

Jurisprudence (Fiqh)

Question52

Q.52: What is the difference between *Nawafil* (highly recommended) and *Mustahabbat* (recommended)? When are *Nawafil* of daily ritual prayers performed and when do they lapse?

A: *Nawafil* means deeds, which are desirable among non obligatory acts. In other words, one is allowed to leave them. Literally, *Nawafil* also means recommended acts with all their kinds. But in parlance of religious jurisprudents *Nawafil* are special non-obligatory recommended acts related to ritual prayers. Thus *Nawafil* means all voluntary ritual prayers and the most excellent of them is the *Nawafil* of daily ritual prayer. They are 34 units (Rakats): Eight units of *Nafila Zuhr* (Noon), four units of *Nafila Asr* (Afternoon), two units of *Nafila Maghrib* (evening), one unit of *Nawafil Isha* (night), eleven units of Midnight Prayer and two units of *Nafila Fajr* (morning).

Timings of *Nawafil* prayers: *Nafila of Zuhr* must be performed before the *Zuhr* prayer and its time begins from the beginning of Noon until the shadow of man (which appears at noon) becomes 2/7th of it.

For example, if the height of a man is seven feet, he may perform *Nafila of Zuhr* till his shadow becomes two feet. The *Nafila of Asr* should be performed before *Asr* prayer. Its time is upto the moment the shadow becomes its 4/7th

If one wants to perform it after the above mentioned time he should first perform *Nafila Zuhr* after the *Zuhr* prayer and then pray *Nafila Asr* after *Asr* prayer. Secondly, he must not make an intention of praying in time or as a lapsed prayer (*Qadha*). On the basis of precaution, if he misses the same during the day and wants to perform it at night, he should make intention of lapsed prayer (*Qadha*).

The time limit of *Nafila Maghrib* is after *Maghrib* prayer and it lasts upto the moment when redness in the sky after sunset disappears. Thereafter it lapses (*Qadha*). The time of *Nafila Isha* is after *Isha* prayer and can be performed upto midnight. The *Nafila Fajr* is before *Fajr* prayer and its time is after the first dawn until appearance of redness in east. It is allowed to pray *Nafila Fajr* immediately after *Nafila* of Night prayer. The time of *Nafila Fajr* is from midnight to call for prayer (*Adhaan*) for *Fajr* prayer. One who

fears that he will not wake in time is allowed to perform it before midnight.

Question53

Q.53: There are varying narrations about Midnight Prayer, especially regarding *Shaf* Prayer and the matter of Chapter of Quran (Surah) and supplication (Qunut). What is the proper procedure?

A: Midnight Prayer consists of eight units (Rakats) with four salutations (*Salaam*), that is

four prayers of two units each and the supplication (*Qunut*) is to be recited in the second unit of each prayer before bowing (*Ruku*). Details of *Qunut* and Surahs to be recited therein are mentioned in many books on this topic.

As for the *Shaf* Prayer: It consists of two units like other two-unit prayers. Yes, there is a difference of opinion about the *Qunut* before Ruku in its second unit. What is famous among scholars is that *Qunut* is recommended. It is mentioned in the report Abi Zahaak describing the way Imam Ridha' (a.s.) performed the Midnight Prayer that the Imam, in the second unit, recited *Qunut* before *Ruku*.

But Abdullah bin Sinan quotes Imam Sadiq (a.s.) that: *Qunut* is recited in the third unit of *Watr*. So it is regarded as an emphasized recommended act that should not be missed; and that it deserves importance. Solitary *Qunut* is *Witr* prayer, which is regarded as the third unit. Summarily if this weak person is able, he does not miss even the *Qunut* of the second unit of *Shaf*, God Willing. But as regards the solitary *Witr*, the important ritual whereof is *Qunut* in which after recitation of Hamd and Surah, repentance (*Istighfaar*) should be recited seventy times saying: *Astagh firullaah wa as aluhuttaubah* = I seek forgiveness of Allah and ask repentance from Him.

It is mentioned in Faqeeh and Misbah Shaykh (r.a.) that Imam Sajjad (a.s.) used to recite: *Al Afw*, three hundred times at dawn. Details of such supplications are available in books of supplications.

Question54

Q.54: If an indebted person is asked by his creditor to repay the debt immediately and hence unable to perform ritual prayer in beginning time, can he offer it in the common time?

A: Whenever a duty-bound person is confronted by two obligatory duties and when one of the two is spacious and the other tight, doubtlessly, he must give preference to that which is tight and until he fulfils it, he should not engage in the other, which has scope. Since repaying of debt, when one is able to do it on demand of creditor is a straitened obligation, any laxity in it is unlawful.

As performance of ritual prayer at the earlier hour as well as during common period is spacious, if one does not repay the demanded debt before tightening up of prayer time, and begins his ritual prayer, he has sinned. In such a case he should, by way of precaution repeat his ritual prayer. Not only this, if one

is engaged in ritual prayer in a spacious time and the creditor demands his money (which can be met by interrupting ritual prayer), the debtor should interrupt it and repay the debt immediately. If he does not, he has sinned, though his ritual prayer will be correct, yet there is precaution in repeating it.

Question55

Q.55: A man bought clothes with unlawful money and considers that the money and the price thereof as a debt due to him on the owner of the dress and proposes to pay it up at ease. Can he, in such circumstances offer ritual prayer wearing that dress?

A: When a person buys something with illegal funds, the transaction is unlawful, and every

such exchange is invalid. It remains a property of the owner and is not transferred to the buyer. But if one buys something in usual course and at the time of payment, pays from unlawful money, the deal is correct and the exchange is valid, but its responsibility is on the owner and he should pay the previous owner lawful money.

Question 56

Q.56: Apparently the philosophy behind shortened Prayer (*Qasr*) for a traveller is due to the hardships of the journey. But as obligatory precaution, it is ordered to perform both, which doubles or triples the hardship of a traveller. Kindly explain the cause of this.

A: The reply to this question depends on a brief preface. When the Almighty Allah commands something and it is proved as a divine order, from the aspect of reasoning that is, Quran, traditions, consensus and logic, it is acted upon by dutiful persons in such a manner that one is satisfied that one has done his duty. Such satisfaction is quite logical. However certainty or satisfaction of having fulfilled the duty is of two kinds:

1 – Detailed: When the duty-bound person can carry out the given orders as desired; for example, to perform ablution (*Wudhu*) with pure water to perform ritual prayer. One should be able to get or have pure water for ablution and then he should be certain that he has fulfilled all legal requirements and then offer ritual prayer. Thus he gets satisfaction of having performed his duty properly.

2 – Brief: It is when the duty-bound person does not have certainty that he has performed as ordered and detailed by the lawgiver. Hence he is compelled to repeat his performance to get the satisfaction of having performed the act correctly. For example, his water is available in two vessels and he knows that one of the two is pure and the other is mixed but is not sure which is which. So he performs ablution with both waters, so that he may summarily be certain that he has done the duty properly. Such repetition is quite logical. It is an effort to get satisfaction and not a divine order so that someone may ask how the Almighty Allah orders repetition.

After this preface we can say that divine command to shorten ritual prayer and leaving fast during travel has some fixed conditions. Thus when a duty bound person is sure that conditions have been fulfilled, he shortens his ritual prayer and is satisfied that he has done his duty. But when there is any doubt and he does not get satisfaction, if he shortens ritual prayer because of some doubt whether or not there were conditions calling for such shortening; likewise if he does not get satisfaction even if he performs it (ritual prayer) fully as there might have been conditions calling for the same. So logic demands that he should perform both fully and in short, so that he may get certainty of having done his duty properly. Such compulsive joining of the two (short and full) is a demand of reason in following divine commands. It is not an order of religion as explained earlier.

In other words, such repetition is not commanded by religion so that someone may say that it is against the philosophy of shortening prayer during a journey. Rather it is logic, which calls for such repetition to obtain certainty and satisfaction that the needful is done as required.

Question 57

Q.57: In Polar Regions, where human life is possible, both day and night are of six months duration. How should a Muslim perform his daily ritual prayer in those regions?

A: According to available information, human habitation is not feasible in such areas. However, if a Muslim anyhow reaches there where it is not possible to know the timing of daily ritual prayer and the period of the holy month of Ramadan, both of which are obligatory for every Muslim, he must migrate from such place. Migration of the Holy Prophet (s.a.w. s.) from his own native place shows the way. Accordingly if a Muslim happens to be in infidel areas, where he cannot fulfill his religious duties, he is duty-bound to leave that place and migrate elsewhere where he can abide by his religious obligations. If he does not do so, he commits a Greater Sin.

Allamah Majlisi (r.a.) has quoted from Muntaha that when the following verse was revealed:

اَفْتٰهَا جُرُوًا فِیْهَا لَمْ تَكُنْ اَرْضُ اللّٰهِ وَّاسِعَةً

"Was not Allah's earth spacious, so that you should have migrated therein?" (An-Nisa, 4:97)

The Messenger of Allah (s.a.w.s.) made migration obligatory for those suppressed from expressing their religious obligations.

If one is compelled to remain in such areas and is not able to migrate, he may refer to the timings of daily ritual prayer and Ramadan fasts in cities situated in such regions and act according to what is being done there.

The late Sayyid has also mentioned in Risalah Urwathul Wuthqa that knowing required timings from

such cities is quite easy through clocks, telegraph and radio etc.

Also though the rising and setting of sun is not visible in the said regions, its traces can be known at night time. The maximum rising point of sun can be regarded as noon and the least can be taken as midnight and then prayer timings can be calculated accordingly.

Question 58

Q.58: Is the buying and selling of slaves lawful in this age also? Is it allowed to apprehend people from Africa etc. and sell them in other places?

Freeing of slaves as expiation for lapsed fasts is ordered in the Holy Quran. If this order is permanent, it has become impracticable today.

A: Yes, it is permissible for a Muslim to apprehend an original disbeliever in any way and from anywhere and enslave him provided he is not under treaty or responsibility of any Muslim (Zimmi). After that his buying and selling is allowed.

As for the obligation of freeing a slave as expiation in times like this when no slave is available, since slavery is banned, the obligation of freeing of slaves too has been dropped due to impracticability. Its substitute is also not available and in this matter there is no difference between optional expiation and total expiation.

Wisdom behind slave-freeing in Islam

The holy religion of Islam is attacked with regard to the matter of slavery. In this connection they target this Quranic command of freeing of slaves. As these attacks are likely to affect the minds of some unaware people, here we briefly hint at this order of freeing slaves. There is no doubt that slavery is not especially related to Islam. It was in vogue in all ages among all communities and regions of the world.

Every community had its own manner of slavery and dealings in slaves. The behavior of some communities was extremely pitiful, especially in Europe where it was very tragic. They dealt and behaved with their slave folks extremely harshly. [Anyone who wants to know the condition of slaves in Europe and America and other countries may refer to *Dairatul Maarif* (encyclopedia)].

In short, the holy religion of Islam only allowed this matter, which was in vogue in human beings, but on the condition that the slave should be a disbeliever and he or she also must not be under the protection of Muslims. In fact enslaving a disbeliever is a kind of great service to all humanity, because through it the disbeliever comes in touch with Muslims and gets awareness about the religion of Islam.

Thereby, after sometime, the human society gets a God fearing and righteous person, especially when Islamic laws of dealing with slaves are followed properly (as will be mentioned). Stories of slaves who

reached high ranks in spiritualism and righteousness are already recorded in books of history. Some slaves due to their high intelligence and awareness have been influential elements in society; others even reached the position of ministership and kingship.

Islamic laws about slaves: It is known to all who are aware of laws of Islam, how much Islam has emphasized freeing of slaves. For this purpose Islam has framed compulsory rules like expiation of murder and missing of Ramadan fasts etc. through emancipating slaves. Many other recommendations are made regarding slaves.

As regards their rights, the Holy Quran, along with saying:

وَبِالْوَالِدَيْنِ إِحْسَانًا

"...and show kindness to your parents ..." (Al-Anam, 6: 151)

says:

وَمَا مَلَكَتْ أَيْمَانُكُمْ

"...and those whom your right hands possess ..." (An-N isa, 4:36)

. . . which means behave nicely with slaves and handmaids. The Holy Prophet (s.a.w.s.) as well as Amirul Momineen (a.s.) have also mentioned in their wills: "You must take care of two types of the weak: women folk and slaves."

Question 59

Q.59: What is the difference between Waleema dinner and Keerah dinner? And what is 'Habooh'?

A: *Waleema* dinner means giving a feast. It is of several kinds and Keerah dinner is a sort of Waleema. It pertains to purchasing of a house or laying foundation of a new house. The Holy Prophet (s.a.w.s.) is reported to have said that *Waleema* should be given in following cases:

1. Marriage 2. Child birth 3. Circumcision 4. Buying a house and 5. After returning from Hajj^{[1](#)}.

It is mentioned in another tradition that in event of buying a house Waleema may be arranged and for house building a fat sheep may be slaughtered and fed to the poor.^{[2](#)}

Habooh ' means those specific things which the eldest son inherits from his father. They are the father's clothes, finger ring, sword and his copy of the Holy Quran. These things are to be given to the son. In case of more than one son, to the eldest one, provided that these are not the only things left by the late

father, and that he is not indebted to the extent of these things.

Question60

Q.60: Please define dissimulation (*Taqayyah*). Also explain how it applies to Prophet, Imams and Shias?

A: Explaining dissimulation, Shaykh Ansari (r.a.) says: It is protecting oneself from a harm that can be inflicted by others by agreeing with them about a word or a deed, which is against truth.

Shaheed Awwal (r.a.) has, in Qawaid, divided dissimulation (*Taqayyah*) into five kinds:

obligatory (*Wajib*), unlawful (*Haraam*), recommended (*Mustahab*), detestable (*Makrooh*) and permissible (*Mubah*).

Likewise, Shaykh (r.a.) has, in Risala Taqayyah described these five kinds and mentioned their conditions as under:

Obligatory dissimulation: A harm which should compulsorily be removed through dissimulation. For example, one saves or protects his own life or life of someone else or saves some wealth or property, which must be protected. Thus dissimulation becomes compulsory when there is certainty or fear of aforesaid harm or loss to one's self or to another believer.

Recommended dissimulation: When there is no definite and practical fear of loss or harm but there is likelihood of such harm in future. For example, giving up some social manners with non-Shias in their habitations and non-attendance of their gatherings whereby there may be any fear of harm from them.

Moreover dissimulation is recommended when there is a likelihood of an easy or tolerable harm or loss.

Also dissimulation is recommended by giving up some recommended acts, which are not recommended in view of Sunnis. For example, not reciting some parts of call for prayer (*Adhaan*) or not prostrating at a holy shrine when they regard it as an innovation and unlawful act as a result of which harm or loss may come to oneself or to another believer. Giving up such rituals becomes obligatory and hence dissimulation in such circumstances is also of the first kind, that is, obligatory dissimulation.

Detestable dissimulation: It is in the matter of recommended acts without any fear of harm from the enemy at present or in future and when one fears that if he leaves those recommended acts, he will become doubtful in the eyes of people and they will imagine that those things are not recommended.

It is also considered detestable dissimulation when one has to suffer harm due to doing things which are highly preferable. For example, a man of repute in society is compelled to utter words of disbelief or to use bad words for Ahlul Bayt (a.s.). In such circumstances though, in order to save life, dissimulation is allowed, it is indeed detestable. Like Ammar who resorted to dissimulation. And if one discards

dissimulation and expresses truth (like Mitham Tammar) it would be excellent and if he, because of it, gets killed, he would be considered a martyr. But one who is not a distinguished person in society is allowed to practice dissimulation, if he is compelled. It means that he can either resort to it or leave it even at the risk of getting killed.

Unlawful dissimulation: It is killing a Muslim to save oneself or others from harm: and it is narrated from Imam Ja'far Sadiq (a.s.) that he said: "Verily dissimulation is provided to stop bloodshed. Therefore, if dissimulation results in bloodshed of innocent oppressed, it is not dissimulation."³

Dissimulation of Prophet or Imam: Dissimulation is not allowed for a prophet or an Imam, be it for protecting self or the community for harm. He cannot speak or do anything against truth, because prophet and Imams are guides who show the way to truth, whereas dissimulation hides truth and conceals facts. Of course when there is a very serious danger, dissimulation becomes permissible for them also. Rather it becomes compulsory, provided that, they have, before resorting to dissimulation, already made truth clear for all or they (Prophet or Imam)

point out (indirectly) toward truth or if, after passing away of danger, express the truth openly.

Briefly speaking, they do not leave people in doubt. If he (Prophet or Imam) reverts after the instance demanding dissimulation, it shows that this dissimulation was not beyond the above mentioned three kinds of dissimulation and especially if they have expressed the fact and truth before, during or after their resorting to dissimulation.

Question 61

لَيْلَةُ الْقَدْرِ خَيْرٌ مِنْ أَلْفِ شَهْرٍ

***"The grand night is better than a thousand months."* (Al-Qadr, 97:3)**

Q.61: If Friday eve is the 23'd eve of Ramadan, due to difference of horizon, it is possible that in the farthest east Thursday eve is the 24th eve of Ramadan and in the farthest west, is Saturday or Sunday eve. In such circumstances which night will be regarded as the exact Lailatul Qadr?

A: The reply to this question requires a brief introduction and it is that the first night of the month is when at the time of sunset, the moon comes out from below the horizon. And if there is obstruction of cloud, steam and dust etc and when it is possible to see the moon. Thus whenever moon is sighted in a town, would it become necessary for the inhabitants of other towns where the moon has not been sighted to consider it as first of the month?

There is no doubt that if some towns are near to it or far away, but which share the horizon. it will be considered as the first eve of the month. Because sighting of moon would have been proved for those

towns as well, because the horizon of those towns is same as the horizon of places where moon is sighted. And the moon could have been seen, but some obstruction like clouds, dust etc. obstructed its sighting.

There is consensus of all Imamiyah jurists on this point. But towns which are far away and whose horizons are different, regarding them most jurists are of the opinion that the first of the month is not proved from Islamic Shariah for them. If it is the first eve of month of Ramadhan, it is not obligatory for them to fast on the following day. If it is the first eve of Shawwal, the following day is not *Eidul Fitr* for them.

On the contrary, it is obligatory for them to keep a fast on that day. But some jurists have quoted from Allamah Hilli's *Tadkiratul Fuqaha* as follows: There is no difference between the near and remote places. If the moon is sighted in one town, it will prove the first of the month for all towns. And he has presented the statement of *Sahih Ibne Hisham* as proof: "From Abi Abdullah (a.s.) that he said: If a person, not sighting the moon kept 29 fasts of Ramadhan and after that it is proved beyond any doubt that in one town people had fasted for thirty days, he will have to make up for one fast that he had missed."

If inhabitants of another place testify that moon is sighted and that night they did not fast as it was a doubtful night, they should make up for it later on. The authors of *Jawahir Mustanad* and *Mustamasik* have also adopted the same view.

Therefore the evidence of *Sahih Ibne Hisham* and *Mausiq Basari* as some jurists have ruled that if moon is sighted in a town, it will be considered as first of the month in all places. And after the passage of twenty-three nights, the whole night should be spent in worship to gain the excellence of the Night of Power (*Shabe Qadr*). It is so because on the basis of strong probability, it is the Night of Power (*Shabe Qadr*). Collectively it is the 23rd eve about which there is strong possibility that it is the Night of Power (*Shabe Qadr*), is in fact not more than one.

But since most jurists have considered the traditional report of *Ibne Hisham* to be conditional regarding places, which are near or far, but which share the same horizon; that is sighting of the moon in one place does not mean that it should be declared as first of the month for places which do not share the same horizon. On the contrary this law applies only to the places close to it, or towns which share the same horizon.

Thus one who intends to gain the excellence of the Night of Power (*Shabe Qadr*) should observe precaution. That is if the moon has been sighted in his town or the town which is same from the aspect of the horizon, he must spend the whole night in worship on the 23rd eve. In the same way, in places which have different horizon, in those places also, the nights should be spent in worship.

For example, a person who depending on the sighting of moon in his town, according to which it is the 23rd eve, is a Saturday and another place, which is out of horizon, there the moon had been sighted the previous night; in that case the 23rd will be Friday eve and he should worship on both (Friday and

Saturday) nights, all the night long, so that he can really earn the true rewards of the Night of Power (*Shahe Qadr*).

It is so because the traditional reports of *Sahih Hisham* and *Mausiq Basri* imply that the real Night of Power (*Shabe Qadr*) is not more than one night and it is the 23rd night. But scholars are of the view that since there is difference of horizon between different places, one who really wants to earn the rewards of the true Night of Power (*Shabe Qadr*) should pray both nights.

If someone poses the question that due to the rising and setting of sun there is difference between places; for example there is night in some places and at the same time there is day in other places; the reply to this is that the apparent tenor of the verse is that for every place the Night of Power (*Shabe Qadr*) is there from beginning of night upto dawn. Therefore Night of Power (*Shabe Qadr*) will be of twenty-four hours duration, from the aspect of difference of

places. That is why it has come down in reliable traditions that the day of Qadr is also like Night of Power (*Shabe Qadr*), and perhaps it is so because of this. It is possible that one city

is having the day of Qadr and at the same time another city is passing through Night of Power (*Shabe Qadr*). Therefore during the period of twenty-four hours, the angels and spirit continue to descend and other effects also linger, but this will apply to every place only from sunset to dawn.

Question62

Q.62: Why children born out of wedlock do not inherit?

A: It is an established religious law that a person born out of wedlock does not inherit from the adulterer parents or their relatives nor anyone is allowed to inherit from him or her. If such a person dies and leaves wealth or property; that property is regarded as that of one who died heirless. The matter has to be referred to the Imam or his deputy.

It is so because inheritance depends on true and normal lineage and an illegitimate born does not have such lineage and an embryo resulting from adultery does not commands any honor or respect. Yes, it can be derived from some narrations that it is recommended to will by way of mercy (not as a right), that he or she may be given some things. It is mentioned in *Al- Kafi* that a man from Ansar group approached Imam Muhammad al Baqir (a.s.) and said: "I saw my slave committing adultery with my slave girl and impregnating her; she delivered a female child after nine months." The Holy Imam said: "Take care of that girl child and do not sell her away; keep her with you till she is no more or some way is opened for her. When the time of your death approaches, make a will that your wealth should be spent on her."

Also if an illegitimate born was to inherit property, firstly: adultery would be advertised and false testimony will become customary; and secondly it will open ways of false testimony by unscrupulous

person to relate illegitimate births to wealthy persons and thus extort money from them.

Question 63

Q.63: Are Jews and Christians of today by nature anti in essence impure or their impurity is due to their not refraining from dirty things? And is the group called Kalimiyah, who believe that God has a body or who call Uzair a son of God and a group, who like Christians say that Isa (a.s.) is God or God's son, are disbelievers impure in essence?

A: Most jurists – may Allah be pleased with them – believe that impurity of Jews and Christians is innate, while others are of the view that their purity is not as per nature but it is because of eating and drinking dirty things like pork and wine etc.

As the wider description of this problem requires going deep into the claims of both parties and to conduct research therein, it would require a lot of time and hence I beg pardon.

Question 64

Q.64: Is vow (Nazr) allowed in all cases or only when the intention of the concerned person is known?

A: The intention of a person behind the vow should be in accordance with Islamic Shariat. It should be to carry out an obligatory or a recommended deed or to refrain from prohibited or detestable actions. In other words, the intention must be worship or obedience of Allah by means which can bring one nearer to Allah.

Question 65

Q.65: Sperm of a man who died a hundred years ago was preserved through chemicals and then subsequently introduced into the womb of a fertile spinster. Is the child born through this illegitimate?

A: There is no doubt that such a child is illegitimate.

1. Maniul Akhbar, pg 272

2. Maniul Akhbar, pg 272

3. Wasailush Shia. Vol. 11, Pg. 483, Chapter 31, Tradition no. 1 Surah Qadr 97:3

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