Vow and Convent

Vow (Nazr)

2649. Vow means making it obligatory upon oneself to do some good act, or to refrain from doing an act which it is better not to do, for the sake of, or for the pleasure of Allah.

2650. While making a vow, a formula declaration has to be pronounced, though is not necessary that it should be in Arabic. If a person says: "When the patient recovers from his ailment, it will be obligatory upon me to pay $10 to a poor man, for the sake of Allah," his vow will be in order.

2651. It is necessary that the person making a vow is baligh and sane, and makes the vow with free will and intention. If he has been coerced to make a vow, or if he makes it owing to excitement, without any intention or choice, his vow is not in order.

2652. If a person who is feeble-minded, (i.e. one who squanders his property for useless purposes) makes a vow, for example, to give something to poor, his vow is not in order. Similarly, if a bankrupt person makes a vow to pay from the wealth over which he has no right of disposal or discretion, the vow will not be valid.

2653. If a husband disallows his wife to make a vow, her vow will not be valid, if that vow in any way violates the rights of the husband. Similarly, a wife making a vow to pay from her wealth, without her husband's permission, commits an act which is not free from Ishkal, except when the vow is for Hajj, Zakat, Sadaqa or for doing a good turn to her parents, or her blood relations.

2654. If a woman makes a vow with the permission of her husband, he cannot abrogate her vow, or restrain her from fulfiling her vow.

2655. If a child (son or daughter) makes a vow, with or without the permission of his/her father, he/she should fulfil his/her vow. However, if his/her father or mother disallows him/her to fulfil the vow, his/her vow is void, provided that the fulfilment of the vow does not have any priority.

2656. A person can make a vow only for an act which is possible for him to fulfil. If, for example, a person is not capable of travelling up to Karbala on foot, and he makes a vow that he will go there on foot, his vow will not be in order.

2657. If a person makes a vow that he will perform a haraam or makrooh act, or that he would refrain from a wajib or mustahab act, his vow is not valid.

2658. If a person makes a vow that he will perform or abandon a normal act, the performing or

abandoning of which has equal merits, his vow is not in order. But if performing it is better in some respect, and a person makes a vow keeping that merit in view, for example, if he makes a vow that he will eat a certain food so as to gain strength for worshipping Allah, his vow will be in order.

Also, if its renouncing is better in some respect, and the vow to renounce it is made with that intention, for example, if he finds smoking is harmful and makes a vow not to smoke, his vow is in order. However, at any time when he feels that smoking is not harmful for him, the vow will cancel by itself.

2659. If a person makes a vow, that he will offer his obligatory prayers at a place where offering does not inherently carry higher spiritual merits, for example, he makes a vow to offer his prayers in a certain room, his vow will be valid, only if, offering prayers there has some merit, like, being able to concentrate better due to solitude.

2660. If a person makes a vow to perform an act, he should perform it in strict accordance with his vow. If he makes a vow to give Sadaqa, or to fast on the first day of every month, or to offer prayers of the first of the month, if he performs these acts before that day or after, it will not suffice. Also, if he makes a vow that he will give Sadaqa when a patient recovers, but gives away before the recovery of the patient, it will not suffice.

2661. If a person makes a vow that he will fast, without specifying the time and the number of fasts, it will be sufficient if he observes one fast. And if he makes a vow that he will offer prayers, but does not specify its number and particulars, it will be sufficient if he offers a two rak'at prayers.

And if he makes a vow that he will give Sadaqa, not specifying its nature or quantity, and he gives something which can be deemed as Sadaqa, his vow will be fulfilled. And if he simply makes a vow that he will act to please Almighty Allah, his vow will be fulfilled if he offers one prayers, or observes one fast, or gives away something by way of Sadaqa.

2662. If a person makes a vow that he will observe fast on a particular day, he should observe fast on that very day; and if he does not observe fast on that day intentionally, he should, besides observing the qadha for that fast, also give Kaffarah for it. And the Kaffarah applicable in this case is the one prescribed for violation of the Oaths, as will be mentioned later. However, travelling for him on that day is permissible, and he will not fast.

Also, it is not obligatory upon him to make a niyyat for ten days so as to be able to fast. If a person who made the vow could not fast on the particular day because of being on a journey, illness, or in the case of a woman, being in the state of Haidh, or for any good excuse, then he will give only qadha of that fast, and there will be no Kaffarah.

2663. If a person, of his own choice and volition, violates his vow, he should give Kaffarah for it.

2664. If a person makes a vow to renounce an act for some specified time, he will be free to perform that act after that time has passed. But if he performs it before that time, due to forgetfulness, or helplessness, there is no liability on him. Even then, it will be necessary for him to refrain from that act for the remaining time, and if he repeats that act before it without any excuse, he must give Kaffarah for it.

2665. If a person makes a vow to renounce an act, without setting any time limit, and then performs that act because of forgetfulness, helplessness or carelessness, it is not obligatory for him to give a Kaffarah, but, after the first instance, if he repeats the act again at any time, voluntarily, he must give Kaffarah for it.

2666. If a person makes a vow that he/she will observe fast every week on a particular day, for example, on Friday, and if Eid ul Fitr or Eid ul Azha falls on one of the Fridays or an excuse like journey (or menses in the case of women) springs up for him/her, he/she should not observe fast on that day, but give its qadha.

2667. If a person makes a vow that he will give a specific amount as Sadaqa, and dies before having given it away, it is not necessary that that amount be deducted from his estate. It is better that the baligh heirs of the deceased give that amount as Sadaqa on his behalf, out of their own shares.

2668. If a person makes a vow that he will give Sadaqa to a particular poor, he cannot give it to another poor, and if that poor person dies, he should on the basis of recommended precaution, give the Sadaqa to his heirs.

2669. If a person makes a vow that he will perform the Ziyarat of a particular holy Imam, for example of Abu Abdillah Imam Husayn (A.S.) his going for the Ziyarat of another Imam will not be sufficient, and if he cannot perform the Ziyarat of that particular Imam because of any good excuse, nothing is obligatory on him.

2670. If a person has made a vow that he will go for Ziyarat, but has not included in his vow that he will do Ghusl or pray after the Ziyarat, it is not necessary for him to perform those acts.

2671. If a person makes a vow that he would spend some amount of money on the shrine of one of the Imams, or the descendants of the Imams, without having any particular project in mind, he should spend it on the repairs, lighting, carpeting etc. of the shrine.

2672. If a person makes a vow to use something in the name of Holy Imam himself, and has an intention to put it to a specific use, he should spend it for that very purpose. And if he has not made an intention to put it to any specific use, it is better that he should use it

for a purpose which has some relationship with that Imam, for example, he should spend it on poor Zawwar of that Imam, or on the shrine of the Imam, like its repairs etc. or for such purposes which would glorify the memory of that Imam. The same rule applies in the case of the descendants of the Imams.

2673. If someone makes a vow that he would give a sheep as Sadaqa, or in the name of a Holy Imam, and if it gives milk, or gives birth to a young one, before it is put to use in accordance with the vow, the milk or the lamb will be the property of the person who made the vow, unless he had included them in his vow. And the growth of fat on the animal will be considered part of the vow.

2674. If a person makes a vow for an act, if a patient recovers or a traveller returns home, and if it transpires later that the patient had already recovered or the traveller had already returned before he had made the vow, it will not be necessary for him to fulfil his vow.

2675. If a father or a mother makes a vow that he/she will marry their daughter to a Sayyid, the option rests with the girl when she attains the age of puberty, and the vow made by the parents has no significance.

2676. When a person makes a covenant with Allah, that if his particular lawful need is fulfilled, he will perform a good act, it is necessary for him to fulfil the covenant. Similarly, if he makes a covenant without having any wish, that he will perform a good act, the performing of that act becomes obligatory upon him.

2677. As in the case of vow, a formal declaration should be pronounced in the case of covenant ('Ahd) as well. And it is commonly held that the covenant that one makes should be related to either acts of worship, like, obligatory or Mustahab prayers, or to acts whose performance is better than its renunciation. But this is not so. In fact, all covenants which fall within the category specified in rule no. 2680 related to oaths, are valid and ought to be fulfilled.

2678. If a person does not act according to the covenant made by him, he should give a Kaffarah for it, i.e. he should either feed sixty poor persons, or fast consecutively for two months, or set free a slave.

Rules regarding oath (Qasam)

2679. If a person takes an oath that he will perform an act (e.g. that he will fast) or will refrain from doing an act (e.g. that he will not smoke), but does not intentionally act according to his oath, he should give Kaffarah for it, which means he should set a slave free, or should fully feed ten indigent persons, or should provide them with clothes. And if he is not able to perform

these acts, he should fast for three consecutive days.

2680. The conditions for validity of an oath are:

1. A person who takes an oath should be Baligh and sane, and should do so with free will and clear intention. Hence, an oath by a minor, an insane person, an intoxicated person, or by a person who has been coerced to take an oath, will not be in order. Similarly, if he takes an oath involuntarily, or unintentionally, in a state of excitement, the oath will be void.

2. An oath taken for the performance of an act which is haraam or makrooh, is not valid. Similarly, an oath for renouncing an act which is obligatory or Mustahab is also void. And if he takes an oath to perform a normal or usual act, it will be valid, if that act has any preference in the estimation of sensible people.

Similarly, if he takes an oath for renouncing a usually permissible act, it will be valid if it is deemed more preferable than its performance, by the sensible people. In fact, in each case, his own judgement about the preferences will be enough to grant validity to the oath, even if other sensible people may not concur.

3. The oath must be sworn by one of those names of the Almighty Allah which are exclusively used for Him, (e.g. 'Allah'). And even if he swears by a name which is used for other beings also, but is used so extensively for Him, that when any person utters that name one is reminded of Him Alone, for example, if he swears by the name Khaliq (the Creator) and Raziq (the Bestower), the oath will be in order.

In fact, if he uses other names or attributes of Allah, which do not remind of Him, but give that connotation when used during an oath, like Samee' (All Hearing) or Baseer (All Seeing), even then the oath will be valid.

4. The oath should be uttered in words, but a dumb person can take an oath by making a sign. Similarly, if a person is unable to utter the words, he may write down the oath, repeating in his mind the intention for it, that will be a valid oath, though as a precaution, he may confirm the oath in other ways as well.

5. It should be possible for him to act upon his oath. And if he was able to act upon the oath when he took it, but became incapable of acting upon it later, the oath becomes nullified from the time he became incapable of acting upon it, provided that he did not incapacitate himself purposely. And the same rule applies if acting upon one's vow, oath, or covenant, involves unbearable hardship.

2681. If the father forbids his son to take an oath, or the husband forbids his wife to take an oath, their oath is not valid.

2682. If a son takes an oath without the permission of his father, or a wife takes an oath

without the permission of her husband, the father or the husband can nullify the oath.

2683. If a person does not act upon his oath because of forgetfulness, helplessness or heedlessness, he is not liable for Kaffarah. And the same rule applies, if he is forced not to act upon his oath. And if an obsessed person takes an oath like, if he says: "By Allah, I am going to offer prayers now at once," and then does not offer prayers owing to the whims haunting him, which renders him incapable of acting according to the oath it is not necessary for him to give Kaffarah.

2684. If a person swears to confirm that he is telling the truth, and if that is actually the truth, his taking of the oath is Makrooh; and if it is a lie, his taking of the oath is haraam. In fact, to make a false oath in the cases of dispute is a major sin. However, if a person takes a false oath in order to save himself, or another Muslim from the torture of an oppressor, there is no objection in it, in fact, at times it becomes obligatory.

However, if a person can resort to 'Tauriyat' (dissimulation), that is, if at the time of taking an oath, he makes a vague, feigned utterance with no intention of resorting to falsehood, then it is better for him to do so. For example, if an oppressor or a tyrant who wants to harm someone asks him whether he has seen that person, and he had seen him an hour earlier, he would say that he has not seen him, meaning in his mind that he has not seen him during the last few minutes.

Rules Regarding Waqf

2685. If a person makes something Waqf, it ceases to be his property, and neither he nor anybody else can either gift it or sell it to any person. Also, no one can inherit anything out of it. There is, however, no harm in selling it in certain circumstances, as mentioned in rules nos. 2102 and 2103.

2686. It is not necessary to utter the formal declaration of Waqf in Arabic. If, for example, a person says: "I have waqfed this book for the students" it will be considered valid. In fact, Waqf is established by conduct as well.

Therefore, if a person spreads a mat in a mosque with an intention of Waqf, or constructs a building having an appearance of a mosque, with an intention of giving it away as a mosque, the Waqf will be established. In the cases of public Waqfs, like a mosque, a madressah, any public utility, or Waqf for general poor or Sadat, it does not require anyone to make a formal acceptance. In fact, even private Waqf, like the one created for one's own children, do not require any reciprocal acceptance.

2687. If a person marks a property for Waqf, but regrets before actually making a Waqf, or dies, the Waqf is not considered as established.

2688. If a person Waqfs a property, he should make it a perpetual Waqf from the day he declares the Waqf. Therefore, if he says: "This property is Waqf after my death" the Waqf will not be valid, because it would not cover the period from the time of declaration till his death. Also, if he says: "This property will remain Waqf for ten years and will not be Waqf thereafter" or says: "It will be Waqf for ten years and thereafter it will not be Waqf for five years, and will become Waqf again after the expiry of that period", such a Waqf will not be valid.

2689. A private Waqf will be valid when the property which has been waqfed is given away, at the disposal of beneficiaries of the first category, or their representative or guardian. And, if a person Waqfs something upon his minor children, and looks after it on their behalf with the intention that it will become their property, the Waqf is in order.

2690. In the case of public Waqf like madressahs, mosques etc. it is not necessary that it be possessed by any gesture. The Waqf is established immediately upon its declaration as such.

2691. It is necessary that the person who makes a Waqf should be Baligh and sane, and should be doing so of his free will and niyyat. Also, he should have the right, according to Shariah, of disposal and discretion over his property. Based on this, feeble-minded person who squanders his wealth and is therefore debarred, cannot make a valid Waqf.

2692. If some property is made Waqf for an unborn child, it is a matter of Ishkal for that Waqf to be valid, and it is necessary to observe precaution in this case. But, if Waqf is created for some persons who are present at that time, and also for the persons who will be born later, even if they may not be in the womb of their mothers when the Waqf was made, it will be in order.

For example, if a person Waqfs a property for his children and after them for his grandchildren, and for every succeeding generation to benefit from it, the Waqf is in order.

2693. If a person creates a Waqf for himself, for example, if he Waqfs a shop for himself so that its income may be spent for the construction of his tomb after his death, the Waqf is not in order. But, if, he creates a Waqf for the poor and later on, he himself becomes poor, he can benefit from the accruals of that Waqf.

2694. If a person appoints a Mutawalli (trustee) of the property waqfed by him, the trustee should act according to his instructions, but if he does not appoint a trustee and say, he has waqfed the property for a particular group, like, for his children, the discretion rests with them, and if they are not baligh, the discretion rests with their guardian.

And the permission of the Mujtahid is not necessary for appropriating any benefit from the Waqf. But for any such steps taken to safeguard the interest of the Waqf, or the interest of future generations, like repairing or hiring it for the benefit of the future generation, permission

from the Mujtahid is necessary.

2695. If a person Waqfs a property, for example, for the poor, or for the Sayyids, or he Waqfs it for charitable purposes, and does not appoint the trustee for the Waqf, the discretion with regard to that Waqf rests with the Mujtahid.

2696. If a person Waqfs a property for a particular group, like, his descendants, so that every generation should benefit from it successively, and to achieve that purpose, the trustee of the Waqf leases it out, and then dies, the lease will not become void.

But, if the Waqf has no trustee, and one generation for whom the property has been waqfed, leases it out and they die during the currency of the lease, and the next generation does not endorse the lease, the lease becomes void; and if the lessee has given rent for the entire period, he is entitled to receive the refund of rent which covers a period from the time of their death till the end of the period of lease.

2697. If the Waqfed property is ruined, its position as Waqf is not affected, except when the Waqf is of a special nature, and that special feature ceases to exist. For example, if a person endows a garden and the garden is ruined, the Waqf becomes void and the garden reverts to the heirs of the person.

2698. If one part of a property has been waqfed and the other part is not, and the property is undivided, the Mujtahid, or the trustee of the Waqf, or the beneficiaries can divide the property and separate the Waqf part in consultation with the experts.

2699. If the trustee of Waqf acts dishonestly, and does not use its income for the special purposes, the Mujtahid should assign an honest person to act with the dishonest trustee in order to restrain him from acting dishonestly. And if this is not possible, the Mujtahid can replace him with an honest trustee.

2700. A carpet which has been waqfed in Husayniya (Imambargah) cannot be used in mosque for offering prayers, even if the mosque may be near the Husayniyah.

2701. If a property is waqfed for the maintenance of a mosque, and that mosque does not stand in need of repairs, and it is also not expected that it will need repairs for quite some time, and if it is not possible to collect and deposit the accrual till such time when it could be used for the repairs, then, as an obligatory precaution, the income should be used for the purposes which has nearest conformity with the intention of the one who waqfed it, like spending it in other needs of the same mosque, or for the repairs of any other mosque.

2702. If a person waqfs some property for the repairs of a mosque, and the Imam of the congregation, and the Mu'azzin, and if the quantity for each has been specified by the donor, it should be spent in the same manner.

But if, it is not specified, the mosque should be repaired first, and if there is any balance, it should be distributed between the Imam of the congregation and Mu'azzin, by the trustee, as he deems fit and proper. But it is better that these two beneficiaries reach a compromise between them in respect of the distribution.