Introduction

The *Hajj* in Islam, being incumbent upon a *mustati*, is not obligatory for more than once in the entire lifetime (of an individual).

The obligation of *Hajj* is immediate for a *mustati*; i.e. the *Hajj* should be performed in the first year of *istitaah* and any delay in it is not permissible. In case of delay, the obligation still remains and it should be performed in the following years.

If after *istitaah*, *Hajj* requires preliminaries like travel provisions, these should be arranged for, so that the *Hajj* could he performed in the very first year (of *istitaah*) In case of dereliction of the individual such that he could not go on *Hajj* in that year, the *Hajj* obligation remains and should be fulfilled later on under any conditions, even if the status of *istitaah* is lost.

Conditions For The Obligation Of Hajj In Islam

Several conditions make the *Hajj* obligatory, and without all of them the *Hajj* would not he obligatory.

A And B: Maturity And Sanity

Hajj is not incumbent on the children and the insane.

If a child is made *muhrim* for *Hajj* and becomes religiously mature in the process of the pilgrimage, the *Hajj* would be acceptable as the required *Hajj* of Islam.

One who thought that he was religiously immature and went on *istihbabi Hajj* and then realised that he was religiously mature, cannot consider his *Hajj* as the required *Hajj* of Islam, unless he had made the *niyyah* to perform the *Hajj*, which the Divine Legislator (Allah the Almighty) has decreed for him.

Atonement for hunting rests with the guardian. Other types of atonements obviously do not rest with either the guardian or the child.

In *Hajj*, the child's guardian should procure sheep for sacrifice.

C. Having Financial Istitaah, Physical Health And Ability, And Free Access And Sufficient Time

Financial *istitaah* means having provisions for the *Hajj* journey and the means of conveyance for it. If the likes of these are not possessed, something such as money or another commodity should be available for possible use to obtain the required provisions. It is a condition that the individual should financially afford his return trip. Other issues related to *istitaah* will be subsequently explained.

For *Hajj* to become obligatory, the individual should be able to afford expenses of departure and return. In addition, he should have whatever is imperative for a living and sustenance such as a residence, household appliances, automobile and the like, in accordance with his social standing and honour. In case he lacks these things, he should possess money or anything else with which he could provide them.

One who needs to get married and for whom abstaining from marriage would result in disease or the commitment of sin and forbidden acts, and who needs money for marriage, would become *mustati* when the marriage expenses are met in addition to the *Hajj* expenditures.

If one has money owed to him and possesses the rest of the conditions for *istitaah*, he should receive the amount owed to him if the due time of payment has arrived provided he could obtain it without difficulty. Then he should go on *Hajj*.

If one who does not afford *Hajj* obtains a loan to cover its expenses, he will not become *mustati*, and the *Hajj* he performs will not be considered the required *Hajj* of Islam.

One, who can afford *Hajj* expenses but has debt as well, should go on *Hajj* if he has time for repayment and he is confident that when repayment time comes he can afford to repay his debt. The same rule applies to a case when repayment time approaches yet the creditor agrees to defer repayment and the debtor is confident that he can repay it at the determined time.

Apart from these two cases, *Hajj will* not be regarded as obligatory.

If the high expenses of the *Hajj* do not make the prospective pilgrim unable to afford the pilgrimage, this will not remove the obligation of *Hajj*, unless such expenses cause distress and difficulty for him.

For those who have extra equipment which they do not require at the moment, and which if sold would cover the *Hajj* expenses, *Hajj* is obligatory, provided that they meet all other conditions for the pilgrimage.

If one doubts whether his property is sufficient enough to make him *mustati* for *Hajj*, it is obviously necessary for him to study the matter. There is no difference regarding the necessity of study and investigation in this matter between the one who does not know the amount of actual estimate of his property and the one who does not know *Hajj* expenditures.

One who knows that under the normal conditions and the expenses of *Hajj* he would not have *istitaah* but who believes that possibly through study and investigation he could find ways to go on *Hajj* under his present conditions, does not need to embark on such investigation. But for one who does not know whether or not he has *istitaah* for *Hajj* it is obviously obligatory to take proper stock of his present financial conditions.

One who is employed to render services to the pilgrims and who could meantime perform all *Hajj* rites and could earn his living upon return would be considered as having *istitaah* for *Hajj*. *Hajj* is obligatory for him and he would meet the requirements of the *Hajj* in Islam, even though it is obligatory for him to be hired.

Among conditions for *istitaah*, the individual should be able to meet expenses of his family (members of the household which are dependent on him) until his return from *Hajj*.

In *istitaah* arising through competence, i.e. upon return from *Hajj* the person has to engage in trade, agriculture, and industrial activity or have property such as orchards and shops in order not to face distress and difficulty in making his living, if he were able to engage in a business befitting his place and position, it would suffice. If upon return, he could make his living with allowance, it would also suffice.

As a result, *Hajj* is obligatory for students of theological seminaries who, upon return from *Hajj*, would require allowances of the theological seminaries and who could make a living with such allowances.

Conditions for the obligation of *Hajj is* physical ability, as well as openness of the route and availability of time. Therefore, *Hajj is* not obligatory for a sick person who lacks the physical strength to go on *Hajj* or who faces great distress and difficulty in doing so. The same applies to a person to whom the route for *Hajj is* closed or who faces time shortage such that he could not go *on Hajj* in due time.

If, while having *istitaah*, a person abstains from going on *Hajj*, he will be committing a sin and is duty-bound to go on *Hajj* in any way possible.

The *mustati* should personally perform *Hajj*. Deputation of *Hajj* would not suffice for him, unless for one who cannot perform *Hajj* due to old age and sickness.

One who is personally *mustati* cannot become a representative to perform another person's *Hajj*. If such a *Hajj* on deputation is performed, it will be null and void.

If one who is required to go on *Hajj* pilgrimage passes away before fulfilling this obligation, his *Hajj* should be performed with what he has left behind, and a *Hajj Miqati* will suffice in such a case.

Miscellaneous Issues Of Istitaah

A woman, who lacked financial means during her husband's lifetime, acquires the financial means for *Hajj* after his death through his inheritance, but since she has an illness that prevents her from going on *Hajj* she will not be called a *mustati* and *Hajj* is not obligatory for her. Likewise, if, after becoming a widow, she does not have a job, farming or industrial occupation with which to earn a living upon return from *Hajj*, she will not become *mustati*, even if what she has received as inheritance is enough for her to go on *Hajj* and return.

A woman whose marriage portion is equal to or more than the *Hajj* expenses is a *mustati* for *Hajj*, provided she can obtain her marriage portion without causing trouble and difficulty (for her husband).

A woman whose marriage portion is sufficient for *Hajj* and is owed the same by her husband, since he cannot afford to pay it does not have the right to demand the marriage portion and is not *mustati*.

If a person has a very expensive house and can go on *Hajj* with the difference earned through selling it and buying a cheaper one, should not sell the house if it is not higher than his status and position. In this case he is not a *mustati*. If the house is more than his social standing, he is a *mustati*, provided all other conditions are met.

Those who can meet the expenses of the *Hajj* journey through business or other means and who upon return can meet a part of their expenses through earnings such as preaching and the remaining part from allowances through legal sources (theological schools) are *mustati*, even if they need the allowance to meet their expenses upon return from *Hajj*.

If one sells a piece of land or something else to buy a house, he will not become *mustati* in case he needs the money to buy a house, even if the money is sufficient to cover the *Hajj* expenses.

When the due time for *Hajj* arrives, the *mustati* cannot dispense with his status of *istitaah*, and before this time, based on *ihtiyat wajib* he should not dispense with the status *istitaah*.

If a person who was hired to go on *Hajj* on behalf of another person who was not a *mustati* at the time of concluding the contract but who before the *Hajj* became a *mustati* through means other than the sum of the contract, should cancel the contract and perform his own obligation of the *Hajj* in Islam.

Caravan attendants who arrive in Jeddah would become *mustati* if, while serving the *Hajj* pilgrims, they are able to perform all *Hajj* rites and rituals and meet all other conditions of *istitaah*, for instance, having actual or potential means of earning a living and being competent for a job or industrial and other ability with which they could earn a proper living upon return. These persons should perform the *Hajj* in Islam that fulfils their obligation of *Hajj*. If the caravan attendants do not meet the required conditions, they're not *mustati* and their *Hajj* will be *istihbabi*, but they should perform the obligatory *Hajj*, if they later become *mustati*.

It is incumbent on the physicians and other people who come to *miqat* on duty and who meet all conditions of *istitaah* in *miqat* to perform the Islamic obligation of *Hajj*, even though it is necessary for them to carry out their duties as well.

One who has financial capability and meets other conditions of *istitaah* should go on *Hajj*. Performing other good deeds such as visiting the holy sites or building mosques will not substitute the obligation of going on *Hajj*.

If, during the obligatory *Hajj*, the *mustati* were to make the intention of *istihbab* due to negligence or on the assumption of not having attained *istitaah*, or even consciously and willfully with the aim of practice for performing the obligatory *Hajj* better the following year, there is a degree of doubt for the fulfilment of *Hajj* unless the intention for the *Hajj* was according to what has been decreed by the Divine Legislator. On this basis, as a matter of *ihtiyat*, he should go on *Hajj* the next year.

If the *mustati* passes away after putting on the *ihram* and entering the Sacred Mosque, the *Hajj* obligation will be removed from him.

If the deceased person was *mustati* in his lifetime and deliberately delayed the *Hajj* pilgrimage, *Hajj* remains due on him and a *Hajj Miqati* should be performed for him from what he has left.

For one who meets all the conditions of a *mustati* for *Hajj* but has not performed it, the obligation of *Hajj* remains, even if due to old age or an incurable disease it is not possible for that person to go on *Hajj* in the latter case the person should send a representative to perform *Hajj* on his behalf.

A wife does not require the permission of her husband to go on obligatory *Hajj*, and she should perform her obligatory *Hajj* even if her husband does not approve of her travelling for *Hajj*.

Family, in case of financial *istitaah* for which *nafaqah* is a requisite, refers to a person's formal family, though it may not be religiously qualified for his maintenance allowance.

Question 1: Suppose a person becomes ill in Madinah (say if he undergoes an apoplexy) and is hospitalised for two weeks by the doctors. If after convalescence, it is difficult to take him to Makkah to perform the *Hajj* rites, what is his duty?

Answer: If it is the first year of *istitaah* and the person lacks the strength, even for an emergency case, to carry out the *Hajj* rites, the status of *istitaah* will become null and void, and the *Hajj* will not be obligatory. If, however, it is not the first year of *istitaah* and the *Hajj* is already incumbent on him and the person is despaired of regaining health, then a substitute should carry out the rites of *Umrah* and *Tamattu*.

Question 2: At present, those who want to perform the *Hajj* pilgrimage should register their names in advance and make the necessary arrangements. If the turn of a person takes several years to come, and before the coming of the turn that person finds other means of going on *Hajj* and borrows money and goes to Makkah, will such a pilgrimage be considered the obligatory *Hajj* of Islam?

Answer: If *Hajj* has not already become incumbent and the person cannot presently go on *Hajj* without borrowing money, *Hajj* is not obligatory for him, and such a pilgrimage cannot be considered the obligatory *Hajj* of Islam.

Question 3: I went on *Hajj* by borrowing money and receiving a month's salary in advance. Since the person who lent the money fully approved of my going on *Hajj* and did not need his money, would my *Hajj* be regarded obligatory or not?

Answer: If your financial *istitaah* met the required conditions, your *Hajj* will be correct and deemed obligatory, provided that you can easily repay your debt later on. But if you obtained financial *istitaah* by borrowing money, you have not become *mustati*, and your *Hajj* will not be considered the obligatory *Hajj* of Islam.

Question 4: Based on lots drawn by the *Hajj* and Pilgrimage Organisation, Allah (SwT) willing, I will be able to go on *Hajj* in the coming years based on the following conditions:

(a) The entire expenses of the *Hajj* performed by my spouse and me have been met by *khums* money.

(b) I am a schoolteacher and lead an ordinary life with continence.

(c) I do not have a house or an automobile of my own. I am a tenant in every city where I work.

(d) I have ordinary housing appliances. In view of these conditions and doubts raised by others about *Hajj* being obligatory for my spouse, and me would our *Hajj* meet conditions necessary for obligation?

Answer: As per the conditions cited, if your spouse has enough money to go on *Hajj* and return, she would be *mustati*. You would have *istitaah* only when you have household appliances for yourself and your family in accordance with your social position, and when upon return you could make a living for yourself and your family through what you earn.

Question 5: If a person was *mustati* but neglected to go on *Hajj* until he lost his turn, now that names are no longer being registered, would it be permissible for him to perform *Hajj* by way of connections and recommendations inside or outside Iran and through expending huge amounts? This is because otherwise, his duty of fulfilling the obligation would be delayed for years and he tears that, Allah (SwT) forbid, he would be considered as one who has forsaken *Hajj*.

Answer: He should go on *Hajj* in any way possible if it does not violate the regulations of the Islamic Republic of Iran, and in a way that he would not face distress and difficulty.

Question 6: Supposing *Hajj* has not already become incumbent on a person but while registering names for the *Hajj*, he became *mustati*. Later on, he, however, faced financial problems and needed the money he had deposited with the bank (for registering his name). Could he withdraw the money or not? Would it make any difference if his turn comes in the first year or in the next years?

Answer: Based on this supposition, he is not *mustati* and can withdraw his money. It would make no difference.

Question 7: A person, who had to perform the obligatory *Hajj* departed for *Hajj* from Pakistan, fell ill in Madinah but continued his journey to Makkah in that condition, and passed away in a hospital in Makkah before performing the *Hajj*. At the time of his death, his entire property consisted of some money and a piece of land in Pakistan. Given the fact that his money is not enough for *Hajj* on his behalf, should his heirs sell the piece of land and hire someone to fulfill his *Hajj*, or would the obligation of *Hajj* no longer be due upon his death?

Answer: If he arrived in Makkah with the *ihram* for *Umrah Tamattu* and passed away before performing *Umrah* or after completing its rites, whatever he performed will be accepted and the obligation of *Hajj* would be removed from him. But if he entered Makkah without *ihram* for *Umrah* and passed away there, and in case *Hajj* had remained incumbent on him, a substitute on his behalf should be hired out of what he has left behind. A *Hajj Miqati* would suffice in such a case. But if *Hajj* had not remained incumbent on him, he would not be considered a *mustati*, and there is no need to hire a person to perform *Hajj* on his behalf.

Question 8: If a person becomes *mustati* in *miqat* and performs the obligatory *Hajj* of Islam, would it suffice or not? Would *kifayah* be a precondition or not?

Answer: If he becomes *mustati*, it is sufficient, but he should have *kifayah*.

Question 9: In cases where an organisation or body sends a person on *Hajj* without asking him to do anything in return, would it be regarded as *Hajj Badhli* and should it be necessarily accepted?

Answer: Provided that it is legitimate, it would be *Hajj Badhli* if there were no commitment to do anything in return for it.

Question 10: A person has four sons, all of whom are married, and can meet his annual expenses and has no debts, but he and his sons make their living jointly from the same source of income. Now, since the *Hajj* expenses of only two people can be met, is *Hajj* obligatory in this case? If so, is it only incumbent on the father or on the sons as well? If *Hajj* is incumbent on the sons, which one has the priority to perform it?

Answer: One who has enough property to meet his *Hajj* expenses, go to Makkah, and upon return afford a living, which befits him, is *mustati* and should perform the *Hajj*.

Question 11: Having financial *istitaah* and being 72 years old, I have been prevented from going on *Hajj* pilgrimage by the Health ministry in accordance with domestic laws, as I am addicted to opium. What is to be done from the viewpoint of *Sharia*?

Answer: If you were previously *mustati* but did not go on *Hajj* pilgrimage, you shoulder the duty of going on *Hajj*. If previously you did not have *istitaah*, you are not *mustati* under the present conditions, unless you can abandon opium addiction, obtain the required permit, and go to Makkah.

Question 12: If a person has capital or equipment and can sell part of it to lead a comfortable life and go on *Hajj* with the difference, would he be *mustati*?

Answer: If all the other conditions are met, he will be deemed *mustati*.

Question 13: A person has an orchard that has not brought him any income for several years but which, if sold, would cover his *Hajj* expenses. He is sure that by the time the orchard bears fruit, he would be old and retired and would be dependent on it for his living. Would such a person be *mustati*?

Answer: If he has no source of income other than the orchard, he will not be considered *mustati*.

Question 14: In the case of debt, how much money should a person possess to have *istitaah*? In case he has the needed money but suffers from cardiac ailment and has been notified by the physicians at the *Hajj* and Pilgrimage Organisation that his pilgrimage might be dangerous, should he substitute someone else?

Answer: If before attaining *istitaah* he fell ill and consequently lacked the strength to go to Makkah, he will not become *mustati* and there is no need to substitute someone else for *Hajj*. In addition, financial *istitaah* would develop only when he has enough money for a round trip and can easily repay his debt.

Niyabah In Hajj

Conditions of the *naib*:

a. Maturity

b. Sanity

c. Faith

d. Confidence in performing the rites

e. Knowledge of *Hajj* rites and rituals

f. Exemption from the obligatory *Hajj* that particular year

g. Having no excuses to abstain from certain *Hajj* rites

Conditions of one for whom a *naib* is hired:

For the obligatory *Hajj*, the person for whom a *naib* is hired should be a deceased one, and in case he is alive. *Hajj* should be incumbent on him, while he cannot personally go on *Hajj* due to an incurable disease or old age. In the *Hajj Istihbabi*, this is not a condition, and the person who hires a *naib* does not have to be mature and sane. There is no need for the *naib* and one who hires him to have familiarity. One who has not so far gone on *Hajj* and is *mustati* can become a *naib* for another person.

Hiring a person who has little time for *Hajj at-Tamattu* and who is compelled to perform the *Hajj al-Ifrad* is not correct for a person on whom *Hajj at-Tamattu* is incumbent. But if the *naib* was hired with ample time and then the time ran out, he should engage in *udul*. This would suffice for *Hajj at-Tamattu*. The *naib* should be paid in return.

One on Whom *Hajj* had become obligatory but had not gone on *Hajj* pilgrimage in the first year of *istitaah* due to ailment or inability to walk because of old age or of imminent distress and difficulty by going on *Hajj* should hire a *naib* in case there is no hope of his recovery. Based on *ihtiyat wajib*, he should immediately hire a *naib*. If *Hajj* does not become incumbent on him, he will definitely face no obligation in this regard.

When the *naib* performs the *Hajj*, the one who hired him does not need to personally go on *Hajj* later even if the excuse he had no longer exists. But if this excuse is removed before the completion of *Hajj*, the pilgrimage on behalf will not suffice.

One on whom *Hajj* is incumbent, whether through having *istitaah* or being duty-bound, should not engage in *niyabah* for another person.

If the hired person dies after *ihram* and entrance into the *Haram*, (Sacred Mosque of the Kabah) this would suffice for the *Hajj* of the one whom he represented. But if he dies after *ihram* and before entrance into the *Haram*, it would not suffice based on *ihtiyat wajib*. In this case there is no difference whether the *Hajj* was supererogatory, by hire (on behalf), the *Hajj* in Islam or the obligatory *Hajj*, the same decree that applies to one who goes on *Hajj* in person would apply here.

If a *naib* is hired to carry out the religious duty of one who hires him – as is the case for hiring the *naib* for *Hajj* – and if he dies after *ihram* and entrance into the *Haram*, he deserves the entire wage (of *naib*).

One who has gone to Makkah as a *naib* without having personally performed the obligatory *Hajj* should follow the *ihtiyat mustahabb* and, after *niyabah*, perform *Umrah Mufradah* for himself. This *ihtiyat* is not binding. Nevertheless, it is highly recommended.

One who cannot perform some *Hajj* rites due to valid reasons cannot be hired as a *naib* for *Hajj*. If such a person who has excuses not to perform some rites, gratuitously and voluntarily goes on *Hajj* on behalf of another person, this would not suffice.

Secondary Issues Related To Niyabah

The caravan attendants who are compelled to leave Mashar at midnight to perform the required tasks in Mina or who have to accompany the weak pilgrims to Mina, would be among those having excuses for not being able to have *ikhtiyari wuquf* in Mashar. Therefore, their *niyabah* will be invalid. But, if they have been hired as a *naib* before employment (as a caravan attendant), they have to perform the *Hajj* and observe *ikhtiyari wuquf*.

For a living person who can hire a *naib*, it would suffice to employ the *naib* at the *miqat*.

One who performed the *Hajj* for the first time, say as a caravan attendant, could go on *Hajj* as a *naib* for his deceased father or mother, unless he was not *mustati* in the first year and has become *mustati* in the next year.

Ihram would be incorrect for one who, as a *naib*, becomes a *muhrim* at the Masjid ash-Shajarah and goes to Makkah where he realises he was personally *mustati*. He should return and become a *muhrim* for his own *Umrah Tamattu* and perform his own religious duties.

The condition of faith and belief of the *naib*, being a prerequisite for *niyabah* in *Hajj*, also applies to other rites in which *niyabah* is permissible, such as *ramy* and *tawaf*.

It is incumbent on the *naib* to perform the rites in accordance with the decrees of his own *Marja Taqlid*.

A *naib* who, at the time of accepting *niyabah*, was fully capable of representing another person at the *Hajj* but who has an excuse at the time of becoming a *muhrim* or even before, could continue his *niyabah* if his excuse does not make him violate some *Hajj* rites. But if his excuse makes him violate some *Hajj* rites, the contract for his *niyabah* could be declared null and void. Based on the *ahwat*, the *naib* and one who has hired him should make a compromise on the former's wages, and the duty of the *Umrah* and *Hajj* would be vested with the latter.

Gratuitous or wage earning *niyabah* is not acceptable from those hired to render services and unable to have *ikhtiyari wuquf* in Mashar, as well as all other people who have excuses and who have performed such incomplete forms of *Hajj*. Their *niyabah* would not be acceptable as the *Hajj* of the persons who have hired them, and they do not deserve wages.

One who cannot perform the *ikhtiyari* rites of the *Hajj* is exempt and cannot become a *naib*.

The *niyabah* of a person who lacks the ability to correct his *qiraah* is null and void. If he has the ability, the *niyabah* of such a person is valid, provided he corrects his *qiraah*.

Question 1: Suppose a person who registers his name, receipt of payment, and specifies in his will that after his demise his son should go on *Hajj* and perform it on behalf of him, passes away. Upon the father's death, the son obtains financial *istitaah* but he can only go on *Hajj* using his father's receipt of payment. Now by using this receipt and arriving at *miqat* should he perform the *Hajj* on behalf of his father? Or would he obtain *istitaah* and have to perform *Hajj* for himself.

Answer: The son can go on *Hajj* using the receipt based on his father's will in case the will for what is additional to the *Hajj Miqati* does not exceed one third and the heirs have allowed it. He should perform the *Hajj* on behalf of his father.

Question 2: In the past two cases, if the son shoulders the duty of performing *Hajj* on behalf of his father but performs his own *Hajj*, would it be considered his obligatory *Hajj* of Islam or not?

Answer: No.

Question 3: A person's father who was *mustati* passes away. The son takes his father's receipt and goes on *Hajj* with the intention of representing his father. He reaches *miqat* where he himself is *mustati*. What should he do? I should explain that there is no will. Nor has he been asked to engage in *niyabah*. For instance, he was the sole heir and *Hajj* would not be possible for him unless in this way.

Answer: In this case, he should perform his own *Hajj* and hire a *naib* for his father.

Question 4: Being responsible for the *Hajj* caravan, I had to take care of the sick and disabled people in my group and, therefore, performed *idhtirari wuquf*. Please explain my religious duty.

Answer: If you accompanied disabled and sick persons who had excuses not to engage in *ikhtiyari wuquf*, here is no problem for you. But if served as a *naib* for someone else, your *niyabah* would not be acceptable.

Question 5: A person served as *naib* for a deceased person without having any excuses not to perform some *Hajj* rites at the time of being hired as *naib*. But several years after performing the *Hajj*, he realised that in the Mashar al-Haram he had engaged in *idhtirari wuquf* with women and sick persons for whom he was guide and went to Mina. He was unaware of the fact that the *naib* should engage in *inkhtiyari wuquf*. What duty does he shoulder?

Answer: This should not have been done on a *Hajj* in which he was hired as *naib* and he does not deserve any wages. In terms of the wages, he should refer to the person who hired him. Or in case his contract for *niyabah* has not expired, he should once again go on *Hajj* as a *naib* and correctly perform the rites.

Question 6: My late father had stated that his eldest son should go to Makkah on his behalf. I am the eldest son and have become *mustati* with the inheritance. So far, I have not been able to convert my share of the inheritance into cash. Under such conditions, can I perform the *Hajj* on my father's behalf or not?

Answer: Supposing that you have financial *istitaah* through converting your share of the inheritance into cash, you should primarily perform your own-obligatory *Hajj* and later on perform it on behalf of your father or hire a *naib* for him.

Question 7: A lady for whom the *Hajj* was obligatory said in her last will that the executor of her will should go on *Hajj* on her behalf using money from what she left behind. Now the executor of her will has physical, financial, and other types of *istitaah*, but has not registered name for *Hajj* based on an excuse and lacks *istitaah* for travelling. Could the executor of the will engage in *Hajj Niyabi*?

Answer: If the executor of the will did not previously have *istitaah*, if the route is not open to him now, and if he is not *mustati*, he can be hired for *Hajj Niyabi*. But if he can reach the *miqat* without being hired, he should not perform *Hajj Niyabi* and should perform his own *Hajj*.

Question 8: While hiring someone for *Hajj*, if the person hiring the *naib* is unaware that the latter has excuses and hires him, would the *niyabah* wages be halal for the *naib*? Would his *Hajj Niyabi* be correct and be considered the obligatory *Hajj* of Islam or other type of *Hajj* for the one who has hired him?

Answer: In case he had an excuse and was hired, he does not deserve wages and it would not suffice for the *Hajj Niyabi*.

Types Of Umrah

As with *Hajj*, *Umrah* also falls into two types: obligatory and recommended. *Umrah* would become incumbent only once in the lifetime of one who has *istitaah*. As with *Hajj*, its obligation is immediate. In its obligation, there is no requirement for having *istitaah* for *Hajj*. If one were *mustati* for *Umrah*, it would become incumbent on him to perform, even if one is not *mustati* for *Hajj*. The opposite also holds true: If a person has *istitaah* for *Hajj* but is not *mustati* for *Umrah*, he should perform the *Hajj*.

But for those who are away from Makkah, such as the Iranians who shoulder the duty of *Hajj at-Tamattu*, the *istitaah* of *Hajj* and the *istitaah* of *Umrah* would be the same, as *Hajj at-Tamattu* is a combination of both. This is contrary to the case of people who are in Makkah or close to it. They shoulder the duty of *Hajj* and *Umrah Mufradah*, for one of which they should have *istitaah*.

Getting into the state of *ihram* is compulsory for anyone who wants to enter Makkah to get to the state of *Umrah* or *Hajj*. If he wants to enter Makkah sometime other than the *Hajj* season, he should perform *Umrah Mufradah*. This does not apply to one for whom only a month has passed after *ihram*. In such a case, *ihram* is not necessary.

Going on repeated *Umrah* (more than once), like going on *Hajj* repeatedly, is *mustahabb*. Spacing is not needed between two *Umrah*, but based on precaution, one can perform only one *Umrah* for himself every month. Each person can however, perform an *Umrah* on behalf of others.

Types Of Hajj

The *Hajj* in Islam is of three types: *Hajj at-Tamattu*, *Hajj al-Qiran*, and *Hajj al-Ifrad*. Those who live over 48 miles away from Makkah should perform *Hajj at-Tamattu*, while *Hajj al-Qiran* and *Hajj al-Ifrad* are incumbent on others.

Hajj Al-Ifrad And Umrah Mufradah

A person who cannot perform *Umrah Tamattu* due to shortage of time should go on *Hajj al-Ifrad*. With the same *ihram* for the *Hajj at-Tamattu*, he can perform the *Hajj al-Ifrad* and go to the plain of Arafat and embark upon *wuquf* like other pilgrims. He should then go to Mashar and stay (*wuquf*). Afterwards, he should go to Mina and perform the Mina rites apart from *hady*, which is not compulsory for him. He should subsequently go to Makkah, perform the *tawaf*, prayer, *Say*, *tawaf an-nisa* and its prayer.

After this, he can dispense with *ihram* and return to Mina to pass the night and spend nights of *tashriq* period as done by other pilgrims. In principle, therefore, *Hajj al-Ifrad* is similar to *Hajj at-Tamattu* with the exception that in the latter case, a *hady* should be offered, while in the *Hajj al-Ifrad*, *hady* is not compulsory and is rather recommended.

Umrah Mufradah, which should be performed after *Hajj* by one, whose *Hajj at-Tamattu* has been turned into *Hajj al-Ifrad* requires departing from *Adni al-Hal*. It is best to put on *ihram* from "Jeranah" or "Hudaybiyah", or "Taneem" which are closer to Makkah. Then he should go to Makkah for circumambulation around the Kabah and recite its prayer, embark upon *Say* between Safa and Marwah, engage in *taqsir* or shave his head, carry out the *tawaf al-nisa* and recite *tawaf* prayer.

Hajj At-Tamattu In Brief

Hajj at-Tamattu includes two rites: *Umrah Tamattu* and *Hajj at-Tamattu*. *Umrah Tamattu* has priority over *Hajj*.

Umrah Tamattu has the following five acts:

1. Getting into the state of the *ihram*
2. *Tawaf* around the Kabah
3. *Tawaf* prayer
4. *Say* between Safa and Marwah
5. *Taqsir*

When the *muhrim* accomplishes these tasks, things, which had become unlawful to him due to *ihram,* become permitted.

Hajj at-Tamattu comprises of the following thirteen acts:

1. Getting into the state of the *ihram*
2. *Wuquf* in the plain of Arafat,
3. *Wuquf* in Mashar al-Haram
4. Stoning the Jamarat al-Aqabah in Mina
5. Offering sacrifice in Mina
6. Shaving the head or *taqsir* in Mina
7. *Tawaf* in Makkah
8. Reciting two *rakah tawaf* prayer
9. *Say* between Safa and Marwah
10. *Tawaf an-nisa*
11. Reciting two *rakah* prayer of *tawaf an-nisa*.
12. Staying in Mina on the 11th, 12th, and 13th Dhul al-Hijjah (for some people)
13. *Ramy Jamarat* on the 11th 12th of Dhul al-Hijjah. Those who remain in Mina on the night preceding the 13th should engage in *ramy jamarat* on the 13th.

It is permissible to perform *Umrah Mufradah* during the *Hajj* season before *Umrah Tamattu*.

Based on precaution, one should observe a month's space between the two *Umrah* he undertakes for himself. If the second *Umrah* is performed through *niyabah*, the *naib* can receive wages for it. If the *Umrah Mufradah* were obligatory for the one who has hired the *naib*, it would be sufficient.
