(Usurpation (Ghasb

Usurpation means that a person unjustly seizes the property or right of another person. This is one of the major sins and one who commits it will be subjected to severe chastisement on the Day of Judgement. It has been reported from the Holy Prophet (s.a.w.a.) "that whoever usurps one span of another's land, seven layers of that land will be put round his neck like a yoke on the Day of Judgement."

2554. If a person does not allow the people to benefit from a mosque, a school, a bridge and other places which have been constructed for the use of the public, he usurps their right. Similar is the case of a person who reserves a place in the mosque for himself and does not allow any other person to use it. And also one who drives that person out from that place commits a sin.

2555. If it has been mutually agreed by the mortgager and the mortgagee that the mortgaged property will remain with the creditor or with a third party, the mortgager (i.e. the debtor) cannot take it back before having paid the debt. And if he takes, he must return to the creditor immediately.

2556. If a third person usurps the property which has been mortgaged to a person, the owner of the property as well as the mortgagee can demand from him the thing he has usurped. When the thing is returned from him, it becomes mortgaged again. And if that thing perishes and its substitute is taken, that substitute also becomes mortgaged like the original thing itself.

2557. If a person usurps a property, he should return it to its owner, and if it is lost he should compensate him for it.

2558. If some benefit accrues from a thing which has been usurped, for example, if a lamb is born of a sheep which has been usurped, it belongs to the owner. Moreover, if, for example, a person has usurped a house, he should pay its rent even if he does not occupy it.

2559. If a person usurps something belonging to a child or an insane person, he should return it to his guardian, and if it has been lost he should replace it.

2560. When two persons usurp a thing jointly, and if they have full control over it, each one of them is fully responsible for the whole of it, even if one of them alone might not have been able

.to usurp it

If a person mixes something usurped by him with another thing, for example, he mixes .2561 wheat usurped by him with barley, and if it is possible to separate them, he should separate .them even if it may very difficult to do so, and return the usurped thing to its owner

If a person usurps a piece of golden ornament, like an earring and melts it, he should .2562 return it with the difference between the value before and after the melting. And if with the object of not paying the difference, he says that he is ready to make it like the original one, the owner is not obliged to accept the offer. Also, the owner, too, cannot compel him to make it like .the original one

If a person changes a usurped thing into something better than before, for example, if he .2563 makes an earring from the gold usurped by him, and the owner asks him to give it to him in the same (i.e. changed) form, he should give it to him in that form. He cannot claim any charges from the owner for his labour. Similarly, he has no right to give him the thing in its original form without his permission, and if he gives the thing in its original form without his permission, or changes it into another shape, it is not known whether he will be responsible for the difference .in the value

If a person changes the thing usurped by him in such way that it becomes better than its .2564 original form, but its owner asks him to change it back to its original condition, it will be obligatory on him to do so. And if due to the change, its value decreases, he should pay the difference in the value to the owner. Therefore, if he makes an earring from the gold usurped by him and its owner asks him to change it back to its original shape, and if after melting it, its value becomes less than what is originally was before making the earring, he should pay the .difference

If a person usurps a piece of land and cultivates or plants trees on it, the crop and the .2565 trees and their fruits are his own property, and if the owner of the land is not agreeable to the crops and the trees remaining on his land, the person who has usurped the land, should pull them out immediately even if he may suffer loss for that. Also, he should pay rent to the owner of the land for the period the crop and the trees remained on his land, and should also make up for the damage done to the land, like, he should fill up the holes from which the trees are pulled out. And if the value of land decreases because of that, he should compensate. Moreover, he cannot compel the owner of the land to sell it or lease it out to him, nor can the owner of the

.land compel him to sell the trees or crops to him

If the owner of the land agrees to the crops and trees remaining on his land, it is not .2566 necessary for the usurper of the land to pull them out. However, he should pay the rent of the land from the time he usurped it till the time the owner of the land agreed to the trees and .crops remaining on it

If a thing usurped by a person perishes and if it is like a cow or a sheep, the price of .2567 each one of which differs on account of individual characteristics, the usurper should pay its price; and if its market value has undergone a change on the grounds of demand and supply, he should pay the cost which was at the time it perished. And the recommended precaution is .that he should pay its highest price from the time it was usurped till the time it perished

If the thing usurped by a person which has perished is like wheat and barley, whose .2568 prices do not differ due to individual specifications, he (the usurper) should pay a thing which is similar to the one usurped by him. However, the quality of that replacement should be the same as of the thing which has been usurped and has perished. For example, if he has usurped .rice of superior quality, he cannot replace it with rice of inferior quality

If a person usurps something like a sheep and if it perishes, and if its market price has .2569 not changed but during the time it was with him it became fat, the usurper should pay the price .of a fat sheep

If the thing usurped by a person is usurped from him by another person and it perishes, .2570 the owner of the thing can take its compensation from any one of them, or can demand a part of the compensation from each of them. And if he takes compensation for the thing from the first usurper, the first usurper can demand whatever he has given from the second usurper. But if he is compensated by the second usurper, that second usurper cannot demand what he has .given, from the first usurper

If one of the conditions of transaction is not present at the time of sale; for example, if a .2571 thing which should be purchased and sold by weight is sold without being weighed, the contract is void. And if the seller and the buyer accept the deal irrespective of the mode of transaction, there is no harm in it. Otherwise, the things taken by them from each other will be treated as usurped property and should be returned to each other. And if the property of each of them perishes while in the custody of the other, he should pay compensation for it .regardless of whether or not he knows that the transaction was void

If a person takes some thing from a seller so that he may see and check it, or may keep .2572 it with him for sometime so that he may purchase it, if he likes it, and if that property perishes, .he should pay compensation for it to its owner