
Fiqh-us-Sunnah

Volume 5

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Fiqh 5.1: PILGRIMAGE: A GENERAL DEFINITION, ITS EXCELLENCE AND PREREQUISITES

Allah, the Exalted One, says: "The first House (of worship) appointed for men was that at Bakka; (Bakka is one of the names of Makkah) full of blessings and guidance for all kinds of beings: in it are signs manifest (for example), the station of Abraham-- whoever enters it attains security; pilgrimage thereto is a duty men owe to Allah--those who can afford the journey; but if any deny faith, Allah stands not in need of any of His creatures" (Qur'an 3.96-97).

- Fiqh 5.1 a: Definition of Hajj

The majority of the scholars hold that Hajj was prescribed in the sixth year after Hijrah (Migration of the Prophet (peace be upon him) from Makkah to Madinah) for it was then that the following verse concerning it was revealed: "And complete the Hajj and 'Umrah in the service of Allah" (Qur'an 2.194). This conclusion is based on the understanding that the "completion" in the above verse in fact refers to the time when it was first made obligatory. This view is also supported by 'Alqamah, Masrouq, and Ibrahim An-Nakh'i, who substitute "And establish" for "And complete" in the above verse, as reported by At-Tabarani on sound authority. Ibn-al-Qayyim, however, is inclined to the view that Hajj was made obligatory in the ninth or the tenth year of Hijrah.

- Fiqh 5.1 b: Excellence of Hajj

The Divine Law Giver exhorted Muslims to perform Hajj. In this regard we may refer to the following:

- Fiqh 5.1 c: Hajj - One of the Best Deeds

Abu Hurairah reported that the Prophet (peace be upon him) was once asked: "What is the best deed?" He replied: "To have faith in Allah and His Messenger." The enquirer asked: "What next?" The Prophet (peace be upon him) said: "To strive in the cause of Allah." "What is the next best thing?" He replied: "Hajj Mabrur (a faultless Hajj that is free of sin and is graced with Divine acceptance and pleasure)."

Al-Hasan said: "It means that a person after performance of Hajj should desire and be inclined to the life of the Hereafter rather than the material pleasures of this world." Another report transmitted on sound authority from the Prophet (peace be upon him) says that a righteous performance of Hajj is crowned by feeding the needy and speaking kind words to men.

Fiqh 5.2: Hajj: A Form of Jihad

Al-Hasan ibn Ali says that a man came to the Prophet (peace be upon him) and said: "I am a coward and a weak person. Is there anything I can do?" The Prophet (peace be upon him) said: "You may go for a jihad (striving) that involves no fighting, that is, Hajj." This is reported by Abdur Razzaq and At-Tabarani, and all its narrators are trustworthy.

Abu Hurairah narrates that the Prophet (peace be upon him) said: "Hajj is the jihad for the old, the weak and the women." (This is reported by Nasa'i with a reliable chain of narrators)

'Aishah reports that she once said: "O Prophet of Allah! Jihad (striving or fighting in the cause of Allah) is the best deed. Should we (women) then, not actively participate in it?" The Prophet (peace be upon him) replied: "The best jihad for you is Hajj Mabrur." (Bukhari and Muslim)

In another report 'Aishah says: "I once asked the Prophet (peace be upon him): 'O Prophet of Allah! Should not we (women) strive and actively participate in the Islamic war with you?' The Prophet (peace be upon him) replied: 'The best and the most beautiful striving for you in the cause of Allah is Hajj Mabrur.'" (Bukhari and Muslim) 'Aishah commented: "After hearing this from the Prophet (peace be upon him) I shall never cease performing Hajj."

- Fiqh 5.2 a: Hajj Wipes Off Past Sins

Abu Hurairah reported that the Prophet (peace be upon him) said: "He who performs Hajj for Allah's pleasure and avoids all lewdness and sins will return after Hajj free from all sins as he was the day his mother gave birth to him." (Bukhari and Muslim)

'Amr ibn al-'As says: "When Allah guided me to Islam, I went to the Prophet (peace be upon him) and said to him: 'O Prophet of Allah! Stretch out your hand so that I may pledge my allegiance to you.' The Prophet (peace be upon him) stretched out his hand to me, but I withdrew my hand. The Prophet (peace be upon him) asked: 'O 'Amr! what is the matter with you?' I said: 'I would like to stipulate a condition!' The Prophet (peace be upon him) asked: 'What is it?' I said: 'That all my past sins be forgiven!' The Prophet (peace be upon him) said: 'O 'Amr! Do you not know that Islam wipes off all past sins, and hijrah (leaving one's home and hearth for Allah's cause) wipes off all sins, and (similarly) Hajj wipes off all past sins!'" (Muslim)

Abdullah ibn Mas'ud narrated that the Prophet (peace be upon him) said: "Alternate between Hajj and 'Umrah (regularly), for these two remove poverty and sins just as the blacksmith's bellows removes all impurities from metals like iron, gold and silver. The reward for Hajj Mabrur is nothing short of Paradise." (Nasa'i and Tirmizhi, who regards it a sound hadith)

Fiqh 5.3: Pilgrims are Allah's Guests

Abu Hurairah reported that the Prophet (peace be upon him) said: "Pilgrims and those performing 'Umrah are Allah's guests; their prayers are answered and their supplications for forgiveness are granted. This is reported by Nasa'i, Ibn Majah, Ibn Khuzaimah and Ibn Hibban in their collections of Sahih hadith. In the last two we read: "And Allah's guests are three: A pilgrim performing Hajj, one performing 'Umrah, and a person who fights in the cause of Allah."

- Fiqh 5.3 a: The Reward of Hajj is Paradise

Abu Hurairah says the Prophet (peace be upon him) said: "All sins committed in between the performance of one 'Umrah and another are expiated and erased, and the reward of Hajj Mabrur is nothing save Paradise." (Bukhari and Muslim)

In another sound hadith Ibn Joraij relates from Jabir that the Prophet (peace be upon him) said: "This House of Allah (the Ka'bah) is the pillar of Islam, so whosoever heads to it with the intention of performing Hajj or 'Umrah is under Allah's security. If he should die (during his trip) he is granted Paradise, and if he returns home safely, he returns with reward and gain."

- Fiqh 5.3 b: The Excellence of Spending in Hajj

Buraidah reports the Prophet (peace be upon him) as saying: "Spending during Hajj is akin to spending in the cause of Allah, and every dirham thus spent will be rewarded seven hundred times over." (Reported by Ibn Abi Shaibah, Ahmad, At-Tabarani and Al-Baihaqi)

- Fiqh 5.3 c: Hajj is Obligatory Only Once in Life

There is consensus among Muslim scholars that Hajj is obligatory only once during the lifetime of a Muslim, unless someone vows to perform extra Hajj, in which case he must fulfil his vow. Whatever is done over and above is supererogatory or optional.

Abu Hurairah narrates that once, in a sermon, the Prophet (peace be upon him) said: "O people! Allah has prescribed Hajj for you, so you must perform it." A man asked: "Every year, O Prophet of Allah?" The Prophet (peace be upon him) remained silent. When the man repeated it thrice, the Prophet (peace be upon him) said: "Had I said 'yes', it would have become a yearly obligation, and this would have been beyond your power." Then he added: "Leave me alone so long as I leave you alone (i.e., do not pester me with questions about things which I omit and do not mention). Some people who lived before you were destroyed because they asked too many questions and disagreed with their Prophets. So when I command you to do something, you must obey and do it to the best of your power, and if I forbid you from something, then avoid it." (Bukhari and Muslim)

Ibn 'Abbas narrates that once the Prophet (peace be upon him) addressed us and said: "O People! Hajj has been prescribed for you." At this Al-Aqra' bin Habis stood up and asked: "O Prophet of Allah! Are we to perform Hajj every year?" The Prophet (peace be upon him) said: "Had I said 'yes', it would have become a (yearly) obligation, and had it become a (yearly) obligatory duty you would have failed to keep it. Hajj is obligatory only once in one's lifetime. Whatever one does over and above this is supererogatory (a voluntary act) for him. (Reported by Ahmad, Abu Daw' ud, Nasa' i and Al-Hakim, who regards it a sound hadith)

Fiqh 5.4: Can the Performance of Hajj Be Deferred to a More Convenient Time or Must It Be Performed Immediately after One is Able to Do So?

Ash-Shafi'i, Ath-Thawri, Al-Awza'i and Mohammad bin al-Hasan are of the opinion that Hajj may be performed at any time during one's life, and there is nothing wrong if someone, for whom it is obligatory, delays it until a later date in his (or her) life, for, although Hajj was prescribed in the 6th year of Hijrah, the Prophet (peace be upon him) delayed it until the 10th year of Hijrah when he

performed it along with his wives and many of his companions. Had performing it earlier been essential the Prophet (peace be upon him) would have never delayed it.

Ash-Shafi'i says: "We, therefore, are convinced that Hajj is obligatory upon a Muslim, male or female, from the age of puberty until before his death."

Abu Hanifah, Malik, Ahmad, some of Ash-Shafi'i's followers and Abu Yusuf are of the opinion that Hajj must be performed as soon as one is (physically and financially) in a position to do so. This opinion is based on a hadith that is related by Ibn 'Abbas that the Prophet (peace be upon him) said: "He who intends to perform Hajj let him do so expeditiously, for he may well fall sick, may lose his mount (ability to bear expenses of the journey) or he may be prevented by some other exigency." (Reported by Ahmad, Al-Baihaqi, At-Tahawi and Ibn Majah) In another report by Ahmad and Al-Baihaqi, we read that the Prophet (peace be upon him) said: "Hasten to perform Hajj - the basic obligation - for you don't know what might happen to you," meaning "one may fall sick or be prevented by some other exigency." The earlier scholars interpreted these ahadith saying it was commendable for a person to perform Hajj as soon as possible provided he had the ability to do so.

Fiqh 5.5: Prerequisites for Hajj

There is a consensus among jurists concerning the prerequisites that must be found in a person for Hajj to be incumbent on him:

- 1- He must be a Muslim.
- 2- He must be an adult.
- 3- He must be of a sound state of mind.
- 4- He must be free.
- 5- He must have the necessary power and ability.

Anyone lacking any of these conditions is not obligated to perform Hajj. All these conditions, that is, being a Muslim, being of adult age and of sound mind, being free, and possessing the power to discharge a duty are equally valid with respect to all other forms of worship in Islam. This is based on a hadith of the Prophet (peace be upon him) which says: "Three persons are not to be held accountable: a sleeping person until he awakes, a minor until he comes of age, and a mentally disturbed person until he regains his reason."

Freedom is an essential prerequisite for Hajj, for this worship needs time as well as financial ability. A slave lacks both, for all his time is spent in the service of his master, and financially he lacks the ability to undertake this obligation. The Qur'an says: "Pilgrimage thereto is a duty men owe to Allah - those who can afford the journey" (3.97).

Fiqh 5.7: THE ABILITY TO PERFORM HAJJ - WHAT DOES IT IMPLY?

The ability to perform Hajj, which is one of its essential conditions, includes the following:

- 1- A person must be healthy and physically fit. If one is disabled by old age or a disease that is incurable or is unable to perform Hajj for some other similar reason, he may, if he is financially

capable, assign someone else to perform Hajj on his behalf and at his expense. This will be discussed later under "Hajj On Behalf of Another Person."

-2- The journey to Hajj must be safe so that the pilgrim's life and possessions are safe and secure from any danger. If one is afraid for one's life from highwaymen or an epidemic or if one is afraid to be robbed of one's possessions, then such a one is deemed as one of those who cannot afford the journey for Hajj .

There is, however, a difference of opinion among scholars regarding the entry fees and other charges levied on pilgrims. Can a person be excused and reckoned as unable financially to perform Hajj because of these charges? AshShafi'i and others are of the view that the presence of these levies does qualify a person to be classified as unable to perform Hajj, even though the levy involved may be paltry. The Maliki scholars disagree for they do not regard this as a sufficient reason for a person to be deemed as unable to perform Hajj, unless the amount involved is too exorbitant or is demanded repeatedly.

-3- One must possess the necessary provision and also the requisite means of journey. Necessary provision here means that the intending pilgrim must have sufficient supplies for himself as well as for his family that he leaves behind. These supplies include sufficient and adequate clothing, housing, means of traveling, and tools for the pursuit of his trade or profession besides the financial means for the journey. (The person intending to perform Hajj should not sell his clothes, his personal belongings, or his house--even if they were abundant to get money for Hajj) Means of traveling imply that which enables him to go to Hajj and come back, whether it is by land, by sea, or by air. This concerns those who live far from Makkah and cannot walk there.

As for those who live in the vicinity of Makkah, this condition does not apply, for they are so close that they can go for Hajj on foot.

Some ahadith explain the Qur'anic words "those who can afford the journey," (Qur'an 3.97) as meaning provision of food and means of journey. Anas reports that the Prophet (peace be upon him) when once asked about the meaning of "those who can afford" said: "It means possessing means of sustenance and transportation." (Ad-Daraqutni considers this hadith sound) Al-Hafiz remarks: "Most probably its chain of transmitters is not traceable to the Prophet (peace be upon him). Tirmizhi as well has reported it on the authority of Ibn 'Umar but its chain of transmitters is weak. Abdul Haqq remarked: "All its chains of transmitters are weak." Ibn Al-Munzhir says: "It is not traceable to the Prophet (peace be upon him) and the correct position is that it is a sound but incompletely transmitted hadith whose chain of authorities does not go back to the Prophet (peace be upon him)."

Ali (may Allah be pleased with him) narrates that the Prophet (peace be upon him) once said: "He who possesses sufficient provisions and means of journey for the performance of Hajj and yet does not do so, let him die the death of a Jew or a Christian." For Allah says in the Qur' an: "Pilgrimage thereto is a duty men owe to Allah - those who can afford the journey." (Transmitted by Tirmizhi, but among the narrators of this hadith are included "Halal" ibn Abdullah, who is unknown, and "Al-Harith" whom Ash-Sha'abi and others have described as a liar)

All these ahadith are weak in authority, yet most scholars regard provisions and means of journey as a necessary condition for Hajj. If a person has neither the necessary provisions nor means of travel, he is not obligated to perform Hajj.

Ibn Taimiyyah says: "These ahadith are musnad (A report which is traceable in uninterrupted ascending order of the narrators to its first authority) and have a sound chain of authorities, some are mursal (A hadith transmitted by a successor (atabi'), young or old, without mentioning the Companion who might have heard it from the Prophet directly. Ash-Shafi'i considers such a hadith weak, while Abu Hanifah and Malik consider it sound) and others are mauquf. (A hadith reported from a Companion through words or acts uninterruptedly or otherwise) They all prove that the ability to arrange one's provisions and possession of means of journey is a necessary prerequisite for Hajj, and this despite the fact that the Prophet (peace be upon him) knew that many of the people (in his time) were able to go for Hajj on foot.

Similarly the words of Allah: "Pilgrimage thereto is a duty men owe to Allah - those who can afford the journey" underline the fact that ability and power are the necessary prerequisite for all forms of worship. It signifies the unspecified power or a little bit more than what may be necessary. In the case of sawm (fasting) and salah (obligatory prayers) the financial ability is superfluous and is not specified in the Qur'an, unlike Hajj for which it is an important requirement. Similarly, Hajj is a form of worship which involves traveling for which one must be in possession of sufficient means to support oneself (and one's family), as well as be able to shoulder the cost of the journey as in jihad.

In this regard we may refer to the Qur'anic verse (9.91-92) "Nor is there any blame on those who find no resources to spend, nor is there (blame) on those who come to you to be provided with mounts, and when you said, 'I can find no mounts for you,'"

In Al-Muhazhib we read: "If someone has the money to buy provisions and the passage to Hajj but he needs it to pay his debts, Hajj is not binding on him, whether the settlement of the debt is required immediately or is due after a time. The debts that are due for immediate settlement must be paid at once, whereas the Hajj may be performed later on in life. But if he spends all that he has on Hajj he may not be in a position to pay off his debt."

Similarly, if one is in need of a dwelling or a servant to help him, he may be classified as unable to perform Hajj. Likewise, if one needs to take a wife because he fears he may not be able to avoid evil, he must get married, for it is his immediate need. Furthermore, if one needs goods for his business to obtain requisite resources therefrom, such a one, according to Abul 'Abbas, Ibn Sarih, may be classified as unable to perform Hajj in view of his specific need. Al-Mughni says: "If the debt is owed to a wealthy person who does not demand immediate settlement of the loan, defers settlement to a later stage, and is ready to permit the debtor to proceed for Hajj, then such a debtor is (technically) able to perform Hajj. But in case the lender cannot afford to defer settlement of the loan, the debtor would be reckoned as unable to perform Hajj."

According to the Shafi'i school: "If someone offers another a free passage for Hajj, one is not obliged to accept the offer, for it is a favor and involves distress of being obliged to another person. If, however, such an offer is made by one's son to perform Hajj, then one is obligated to do so, for one can perform it without being beholden to anyone else."

The Hanbali school is of the view that an offer of financial help by someone else does not obligate a person to perform Hajj, nor does this classify him as (financially) capable of performing it, whether the offer comes from a stranger or a relative and whether the offer provides means of travel and provision, or financial help as such.

-5- There must also be no obstruction which may prevent people from undertaking the journey for Hajj, like fear of torture or imprisonment by a tyrannical ruler.

Fiqh 5.9: Hajj of a Minor and a Slave

Though Hajj is not compulsory for these two groups it is quite valid if they perform one, but it will not suffice them as regards the Hajj prescribed in Islam.

Ibn 'Abbas reports: "The Prophet (peace be upon him) said: 'Any minor (child) who performs Hajj must perform it again after coming of age; any slave who performs Hajj and is then freed, must perform his Hajj again'." (Reported by At-Tabarani on sound authority) As-Sa'ib bin Yazid says: "My father performed Hajj with the Prophet (peace be upon him) who was performing his Farewell Hajj, while I was only seven years old." This was reported by Ahmad, Bukhari and Tirmizhi, who noted: "All scholars agree that if a minor performs Hajj, he must repeat his Hajj upon coming of age. Likewise a slave who performs Hajj, and thereafter gains his freedom, must also repeat his Hajj if he is in a position to do so."

It is also reported from Ibn 'Abbas that during a Hajj a woman lifted a boy, and asked the Prophet, "Will this boy be rewarded for Hajj?" The Prophet (peace be upon him) answered: "Yes, and you too will be rewarded." (The boy will be rewarded for his obedience, while the mother will be rewarded for helping and instructing him to perform Hajj. This hadith is also reported from 'Umar)

Jabir reports: "We performed Hajj with the Prophet (peace be upon him) and a number of women and children were with us. We said talbiyah on behalf of the children, and (also) threw pebbles on their behalf. This is narrated by Ahmad and Ibn Majah.

If a minor is able he may himself declare the state of ihram and perform the rites of Hajj. Otherwise, his guardian (An-Nawawi said: "The guardian who declares the state of ihram on behalf of a non-discerning minor, is the guardian of his properties, i.e., his father, grandfather, or the guardian appointed by law. Concerning the mother, the scholars differ. Some are of the opinion that her ihram on his behalf is only valid if she is appointed by law as his guardian. Others claim that her ihram is valid even if she is not the guardian) must declare the state of ihram and say talbiyah on his behalf, circumambulate round Ka'bah, run between Safa and Marwah, stay at 'Arafah and throw stones on his behalf. If, on the other hand, a minor attains the age of puberty on or before the Day of 'Arafah, his Hajj is then credited to him. The same applies to a slave who is liberated on or before the Day of 'Arafah. Malik and Ibn Al-Munzir say: "To both of these people their Hajj cannot be credited as (replacement for) the obligatory Hajj, for they intended a supererogatory worship while putting on ihram; its supererogatory status cannot be transformed into an obligatory worship."

Fiqh 5.10: Hajj of a Woman

Hajj is obligatory both for women and men alike; they must perform it whenever they meet the above mentioned prerequisites for it. In the case of a woman it is essential that she be accompanied by her husband or some other mahram (Al-Hafiz said in his Al-Fath: "According to the scholars. the condition for being a mahram to a woman is that legally it should be impossible for such a man to ever marry her) relative on the journey for Hajj.

Ibn 'Abbas reports: "I heard the Prophet (peace be upon him) saying: 'A man must never be alone with a woman unless there is a mahram with her. A woman also may not travel with anyone except a mahram relative.' A man stood up and asked: 'O Prophet of Allah! My wife has gone for Hajj while I am enlisted for such and such a battle, what should I do?' The Prophet (peace be upon him) replied, 'Go and join your wife in Hajj.'" (Reported by Bukhari and Muslim; the words given here are of Muslim's. This order underlines something desirable; it does not obligate the husband or the mahram to travel with the woman, if there is no one else but him. No one is obligated to give up his convenience so that another person might do what is not required of him)

Yahya bin 'Abbad reported that a woman from Iraq wrote to Ibrahim AnNakh'i: "I have not yet performed the prescribed Hajj; for although I am rich, I have no mahram who may accompany me on this trip." He wrote her back: "You are one of those whom Allah has not given the means to perform (Hajj)." Abu Hanifah, Al-Hassan, At-Thauri, Ahmad and Ishaq all hold a similar view on this issue.

Al-Hafiz says: "Among the Shafi'ite scholars the most commonly accepted opinion in this regard is that a woman may travel with her husband, or one of her mahram relatives, or a group of trustworthy women, or even one such (trusted) woman companion. According to one view, reported by Al-Karabisi and recorded as sound in Al-Muhazhib, a woman may travel by herself provided the way to Hajj is secure and safe. This applies to both Hajj and 'Umrah.

It is reported in Subul as-Salaam: "A group of scholars hold that an old woman may travel without being accompanied by any mahram relative."

This permission for a woman to travel without a mahram in the company of trusted companions or when the journey to Hajj is safe is supported by what is reported by Bukhari from 'Adi ibn Hatem, who says: "I was with the Prophet (peace be upon him) when a man came to him and complained of poverty. Another man complained about highway robbery. Thereupon the Prophet (peace be upon him) said: 'O 'Adi! Have you seen the city of Hira in Iraq?' I said: 'No, but I have heard about it.' The Prophet (peace be upon him) said: 'If you lived long enough you will see that a woman will travel from Hira and will perform Tawaf round Ka'bah, and she will have no fear except that of Allah."

This opinion is supported by the fact that 'Umar gave permission to the wives of the Prophet (peace be upon him) to perform Hajj while accompanied by 'Uthman and Abdur-Rahman ibn 'Awf. 'Uthman would announce them to people telling them to avoid looking at them or coming close to their camels.

If, however, a woman fails to abide by this provision and performs Hajj alone - without being accompanied by any mahram - her Hajj would still be valid.

The author of Subul as-Salaam says that Ibn Taimiyyah said: "Hajj of a woman without a mahram is valid, and likewise of a person who is financially not able to perform it."

In brief, those for whom Hajj is not compulsory due to sickness, poverty, fear of highway robbery, or in the case of a woman because no mahram is available to accompany her, if these people nonetheless perform Hajj, it will be credited to their account. Some of them try their best (and exert themselves to the utmost) like those performing Hajj on foot, while others are guilty of sins, such as those who beg others to help them perform Hajj, or a woman that performs Hajj without a mahram male companion. Notwithstanding their valid excuse, if any of these people perform Hajj, it will be quite valid, for their sin relates to their (choice of unlawful) means and has no bearing on the objective as such.

It is reported in Al-Mughni: "If a person, not obliged to perform Hajj because he is unable (financially) to do so, should seek to perform Hajj, suffering hardship, traveling on foot and without necessary provisions, his Hajj will be quite valid and acceptable."

Fiqh 5.12: A Woman Should Seek Her Husband's Permission for Hajj

It is desirable for a woman to seek her husband's permission for the prescribed Hajj. Then if he grants her the permission she may leave for Hajj; in case he refuses to give permission, she may still proceed for Hajj, for a husband should not forbid his wife from performing obligatory Hajj. It is an obligatory act of worship. It is unlawful to obey anyone in something that involves disobedience to Allah. A woman should perform obligatory Hajj as soon as possible, just as she should offer her prescribed daily prayers at their earliest prescribed times. In either case a husband has no right to prevent his wife from doing what is her obligatory duty. The same applies when a wife has vowed a Hajj, because it is obligatory like the prescribed Hajj. In the case of supererogatory Hajj, however, the husband may prevent his wife, and the wife must obey her husband. This is supported by a hadith reported by AdDaraqutni on the authority of Ibn 'Umar who narrated that while speaking about a wealthy lady whose husband had refused to give her permission to perform Hajj, the Prophet (peace be upon him) said: "She must not go for Hajj except by her husband's permission."

- **Fiqh 5.12 a: He Who Dies Without Performing Obligatory Hajj**

If a person dies before performing obligatory Hajj or if one vowed to perform Hajj but died before fulfilling one's vow, his heir must assign someone to perform Hajj on behalf of the deceased. All the ensuing expenses in this regard must be paid out of the deceased's property, as indeed must be any debts left by him.

Ibn 'Abbas narrates that a woman from the tribe of Johainah came to the Prophet (peace be upon him) and said: "My mother had vowed to perform Hajj but she died before fulfilling her vow, should I perform Hajj on her behalf? The Prophet (peace be upon him) said: "Yes, perform Hajj on her behalf. Would you not pay off any debts your mother might have left behind upon her death? Pay off what you owe to Allah, for He is most deserving of settlement of His debt." (Bukhari)

This hadith underlines the obligation of performing Hajj on behalf of a deceased person, whether or not he leaves a will to this effect (it is a kind of debt for the deceased), and all debts left by the deceased must be settled, just as all other financial obligations such as zakah, an atonement or a vow transacted by the deceased has to be fulfilled.

Ibn 'Abbas, Zaid bin Thabit, Abu Hurairah, and Ash-Shafi'i hold this opinion. They consider that the expenses of the substitute (the hired person) must be paid out of the wealth of the deceased before dividing it up among his heirs.

In case the wealth is insufficient to cover both the cost of Hajj (by the substitute) and settlement of the deceased's debts, the expense of Hajj must be paid first, as the Prophet (peace be upon him) said: "Allah is most deserving that His debt be paid back."

Imam Malik says: "A person may perform Hajj on behalf of the deceased only if the deceased leaves a will to that effect. If the deceased leaves no such will, then a Hajj on his behalf may not be performed, for this worship involves, more than anything else, physical exertion and struggle and as such, no other person can replace or substitute another person. If a deceased makes a will regarding it, then Hajj may be performed, meeting all its cost from out of one third of the share of his heritage."

Fiqh 5.13: Hajj On Behalf of Others

If someone has the ability to perform Hajj but afterwards he is unable to perform it due to sickness or old age, he must arrange for someone else to perform Hajj on his behalf, for he may never be able to do it himself. In this respect, such a person is very much like the deceased, hence the permission for him to choose his substitute in Hajj.

This is based on a hadith reported by Al-Fadl ibn 'Abbas, who says: "A woman of Khath'am said, 'O Prophet of Allah! Allah has prescribed Hajj for His servants. (Now that) I am grown up, I find that my father is an old man, and he cannot ride on the camel (for long). Should I perform Hajj on his behalf?' The Prophet (peace be upon him) said: 'Yes.'" This happened during the Farewell Hajj. (Reported by the Group) Tirmizhi considers it a sound hadith with a sound chain and adds: "On this topic, reports other than this hadith are also found; they are of sound authority, and the companions of the Prophet (peace be upon him) believed and practiced accordingly; they held that one may perform Hajj on behalf of a deceased person." At-Thawri, Ibn al-Mubarak, Ash-Shafi'i, Ahmad and Ishaq also hold a similar view.

Imam Malik says: "If the deceased leaves a will that someone perform a Hajj on his behalf, then it may be performed." Some scholars like Ibn Mubarak and Ash-Shafi'i say that it is permissible for an old man, who is unable to perform Hajj on his own, to arrange for a substitute to do it on his behalf.

The above hadith also lends support to the view that, both for a man or a woman, it is quite permissible to perform Hajj on behalf of another man or woman. There is nothing against this in the Qur'an or hadith.

Fiqh 5.14: Position of a Sick Person Who Recovers

If a sick person recovers after someone has performed Hajj on his behalf, he will be considered as having performed his obligatory duty, and he will not be required to repeat it, for it would imply the obligation of performing two obligatory pilgrimages (rather than one). This is Imam Ahmad's view.

The majority of scholars are, however, of the view that such a substitutory Hajj will not suffice a man to absolve him of his obligation, for his recovery shows that his case was not really hopeless (and he

should therefore repeat it), for the decisive factor in this respect is cessation of illness and restoration of his health.

Ibn Hazim is inclined to the first view. He says: "When the Prophet (peace be upon him) commanded to perform Hajj on behalf of those who are unable to walk or ride (i.e., cannot travel for Hajj), and told that this will pay off their debt to Allah, then indeed the debt is settled, and their effort accepted." And surely if an obligation is removed or fulfilled, there is no justification for its repetition, especially when there is nothing in the texts to support it. Had such a repetition been necessary, the Prophet (peace be upon him) must have clearly mentioned it, but as he did not, there is no reason for its repetition.

- **Fiqh 5.14 a: Conditions for Performing Hajj on Behalf of Others**

Before performing Hajj on behalf of someone else, a person must have performed his own Hajj . This is based on the hadith in which Ibn 'Abbas narrates that the Prophet (peace be upon him) heard a man saying: "O Allah! Here I am in response to Your call on behalf of Shabrumah." The Prophet (peace be upon him) asked him: "Have you performed your own Hajj?" He replied: " No", whereupon the Prophet (peace be upon him) told him: "You must perform Hajj on your own behalf first, and then for Shabrumah." (Abu Daw'ud and Ibn Majah) Al-Baihaqi says: "Its chain of authorities is sound, and in this regard it is the most genuine report."

Most of the scholars hold that it is not proper for a person to perform Hajj on behalf of others prior to performing it on his own behalf, whether or not he is able or unable to do so.

- **Fiqh 5.14 b: Hajj in Fulfillment of a Vow While Having to Perform Obligatory Hajj**

According to the verdict of Ibn 'Abbas and 'Ikrimah if a person performs Hajj in fulfillment of a vow, while he has yet to perform the prescribed Hajj, then it should suffice him (and absolve him) from both. 'Ata and Ibn 'Umar, on the other hand, hold that one must first perform the Hajj obligatory on him, and thereafter perform another Hajj to fulfil his vow.

Fiqh 5.15: No Sarorah (Delaying) in Islam

Ibn 'Abbas reports: "The Prophet (peace be upon him) said: 'There is no Sarorah (delaying performance of obligatory Hajj) in Islam.'" (Ahmad and Abu Daw'ud)

Al-Khattabi remarks: "The word sarorah has two meanings:

- 1- a person who does not marry and leads a life of celibacy, like monastic Christians; or
- 2- someone who has not performed Hajj. In other words this means that no one able to perform Hajj should fail to do so, because in Islam there is no delaying of obligatory Hajj.

Some scholars refer to it as a proof that a person who has not performed Hajj is not allowed to perform Hajj on behalf of others. Al-Awza'i, Ash-Shafi'i. Ahmad and Ishaq hold this view. Malik and Ath-Thawri say: "Such a person's Hajj depends on his own intention." Al-Hasan Al-Basri, 'Ata and An-Nakh'i also hold a similar view.

- **Fiqh 5.15 a: Getting a Loan for Hajj**

Abdullah ibn Abi 'Awfa relates: "I asked the Prophet (peace be upon him) about a man who has not performed Hajj, 'Should he not get a loan to perform Hajj?' The Prophet (peace be upon him) replied: 'No'" (Al-Baihaqi).

- **Fiqh 5.15 b: Performing Hajj with Unlawfully Gained Money**

Someone performing Hajj with unlawfully gained money, may technically fulfil his prescribed duty of pilgrimage, but according to the majority of the scholars, he will be guilty of sin for doing so. Imam Ahmad disagrees and holds that such a Hajj is not enough for a person to absolve him of his prescribed obligation, and this is more correct as the sahih hadith says: "Surely, Allah is Pure, and He does not accept anything but what is pure (and clean)." Also it is reported by Abu Hurairah that the Prophet (peace be upon him) said: "As soon as a pilgrim sets out for Hajj with a provision which is lawful, and puts his foot in the stirrup (rides his mount) and calls out: 'O, Allah! Here I am in response to Your call,' an announcer answers him from the heavens above, saying: 'Your call has been heard; you are a happy one; your provisions are lawful, your mount is lawful and your pilgrimage is free of sin and acceptable.' But, if his provisions are unlawfully gained, and he puts his foot in the stirrup and calls out: 'O Allah! Here I am in response to Your call,' an announcer from the heavens above answers him back, saying: 'Your call is not accepted; nor are you welcome; your food is unlawful; your provisions are unlawful; and your pilgrimage is not free of sin and is unacceptable.'" Al-Munzhri says: "This is reported by At-Tabarani in Al-Awsat, and also by Al-Asbahani in a mursal hadith from Aslam, the freed slave of 'Umar bin al-Khattab."

Fiqh 5.16: What is Better in Hajj: Riding or Walking?

Al-Hafiz writes in Al-Fath: "Ibn al-Munzhir says there is a difference of opinion as to what is better for a pilgrim, walking or riding during the Hajj.

The majority of scholars hold riding is better, for the Prophet (peace be upon him) did so, and because it is more helpful (in concentrating) on praying and making supplications to Allah, apart from other benefits.

Ishaq bin Rahoweh says: "Walking is preferable for it involves more exertion and hardship (in the cause of Allah)." We may say that whether a person walks or rides during Hajj depends on each person and his particular circumstance .

Bukhari has transmitted from Anas (may Allah be pleased with him) that the Prophet (peace be upon him) saw a man leaning on both sides on his two sons, whereupon he asked: "What is the matter with this man?" The people said: "He has vowed to walk during Hajj." The Prophet (peace be upon him) said: "Allah is in no need whatever of torturing this man." Then he commanded the man to perform his Hajj riding."

- **Fiqh 5.16 a: Doing Business and Leasing Rides During Hajj**

There is no harm if a pilgrim engages in trade and business during Hajj or 'Umrah.

Ibn 'Abbas said: "In the beginning when Hajj was prescribed, the people used to trade at Mina, 'Arafah, and the market place of Zhul-Majaz (A place close to 'Arafah) during the Hajj season, but they feared it might be forbidden for them while in a state of ihram. Thereupon Allah revealed the verse (Qur'an

2.198): "It is no crime in you if you seek of the bounty of your Lord (during pilgrimage)." This is reported by Bukhari, Muslim and Nasa'i.

Commenting on the above verse, Ibn 'Abbas adds: "The people used to shun business while in Mina, so they were instructed to engage in business or trade while pouring down from 'Arafah." Is Abu Omamah At-Taimi narrates that he said to Ibn 'Umar: "I rent mounts to people during Hajj season, and the people tell me that my Hajj is void." Ibn 'Umar asked him: "Do you not do Hajj garb, say talbiyah, go around the House of Allah, pour down from 'Arafah, and stone the Satan?" The man said, "Yes, I do." Ibn 'Umar said: "Then your Hajj is quite valid (and you will be rewarded for it). A person came to the Prophet (peace be upon him) and asked him something similar to what you asked me, whereupon the Prophet (peace be upon him) remained silent until this verse (Qur'an 2.198) was revealed to him: "It is no crime in you if you seek the bounty of your Lord (during Hajj season)." Then the Prophet (peace be upon him) sent for the man and recited the verse to him, saying: "Your Hajj is valid." This is reported by Abu Daw'ud and Sa'id ibn Mansur. Al-Hafiz Al-Munzhri said Abu Omamah is not known (as a narrator).

Ibn 'Abbas says that a man asked him: "I hire myself to these people to guide them in performing their rites of Hajj; will I have a reward for Hajj?" Ibn 'Abbas said: "Yes." (And then he recited) "To these will be allotted what they have earned; and Allah is quick in account." (Qur'an 2.202) This is transmitted by Al-Baihaqi and Ad-Daraqutni.

Fiqh 5.19: THE HAJJ OF THE PROPHET (Peace Be Upon Him): A Detailed Account

Muslim reports: "Abu Bakr ibn Abi Shaibah and Ishaq bin Ibrahim told us that Hatem bin Isma'il al-Madani reported of Ja'far bin Mohammad and he of his father, saying, 'We visited Jabir bin Abdullah (he was blind) and he began inquiring about the people (who had come to see him) till it was my turn. I said: "I am Mohammad ibn Ali ibn Hussein." He placed his hand on my head and opened my upper button and then the lower one, and then placed his hand on my chest (in order to bless me). I was during those days a young boy, and then he said: "You are welcome, my nephew. Ask whatever you want to ask." I asked him a question but it was time for prayer. He stood up covering himself in his mantle. Whenever he placed its ends upon his shoulders they slipped down because it was short (in size). Another mantle was, however, lying on the clothes rack nearby (and he put it on) and led the prayer. I said to him: "Tell me about the Hajj of the Prophet (peace be upon him)." He held up his nine fingers and said: "The Prophet (peace be upon him) stayed in Madinah for nine years but did not perform Hajj. Then, in the tenth year he made a public announcement to the effect that Allah's Messenger was about to perform the Hajj. A large number of people came to Madinah, and all of them were eager to emulate the Prophet (peace be upon him) and follow his actions.

"We set out with him until we reached Zhul-Hulaifah, where Asma bint 'Umais gave birth to Mohammad ibn Abi Bakr. She sent a message to the Prophet (peace be upon him) asking him: "What should I do?" He said, "Take a bath, bandage your private parts and put on ihram.

"The Prophet (peace be upon him) then prayed in the mosque and then mounted al-Qaswa (his she-camel) and it stood erect with him on its back at al-Baida. As far as I could see in front of me, behind me, on my right and on my left, I saw riders and pedestrians. The Messenger of Allah (peace be him)

was prominent among us and the (revelation) of the Qur'an was descending upon him, and it is he who knows (its true) interpretation. Whatever he did, we also did.

He pronounced the Oneness of Allah (saying): Labbaika Allahumma labbaik labbaika la sharika laka labbaik, innal hamda wan-ni'mata laka wal mulk, la sharika lak (O Allah! I hasten to You. You have no partner. I hasten to You. All praise and grace is Thine and the Sovereignty too; You have no partner). And the people also pronounced this talbiyah which they pronounce today. The Messenger of Allah (peace be upon him) did not disapprove of anything in it, but he adhered to his own talbiyah.

Jabir said: "We did not have any other intention but that of Hajj only, being unaware of the 'Umrah, but when we came with him to the House (of Allah), he touched the Black Stone (Hajar al Aswad) and made seven circuits, running three of them and walking four. Then going to the Station of Ibrahim, he recited: "And adopt the Station of Ibrahim as a place of prayer." (Qur'an 2.125) He stood at a place where the Station (of Ibrahim) was between him and the House. There he prayed two rak'ahs reciting Surah Al-Ikhlâs, and Surah Al-Kafirun. He then returned to the Black Stone (Hajar al Aswad) and kissed it. Then he went out of the gate to Safa, and as he approached it he recited: "Al-Safa and al-Marwah are among the signs appointed by Allah," (Qur'an 2.15) (adding:) I begin with what Allah began. He first mounted Safa until he saw the House, and facing Qiblah he declared the Oneness of Allah and glorified Him and said: La ilaha illa Allah wahdahu la sharika lahu, lahul mulk wa lahul hamd, wa huwa 'ala kulli sha'in qadeer, la ilaha illallahu wahdahu anjaza wa'dahu, wa nasara 'abdahu, wa hazamal ahzaba wahdah (There is no God but Allah, One, He has no partner. His is the Sovereignty, to Him praise is due, and He is Powerful over everything. There is no God but Allah alone, Who fulfilled His promise, helped His servant and routed the confederates alone").

He said these words three times making supplications in between. He then descended and walked towards Marwah, and when his feet touched the bottom of the valley, he ran; and when he began to ascend, he walked till he reached Marwah. There he did as he had done at Safa.

"When it was his last round of Marwah he said: 'If I had known beforehand what I have come to know afterwards, I would not have brought sacrificial animals and would have offered it as an 'Umrah. So, he among you who has not the sacrificial animals with him should put off ihram and treat it as an 'Umrah. Suraqa ibn Malik ibn Ju'tham got up and said, 'Messenger of Allah, does it apply to the present year, or does it apply forever? Thereupon the Messenger of Allah (peace be upon him) intertwined the fingers (of one hand) into another and said twice: 'The 'Umrah has become incorporated in the Hajj,' (adding): 'No, but forever and ever.'

"Ali came from Yemen with the sacrificial animals for the Prophet (peace be upon him) and found Fatimah (Allah be pleased with her) to be one among those who had put off ihram. put on dyed clothes, and had applied kuhl*. Ali showed disapproval of it, whereupon she said: 'My father has commanded me to do this.' (The narrator) said that Ali used to say in Iraq: 'I went to the Messenger of Allah (peace be upon him) showing annoyance at Fatimah for what she had done, and asked the Prophet (peace be upon him) regarding what she had narrated from him, and told him that he was angry with her, whereupon the Prophet (peace be upon him) said: 'She has told the truth; she has told the truth.'

"(The Prophet then asked Ali): 'What did you say when you put on ihram?' I (Ali) said: 'O Allah, I am putting on ihram for the same purpose as Your Messenger has put it on.' Thereupon the Prophet (peace be upon him) told him, 'I have with me sacrificial animals, so do not put off the ihram.'

"(Jabir) said: 'The total number of those sacrificial animals brought by Ali from Yemen and of those brought by the Prophet (peace be upon him) was one hundred. All the people except the Prophet (peace be upon him) and those who had with them sacrificial animals, put off ihram and got their hair clipped. When it was the day of Tarwiya (8th of Zhul-Hijjah) they went to Mina and put on the ihram for Hajj and the Messenger of Allah (peace be upon him) rode and led there, the noon, afternoon, sunset, 'Isha and dawn prayers. He then waited a little till the sun rose, and commanded that a tent of hair should be pitched at Namira.

"The Messenger of Allah (peace be upon him) then set out and the Quraish did not doubt that he would halt at Al-Mash'ar Al-Haram (the sacred site) as the Quraish used to do in the pre-Islamic period. The Messenger of Allah (peace be upon him), however, passed on till he came to 'Arafah and he found that the tent had been pitched for him at Namira. There he got down till the sun had passed the meridian; he commanded that al-Qaswa be brought and saddled for him. Then he came to the bottom of the valley, and addressed the people saying: Verily your blood, your property are as sacred and inviolable as the sacredness of this day of yours, in this month of yours, in this town of yours.

Behold! Everything pertaining to the Days of Ignorance is under my feet, and completely abolished. Abolished are also the blood-revenges of the Days of Ignorance. The first claim of ours on blood-revenge which I abolish is that of the son of Rabi 'a ibn al-Harith, who was nursed among the tribe of Sa'd and killed by Huzhail. And the usury of the pre-Islamic period is abolished, and the first of our usury I abolish is that of 'Abbas ibn 'Abd al-Muttalib, for it is all abolished.

Fear Allah concerning women! Verily you have taken them on the security of Allah, and intercourse with them has been made lawful unto you by word of Allah. You too have rights over them, in that they should not allow anyone to sit on your bed whom you do not like. But if they do that, you can chastise them but not severely. Their rights upon you are that you should provide them with food and clothing in a fitting manner.

I have left among you the Book of Allah, and if you hold fast to it, you will never go astray. And you will be asked about me (on the Day of Resurrection), (now tell me) what would you say? They (the audience) said: "We will bear witness that you have conveyed (the message), discharged (the ministry of Prophethood) and given wise (sincere) counsel." He (the narrator) said: "He (the Holy Prophet) then raised his forefinger towards the sky and pointing it at the people (said): 'O Allah, be witness. O Allah be witness,' saying it thrice'."

"Then azhan was pronounced and later on iqama and the Prophet (peace be upon him) led the noon prayer. Then another Iqama was pronounced and the Prophet (peace be upon him) led the afternoon prayer and he observed no other prayer in between the two. (This proves the validity of joining Zuhr and 'Asr prayer on this day, at this place. There is consensus on it, but there is disagreement as to its cause. Abu Hanifah and some Shafi'i scholars hold that it is a part of Hajj, but the majority of Shafi'i scholars hold it is due to journey) The Messenger of Allah (peace be upon him) then mounted his camel and came to the place where he was to stay. He made his she-camel, al-Qaswa, turn towards the rocky

side, with the pedestrian path lying in front of him. He faced the Qiblah, and stood there until the sun set, and the yellow light diminished somewhat, and the disc of the sun totally disappeared. He made Usama sit behind him, and pulled the nosestring of Qaswa so forcefully that its head touched the saddle (in order to keep her under perfect control), and pointing out with his right hand, advised the people to be moderate (in speed) saying: "O people! calmness, calmness!" Whenever he passed over an elevated tract of land, he slightly loosened the nose-string of his camel till she climbed up. This is how he reached al-Muzdalifah."

"There he led the evening and 'Isha prayers with one azhan and two iqamas and did not glorify (Allah) in between them (i.e. he did not observe supererogatory rak'ahs between Maghrib and 'Isha prayers). The Messenger of Allah (peace be upon him) then lay down till dawn and offered the dawn prayer with an azhan and iqama when the morning light was clear. He again mounted al-Qaswa, and when he came to Al-Mash'ar Al-Haram, he faced Qiblah, and supplicated to Allah, Glorified Him, and pronounced His Uniqueness and Oneness, and kept standing till the daylight was very clear.

"He then went quickly before the sun rose, and seated behind him was Al-Fadl ibn 'Abbas, who was a man with beautiful hair, fair complexion, and handsome face. As the Messenger of Allah (peace be upon him) moved on, a group of women riding camels was also passing. Al-Fadl began to look at them. The Messenger of Allah (peace be upon him) placed his hand on Al-Fadl's face who then turned his face to the other side, and began to look, and the Messenger of Allah (peace be upon him) turned his hand to the other side and placed it on Al-Fadl's face. He again turned his face to the other side till he came to the bottom of Muhassir. He urged her (al-Qaswa) a little, and, following the middle road, (This proves that it is sunnah to follow a different road on the way back from Arafah than the one taken while going toward it. The Prophet (peace be upon him) went by the Dab road to Arafah. Similarly he used to take different routes going to or coming back from 'Eid prayers) which comes out at the greatest Jamarah, he came to the Jamarah which is near the tree. At this he threw seven small pebbles, saying, 'Allahu Akbar' while throwing every one of them in a manner in which the small pebbles are thrown (holding them with fingers) and this he did while at the bottom of the valley. (That is, he stood there at a place where Mina, Arafah and Al-Muzdalifah were on his right, and Makkah on his left side)

"He then went to the place of sacrifice, and sacrificed sixty-three (camels) with his own hand. He shared the remaining camels with Ali, who sacrificed them. He then commanded that a piece of meat from each sacrificed animal be put in a pot. When it was cooked, both of them (the Prophet and Ali) ate some of it and drank its soup.

"The Messenger of Allah (peace be upon him) again rode and came to the House (of Allah), where he performed Tawaf Al-Ifadah and offered the Zuhr prayer at Makkah. He came to the tribe of 'Abd al-Muttalib, who were supplying water at Zamzam, and said: 'Draw water, O Banu 'Abd al-Muttalib; were it not that people would usurp this right of supplying water from you, I would have drawn it along with you.' So they handed him a bucket and he drank from it."

The scholars said: "This hadith is one of its kind. It contains lots of valuable information." Al-Qadi 'Iyad said: "Many scholars have spoken (and written) at great length about the legal injunctions contained in this hadith." Abu Bakr ibn Al-Munzhir has listed a large part of these identifying about one

hundred and fifty injunctions. He observes that if he had analysed more closely this number would almost double.

The scholars said: This hadith indicates that for the women giving birth to a child or having monthly periods it is sunnah - and much more so for others - to take a bath when they intend to perform Hajj or 'Umrah. It also teaches us that the women who are menstruating or are still in their confinement after childbirth, should clean themselves properly, cover their private parts with a piece of cotton, then declare their ihram. It also indicates that ihram must be declared after offering either a fard or a supererogatory prayer. After declaring ihram one should utter talbiyah loudly and preferably use the same words as used by the Prophet (peace be upon him). However, there is no harm in adding similar phrases as 'Umar did: "O Allah! I answer Your call, You Who gives blessings and good favors. I answer Your call fearing You, and wishing Your favor."

This hadith also indicates that a pilgrim must first come to Makkah where one must perform circumambulation of arrival in Makkah (Tawaf qudoom), and touch the Black Stone--if possible--and make the first three rounds running, while making the other four walking at normal speed. The running is done around the Ka'bah except between the Yemeni Corner and the Black Stone.

After making the Tawaf one must go to the Station of Ibrahim (peace be upon him) and recite the verse: "Take the Station of Ibrahim as a place for prayer." Then standing there, with the Station of Ibrahim between him and the Ka'bah, he should pray two rak'ahs reciting after Al-Fatihah, Surah Al-Kafirun in the first rak'ah, and Surah Al-Ikhlâs in the second rak'ah. This hadith also indicates that touching the Black Stone again prior to leaving the Sacred Mosque is recommended (if possible), just as one did upon entering it. There is consensus among the scholars that touching (kissing) the Black Stone is sunnah.

After that, one must make Sa'i and for this purpose go to mount Safa. climb it, face the Ka'bah and make supplications three times to Allah. Then. one must climb down and walk toward Marwah, while jogging in the marked area called bainal milain between Safa and Marwah every time one passes this area during the seven rounds not just in the first three rounds as in Tawaf. On reaching Marwah one should climb it just as one climbed Safa, make supplications, and make remembrance.

Completion of all these rites will complete one's 'Umrah. Now one should either shave one's head or clip some of one's hair to get out of the state of ihram. This is precisely what the Companions of the Prophet (peace be upon him) did when the Prophet (peace be upon him) commanded them to change their Hajj to 'Umrah. As for the pilgrim who is combining Hajj and 'Umrah, he must not shave or clip his hair, but should remain in his state of ihram.

On the 8th of Zhul-Hijjah. those who had put off their ihram after making 'Umrah, should again put on ihram to perform pilgrimage, and then head to Mina with those who combine Hajj and 'Umrah. It is sunnah to offer the five daily prayers in Mina and to spend the night of the 9th of Zhul-Hijjah there.

It is also sunnah not to leave Mina for 'Arafah until after the sunrise, and not to enter 'Arafah until the sun begins to decline, and after offering both Zuhr and 'Asr prayers, which the Prophet (peace be upon him) offered at Namira which is not a part of 'Arafah. The Prophet (peace be upon him) did not enter his quarters at 'Arafah until after offering Zuhr and 'Asr prayers. Moreover, it is also sunnah of the

Prophet (peace be upon him) to offer some supererogatory (nawafil) prayers in between these two prayers.

The imam should give a sermon before the prayer, which is one of the sunnah sermons in pilgrimage. The second sermon is given by the imam on the 7th of Zhul-Hijjah after Zuhr prayer in the Ka'bah. The third of these sunnah sermons is delivered on the 10th of Zhul-Hijjah, the day of slaughtering. And the fourth sermon is given on the day the people leave (yawm an-nafr)--the 11th day of Zhul-Hijjah.

This hadith also contains some important manners and etiquette for performing Hajj and 'Umrah:

- 2- It is better to spend the time at 'Arafah riding one's mount.
- 3- It is better to stand by the rocks or close to them as the Prophet (peace be upon him) did.
- 4- One should face Qiblah while in 'Arafah.
- 5- One must stay at one's quarters in 'Arafah until sunset.
- 6- One should make supplications to Allah, raising one's hands to one's chest, and after the sunset calmly and quietly leave 'Arafah. And if one is in a leading position one should ask others to do likewise.
- 7- Upon arriving at Al-Muzdalifah, one should combine Maghrib and 'Isha prayers with one azhan and two iqamahs.
- 8- One may not offer any nawafil prayers in between these two prayers. There is consensus among Muslim scholars about combining these two prayers. They differ, however, concerning the reason for it. Some claim that it is a part of the rites of the Hajj, while others say it is a permission granted to them, because they are traveling.
- 9- Spending the night at Al-Muzdalifah is also sunnah. All scholars agree that it is part of the Hajj rites. They do, however, differ on whether spending the night there is obligatory or sunnah.
- 10- It is also sunnah to offer Fajr prayer at Al-Muzdalifah, and then depart from it for Al-Mash'ar Al-Haram to stop there and make supplications. Stopping there is a part of the Hajj rite.
- 11- It is sunnah to leave Al-Mash 'ar Al-Haram when dawn is well advanced and go to the bottom of Mohassir valley. When in this valley one should walk fast because this is the place where Allah's wrath descended upon the Companions of the Elephant.
- 12- On reaching the jamarah--jamarah al 'aqabah--one should throw seven pebbles at it, and with each throw say Allahu Akbar. The pebbles should be no more than the size of a cereal seed (beans).
- 13- After this one should offer his sacrifice, if one has one, slaughtering it with one's own hands. After slaughtering one may shave one's head.
- 14- Now one must go to Makkah to perform Tawaf ifadah also known as Tawaf az-ziyarah or circumambulation of visit.

One is thereafter permitted to engage in any lawful activity that was unlawful for him while in the state of ihram, including sexual intercourse with one's wife. A person who has thrown pebbles at Jamarah al-

'Aqabah, but has not performed the circumambulation of if adah (or ziyarah) may engage in any lawful activity except sexual intercourse with his wife.

That is the guidance of the Prophet (peace be upon him) concerning Hajj. It explains what he meant when, according to a hadith, he said: "Take your rites from me," for his Hajj alone is the real and true Hajj.

In the following pages we will deal in detail with all these rites, and the opinions of various scholars concerning them.

Fiqh 5.27: Fixed Time For Ihram, Mawaquit

This refers to the specific period of time when the rites of Hajj have to be performed to be valid. This is clear from the words of Allah: "They ask you concerning the new moons. Say: They are but signs to mark fixed periods of time (in the affairs of) men, and for Hajj" 1 and "For Hajj are the months well-known." (Qur'an 2.197) The Muslim scholars are agreed that the months of Hajj are the months of Shawwal and Zhul-Qui'dah. They differ about the month of Zhul-Hijjah, whether only the first ten days of it are included in the months of Hajj or the entire month. Ibn 'Umar, Ibn 'Abbas, Ibn Mas'ud, the Hanafi and Shafi'i school, and Ahmad are of the opinion that only its first ten days are included in the months of Hajj, while Malik holds the entire month of Zhul-Hijjah as one of the Hajj months. Ibn Hazm supports Malik's opinion, saying that the words, "For Hajj are the months well-known," does not mean two months and a part of other months.

Similarly we know that of the rites of Hajj, the throwing of pebbles at jamarah takes place on the 13th of Zhul-Hijjah, while the scholars agree that the circumambulation of Ifadah, which is one of the essential rites of Hajj, may be performed anytime in the month of Zhul-Hijjah. There is no disagreement on this point. It is, therefore, quite correct to say that all three months are the months of Hajj.

The effects of disagreement are apparent mainly in the rites performed after slaughtering the sacrificial animal. Those who consider the entire month of Zhul-Hijjah a Hajj month, hold there is no penalty for delay in slaughtering an animal. On the other hand, those who hold that only its first ten days are included in the period of Hajj are of the opinion that such a person must offer a penalty and offer a sacrifice for delay.

Fiqh 5.28: Putting on Ihram Before the Months of Hajj

Ibn 'Abbas, Ibn 'Umar, Jabir and Ash-Shafi'i are of the opinion that donning the garb of ihram for Hajj is not valid outside its months. (Anyone putting on ihram before the months of Hajj may, however, perform 'Umrah, but this cannot be a substitute for his ihram for Hajj)

Ibn 'Umar said, "The months of Hajj are Shawwal, Zhul-Qui'dah and ten days of Zhul-Hijjah." Ibn 'Abbas said: "The sunnah is to declare one's intention and to put on ihram with the intention of performing Hajj during the months of Hajj." (Bukhari)

Ibn Jarir reported from Ibn 'Abbas that he said: "To put on ihram for Hajj is not valid except in the months of Hajj."

The Hanafites, Malik, and Ahmad are of the opinion that to put on ihram for Hajj before its months is permissible but disliked. Ash-Shawkani, however, preferred the first opinion. He observes: "Allah, the Exalted One, has named specific months for Hajj rites, of which ihram is one. So whosoever claims that it is permissible to put on ihram even before these months must produce evidence to support his claim."

- Fiqh 5.28 a: Fixed Places for Putting on Ihram

Mawaqit of place are the specific places where a pilgrim or a person intending to visit Makkah for 'Umrah or Hajj must declare his intention to do so and put on ihram, the pilgrim garb. Anyone intending to perform Hajj or 'Umrah must not pass beyond these places without ihram.

The Prophet (peace be upon him) himself specified these places:

For the people of Madinah the miqat (singular of mawaqit) is ZhalHalaifah, a place 450 kilometres to the north of Makkah, from where they must declare their intention and don the ihram, the Hajj garb.

For those coming from Syria, Jordan, Palestine and Lebanon, the miqat is Al-Juhfah, a place 187 kilometres to the north-west of Makkah, and close to Rabigh, which is 204 kilometres from Makkah. Rabigh became the miqat for the people coming from Syria and Egypt, after the settlement of Al-Juhfah disappeared completely.

The miqat for people of Najd is Qarn al Manazil, a mountain 94 kilometres to the east of Makkah, overlooking 'Arafah.

Yalamlam, a mountain 54 kilometres to the south of Makkah is the miqat for those coming from Yemen. Here they must declare their intention and put on ihram.

For the people of Iraq, the miqat is Zhat Irq, a place 94 kilometres to the north-east of Makkah.

These places were fixed by the Prophet (peace be upon him) himself for all those who pass by them whether they come from these specific areas or some other areas. The Prophet (peace be upon him) said: "These places are for the people (coming from the above specified countries) as well as for others who pass by them on their way to perform Hajj or 'Umrah." For a person who is present in Makkah and intends to perform Hajj, like the residents of Makkah, his miqat would be the place where he is staying in Makkah. However, if such a one intended to perform 'Umrah, then he should go to Al-Khol or At-Tan'im, for that is his miqat for 'Umrah. He should go there and make his ihram for 'Umrah.

A person who is a resident in an area between the miqat and Makkah, he may make his ihram from his house.

Ibn Hazm said: "A person travelling by land or sea (to Makkah for Hajj or 'Umrah) who does not pass by any of these places may make his ihram from any place he likes."

- Fiqh 5.28 b: Declaring Ihram Before Reaching the Miqat

Ibn al-Munzhir says: "There is consensus among the scholars that a person who declares his intention to perform Hajj or 'Umrah and puts on his ihram before reaching the miqat does enter the state of ihram. But is it undesirable to do so? Some say it is, in light of the saying of the Companions that the Prophet (peace be upon him) himself fixed Zhul Hulaifah as miqat for the people of Madinah which

means that (an intending pilgrim) should make his ihram from these specified places, without any addition or deletion from the rule. But if addition is not prohibited, then at least the best course would be not to do it (i.e. not make ihram before reaching the fixed place)."

Fiqh 5.31: Ihram, Definition

Ihram is the intention to perform either Hajj or 'Umrah, or to make intention of performing both. Intention is an important element of both. Allah says: "And they have been commanded no more than this: to worship Allah, offering Him sincere devotion." (Qur'an 98.5) The Prophet (peace be upon him) said: "The actions will be rewarded according to the intentions behind them, and every person will have what he had intended."

We have dealt with the subject of intention in Fiqh us-Sunnah, Vol.1.(See the chapter on Wudu in Fiqh us-Sunnah vol. 1) The human heart is its seat. Al-Kamal bin al-Homam reported, "We are unaware of anyone among the narrators reporting about the rites performed by the Prophet (peace be upon him) and saying that he (the Prophet) declared his intention to perform Hajj or 'Umrah aloud saying, "I have made the intention to make 'Umrah or Hajj."

- Fiqh 5.31 c: Etiquette of Ihram, Cleanliness

This means clipping one's fingernails, trimming the moustache, shaving off the hair from under the armpits, shaving the pubic hair, making an ablution or preferably taking a complete bath, and in the case of men, to comb their beard and hair.

Ibn 'Umar said: "It is sunnah for a pilgrim to take a complete bath before entering the state of ihram or before entering Makkah." This is reported by Al-Bazzar, Ad-Daraqutni, Al-Hakim, who considers it a sound hadith.

It is reported from Ibn 'Abbas that Allah's Messenger (peace be upon him) said: "A woman in the state of confinement after childbirth and one in her menstruation period must take a complete bath, declare her ihram, and perform all the rites except circumambulation around the Ka'bah, which she may perform after she is in a state of purification." (Ahmad, Abu Dawud, and Tirmizhi who considers this hadith sound)

Fiqh 5.32: Taking off all sewn clothes and putting on the Hajj garb

This consists of two sheets of cloth. One of these is wrapped round the upper part of the body, except the head, and the other (izar) is wrapped round the lower part of the body. Both of these sheets should be white as this color is the best color in the sight of Allah.

Ibn 'Abbas said: "Allah's Messenger (peace be upon him) combed his hair, wore some perfume, put on his Hajj garb, along with his Companions, and then he set out from Madinah accompanied by them." (Reported by sukhari)

- Fiqh 5.32 a: Wearing Some Perfume

The perfume may be used on the body as well as the Hajj garb, even if it should continue to smell afterwards.

'Aishah said: "It is as if I can still (in retrospection) see the traces of perfume glittering on the Prophet's head while he was in the state of ihram." (Reported by sukhari and Muslim) She also reported: "I used to apply perfume to the Prophet (peace be upon him) before he wore his Hajj garb, and again when he ended his state of ihram, but before he had made Tawaf around the Ka'bah." (Bukhari and Muslim) In another report transmitted by Ahmad and Abu Daw' ud, 'Aishah said: "We used to go to Makkah with Allah's Messenger (peace be upon him), and when we wore our Hajj garb we used to sprinkle musk on our foreheads. And if one of us was sweating or perspiring it would run down her face. The Prophet (peace be upon him) would notice this but did not prohibit its use."

- Fiqh 5.32 b: Praying Two Rak'ahs

With these, one should make one's intention to assume the state of ihram. In the first rak'ah one should recite Surah AlKafirun, and recite Surah Al-Ikhlās in the second rak'ah after the recitation of Surah Al-Fatihah.

Ibn 'Umar reported: "The Prophet (peace be upon him) used to offer two rak'ahs at Zhul-Hulaifah.

If, however, one offered a prescribed prayer at that time it will suffice him, just as a prescribed prayer suffices and replaces a prayer of salutations to the mosque.

- Fiqh 5.32 c: Kinds of Ihram

Ihram is of three kinds:

-1- Qiran (combining both 'Umrah and Hajj).

-2- Tamattu' (combining both Hajj and 'Umrah with a break in between), and

-3- Ifrad (Hajj only).

There is consensus among scholars that all these three kinds are legitimate.

'Aishah reported: "We left (Madinah) with Allah's Messenger (peace be upon him) to perform the Farewell Hajj. Some of us declared ihram to perform 'Umrah, while others declared their intentions to perform both Hajj and 'Umrah. Yet others declared their ihram to perform Hajj only. The Prophet (peace be upon him) declared ihram for Hajj only.

As for those who intended 'Umrah, they terminated their ihram as soon as they finished the rituals of 'Umrah. Those who intended to combine Hajj with 'Umrah or those who intended to perform Hajj only, they did not terminate their ihram until the Slaughtering Day (Yawm un-Nahr), the 10th of Zhul-Hijjah." (Reported by Ahmad, Bukhan, Muslim and Malik)

Fiqh 5.33: Qiran - Combining Hajj and 'Umrah

In it a pilgrim declares his intention to perform both Hajj and 'Umrah together, and says when doing talbiyah, "O Allah, I answer your call to perform Hajj and 'Umrah." Such a pilgrim is required to remain in the state of ihram until he has performed all the rites of 'Umrah and Hajj. Or, for this kind of ihram, a pilgrim may declare his intention to perform 'Umrah and later, before making the Tawaf around Ka'bah, make his intention to perform Hajj as well.

- Fiqh 5.33 a: Tamattu' - Combining 'Umrah and Hajj With a Break in Between

Tamattu' means performing 'Umrah during the Hajj season, and then subsequently making Hajj the same year. It is called tamattu' (or enjoyment) due to the fact that a pilgrim has the added advantage of performing Hajj and 'Umrah in the same journey without having to go back home, and also because such a pilgrim after the 'Umrah, enjoys normal life; he can wear his usual clothes, apply perfume, and do other things until the time he once again puts on his Hajj garb for the Hajj.

Anyone intending to make a tamattu' should on approaching the miqat, first make intention for 'Umrah. While uttering talbiyah he should say: Labbaik bil 'Umrah. "O Allah, I answer Your call to perform 'Umrah." Such a pilgrim should keep on his or her Hajj garb until he circumambulates around the Ka'bah, walks between Safa and Marwah, then clips his hair or shaves it. After that he may put away his Hajj garb and wear his usual clothes. He may do everything that is permissible but was prohibited for him in the state of ihram. On the 8th of Zhul-Hijjah, such a person must declare his or her intention to perform Hajj and put on ihram from Makkah.

The author of Al-Fath says: "The majority of the scholars agree that Tamattu' means a pilgrim may combine Hajj with 'Umrah during the months of the Hajj and in the same journey, and that when he performs 'Umrah he should be present in Makkah. In the absence of any of these conditions he may not perform Hajj tamattu'.

Fiqh 5.34: Ifrad (Or Hajj only)

Ifrad means a pilgrim intending to perform Hajj only should, while at the miqat, make intention for Hajj only. While making talbiyah he or she should say, Labbaik bihajj "(O Allah, I answer your call to perform Hajj)," and must keep his or her Hajj garb until all the rites of Hajj are completed. Then, if such a pilgrim desires, he or she may perform an 'Umrah.

- Fiqh 5.34 a: Which of the Above Kinds of Hajj and Umrah Combination is the Best

The scholars disagree as to which of these is the best kind. The Shafi'i school holds that ifrad and tamattu' are superior to qiran, because in either of the former two kinds a pilgrim has the opportunity to perform complete rites of Hajj and of 'Umrah. On the other hand, a qarin (one who undertakes a qiran Hajj) is able to perform Hajj only.

As to which of the two--tamattu' or ifrad--is better, there are two opinions. One group of scholars holds tamattu' as superior to ifrad, while the others hold ifrad is better.

The Hanafi school holds that qiran is better than tamattu' and ifrad, and that tamattu' is better than ifrad. The Maliki school holds that ifrad (Hajj only) is better than tamattu' and qiran. The Hanbali scholars, on the other hand, are of the view that tamattu' (combining Hajj and 'Umrah with a break in between), is better than the qiran and ifrad. This is comparatively easy and the people can perform it comfortably.

In fact, this is what the Prophet (peace be upon him) performed himself and commanded his Companions to do likewise. 'Ata said, "I heard Jabir ibn Abdullah saying, 'We (the Companions) declared our intention to perform Hajj only. On the 4th of Zhul-Hijjah the Prophet (peace be upon him) commanded us to terminate our state of ihram, saying, "Terminate your state of ihram and go to your wives." He did not, however, oblige us to do so but he permitted us. We said: 'There are only five days

left to the Day of 'Arafah. Shall we go to 'Arafah while semen is dribbling from our male organs?" The Prophet (peace be upon him) stood up and said: "You know that I fear Allah the most, and that I am the most truthful, and the most pious amongst you. If I had not brought my sacrificial animals with me, I also would have terminated my state of ihram. If I were to again come (to Makkah), I shall not bring the sacrificial animals with me. So terminate your state of ihram." At this we terminated our state of ihram; we listened to and obeyed (the Prophet)." This was reported by Muslim.

Fiqh 5.35: Putting on Ihram Without Specifying Its Kind

If a person puts on ihram with the intention of performing whatever Allah has prescribed for him without specifying any of the above three kinds due to lack of knowledge, his ihram would be quite lawful and valid.

The scholars said: "If such a person utters talbiyah like others with the intention of performing the rituals (of Hajj), but says nothing in words, nor makes an intention in his heart, nor specifies whether it is tamattu', ifrad, or qiran Hajj that he intends, his pilgrimage would still be valid, and he will be reckoned to have made one of the three kinds of Hajj.

- Fiqh 5.35 a: Tawaf and Sa'i for those Performing Qirarl and Tamattu' - The People Living Within the Sacred Precincts of Ka'bah May Perform Ifrad (Hajj only).

Ibn 'Abbas was once asked about the break between 'Umrah and Hajj to which he replied: "The Muhajirun (immigrants from Makkah), the Ansar (people of Madinah), and the wives of the Prophet (peace be upon him) declared their intention to perform the Farewell Hajj. So we also declared our intention to do the same. Upon arrival in Makkah, the Prophet (peace be upon him) said: "Make your declaration of intention for 'Umrah only, except for those who have already designated their sacrificial animals, and brought them along with them." We made Tawaf of Ka'bah, walked seven times between Safa and Marwah. Then we consorted with our wives and wore our regular clothes. The Prophet (peace be upon him) further told us: "Those who have garlanded (i.e., marked) their sacrificial animals, they must not break their state of ihram until the animal reaches the slaughter house to be offered in sacrifice. Then we were commanded by the Prophet (peace be upon him) to declare our intention for Hajj on the night of the 8th of Zhul-Hijjah. After completing all the rites of Hajj, we went and circumambulated around the Kabbah, walked between Safa and Marwah, and thus we completed Hajj and we offered the sacrifice as Allah says, "If anyone wishes to continue the 'Umrah onto the Hajj, he must make an offering such as he can afford, but if he cannot afford it, he should fast three days during the Hajj and seven days on his return ... (to his country)." (Qur'an 2.196) Offering a sheep in sacrifice is enough for this purpose. These Companions of the Prophet (peace be upon him) combined two worships in one year: Hajj and 'Umrah. Allah has mentioned it in His Book and (reinforced it) by the practice of His Prophet (peace be upon him), making it permissible for all people, excepting the residents of Makkah. Allah says (Qur'an 2.136): "This is for those whose household is not in (the precincts of) the Sacred Mosque." The Hajj months referred to are Shawwal, Zhul-Qi'dah and ZhulHijjah. So whosoever combines an 'Umrah and Hajj during these months has to offer a sacrifice, or observe fast. This is reported by Bukhari.

This hadith proves that the residents of Makkah can neither perform qiran nor tamattu'. They may perform if rad only--a single Hajj or a single 'Umrah. This is the opinion of Ibn 'Abbas, and Abu

Hanifah in the light of Allah's words, "This is for those whose household is (in the precincts of) the Sacred Mosque."

There is disagreement among scholars concerning "those whose household is (in the precincts) of the Sacred Mosque." Malik holds that they are the people of Makkah. Al-A'raj agrees with this view and also At-Tahawi who preferred this view. Ibn 'Abbas, Taw'us, and another group are of the opinion that it is the people living within the sacred precincts of Haram, which according to Al-Hafiz, is quite apparent. Ash-Shafi'i holds that any one living around Makkah at a distance not more than that at which one is permitted to shorten regular prayers is a resident of Makkah. Ibn Jarir agrees and prefers this view. The Hanafi scholars hold that all those living within or at the miqat are residents of Makkah. In this regard, the place of residence and not the place of birth of a person is taken into account.

The above hadith also indicates that a person who performs Hajj tamattu' must first make a tawaf of Ka'bah and Sa'i between Safa and Marwah. This will suffice him for tawaful qudum (circumambulation of arrival) which is performed as a greeting to the Sacred Mosque upon arrival there. Then, after the Day of 'Arafah, such a person shall make another tawaf, tawaf ifada. and perform another Sa'i between Safa and Marwah.

As for the qarin, the pilgrim who combines 'Umrah and Hajj and remains in a state of ihram after the first 'Umrah, the scholars are of the opinion that he needs to perform only one tawaf (seven circumambulations around Ka'bah) and one Sa'i (seven rounds between Safa and Marwah) for both the Hajj and 'Umrah. The case of such a person is very much similar to the pilgrim who performs ifrad (Hajj only).

-1- Jabir reported: "The Prophet (peace be upon him) combined Hajj and 'Umrah, with one tawaf." This is transmitted by Tirmizhi, who considers it a sound hadith.

-2- Ibn 'Umar reported that the Prophet (peace be upon him) said: "He who declared his intention to perform Hajj and 'Umrah together, may perform one tawaf and one Sa'i for them." This is reported by Tirmizhi, with the remarks that this is a hasan gharib hadith. Ad-Daraqutni has also reported it, but he adds: "One must not terminate one's state of ihram until one has completed both (the Hajj as well as 'Umrah)."

-3- The Prophet (peace be upon him) told 'Aishah: "Your tawaf of the Ka'bah and Sa'i between Safa and Marwah will suffice you for both Hajj and 'Umrah." This is reported by Muslim.

Abu Hanifah, however, is of the view that in such a case (i.e., combining Hajj and 'Umrah) lawaf and Sa'i must be performed twice. The first hadith is preferable considering its authenticity and strength of evidence.

-4- A hadith says that a pilgrim who combines Hajj and 'Umrah, with a break in between (as in tamattu') or without a break (as in qiran) must sacrifice at least a sheep. And if one cannot afford the sacrifice he should fast three days during Hajj and another seven days after returning home. It is preferable for such a person to fast three days during the ten days of Zhul-Hijjah before the Day of 'Arafah. Some scholars such as Taw'us and Mujahid, however, hold that such a pilgrim may fast at the beginning of the month of Shawwal. Ibn 'Umar, on the other hand, is of the opinion that such a pilgrim may fast a day before the 8th, and the 8th as well as 9th of Zhul-Hijjah (Day of 'Arafah). If such a

pilgrim failed to fast these three days, or fasted some of them before 'Eid, then he may observe fast during the tashriq days (i.e., the 11th, 12th and 13th of Zhul-Hijjah). This is based on a report from 'Aishah and Ibn 'Umar who said: "Fasting is not permitted on the 11th, 12th and 13th of Zhul-Hijjah except for those who are obligated to fast because they cannot afford the sacrifice." This is reported by Bukhari. If one fails to fast these three days during Hajj, then one must make them up later.

As for the seven days of fasting, according to some scholars, one may fast them upon arriving at his home town. Others, like Mujahid and 'Ata, say one may do so after arriving at one's stopover. According to them one may fast these seven days on the way back home. These ten days of fasting do not necessarily have to be fasted consecutively.

Once a person makes intention (for Hajj or 'Umrah) and dons the ihram, he must make talbiyah.

Fiqh 5.39: TALBIYAH, Its Legality

There is consensus among the scholars that talbiyah is a prescribed practice. Umm Salamah reported: "I heard Allah's Messenger (peace be upon him) saying: "O Family of Muhammad! Whoso among you intends to perform Hajj must raise his voice while uttering talbiyah." This is reported by Ahmad and Ibn Hibban.

The scholars disagree, however, on its legal status, timing, and the position of one who delays it. Ash-Shafi'i and Ahmad hold that it is sunnah of the Prophet (peace be upon him); it is desirable to utter it when putting on the garb of ihram. Thus, if a person intended to perform Hajj but did not utter talbiyah, his Hajj would still be valid, and he is not required to do anything, because according to them, such a person enters the state of ihram just by making intention to perform Hajj.

Hanafi scholars hold that talbiyah or any substitute for it - such as containing praise or glorification of Allah. and bringing an animal for sacrifice - is a requisite condition for the validity of ihram. If someone puts on the garb of ihram without uttering talbiyah or glorifying Allah or bringing a sacrificial animal, his ihram is not valid, because ihram, according to them, is a combination of intention and one of the rites of Hajj. Thus, if one declares his intention for ihram and performs any of the rites of Hajj, for example if he glorifies Allah or declares, "There is no deity worthy of worship but Allah alone," or if he brought his sacrificial animal along with him but did not utter talbiyah, his ihram will be valid but he will be required to sacrifice an animal as a penalty for failing to do so.

According to the well-known position of Imam Malik, uttering talbiyah is obligatory and in cases where one fails to do so or does not utter it upon donning the garb of ihram but utters it later on, one must slaughter an animal in atonement.

- **Fiqh 5.39 b: Words of Talbiyah**

Malik reported from Nafi' that Ibn 'Umar said: "The Prophet (peace be upon him) made his talbiyah in these words: 'Lab-baika Allahumma Lab-baik. Lab-baika la-Sharika laka lab-baik. In-nal Hamda wan-ni 'mata laka wal mulk. La Sharika lak (Here I am at Your service, O Allah! You have no partner, Here I am at Your service, O Allah. Verily, all the praise, the grace belong to You, and the kingdom. You have no partner) '"

Nafi' said that Ibn 'Umar used to add, "I am at Your service, I am at Your service. I am at Your service and at Your call. All good is in Your hands, I am at Your service. Our desire is for You, and also our deeds."

The scholars, however, prefer to restrict the words of talbiyah to the words used by the Prophet (peace be upon him), and there is disagreement among them concerning any addition to them. The majority, however, holds that there is no harm in adding other words to them as Ibn 'Umar and other Companions of the Prophet (peace be upon him) did. The Prophet (peace be upon him) heard them and did not say anything to them. (Reported by Abu Da'wud and Al-Baihaqi) Malik and Abu Yusuf disliked adding to the talbiyah of the Prophet (peace be upon him).

Fiqh 5.40: Excellence of Talbiyah

Jabir reported that the Prophet (peace be upon him) said: "Whosoever makes intention to perform Hajj and pronounces talbiyah all day until sunset, Allah the Almighty will forgive his sins, and he will be free of sin as he was the day his mother gave birth to him." (Ibn Majah)

Abu Hurairah reported that the Prophet (peace be upon him) said: "He who declares, 'There is no God but Allah' will get the good news of reward (for him), and he who magnifies Allah (or, says Allahu Akbar - Allah is the greatest) will receive the good news of reward (for him)." They asked: "O Prophet of Allah, is it the (good news of) Paradise?" He replied, "Yes." (Narrated by At-Tabarani and Sa'id bin Mansur)

Sahl ibn Sa'ad reported that the Prophet (peace be upon him) said: "When any Muslim utters talbiyah, everything - every stone or every tree or every pebble - on his right side and on his left side responds with a (similar) talbiyah, until the whole earth resounds with it." (Reported by Ibn Majah, Al-Baihaqi, Tirmizhi, Al-Hakim, who considers it a sound hadith)

Fiqh 5.41: Uttering Talbiyah Aloud is Encouraged

Zaid ibn Khalid reported that the Prophet (peace be upon him) said: "Gabriel (peace be upon him) came to me and told me: 'Command your Companions to raise their voices when saying talbiyah, because it is one of the rituals of Hajj.'" This is reported by Ibn Majah, Ahmad, Ibn Khuzaimah and Al-Hakim, who regards it a sound hadith.

Abu Bakr reported that the Prophet (peace be upon him) was asked: "Which Hajj is the best Hajj?" He replied: "One in which voices are raised when saying talbiyah and a sacrifice is offered." (Reported by Tirmizhi and Ibn Majah) Abu Hazim said: "When the Companions put on ihram their voices would become hoarse even before they reached Makkah." In the light of these ahadith the majority of scholars prefers that the pilgrims raise their voices when saying talbiyah.

Malik holds that one must not raise one's voice in saying talbiyah while inside a congregational mosque. One may, however, say it loud enough for oneself or for those around to hear it, except in the Sacred Mosque and the Mosque of Mina. In these two one should raise one's voice when saying talbiyah. This applies to male pilgrims only.

As for women, they may raise their voices when saying talbiyah so that they themselves or those around them can hear it. To raise their voices above that is disliked for them.

'Ata said: "Men must raise their voices (when saying talbiyah), but a woman should raise her voice so as to hear it herself, but she should not raise her voice more than that."

- **Fiqh 5.41 a: Places Where Talbiyah is Encouraged**

Saying talbiyah is desirable in the following places and times: when mounting one's mount (or any means of transportation), on arriving at a place, on going up a hill or down into a valley, on meeting another group of people, at the end of every prayer, and early in the morning. Ash-Shafi'i said: "We love to say it at all times."

- **Fiqh 5.41 b: Timings of Talbiyah**

A pilgrim should begin his talbiyah from the time he wears his ihram and continue it until throwing the first pebble at the Aqabah Jamarah on the 10th of Zhul-Hijjah, the Day of Nahr (sacrifice). Then he should stop saying talbiyah, as the Prophet (peace be upon him) did, according to a hadith transmitted by the Group. Ath-Thawri, the Hanafi school, Ash-Shafi'i, and the majority of scholars also hold this view. Ahmad and Ishaq, however, are of the view that a pilgrim must continue talbiyah until he has stoned all the three jamarahs. After that he may stop saying talbiyah. Malik holds that a pilgrim must continue talbiyah until the end of the Day of 'Arafah (the 9th of Zhul-Hijjah). This applies only to those performing Hajj.

As for those performing 'Umrah, they may discontinue talbiyah after kissing the Black Stone and starting their tawaf. Ibn 'Abbas reports that the Prophet (peace be upon him) used to discontinue talbiyah after kissing the Black Stone (at the start of his tawaf). (Reported by Tirmizhi who considers it a sound hadith. When a person puts on ihram from a miqat he should discontinue talbiyah on entering the Haram (Sacred Mosque). And those who put on ihram from Ju'rana or Tan'im, they should discontinue it on reaching the houses of Maklah) In practice, most of the scholars follow this hadith.

Fiqh 5.42: Desirability of Invoking Blessings on the Prophet (Peace be Upon Him) and Making Supplications

Al-Qasim ibn Muhammad ibn Abu Bakr said: "It is commendable for a pilgrim to send greetings and blessings on the Prophet (peace be upon him) after saying talbiyah." The Prophet (peace be upon him) used to seek Allah's forgiveness, pleasure, and protection from men after having said his talbiyah. (Reported by At-Tabarani and others)

Fiqh 5.43: Taking a Bath, and Changing Clothes by a Muhrim

Ibrahim An-Nakh'i said: "Whenever our companions approached the well of Maimun, they would take a bath and then put on their best clothes."

It is said that Ibn 'Abbas entered a public bath at Al-Johfah (to take a bath), while he was in the state of ihram. He was asked: "How do you do so while in the state of ihram?" He replied: "Allah does not need any of our dirt and filth!"

Jabir said: "A person in the state of ihram may take a bath and wash his garb." Abdullah ibn Hunain reported: "Ibn 'Abbas and Al-Musawir ibn Makhramah were at Al-Abwa when they disagreed on whether a person in the state of ihram can wash his head. Ibn 'Abbas said: 'A person in the state of

ihram is permitted to wash his head.' Al-Musawir differed and said that a muhrim is not allowed to wash his head. At this Ibn 'Abbas sent me to Abu Ayyub Al-Ansari. I found him bathing between the two wooden posts (of the well) and was screened with a sheet of cloth.

"I greeted him and he asked who I was. I replied, 'I am Abdullah ibn Hunain and I have been sent to you by Ibn 'Abbas to ask you how Allah's Messenger (peace be upon him) used to bathe while in the state of ihram. At this Abu Ayub Al-Ansari caught hold of the sheet of cloth and lowered it till his head appeared before me, and then told somebody to pour water on his head. He poured water on his head, and he (Abu Ayub Al-Ansari) rubbed his head with his hands by bringing them from back to front and from front to back and said, 'I saw the Prophet (peace be upon him) doing this.'" This is reported by the Group except Tirmizhi. Bukhari added: "Then I came back and told them. And Al-Musawir said to Ibn 'Abbas: 'I will never again argue with you.'"

Ash-Shawkani said: "This hadith shows that a muhrim is permitted to take a bath while in the state of ihram and may even cover his head with his hand while doing so."

Ibn al-Munzhir said: "There is consensus that a muhrim may take a bath when in a state of janabah (major impurity). There is disagreement, however, concerning bathing in other cases."

Malik reported from Nafi' that Ibn 'Umar did not wash his head while in the state of ihram except when he had a wet dream." It is reported that Malik disliked that one should immerse one's head in water while in the state of ihram.

Using soap or any other cleaning agent is permissible. Ash-Shafi'i and Hanbali schools hold one may use perfumed soap for bathing, and similarly women are permitted to undo their hair and comb it, because the Prophet (peace be upon him) ordered 'Aishah, saying: "Undo your hair, and comb it." (Muslim)

An-Nawawi said: "It is permitted to undo the hair and comb it while in the state of ihram provided that no hair is pulled out. Combing, however, is disliked unless there is some genuine reason for it. One may also carry one's belongings on one's head."

Fiqh 5.44: Wearing a Short Underpants (short underwear)

Sa'id ibn Mansur reported from 'Aishah that she held that a muhrim may wear underpants. Al Hafiz remarked: "This is an opinion of 'Aishah, but the majority of scholars hold wearing underpants is forbidden for a muhrim, because it is similar to wearing trousers which are forbidden for a muhrim." (Bukhari)

- Fiqh 5.44 a: Covering the Face

Ash-Shafi'i and Sa'id bin Mansur reported from Al-Qasim that he said: "Uthman ibn 'Affan, Zaid ibn Thabit, and Marwan ibn Al-Hakam used to cover their faces while in the state of ihram." Taw'us said: "A person in the state of ihram may cover his face if there is dust or ashes." Mujahid said: "If there was a sandstorm they covered their faces while in the state of ihram."

- Fiqh 5.44 b: Women are Allowed to Wear Shoes

Abu Daw'ud and Ash-Shafi'i reported on the authority of 'Aishah that Allah's Messenger (peace be upon him) permitted women to wear their shoes while in the state of ihram.

- **Fiqh 5.44 c: Covering the Head by Mistake**

The Shafi'i school holds that there is no harm if a pilgrim forgot and covered his head or wore a shirt in a state of forgetfulness. 'Ata said: "There is no blame on such a person, but he should seek forgiveness of Allah." The Hanafi school says that such a person will have to redeem himself (by offering a sacrifice). There is also disagreement on using perfume by mistake or unknowingly. The Shafi'i school holds: "Ignorance and forgetfulness constitute an excuse enough to remove the need for redemption for doing something forbidden, unless it is something that involves damage such as hunting, shaving, and clipping nails." This is the correct position according to them. We will deal with it at its proper place.

Fiqh 5.45: Cupping, Opening an Abscess, Pulling a Tooth or Cutting a Vein

It is substantiated that Allah's Messenger cupped himself in the middle of his head while he was in a state of ihram. Malik said: "There is no blame upon a muhrim if in case of need, he opens an abscess, wraps a wound or severs a vein."

Ibn 'Abbas said: "A person in the state of ihram may pull his tooth or open an abscess." An-Nawawi said: "If a muhrim wants cupping without any reason, and it necessitates cutting hair, then it is unlawful to do so. But if it does not necessitate cutting hair, the majority of scholars hold it permissible. Malik, however, hold that it is disliked. Al-Hasan is of the opinion that one must sacrifice an animal if one does so, even if it does not involve cutting any hair. But if it is done because of a need, then it is permissible, but one will have to pay a ransom to redeem oneself. Zahiri school holds that an atonement is required only for cutting hair from the head.

- **Fiqh 5.45 a: Itching in the Head and Body**

'Aishah was asked about a pilgrim who has itching in his or her body. She said: "Yes, he or she may scratch as strongly as he or she likes." This hadith is reported by Bukhari, Muslim and Malik, who added: "If both of my hands were tied, and only my leg was free, I would use it to scratch myself." The same was reported from Ibn 'Abbas, Jabir, Sa'id ibn Jubair, 'Ata and Ibrahim An-Nakh'i.

- **Fiqh 5.45 b: Looking in the Mirror and Smelling Sweet Basil**

Ibn 'Abbas said: "A person in a state of ihram is permitted to smell sweet basil, look in a mirror, and cure himself by eating butter and oils." 'Umar bin Abdul 'Aziz used to look in the mirror and use the tooth stick (siwak) while in a state of ihram.

Ibn Al-Munzhir said: "There is consensus among the scholars that a muhrim may eat oil, fat, and butter, but he is not permitted to use perfume all over his body.

Hanafi and Maliki scholars hold it is disliked for a muhrim to stay at a place which is full of perfume or scent, whether he intended to smell it or not. Hanbali and Shafi'i schools are of the opinion that if such a person does so intentionally it is unlawful for him, otherwise there is no harm. The Shafi'i school holds that sitting at a perfumer in an incensed place is permissible, because its prohibition will make things difficult. Applying perfume is not desirable; one should avoid it unless one is sitting in a place

where one cannot avoid it, for example, if one is sitting in the Sacred Mosque when it is scented. In this there is no harm, nor is it disliked, because sitting at this place is a means of achieving closeness to Allah, and to abandon it for something which is at best only permissible is not desirable. One may carry the perfume in a bottle or wrapped in a cloth and one is not required to make any atonement for doing so.

Fiqh 5.46: Wearing a Belt Pocket Around the Waist to Keep One's Money and Wearing a Ring

Ibn 'Abbas said: There is no harm if a muhrim wears a ring, or a belt pocket to keep his money.

- Fiqh 5.46 a: Wearing Kohl in the Eye

Ibn 'Abbas said: A person in a state of ihram may wear kohl if his or her eyes are sore, provided the kohl is not perfumed. There is consensus among scholars on its permissibility for treatment but not as a means for beautification.

- Fiqh 5.46 b: Sitting Under the Shade of an Umbrella, a Tent, a Roof, etc.

Abdullah ibn 'Amer reported: " 'Umar used to throw a piece of leather on a tree and sit under its shade while he was in the state of ihram." This is reported by Ibn Abi Shaiba.

Ummul-Hussain reported: "I performed the Farewell Hajj with the Prophet (peace be upon him). I saw Usamah ibn Zaid and Bilal. One of them was holding the noseband of the Prophet's she-camel, and the other was shading him with a cloth from the sun until he threw the pebbles at 'Aqabah." This is reported by Ahmad and Muslim. 'Ata said: "A muhrim may shade himself from the sun, and take shelter to protect himself from rain and wind." Ibrahim An-Nakh'i reported: "Al-Aswad ibn Yazid threw a cloth over his head for shelter from rain while he was in the state of ihram."

- Fiqh 5.46 c: Using Henna

The Hanbali school holds that using henna for dyeing any part of the body, except the head, is not forbidden for a muhrim, male or female. The Shafi'i school holds that a male muhrim may use henna for dyeing any part of the body, except hands and feet, dyeing of which without any genuine cause is not permissible in the state of ihram. Also covering one's head with thick (layers of) henna is not permissible. They also hold that it is not desirable for a woman in the state of ihram to use henna, and that it is unlawful for her to do so if she is in 'iddah after the death of her husband.

The Hanafi and the Maliki schools on the other hand, hold that a muhrim, male or a female, is not permitted to use henna for dyeing any part of the body because it is a perfume, and a muhrim is not allowed to wear perfume during the state of ihram. Khawlah bint Hakim reported from her mother that the Prophet (peace be upon him) told Umm Salamah: "Do not wear perfume while you are in the state of ihram. nor touch henna, because it is a perfume." (Reported by At-Tabarani in Al-Kabir, Al-Baihaqi in his Al-Ma'rifah, and by Ibn Abdul-Barr in his work At-Tamheed)

- Fiqh 5.46 d: Punishing a Servant for Discipline

Asma bint Abi Baker reported: "We went for Hajj with the Prophet (peace be upon him). When we reached a place called 'Arj the Prophet (peace be upon him) stopped, and so did we. 'Aishah sat by the Prophet (peace be upon him), and I sat next to Abu Bakr. Their travel supplies were with a servant of

Abu Bakr. He sat down waiting for his servant. When the servant came he was walking on foot, and had no camel with him. Abu Bakr asked him about his camel. The servant replied: 'I lost it yesterday.' At this Abu Bakr got angry and said to him: 'You had only one camel (to look after) and you lost it.' And he beat him. The Prophet (peace be upon him) smiled and said: 'Look at this muhrim--Abu Bakr! What is he doing?' And he kept on smiling and repeating this." (Reported by Ahmad, Abu Daw'ud, and Ibn Majah)

Fiqh 5.47: Killing Flies, Fleas, and Lice

'Ata was asked by a man about the fleas or ants that vexed him while he was in the state of ihram. He replied: "You may throw away what does not belong to you." Ibn 'Abbas said: "A muhrim may kill lice and ticks."

A muhrim may also remove fleas from his camel. 'Ikrimah reported that Ibn 'Abbas once ordered him to kill the ticks off his camel while they were both in the state of ihram. 'Ikrimah, disliked doing so. Then, Ibn 'Abbas commanded Ikrimah to slaughter a camel, which he willingly did. Thereupon Ibn 'Abbas asked him, "Do you know how many ticks you just killed?"

- **Fiqh 5.47 a: Killing the Five Vicious Animals and Others that are Harmful**

'Aishah reported that the Prophet (peace be upon him) said: "Five of the animals are vicious and they may be killed in the sacred precincts of Haram: the crow, the kite, the scorpion, the mouse, and the ravenous dog. This is reported by Muslim and Bukhari, who added "(and) the snake."

There is consensus among the scholars that the small crow which eats the seeds, is not included in the category of the above animals. Under the ravenous dog is included one that bites people and frightens them and all other similar vicious animals that attack humans such as the lion, tiger, leopard and wolf. Thus Allah said: "They ask you what is lawful to them (as food). Say: 'Lawful to you, are (all) things good and pure: And what you have taught your trained hunting animals 8 (to catch) in the manner directed to you by Allah'" (Qur'an 5.4). The Hanafi scholars hold, however, that the word "vicious dog" in this case applies only to dogs and wolves.

Ibn Taimiyyah is of the opinion that a muhrim may kill any harmful creature that usually causes harm to humans, such as snake, scorpion, mouse, crow, and a vicious dog. He is also permitted to defend himself against whatever harms him, whether animals or people; if they assault him, he should fight them back. The Prophet (peace be upon him) said: "He who is killed while defending his wealth is a martyr, and he who is killed while defending his life is a martyr, and he who is killed while defending his religion is a martyr, and similarly he who is killed while defending his honor is also a martyr."

Ibn Taimiyyah further said: "If fleas and lice bite him, a muhrim should cast them out. He may also kill them, and incur no penalty. Casting them out is, however, easier than killing them. Similarly a muhrim is forbidden to kill any animal that he sees, such as a lion, a leopard, etc. But, most of the scholars hold that if he should kill one of these animals, he is not required to make any atonement. Looking for lice without feeling any bite, for comfort and pleasure, however, while one is in the state of ihram, should be avoided. But if someone does it, he is not required to make an atonement.

Fiqh 5.49: RESTRICTIONS OF IHRAM

The Law Giver forbids certain things for a muhrim after he dons the ihram garb:

- 1- Sexual intercourse and all matters leading to it such as kissing, touching, or talking with one's wife about intercourse or related matters.
- 2- Committing sins that cause a man to deviate from the path of obedience to Allah.
- 3- Disputing, arguing or fighting with companions, servants or others.

The basis of this prohibition are the words of Allah: "Let there be no obscenity nor wickedness nor wrangling in the Hajj" (Qur'an 2.197). Both Bukhari and Muslim reported on the authority of Abu Hurairah that the Prophet (peace be upon him) said: "He who performs Hajj, committing no obscenity, nor wickedness, nor wrangling, will return home free of sins as the day his mother bore him."

- 4- Wearing any sewn clothes, such as a shirt, hooded robes, cloak, underpants or wrapping anything around the head, a cap or a fez, etc. Likewise one is not permitted to wear clothes dyed with a nice fragrant dye or to wear shoes or sewn slippers.

Ibn 'Umar reported that the Prophet (peace be upon him) said: "A person in a state of ihram is not allowed to wear a sewn shirt, a turban, a hooded robe, underpants, a cloth that has been dyed with sweet smelling fragrance (such as saffron), shoes or sewn slippers, unless one is unable to find regular unsewn slippers, then one may wear his shoes provided one cuts them down to the ankles." This was reported by Bukhari and Muslim. There is agreement among the scholars that these restrictions apply to men only.

As for a woman pilgrim, she may wear all of the above. But she is forbidden to use perfumed clothes, a veil that covers the face, and gloves.

Ibn 'Umar reported: "Allah's Messenger (peace be upon him) forbade women pilgrims from wearing gloves, veils, and clothes dyed with saffron or warse. (A sweet smelling plant that was used to dye clothes yellow) Besides these, they may wear anything else, any color, silk clothes, ornaments, trousers, or a shirt or shoes." (Reported by Abu Daw'ud, Al-Baihaqi and Al-Hakim, with a sound chain of authorities)

Bukhari reported that 'Aishah wore a dress that was dyed with 'usfur (Usfur: safflower, the red dyestuff prepared from its flower heads) while she was in a state of ihram, and she said: "A woman must neither wear a veil to cover her face, nor wear clothes that are dyed with saffron or other fragrant dyeing material." Jabir said: "I do not consider 'usfur a scent."

'Aishah held that there is no harm for women pilgrims in wearing ornaments, black or rose-colored clothes and shoes.

Bukhari and Ahmad have reported that the Prophet (peace be upon him) said: "A pilgrim woman must neither cover her face nor wear gloves." This proves that a woman in the state of ihram should not cover her face and hands. The scholars, however, say that there is no harm if she covered her face with something other than a veil. She may also use an umbrella or similar item as a screen between men and herself. But if she is afraid of tempting others she must cover her face.

'Aishah said: "Men on camels used to pass by us while we were with the Prophet (peace be upon him) and in the state of ihram. We would cover our faces with our gowns when they passed by us, and then uncover them again." This is reported by Abu Daw'ud and Ibn Majah. 'Ata, Malik, AthThawri, Ash-Shafi'i, Ahmad, and Ishaq hold that it permissible for women to cover their faces in the state of ihram.

Fiqh 5.50: A Man Without Garb or Shoes for Ihram

A person who has no proper garb and shoes for Hajj may wear whatever is available to him. Ibn 'Abbas reported that Allah's Messenger (peace be upon him) delivered a sermon at 'Arafah saying, "A Muslim (pilgrim) who finds no suitable garb (for ihram), may wear trousers, and if he finds no suitable slippers, he may wear shoes." (This is in the case of a man who finds these things are

either not available, or he has no extra money to buy them) This is reported by Ahmad, Bukhari and Muslim. In Ahmad's narration from 'Ata ibn Dinar we read that Aba Al-Sha'sha informed him that Ibn 'Abbas heard the Prophet (peace be upon him) saying, "He who finds no garb (for ihram), but has trousers, he may wear them, and he who finds no (suitable) slippers but has shoes, he may wear them." At this I (Aba Al-Sha'sha) asked him: "And did he say anything about cutting them?" Ibn 'Abbas said: "No."

Ahmad, therefore, holds that a muhrim who finds no proper garb or slippers may wear his trousers and shoes, as shown by the hadith of Ibn 'Abbas, without being required to make any atonement for doing so. (Ibn Qayyim also prefers this view)

The permission to wear one's shoes in case of not having suitable slippers is, according to the majority of scholars, conditional on cutting the shoes down to the ankles, for this makes shoes similar to slippers. These scholars conclude this from the above mentioned hadith of Ibn 'Umar in which we read: "If he does not find slippers and finds shoes, he should cut them down to the ankles." The Hanafi scholars hold that he who has no garb for Hajj must unsew his trousers before using them as a garb. But he who wears them as they are (without unsewing them) he must make atonement for doing so.

Malik and Ash-Shafi'i, however, are of the view that such a person may wear his trousers as they are, without incurring any penalty, as shown by a hadith of Jabir ibn Zayd from Ibn 'Abbas that the Prophet (peace be upon him) said: "If a person does not find the garb for ihram, he may wear trousers; if he does not find slippers, he may wear shoes after cutting them down to the ankles." (Reported by Nasa'i with a sound chain) Such a person must take off his trousers and put on a proper garb when and if he finds one. But if a person finds no proper upper Hajj garment, he should not wear his shirt, for unlike trousers one can do without it.
