has been the subject of much research. The decisions of the 'ulama' concerning the various conditions for each kind of hajj are recorded in the books of jurisprudence.

After going through a large number of books of the Sunni 'ulama' we have come to the conclusion that in this matter most of their laws are similar to those of ours; of course, there are some differences to be found, but they are not many.

The Shi'as give great importance to hajj and are very particular about the performance of this obligation. Even during the days when they had to journey amongst people who were thirsting for their blood and enemies of their honour and respect, they were unmindful of all the dangers. So devoted were they, and so anxious to reach Makkah, that they arrived in hundreds of thousands to make the "tawwaf" of the Ka'bah ("tawwaf" is the special circumambulation of the hajj).

Fears for their life and property did not lower their spirits. The feeling of the obligatory nature of this pillar of Islam continued to move their steps forward. Moreover they often performed hajj at enormous expense. It is regretful that, in spite of this obvious obedience to God's orders, it is still said that the Shi'as seek the destruction of Islam!

## **6. Jihad**

Jihad is the foundation stone of the magnificent building of Islam. In its absence the religion of God would neither have been the cause of mercy for the world, nor would it have proved a source of blessing to mankind.

For jihad means fighting against oppression and oppressors, and sacrificing one's life and wealth in the way of God. for the preservation of peace and tranquility.

In the Shi'a religion it is of two kinds: "Jihad al-akbar" (the greater jihad) and "Jihad al-asghar" (the lesser jihad).

To face that internal enemy called the "nafs" (self), and to fight against its harmful qualities, such as ignorance, cowardice, oppression, tyranny, envy and pride, is the "jihad al-akbar". It was the Prophet of God himself who declared: "your greatest enemy is the self and it is to be found right in your own body." Jihad al-asghar means subduing anyone who is opposed to justice and equity, peace and humanity, and religion and reality.



## **7. Amr Bi 'l-ma 'Ruf and Nahy 'ani'l-munkar**

(The enjoining of good and the prevention of evil)

This is one of the most important of the compulsory acts prescribed by religion and the basis of the Muslim's moral duties; moreover, it is the most effective means of demonstrating the truth and reality of Islam and is a successful weapon against infidelity and paganism.

Any nation which ignores this holy law is doomed to ruin; indeed it will become the haven of oppressors and cheats.

It is for this reason that the Prophet (s.a.w.), who taught the divine code of religion, and our infallible Imams (a.s.), who have preserved and protected it, have laid great stress on this matter; they have, on numerous occasions explained in detail the benefits accruing from its execution and have warned against the horrible consequences of neglecting it.

Today we are seeing with our own eyes the truth of these statements: we have totally abandoned the "enjoining of good and the prevention of evil". We can only pray that the situation does not become so degenerate that what is ma'ruf comes to be regarded as munkar, and what is munkar as ma'aruf.

"Verily we are God's and verily to Him shall we return!" We pray to God to protect us from these who call to the enjoining of good deeds but themselves do not heed the call. God the Almighty curses the wicked scholar, and wicked preachers and guides!

Such prayers are called the "mother of prayers" (meaning the best prayers); we have been able to make only cursory references, but one can research further on this topic in numerous books written by 'ulama' belonging to the period ranging from the first century A.H. till the present time. Countless fine works of research are still available despite the attempt in past centuries to destroy any trace of them.

## **8. Mu'amalat (Mutual Dealings)**

In mutual dealings there must be two individuals or two parties (the one has something to offer and the other accepts). Proposal and acceptance is a necessary condition.

Mu'amalat are of two kinds: in the first the dealings are purely financial (for instance, buying and selling, contract and pledging, or loans and gifts), but in the second, property and wealth are only of secondary importance, and the real aim of the deal between the two parties is the management of domestic life, the numbers of the Muslims and the preservation of the human race: a contract of marriage often involves money, but this is not an essential part of it.

### 8. (a) The Marriage Agreement

Marriage is of two kinds: (1) for life; (2) temporary. As the name implies, temporary marriage (also blown as mut'ah) means that it is for a fixed period of time which is agreed upon, before completing the marriage agreement.

So far as the first kind of marriage is concerned, all Muslims are unanimous in accepting it. As regards the second kind, only the Shi'ah consider it lawful. The latter base their acceptance on the following verse of the Holy Qur'an: "famastamtatum bihi minhunna fa'tu hunna ujurahunna - and as such of them with whom you had mut'ah,

give them their dowries as a fixed reward." (Surah an-Nisa': 24) This problem has been a topic of discussion since the time Of 'sahaba" (companions of the Prophet (s.a.w.) up to the present time. In view of the importance of this matter it would seem appropriate to clarify some of its points.

No-one who has spent some time in the study of religious laws can deny the validity of mut'ah. The Holy Prophet (s.a.w.) himself made it lawful. During the life of the Prophet (s.a.w.), many distinguished 'sahaba' put it into practice. Moreover, after the demise of the Holy Prophet (s.a.w.), the noble 'sahaba' continued to take advantage of this law.

'Abdullah ibn 'Abbas, Jabir ibn 'Abdillah al-Ansari, ibn Mas'ud, and Ubay ibn Ka'ab, who were men of exalted rank and eminence, all insisted on the lawfulness of mut'ah and would recite the verse in this way: "Famastamtatum bihi min hunna ilaajalin musamman" (And as such of them with whom you had mut'ah for specified term).

We should not however think that these companions considered that there was any defect in the Qur'an, since they were well-versed in its interpretation, they merely wanted to make a commentary on this verse so that its meaning might be clearer. Since these distinguished persons had remained devoted to the Holy Prophet (s.a.w.) throughout his mission, they had had the opportunity to understand the interpretation of the Qur'an directly from the tongue of the Prophet himself (s.a.w.).

They therefore had no hesitation in disclosing the true meaning of this verse according to what they had learnt from the Prophet (s.a.w.).

We should add however that the tradition which ibn Jarir mentions in his large work of Qur'anic commentary shows that the part "Ila ajalin musamman" (for a specified term) was actually an original portion of the verse, as revealed by God. Ibn Jarir quotes Abu Nasirah as saying: "When I read this verse before ibn 'Abbas he said: 'Say 'ila ajalin musamman'. I said that I did not read like that. Upon this ibn 'Abbas said three times 'By God! This verse was revealed in this very way.'"

It is obvious that such an exalted personality as ibn 'Abbas would never have wilfully changed the text of the Qur'an. If this tradition is correct, the meaning of this eminent Companion must surely have been that God the Almighty had revealed its interpretation in this way.

According to all the 'ulama' this temporary marriage was allowed and practiced by the closest companions of the Prophet.

Those who reject the lawfulness of mut'ah insist that God revealed further commands to his Prophet which revoked the former law. The various hadith which are concerned with this revocation have conflicting meanings and cannot be relied upon. For the revocation of an express ordinance an express proof is necessary: some Sunnis claim that revocation took place through the sunnah, that is, the Holy Prophet (s.a.w.), after declaring it lawful, made it lawful.

Some of them say however that it was through the Book of God that a change in the law of mut'ah was imposed upon the people. There is even conflicting views within the latter group : one party considering the "verse of divorce" as the relevant verse concerning the revocation, and the other the "verse of inheritance".

Furthermore most of the opponents of mut'ah think that the following verse proves its abrogation "Illa ala azwajuhum aw ma malakat aymanuhum". The verse gives two causes for the lawfulness of marriage, either the woman is one's wife or she is one's slave-girl (kaniz), and as Sayyid al-Alusi (a Sunni scholar) writes: "The Shi'ahs cannot regard the "Mumtu'ah" (woman taken in mut'ah) as 'kaniz',

a slave-girl (who is bound by laws other than those which affect a free woman), and they cannot call her the wife either, because she does not possess the conditions of wife-hood, that is 'mirath' (inheritance), 'iddah' (waiting period); the right to sustenance and maintenance on the part of husband, and divorce."

If we examine al-Alusi claim we find it to be completely without foundation. Contrary to what he says, the wife in a temporary marriage does have certain of the rights of wife-hood. One of these concerns inheritance. The wife of a temporary marriage may receive the inheritance (unconditionally according to some Shi'a 'ulama', and according to others, on condition that the right to inheritance is stipulated at time of marriage contract). Moreover if al-Alusi is claiming that inheritance is an obligatory feature of non temporary marriage, then he is not speaking in accordance with the law.

according to the Islamic code there are many occasions where the law of inheritance become invalid: a wife, who for example, is an unbeliever or a murderess does not get inheritance. Likewise a woman who is married to a sick man who dies before he has sexual intercourse with her is deprived of the inheritance. On the contrary if somebody divorces his wife during a time of illness, and subsequently dies, even if her 'iddah is over she is entitled to receive inheritance one year after the death of her husband.

Again, the Shi'ah believe in the lawfulness of mut'ah and regard 'iddah after such a marriage as compulsory. Subsistence for the wife (nafagah) is another subject of dispute. The Shi'a believe that this too cannot be regarded as a primary right of wife-hood. One may look for example at the case of the women who refuses to have sexual intercourse with her husband in spite of her being a wife; no faqih would consider subsistence as one of her rights.

There is no divorce in temporary marriage: after spending the Weed time together the two parties may separate.

We should point out to those who still deny the lawfulness of temporary marriage that the abrogation of mut'ah is impossible because the relevant verse is in the Surah anal-Mu'minin and al-Mi'raj, both of which were revealed in Makkah.

Moreover, even some distinguished Sunni 'ulama' say that the Qur'anic verse concerning mut'ah was not revoked. az-Zamakhshari, in his commentary al-Kashshaf, reports, on the authority of ibn 'Abbas, that the verse concerning mut'ah is one of the irrevocable ones. Other 'ulama' have reported that Hakam ibn 'Ayniyah, when asked whether the verse of mut'ah had been revoked, said that it had not.

At first the majority community of the Muslims acknowledged the lawfulness of mut'ah, but later they began claiming its revocation; we have tried to show the weakness of their claims. Sometimes as we have seen they tried to prove abrogation of the verse by another verse, and sometimes, as we shall see, they attempted to prove the abrogation of the verse through a tradition :

they rely upon the tradition in the 'sahihs of al-Bukhari and Muslim which relate that the Holy Prophet (s.a.w.) made mut'ah unlawful either during the Conquest of Makkah, or the Conquest of Khaybar, or the Battle of Awtas. These hadith are the subject of considerable dispute.

It is even reported on the authority of Qadi Ayad that some 'ulama' say that the mut'ah was made lawful a second time after a first abrogation, then subsequently made unlawful for the second time. Moreover it is recorded in some books that mut'ah was revoked on the occasion of hajjat al-wida'. (that is the last hajj) in the 10th year of the hijrah.

Other books show that this was not so and that it was revoked during the battle of Tabuk in the 9th year of the hijrah. Some writers claim that mut'ah was abrogated during the battle of Hunayn in the month of Shawwal in the 8th year of the hijrah; it is also claimed by some that the Holy Prophet (s.a.w.) made mut'ah lawful on the occasion of the Conquest of Makkah, but declared it to be unlawful only a short time later in the very place he was supposed to have declared it lawful.

Most of the Sunni 'ulama' are of the opinion that the abrogation of mut'ah.

We must stress that the Qur'anic Verse concernin mut'ah is not called into question by anyone who examines the validity of these so-called hadith. Moreover the hadith reported by the Sunni (ulama) are so full of conflicting reports that their falsehood is self-evident.

It is reported in the Sahih of al-Bukhari that Abu Raja' quotes 'Imran ibn Hasin as saying that the verse concerning mut'ah is present in the Qur'an and "we acted upon it in the life time of the Holy Prophet (s.a.w.); neither did Allah make it unlawful in the Holy Qur'an, nor did the Prophet (s.a.w.) prohibit it during his life time. The prohibition of mut'ah was an arbitrary act of one man. and it is said that this man was the Calip 'Umar.

" It is also reported in the Sahih of Muslim on the authority of Atta' that "one day Jabir ibn 'Abdillah al-Ansari came to perform 'umrah and people asked him various questions. We went to visit him at his house. When he

was asked about mut'ah, Jabir said: 'Yes we practiced mut'ah in the days of the Prophet (s.a.w.) and also in the days of Abu Bakr and 'Umar.'

Muslim gives another report and that is from Jabir also. He says: "During the days of the Prophet (s.a.w.) we used to practice mut'ah while giving a handful of dates or a handful of baked flour as a dowry." Muslim also reports in his Sahih that Abu Nudrah said that he was sitting with Jabir ibn 'Abdillah al-An-Sari when another man came in and said that there was a difference of opinion about the two mut'ahs (namely the mut'ah of temporary marriage, and the kind of haj called hajj tamattu'a) between Ibn 'Abbas and Ibn Zubayr. Jabir said: "While the Holy Prophet (s.a.w.) was present we used to act upon both of them, but later 'Umar prohibited both of them, so we could not do them again." Indeed they could not do it again because Hadrat 'Umar would have a man stoned to death if he was caught practising mut'ah.

The fact is that if the Chapter relevant to marriage in Muslim's Sahih is carefully studied, we will find such contradictory statements that we can only wonder at their source. There are claims of abrogation in one place, while in another place proofs of non-abrogation are given. As an example of such hadith we may quote Jihni who says: "On the occasion of the conquest of Makkah, the Prophet (s.a.w.) himself ordered that we should be permitted to perform mut'ah, but we had still not left that place when the Prophet (s.a.w.) forbade us to do it."

Thus abrogation is sometimes attributed to the Holy Prophet (s.a.w.), and sometimes to Hadrat 'Umar. Moreover they say that mut'ah was current during the time of the Prophet, and during the period of the first Caliphate.

They also say that Hadrat 'Ali (a.s.) forbade Ibn 'Abbas on various occasions to talk about mut'ah, and so the latter subsequently changed his opinion about it. In a refutation of this we may cite the report that says that once Ibn Zubayr stood up in Makkah and said: "There are some people here who have been deprived of foresight just, as God has deprived them of their eye-sight: such persons are those who claim that mut'ah is lawful." (Here the reference was to Ibn 'Abbas, who had become blind.) At this, Ibn 'Abbas uttered loudly. "Why? I swear that mut'ah was practiced up to the time of 'Ali (a.s.)." This clearly shows that Ibn 'Abbas never changed his opinion, and that even during Ibn Zubayr's caliphate he stood by his belief.

Rather surprisingly, the prohibitory order has even been attributed to Hadrat Amir al-mu'minin (a.s.), though it was characteristic of all the Imams (a.s.) that they had declared mut'ah wedlock to be lawful. Imam 'Ali's statement that if 'Umar had not forbidden mut'ah there would have been only a few unfortunate men who committed fornication has become proverbial at-Tabari has reported this tradition in his "tafsir" also. In this connection Imam Ja'afar as-Sadiq is reliably understood to have said: "I do not do taqiyah (to deliberately conceal one's beliefs or opinions under certain conditions) in the matter of three things: mut'ahtu 'l-hajj, mut'atu 'n-nisa', and al-mash 'ala 'l-khafayn."

(The latter item refers to the Sunni practice of wiping over the shoes in place of washing the feet when performing wudu'.) According to the principles of jurisprudence the conflicting reports of the Sunni

commentators have been analyzed and proved to be full of false hadith. The lawfulness of mut'ah has been proved, and just as it was lawful at the time of the Prophet so it is today.

It was Hadrat 'Umar who prohibited mut'ah during his rule; his prohibition was based on personal social considerations of the day, but it had nothing to do with religion. He is reported to have said, "During the days of the Prophet (s.a.w.) two mut'ahs were permissible, but I now make them unlawful, and will punish those who disobey my order.

" What is worth noting is this that the second Caliph did not attribute the order of unlawfulness or abrogation of mut'ah to the Holy Prophet (s.a.w.), but made himself responsible for it. He, too, was responsible for the matter of punishment. We can only repeat what we have tried to demonstrate with the above example: that mut'ah, the Qur'anic ordinance concerning its legality, the Sunnah (practice) of the Prophet (s.a.w.), the practice of his Companions,

its being practised during the rule of Abu Bakr and in the early period of 'Umar's own Caliphate, are all verifiable realities which are above all argument and discussion. The books of history and traditions bear witness to the fact that during the age of the Prophet (s.a.w.) the high-ranking companions and respected members of the Quraysh all practised mut'ah; indeed many of the noble Muslims of that time were sons of temporary marriages.

Raghib al-Isfahani, the celebrated Sunni scholar, has reported that a Sunni scholar Yahya ibn Aktham, asked one of the important nobles of Basrah whom he followed about the justification for mut'ah. The noble said "Umar ibn Khattab." "How is this," asked Yahya, "he was the sworn enemy of mut'ah." The man said: "Yes, it has been proved that once Hadrat 'Umar announced from the pulpit: "Oh people! God and His Prophet made two mut'ahs lawful, but I now declare them unlawful.

Also I will punish those who disobey me.' We accept his statement but we do not accept the validity of his prohibition." A similar hadith has been related by 'Abdullah ibn 'Umar; it is shorter and less harsh than the former: "During the age of the Prophet (s.a.w.) there were two mut'ahs, and I now make them unlawful." Some have argued that 'Umar did not want to alter the command of Allah but only to make a law which was suitable for the society of the time.

At this stage it would be useful to recall a great work by a renowned scholar of the 6th century A.H., Muhammad ibn Idris al-Hilli, namely the "sara'ir", in which the author writes: "Temporary marriage within the Islamic code of religion is lawful. Muslims believe that its lawfulness is proved according to the Book of God and also according to the Sunnah. However some people have claimed that it had been revoked, but the veracity of this requires proof.

Moreover 'aql (the faculty of reason which allows us to understand the workings of God in his creation) tells us that every useful act about which we have no fear that it will give us any loss in this world or the next is permissible. This condition applies to mut'ah. We must, through our reason, acknowledge its lawfulness.

Now, if somebody asks what is the proof, given the conflicting opinions concerning its legality, that it would not cause us loss in the next world, the answer is that the onus of proof lies on the person who pleads the possibility of its being harmful. It is beyond doubt that mut'ah was permissible during the days of the Holy Prophet (s.a.w.), and that it was only later that they began talking of its unlawfulness and revocation. Thus until revocation can be proved we have no right to deny its lawfulness.

"When we examine the hadith which relate that the Prophet did make mut'ah unlawful, we find that these traditions all have weak chains of transmission and do not qualify as sources of certainty, nor do they provide a justification for action on the part of the Muslim.

"Let us examine again the relevant verse in the Qur'an. It occurs after the passage concerning the women who are mahram (one is not allowed to marry them for reasons of consanguinity, etc.) "

And lawful for you are all (women) besides those mentioned', so that you may seek them by means of your wealth, taking (them) into marriage, and not committing fornication; and those with whom you concluded mut'ah give them their dowries as a fixed reward, and it shall not be a sin on you in whatever you mutually agree (to vary) after the fixed reward" (Surah an-Nisa'). In this holy verse the disputable word is "istamta'tum" which has two meanings - either to take pleasure in and profit from, or to make the agreement for mut'ah according to the Islamic code - the first is the literal meaning and the second is according to its meaning within the Islamic code.

According to the principles of 'fiqh', if a word in the Qur'an has two meanings - one literal and the other used specifically in the language of the "shari'ah" then the latter meaning must be accepted and the literal meaning should not be relied upon. That is why for example the words "salat", "zakat", "sawm" and "hajj" are all to be understood according to the precise meaning of the Islamic shari'ah (code), and not according to the literal meaning to be found in the dictionary.

We have already made it dear that a well-known group of the companions believed in the lawfulness of mut'ah and that Amir al-mu'minin himself openly declared its lawfulness; 'Abdullah ibn 'Abbas used to enter into polemical discussion with ibn Zubayr on this topic and these discussions became so widely known that they were not only talked of by the common people but the poets of that time also gave vent to their reactions in their verses.

Also 'Abdullah ibn Mas'ud, Mujahid, Ata'i, Jabir ibn 'Abdullah al-Ansari, Salmah ibn al-Akwa', Abu Sa'id Khudri, Mughirah ibn Sha'hab, Sa'id ibn Jabir and Ibn Jarir also gave the verdict that mut'ah was lawful. All these men are esteemed and trustworthy men of knowledge; they arrived at their decision through careful examination of the matter.

We have so far thrown light on this topic from only a religious or historical point of view. Now let us assess it from the ethical and social point of view. Islam is a great blessing and mercy for the world. The message of Islam is like a divine song which is diffused from heaven over the world of man, and which gave and still gives the answer to those who seek to understand the reason for man's existence on earth.



Our revealed religion suits every age, meets the needs of all men in every age in this world, and guarantees for them prosperity both spiritual and material. Islam was revealed by God not to make man's life harder but on the contrary, to fill it with mercy, meaning and order. That is why Islam is the most perfect religion and the last code of religion before the end of the world; this divine law adorns human culture and civilization with perfection; no other man-made institutions or laws are needed.

Let us now examine one activity which every individual is obliged to undertake at some time in his life, namely, travel. We find that the Islamic code indicates precisely the code of conduct to be expected from the Muslim who is travelling, whether for trade, for war or on the hajj or 'umrah, for example.

It hardly needs to be pointed out that God, the All-Wise, has endowed man with sexual desire for the preservation of the human race. And it also goes without saying that a traveller is unable to fulfill the requirements of a permanent marriage.

Under these conditions, what should this traveller do who has been away from his home for a long time?

How should he behave especially when he happens to be young and subject to strong sexual urges.

There are only two alternatives possible if we do not allow mut'ah; he should either control his passion or must indulge in unlawful relationships. It should be stated that excessive control and suppressing of sexual desires sometimes causes serious physical and mental illness. Sterility is also another possible consequence of such self-control. Such practice is patiently against the dictates of wisdom, and God says in the Quran, "God wishes ease for you and does not wish for you discomfort."

May God save us from sexual mal-practices. Most parts of the world are suffering its consequences today.

I swear to God that if the Muslims act in compliance with the religious laws, this universe, according to the divine promise, will become complete mercy for them, and man will live in harmony and prosperity.

Mut'ah is thus a welcome and necessary law of the Islamic religion. If the Muslims acted in accordance with the conditions for lawful mut'ah (the making of an agreement between the two parties stipulating the time limit and dowry, and the 'iddah, for example), and take advantage of this divine blessing, evil-doing would to a great extent be eradicated, the honour of man and woman would be saved, the Muslim community would grow in number, the world would be rid of illegitimate children and moral values would be strengthened.

The pronouncement of the exalted man of the community, 'Abdullah ibn 'Abbas cannot be over-praised. Ibn Athir relates that he says, "Mut'ah was a blessing with which God the Almighty endowed the ummah of Muhammad (peace and the blessings of God be upon him and his descendents) and, had it not been prohibited, no-one, except the truly perverted ones, would have committed adultery (see the "Nahayah" of Ibn Athir and the "Fa'iq" of az-Zamakhshari).

The effects of his exalted teacher and guardian, Amir al-mu'minin are reflected in this statement of Ibn Abbas. The fact is that the Islamic world is rejecting this divine mercy and as a result has plunged itself into shameless immorality.

## **8 (b) Talaq (Divorce)**

It is clear that the essence of marriage is the very special union which is established between man and woman, and which makes the two different individuals close companions and partners to each other. The cooperation and communion between wife and husband may be compared to a person's eyes and hands - each hand is different from the other but each complements and perfects the other.

The very nature of this act, that two personalities, who are quite unacquainted with each other, are so strongly joined and united through wedlock that it precludes any conception of a stronger union, shows the particular strength of this alliance. There can be no better words than the following verse of the Holy Quran: "Hunna لباسuln lakum wa antum لباسuln lahunna" (2:187), "They are your garments and you are their garments." Truly this verse expresses the subtle intimacy of the relationship of marriage.

The obvious feature of the non-temporary alliance is that the two make an agreement to remain together for life.

It may happen however that the marriage is no longer desired either on the part of one or both parties and divorce becomes necessary. The code of religion ordains that certain conditions be fulfilled according to the kind of divorce in question. There are three kinds of divorce: firstly, if divorce is desired from the side of the husband, separation is called "talaq"; secondly, if it is desired from the side of the wife, she can obtain "khul". And lastly, if disagreement is on both sides, they can have recourse to "mubarat" to obtain separation.

Since Islam is a social religion and it has been founded on unity and oneness, its greatest objective is love and concord. The creation of disharmony in whatever form is to be avoided whenever possible. Accordingly, a large number of traditions have expressed the undesirability of "talaq" (divorce) and some of them say that among the acts made lawful by God, there is no act more undesirable than divorce.

That is why the messenger of God has made clear to man the conditions and restrictions of divorce, so that it may occur as infrequently as possible within the Muslim community.

Among the rules of divorce, the presence of two just witnesses is a necessary condition. If divorce is pronounced in the absence of two just witnesses, it will be considered null and void. This condition is the best means of doing away with mutual hatred, because two 'just' persons will consider it their duty to bring about peace and friendship between the couple through admonition and preaching before carrying out the divorce.

Of course, it will not be successful on every occasion but the number of divorces can be minimized by the intervention of these two persons who are respected within their community for their good sense and justice.

It is regretful to note that our Sunni brothers, do not accept this argument. They did not consider the presence of two just witnesses necessary for divorce. Consequently the number of divorces is growing so great among them that it causes inconvenience to a great number of people.

Unfortunately, many of us, as well as our Sunni brothers, are unaware of the hidden wisdom contained in the religious code. We pray that Muslims may whole-heartedly comply with the divine laws so that the bitterness that has been created in their private lives, and the confusion that has spread in their social affairs, may at least be reduced.

The important condition of divorce is that the one who divorces must not be under compulsion, or in a state of anger, or any other state of mind which diminishes his ability to think clearly and make decisions in a reasonable manner. (Moreover, the divorce should have completed her monthly period of menstruation and not have had sexual intercourse in the 'new month'. This condition inevitably helps to delay and eventually lessen the number of divorces).

In the Ja'fari (Shi'a) 'fiqh', pronouncement of divorce three times in one sitting is counted as only one divorce. Thus if a man pronounces divorce three times in one sitting, his wife does not become forbidden for him forever. They can be united again without any condition.

If the man then again divorces his wife, returns a second time to the woman and then divorces her a third time, the woman shall become forbidden after this third divorce. After that, she cannot become lawful for him unless she marries (and subsequently divorces) another man. If this thing happens, nine times, he will be unlawful for her former husband forever.

Most of the 'ulama' of the Sunni community stipulate that if a husband says three times to his wife that he has divorced her, it will be considered as an irrevocable talaq; resumption of conjugal relations is only possible if the wife marries and subsequently divorces another man, though it is clearly stated in certain of their accepted hadith that divorce pronounced three times in one sitting is to be counted as one divorce.

It is narrated in al-Bukhari, on the authority of Ibn 'Abbas, that "during the time of the Prophet, and during the caliphate of Abu Bakr, and for two years during the caliphate of 'Umar, the 'three divorces' meant only one divorce, but Hadrat 'Umar said: that although people were entitled to delay divorce, they did not wish to wait, and so, seeing no obstacle in the way, we granted permission for them to carry it out" (that is, he recognized the validity of irrevocable divorce after pronouncing divorce three times in one sitting).

The Holy Quran is itself unambiguous in this matter: "Divorce (shall be lawful) only twice, then (you should) either keep her in fairness or send her away with kindness." (2:229) After this, God, the Almighty, says: "So if he divorces her (for a third time), then she shall not be lawful to him until she weds another husband." (2:230) We have tried to give a brief account of the causes of divorce; if more details are required, one may refer to the books of Islamic jurisprudence..

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There are also other causes of separation such as defects and diseases in either party. If the man is sexually impotent or becomes insane, the woman has the right to divorce him. Certain diseases of a woman's sexual organs entitle the man to divorce his wife. Zihar and illa' (kinds of oaths of

rejection of the woman on the part of the man, common amongst the Arabs before the coming of Islam) may also be a cause of separation.

The various kinds of "iddah" and other allied matters are dealt with comprehensively in more specialized works of fiqh. Suffice it to say that after the death of the husband, it is compulsory for the wife to observe "iddah" even if she is "ya'isah" (past the menopause), or is a minor, or has not had coition with her husband. In divorce, "iddah" is compulsory in cases other than the three mentioned above. In unlawful coition (adultery), there is no 'iddah.

The necessary waiting period after the death of the husband is four months and ten days, but, in case the woman is pregnant, she must wait until delivery. This, of course, may be less or more than the four months and ten days. The duration of the "iddah" after the divorce is three months, and for the pregnant woman, it is till delivery and for the kaniz, or slave girl, it is half the period of the free woman.

If the divorce has not accrued twice before and there is no 'khul', the husband can resume conjugal relations at any time during the period of 'iddah. The man no longer has the right to return to the wife unless the two parties are willing to make a new act of marriage (and only then under certain conditions).

It is not considered necessary by the Shi'a that two witnesses be present for the resumption of marriage (as it is in the case of divorce), but it is desirable; it is not necessary moreover to recite anything specific. Such words and signs as serve the purpose are sufficient.

As we have already made clear, the relationship of marriage cannot be broken unless one or both partners expresses dislike for the other; if the dislike is from the side of the husband, he has the right to talaq, through which he can, if he desires, divorce his wife; and if the wife detests him, she can, on payment of some money, demanded by the husband, (it may be equal to or more than the dower) and after reciting the prescribed words (sighah), be released from the bond of wedlock.

This latter is called khul' and it is only valid if all conditions of divorce are fulfilled and there is very strong ill-feelings on the part of the woman for the husband. This is in accordance with what the Holy Qur'an says:

"And if you fear that they shall not (be able) to keep (themselves) within the limits (fixed) by God, there shall be no sin on either of them about what she gives up to get herself free (from the wedlock). These are the limits ordained by God. Beware! Exceed them not." (2:229)

The commentary of the ahlu 'l-bayt about this verse is that it concerns the wife who says to her husband, "I will not believe in your swearing; I will not respect the divine code concerning marriage conduct as far as you are concerned. I will not allow coition; and will bring undesirable people into your house." This obviously shows extreme hatred on the part of the wife and there would then appear to be no possibility of harmonious relations between her and her husband.

If, however, the feeling of dislike is equally strong on both sides, any divorce which takes place is called a "mubarat" divorce. This kind of divorce is likewise only valid if all the conditions of talaq (divorce) are

fulfilled, but in this case, the husband has no right to claim more than the dower money that he has paid to the wife. In khul' and 'mubarat', the divorces is irrevocable.

After it, the husband cannot assume conjugal relations. If however the woman takes back the money she gave the husband at the time of 'khal", they may resume the conjugal alliance as long as the period of "iddah" has not come to an end.

There are also other causes of prohibition (for instance, if the husband calls his wife 'mother' or 'sister' or likens her to either, the wife becomes prohibited to him till he performs an act of atonement. This is called zihar.

These are explained in the relevant books. Such incidents seldom take place today as they were particular to the Arabs of pre-Islamic days.

## 9. Inheritance

After a person's death, the transfer of his or her property, or rights, to another person by virtue of their blood relationship or some other tie, is called inheritance.

The living relative is called the "warith" (heir), the deceased is called the "muruth" (one who bequeaths), and the right is called "irth" (inheritance). The relationship between a person born of another, or that of two persons who are born of a third, is called a blood relationship (nasab).

If the right of an heir is fixed in the Qur'an, he or she shall be counted in the category of those who receive inheritance as a matter of obligation, otherwise he or she shall be entitled to receive inheritance by virtue of blood relationship.

In the Holy Qur'an, the chief shares are six. The description of the shares and the inheritors is as follows:

1. The half-share (nisf):
  - a) the husband, provided that the wife has no son.
  - b) one daughter; here too the absence of a son is a condition.
  - c) a sister; here also the same condition applies
2. The quarter-share (rub'):
  - a) the husband, when the deceased wife's son inherits.
  - b) the wife, provided that the husband does not leave behind a son.
3. The eighth share (thamin): the wife, when the husband leaves a son.
4. The third-share (thulth). the mother, when there is no son; also some inheritors from the mother's side.
5. The two-thirds share: two daughters when there is no son.
6. The sixth-share (sodus): each of the father and the mother in the presence of a son; also an inheritor from the mother's side whether man or woman.

Those who are not included in the above settlements shall be inheritors on account of their blood relationship with the deceased, observing the rule that the share of the man is double that of the woman.

The heirs who are in a state of blood relationship with the deceased are divided into three groups:

- (i) the mother, the father, sons, daughters (or failing these, their descendants).
- (ii) grandfathers, grandmothers, brothers and sisters (or failing this, their descendants)
- (iii) paternal uncles and aunts, maternal uncles and aunts (or failing this, their descendants)

The universal principle is that the presence of members of group (i) prevents members of group (ii) presents members of group (iii) inheriting. Thus, the one closer in blood-relationship acts as a barrier to the remoter, and this principle also holds within each group.

The only really significant difference between the Shi'ah and Sunni schools of jurisprudence in the laws of inheritance concerns the principles of " 'awl" and "ta'sib" 3. The Imamiyah jurisprudents have proved by means of ahadith from the Ahlu'l-bayt (a.s.) that there is no 'awl or ta'isb in the matter of inheritance.

This was also the opinion held by the great companions of the Holy Prophet. The well-known statement of Ibn 'Abbas in which he speaks against 'awl and ta'sib can be taken as authoritative. There are also other grounds of proof for negating these two principles.



## 10. Endowments (waqf); Gifts (nibah) and Charities (sadaqah)

If someone owns some property and wishes to relinquish possession of it, his transference of it may be such that it is final. That is, now only will it go out of his possession, but he can never claim it back, whether, e.g., he frees a slave, or gives up possession of a house or some land to make it a place of worship, a mosque, or a place for use in pilgrimages. By such an act, the property can never again return to the ownership of that person again. In such a case, in fact, the item can never again be anyone's property.

On the other hand, the person may relinquish possession of some property which then passes into the hands of another. Such a transaction may be based on exchange or a monetary transaction, it may be part of a peace treaty, etc.

Thirdly, he may relinquish ownership without any exchange taking place, but solely with regard to the world to come and recompense therein. This is what is commonly known as "sadaqah", and this is in turn divided into two parts:

a) if the property is durable and the donor's intention is that it should last and any profits from it used in good acts, it will then be called an endowment (waqf);

b) if it is not durable or the donor has not stipulated any conditions for its being permanently kept and utilised, it will then be called sadaqah proper (charity).

Fourthly, if possession of some property is handed over to someone else without there taking place any exchange and without any thought of Divine recompense (e.g. for the sake of friendship), the donation is called hibah (gift). If, however, some exchange takes place, e.g. one man gives another his shirt on the condition that the second man gives a book to him, it is called "iwad" (a consideration). If the second party accepts, the gifting will become binding and neither party will have the right to take his property back, except if they both agree to break their agreement.

It is necessary that the something gifted must be in the possession of the donor. If the gifting was without any iwad, the item (s) may be taken back. Naturally, this does not apply to gifts given between close relatives or between husband and wife, or if the item(s) is (are) lost or damaged.

This contrasts with the situation in the case of sadaqah; for here, once possession has been relinquished, the thing(s) cannot be taken back. The declaration of intention to donate is enough to make the taking back unlawful. This is called the sighatu 'l-waqf, and the property then passes to the trustee, who may be the original owner himself. It may not be taken back, sold, divided, pawned, or otherwise pledged, whether it be a "waqf khass" (special endowment), for descendents, for example, or a "waqf 'amm" (general endowment), for the poor, the needy, a mosque or a school.

There are, of course, some occasions when exceptions can be made and the trust property can be sold. This may happen, for instance, if the property has become damaged, but the damage should be to an extent that prevents the property from being of any use. The waqf property can also be sold if there is serious fear of its being destroyed, in which case it should be such

that no profit would accrue from it. The property can also be sold if there are acute differences among those who are in possession of it and there is danger of loss of life and property or loss of honour and respect.

In spite of all these conditions, no one can take the decision to sell the property or divide it. The decision rests entirely with the hakim "sh-shar" (the mujtahid) The hakim 'sh-shar" alone has the right to pass the necessary decree after assessing all the prevailing conditions. But it is a pity that in the matter of endowments, people have become extremely apathetic. They pay no attention to the limitations of the Divine Law. God is aware of all their intentions and actions.

This was a brief account of sadaqah as it is generally understood.

## 11. Passing Judgement (qadawah)

The rank of qadi (judge), and that of the administrator of justice have great importance, and in fact these are ranks worthy of great respect. In the Imamiyah sect, the responsibility of the judiciary is considered an adjunct of the prophethood, the imamate and the state in general.

God, the Almighty has said, "O David. We have appointed you vicegerent in the earth; so judge between the people with justice." (38:26) And again He says, "By the Lord (O Prophet), they believe not until they have set you up as their judge in all that they dispute about among themselves, and thereafter find not in their selves any vexation against what you decide, and submit with total submission." (4:65)

The qadi and judge are the nawamisu' th-thalathah (custodians of three things - life, property and honour).

That is why there are serious dangers in this rank at every step, and if the texts of the traditions are carefully studied, we shall find that it is so exalted a rank that even the mountains seem to be insignificant before it.

Hadrat Amir al-Mu'mimin (a.s.) says, "The qadi should be considered to be on the brink of Hell. The qadi's tongue is between two balls of fire. O Shurayh, you are sitting at a place where sits either a prophet or his "wasiy" (successor) or else some wicked person." It is stated in a tradition of the Prophet (s.a.w.), "If somebody is made a qadi it means that he has been slaughtered without a knife." There are many traditions of this nature.

If a ruling which a "faqih" (expert in jurisprudence) deduces from proofs concerns some general principle, it is called a "fatwa"; for instance, it is unlawful to use someone else's property without his or her permission, the wife of a man is lawful to him but she is unlawful to a stranger. But if the order pertains to some particular case it is called a judgement (qada). for instance, "This woman is the wife. "This woman is a stranger." "This is Zayd's property. "That is the property of such and such a person."

Whether it is a "fatwa" or a "qada", both of them are duties of a just mujtahid who is the general proxy of the Imam.

Judgement is in fact the identification of the legal nature of points under dispute, whether they pertain to defense and accusation in a court, or to matters such as the sighting of the moon and the determination of the beginning of the month, or the administration of endowments and the determination of lineage, and it demands great wisdom and intellectual ability. In fact it is more difficult a task than issuing a "fatwa".

Now, if somebody who is devoid of these qualities undertakes to perform this duty, it will certainly do more harm than good. Accordingly, it is unlawful in Imamiyah "fiqh" for anyone except a just mujtahid to undertake to perform this work. Indeed, it is regarded as one of the major sins if anyone else does do it, and the extent of its enormity borders on infidelity. Our respected teachers used to be very cautious about passing judgements. We also follow the same line.

Judgment can only be passed on the basis of three things: (1) confession (iqrar), (2) an oath (qasm), or (3) two just witnesses (bayyinah). The question of how to establish preference or priority in cases where there may

be difference or contradiction between the witnesses is a matter for the section of fiqh which deals with the giving of evidence,

and there is little point in going into the details here suffice it to say that the matter has been examined in great detail by our jurists and they have left many writings on it. We, also, have written a book on the subject called "Tahriru 'l-majallah".

One who does not act in accordance with the order of the authorized "qadi" (i.e. one who fulfills all the conditions of a "qadi"), will be considered to have violated the divine commands. Also no one has the right to revise the decision of a "qadi". Of course, the qadihimself may re-examine his judgment.

## 12. Slaughtering and Hunting

The basic principle in Shi'ah jurisprudence concerning animals whose blood spurts 4 is that they become "najis" (impure) when they die, and that it is unlawful (haram) to eat their flesh.

There is also a division of animals into two categories: those which are impure (najis) in essence and cannot become pure, such as the dog and the pig, and cannot therefore on no account be eaten; and those which become essentially impure if they die in any way other than as a result of hunting or slaughtering in accordance with the shari'ah, but which become pure if they are correctly hunted or slaughtered in accordance with the rules laid out below.

However, the mean of correctly killed animals of the second category can only be eaten provided they are not carnivorous.

There are two ways of killing animals in accordance with the shari'ah. The first is hunting.

Hunting may be in two ways. Firstly by a trained hound who obeys the orders given it and does not normally eat the animal it has killed. For his prey to be lawful, the person who released and sends the hound must be a Muslim and must pronounce "bismillah" when releasing it, and the hound should at no time leave his sight.

Secondly, hunting may be by means of a weapon, i.e. a sharp sword, spear or arrow, or the bullet of a gun. In all cases, the death must be directly due to the penetration of the weapon into the animal, and not to some side effect such as fright. The person who uses the weapon must be a Muslim and he must pronounce "bismillah" at the time of taking aim.

If the animal is killed by either of the above methods, its flesh is lawful. But if the hunter gets his animal when it is still alive, he must slaughter it (see below). All other means of hunting (i.e. trap, net, etc.) are forbidden, unless, of course, the animal is taken alive and correctly slaughtered.

The second way to lawfully kill an animal is by slaughtering it (dhabih). The slaughterer must be a Muslim or someone under the rules of Islam such as the minor son of a Muslim. The second condition is that the instrument of slaughtering should be made of sharp metal. However, in case of necessity, any sharp implement (glass, sharp stone, etc.) which cuts the arteries clearly may be used.

In the Name of God (bismillah) must be pronounced when the intention to slaughter is made, and the animal must be lying with its face towards the "qiblah". All four main blood vessels of the neck must be completely severed above the vocal chords. (There is a special method of killing a camel called "nahr", which may also be used for other animals when "dhabih" is not possible.

It should be noted finally that all animals whose blood does not spurt are unlawful (haram) except fish which have scales. A hadith of Muhammad ibn Nu'man Ahwal, Mu'min at-Taqa, says, "One day I went in to see Abu Hanifah. I saw there was a pile of books in front of him. Abu Hanifah said, 'Do you see all these books?' I said, 'Yes.' He said, 'They are all to do with divorce.

' I said, God has made us free from all your books by one single verse of the Quran, "Oh Prophet, (say to the believers), 'When you divorce (your) women, divorce at their prescribed period, and reckon the 'iddah (exactly).'

"He said, 'Well then, have you ever asked your friend Ja'far ibn Muhammad (al-Imam as-Sadiq (a.s.)) about the seacow?' I said, 'Yes, he said that every sea-animal with scales, even if it be a 'sea-) camel or a (sea-) cow, can be eaten, and that if it has no scales it is unlawful to eat.'" 5

### 13. The Nature of Foodstuffs

Animals: There are three kinds of animals - animals of the land, animals of the sea and animals of the air.

It has just been pointed out that, in general, the only animals of the sea which are lawful are those which have scales. The eggs of such fish are also lawful.

Of land animals, only a few species can be lawful the camel, the cow, the sheep or goat, the wild cow or buffalo, the mountain sheep or goat, the gazelle, the deer. The meat of horses, mules and donkeys is not approved of (makruh). Animals which eat najis substances, such as excrement, become haram, but they can be purified by "istibra" (keeping it away from najis eatables for a specific period).

All kinds of carnivorous animals are unlawful. Rabbits, foxes, badgers and mongooses are all unlawful. Insects, reptiles and amphibians like worms, snails, cockroaches, scorpions, wasps, bees, snakes, frogs etc. are all forbidden; only the locust can be eaten.

Among birds, those which feed on flesh such as hawks and eagles, are completely forbidden. Apart from this, the Prophet (s.a.w.) prescribed three signs in three conditions for the identification of lawful birds:

1) if the birds are in the air, the pause in the movement of their wings, i.e. their gliding, should be less than their flapping;

2) if they are on the ground, the spurs on their claws should be visible;

3) when the bird is slaughtered, it must be found to have a crop and/or a gizzard.

Bats and peacocks are forbidden. The kind of crow which eats herbage is lawful, but the kind which eats carrion is forbidden.

Besides animals, there are other things which are forbidden to eat or drink. They can be classed under four headings:

1) everything which is impure (najis) is unlawful (haram);

2) every kind of food (eatable or drinkable) which has been taken illegally is haram.

3) every kind of food (eatable or drinkable) which has deleterious effects is haram.

4) every kind of food (eatable or drinkable) which seems repulsive is haram.

Of liquids, one of the most impure is urine, but even more than that is wine (any kind of alcoholic beverage), and in Imamiyah fiqh, the unlawfulness and impurity of wine is more strongly emphasized than in any other school. The traditions that have come down to us from our Imams on this subject are enough to frighten one off them forever.

Distillers and fermenters of alcoholic drinks, stockists, merchants and drinkers, all are cursed, and wine has been called in fiqh "ummu 'l-khaba'ith" (the mother of all evils). Some traditions say it is forbidden to sit at a table on which alcoholic drinks have been laid, probably so as to encourage people to abstain therefrom so that their bad effects may be limited.

Today, expert scientists have confirmed by chemical tests that wine is a very destructive and harmful thing. Islam warned against alcohol thirteen

hundred years ago. Today, even those who do not abstain for religious reasons do so for reasons of health. The shari'ah of Muhammad (s.a.w.) cannot be over praised, those who neglect it do so to their own disadvantage and peril.



## 14. Penology (hudud)

Under an Islamic government, certain punishments are prescribed for certain crimes, so that the society may be kept healthy and the roots of corruption destroyed. Some of these penalties (hudud) are as follows according to Shi'ah fiqh.

1) The penalties for adultery (zina): If an adult, sane man knowingly and deliberately has sexual intercourse with a woman who is forbidden to him, it is then an obligation on the authorized judge to flog him with a hundred lashes; his head will be shaved and he will be forced to leave the city for a period of one year. If he is "muhsin", i.e. he is in a position to satisfy his sexual urges in conformity with the shari'ah, he will be stoned to death as well as being given a hundred lashes.

If the woman consented, she shall, if also "muhsinah", be stoned, and if otherwise, she shall be given a hundred lashes. If a man has sexual intercourse with a forbidden woman of his relatives (mahrum), or with a woman who has suckled at the same breast as he was (his rida'ih), or with his step mother, or if a dhimmah (a non-Muslim under the protection of a Muslim state) has sexual intercourse with a Muslim woman, he shall be beheaded; and the penalty is the same for rape.

The adultery can only be proven by:

- 1) a confession repeated four times;
- 2) the witnessing of four just men that they saw him actually in the act of penetration;
- 3) the witnessing of three just men and two just women.

If the adultery is witnessed by two just men and four just women, it shall be deemed proven but the penalty may only be flogging, their being no capital penalty. If the evidence is less than this, it is not considered complete, and, what is more, if less than four men give evidence, they shall be punished for slander (qadhaf). For the evidence to be accepted there must be unanimity between the witnesses, and they must all have seen the actual penetration with their own eyes.

If a man is to be stoned after a confession, but then disavows his confession, he shall not be stoned; and if, after confession, he repents of his deed, the qadi may exercise his discretion. If he repents when four witnesses have seen his act, there will be no alteration in the penalty.

If a person is being punished for the third time for the same offence (adultery), he shall be beheaded. A pregnant Woman or a sick person must not receive his or her punishment until the baby is born or the sickness goes away, respectively .

2) The penalties for homosexual acts : The punishment for sodomy between two males (liwat) is more severe than that for any other crime. It is the only case in which the offender may be burnt to death. The qadi may sentence the active partner in the act to one of four penalties: beheading, stoning to death, being thrown from a height so that his bones are all broken up, burning to death. The passive partner, if he is adult and responsible for his actions, is to be beheaded. If he is not yet of the age of puberty, he will be given a reduced punishment (ta'zir). The same conditions of proof hold here as in adultery.

In the female homosexual act (sihaq), both offenders will be given a hundred lashes. If they are married, it is not impossible for them to be stoned to death.

3) The penalty for the procurer: the procurer (qawwad) who arranges for an unlawful sexual act to take place, will be given seventy lashes, his head will be shaved, and he will be expelled from the city. The proof for this is met by the evidence of two just melt or by a confession made twice.

4) The penalty for false witnessing and slander. if someone falsely accuses a sane, adult and free Muslim of a crime for which some sentence can be inflicted, for instance, adultery, sodomy or drinking wine, then the false accuser shall be punished with eighty lashes. In case of the proof being admissible on confirmation by the accused person, the sentence against the accuser shall become void. The crime shall be considered proved as long as there is "bayyinah") (see above).

It is also a punishable offence for a person to call someone else with some undesirable epithet which he does not deserve, e.g. "sinner", "corrupter", "leper", etc. If someone claims to be a prophet, or curses or declares enmity with one of the fourteen pure ones (the Prophet (s.a.w.), the twelve Imams (a.s.) and Hadrat Fatima), he shall be beheaded.

5) The penalty for the drunkard: the penalty for any one who avails himself of any intoxicating beverage of any kind is eighty lashes, to be given on his or her bare neck and arms.

If someone has been punished for three times and he commits the crime a fourth time, he or she shall be beheaded. One who considers wine lawful is liable to the same punishment.

If the dealer in wine repents and leaves his profession, it is well and good, otherwise he too shall be liable to beheading.

6) The penalties for theft: if an adult and sane person steals something from a "safe" place (i.e. somewhere which is locked or firmly closed, or someplace similar) which is valued at more than a quarter of a mithqal (about 1 gm - a mithqal is a little over 4.5 grams 0) of pure gold, he will have the four fingers of his right hand cut after duly being sentenced by a qadi on the evidence of double confession or "bayyinah" (see above).

If he commits the crime a second time, his leg will be cut off under the knee. For the third offence, he shall be sentenced to life imprisonment. And, if he commits theft in prison, he shall be beheaded. If he has committed theft a number of times before he is subjected to the prescribed punishment, only one penalty shall be inflicted upon him.

For children and insane people, there is no hadd only ta'zir (a lenient punishment). The thief must invariably have to pay compensation, and for this, one acknowledgement, or the evidence and oath of one just witness is sufficient.

The "hands" of the father shall not be cut off for stealing the property of the son. But, if, conversely, the son steals, his "hands" shall be cut off

7) The penalty for causing fear and terror (muharib): if someone causes fear among the people in a town or in the open country or at sea and/or intimidates them for the purposes of seizing what belongs to them, the qadi

is empowered to have him or her executed, crucified, to have his right hand and left foot cut off, or to have him banished from the country.

God, the Most High, has said, "The recompense of those who war against God and His Messenger, and strive in the land spreading corruption, is only that they be slain or crucified or their hands and their feet should be cut off, from the opposite sides, or be banished from the land." (5:33)

In case of banishment, the people of the place to which the culprit has been deported must be informed in writing, so that they may refuse him entry to their meetings, to their meals, etc., till he repents.

The thief who attacks a house is also a "muharib". If he is killed, his blood will be considered shed with impurity.

If someone attacks the modesty of a woman or her child, these latter have the right of self-defence. If the assailant is killed in the struggle, (his blood too will have been shed with impunity. Thugs, ruffians and false witnesses (excluding those in 4 above) are liable to reduced punishment. The judge can give them any appropriate punishment.

8) Sundry penalties: anyone who perpetrates an indecent act with a quadruped shall be given a less severe punishment. If he persists in his activities, he may be executed. The meat of the animal (if it is a lawful animal) will become forbidden, and it must be slaughtered and its body burnt. In case it belongs to someone other than the perpetrator of the act, he must be awarded the cost of the animal. If the animal is of doubtful ownership, it should be decided by lots.

If the animal is in any case unlawful, it must be sold in another city, and the price obtained given in charity. If the animal belongs to another, he must be suitably recompensed for his loss. The evidence of two just persons or a double confession is sufficient to prove guilt.

A person who has sexual intercourse with a dead body shall be dealt with as if it were alive; rather, the punishment will be even more severe. In the case of it being the body of his wife or slave girl, the punishment will be milder. The proof for this is the same as is required for adultery.

A person who indulges in masturbation also deserves a mild punishment.

As far as is possible, every person has the right to defend his own person as well as his property and the persons of his family. But he should start by adopting less severe measures, and he should only increase his precautions if necessary.

If someone looks without permission into someone else's house and the dwellers pelt him with stones causing his death, do penalty may be extracted from them, and his blood is considered shed with impunity.

Murder is the greatest sin and the greatest social crime. "And whose slays a believer willfully, his recompense is Hell, therein dwelling forever, and God will be wroth with him and will curse him, and prepare for him a mighty chastisement." (4:93) Crimes against the person, whether it causes death, loss of a part of the body, or not, can be divided into three kinds:

- 1) premeditated or willful,
- 2) similar to (1),
- 3) by accident.

First, (1), premeditated or willful, needs no explanation. (2) means that the attacker took the initiative, but did not intend to kill. For example, someone beats someone else as a warning, but this results in death, or a person is given some medicine to cure him, but it ends his life. (3) accidental means that there is neither any intention nor any initiative, yet someone is killed; for instance, somebody is aiming at a bird and, by mistake, a human being becomes the victim, or a man is lifting his gun and it accidentally goes off and kills somebody.

More clear examples are the actions of a man who is sleep walking, of an unconscious person, of a mad man or of an innocent child.

It must be clearly observed that as far as the crime and its punishment is concerned, there is no difference between the actual committer of the crime and the person who devised and ordered it to be done; nor does it make any difference if the crime is committed by one or many.

Retaliation (qisas) applies only in the case of willful or premeditated murder or injury. In (2) and (3) there are only compensation (diyah). There can be no retaliation from the child or the lunatic, nor can there be any retaliation if the murdered person is a child or a lunatic. An adult who kills a child is subject only to the deliverance of compensation. However, some jurists are of the opinion that there is retaliation here, and also for the killing of a lunatic.

Another condition for retaliation is that the culprit was not compelled or under constraint, although this does not apply in the case of death, for in a matter of murder, there is no "taqiyah" (dissimulation). It is also necessary that the person murdered by "without sin", i.e. not someone whose death is permitted by the shari'ah.

There is no retaliating against the father, the grandfather or the great-grandfather, if they murder their son, grandson or great-grandson, only compensation. A Muslim is subject to retaliation only in the case of the murder of another Muslim. Likewise, retaliation shall be taken against the freedman only for the murder of a freedman.

The blood money or compensation for a free Muslim is: a hundred camels, or two hundred cows, or a thousand sheep, or two hundred items of clothing, each consisting of two parts, or a thousand dinars. If the heirs of the murdered person agree to take the compensation, retaliation is voided, and the murderer must pay the compensation within one year. In (2), the period for payment is two years. In (3), the period is three years, with a third being payable each year.

In cases of parts of the body, retaliation can be extracted if the action was deliberate. The retaliation is like for-like, i.e. an eye for an eye, an ear for an ear, and a tooth for a tooth.

If the crime is of kinds (2) or (3), there are special compensations: some equivalent to the whole compensation for a man (i.e. 1000 dinars), some a half, and some less than a half. In general, organs and parts of the body which occur singly, such as the nose or the penis, demand the whole compensation, those which occur in twos demand half the compensation (i.e. two hands demand the whole compensation). In (1) and (2) the

compensation must be paid by the culprit himself, but in (3) it may be paid by his 'aqilah (certain near relatives on the father's side).

If the reader is interested, he or she may consult the extensive books which deal with this topic for further details. However, since it was our intention to deal with, matters only briefly, we have left out a great many things.

Our purpose was to give a few examples, so that our aim might be made clear with only a few references.

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