

Notes of Lectures on Fiqh

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Lecture # 8 (Friday 3 August 2001)

MINIMUM TIME REQUIRED FOR HAJJ

☀ When considering the capability (Isteta'at) for Hajj (passage, physical and financial capabilities), the decision about capability should be based on the minimum time required for Hajj. According to sharia, after reaching Mecca, the minimum time required for completing all acts of Hajj is 5 days (8 to 12 Zil Hij). However, according to current Saudi laws, one must enter Mecca before 5th Zil Hij. Therefore, the minimum time required for completion of Hajj nowadays is 8 days.

☀ If one is able to afford to go for his wajib Hajj by spending only the minimum number of days possible for Hajj, then it is wajib for him to go for Hajj.

☀ Visit to Medina is highly recommended in sharia although it is not part of Hajj. However, one can visit Medina and complete all ziyarat in Medina even in one day. According to Ahlul Sunnah, it is mustahab to stay in Medina for 8 days, but according to shia ulama, there are no such traditions.

MORE ON PASSAGE CAPABILITY (ISTETA'AT E TARIQI)

☀ If the government of a country does not give permission to a person due to quota restriction imposed on the number of persons allowed for Hajj, then Hajj is not wajib on that person. But if that person knows that permission can be granted to him by another country, then it is wajib for him to go to that country and seek permission, provided that his financial capability allows him to do so.

☀ If a person can not get visa for Hajj from Saudi embassy in his own country, but he can get Hajj visa from Saudi embassy of another country, then it is wajib for him to go to that country and obtain Hajj visa, provided that his financial capability allows him to do so.

☀ It is therefore wajib to try to attain passage capability (isteta'at-e-tariqi) for Hajj by all possible means. This is not so for financial capability, i.e., it is not wajib to try to attain financial capability in order to do Hajj.

☀ In the process of attaining passage capability, if a person is required to commit a sin (such as speaking a lie), and if that sin is a lesser sin than the sin of not performing wajib Hajj, then it is wajib to commit that lesser sin in order to do the wajib Hajj.

☀ If the passage for Hajj is not safe by going alone, but it is safe by taking a companion, then it is wajib to take the companion provided you could afford the expenses for companion if required. And the Hajj performed by that companion can be counted as his wajib Hajj.

✳️ According to Sunni fiqh, a woman is not allowed to go for Hajj without a mahram man. In shia fiqh, a woman is allowed to go alone for Hajj if she feels that she will be safe.

MORE ON FINANCIAL CAPABILITY (ISTETA'ATE MALI)

✳️ If a woman is entitled to her share of property from her late father, and if the value of that share is sufficient to enable her to go for Hajj, then it is wajib on her to claim that share in order to perform Hajj.

✳️ If a woman owns plenty of jewellery, and if she is of the age of wearing that jewellery, and it is her daily requirement, then it is not necessary for her to sell the jewellery in order to perform Hajj. But if she reaches such an age that she does not wear it, and if it is of sufficient value to sell it to perform Hajj, then Hajj will become wajib on her. And in such a case, it is not allowed for her to give away such jewellery as a gift to anyone, including her daughter or daughter in law. And if she dies without performing Hajj, then it is wajib on her heir to arrange for Hajj on her behalf from her property.

✳️ Israf (extravagance) is a major sin in Islam. Hajj can also become wajib on a person if he leads a life with israf. However, one must understand the difference between the need (necessity), the status and the israf. Islam allows a person to own items of his daily life (such as clothes, car, house, jewellery etc), that are according to his need, or even more than his need. But Islam does not allow a person to own items, which are above his status (shaan) in the community where he lives. Israf is a life style using such luxurious items, which are considered beyond his status and is considered haram and a major sin.

✳️ If a person has obtained items or property (car, house, jewellery etc), which are beyond his/her status, and if the difference between the monetary value of these things and the value of those things required to live according to his status is enough to perform Hajj, then Hajj becomes wajib on him/her. It is then wajib on him/her to sell that item or property, set aside the amount necessary for performing the Hajj, and then buy the items according to his/her status.

✳️ How do we define status of a person ? Status of a person is not to be determined by the person himself. According to sharia, the status of a person is determined by urf (opinion of the majority of people in the community in which that person is living). Urf is considered an important criterion, which affects many other laws of Islamic sharia.