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THE FRAGRANCE OF EAST

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Man's Ultimate Responsibility

If human beings subjugate themselves to the supremacy of material things and become slaves to their selfish desires, life on earth will become hellish and unbearable. Man has to remember that his place in the scheme of creation is that of God's vicegerent. As the Quran bears testimony, Allah ordered the angels to bow down in front of man as a mark of respect. This clearly establishes that it is highly humiliating for man, God's deputy on earth, to bow down in front of anybody except his Creator. Had there been any such scope, Allah should have allowed man to bow down in front of the angels as they carry on Allah's orders on the earth: they, for instance, bring rain and make the wind blow. By making the angels bow down in front of man Allah clearly revealed His will that the world has been given to the care of man as His vicegerent and that he himself is created for the worship of Allah the Almighty. Man must look at his present miserable lot and tell himself that he is supposed to do better. He must rise to his appointed position as Allah's vicegerent, take none else except Allah as his Lord, and save himself and the world from eternal suffering.

(S. Abul Hasan Ali Nadwi)

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Wisdom of Qur'an

"Verily this Qur'an guides to that which is most straight and gives good tiding to the believers who do deeds of righteousness, that for them is a great reward." (Surah -al-Isra -9)

Commentary:

Yusuf Ali connects the theme: "The instability and crookedness of the Jewish soul having been mentioned, the healing balm which should have cured it is now pointed out. The Message of the Qur'an is for all. Those who have Faith and show the Faith in their conduct, must reap their spiritual reward. But those who reject Faith cannot escape punishment. Apart from what is past, apart from the question of national or racial history, there is Hope, -and a Danger- for every soul." •

"And that those who do not believe in the Hereafter, we have prepared for them a painful chastisement. Man prays for evil (in the manner of) his prayer for good. Surely, man is given to haste." (Surah al-Isra -10)

Commentary:

That is man curses others, seeking Allah's punishment on them, saying, (sometimes against his own children), "O Allah, destroy him," or "send your wrath on him," etc. But, if Allah were to grant him his prayers of evil, just as He grants prayers of good, man would be destroyed. This is how Dahhak, Qatadah and Mujahid understood this verse (Ibn Jarir).

But the allusion could be to the call of self-destruction that the pagans made when the Prophet warned them of chastisement descending on them upon rejection (Zamakhshari).

Hence in a *hadith* of Muslim the Prophet said, "Do not supplicate against yourself, nor against your wealth that you be in agreement with an hour in which Allah (swt) accepts supplications." (Ibn Kathir) •

Pearls From the Prophet Muhammad (PBUH)

It is related by Zaid bin Talha; he relates that the Apostle of Allah said: "Every religion has a distinctive quality, and the distinctive quality of Islam is modesty."

-Muwatta, Ibn-i-Maja and Baihaqi

Commentary:

It shows that in every faith or canonic law, some particular aspect of moral behaviour receives paramount attention and an extraordinary emphasis is laid on it. Thus, compassion and forbearance from the cardinal point of the teachings of Jesus. In Islam, in the same way, modesty is of fundamental significance.

It needs however, be emphasized that the word 'modesty' is used in a very wide sense in the special terminology of the Quran and Traditions. In the common usage, what it signifies, simply, is that a man avoided lewdness and kept away from lustful and decent acts. But, in Islam, it appears that it stands for a state of feeling which is intolerant of everything that is not desirable and produces a reaction of disgust and agony within anyone who, knowingly or unknowingly, falls into an error or behaves in a manner having a semblance of sinfulness.

We learn, further, from the Quran and the Traditions that modesty is not in relation merely to our own species, but the greatest claim, on it, is of the Supreme Being who created man and is sustaining him, from moment to moment, and from whom nothing is hidden. Or, let us take it this way. A modest man is, generally, inclined to feel shy in the presence of his parents and other elders and benefactors, and God being the King of Kings and the Benefactor of Benefactors, the bondsman should, naturally, be modest and humble, in the highest degree, in respect of Him, the primary requirement of which will be that he felt pain and therefore, abstained from it. •

Editor's Note:

Leave them Alone

Even after 60 years of attaining independence in a secular and democratic country Indian Muslims feel themselves insecure. Those who were the advocates of a separate Muslim state have gone. Their migration should have closed the chapter of hatred, bitterness and chaos and a peaceful and trustworthy atmosphere could have come to stay. It is unfortunate that leaving aside fascist forces who had always been inimical to Muslims those with whom Muslims fought shoulder to shoulder the expanding British Empire often behave in a questionable manner. There has always been one issue or the other which cause despair and fear among Muslims. Soon after independence even trusted nationalist Muslims were often branded "Pro-Pakistan" and harassed. Then in a chain of communal riots in various parts of the country, inspite of being victims, Muslims were named in Police records as perpetrators of violence. Muslims in general feel let down by the police, judiciary, politicians in power and by the media. In post Babri mosque demolition and Gujrat carnage-2002 every incident of terrorism is attributed to Muslims, labelling it as revengeful action. We do not rule out black sheeps among them but to generalise the issue and accuse the whole community is unfair. Of late, Islamic seminaries and Madrasas have been made targets of smearing campaign. Describing them, without any proof, as crucible of producing terrorists and centres of breeding "fundamentalists". It is unfortunate that state machinery which posses all the resources to unearth any "anti-national" activity any where, inspite of knowing the truth do not come out to contradict these allegations. It remains mum giving a chance to fissiparous elements to spread canard.

Islamic seminaries like Darul Uloom Deoband, Nadwatul Ulema Lucknow and other prominent institutions in different parts of the country are credited with producing devoted nationalists, many of them sacrificed their lives for freedom and hundreds of them spent long terms of detention in prisons. To look at them with suspicion is unfortunate.

Recently influenced by the false propaganda and misinformation Union Government all of a sudden woke up to modernise madrasas and cleanse them of their set ideology. Instead of looking into the causes of

the backwardness of Muslims as pointed out in Justice Sachchar and Justice Rangnath Misra Commissions reports and making some headway in that direction they focused their attention on Madrasas. Some details of the proposed Central Madrasa Board Act, readers will find in a write-up appearing in this issue of the Journal. It is good that a section of Muslim leadership has warned government of its ill effects and forced them to put off the scheme unless it is seriously and sincerely discussed thread-bare by Muslim intellectuals and clerics.

Madrasas have a historical importance in this country. Apart from removing illiteracy they have helped in creating a pious society and created a loving atmosphere all around. The community has taken the responsibility of running these institutions by their own resources. State interference may create all those problems which are being faced by other state aided institutions. Corruption will definitely seep into them and various bindings deprive them of their independent working.

As far as modernisation of Madrasas education is concerned they themselves are aware of it. Within their resources and without compromising with exterior influence they are making their students wise enough to learn various trades and attain proficiency in the latest Information Technology also. •

S. A.

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Position of Mankind in Islam: Man Vicegerent of Allah

S.Abul Hasan Ali Nadwi

Man, according to the teachings of Islam, is the representative and vicegerent of Allah on earth. This world is a trust and man is its trustee. It is not a personal property of an individual or people which could be used or misused to satisfy personal desires. It is man's responsibility to manage the world according to Allah's instructions and promote divine guidance. This great world-including animals, birds, trees, rivers, mountains, gold, silver, and all it contains- has been given to the care of man because he is more familiar than any one else with the world (as he is himself made of dust) and has also a genuine interest in it. Thus, because he has knowledge of the world and interest in it –two essential conditions for a successful trustee- he can be a good caretaker of the world.

Man most suitable for managing the world

When Allah created Adam and made him His vicegerent on earth, the angels who are innocent and do not commit sins, submitted to Allah that as man was inclined to quarrel and shed blood on earth, the vicegerency might be granted to them as they glorified Him and remained engaged in worshipping Him all the time. Allah replied the angels that they did not know the matters of the world. He then tested Adam and the angels by asking them certain questions relating to the world. As Adam was made of dust and had a natural interest in the world, he answered Allah's questions correctly whereas the angels lacking this natural interest in the things of the world failed. Thus Allah established that in spite of all weaknesses man alone was most suitable for managing the world. In fact, his natural weaknesses themselves qualified him for this position. If the world were run by angels, most gifts of God put into it, which were discovered and developed by man due to his interest and need, would have remained unknown and unsued.

Successful Vicegerent

But we have to remind ourselves that a vicegerent and representative has a duty to fully follow the instructions of his master. His personality and

precept should reflect the values of his master. To act as a vicegerent of Allah on earth requires that man must inculcate in himself His qualities which should mould his manners. We have been taught that the qualities and attributes of Allah include knowledge, mercy, appreciativeness, administrative ability, forgiveness, benevolence, justice, love, grandeur, beauty, and power to protect and punish. Prophet Muhammad, blessings and peace be on him, taught mankind to acquire Allah's attributes ("Adorn yourself with the qualities of Allah").

In spite of inherent limitations, man can, on the limited human scale, develop in himself attributes of Allah. He can never be God, but he can exhibit Allah's vicegerent. One can imagine that if man becomes mindful of his responsibility as Allah's vicegerent on earth and thus strives to inculcate in himself divine moral attributes, how high he can rise as a human being and how pleasant and prosperous the world can become under his vicegerency. Religion, as a matter of fact, provides man with the sublimest and most balanced concept of life. It grants him a position as Allah's vicegerent, responsible for administering things on earth as His representative and functioning as a caretaker of this great trust, which brings upon mankind an unprecedented honour.

Two Contradictory Ideologies

But by the passage of time human beings developed two contradictory ideologies about man's role in life: at some places man was elevated to the position of God while at others he was degraded to the status of animals. Some human beings declared themselves as gods and some others accepted for themselves a status even lower than that of animals thinking that they lived only for the fulfillment of their physical desires. Of course, both the views are wrong. Man is neither God nor animal; he is man and as such Allah's deputy on earth. The world is created for him and he is created for Allah. The world is responsible to him and he is responsible to Allah. He is first and last a trustee and caretaker of the world and the realization of this fact on the part of man alone can let him run the world smoothly. History bears testimony that whenever man relinquished this ideology by trying to take the place of God and projecting himself as the master of the world, or by stooping down to be contented with the life of animals, or by shunning the responsibility of administration of the world as its trustee and thus running away from his responsibilities and duties on the earth- he soon met humiliation and brought a tremendous loss to the world, too. •

Maulana Azad and Partition

Asghar Ali Engineer

In the current debate started by Jaswant Singh's book, everyone is talking about the role of Jinnah, Nehru and Sardar Patel but hardly anyone has mentioned what Maulana Azad had done to avert the division of India. He was an important leader of the Indian National Congress, an eminent scholar of Islam and was the (youngest) President of the Congress for six long years before Partition.

Although he was also party to the Congress Working Committee (CWC) resolution accepting Partition, he had never really approved of it and in fact, had warned Jawaharlal Nehru that some of the latter's politically unwise decisions might alienate Jinnah or lead to a division of the country. Because Pandit Nehru was against a weak Centre, he consciously contributed to prevent this, he supported it only as something inevitable.

His book *India Wins Freedom* and the thirty pages published thirty years after his death help us understand his viewpoint, which cannot be ignored if we are to understand the genesis and causes of Partition. Maulana Azad was simultaneously an important leader of the Congress, an important leader of Muslims and a great religious scholar. Hence his views and role assume added significance.

He was so passionately committed to India's freedom that he declared in his presidential address at the Ramgarh Congress session, "If an angel descends from heaven and declares from the Qutub Minar that India is free, I will not accept it unless Hindus and Muslims are united, because if India doesn't get freedom, that would be India's loss but if Hindus and Muslims don't unite, that will be a loss for all humanity." Thus he would never agree to Partition for personal reasons, whether the Centre remained weak or strong. As for his views on Pakistan, he writes:

"I must confess that the very term Pakistan goes against my grain. It suggests that some portions of the world are pure while others are impure. Such a division of territories into pure and impure is un-Islamic. Furthermore, it seems that the scheme of Pakistan is a symbol of defeatism and has been built up on the analogy of the Jewish demand for a national home. It is a confession that Indian Muslims cannot hold their own in India as a whole and would be content to withdraw to a corner specially reserved for them..."

"Over 90 million in number, they are in quantity and quality a sufficiently important element in Indian life to influence decisively all questions of administration and policy. Nature has further helped them by concentrating them in certain areas. In

such a context, the demand for Pakistan loses all force. As a Muslim, I for one am not prepared for a moment to give up my right to treat the whole of India as my domain and share in the shaping of its political and economic life. To me it seems a sure sign of cowardice to give up what is my patrimony and content myself with a mere fragment of it."

The Maulana then objectively examines the consequences of Partition:

"Let us consider dispassionately the consequences which will follow if we give effect to the Pakistan scheme. India will be divided into two states, one with a majority of Muslims and the other of Hindus. In the Hindustan State there will remain three and half crores of Muslims scattered in small minorities all over the land. With seventeen per cent in UP, twelve per cent in Bihar and nine per cent in Madras, they will be weaker than they are today in the Hindu majority provinces. They have had their homelands in these regions for almost a thousand years and built up well known centres of Muslim culture and civilization there. They will awaken overnight and discover that they have become alien and foreigners. Backward industrially, educationally and economically, they will be left to the mercies to what would become an unadulterated Hindu Raj."

"On the other hand, their position within the Pakistan State will be vulnerable and weak. Nowhere in Pakistan will their majority be comparable to the Hindu majority in the Hindustan States. In fact, their majority will be so slight that it will be offset by the economical, educational and political led enjoyed by non-Muslims in these areas. Even if this were not so and Pakistan were overwhelmingly Muslim in population, it still could hardly solve the problem of Muslims in Hindustan."

Regarding the fear that if Pakistan was not formed the Hindu majority Centre would interfere in Muslim majority provinces, the Maulana counters this with the following argument (which was what the Cabinet Mission Plan was about):

"The Congress meets this fear by granting full autonomy to the provinces. It has also provided for two lists of Central subjects, one compulsory and one optional so that if any provincial unit so wants, it can administer all subjects itself, except a minimum delegated to the Centre. The Congress scheme therefore ensures that Muslim majority provinces are internally free to develop as they will, but can at the same time influence the Centre on all issues which affect India as a whole."

Thus the Maulana opposed Partition not only as a Congress leader but also with full conviction as a farsighted, wise Muslim who could foresee far-reaching consequences. Unlike other politicians, he was a leader of both Muslims and the whole of India. Whatever he said in his arguments against the Pakistan concept was clearly borne out in the post-Partition period.

As a whole, Indian Muslims lost much more than others. They were fragmented and divided. Had Pakistan not been formed, today they would have been over thirty-three per cent of the population, a huge number in any democracy. In any case they would have formed their own government in the

Muslim majority provinces and would have had a stake in the whole of India. Several Muslim leaders could have become prime ministers.

According to the then Muslim population in India, the Maulana said that Pakistan would result in only nine crore Muslims being left in Hindustan, scattered throughout the country. Today there are about fifteen crores but they are still a minority and face several problems, besides having to carry the guilt –wrongly of course- of having partitioned the country. Ironically there are more Muslims in India than in Pakistan and yet they constitute only a fourteen per cent minority.

Pakistan could not remain united and split into two because Bengali Muslims could not get on with West Pakistani Muslims for more than twenty-five years. In this way, the subcontinent was divided into three parts. Had partition not taken place in 1947, what is Bangladesh today would also have been part of united India. Furthermore, democracy has eluded Pakistan, it has become totally dependent on American aid, and the military has remained politically influential, and will so remain for the foreseeable future, even if democracy lasts.

Though Maulana Azad does not mention it as that problem had not arisen then, there would have been no Kashmir problem either. Kashmir would have become either independent or enjoyed autonomy like other Muslim majority areas and thousands of Kashmiris would not have lost their lives as they have done due to the dispute between India and Pakistan.

Both India and Pakistan spend astronomical sums on maintaining their armies for fear of each other. There would have been only one army for the whole country, we would have spent much less on our army and could have faced external threats –especially from China- much more effectively. More importantly, we would not have faced the terrorism prevailing today in both Pakistan and India, which alone has consumed thousands of life and huge amounts on armaments.

In the thirty pages published after his death, Maulana Azad blames both Nehru and Sardar Patel. According to him, Nehru made a mistake in refusing to take two Muslim League members as cabinet ministers after the 1937 UP provincial elections. This made Jinnah distrustful of the Congress leaders whom he began to describe as 'Hindu' leaders. Nehru's second mistake was his statement to the press (in July 1946, after taking over as Congress President) in which he said that the Cabinet Mission Plan could be changed. Both the Muslim League and the Congress had accepted the Plan and to make such statement in an atmosphere of distrust and mutual suspicion was certainly a mistake. That is what finally drove Jinnah to insist on partition. And the British could achieve what they had wanted. • *(Nation and The World)*

World over, 1 in 4 persons is a Muslim

The global Muslim population stands at 1.57 billion, meaning that nearly 1 in 4 people in the world practice Islam, according to a report on Wednesday billed as the most comprehensive of its kind. The Pew Forum on Religion and Public Life report provides a precise number for a population whose size has long has been subject to guesswork, with estimates ranging anywhere from 1 billion

1.8
billion.
Russia
more

India has the third-largest
Muslim population of any
nation.

to

has

Muslims than Jordan and Libya combined.

About 20% live in the Middle East and North Africa, 15% live in Sub-Saharan Africa, 24% are in Europe and 0.3% are in the Americas. Three-quarters of Muslims living as minorities are concentrated in five countries: India (161 million), Ethiopia (26 million), China (22 million), Russia (16 million) and Tanzania (13 million).

India has the third-largest Muslim population of any nation.

(The Times of India, 09-10-09)

Democracy in Any Shape

S. M. Wazeh Rasheed Hasani Nadwi

Sir Winston Churchill on a particular occasion had said that democracy is a bad system but other systems of government are even worse. Mr. Churchill had said this when the democratic system was in force in few countries only; most of the countries were slaves of imperialistic countries; many countries had kingships. Those countries which had democracy, there citizens were, to some extent, educated, and knew the efficacy of elections, its usefulness and its necessity. And the political life was not defiled as it is now. Even then some defects of democracy had become visible.

Mr. Churchill did not get the chance to see the progress, prosperity and popularity of the democratic system so that he could see its developed shape otherwise his view would have been different and he would have been compelled to say that this democratic system is most defective and undesirable of all the reforms of government and this thing would not have been against facts; instead, it would have been reflective of the fact because democracy has failed in most countries. It has given birth to such defects which have forsaken its good objectives and its goals have fallen victim to deterioration and evils, owing to its malfunctioning. Today democracy has become a target place of trouble, disorder, insecurity, anarchy and lawlessness. The defects of the system and its evil effects do not show up in Asian countries only but they are also evident in western countries as well. A British philosopher of democracy has expressed his opinion that the democratic system has completely failed in attaining its objectives and motives. In the present age, democracy is a target place of confusion, selfishness, pursuance of self interest.

Virtually democracy itself is responsible for disorder, anarchy, lawlessness, terrorism and other evils of the like in the democratic countries. The likeness of democracy is that of a witchcraft, by which trickery is demonstrated to the spectators, their support is gained and with their support, people are placed in authority. It is the reality that democracy is less a resolver of problems and more a creator of problems because it instigates to achieving the rights and does not distinguish between right and wrong in its course of activity. Instead, a democratic government gives full freedom to obtain ones rights by effective means and then puts restrictions on those rights which clash with the interests of its leaders.

The most important cause of defect and disorder in democracy is the election system in which every adult, man and woman has the right to vote and stand up as a candidate. In this connection, his character, his morality, his habits, his practical ability and capability is not taken into account. Therefore, often times, artists, mischievous persons and convicted persons of moral and illegal offences also reach the parliament. Nobody, who has resided in a democratic country, seen the elections

or seen the list of the candidates and who would cast an investigative eye on the Member of Parliament, will have doubt about this fact. There are abundant instances of this in India, Pakistan and Bangladesh.

In every election, the conditions are deteriorating from bad to worse. Election time assassinations are increasing. Capturing of the ballot boxes, detaining voters from casting their votes, manipulation in the announcement of election results, etc. are increasing. Often those candidates are announced winners who have received the minimum votes.

Heavy expenses are incurred on other means and resources of elections, putting pressure on voters, enticements, threats and intimidations, murder of opposition candidate, kidnapping and restraining voters from casting their votes, using money and power to alter results, exploiting communal and religious feelings, which, although unlawful, but it is openly implemented. These conditions are worse, deplorable in communistic and military democracies because the election results are shown to be 99% in favour of the ruling party. The system of voting in these countries are in the form of 'yes' or 'no' or there are candidates of one party seeking election, or fictitious elections are held or the democracy lasts very long without election.

In the democratic countries which do not hold elections, they are not real democracies but they are a sort of feudal system where the president makes use of the name 'democracy' in order to prove that his government is lawful. There is no freedom of expression and the nation is compelled to support the leader. The press and radio of that country keeps chanting slogans of virtues of the president and his party because it is dedicated to his prosperity; so that his achievements and works are named after the nation and its critics are called imperialist agents. From time to time, conspiracies, are unearthed in order to exterminate the opposition critics.

There are some supporters of democracy who leave no stones unturned to praise the virtues of democracy and consider it a cure of all problems. They like to have democracy even if it is for namesake. The democratic leader might be a tyrant and oppressor, people might be disdained and loathed in the democracy and the economy might have entered the crisis of insolvency. In spite of all these demerits, the lovers of democratic system dislike non democratic system even if the leader of non democratic government is a lover of justice, fairplay and generous person; and the life of people during his rule reflects prosperity and well being, the country becomes a token of prosperity and abundance. Even some people have said "give us democracy and communism and take away our wealth and riches". This is an example of being brow-beaten by slangs. The present democratic system and communistic system have both failed to deliver prosperity, peace and security and development to the nations. Now, a new experiment is required which should conform to the temperament, condition, educational standards and the capabilities of the nations. •

Maintenance Right of Muslim Wife: Legal Position*

M. A. Wani

I- Introduction:

The concept of the ancient Roman law, English law and the Hindu law that the wife during marriage has no independent legal existence is unknown to the Islamic law. A Muslim wife's position is that she has rights of her own and she can assert and enforce them without any impediment, just as if she were a single woman. She can appear as a plaintiff in a Court of law against a stranger or against her own husband and is herself personally liable for her own transaction. One of the most significant rights of a Muslim wife is the right to maintenance from her husband. After marriage the wife has to shoulder new responsibilities and consequently some more rights like the right to maintenance become vested in her which she can assert any time the occasion arises. In India, before Independence, the maintenance claims were being decided in accordance with Sharia and the courts strictly followed the Muslim Personal Law. After independence also, the substantive law regarding the conditions of Muslim wife's right to maintenance has remained intact almost in toto with the exception as already stated, where it comes into conflict with certain other secular laws. Islamic law very elaborately deals with the subject of maintenance. It clearly specifies the circumstances when a wife is to be allowed or disallowed maintenance from her husband.

II - When Maintenance Allowed:

Both the juristic consensus and the judicial verdicts conform to the fact that the husband is legally bound to maintain his wife. The nature of this liability has been explained in Mohd. Jusab case in the following words.

The Muslim jurists have not kept legal and moral obligations distinct. The moral and legal duties are almost inextricably mixed. The right to maintenance is not merely a moral but also a legal obligation.

The various circumstances which invest the right to maintenance in the wife and confer a corresponding duty to maintain her on the husband can be described as under:

* Extracts from *Maintenance Rights of Muslim Women*.

(a) Lawful Marriage Contract:

Lawfulness of marriage is the sine qua non to the right to maintenance. The right itself originates from a marriage contract; which if *Batil* (void) or *fasid* (irregular) means no valid contract and wife has no right to maintenance in such a case. She, however, shall not be deprived of her right to maintenance if the irregularity consists merely of the absence of witnesses at the time of her marriage. But where the husband has contracted a fifth marriage during the subsistence of the first four marriages, the fifth wife's maintenance is not obligatory under any of the schools of Islamic law.

(b) Wife Residing in Parental Home:

The husband is bound to maintain his wife, if she is residing with her father with the consent of her husband. Wife continues to hold this right even if she refuses to go to her husband's house for some justifiable reasons. Some of the situations which have been recognized as just causes are:

- (i) **Illness:** Where the wife has been living at her father's residence and has been so ill, dating from a time before her she shall be entitled to get maintenance, when she has asked her husband for the same and has not refused to go his house. If a wife is ill, while living at her father's house, and sexual intimacy with that condition, she be entitled to maintenance from him. An ill wife whose condition does not permit her to travel can validly refuse to accept the husband's offer to go to his home without losing her right to maintenance.
- (ii) **Non-Payment of Prompt *Mahr*:** Under Islamic law the wife can lawfully refuse to live with her husband on the ground of non-payment of prompt *mahr* (dower) without losing her right to maintenance. Justice Manohar Lal of the Patna High Court has also taken the same view that where the husband refuses to pay the prompt *mahr*, the wife can refuse to go and stay with him and still claim maintenance from him.
- (iii) **Husband's Cruelty:** Where the wife has come to live with her husband but subsequently she was forced to leave the husband's house on account of his cruelty, she does not lose her right to maintenance merely by reason of residing in her

father's house. In such circumstances an illusory offer by the husband to the wife to live with him will not disburden him from the liability of maintaining her.

(c) Minor Wife

Under the Shafei law the husband is not absolved of his duty to maintain his wife even if she be a minor. Under Hanafi law maintenance shall be allowed to an under-puberty wife if capable of being a good companion to her husband. Also, if the husband has called his minor wife to his home then he is liable for the maintenance of such a wife.

(d) Wife's Physical Defect:

Impossibility of sexual intimacy with the wife due to her old age or some physical defect or any disability cannot deprive her of her right to maintenance. Shia law follows the same view.

(e) Minor Husband:

If the husband be a minor and the wife be an adult and the incapacity to consummate the marriage be solely his, she would be entitled to maintenance. If the husband is a minor then maintenance shall be realized from his property, if any, or from his father if he has undertaken the liability for the payment of the same. Among the Shias the author the Sharai al Islam favours this view.

(f) Husband's Other Defects:

It makes no difference in the matter of husband's liability to maintain the wife whether he be in good health or suffering from some disease, whether he be a prisoner of war or undergoing punishment justly or unjustly; whether he be absent from home on pleasure or business or gone on a pilgrimage, and whether he be rich or poor. Wife shall be entitled to maintenance in all these situations. She shall have a right to demand maintenance from her husband even if he is impotent or too ill to be intimate with her. Lahore High Court has recognized the right to maintenance of a wife from her imprisoned husband.

(g) Insanity of Husband:

According to Shafei doctrine and Fatawa-i-Alamgiri the wife is entitled to maintenance for a period of one year which is fixed by the Qazi in order to ascertain whether the insanity is curable or not. Maliki law recognizes the wives right to may be, as under that law insanity is not recognized as a ground for dissolution of marriage. Under Shia law though the wife can seek to have her marriage tie dissolved on the ground of insanity, the right to maintenance will continue during the subsistence of the marriage.

(h) Wife's Refusal to Accompany on a Journey:

Wife shall continue to hold her right to maintenance even if she refuses to accompany her husband on a journey and the Qazi should not constrain her o do so. If the husband is away and deposes a '*ghair mahram*' to fetch her to him, she would be entitled to refuse to accompany the messenger.

(i) Pilgrimage:

If the wife goes on a pilgrimage with the husband or, according to Imam Abu Yusuf, on an obligatory pilgrimage with a relation in prohibited degrees, she be entitled to maintenance; but the husband would not be liable to pay the expenses of the journey.

Under Shia law the wife retains such a right if she goes on an obligatory pilgrimage, even without her husband's consent.

(j) Desertion by or Absence of Husband:

When the husband has left the place of conjugal domicile without making any arrangement for his wife's support, the Qazi is authorized to make an order that her maintenance shall be paid out of any fund or property, which the husband may have left in deposit or in trust, or invested in any trade or business. A wife may contract debts for her maintenance during the husband's absence and if such debts are legitimate and incurred bonafide for her support, the creditors have a right of recovery against the husband.

(k) Visits to Parents and Relations:

A wife can, as a matter of right, visit her parents or receive them at her husband's place. A wife cannot be stopped by the

husband from the exercise of this right. She shall not be considered to be refractory if she receives her parents in her house or visits them. If the wife's father or mother is disabled so as to require the services of another person, but has no attendant, she can attend on him or her even against the wishes of her husband and shall not lose her right to maintenance. She can also visit and receive her relations within the prohibited degrees even against the wishes of her husband without incurring any disqualification for her right to maintenance.

A Shia wife, according to Shia fiqh visit her parents as a matter of right even when they are ill. There can, therefore, be no question of her visiting her other relations.

Indian Practice:

When a wife goes to her parents house with her husband's consent, then in respectable families in India and especially in the State of Jammu and Kashmir it is for the husband to send for her and to make necessary arrangements for her return. A wife does not ordinarily come back to her husband's house without being called back by him as it is considered to be immodest and humiliating for her to do so. The husband must, therefore, make an attempt to induce her to comeback and live with him and to fetch her or to make other necessary arrangements for her return. There is no such rule laid down by Muslim jurists, but taking into consideration special conditions prevailing in the subcontinent the views of the courts are equitable and must be accepted.

(I) Wife Carrying on Profession or Business:

Islamic law allows maintenance to a wife irrespective of the fact whether she is rich or poor. The maintenance of a wife carrying on profession or business depends upon whether she so works with her husband's consent or without it. If she does so with his permission, she retains her right to maintenance from her husband, if otherwise, she shall become disentitled for maintenance. The rule is based on the principle that the husband gets deprived of the services of the wife during the time spent on such profession or business. But it may be pointed out that presently the husband's income often does not suffice to meet their expenses and the wife makes a sacrifice of her comfort and convenience by undertaken some job to supplement the

domestic budget. In these circumstances she should not be disallowed maintenance.

(m) Maintenance During *Iddat*:

A husband is bound to provide maintenance and lodging to his wife after the dissolution of the marriage upto the expiry of *iddat* period, which may be brought about either by *talaq* (revocable or irrevocable), *khula*, *ila*, *lian*, apostasy of her husband, on the ground of impotency, exercise of option of puberty or because of husband's misconduct.

An expectant mother is entitled to maintenance till the time of delivery or termination of pregnancy otherwise. Shias hold that the liability lasts for the same period after confinement as if the woman was not enceinte.

Where a wife has been divorced in her absence she would be entitled to maintenance until she becomes aware of the divorce and for three months after the information reaches her. In case a notice of divorce is sent, the date of service of the notice shall be taken as the date of divorce and not any prior date mentioned in the notice. However, the Patna High Court in *Enamul Hag* granted an order for maintenance from the date of filing the written statement in which an earlier divorce to the wife was pleaded by the husband.

The divorcee is entitled to sue for maintenance at the place where she resides at the time of the divorce and receives notice thereof.

(n) Constructive Desertion on the Part of Husband:

It may so happen that a wife who leaves her husband's place might have been forced to leave on account of husband's conduct. There is no difference between the case of a husband who leaves his wife and of one who by his conduct forces her to leave him. In the latter case, the wife's act of living separately from her husband shall be attributed to him. Hence, a wife shall not become disentitled to maintenance when it is the conduct of the husband that forces her to leave him and live separately from him. Thus acts of cruelty by husband may compel the wife to leave him when she is exposed to personal danger. This principle, though not discussed much

specifically is derived from the principle that a wife shall not be guilty of *nashuz* (defiance and arrogance) if she leaves her husband's place for some justifiable cause. The principle has been adopted by English courts. In similar view has been taken by Nagpur High Court. It has been expressly laid down that where a wife is turned out or ill-treated so as to make it impossible for her to live with her husband she is entitled to maintenance by living separately from him.

III- Maintenance When Disallowed:

(a) Minor Wife:

According to the Hanafi and Shia doctrine if the wife is a minor so that the marriage cannot be consummated there is no obligation on the husband to maintain her. It has been expressly laid down in re: Khatijan Bibi. That under the Hanafi and the Shia law husband is not entitled to the custody of the person of a minor wife whom he is not bound to maintain. If the wife is a minor but capable of being a good companion, even then Shia law, unlike the Sunni law, does not recognize her right to maintenance so long as intimacy is not possible with her or marriage has not been consummated. The author of the *Sharia al-Islam*, however, does not accept the correctness of this view.

(b) *Nashiza* Wife:

A wife is said to be a *nashiza* when she is refractory, unsubmitive or disobedient, that is, when she does not abide by reasonable instructions of her husband. A wife who is a *nashiza* is not entitled to maintenance from her husband. In actual practice a wife is deemed to be a *nashiza* when she leaves her husband's house against his wishes and when she does not allow him access to herself.

A wife who leaves her husband's house, on her own, without any justifiable cause is not entitled to maintenance. Where a wife leaves her husband's house or refuses to come to his house for some justifiable reason she shall not be deemed to be a *nashiza*. Thus when her refusal to accompany the husband is based on the nonpayment of prompt dower then the wife shall not lose her right to maintenance. A wife who is living in her own house and would not

allow the husband to approach her is not entitled to maintenance, unless she has asked him to take her to a house of his own and he has either delayed or refused, and the wife has in consequence therefore prevented his approaching her. But she shall not be deemed to be *nashiza* if she does not allow him to be intimate with her while she is living with him at his house. It is taken that she shall be in his power and can be intimate with her by applying some pressure. The idea is explained to be based on the fact that in many countries a bride generally does not allow intercourse on account of her coyness until and unless the bridegroom exerts some pressure on her. If the wife leaves her husband's house against his wishes she shall not be entitled to maintenances from him. It is not sufficient reason to refuse to live with the husband if he does not say his prayers. A wife who cannot cohabit with the husband due to her illness does not lose her right to maintenance.

Thus whether a wife is a *nashiza* or not a question of fact to be determined on the facts of each case. The general principle of law that can be deduced is that a wife cannot be considered to be a *nashiza* if her act does not amount to refraction or is due to causes which she has no control or is due to a justifiable cause.

The wife's un-submissiveness under Shia, law consists in her denial of intimacy to her husband. But she will not be so considered if her denial is based on some valid grounds such as pilgrimage, menstrual course or illness. She will be considered to be refractory when she does not abstain from such things as produce repulsion and stand in the way of enjoyment of intimacy, as when she remains dirty or refuses to adorn herself when so desired by the husband or goes out of his house without his permission. It may be pointed out, however, that *nashuz* or un-submissiveness relates to the commission or omission of such acts only as are incumbent of the wife and not otherwise.

(c) Wife's Non-Accessibility:

Access for conjugal intercourse when fettered, deprives the wife of her right to maintenance. A wife, therefore, is not entitled to maintenance when she:

- (i) Has been imprisoned for any offence.

- (ii) Has been subjected to incarceration in a civil jail for the non-payment of a debt.
- (iii) Has eloped with somebody or has been taken away forcibly.
- (iv) Has gone on a voyage or pilgrimage without husband's consent.

Under Shia law *tamkin* is a ground for liability of the husband to pay maintenance the wife. By *tamkin* is meant such placing of herself by the wife in the power of her husband as to allow him free access to her at all times. If, however, a marriage is unconsummated and some time has elapsed without making any demand for maintenance, the husband would not be liable and in the case of an absent husband, the wife would not be entitled to maintenance unless she offers to the judge to place herself in his *tamkin* and a notice is served on him and time is allowed for his return.

(d) Apostasy:

As a general rule, the wife loses her right to maintenance when she apostatizes. The right revives only when she again returns to Islam. If the apostatized wife has been sent to jail she shall not be entitled to maintenance. If she is living with her husband then she will retain her right to maintenance even on apostasy provided she is converted to a revealed religion i.e. Christianity or Jewish faith.

Under Shia law, also the wife loses her right to maintenance on payable during the intervening period between apostasy and re-embracing Islam.

Under Islamic law the wife would not be entitled to maintenance if she apostatizes during *iddat* where the divorce was revocable, but she would be entitled to it if the *talaq* was irrevocable and she returns to Islamic faith. In India the aforesaid rule cannot be applied in view of the will also be in consonance with section 4 of the Dissolution of Muslim Marriages Act, 1939 relating to the effect of wife's apostasy. The relevant provisions of these statutes are: Section I of the Disabilities Removal Act, 1850

1. So much of any law or usage now in force in India as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of any

religion, or being deprived of caste, shall cease to be enforced as law in any court.

Section 4 of the Dissolution of Muslim Marriages Act, 1939 provides.

4. Effect of conversion to another faith:

The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage, Provided that after such renunciation, or conversion the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds in section. Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith or who re-embraces her former faith.

Section 4 of J & K Muslim Marriage Dissolution Act, 1942, lays down:

4. Wife's conversion of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage.

Provided that it shall so operate in the case of a married Muslim woman who was converted to Islam from some other faith but who re-embrace her former faith.

(e) Illness:

Maintenance is disallowed to a wife if she has been living at her father's house and has been ill, dating from a time before her marriage, not be in a position to come her husbands' house, even when she has not refused to come to his house. An ill wife residing in her father's house capable of going to her husband's house without risk, if refused to do so on his offer, is not entitled to maintenance.

(f) *Muta* and Unchaste Wife:

No maintenance shall be due in case of *Muta*-wife or unchaste wife.

(g) Marriage Dissolution By Death:**Quran provides:**

“Such of you as shall die and leave wives ought to bequeath to them a year’s maintenance.

But according to the unanimous opinion of the Mufasssirin (exegetical writers) this injunction stands abrogated by the later Quranic provisions relating to inheritance conferring on the widow the status of an heir. This rule is explained on the basis that husband’s house during the period of *iddat*, but the residence of a widow at the house of her husband during *iddat* is merely to serve as a mark of sorrow for her loss and respect to his memory. It is further argued that maintenance is paid out of the husband’s property during his life-time, but on the death of a husband his ownership ceased and becomes immediately vested in his heirs including the widow herself and the other heirs are in no way responsible for the maintenance of the widow.

There is a difference of opinion about the widow’s right to maintenance if she is expecting a child. According to one opinion she shall be entitled to maintenance in such a case. But generally it is to provided. In Aga Mahomed the Privy Council followed the latter view which is still the rule in India. The view that she is entitled to maintenance is the correct one and decision in Aga Mahomed case deserves to be overruled.

iv- Miscellaneous:**(a) Suspension of Maintenance:**

When a wife is *nashiza* the husband’s obligation to support her does not come to an end, but is merely suspended for the time during which she remains refractory or un-submissive. One she gives up disobedience to her husband, she becomes entitled to maintenance from him because the cause for the loss of maintenance has been removed. She shall be entitled to maintenance even if the husband is not ready or refuses to receive her on her return to her husband to discharge the marital obligation. If a refractory wife becomes insane she shall become entitled to maintenance because her un-submissiveness will be no longer due to her volition.

Under Shia law also the wife who loses her right to maintenance due to un-submissiveness becomes entitled to it from the date she returns to her duty and husband becomes aware of it.

(b) Variation in the Order of Maintenance:

The amount of maintenance fixed is open to variation by the Qazi having regard to circumstances such as change in the financial position of the husband, rise or fall in prices or the like, in the interest of Justice and equity. Even an agreement entered into between the parties can be varied by the Qazi, if change in circumstances make it imperative.

Under Shia law only financial and social position of wife is taken into consideration so that a change in financial condition of the husband does not affect the amount of her maintenance.

(c) Arrears of Maintenance:

Some times the husband fails to maintain his wife for a certain period of time and she gets a right to approach the court for asking her husband to maintain her. If she will also claim maintenance amount for the period which has already expired, that is called arrears of maintenance. Under Hanafi law a wife is not entitled to any arrears of maintenances unless the same has been decreed by the Qazi or she has entered into an agreement with her husband in this respect. If the wife has incurred a debt in connection with her maintenance from the sanction of the Qazi, the same shall be recoverable from the husband. If a divorcee fails to claim maintenance for *iddat* period, later, for such a period, she can not claim arrears from her husband.

Under the Maliki, Shafei and Hanbali laws a wife can lawfully claim arrears of maintenance from her husband and the same shall circumstances, to considered as a debt due to from the husband. Under Shia law also arrears of maintenance are recoverable as debt. Any arrears of maintenance cease to be reimbursable on the death of either party; a widow is not entitled to the same.

(d) Advance of Maintenance:

Sometimes the husband expresses much affection for the wife and pays some amount for her maintenance in advance or when he

has to go on a voyage he pays some amount in advance, this is called advance maintenance. If the marriage dissolves before the expiry of the period of advance maintenance by death or divorce no amount is recoverable from the wife. Under Shia law, however, the husband may claim proportionate return of the amount for the unexpired period.

(e) Release from Maintenance:

Any agreement releasing the husband from his liability for payment of maintenance will be effective, provided maintenance has not been decreed by the Qazi. If it has been decreed by the Qazi, the release will be effective for one month only. If after one month she releases him from the payment of past arrears and future obligations, the former shall hold good but not the latter. The release for future maintenance shall hold be effective for only the next one month. Here the policy is that absolving the husband by the wife of his liability to provide due maintenance is to be discouraged. She may, if circumstances allow, do so for a limited period of one month at a time.

(f) Agreement for Maintenance:

A wife may secure a valid agreement from her husband to give her separate maintenance in proper cases such as (i) ill-treatment, (ii)disagreement, (iii)her not being able to get on with another wife, or (iv) he would maintain her in the house of her parents, and any such agreements as are not against public policy. Likewise an agreement for *Kharcha-e-Pandan* (Personal allowance) or allowance for *Mewa Khori* is valid.

But any agreement for future separation providing that the husband would give some maintenance to the wife in the event of future separation of the desire of the wife is opposed to public policy and void. Likewise an agreement in the marriage contract that the wife would not be entitled to maintenance is void. But an agreement would be valid if a condition to that effect is made in the event of *khula* or *mubarat*.•

Muslim Scientists Exhibition Bridges Cultures

Some of the world's top Muslim scientists and their inventions were on display last month in an exhibition held at an Islamic center in Houston, Texas, where organizers aimed to build cultural bridges by highlighting some of the lesser known aspects of Islamic civilization.

The exhibition, *Sultans of Science: 1000 Years of Knowledge Rediscovered*, is a two month long display that honors the contributions of Muslim scientists from the eighth century night through to the eighteenth, an era known as the Golden Age of the Islamic world.

The name Abbas Ibn Firnas may not be known to western science buffs, but the ninth century Muslim scholar was the first man in aviation history to attempt to fly, beating the infamous Wright brothers and Charles Lindbergh. Firnas was credited for the first piloted flight in human history as he tied himself to a feathered glider in Cordoba, Spain.

"Increasing awareness of Muslims' contributions to the civilization and the field of learning is vital for building cultural bridges between different people," said Joanne Herring King a member of the exhibition committee.

Shedding some light on the importance of Muslim civilization will show a different view of Muslims, which King said has been "obscured in the smoke of war generated by the bad ones."

Another inventor is the tenth century optician and physicist Abu Ali al-Hasan ibn al-Hasan ibn al-Haytham, simply known as al-Haytham, who invented the pinhole camera and discovered how the eye works.

From art and astronomy, to optical sciences, mathematics and architecture, the exhibit offers visitors hands-on activities using models of artefacts and inventions that recreate what it was like to be a scientist in the middle age.

Visitors, for instance, can map their pulse using a sensor that displays their heartbeats against a backdrop of famous scientist Ibn Nafi's ninth century diagram of the human circulatory system.

Or they can get a feel of medieval "photography" through conducting experiments at al-Haytham's recreated optical laboratory using the camera model he invented along with concave and convex lenses.

Another feature of the exhibition will include small replicas of Islamic scientific inventions designed for the Ibn Battuta Mall, a massive shopping center in Dubai featuring the travels of the Moroccan traveler. The Houston museum of Natural sciences will also feature the IMAX film journey to Mecca, which documents Ibn Battuta's extensive voyage.

The Importance of Youth

Syed Kazim

Youth is the golden period of our life. Our youth is the most important stage of our life because this is the stage when the person chooses a path. The path may be right or wrong. This is the stage; the youth will have many deviations and distractions like watching porn movies, music, girls, cigarettes, alcohol, games etc.

At this age, the parents need to play a very important role in guiding their children to choose the right path so that they are successful in this world and the hereafter and should ensure that they do not adopt the wrong path. Thinking about bringing the children back to a right track after a certain time would be very difficult.

It is true that every journey begins with a single step, but if our first steps have been taken in the wrong direction, then the complete life will be on the wrong path and coming on the right path will become very difficult. Some youth think that this is the time to enjoy and once they come out of college they will adopt the right track but they do not know that coming back to the right part will become next to impossible.

Prophet Muhammad (pbuh) has listed seven kinds of people who will be sheltered under the shade of God on the Day of Judgment. They are:

1. A just ruler. 2. A young man who passed his youth in the worship and service of God. 3. One whose heart is attached to the mosque. 4. Two people who love each other for the sake of God. 5. A man who is invited to sin but declines, saying I fear God. 6. One who spends his charity in secret, without making a show, and 7. One who remembers God in solitude so that his eyes overflow with tears. (Riyadh-us-Saliheen, Hadith 376)

From this hadith we can easily understand the importance given to youth by Prophet Muhammad (pbuh). This is the stage when the Satan easily gains control over the person and leads him to the wrong path. So in this stage the person should be over conscious on the various activities done by him. We just have to give the Satan an inch and he will rule over us.

Three common areas where Muslim youth should focus are as follows:

1- Obeying and respecting our parents. 2- Effective utilization of time (avoid wasting time). 3- Avoid seeing, and listening to, something which is prohibited by Islam.

In their youth, most of them think that they know everything; some also think that they know more than their parents. Due to this type of attitude they tend to disobey their parents. The children might gain more knowledge in a particular field but, in terms of experience, they can never beat their parents.

Considering our parents more knowledgeable and experienced than us will help us to obey and respect them.

Prophet Muhammad (pbuh) said: "There are two blessings which many people lose: (They are) health and free time for doing good." (Bukhari)

From this hadith we should understand that out of the many bounties given by Allah (swt), free time and health are the precious bounties given by Allah (swt) and use them for the right purpose. In Surah Al-Asr, Allah (swt) also emphasizes on the importance of time. But today we see majority of the youth waste their time in doing things which are disliked and prohibited in Islam.

Imam Ali ibn Abi Talib (as) said: "There are two things which people do not recognize the greatness of until they lose them: their youth and good health."

This is the age where we do not have the complete control over our desires and we get attracted and addicted to things which are disliked and prohibited in Islam. It might give us material pleasure for some time but they are definitely harmful in the hereafter.

Today's youth should be the "Youth with a mission" – a mission to contribute for Islam. A youth can contribute to Islam by giving his time, talent and money. A youth should also play an important role to bring about a drastic change in society. The youth should work with an objective of making Islam prevalent over all the other ways of life. The youth is the stage of life when the individual should grasp good knowledge about Islam and make effective utilization of the time and talent given by Allah (swt).

Allah (swt) says in the Quran: "He it is who sent His Messenger with guidance and the true religion so that He may cause it to prevail over all religions and Allah suffices as a witness" (Al-Fath, 48:28)

From this verse we come to know as to what was the objective of the Prophet, which should also be the objective of every Muslim. But the today's youth are living without any objective. They are living with a primary objective to satisfy their material desires.

We all should remember that all that we have today is only given by Allah alone and everything belongs to Allah, thus we should spend everything and do everything for the cause to Allah with a sole objective to please Him.

The Muslim youth are the future Islamic leaders, so it is very important for the youth to understand Islam in the right perspective by gaining the correct knowledge of Islam from the Qur'an and the authentic *Sunnah* and understand the real purpose of existence on this earth.

The youth is the "make it" or "break it" stage of our life.

May Allah (swt) help the Muslim youth to follow Islam completely. Amen!

(YMD)

Financial purification through Zakat

Five major elements constitute the foundation of Islam. These are a declaration of belief that there is no deity other than God and that Muhammad is His messenger, offering the five prayers each day, payment of zakat (which is an obligatory charity paid by all Muslims who have more than a specified sum); fasting in Ramadan and pilgrimage to Makkah if one can afford it.

Prayer and zakat are given precedence over other types of Islamic worship because prayer, which is offered purely for God's sake, has an important role in restraining people from committing sinful and evil deeds, while zakat has a beneficial effect on both the individual and the society.

In reference to zakat and other types of charity, God says in the Qur'an: "Take a portion of their wealth as charity, so that you may cleanse and purify them thereby; and pray for them; for your prayers are a source of comfort for them. God hears all and knows all." (9:103) This means that charity in general, and zakat in particular, work in such a way as to purify believing hearts. In fact, the very word, zakat, combines both sets of connotations: purification and growth. But the question is asked: What does it purify; and how does it bring about growth?

Zakat as a purifier

Zakat and other charity purifies the believers' hearts of various negative feelings, such as a sense of guilt, envy, grudge, hostility, hatred, worry, isolation, as well as the feeling of being a social outcast. Divine wisdom necessitates that God grants people different aspects of His grace in different measures. Thus, some people are rich, while others are poor, some are healthy while others suffer from sickness, and some are physically strong while others are weak. But believers are brought up as God-fearing, nurturing a lively conscience and a compassionate attitude. A believer who enjoys an abundance of something other people have not been given will find that his active conscience will not let him enjoy such abundance fully while others are deprived. His conscience will be awakened every time he enjoys his blessings because others are not sharing that enjoyment, even though it may not be a necessity. Although he knows that he is not responsible for the fact that others do not have what he has been given in abundance, he will continue to feel ill at ease

when he realizes that he has plenty while others have little. A sense of guilt has been experienced by a person who escapes a massacre or a concentration camp in war times, when others with him are killed. Such sense of guilt is felt by such a person simply because he manages to escape while others do not, even though he has no role in their fate. He realizes that his escape has not been at their expense, but simply that God has determined that he should live longer. If the case is so, we can imagine what feelings are experienced by a believer with a refined conscience when he has much to enjoy while others are deprived.

A believer who enjoys an abundance of something other people have not been given will find that his active conscience will not let him enjoy such abundance fully while others are deprived.

A believer will undoubtedly experience a feeling of guilt experienced by those who survive massacres and disasters. He will not be satisfied until he shares with those who are deprived something of the blessings he enjoys. Does this mean that he should give everything he has in charity so as to join the poor and share with them their deprivation? This is definitely a non-starter, as it is in direct conflict with human nature. Moreover, it remains at variance with Divine wisdom, which has dictated that people differ in the type and amount of the grace they receive from God. We can discern here the wisdom of imposing obligatory zakat or charity on a believer, which he pays out of what he has over and above his needs for a full year. We also appreciate the benefit of the precise determination of the amount of zakat one pays out.

It is merely 2.5 percent of one's entire property that is not essential for his own and his family's living. He may enjoy the other portion of 97.5 percent provided that he spends it in legitimate ways.

Conditions that make Zakat obligatory

There are two conditions for Zakat to be obligatory on the wealth.

1. Being in possession of Nisab i.e. possessing property in excess of a minimum exemption limit.
2. On completion of one Lunar year on the wealth. According to Hanafis, if a person possesses wealth equal to or in surplus of Nisab in the beginning and at the end of the lunar year, (even though in between the year, the wealth was less than the Nisab), zakat is obligatory, but if at the end of the lunar year if the wealth is less than

the Nisab (though one had wealth equal to or in surplus during the year) zakat is not obligatory. According to Shafie the passage of one lunar year is a must on the wealth (Nisab) (in Hanbali almost a year). The zakat is calculated on the day on which a year is completed or that wealth (Nisab).

Nisab

Zakat is paid on the surplus of wealth which is left over after the passage of a year (Lunar Year). It is thus a payment on the accumulated wealth, leaving our animal and agricultural yield. Zakat is paid at almost a uniform rate of 2 1/2%. The minimum standard of surplus of wealth over which Zakat is charged is known as Nisab. It differs with different kinds of property. In case of silver it is 5 21/2 Tolas (634 grams), in case of gold it is 7 1/2 Tolas (88 grams). The Nisab for cash is the same as that of gold and silver.

On whom Zakat is obligatory

Zakat is obligatory on every adult free Muslim man and woman provided the above two conditions are fulfilled. According to Imam Malik, Shafie and Imam Ahmed bin Hanbal, Zakat is obligatory on the wealth of the minor and insane person, and it has to be paid by the guardian. Whereas according to Imam Abu Hanifa it is not obligatory. Since Zakat is an act of worship the intention is a must and hence it is not obligatory on the wealth of a minor and the insane person.

Zakat on woman's Mehr

According to Imam Abu Hanifa and Imam Malik, the wife need not pay Zakat on the Mehr amount still due by her husband. However Zakat will have to be paid on the amount she has claimed provided it is equivalent to or more than the Nisab and on which one year has been completed. According to Imam Shafie the wife has to pay the Zakat every year (through she herself is not claiming the Mehr, even though it can be claimed). According to Hanbali, the wife has to pay the Zakat for the entire number of years at the time when she gets it.

Zakat on Business Goods or Stock-in-Trade

All types of goods for sale, whatever may be its form, whether hand made or machine products or fruits or books or jewellery or clothes or cattle or property brought with the intention of buying and selling etc., are liable for zakat. Provided it is in one's possession for one complete lunar year and the rate of zakat applicable is 2½% on its total value. The prescribed limit on goods is after conversion, in terms of its value, the total amount thus evaluated must be equivalent to the price of 634 grams of silver. If less, then zakat is not obligatory. Zakat on company or partnership, Silver, Gold, Currency and Shares

If any wealth or property is held jointly by two or more persons, then according to Imam Abu Hanifa and Imam Malik, Zakat is not obligatory on any person until each individual's share is equal to the value of the Nisab.

Zakat on Silver, Gold, Currency and Shares

The minimum prescribed limit on which Zakat becomes obligatory on silver is 52½ Tolas (634 grams), and of gold 7 ½ Tolas (88 grams) and is known as Nisab. Zakat on silver or gold items is one fortieth of its weight, i.e. 2½%. Zakat on silver or gold is not calculated on its value but on its weight. However if one possesses some gold and some silver and neither of them is in the prescribed limit, then if their total cost is equal to the price of 634 grams of silver, Zakat becomes due on it.

Zakat on the Ornaments of a woman

Zakat is due on all the gold and silver ornaments, jewellery, and gold or silver lace woven into clothe, gold thread embroidered dresses for ladies, etc. Hadrath Umm Salmah says that she used to put on (gold) bracelets. When she asked the Prophet whether it was *Kanz* (Hoarded wealth) he replied: "When a piece of property reaches upto the prescribed limit and Zakat is duly paid on it, it is not *Kanz*." (Abu Dawood)

Imam Abu Hanifa, his disciples and some scholars hold the above opinion. According to Imam Malik, Shafie, Imam Ahmed bin Hanbal and other scholars there is no Zakat on the woman's ornaments. According to some other scholars the Zakat on ornaments is due only once in a lifetime. The difference of opinion among scholars is only on the ornaments in use by the woman, but there is a consensus among all the scholars that Zakat is liable on the excess of the ornaments held in possession as wealth.

Zakat of the Bank Deposit and on Provident Fund

Both these fall under the status of debt. According to the Hanaf school of thought, both of them are liable for Zakat for all the years and it has to be paid when out of it an amount equivalent to the value of 10 1/2 Tolas of silver or more is claimed. According to the Hanbali school of thought also, Zakat is liable on both for all the years. It has to be paid when an amount equivalent to the Nisab or more is claimed.

According to the Maliki school of thought the Zakat on Bank deposit is liable for all the years. And it has to be paid when the amount is received. On the provident fund, since the person does not have any power to claim it, so Zakat is liable at the time when it is received and it has to be paid for one year only. According to the Shafie school of thought, the Zakat on the Bank Deposit has to be paid every year. The Zakat on provident fund has to be made for all the years and it has to be paid when he is entitled to receive it, though he may claim it or not in time.

Zakat on Agricultural Produce (*Ushr*)

(fruit vegetable and flowers)

The Prophet said: "On a land irrigated by rain water or by natural water channels or if the land is wet due to a nearby water channel Ushr (i.e. one-tenth) is compulsory (as Zakat); and on the land irrigated by the well, half of an Ushr (i.e. one twentieth i.e. 5%) is compulsory (as Zakat on the yield of the land)".

A basic principle has been laid down for the Sadaqa (Zakat) in the agricultural produce. If the land is irrigated by artificial methods, one twentieth part (5%) of the yield is to be paid. If irrigated by rainfall, streams, rivers, fountains or by the inner moisture of the earth, i.e., by natural resources of water, then one tenth (*Ushr*) 10% is to be paid as Zakat. There is some difference of opinion whether Ushr is levied on all types of agricultural yield or on some particular types.

According to Imam Abu Hanifa, Zakat is to be paid on all types of agricultural yield, provided the aim of cultivation is to improve upon the land and make it more useful for growing of crops. Thus only fuel, bamboo, grass and trees which bear no fruits are exempted from Zakat. He considers Zakat to be compulsory even on vegetables and fruits, which according to some Hadith, are exempted from zakat. The scholars have

reconciled the two views saying that the exemption granted in case of vegetables implies that the proceeds of the Zakat are not to be sent to the aitul Mal, but the owner may himself distribute it among the poor.

Ushr is to be paid at the time of harvest. Whereas in the other types of Zakat one should be in possession of the wealth for one complete year.

Zakat on Animals

Zakat is obligatory on goats, sheep, cows, buffaloes and camels which graze on wild grass, plant leaves and on some feed now and then given by the owner, and on the above animals meant for sale.

The Prophet said: "By Allah in whose hand my life is, whoever had camels or cows or sheep and did not pay their Zakat, those animals will be brought on the Day of Resurrection far bigger and fatter than before and they will tread him under their hooves, and will butt him with their horns and (those animals will come in circle) when the last does its turn, the first will start again and this punishment will go on till Allah has finished the judgments amongst the people." (Bukhari)

Zakat on Minerals and Buried Wealth/Treasure

Zakat on Minerals and hidden wealth is one twentieth- 5%. According to Imam Abu Hanifa, minerals are classified into three groups:
a) Gold, Silver, Brass, Bronze, Iron etc. (b) Crude Oil, etc. (c) Diamonds, precious stones etc.

Zakat on the first group only is Waajib (compulsory) and is to be paid at the time of acquiring. Here minimum period of one year in possession does not apply.

To whom Zakat cannot be given

1. Zakat cannot be given to a person who owns atleast 7 1/2 tolas of gold or 52 1/2 tolas of silver or equivalent wealth in cash, kind or in trade goods. If Zakat money is given to such a person, then the obligation will not be discharged. For such a person to receive and accept Zakat is forbidden and to use it is haram.

If a person owns household goods over and above that which are necessary for his normal use, such as carpets utensils or other goods

which are owned and kept in possession but are hardly in frequent use then such goods do not come under essentials but in accumulated wealth, and Zakat cannot be given to the person possessing them.

2. To some relatives: Zakat cannot be given to one's mother, father paternal and maternal grandparents, great grand-parents, etc likewise, Zakat cannot be given to one's offspring-sons, daughters grand-children, great grand-children, etc. Zakat cannot be given by husband to wife, nor by wife to husband. Except for these, Zakat can be given to other relatives such as brothers, sisters, uncles, aunts cousins, nieces, nephews, etc.
3. To Children: The position of a minor child is linked with his or her father. If the father is wealthy, then the child will also be considered as rich and Zakat cannot be given to him if the father is poor enough to receive Zakat, but the mother is rich, then Zakat could be given to the child because the child's financial position is linked with that of the father, not the mother.
4. To Sayyeds: Sayyeds are the descendants of Prophet Muhammad through his daughter Fatima and the descendants of his uncle Abbas and his cousins Aqeel etc. Zakat as well as *Sadaqah* and Fitra cannot be given to them.
5. Zakat cannot be given to a person in payment of services rendered by him or in payment of wages to a teachers, caretaker, etc. It can however, be given to such a person as a gift, if desired.
6. Zakat cannot be given to domestic or other servants as wages Zakat money can be given to them as a gift over and above the wages paid to them.

Some other Points

One of the conditions of the discharge of Zakat is that the receiver must become the unfettered owner of the amount of Zakat paid to him.

Zakat cannot be given for building repairing or maintaining a mosque because a mosque is a place of worship which does not belong to anyone.

To pay debts of a deceased: If a poor man dies in debt and someone uses Zakat money to pay the debts of the deceased, then the

tions will be invalid and the obligation to pay Zakat will not be discharged, because the deceased did not become owner of the money paid for the discharge of the debt.

To heirs of the deceased, however, if they are poor, can receive Zakat and discharge the debt of the deceased, if they desire to do so.

To pay funeral expenses: Zakat money cannot be used to pay expenses relating to the funeral and burial of a person. But the heirs of the deceased, if they are poor, can receive and accept Zakat and use the money for the burial expenses of their deceased relative.

Zakat must be given on, and from, a commodity—that is, a portion of the wealth itself can be given in charity to discharge the obligation. But we are also permitted to determine the Zakat due and give its value in cash.

Zakat-ul-Fitr

Zakat –ul- Fitr is a type of Sadaqah which must be paid by every Muslim, young and old, male and female, free and slave, at the end of the month of fasting (Ramadan).

The purpose of Zakat –ul- Fitr is to purify one who fasts, from any indecent act or speech and to help the poor and needy.

Zakat –ul- Fitr is incumbent on every free Muslim who possesses one Sa of dates or barley which is not needed as a basic food for himself or his family for the duration of one day and night. Every free Muslim must pay Zakat ul Fitr for himself, his wife, children, and servants. (One Sa' equals approximately three kilograms).

The required amount of Zakat ul Fitr is one Sa' of wheat, rice or corn or similar items considered as basic foods.

Abu Hanifa made it permissible to set also, as a Zakat ul Fitr, an equivalent value and also said that if the payer pays in wheat, one half of a Sa' would be sufficient.

Most scholars believe that it is permissible to pay Zakat ul Fitr a day or two before Eid. According to Abu Hanifa, it is permissible to pay it even before Ramadan. Ash-Shafi holds that it is permissible to do so at the beginning of Ramadan. Malik and Ahmad maintain that it is permissible to pay it only one or two days in advance. •

(Islamic Voice)

Around the World

US Staged 9/11 Attacks: Charlie Sheen

Hollywood actor Charlie Sheen has requested US President Barack Obama to hold a new investigation into the 9/11 attacks as he believes them to be staged by the Bush government. The Wall Street star made the outrageous claims through a short film 20 Minutes with the President which was made public ahead of the eighth anniversary of the attacks that killed 3,000 people, reported Telegraph online. The actor followed it up with a video, addressed to Obama which he posted on YouTube. Sheen, 44, the highest paid actor on US TV argues that "the official 9/11 story is a fraud" and says the commission set up to investigate was a whitewash. He claims the attacks served "as the pretext for the systematic dismantling of our Constitution."

The actor says the administration of the former president, Mr. George Bush, was behind the attacks, which they were then able to use to justify an invasion of Iraq, even hinting that Osama Bin Laden was working with the CIA until 9/11. He urged other Americans who were skeptical of the probe, to demand the truth. "We cannot allow governments to continue to advance their political agendas by exploiting forged pretexts and the fact that big budget-hit pieces against 9/11 truth are still being rolled out proves that the establishment is upset that the population is waking up to the false terror," he said. •

Salaam Halal Plans Expansion

Salaam Halal, the UK's only stand-alone Islamic insurer, will expand next year to offer insurance or Takaful to companies run by Muslim businesses, the company's CEO said recently. The company wants to launch the first Takaful product range for Muslim owned small and medium sized business in Britain which he estimated number around 140,000. •

Palestine Is Arab Land

Hamas political official in Lebanon, Ali Barakah has saluted senior Shia scholar Sayyed Mohammad Hussein Fadlallah's recent stance to consider Palestine an "Arab Islamic land that we cannot give away." In a statement Fadlallah said resistance was "the strategic choice" to liberate Palestine and regain Palestinian rights. In the same statement the Shia scholar issued a fatwa banning the normalisation of ties with Israel. Barakah also praised Future Movement leader Saad Hariri's plan to grant Palestinian refugees in Lebanon their civil rights. "Such a decision opens the door for a new solution to the Palestinian dossier in Lebanon and all its political, human, judicial, and security aspects," the Hamas official added. •

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