

THIRD PART
LAWS AND REGULATIONS OF ISLAM

CHAPTER I PRAYER

Sec. 1.—Value of Prayer

The fundamental religious duties recognized by Islām are five, *viz.*, prayer, zakāt or poor-rate, fasting, pilgrimage and jihād, but while jihād is a national duty, the first four are, more or less, individual duties, though having an important national value. Among these four, prayer undoubtedly occupies the most important position, and is given the greatest prominence in the Holy Qur'an; poor-rate coming next to it.

The importance of prayer may be judged from the following facts—that it was the first duty enjoined on the Holy Prophet; that, though prayer and zakāt are often mentioned together in the Holy Qur'an, prayer always takes precedence; and that the keeping up of prayer is the most frequently repeated injunction of the Holy Qur'an. It has also been generally recognized as the first and foremost duty of a Muslim. There are several reasons why prayer has been given this importance. It is really the first step in the onward progress of man, and yet it is also his *mi'rāj*, his highest spiritual ascent. Prayer keeps man away from evil, and thus enables him to attain to his perfection. It helps him to realize the Divine in him, and that realization not only urges him to do disinterested service for humanity but also makes him attain the highest degree of moral and spiritual perfection. Prayer is also the means of levelling all differences of rank, colour and nationality, and the means of bringing about a cohesion and unity among men which is the necessary basis of a living civilization.

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Reference to the beginning of the Holy Qur'an will

Self-development show what prayer really aims at.
through prayer.

There we are told that a Muslim, who would tread the road to self-development, must accept certain principles and carry out certain duties: "This Book, there is no doubt in it, is a guide to those who guard against evil, those who believe in the Unseen and keep up prayer and spend out of what We have given them, and those who believe what has been revealed to thee and what has been revealed before thee; and of the Hereafter they are sure. These are on a right course from their Lord, and these it is that shall attain to full self-development (*muftihun*)" (2:2-5). *Muftihun* is the plural of *muftih* which is derived from the root *fah* meaning *cleaving asunder a thing*. *Falah*, the infinitive form of *muftih*, means *success and complete attainment of what is desired* (R.). The same authority says that *falah* is of two kinds, one relating to this life and the other relating to the next. The former stands for the attainment of those good things whereby the life of this world is made good; and these are *baqā* (*existence*), *ghinā* (*freedom from want, i.e., wealth*) and *'izz* (*honour*). The *falah* relating to the next life includes, according to Raghib, four things, that is to say, life with which there is no death, wealth with which there is no want, honour with which there is no disgrace, and knowledge with which there is no ignorance. Thus *falah*, whether relating to this life or to the next, carries with it the idea of the complete development of the inner faculties of man, the attaining to both material and moral greatness; what, in other words, may be called the full self-development of man. This self-development is reached, according to the Holy Qur'an, by the acceptance of three principles, the existence of God, His revealing Himself to man, and the Hereafter; and by the exercise

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of two duties, the keeping up of prayer or seeking communion with God, and the spending of one's wealth for others or the service of humanity. The place of prayer in the self-development of man is given such a prominence in Islām that in the call to prayer the words "come to prayer" are immediately followed by the words "come to *ṣalāh*," thus showing that self-development is attained through prayer. And on another occasion, the Holy Qur'an says plainly: "Successful indeed are the believers, who are humble in their prayers" (23 : 1, 2), where the word used for *being successful* is *aṭāḥa*, carrying the signification of 'attaining to full self-development.

A belief in God is the fundamental principle of every

Prayer as the means of realizing the Divine in man.

religion; nevertheless the object of religion is not simply to preach the doctrine of the existence of God as a

theory; it goes far beyond that. Religion seeks to instil the conviction that *God is*, a living force in the life of man; and prayer is the means by which it is sought to achieve this great end. The real conviction that *God is*, comes to man, not by the belief that there is a God in the outer world, but by the realization of the Divine within himself; and that this realization is attained through prayer is made clear by what is stated in the beginning of the Holy Qur'an, as quoted above. The three requisites of a true Muslim are there given in their natural order. The first is a belief in the Unseen, which means a belief in God, the great *Unseen* Who cannot be perceived by the physical eye of man. The second, which follows immediately the belief in the Unseen, is the keeping up of prayer, thus showing that belief in the Unseen is turned into a certainty of the Divine existence, a realization of the Divine within the man, by means of prayer; and it is with reference to this realization that

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we are told, a little further on: "And seek assistance through patience and prayer, and surely it is a hard thing except for the praying ones, who know that they shall meet their Lord and that they shall return to Him" (2 : 45, 46). The third requisite, spending out of what God has given, is the natural sequel of the second, and shows that the realization of the Divine in man leads to the service of humanity. In one of the earliest revealed chapters of the Holy Qur'an, it is stated that prayer is useless unless it leads to the service of humanity: "So woe to the praying ones, who are unmindful of their prayers, who do good to be seen, and withhold alms" (107 : 4-7).

The universal experience of humanity bears out the truth of what the Holy Qur'an has said. Though to most people, nowadays, the existence of God amounts to little more than a theory, yet in every age and among every nation there have been men who, through prayer, have realized the great truth of the Divine existence within their hearts, and have laid down their lives for the good of humanity. In their case belief in the existence of God was a moral force which not only worked an entire change in their own lives, but also enabled them to transform the lives of entire nations for centuries and change the histories of peoples and of countries. Their selflessness and truthfulness were beyond reproach, and their testimony, which is really the testimony of all nations in all ages, establishes one fact, that belief in the existence of God becomes a moral force of the first magnitude when once it is realized in the heart of man through prayer to the Divine Being; so great a moral force is it, indeed, that even the most powerful material forces give way before it. Is not the experience of those great personalities a beacon-light for others, showing them that they also can make God a moral force in their lives? The

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powers and faculties that are given to one man are also given to another, and through their proper use one man can do what another, before him, has done.

Again, if, apart from the experience of humanity, we consider the question rationally, prayer to God is the natural sequel of the acceptance, in theory, of the existence of God. The aspiration to rise to moral greatness is implanted in human nature more deeply than even the aspiration to rise to material greatness; but the only way in which that aspiration can be realized is to be in touch with the All-pervading Spirit, the fountain-head of purity and the source of the highest morality. "All the perfect attributes are Allah's," says the Holy Qur'an (7 : 180). But man stands in need of perfect attributes as well; for there is implanted in him the unquenchable desire to rise higher and higher. How can he do so except by being in touch with the Being that possesses the perfect attributes, the Being that is free from all defects? And prayer is but an attempt to be in touch with Him. And the only way to become imbued with Divine morals is to get in touch with the Divine Spirit, to be drawn away from all worldly trammels for a while, and to drink deep at that source, which is prayer to God. In many *ḥadīth*, prayer is spoken of as *munājat* or *confidential intercourse* with the Lord (Bu. 8 : 39 ; 9 : 8 ; 21 : 12). In one it is related that man should worship God as if he sees Him (Bu. 2 : 37). Such descriptions of prayer show its real nature to be that of being in actual intercourse with the Divine Being, and intercourse means nothing but becoming imbued with Divine morals.

The right development of human faculties depends upon the purification of man's inner self and the suppression of evil tendencies : " He surely is successful who purifies it" (91 : 9).

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Prayer is spoken of as a means of purification for the heart: "Recite that which has been revealed to thee of the Book and keep up prayer; surely prayer keeps one away from indecency and evil" (29:45). Elsewhere too: "And keep up prayer in the two parts of the day and in the first hours of the night; surely good deeds take away evil deeds" (11:114). In a *ḥadīth* the saying of prayers is compared to washing in a river: "Abū Huraira says that he heard the Holy Prophet say, If one of you has a river at his door in which he washes himself five times a day, what do you think? Would it leave any dirt on him? The Companions said, It would not leave any dirt on him (and he would be perfectly clean). The Prophet said, This is an example of the five prayers, with which Allāh blots off all the evils of a man" (Bu. 9:6). There are many other *ḥadīth* in which it is stated that prayer is a *kaffāra*; in other words, it is a means of suppressing the evil tendencies of man. The reason is plain. In 20:14, "the remembrance of Allāh" is stated to be the object of keeping up prayer, while in 29:45, it is stated that "the remembrance of Allāh is the greatest (restraint)" upon sin. A little consideration will show that a law generally requires a sanction behind it, and behind all Divine laws which relate to the development of man and to his moral betterment, the only sanction is a belief in the great Author of those laws. The oftener, therefore, a man reverts to prayer, to that state in which, disengaging himself from all worldly attractions, he feels the Divine presence as an actual fact, the greater is his certainty about the existence of God, and the greater the restraint upon the tendency to break that law. Prayer, thus, by checking the evil tendencies of man, purifies his heart of all evil, and sets him on the right road to the development of his inner faculties.

The service of prayer is divided into two parts,

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Unification of the one to be said in private and human race through the other to be performed in congregational, preferably in a mosque. Divine service.

While the private part is meant simply for the development of the inner self of man, the public part has other ends as well in view, ends, indeed, that make the Islamic prayer a mighty force in the unification of the human race. In the first place, this gathering of all people living in the same vicinity five times daily in the mosque, is a help to the establishment of healthy social relations. In the daily services these relations are limited to a narrow circle, *i.e.*, only to members of the same neighbourhood, but the circle becomes wider in the weekly Friday service which gathers together all Muslim members of a particular locality, and still wider, in the two great 'Id gatherings. Thus prayer promotes social relations between the different sections of the Muslim community. Far more important than this, however, is the levelling of social differences brought about by means of congregational prayer. Once within the doors of the mosque, every Muslim feels himself in an atmosphere of equality and love. Before their Maker they all stand shoulder to shoulder, the king along with his poorest subject, the rich arrayed in gorgeous robes with the beggar clad in rags, the white man with the black. Nay, the king or rich man standing in a back row will have to lay his head, prostrating himself before God, at the feet of a slave or a beggar standing in the front. There could be no more levelling influence in the world. Differences of rank, wealth and colour vanish within the mosque, and quite a new atmosphere, an atmosphere of brotherhood, equality and love, totally differing from the outside world, prevails within the holy precincts. To be able to breathe, five times daily, in an atmosphere of perfect peace in a world of strife and struggle ; of equality where

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inequality is the order of the day ; and of love amid the petty jealousies and enmities of daily life, is indeed a blessing. But it is more than a blessing ; for it is the great lesson of life. Man has to work amidst inequalities, amidst strife and struggle, amidst scenes of hatred and enmity, and yet he is drawn out of these five times a day, and made to realize that equality, fraternity and love are the real sources of human happiness. The time spent on prayer is not, therefore, wasted even from the point of view of active humanitarianism ; on the contrary, the best use of it is made in learning those great lessons which make life worth living. And these lessons of fraternity, equality and love, when put into practice in daily life, serve as foundations for the unification of the human race and of the lasting civilization of mankind. In fact, the five daily congregational prayers are meant, among other things, to carry into practice the theoretical lessons of equality and fraternity for which Islām stands, and however much Islām may have preached in words the equality of man and the fraternity of the community of Islām, all this would have remained a dead-letter, had it not been translated into the every-day life of man through the institution of five daily congregational prayers.

Prayer, in Islām, thus not only enables man to realize the Divine in him, not only makes him drink deep at the fountain of Divine morals, purifies his heart and sets him on the right road to the development of human faculties ; but it goes a step further and, levelling all differences, brings about love, concord and a true union of humanity. This last object, it can be easily seen, cannot be achieved without a regularly instituted form of prayer, so that all men should gather together in mosques at the stated times and should stand up reverently, bow down

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and prostrate themselves before their great Maker as one. But even apart from that consideration, it was necessary that permanence should be given to the institution of prayer by requiring its observance at stated times and in a particular manner. The truth is that the grand idea of holding communion with God or realizing the Divine within man, which is so essential to the moral elevation of man, could not have been kept alive unless there was an outward form to which all people should try to conform. In the first place, no idea can live unless there is an institution to keep it alive. Secondly, the masses in any community, even though it may be educated, can be awakened to the recognition of a truth only through some outward form, which reminds them of the underlying idea. And thirdly, there can be no uniformity without a form, and without uniformity the community or nation, as a whole, cannot make any progress, the end in view being the moral elevation of the community as a whole and not the elevation of particular individuals. It is a fact that Muslims as a nation have a more vital faith in God than the followers of any other religion. It is this faith in God that accounts for the early Muslim conquests, before which the mightiest empires were swept away like a straw; it is this same faith in God that enabled the Muslims to hold their own against the onslaughts of Christian Europe during the Crusades; and it is this faith in God again that enables Muslims to-day to carry on the spiritual contest with Christianity, in spite of the fact that all the material forces in this contest, such as wealth, power and organization, are on the side of Christianity. The Islamic institution of prayer which keeps the spirit of the Muslim in touch with the Divine Spirit is without doubt the basis on which this strong faith in God rests, and the value of prayer in the formation of this noble trait in the Muslim national

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character is incalculable.

It must, however, be added that prayer in Islām is not so rigid as it is generally thought to be. It is true that all Muslims are required to assemble at particular times in the mosques, and to follow the lead of the Imām, as an army would obey the orders of its general ; and such uniformity is essential to enable prayer to serve the double purpose of bringing about the communion of man with God and the union of man with man ; but every prayer is divided into two parts, one to be performed in congregation, the other alone. Even in the congregational part there is ample scope for the individual to give expression to the soul's sincerest desire before its Maker, and for an outpouring of the true sentiments of the heart. But in the private part of the prayer, it is not only left to the individual to select the portions of the Qur'an which he likes, but he can also give vent to his own feelings by making any supplications that he likes and in any language that he chooses in any of the four postures, the posture of standing, bowing, prostration and sitting.

In Islām there is no Sabbath. A day is not set apart for worship, as in Judaism and Christianity. One day of prayer with no business and six days of business with no prayer, is not the Muslim's rule of life. Prayer is made a part of the everyday affairs of man. / There is a prayer in the morning before sunrise when a man rises from his bed ; another just after mid-day ; a third in the afternoon ; a fourth at sunset ; and a fifth before going to bed. Prayer is thus the first daily work of a Muslim and it is also his last work of the day, and between these two there are other prayers during hours of business or recreation. Thus Islām requires that in all the varying conditions through which man has to pass, his spirit should be in

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touch with the Divine Spirit. Even when busiest, he should still be able to disengage himself from all worldly occupations for a short space and resort to prayer. The object in view in this arrangement is clearly that man should feel the Divine presence under all conditions, so that while he is doing his work, God should still be nearest to his heart. It would readily be seen how immensely such arrangement must enhance the value of prayer as a moral force in the transaction of everyday affairs.

The Islamic mode of worship is calculated to concentrate attention on one object, the realization of the Divine presence.

Mode of worship.

The ablutions preceding prayer, the reverential attitude in standing, the bowing down, the kneeling with the forehead placed on the ground, and the reverent sitting posture—all help the mind to realize the Divine presence as a fact; and the worshipper, as it were, finds his heart's joy in doing honour to the Great Master, not only with his tongue but with his whole body, adopting a reverent attitude. There is not the least doubt that the spirit of humility in man finds particular expression in the reverential postures which must be adopted in prayer. The whole prayer is a most solemn and serious affair during which the worshipper does not turn his attention to anything else, nor does he indulge in any movement which should distract his attention or disturb his prayerful attitude. The prayer is thus an undisturbed meditation on the Divine, and it is for this reason that in Islām it is not accompanied with music, recitations from the Holy Qur'an speaking of Divine love, mercy, power and knowledge taking its place. In fact, what is considered ritualism in the Islamic institution of prayer is only a way to feel the Divine presence and ponder over His greatness, glory and love by adopting certain reverential postures,

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and it will be seen that the Islamic mode of worship combines in it all the reverential postures that can possibly be adopted, the posture of standing, sitting, bowing down and prostration. The movement among some Muslims, however small their number, that the different postures in prayer should be modernized so as to suit the new conditions of life in the cities of the West, is based on a miscalculation as to the value of prayer. It is, for example, suggested that, instead of standing or sitting on the floor, the worshippers should have the option of sitting on chairs with tables before them, and instead of bowing down and the prostration there should be the option of simply bowing the head a little. Now, as I have said, one of the great objects of prayer is to level down the social and race differences, and if any other postures than those prescribed by the Holy Prophet are adopted, there would begin a divergence which would know no end. If the uniformity of prayer is destroyed, more than half of its usefulness is gone. Let us suppose there is a mosque in which there are some people sitting on chairs and others standing on the ground, some who are bowing down or prostrating themselves before God while others simply bend their heads, prayer will have failed altogether in attaining its great object, that of levelling down differences of rank and bringing about a unification of humanity. If it be urged that mosques in the West may be modelled on the fashion of the churches, then the unity of the world-wide brotherhood of Islām will have gone altogether. And when these Westerners will come to the East, they will not be able to join the congregational prayer of their Eastern brethren, and Islām will have failed to bring about the great object of joining the West with the East and establishing a common brotherhood for all mankind.

Apart from the consideration of uniformity, however,

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there is the fact that the form in which prayer has been inculcated by the Founder himself is calculated to produce in the mind of man a spirit of true humility which is essential if he is to receive the Divine spirit. If prayer is intended to realize the Divine in man and to become in touch with the great Spirit of the universe, that object can be best attained only by adopting the reverent method which the Holy Prophet has taught. It cannot be denied that a particular posture of the body will generate in man feelings of pride and haughtiness while another is suggestive of true humility, and it is only the latter frame of mind that can bring man closer to God. If, therefore, humility is of the essence of prayer, the particular postures of standing, sitting, bowing down and prostration are also essential for creating that spirit in man, and any change would be a change for the worse, a change that might well bring about failure to achieve the very end for which prayer is intended.¹

Naturally a man will unfold his heart before his Maker in the language in which he can most readily express his feelings, and this is fully recognized in Islām. The worshipper is at full liberty to open his heart before the great Maker of all in his own language and in any posture. The Holy Qur'an speaks of the faithful as those "who remember Allāh standing and sitting and lying on their sides" (3 : 190). Not only in private prayer but in the course of the public service as well, the worshipper is at liberty to pray to God in his own tongue, after or during the recitation of

1. It is true that, in cases of sickness, or when a man is on journey, the worshipper is permitted to say his prayers in any posture which he finds convenient, but that is rather under compulsion. In such a case he is willing to humble himself in any position, but since his bodily condition does not allow him to assume the prescribed posture, and the object of all is the creation of a true spirit of humility, a departure from regular procedure in that case does not affect the sincerity of him who prays or the efficacy of his prayer.

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portions of the Holy Qur'ān, in a standing posture, or after utterance of words of Divine glory in that of bowing down or prostration, as taught by the Holy Prophet. In the public service such prayers would undoubtedly be limited, since the worshipper must follow the Imām, but in private prayer they may be of any length.

The question, however, assumes a different aspect when the public service itself is considered, for, unless the public service is conducted in a language which is common to all Muslims, there must again be a failure in achieving the great end for which prayer is instituted. As I have already said, the unification of the Muslims through prayer is as much an end and object of prayer as to bring man into communion with God. It is prayer that gathers together, daily, persons of different callings and different ranks and positions in society, under one roof, and on a perfect status of equality, and these homogeneous units are again united by the more extensive gathering for the Friday prayers, or the still larger assemblies at 'Id prayers, culminating in that mighty assemblage at Makka of all nations and all races on the most perfect status of equality—European, Asian and African, king and beggar, all clad in one dress,—the annual concourse of the pilgrims from the farthest corners of the earth. Now all these various gatherings, from the great gathering of all nations at Makka down to the smallest gathering in a village or *mohalla* mosque, are expressly for Divine worship, and if there were a babel of languages prevailing in these gatherings, the object of the unification of the human race through Divine service—an idea unique to Islām—would fail altogether. The bond of a common language is one of the greatest factors towards unification, and this bond Islām has established by the use of a common language at the Divine service. This language, it is evident, could be none other than Arabic, the language of the Holy

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Qur'an. Any one who realizes the grand object which Islām has set before itself of unifying the human race through Divine service, will at once appreciate the necessity of having that service in Arabic.

It is only shortsightedness, intensified by ignorance of the wider issues of unification and civilization, that makes some men think that Divine service must be held in the language proper to each nation, and that a service held in any other language will not fulfil the purpose of worship. In the first place, the Islamic prayer does not consist of mere words of praise of the Divine glory and majesty, or the mere expression, in words, of the inner feelings of the heart. That no doubt is an important part of prayer but even more important than this is the attitude of mind, the inner feeling itself, of which the words are meant to be an expression. Now this attitude of mind is produced, in the first place, by the atmosphere about the worshipper and by the particular postures of reverence which he adopts. The mood, more than words, generates a true spirit of humility, and the first condition of a prayerful mind is humility, as the Holy Qur'an itself lays down: "Successful indeed are the believers, who are humble in their prayers" (23 : 1, 2). Suppose there is a man who takes part in a public service without understanding a word of Arabic. It would be entirely wrong to say that prayer does not benefit him, for there are the movements of his body, the raising of the hands to the ears, the standing up with folded hands, the bowing down, the placing of the forehead on the ground, the sitting down in a particular attitude of reverence, which all go a long way towards producing in him humility and consciousness of the Divine presence. He may not understand the language used, but here he is himself giving expression to his inner feelings in the language of his bodily movements. In fact, his whole self is expressive of what the

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words convey. It will indeed be highly more beneficial if he understands the spoken language also, but it is absurd to say that the language of movements has no meaning for him.

Now let us come to the language of words. The ofttest repeated expressions in the Islamic service are *Allahu Akbar*, *Subhāna Rabbiy-al-'Azīm*, *Subhāna Rabbiy-al-A'la*, and the opening chapter of the Holy Qur'ān, called *al-Fatiḥa*. Now as regards the first expression there is hardly a Muslim in the world, whatever language he may speak, and whether educated or uneducated, young or old, male or female, who does not understand the meaning of *Allahu Akbar*. It is with this expression that a man enters into the Divine service and it is with it that he changes one posture of the body to another, so that with the very entrance in prayer, the mind receives an impression of the glory and majesty of God and assumes an attitude of prayerfulness to God and of humbleness before Him, and this impression on the mind is renewed at every change of movement, and thus the contemplation of Divine glory and greatness is the one occupation of mind during the service. • Take the second expression, *Subhāna Rabbiy-al-'Azīm*, the expression repeated when the worshipper is bowing down and *Subhāna Rabbiy-al-A'la*, repeated in the state of prostration. Even if a man does not understand their meaning, he does realize, when bowing, that he is bowing before the great God, and does realize when lying down prostrate that he has laid his forehead on the ground before Him Who is the Highest. Yet, even a child would not take more than half an hour to learn these phrases or learn their meaning. And similar is the case with the opening chapter of the Holy Qur'ān, which is so often repeated in prayer. A child, whatever language he may be speaking, can easily learn the seven short

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sentences of the *Fatiḥa* in a week, giving half an hour daily, and perhaps not more than half that time is needed to learn their meaning. Even if one were to conduct Divine service in one's own language, still he would have to spend some time in learning it, and the learning of the significance of the Arabic words is not more than a week's or, at the most, a month's work. And, keeping in view, the grand object of unifying the human race through Divine service, a week or one month's time thus spent represents the most usefully spent period of a man's life.

There are two other considerations which make it

Other advantages of necessary to maintain the Arabic
maintaining Arabic in language in Divine service. The
Divine service. Holy Qur'an, parts of which are

recited in Divine service, was revealed in the Arabic language, and it is a generally admitted fact that a translation can never fully express the ideas of the original. And when the original is the word of God, and the ideas expressed are those relating to God's majesty and glory, it is still more difficult to convey the full significance in a translation.¹ Again there is a music in the original which no translation can possibly retain. The music of the Holy Qur'an is not simply in its rhythm but also in its diction. Now music plays an important part in producing an effect on the mind, and the recitation of the Holy Qur'an thus serves the purpose of communicating grand and beautiful ideas to the accompaniment of music. Hence it is that the Islamic service has never stood in

1. Thus Sale in the Preliminary Discourse to his Translation of the Holy Qur'an, speaking of the style of the Holy Book, says: "And in many places, especially where the majesty and attributes of God are described, sublime and magnificent; of which the reader cannot but observe several instances, though he must not imagine the translation comes up to the original, notwithstanding my endeavours to do it justice" (p. 48).

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need of the artificial music of the organ, having within itself the true music of the human soul. Now even if a translation could convey something of the grand and rich ideas of the Holy Qur'an, it could not convey the music which, along with the idea, exercises such a potent influence on the mind of man. Professor Palmer remarks in the Introduction to his Translation of the Holy Qur'an :

“ The Arabs made use of a rhymed and rhythmical prose, the origin of which it is not difficult to imagine. The Arabic language consists for the most part of trilateral roots, *i.e.*, the single words expressing individual ideas consist generally of three consonants each, and the derivative forms expressing modifications of the original idea are not made by affixes and terminations alone, but also by the insertion of letters in the root A sentence, therefore, consists of a series of words which would each require to be expressed in clauses of several words in other languages, and it is easy to see how a next following sentence, explanatory of or completing the first, would be much more clear and forcible if it consisted of words of a similar shape and implying similar modifications of other ideas. It follows then that the two sentences would be necessarily symmetrical, and the presence of rhythm would not only please the ear but contribute to the better understanding of the sense, while the rhyme would mark the pause in the sense and emphasize the proposition ” (pp. liv., lv).

Mr. Stanley Lane-Poole says in his introduction to *Selections from the Kur'an* :

“ The language has the ring of poetry, though no part of the Kur'an complies with the demands of Arab metre. The sentences are short and full of half-restrained energy, yet with a musical cadence. The thought is often only half expressed; one feels the speaker has

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essayed a thing beyond words, and has suddenly discovered the impotence of language, and broken off with the sentence unfinished. There is the fascination of true poetry about these earliest soorahs ; as we read them we understand the enthusiasm of the Prophet's followers, though we cannot fully realise the beauty and the power " (p. civ.).

It will be seen from the above two quotations that even Western writers who have read the Holy Qur'an in the original recognise that a translation of the Holy Qur'an can convey neither the elements of music in its recitation, nor yet the full significance of the original. Let us take the opening chapter of the Holy Qur'an as an example. This chapter, the *Fatiha*, is the most essential part of the Islamic prayer. The seven verses of this chapter must be recited in every rak'a of every prayer, whether private or public; while to it is added in certain rak'as any other portion of the Holy Qur'an. Take the recitation first. A reference to the transliteration and translation, given further on, will show that the translation has in it nothing of the musical cadence of the original, and the effect upon the ear of the mere recitation of words is quite lost in the translation. But even more important than this is the inability of any language to convey the exact significance of the short words of the original, even in long sentences. Take, for instance, the word *Rabb* which occurs here first of all as an attribute of the Divine Being, and is the most frequently repeated of attributes in the whole of the Qur'an. In English it is generally translated as *Lord*, but that word does not at all convey the real significance of the Arabic word, *Rabb*, which, as I have already pointed out, carries with it the idea of *the fostering of a thing in such a manner as to make it attain one condition after another until it reaches its goal of*

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completion. It is a word composed of but two letters, *ra* and *ba*, yet the significance which it carries is so vast that even a whole sentence in any other language could not convey it fully. The word *Lord* or *Father* does not express that idea at all. The same is the case with the next following attributes *Rahmān* and *Rahīm*, which are both derived from the same root *rahma* signifying *tenderness requiring the exercise of beneficence*, and are closely related in meaning; the former indicating that quality of love and mercy which comes into operation, even before the creation of man, by providing for him things which are necessary for his life; and the latter that which comes into operation when man makes use of these things and has thus done something to deserve it. No words in any other language can faintly express these great ideas and this fine distinction. Similar is the case with *'ibada*, used in the middle verse, which is rendered in English by *worshipping*, but which really carries the meaning of *obedience coupled with the utmost submissiveness*.¹ The word *ihdi*, occurring in the fourth verse, is rendered *guide*; but *hidāya*, the root from which it is derived, means *guiding and leading on the right way with kindness until one reaches the goal*.² How could these ideas be expressed in small and simple words, suitable for a prayer, in any other language? Indeed, this petition, which is of the essence of the whole institution of Islamic prayer, would lose its real significance by being translated into any other language.

Thus the *Fatiha*, being the only essential portion of Prayer as index of the Holy Qur'an which must be repeated in every rak'a of a prayer, may rightly claim to be the guiding principle of a Muslim's Muslim mentality.

1. *Al-'ibāda al-tā'a ma' al-khudū'i* (TA.).
2. *Al-hidāya al-raḥīm wa-l-dalāla bi-luṭf-in ilā mā yūqilū-ila-l-maṣīb* (TA.).

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life, the one idea which rules all his other ideas, and therefore a true index of his mentality. The main principles underlying the *Fatiḥa* may be considered briefly here. These are, firstly, the desire to give praise to the Divine Being under all circumstances, for the chapter opens with the words "All praise is due to Allah." The Muslim has to come to prayer five times a day whatever the circumstances may be. There may be occasions when he is in distress, has suffered a reverse or a defeat, has a friend or near relative in distress, when some one very dear to him has just passed away and he is under the burden of a great bereavement, yet in all these conditions he is required to give praise to God Who brings about all these conditions, just as he would do had he received a blessing or some great benefit from God. The attitude of mind thus produced is to live in perfect peace with one's environment, neither to be carried away by joy, nor give way to dejection or depression. It is an attitude of mind which keeps a man steadfast in pleasure as well as pain, in joy as well as sorrow.

The second and third main ideas which determine a Muslim's mental attitude towards things are contained in the words *Rabbi-l-'alamīn*, the Nourisher unto perfection of all the worlds or all the nations. The Nourisher unto perfection brings him the comfort of knowing that whatever may happen to him, it is still for his perfection; whether he receives a blessing or faces disaster, he must still be sure that he is being led on to perfection through these different stages. The addition of the words *al-'alamīn*, all worlds or all nations, opens up his mind and widens the sphere of his love and sympathy towards all men, to whatever nation or creed they may belong, nay even to the whole of God's creation, to the dumb animals as well as to man. The man who recognises that God is the Nourisher unto perfection of all men cannot bear

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hatred towards them. He must recognize, in fact, that God is much more to all men than is a father to his sons.

The fourth main idea is carried in the words *Rahmān* and *Rahīm*. God is Loving and Beneficent ; He has provided man with everything necessary for his development, physical as well as moral and spiritual ; but still that development depends on the right use of outward things as well as of the inner faculties which are meant for this object. The choice is man's whether he takes advantage of those means and reaches the goal, or rejects or ignores them and suffers the evil consequences thereof.

The fifth and sixth great ideas contained in the *Fatiḥa* are those conveyed in the words *Maliki yaumi-l-din* or Master of the Day of Requit. God is here called the *Malik* or the Master, and not *Malik* or King. The two words are almost alike, but there is this vast difference between a *Malik* and a *Malik* that the latter is bound to give to each what he deserves, but the former may if he likes forgive an offender altogether. There are some religions that lay so much stress on Divine justice that they refuse to recognize a God who can forgive offenders without having some compensation. Such a narrow view of Divine justice has a corresponding effect on the morals of a man. The word *Malik* rejects this idea, and shows God to be a Master Who can forgive if He likes, however great the offence may be. The addition of the words *yaumi-l-din*, the Day of Requit, is by way of reminder that man must face the consequences of his own deeds. There is no deed, good or bad, that is without a consequence, and if these consequences are not seen by man in this life, there is still a Day of Requit, even after death.

The seventh idea is contained in the words *iyyaka na'budu*, the idea of rendering obedience to God with entire submission. This is meant to create in man the

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mentality of obedience to the Divine commandments, even when such are opposed to the commandments of some temporal authority or his own wishes. They do not only create this mentality but also give man the strength to carry out the commandments.

The eighth idea is contained in the words *iyyaka nasta'in* (Thee do we beseech for help). The mental attitude which it is sought to create by these words is that of entire dependence on God and never despairing of the attainment of an object, for even if outward means have failed, there is God, the Controller of all means, Whose help will not fail the man who depends on Him.

The ninth idea is contained in the words *ihdi-na*. This signifies the soul's inner desire—prayer being nothing but the expression of the soul's inmost desire—of being led on and on to the goal, such being, as has been already shown, the significance of *hidaya*. That the mentality of being content to live in perfect peace with one's environment is not a negation of action, is shown by these words. The Muslim attitude towards the world is not one of inaction or listlessness; on the contrary, it comprises both the desire to remain in peace with his environment, and the desire to move on and on so as to reach the great goal. He gives praise to God at every step, yet his is not a stationary condition; he is not the slave of his environment but for ever struggling and striving to master it; he does not stand for peace without progress, nor yet for progress without peace, but for peace and progress combined.

The tenth idea ruling the Muslim mentality, as disclosed in the *Fatiha*, is the longing to walk in the footsteps of those who have received Divine blessings of any kind, temporal, moral or spiritual, and the desire to be able to avoid the errors of those who have been th

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objects of Divine displeasure or those who have gone astray. The latter are the followers of the two extremes, while those who have received the Divine favours are those who keep to the middle path—which is the straight path.

With these ten ideas ruling man's mind (and this is what is aimed at by the frequent repetition of the *Fatiḥa* in prayer), a man is armed with the best weapons both for happiness and success.

It is sometimes said that prayer leads to idleness and indolence, because it causes a man to depend on his supplications for what he wants instead of working for it. This is, in fact, one of the chief arguments of the anti-religious movement. The objection is, of course, due to a complete misconception as to the nature of prayer. Prayer to God does not mean that a man has simply to entreat the Divine Being to grant him this or that favour and do nothing himself towards attaining it. Prayer is, in fact, a search for means and is thus an incentive to action. The *Fatiḥa* is the most important Muslim prayer, yet, as already shown, its central idea is one of action or being led on to action, for here the supplicator does not ask for certain favours but only to be guided on the right path. The prayer is contained in the words *ihdi-na-l-ṣirāt-al-mustaqīm*, i. e., *guide us on the right path*, or, as shown with reference to the meaning of *hidāya*, *lead us on to the goal by keeping us on the right path*. Prayer is thus only the means of leading a man onwards and to discovering the path by walking whereon he may attain the goal. It is a search for means to attain to a goal, and a yearning to walk on a certain path. In face of this clear teaching, it is a mistake to suppose that prayer for any object negatives the adoption of human means to gain it. Elsewhere the acceptance of prayer is spoken of as rewarding a man for the hard work

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he has done: "So their Lord accepted their prayer, saying, I will not waste the work of a worker among you, whether male or female, the one of you being from the other" (3 : 194).

The rule has been laid down in the Holy Qur'an in several places that no end can be gained without making a hard struggle for it: "Certainly We have created man to face difficulty" (90 : 4); "And that man shall have nothing but what he strives for; and that his striving shall soon be seen; then shall he be rewarded for it with the fullest reward" (53 : 39-41); "O my people! work in your place, I am a worker" (39 : 39). The question may however be asked, what is the need for prayer if man must work for an end and avail himself of the means to gain it? Here, again, is a misconception as to the capabilities of man. It often happens that, notwithstanding the hardest struggle, a man is unable to gain an end, and finds himself quite helpless. In such a case prayer is a help, a source of strength, to the worker. He does not lose heart nor does he despair, because he believes that, though the means at his disposal have failed, though all around there are difficulties and darkness, though his own strength is failing, yet there is a Higher Power with Whom nothing is impossible, Who can still bring a ray of light to dispel the darkness and Who remains a perpetual source of strength for him in his helplessness, and that by praying to Him he can still achieve what seems otherwise quite unattainable. That is the function of prayer, and it is thus one of the means to gain an end when all other means have failed, and a source of strength to man in moments of utter weakness and despair.

That such is the true function of prayer and that it is only a source of greater energy and greater strength to enable man to face difficulties and achieve an end, is shown by the early history of Islām. The Holy Prophet

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Muhammad and his Companions were undoubtedly the greatest believers in prayer—they are spoken of in the Holy Qur'an as spending two-thirds of the night, half the night or one-third of the night in prayer (73 : 20) —, and yet this was the very band of men whose love for work knew no bounds, whose energy was inexhaustible and who faced the most embarrassing difficulties with an iron determination. Surely the men who in ten years conquered two of the most powerful empires of the world, who with but the scantiest of resources faced armies double and treble and, on occasions, ten times the size of their own, whatever other charges may be brought against them, cannot be said to have been idle and inefficient. And it is a fact of history that, whenever the great Muslim conquerors were faced with the most critical situations, they fell down in prostration before God, seeking strength from the Source of real strength. Prayer, in fact, transformed the neglected race of the Arabs into the most distinguished nation which history can show, turned an idle and inefficient people into the most zealous and untiring workers for the progress of humanity, in all phases of its advancement. Truly prayer is meant to awaken, and does awaken, the latent energies of the human soul.

Sec. 2.—The Mosque

In a discussion on prayer, it is necessary to speak of the mosque. The Arabic word for mosque is *masjid*, which means *a place where one prostrates oneself, or a place of worship*. It should be borne in mind, in the first place, that prayer can be performed anywhere. No particularly consecrated place is necessary for the holding of Divine service. To this effect there is an express saying of the Holy Prophet, who, speaking of some of his peculiarities, is reported to have said: "The whole of the earth has

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been made a mosque for me" (Bu. 7 : 1). A Muslim may, therefore, say his prayers anywhere he likes. The mere fact that he does so elsewhere than in a mosque, detracts in no way from the efficacy of the prayer ; nor does a building when constructed for the express purpose of prayer stand in need of consecration. All that is required is that the builder should declare his intention to have that building used as a place of prayer.

But, in spite of what has been stated above, the mosque plays a more important part in Islām than does any other house of worship in any other religion. Where the Holy Qur'an speaks of the Muslims' duty to defend and protect all houses of worship, to whatever religion they may belong, it speaks of the mosque last of all, but it mentions its distinctive characteristic, namely that the name of God is remembered there most of all : " And had there not been Allah's repelling some people by others, certainly there would have been pulled down cloisters and churches and synagogues and mosques in which Allah's name is much remembered " (22 : 40). The concluding words of the verse—mosques in which Allah's name is much remembered—are significant. All religious buildings are resorted to generally once a week, but the mosque is visited five times a day for the remembrance of God's name. In fact, if any house on earth can be called God's house, on account of its association with the Divine name, that house is the mosque which pre-eminently deserves the name, all other religious houses seeming neglected in comparison with it. The whole atmosphere of the mosque is charged with the electricity of the Divine name ; there is the call to prayer five times a day, which rends the air with cries of the greatness and unity of God—*Allahu Akbar, Allahu Akbar* and *la ilaha ill-Allah* ; there is the individual

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service, carried on in silence, but with God's name on the lips of every individual worshipper; there is the public service in which the Imām recites aloud portions of the Holy Qur'an, that tell of Divine grandeur and glory, with the refrain of *Allahu Akbar* repeated at every change of movement; and when the prayer is finished, there is again a chorus of voices speaking of Divine greatness, making the mosque echo and re-echo with the remembrance of God. It is true that God does not dwell in the mosque, but surely one feels His presence there as a hard fact of life. It will thus be seen that the mosque is the centre of Muslim religious life. It is not a place to which a man may resort once a week to be inspired with a spiritual idea, which he will in all likelihood forget during the six days to follow; nay, it is a place which sends forth, as it were, the blood of spiritual life, hour after hour, into the veins of the Muslim, and thus keeps his mind imbued with higher thoughts, and his heart alive in a real sense.

Being a meeting-place of all Muslims five times

A training ground of daily, besides special occasions, the equality. mosque serves as a training ground where the doctrine of the equality and fraternity of mankind is put into practical working. It is undoubtedly true that every religion is based on the two fundamental principles of the Fatherhood of God and the brotherhood of man, but it is equally true that no religion has been so successful in establishing a living brotherhood of man as has Islām, and the secret of this unparalleled success lies in the mosque. The mosque enables Muslims to meet five times a day on terms of perfect equality and in a spirit of true brotherhood, all standing in a row before their great Maker, knowing no difference of colour or rank, all following the lead of one man. All differences and distinctions are, for the time being,

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obliterated. The doctrine of the brotherhood of man is brought into practice five times a day in the mosque, which thus becomes the training ground of equality and fraternity. Without the mosque, the mere teaching of the brotherhood of man would have remained a dead letter as it is in so many other religions.

Besides being its religious centre, the mosque is also

The mosque as a cultural centre. the cultural centre of the Muslim community. Here the Muslim community is educated on all questions of its welfare. The Friday sermon is a regular weekly lecture on all such questions, but besides that, whenever in the time of the Holy Prophet and his early successors it became necessary to inform the Muslim community on any matter of importance, a sermon or a lecture was delivered in the mosque. Even during his last illness the Holy Prophet came out into the mosque and delivered a sermon to the people.

In addition to this mass education in the Holy Prophet's mosque, there were also arrangements for the education of those who wanted to acquire learning. Men who had to be trained as missionaries for the spread of light and learning in distant parts of the country, not only received their education in the mosque but also lodged in a place, called the *Şuffa*, attached to the mosque. The *Şuffa* was situated in the northern part of the mosque, covered with a roof but with open sides, from which those students received the name of *ahl al-Şuffa* or *aşhab al-Şuffa*, i.e., the dwellers of the *Şuffa*. It is a mistake to think that homeless people were lodged in it, for among those mentioned as having lived there are men like Sa'd ibn Abi Waqqāş, while there were many poor immigrants who never lived there. The fact is that those who wanted to acquire knowledge of the Holy Qur'an and the religion of Islām were lodged there, and their number is said to have reached four

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hundred at times. It was out of these that missionaries were sent sometimes in batches of ten or twelve, and once, even, in a batch of seventy, to educate the people in the country. Almost every mosque to this day has, to some extent, arrangements for the education of students, the *maktab*, or the *madrisa* (the school), being a necessary adjunct to the mosque. Many important mosques have also some *waqf* property attached to them, their income going towards the upkeep of the students and their teachers. In later times, quite in accordance with the earlier spirit, libraries were also kept in parts of the mosque, and some mosques had very large libraries attached to them, containing upwards of 100,000 volumes.

But this is not all. In the time of the Holy Prophet and his early successors, the mosque was the only centre of all kinds of Muslim activities. Here all important national questions were settled. When the Muslim community was forced to take up arms in self-defence, it was in the mosque that measures of defence and expeditions were concerted. It was, again, to the mosque that the people were asked to repair when there was news of importance to be communicated, and the mosque also served as the council-hall of the Muslims. In the time of 'Umar, when two councils were appointed to advise the Caliph, it was in the mosque that these councils met. Deputations from Muslim as well as non-Muslim tribes were received in the mosque, and some of the more important deputations were also lodged there, as in the case of the famous Christian deputation from Najrān, and the deputation of Thaqif, a polytheist tribe; and for this purpose tents were set up in the yard of the mosque¹. Indeed, once

1. In the Holy Qur'ān it is said: "The idolators have no right to frequent the mosques of Allāh while bearing witness to unbelief against themselves" (9: 17). This verse does not mean that a non-Muslim cannot be allowed to pay a visit to a mosque. By "the mosques of

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on an occasion of a festival, the Holy Prophet even allowed certain Abyssinians to give a display with shield and lance in the mosque (Bu. 8 : 69). Ḥassān ibn Thābit used to recite his verses in defence of the Holy Prophet against the abuse of his enemies, in the mosque (Bu. 8 : 68). Juridical affairs were also settled in the mosque (Bu. 8 : 44 ; 93 : 18), and it was used in a number of other ways. For example, a tent was set up for Sa'd ibn Mu'adh in the yard of the mosque when he received fatal wounds in the battle of the Ditch (Bu. 8 : 77), and it was in this tent that he died. A freed handmaid had also a tent in the mosque where she resided (Bu. 8 : 57). The mosque was thus not only the spiritual centre of the Muslims, but also their political, educational and social centre. It was, indeed, their national centre in the truest and most comprehensive sense of the word.

The fact, however, that the mosque may be used for other objects than the saying of prayer, does not in any way detract from its sacred character. It is primarily a place for Divine worship and must be treated as such. Nor are any proceedings allowed in the mosque, except such as relate to the welfare of the Muslim community or have a national importance. The carrying on of any business or trade in the mosque is expressly forbidden (AD. 2 : 213). Due respect must be shown to the house of God ; thus even the raising of loud voices is denounced (Bu. 8 : 83), and spitting is expressly prohibited (Bu. 8 : 37), though the floor of the mosque was, in the Holy Prophet's

Allāh," here in fact is meant the *Masjid al-Murām*, the Sacred Mosque of the Ka'ba, which is really a centre of all the mosques of the world ; and as the words of the *verse* show, the polytheists who had long been in possession of the Ka'ba were told that they had now no right to frequent that mosque, as it had been cleared of all traces of polytheism. Moreover, for the non-Muslims to have a *right* to pay visits to mosques is quite different from the Muslims' allowing them to come into the mosques.

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time, simply of gravel. Saying prayers, with the shoes on, is permitted (Bu. 8 : 24), but the shoes must be clean and not dirty. The practice has, however, grown of removing the shoes at the door of the mosque as a mark of respect to the mosque. Keeping the mosque clean and neat is an act of great merit (Bu. 8 : 72).

The Ka'ba or the Sacred Mosque of Makka is, ^{Mosques should face} according to the Holy Qur'an, the ^{the Ka'ba.} first house of the worship of God that was ever built on this earth: "Surely the first house appointed for men is the one at Bakka, blessed, and a guidance for nations" (3 : 95). An account of its building by Abraham and Ishmael is given in the Holy Qur'an in 2 : 127, but that it was only a reconstruction of a fallen building is shown by 2 : 125, where the purification of the house of the idols that had been placed in it, is mentioned before its construction in 2 : 127. Even Muir ascribes "an extremely remote age" to the Ka'ba. The Ka'ba, being thus the first mosque on earth, all mosques are built facing it. Thus a mosque to the east of Makka will be built facing westward; one to the west will be built facing eastward; and similarly, mosques to the north of Makka must face southwards and those to the south must face northwards. This practice is based on an express injunction contained in the Holy Qur'an. The first injunction relating thereto appears in connection with Abraham: "And when We made the House (the Ka'ba) a resort for men and a place of security; and make the place of Abraham (the Ka'ba) a place of prayer"¹ (2 : 125). And, further on,

1. Hasan is reported to have said that by *muṣallā* (lit., a place of prayer) is meant *qibla* (Rz.), or the direction facing which prayer is to be said. This verse was revealed about sixteen months after the Hijra. Up to that time prayers were said facing Jerusalem, the qibla of the Israelite prophets. It is noteworthy that so long as the Holy Prophet was in Makka, where there were no Jews or Christians, he said his prayers

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more expressly : " And from whatsoever place thou comest forth, turn thy face towards the Sacred Mosque; and wherever you are, turn your faces towards it " (2 : 150). This order that all places of worship should converge towards the Ka'ba had an underlying purpose which is hinted at in the Holy Qur'an in connection with the subject of the qibla : " And every one has a direction to which he turns himself, therefore hasten to do good works ; wherever you are, Allāh will bring you all together " (2 : 148). The *bringing of all together* clearly means *the making of all as one people*, so that, beneath the ostensible unity of direction, lies the real unity of purpose. Just as they have all one centre to turn to, they must set one goal before themselves. Thus the unity of the Qibla among Muslims stands for their unity of purpose, and forms the basis on which rests the brotherhood of Islām. Hence the Prophet's saying : " Do not call your ahl Qibla (those who follow your Qibla) kāfirs " (N. art. *Kufr*).

It should be further borne in mind that as the clear object of one qibla is to bring about a unity of purpose, all that is needed is a rough calculation of the direction of the Ka'ba. For instance, roughly, India lies to the east of Arabia but it is a vast country, and therefore, while some of its central tracts are situated exactly to the east of Makka, the northern parts are a little inclined to the north, and the southern parts to the south. For the purposes of the qibla, however, it is sufficient that mosques should be built facing exactly westward. The idea of unity in direction is still there, and the convergence of

facing Jerusalem, for he had not received any revelation on the point and naturally followed the qibla of the Israelite prophets. But when he came to Madina, where the Jewish element of the population was very strong, he was ordered not to face Jerusalem any more, as the Ka'ba was to be the future qibla of the Muslims.

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all mosques to the west answers the purpose well enough. In a country like America, on the other side of the world, mosques may be built facing either eastward or westward, but the best course would be to take the coast which lies nearest to Makka, and follow the same direction throughout the whole country.

The only requirement of the law of Islām regarding the building of a mosque is, that it should face the Ka'ba. Ḥadīth, however, further recommends that the building should be as simple as possible. All adornments are generally avoided, in accordance with a saying of the Holy Prophet: "I have not been commanded to raise the mosques high" (AD. 2: 11). To this Ibn 'Abbās adds: "You will surely adorn them as the Jews and the Christians adorn (their places of worship)." According to another ḥadīth, the Holy Prophet is reported to have said: "The hour of doom (*al-sā'a*)¹ will not come till people vie with one another in (the building of) mosques" (AD. 2: 11). The mosque built by the Holy Prophet himself at Madīna, called the Prophet's Mosque, was a simple structure in a vast courtyard in which tents could be pitched in time of need. The building was made of bricks baked in the sun, and the roofed portion, resting on columns consisting of the stems of palm-trees, was covered with palm-leaves and clay. Both Abū Bakr and 'Umar rebuilt it with the same material, though the latter extended it considerably (AD. 2: 12). The great mosques of Islām erected in the time of 'Umar, the second Caliph, in Baṣra, Kūfa and Fuṣṭāṭ, the new towns built by the Muslims, or in old towns such as Madā'in, Damascus and Jerusalem, were all simple structures like the Prophet's Mosque at Madīna, built either of reeds or bricks baked

1. As shown elsewhere, *al-sā'a* or the hour in this case means the doom or the time of the fall of a nation.

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in the sun, with vast court-yards, large enough to accommodate congregations of even 40,000 men, the floors being generally strewn with pebbles. These mosques were built by the Government and had the Government House attached to them, the Governors themselves leading the prayers. Quite in accordance with the simplicity of their structure, the mosques were unfurnished except for mats or carpets and a pulpit from which the sermon was delivered on Fridays. 'Uthmān, the third Caliph after the Holy Prophet, rebuilt the Prophet's Mosque at Madīna with hewn stone and mortar (AD. 2 : 12). The custom of building mosques with domes and having one or more minarets grew up later, but even these are, notwithstanding their grandeur, monuments of simplicity, their chief adornment being the writing on their walls, in mosaic, of verses from the Holy Qur'an.

Every Muslim is free to build a mosque, and so Tribal and sectarian people living in different quarters of mosques. a town may build mosques for themselves. Abū Bakr had erected a mosque in the courtyard of his house while still at Makka, at a very early period (Bu. 46 : 22). Another Companion, 'Itbān ibn Malik, once invited the Holy Prophet to say prayers in a particular part of his house which he might use as a mosque, since he was unable to reach the mosque of his people in the rainy season (Bu. 8 : 46). A mosque was built at Qubā, in the suburbs of Madīna, for the people of that locality, the tribe of 'Amr ibn 'Auf, and this the Holy Prophet used to visit once a week (Bu. 20 : 2). Another mosque at Madīna is spoken of as the mosque of Banī Zuraiq (Bu. 8 : 41). And Bukhārī has the following heading for this chapter : " Can a mosque be called ' the mosque of so and so ? ' " Thus a name may be given to any mosque, either that of the founder or of the people who resort to it. or any other name. In later times, Muslims belonging

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to different sects had their own mosques, the Ka'ba, the Central Mosque, gathering all together at the time of pilgrimage. But when a mosque has once been built, it is open to Muslims of all persuasions and no one has the right to prohibit Muslims of a certain persuasion or sect from entering any mosque. This is a point on which the Holy Qur'an contains a clear injunction : "And who is more unjust than he who prevents men from the mosques of Allāh, that His name should be remembered in them, and strives to ruin them ?" (2 : 114).

The present *parda* conditions of the Muslim world

Admission of women to mosques. raise the question as to whether women may go to the mosques.

There was no such question in the Holy Prophet's time, when women freely took part in religious services. There is indeed a ḥadīth which tells us that on a certain night the Holy Prophet was very late in coming out to lead the night prayers, when the people had assembled in the mosque; and he came only on hearing 'Umar call out : "The women and the children are going to sleep" (Bu. 9 : 22). This shows that women were in the mosque even at such a late hour. According to another ḥadīth narrated by 'Ā'isha, women used to be present at the morning prayer, which was said at an hour so early that they returned to their houses while it was still dark (Bu. 8 : 13). Yet another ḥadīth shows that even women who had children to suckle would come to the mosque, and that when the Prophet heard a baby crying, he would shorten his prayer lest the mother should feel inconvenienced (Bu. 10 : 65); while in one ḥadīth it is stated that when the Holy Prophet had finished his prayers, he used to stay a little and did not rise until the women had left the mosque (Bu. 10 : 152). All these ḥadīth afford overwhelming evidence of the fact that women, just in the same way as men, used to frequent the mosques and

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that there was not the least restriction in this matter. There are other ḥadīth which show that the Holy Prophet had given orders not to prohibit women from going to the mosque. For instance, there is one which quotes the Holy Prophet as saying: "Do not prohibit the handmaids of Allāh from going to the mosques of Allāh" (Bu. 11 : 12). According to another, the Holy Prophet is reported to have said that if a woman wanted to go to the mosque at night, she should not be prohibited from doing so (Bu. 10 : 162). The words of a third ḥadīth are more general: "When the wife of one of you asks permission to go out, she should not be prohibited from doing so" (Bu. 10 : 166). There was an express injunction that on the occasion of the 'Id festival women should go out to the place where prayers were said; even women in a state of menstruation were to be present, though they would not join the prayers (Bu. 13 : 15, 20). The practice for women to be present in the mosques at the time of prayer seems to have continued long enough after the Holy Prophet's time. Within the mosque they were not separated from men by any screen or curtain; only they formed into a line behind the men (Bu. 10 : 164); and though they were covered decently with an over-garment, they did not wear a veil. On the occasion of the great gathering of the pilgrimage a woman is expressly forbidden to wear a veil (Bu. 25 : 23). Many ḥadīth show that they formed themselves into a back row and the men retained their seats until the women went out of the mosque (M. 4 : 28). This practice seems to have existed for a very long time. Thus we read of women calling out *Allāhu Akbar* along with men in the mosque during the three days following 'Id al adḥā' so late as the time of 'Umar ibn 'Abd al-'Azīz, the Umayyad Caliph, who ruled about the end of the first century (Bu. 13 : 12). In the year 256 A. H., the

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Governor of Makka is said to have tied ropes between the columns to make a separate place for women (En. Is. art. *Masjid*). Later on, the practice grew up of erecting a wooden barrier in the mosque to form a separate place for women, but by and by the *parda* conception grew so strong that women were altogether shut out from the mosques.

Another question connected with this subject relates to the entrance of women into mosques during their menstruation. It must be borne in mind, in the first place, that in Islām a state of menstruation or confinement is not looked upon as a state of impurity, as in many other religions. All that the Holy Qur'an says about menstruation is that conjugal relations should be discontinued during the state of menstruation: "And they ask thee about menstruation. Say, It is harmful; so keep aloof from women during the menstrual discharge" (2 : 222).¹ According to Ḥadīth, a woman is exempted from saying her prayers, or keeping the fast, so long as menstruation lasts. As regards pilgrimage, she may perform all obligations except *tawāf* (making the circuits of the Ka'ba), but there is no idea of impurity attaching to her in this condition. There is a very large number of ḥadīth showing that all kinds of social relations with women in this condition were permitted, that the husband and wife could occupy the same bed, that the Holy Prophet used to recite the Holy Qur'an when sitting in close contact with his wife who had her courses on, and that a woman in this condition was allowed to handle the Holy Qur'an (Bu. 6 : 2, 3, 5, 6, 7). There is, however, a ḥadīth from which the conclusion is drawn that a woman

1. Keeping aloof in this condition relates only to conjugal relations, not to social relations, as the words, that follow, show: "Then when they have cleansed themselves, go in to them as Allāh has commanded you" (2 : 222). The cleansing spoken of here signifies having a bath when the menstrual discharge is over.

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should not enter the mosque during the menstrual discharge, but evidently there is some misunderstanding here, for if she could handle the Holy Qur'an why could she not enter the mosque? The ḥadīth runs thus: " 'Ā'ishā says that the Holy Prophet said to her, Hand me over the mat from the mosque. I said, I am in a state of menstruation. The Holy Prophet said, Thy menstruation is not in thy hands " (AD. 1 : 104). Apparently the Holy Prophet wanted a mat which was in the mosque and he asked 'Ā'ishā to hand it over to him. Now the general opinion concerning a menstruating woman, before Islām, was that she was defiled, and 'Ā'ishā's reply seems to have been given under that impression. The Holy Prophet's reply, on the other hand, clearly shows this conception to have been a mistaken one : " Thy menstruation is not in thy hands." The reply shows clearly that menstruation did not defile a woman ; it was quite a different thing that she be required to abstain from saying her prayers on account of this trouble. Even if it be supposed that she could get hold of the mat simply by stretching her hand into the mosque, how could there be a difference between the hand and the foot in this respect? If the menstruation was not in her hand, as the Holy Prophet said, neither was it in her foot. The hands and the feet were equally free from any taint of impurity. In fact, the whole body was undefiled. There is, however, another ḥadīth which represents the Holy Prophet as saying: " I do not make the mosque lawful for a menstruating woman or for a person who is under an obligation to perform a total ablution " (AD. 1 : 91). But this ḥadīth has been called weak and cannot therefore be relied on. Or, the mosque here simply represents the prayer service from which such persons are exempted. As the ḥadīth quoted above show, there is not the least idea of defilement in a

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menstruating woman. Similarly there are ḥadīth showing that what a menstruating woman touches with her mouth is not defiled (AD. 1 : 100). Nay, the very clothes which she wears need not be washed if they are not actually defiled (Bu. 6 : 11). The ḥadīth mentioned above is therefore no bar against a woman's entrance into the mosque when she is menstruating, but as she is to abstain from prayer, she has no need to go there.

Every mosque will ordinarily have a *mutawallī*, Office-bearers of the mosque (*lit. guardian*) who is charged with its management by those who have built it. The *mutawallī* has the right to appoint the Imām, or the man who leads the prayers, but he has no right to prohibit Muslims, on account of sectarian differences, from entering the mosque. Every mosque has also generally a *mu'adhdhin* who gives the call for prayers. The *mu'adhdhin* may also look after the mosque. But the most important man in the mosque is the Imām, the man who leads the prayers and delivers the sermon (*khutba*) on Friday. The honour of leading the prayers was, in the time of the Holy Prophet, and also for a long time after that, given to the best man in the community. Bukhārī has the following heading for one of his chapters : " Those who are well-grounded in knowledge and possess the greatest excellence are most entitled to *imāma* or the leadership of prayer " (Bu. 10 : 46). Under this heading, he quotes ḥadīth in which it is narrated that when the Holy Prophet was on his death-bed, he appointed Abū Bakr to lead the prayers in his place, and when he was requested to appoint 'Umar instead, as Abū Bakr was too tender-hearted, he refused to do so. Abū Dāwūd narrates sayings of the Holy Prophet requiring the honour of *imāma* to be conferred on the man who was most learned in the Holy Qur'an, or in a case where two men were equal in that respect, other considerations were to be

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applied. The Holy Prophet himself was the Imām in the central mosque at Madīna, and after him his successors, the respective *khalīfas*, Abū Bakr, ‘Umar and ‘Uthmān. When a governor was appointed to a province, he was also appointed as Imām to lead the prayers, and this practice continued for a long time. In fact, the honour of *imāma* in Islām was as great as the honour of kingship, and the two offices, the office of the spiritual leader and that of the temporal leader, were combined in one person for a long time. As the ruler himself was the Imām at the centre, so were his governors the Imāms in the different provincial headquarters. The priest and the present-day *mulla* had no place in early Islām. Nor does the Imām, like the mosque, stand in need of consecration, because every one is consecrated by entering into the fold of Islām. Any one can lead the prayers in the absence of the Imām, and any one may act as Imām when several people are gathered together. The present practice of having paid Imāms, whose only duty is to lead the prayers, is to a very large extent responsible for the degeneration of the Muslims. These people have generally no sense of the dignity of Islām and its institutions, nor have they the light, learning and general experience which should entitle them to claim to lead the Muslims spiritually. A woman is also spoken of as acting as an Imām, while men followed her, though it was in her own house (AD. 2 : 58).

Section 3—Purification.

Prayer, according to the Holy Qur’ān and Hadīth, is the means for the purification of the soul, and of the body and the garments a man wears, which is declared to be necessary as a preparation for prayer. By a consensus of opinion, the 74th chapter of the Holy Qur’ān is the second revelation which the Holy Prophet received after the first five verses

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of the 96th chapter, and the first five verses of this chapter may here be quoted to show the importance of outward cleanliness in the religion of Islām: "O thou that art clothed! arise and warn, and thy Lord do magnify, and thy garments do purify, and uncleanness do shun" (74 : 1-5). Thus warning the people, magnifying the Lord which is done through prayer, and purifying the garments and the body, are laid down here as three fundamental duties. The two ideas, the purification of the body and the soul, are very often mentioned together in the Holy Qur'an. I quote one more example: "Surely Allah loves those who turn much to Him, and He loves those who purify themselves" (2 : 222). Ḥadīth also lays special stress on outward purification. According to one ḥadīth, "purification is the key of prayer" (Tr. 1:3); according to another, "religion is built on cleanliness;" and in a third ḥadīth it is stated that "purification is one-half of faith" (IM. 1 : 5). The implication is clear. Inward purity is the real aim, but outward purity is a necessary preparation. A pure mind in a pure body is the watchword of Islām.

The making of outward purification as a necessary preparation for prayer is not intended only to direct attention to the real aim which is the purity of the soul, but also to ensure constant purification of the body which is in itself a great necessity of life, for the man who purifies himself five times a day would undoubtedly be in a constant state of physical purity. The Holy Qur'an recommends good clothing generally: "Say, Who has prohibited the embellishment of Allah which He has brought forth for His servants and the good foods?" (7 : 32). Here clothing is called an embellishment, to show that good clothes add to beauty; and elsewhere it is stated that they are meant as a covering and also as a beauty: "O children of Adam!

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We have indeed sent down to you clothing to cover your shame and clothing for beauty" (7 : 26). And in the case of prayer, it is further stated: "O children of Adam! attend to your embellishments at every time (or place) of prayer" (7 : 31). This shows that when assembling in mosques for prayer, attention must be paid to outward appearance and purity as well. . One reason for this direction is that an assemblage of people in prayer, dirty in clothing or person, would undoubtedly be offensive to others. Hence it is specially laid down that, in the larger gatherings on Fridays, every one must take a bath before coming to prayer, and use scent if possible.

The first condition of bodily purification is *wudzū'* or partial ablution. The word *wudzū'* *Wudzū'* is derived from *wadza'* which means *husn* or beauty (N.), and in the terminology of Islamic law means the washing of certain parts of the body before prayers. The necessary details of *wudzū'* are given in the Holy Qur'an in one of the latest sūras,¹ though in practice it is traceable to the very time when prayer was made obligatory. To this practice which the Holy Prophet undoubtedly instituted by Divine light, or inner revelation (*wahy khafīyy*), sanction is given in the following words: "O you who believe! when you rise up to prayer, wash your faces and your hands as far as

1. In *Ḥadīth*, certain precautions are recommended in the case of natural evacuations, so that no part of the excrement or filth should remain on the body or defile the clothes. These consist in the use of pebbles—whose place may, if necessary, be taken by toilet paper,—and water, after the passing of urine or stools, or simply water. These are apparently very minor details of life but they play an important part in the preservation of cleanliness and health. Similarly removal of superfluous hair, i.e., hair under the arm-pit or that of *regis pubis*, is enjoined for the same purpose, that is to say, for the sake of cleanliness and health. The practice of circumcision, or the removal of superfluous flesh, which, according to the Bible, dates back to Abraham, has its origin in the same idea. That circumcision is also a remedy for many kinds of diseases is now generally recognized by medical opinion.

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the elbows, and wipe your heads, and (wash)¹ your feet to the ankles " (5 : 6).

The practice of the Holy Prophet, as recorded in Hadith, contains substantially the same details. Briefly they may be summed up as follows :—

1. The hands are first washed up to the wrists.
2. The mouth is then cleaned with water, or by rinsing with a tooth-brush and by gargling if necessary.
3. The nostrils are then cleaned by snuffing a little water into them and blowing the nose if necessary.²
4. The face is then washed from the forehead to the chin and from one ear to the other.
5. Then the right hand, and after that the left, is washed from the wrist to the elbow. .
6. The head is then wiped over with wet hands, three fingers of both hands, between the little finger and the thumb, being joined together, and the inner side of the ears wiped with fore-fingers and its outer side with thumbs.
7. The feet are then washed up to the ankles, the right foot being washed first.

If socks or stockings are being worn, and they have been put on after performing an ablution, it is not necessary to take them off; the three fingers of the wet hand may be passed over them. The same practice may be resorted to in the case of boots. If the socks or the

1. The Shi'as hold that the feet are simply to be wiped like the head, but in the received text of the Holy Qur'ān, the words used are *arjula-kum*, where *arjul* (feet) having a *naṣab* over it, is in the objective case and is governed by the verb *aghsilū* which means *wash*, the meaning thus being "wash your feet." If *arjul* had been governed by *imsaḥū bi* meaning "wipe your feet" the words would have read *arjuli-kum*, not *arjula-kum*.

2. It will be seen that the Holy Qur'ān, in speaking of *wuḍū'*, begins with the washing of the face, without speaking of the first three stages. The reason is that the washing of the face includes these three things, the washing of the hands to wrists as a preliminary to, and cleansing the mouth and the nose as part of, the washing of the face. The Hadith only gives greater details.

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boots are then taken off, the wudzū' remains. It is however necessary that the feet should be washed once in every twenty-four hours¹.

Wudzū' may be performed before every prayer, but the necessity for it arises only when there has been a natural evacuation,² or when a man has been fast asleep.

It will be seen that, besides the religious object which is to remind man of the necessity for inner purification, the great aim in wudzū' is to foster habits of cleanliness. Such parts of the body as are generally exposed are washed, in wudzū', time after time, so that dust or uncleanness of any kind may be removed and they may be clean at all times. To wash and water the extremities of the body is also beneficial for health. That health and cleanliness are two of the great purposes which wudzū' serves, in addition to its spiritual meaning, is shown by the stress which is laid on rinsing the mouth with the aid of a *miswāk* or tooth-brush. A very large number of diseases find their way into the human system through a dirty mouth, and a mouth and teeth that are

1. Wudzū', as described here, is taken from the most authentic Ḥadīth collections, and is a very simple process, the object of which is to cleanse the parts which are generally exposed. Later theologians have added a large number of unnecessary details. Everybody knows best how to clean a particular part of the body and whether to wash it once or twice or thrice. As regards the particular *adhkār* to be repeated at the washing of particular parts, authoritative opinion is that all these *adhkār* are fabrications, with the exception of saying *bismillāh* at the beginning and repeating the *kalima* at the end, adding the words, *Allāh-umma-j'al-nī min al-tawwābīn wa-j'al-nī min al-mutaḥḥirīn*, "O Allāh! make me of those who turn to Thee again and again and make me of those who purify themselves" (ZM. I, p. 50).

2. Natural evacuation includes the passing of urine, stools, and wind. The Holy Qur'ān speaks of natural evacuation as *coming from ghā'ib* (4 : 43), the last word meaning *low land* to which people generally resorted for a privy. The use of this word indicates that anything which offends others should be done in a lonely place, and the mosque, where other people are assembled, is not such a place.

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kept clean not only improve the general cleanliness of the body but also exclude a large number of diseases. The Holy Prophet thought so highly of the tooth-brush that he never neglected it under any conditions; even on his death-bed he asked for a tooth-brush, and expired only a few minutes afterwards (Bu. 64 : 83). It was his custom to arise for the Tahajjud prayers soon after midnight, and even at that hour he used first to clean his mouth and teeth with a tooth-brush (Bu. 4 : 73; M. 2 : 13). He attached such importance to the cleansing of the mouth that he used repeatedly to say that the only thing which prevented him from declaring the use of the tooth-brush obligatory at every prayer (*i.e.*, at least five times daily) was the fear that it might be a burden on his community. (Bu. 19 : 9 ; 30 : 27 ; 94 : 9). On another occasion he is reported to have said that the tooth-brush cleans the mouth and brings about the pleasure of God (*mardzat-un li-l-Rabb*) (Bu. 30 : 27). Similarly gargling is recommended to keep the throat clean, which is also beneficial to health.

The taking of a bath is rendered necessary in certain cases.¹ It should be noted in this connection that it is a mistake to call

Taking a bath.

1. These cases are: (1) *pollutio nocturna* or *ihtilām*, (2) *coitus* or sexual intercourse; and in the case of women especially, (3) *menses* or *ḥaidz* and (4) *puerperium* or *nifās*. During the period of menses and *puerperium* a woman is exempted from prayer. Menstruation generally lasts from three to ten days, and a bath should be taken, when the flow stops, after a minimum period of three days, the maximum limit being ten days, after which bath should be necessarily taken. In the first two conditions a man is called *junub*, from *janb* meaning *a side*. To call this a state of pollution or defilement is not correct, and no lexicologist supports it. On a certain occasion when one such person, a *junub*, described himself as *majs* (*polluted* or *defiled*) in the presence of the Holy Prophet, he corrected him by saying that a Muslim does not become defiled (Bu. 5 : 23). It is a technical term and means *one who is under an obligation to perform a total ablution or bathing* (L.L.). The connection with the root-meaning is that such a person is *on a side* or *remote* from prayer (R.).

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the state in which a man is under an obligation to perform a wudzū' or take a bath, a state of defilement. It is simply a first step towards going to prayer, and undoubtedly promotes habits of cleanliness and is conducive to health. The direction is contained in the Holy Qur'an itself: "And if you are under an obligation to perform a total ablution (*junub*), then wash yourselves" (5 : 6). Bathing is also enjoined in Hadīth on occasions of great gatherings, such as the Friday prayers and the 'Id prayers, when clean clothes must also be put on, and scent must be used if available. These directions have thus both a religious and a hygienic value. They serve as a kind of preparation for going before a higher Presence, and help to wrest the attention of man from lower objects and divert it to the higher, and they also make the atmosphere in which gatherings of men take place, purer and healthier.

That there is in wudzū' and the bath a religious purpose besides the hygienic one is shown by the fact that when water is not available, still it is necessary to perform an act which diverts attention from bodily purification to the purity of the soul, which is the aim of prayer. The direction is thus laid down in the Holy Qur'an: "And if you are sick or on a journey or one of you come from the privy, or you have touched the women, and you cannot find water, betake yourselves (*tayammamū*) to pure earth and wipe your faces and your hands therewith. Allāh does not desire to put on you any difficulty, but He wishes to purify you and that He may complete His favour on you, so that you may be thankful" (5 : 6). Thus when a man is unable to find water, or when the use of water or the taking of a bath is harmful, he is enjoined to avail himself of pure earth, and this use of earth, instead of water, is stated to be a means of purification.

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Now though earth may, under certain conditions, be a purifier, it is clear that the wiping of the face and the hands with it does not serve the purpose of bodily purification; yet it is plainly called a means of purification, and therefore it is the purification of the soul which is intended here. By the order of tayammum, attention is thus drawn to the inner purpose underlying wudzū' and the bath. The word tayammum is derived from *amma* meaning *he repaired to a thing*, and tayammum therefore means, originally, simply *betaking oneself to a thing*, and since the word is used here in connection with betaking oneself to pure earth, tayammum has come technically to mean this particular practice. As stated in the Holy Qur'ān, and amplified in Ḥadīth, tayammum consists in striking both hands on pure earth or anything containing pure dust, then blowing off the excess of dust from the hands, and passing the hands over the face and the backs of the two hands, the left over the right and the right over the left¹ (Bu. 7 : 4, 5).

Sec. 4—The Adhān.

The word adhān is derived from idhn which means
The origin of adhān. originally *anything that is heard*
(udhun meaning *the ear*), and hence
it comes to mean *knowledge* or *giving knowledge* that a
thing is permitted (R.), and adhān or ta'dhīn means
a making known or *an announcement* or *announcement*
of prayer and *of the time thereof*—the *call to prayer*,
(LL.). The words adhān (9 : 3) and adhdhana, the
perfect form of ta'dhīn, and mu'adhhdhin, the nominative

1. There are certain ḥadīth which speak of passing the hands over the parts of the hand which are washed in wudzū', but Bukhārī gives no credit to these reports, and heads the fifth chapter of his book of Tayammum with the express words: "Tayammum is only for *wajh* (the face) and *kaffain* (the two hands)."

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form (7 : 44 ; 12 : 70), have been used in the Holy Qur'an in the general sense of *making an announcement*, while the call to prayer is expressed by the word *nida* (5 : 58 ; 62 : 9), which means *calling out*, with the addition of the words *li-l-ṣala*, or *for prayer*. Regarding the origin of *adhān*, Bukhārī tells us that when the Muslims came to Madīna, they used, at first, to have a time appointed for prayer, at which they all gathered together, but that this arrangement being unsatisfactory, a consultation was held at which suggestions for ringing a bell or blowing a horn having been rejected, 'Umar proposed that a man should be appointed who should call out for prayer, at which the Holy Prophet ordered Bilāl to call out for prayers in the words of *adhān* as we now have it (Bu. 10 : 1, 2).¹ The need for *adhān* became felt after the emigration of the Muslims to Madīna, because at Makka the unbelievers did not allow the Muslims to say their prayers openly.

The *adhān* is delivered in every mosque, or wherever there is a gathering for congregational prayer (Bu. 10 : 18), five times a day. The call is given out from a minaret or some raised platform, in as loud a voice as possible, so that it may reach the ears of the greatest possible number of men. The man giving the call stands with his face to the Qibla, *i.e.*, towards Makka, with both hands raised to the ears, chanting the following sentences in the order given :—

اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ	Allāhu Akbar, Akbar, Allāhu Akbar.	Allāhu Allāh is the Greatest (re- peated four times).
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1. There are other ḥadīth which speak of the visions of 'Abd-Allāh ibn Zaid and 'Umar who saw a man calling out for prayer in the words ordered by the Holy Prophet, but it appears also from Ḥadīth that the Holy Prophet gave orders before these visions were related to him, and it was Divine inspiration which guided him to the *adhān*.

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<p>أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ</p>	<p>Ashhadu an lā ilāha ill- Allāh, Ashhadu an lā ilāha ill-Allāh.</p>	<p>I bear witness that noth- ing deserves to be wor- shipped except Allāh (repeated twice).</p>
<p>أَشْهَدُ أَنْ مُحَمَّدًا رَسُولُ اللَّهِ أَشْهَدُ أَنْ مُحَمَّدًا رَسُولُ اللَّهِ</p>	<p>Ashhadu anna Muḥam- mad-an Rasūlu-ilāh, Ashhadu anna Muḥam- mad-an Rasūlu-ilāh.</p>	<p>I bear witness that Muḥammad is the Apo- stle of Allāh (repeated twice).</p>
<p>حَيَّ عَلَى الصَّلَاةِ حَيَّ عَلَى الصَّلَاةِ</p>	<p>Ḥayya 'ala-ḡ-ṣalā Ḥayya 'ala-ḡ-ṣalā.</p>	<p>Come to prayer (repeated twice, turning the face to the right).</p>
<p>حَيَّ عَلَى الْفَلَاحِ حَيَّ عَلَى الْفَلَاحِ</p>	<p>Ḥayya 'ala-l-falāḡ, Ḥayya 'ala-l-falāḡ.</p>	<p>Come to success (repea- ted twice, turning the face to the left).</p>
<p>اللَّهُ أَكْبَرُ اللَّهُ أَكْبَرُ لَا إِلَهَ إِلَّا اللَّهُ</p>	<p>Allāhu Akbar, Allāhu Akbar. Lā ilāha ill-Allāh.</p>	<p>Allāh is the Greatest (re- peated twice). Nothing deserves to be worshipped except Allāh.</p>

The following sentence is added in the call to morning prayer after *Ḥayya 'ala-l-falah* :

<p>الصَّلَاةُ خَيْرٌ مِنَ النَّوْمِ الصَّلَاةُ خَيْرٌ مِنَ النَّوْمِ</p>	<p>Aḡ-ṣalātu khair-un mina- n naum. Aḡ-ṣalātu khair- un mina-n-naum.</p>	<p>Prayer is better than sleep (repeated twice).</p>
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When the call to prayer is finished, the crier as well as the hearers make a petition in the following words :—

<p>اللَّهُمَّ رَبِّ هَذِهِ الدُّعْوَةِ التَّامَّةِ وَالصَّلَاةِ الْعَامَّةِ اٰتِ مُحَمَّدًا الْوَسِيْلَةَ وَالْفَضِيْلَةَ وَابْعَثْهُ مَقَامًا مَحْمُودًا الَّذِي وَعَدْتَنِي</p>	<p>Allāh-umma Rabba hādhi-hi-d-da'wati-t- tāmmati wa-ḡ-ṣalāti-l- qā'imati āti Muḥam- mada-ni-l-wasīlata wa- l-faḡḡilata wa-b'ath-hu maqām-an maḡmūda-ni -lladhī wa'adta-hū.</p>	<p>O Allāh ! the Lord of this perfect call and ever- living prayer, grant to Muḥammad nearness and excellence and raise him to the position of glory which Thou hast promised him.</p>
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The *adhān* is not only an announcement of the time of prayer, but also of the great principles of the faith of Islām and of the significance underlying them. It is an announcement, made five times daily, from hundreds of thousands

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of minarets, of the Unity of God and of the prophethood of Muḥammad, which are the two fundamental principles of Islām. But this announcement goes further and carries also the significance of the Unity of God which is contained in the words Allāhu-Akbar or Allah is the Greatest, so that man must bow only before Him, while he can rule over all besides. And what in one word is the message of religion, the realization of the Divine in man, is declared with equal force—"Come to prayer." And the result is announced as well—"Come to success;" coming to prayer is the attainment of success in life, because it is only through the realization of the Divine in man that complete self-development (*salah*) is attained. What a noble idea! The meaningless ringing of the bell or the blowing of the trumpet is replaced by an announcement of the principles of Islām and their significance, by a declaration made five times daily, that any one may attain to success in life through the door of the mosque. No more effective propaganda can be thought of. No one need remain in doubt as to what Islām is and what its message is. No one need read books to get at the principles of Islām; no one need listen to a philosophical dissertation as to the significance of those principles; no one need have a doubt as to the end in view in accepting these principles. To every one's door, nay, to his very ears, is carried the message every morning, every noon, every afternoon, every evening and at the time of going to bed, that the Unity of God and the apostleship of Muḥammad are the fundamental principles of Islām, that man must not bow before anything but God, that any one can attain to complete self-development, which is success in life, through the realization of the Divine in him, which is brought about by prayer to God.

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Sec. 5—Times of Prayer.

The institution of prayer in Islām is a perfectly regularized institution, and it is the first lesson which a Muslim learns in the organization of things. Without divesting the individual of his liberty to pray to God at whatsoever place and time and in whatsoever manner he likes, Islām has thoroughly organized the institution of prayer. As I have said already, prayer has not only a value for the individual but a far greater value in the organization of society. It brings about not only the development of the individual but also a perfect development of society, being a means for the unification of humanity. This latter object cannot be attained without the organization of the institution of prayer, without having a fixed place and fixed times and a uniform method, so that through it individuals may be brought together. Hence it is that the Holy Qur'an requires prayer to be said at appointed times: "Surely prayer is a timed ordinance for the believers" (4 : 103).

The Holy Qur'an does not explicitly state that prayer should be said at such and such times, but on different occasions it gives indications of the different times of prayer. This is seen, for example, in a very early revelation in the words: "Keep up prayer from the declining of the sun till the darkness of the night and the morning recitation; surely the morning recitation is witnessed. And during a part of the night, forsake sleep by it, beyond what is incumbent on thee; maybe thy Lord will raise thee to a position of great glory" (17 : 78, 79). Now, as the Sunna of the Prophet shows, there are four prayers which follow one another successively, the beginning of the one that follows synchronizing with the end of the time of the previous prayer, these being the

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two afternoon prayers and the two evening prayers ; while the morning prayer is separated from the prayers that precede and follow by a long interval. Hence the morning prayer is here spoken of separately from the other four which are spoken of together in the words "from the declining of the sun till the darkness of the night." As would be shown later on, the time of each of these prayers extends till the time of the next following prayer, with the exception of a very short interval, when the sun is actually setting, between the late afternoon and the sunset prayer. It is clear from this that excluding the morning prayer, the prayers begin with the declining of the sun, which is therefore the time for the first of these prayers, and end when the night has become dark, which is the time for the last prayer of the day. Thus, besides the morning prayer, the times of two other prayers, the *Zuhr* and the '*Ishā*, are clearly given here. In addition to the obligatory prayers, the night prayer called *Tahajjud*, which is stated to be *nafla* (voluntary), is spoken of in this verse. Elsewhere, at the same early period, these times are more explicitly spoken of: "And glorify thy Lord by the praising of Him before the rising of the sun and before its setting, and during hours of the night do also glorify Him, and during parts of the day, that thou mayest be well-pleased" (20 : 130). That the glorification here referred to is prayer, is shown by the context, since 20 : 132 says: "And enjoin prayer on thy followers and adhere steadily to it." Here the morning prayer and the late afternoon prayer are indicated, while the two evening prayers are spoken of together. A third and a later *Makkan* verse throws further light on the times of the prayers: "And keep up prayer in the two parts of the day and in the first hours of the night" (11 : 114). The addition of the words "first hours" of the night here makes it clear that, apart from a prayer in the

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darkness of the night, which is spoken of in 17 : 78, there is also a prayer in the "first hours," that is to say, immediately after sunset. Thus the morning prayer, the early afternoon and the night prayer are referred to in 17 : 78, the late afternoon prayer in 20 : 130, and the sunset prayer in 11 : 114.

The five times of prayer are thus mentioned in the Holy Qur'an, not in one place but in many, as if by way of reference to something which already existed. As a matter of fact, the Holy Qur'an only enjoins the *iqāma*, or organization, of prayer and the details of that organization were given by the Holy Prophet guided by the Holy Spirit (Bu. 9 : 1) or inner revelation (*wahy khafiy*). The following are the times of the five obligatory prayers, and their names, as met with in the Sunna of the Holy Prophet :

1. Fajr, or the morning prayer, is said after dawn and before sunrise. It is mentioned by name in the Holy Qur'an in 17 : 78 and 24 : 58. This prayer is to be said when a man rises from his sleep in the morning. A Muslim must therefore habituate himself to rising before sunrise, but if he gets up late sometimes, then the prayer may still be said when he gets up, even though the sun may have risen (Bu. 9 : 35).

2. Zuhr, or the early afternoon prayer, is said when the sun begins to decline, and its time extends until the next prayer. In the hot season it is better to delay it till the severity of the sun is mitigated a little (Bu. 9 : 9).

3. 'Aṣr, or the late afternoon prayer, is said when the sun is about midway on its course to setting, and its time extends till the sun begins to set. But it is better to say it when the sun is yet high (Bu. 9 : 11).

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4. Maghrib, or the sunset prayer, is said immediately after the sun sets, and its time extends till the red glow in the west disappears.

5. 'Ishā, or the night prayer, is said when the red glow in the west disappears, and its time extends till midnight. It is mentioned by name in the Holy Qur'an in 24 : 58. This prayer must be said at the time of going to bed, so that it is the last act of the day, just as the morning prayer is the first act of the day.

The two afternoon prayers, Zuhr and 'Aṣr, may be combined when one is on a journey, and so may the two night prayers, Maghrib and 'Ishā (Bu. 18 : 13, 14, 15). Such a combination is also allowed when it is raining, and according to one ḥadīth this combination may be effected even when there is neither journey nor rain. Thus Ibn 'Abbās says : " The Holy Prophet, may peace and the blessings of Allah be upon him, combined the Zuhr and 'Aṣr prayers, eight rak'as, and the Maghrib and 'Ishā prayers, seven rak'as, and this was in Madīna. Ayyūb said, It may have been on a raining night. He replied, Maybe " (Bu. 9 : 12). The Holy Prophet was in this case in Madīna, and therefore not journeying, and as to rain, the narrator was not sure. Muslim is clearer on this point. Ibn 'Abbās' report, there, is in the following words : " The Holy Prophet combined the Zuhr and 'Aṣr prayers and the Maghrib and 'Ishā prayers when there was neither journey nor fear," and being asked why he did it, the reply was, " so that his followers may not be in difficulty " (M. 6 : 5). According to another report, the words are that combination was effected in Madīna when there was neither fear nor rain (M. 6 : 5). This combination is called *jam' bain al-ṣalātain* or the combination of two prayers. In the case of such

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combination, both prayers may be said at the time of the earlier prayer, which is called *jam' taqdim*, or an early combination, or at the time of the latter prayer, which is called *jam' takhīr*, or a late combination.

The only voluntary prayer spoken of in the Holy Qur'an is Tahajjud; see 17 : 79, quoted above. This night prayer finds frequent mention in the Holy Qur'an and, while it is voluntary for the Muslims generally, the Holy Prophet, in one of the earliest revelations, was commanded to observe it: "O thou who hast wrapped up thyself! rise to pray during night except a little, half of it, or lessen it a little, or add to it, and recite the Qur'an well-arranged" (73 : 1-5). And in the same chapter, we are told further on, that this prayer was regularly observed by the Holy Prophet and even by his Companions: "Surely thy Lord knows that thou passest in prayer nearly two-thirds of the night and sometimes half of it, and sometimes a third of it, and also a party of those with thee" (73 : 20). Still as 17 : 79 shows, it is called *nāfila* or a voluntary prayer. It is said after midnight when one has had some sleep. *Tahajjud* is derived from *hajada* meaning *he was wakeful in the night* (LL.). In some ḥadīth, another voluntary prayer, the *Dzuḥā*, is mentioned. *Dzuḥā* is the time before noon, when the sun is high on the horizon, and the prayer said at this time is called *Dzuḥā*.

Sec. 6—The Service.

The Arabic word for prayer is *ṣalā*, which originally means *praying* or *the making of a supplication*, and was employed in this sense before Islām. In the Holy Qur'an, the word is used both in the technical sense of Divine service as

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established by Islām, and in a general sense. In the latter, it means simply *praying* or *making a supplication*, as in the following verse: "Take alms out of their property, thou wouldst cleanse them and purify them thereby, and pray for them; surely thy prayer (*ṣalā*) is a relief to them" (9 : 103). In the technical sense it is almost always used with one of the derivatives of the word *iqāma* as *yuqimūn al-ṣalā*, *aqīmu-l-ṣalā*, *aqimi-l-ṣalā*, *muqīmi-l-ṣalā*, etc. *Aqāma* means *he kept a thing* or *an affair in a right state* (LL.). Hence the *iqāma* of *salā* would mean the *keeping of the prayer in a right state*, which includes both the proper observance of the outward form and maintaining its true spirit. The purification before prayer, the mosque, the fixing of times and finally the settling of the form, are all parts of the outward organization, without which the spirit could not have been kept alive. To keep alive the spirit, an outward form is essential, for the spirit cannot live without a body. This is as true of institutions as of life. To maintain the spirit of law and order is the object of every good government, yet this spirit can not be maintained without an external form. If therefore the object of religion is to enable man to seek and maintain a relationship with the Divine Spirit, that object cannot be attained without a form. In fact, as already stated, the great end in view, to bring about the unity of the human race through Divine service, could not have been attained without a regularity in form and without a uniformity prevailing throughout the whole of the Muslim world. Hence a form has been fixed for the institution of the Islamic prayer, the individual having, in addition, liberty to pray to God in accordance with the desire of his own soul, when and where and as he likes. Like the times of prayer, the form was revealed to the Holy Prophet by the Holy Spirit or Gabriel.

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The outward form is not however the end ; it is

The maintenance of the spirit of prayer. only a help, a means to gain the end which is the maintaining of a true relationship with the Divine Spirit and purification of all evil inclinations. Thus in the Holy Qur'an, the observance of the form of the prayer is spoken of as being meant to free man from evil : " And keep up prayer in the two parts of the day and in the first hours of the night, for good deeds take away the evil ones ; this is a reminder to the mindful " (11 : 114). And only they are said to attain self-development or success, who are true to the spirit of the prayer : " Successful indeed are the believers, who are humble in their prayers " (23 : 1, 2). And the mere form without the spirit is condemned in one of the earliest revelations : " So woe to the praying ones, who are unmindful of (the spirit of) their prayer " (107 : 4, 5). It is a mistake to think that Islām only requires the form to be observed ; it no doubt enjoins a form but only a form with the spirit in it.

The Divine service, as already shown, is held five
Parts of Divine service. times a day, and each service has two parts, the congregational, which is called *fardz* (obligatory), and the individual, which is called *sunna* (the Prophet's practice). Each is made up of a number of rak'as varying from two to four. The word *rak'a* is derived from *raka'a* meaning *he bowed down*, and literally the rak'a is an act of bowing down before God. But technically it indicates one complete act of devotion which includes standing, bowing down, prostration and sitting reverentially, and is thus a kind of unit in the Divine service as inculcated by Islām. The order in which these different postures are adopted is a natural order. The worshipper first stands reverentially, and offers certain prayers ; then he bows

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down and glorifies God; then he stands up again praising God; then falls prostrate placing his forehead on the ground and glorifying God; then he sits down in a reverential position and makes a petition; then again falls down in prostration. The congregational parts which are called fardz (obligatory) contain the following number of rak'as.

1. Fajr, or morning prayer ... 2 rak'as.
2. Zuhr, or early afternoon prayer ... 4 rak'as.
3. 'Aṣr, or late afternoon prayer ... 4 rak'as.
4. Maghrib, or sunset prayer ... 3 rak'as.
5. 'Ishā, or night prayer ... 4 rak'as.

The individual parts which are called sunna (Prophet's practice) contain the following number of rak'as :

1. Fajr, 2 rak'as said before the congregational prayer.
2. Zuhr, 4 rak'as before the congregational prayer and 2 after it.
3. Maghrib, 2 rak'as after the congregational prayer.
4. 'Ishā, 2 rak'as after the congregational prayer, followed by three rak'as called witr (lit. *odd number*). The three rak'as of witr are really part of the voluntary prayer called Tahajjud, which consists of two rak'as said successively four times, followed by three rak'as.

Every rak'a consists of four parts. The first of

Posture of qiyām. these is the qiyām or the standing position. It is with this

position that the prayer is started, the worshipper turning his face towards the Ka'ba, the Central Mosque of the world, and, raising both hands to his ears, utters the words Allāhu Akbar or Allāh is the Greatest. The utterance of the words Allāhu Akbar is called takbīr which means *magnifying* or *extolling the greatness* (of

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God). The utterance of the same words at the opening of prayers is called *takbīr tahrīma* or *takbīrat al-iḥrām*, the words *tahrīm* and *iḥrām* meaning *prohibition*. This particular name is given to this takbīr because with its utterance, attention to everything but prayer is prohibited. As a sign of reverence for the Holy Presence, before Whom the worshipper stands, the hands are folded on the breast, the wrist of the right hand being just over the wrist of the left. That is the preferable position, but they may as well be folded lower below the navel, the palm of the right hand being over the left. Or they may be left quite free in the natural position. According to Imām Abū Ḥanīfa the hands are folded below the navel, and according to Shāfi'ī over the breast, while Imām Mālik is reported as leaving the hands free (H. *Kitāb al-ṣala*), the Shī'as doing the same. But there is a report from Imām Mālik that the hands must be folded (Ma. 8 : 2).¹ These are small matters in which if people differ according to their tastes, there is no harm. The essential factor is that the worshipper should stand in a reverential position, having the feeling that he is standing before the Holy and Majestic Presence. In this position of qiyām, the Divine Being is praised and prayers are addressed to Him and certain portions of the Holy Qur'ān are recited, as will be explained later on.

The qiyām is followed by the rukū' which means *bowing down*. With the two exceptions stated in the next paragraph, every change from one posture to another is marked by takbīr, and so is the change from qiyām to rukū'. In the rukū', the worshipper while standing bows his head forward, placing both his hands on his knees, so that the back and

1. The heading of this chapter is *wadg' al-yadain iḥdā-humā 'ala-l-ukhrā*, meaning the placing of hands one over the other.

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the head are in a straight line. In this position words declaring Divine glory are uttered.

After the rukū' comes the sajda, or prostration, but before falling down in sajda the worshipper rises up from the rukū', so that he again assumes the standing position with both hands hanging down freely, and along with the assumption of this position the following words are uttered: *Sami' Allahu li-man ḥamidah*, meaning, Allah listens to him who praises Him. And, with this, words of Divine praise are uttered, *Rabba-na wa la-k-al-ḥamd*, that is, "Our Lord! all praise is due to Thee." This is one of the exceptions to the utterance of takbīr on a change of posture, the other being the final act of finishing the prayer which is by means of a salutation instead of takbīr. After thus standing up, the worshipper falls down in sajda with "Allāhu Akbar" on his lips. In the state of sajda, the toes and fingers of both feet, both knees, both hands and the forehead touch the ground, and thus a posture of the utmost humility is assumed, while words declaring the Divine glory and Divine greatness are on the lips of the worshipper. This posture is assumed twice, the worshipper raising his head with the takbīr on his lips, and sitting in the position of jalsa as described in the next paragraph, uttering a short prayer, and again assuming the position of sajda while uttering takbīr, and repeating words of Divine glory and greatness.

The qa'da, meaning *sitting*, follows every two rak'as, the short sitting between two sajdas being called jalsa, which also means *sitting*. If it is a first rak'a, then after performing the second sajda the worshipper stands up while uttering the takbīr, and the second rak'a is performed in exactly the same manner as the first rak'a,

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so far as the different postures and their arrangement are concerned, there being only a slight difference in recitals, which will be noted in its place. When the second sajdā of the second rak'a has been performed, the position of qa'da is assumed by the worshipper with the takbīr on his lips. In the sitting posture, the right foot remains in a standing position, as in the sajdā, the tips of the toes touching the ground, while the left foot is spread with its back in contact with the ground, and the open hands placed on the knees.¹ This position is kept so long as the necessary recitals are made. If the prayer consists of three rak'as, then the standing position is again assumed by the worshipper with the takbīr on his lips, and the third rak'a is performed in the same manner as the second, and the position of qa'da is assumed again after the third rak'a. If it consists of four rak'as, then the standing position is assumed after the third rak'a, and the rak'a performed in the same manner. The last position, with which the prayer comes to an end, is in all cases the qa'da, and the prayer concludes with taslīm, *i.e.*, the utterance of the words *al-salāmu 'alai-kum wa rahmatu-llāh*, or "Peace be on you and the mercy of Allāh."

It may be added here that the four positions, qiyām, rukū', sajdā and qa'da, are all the possible positions which a man can assume to show reverence, and, so far as the physical position of the worshipper is concerned, the form adopted is the most perfect possible and leaves nothing to be desired. The different postures, even if unaccompanied by any prayers to or praise of the Divine

1. If a man by reason of any difficulty cannot assume this position with ease, he may adopt any reverential sitting posture which he finds easy.

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Being, with silent contemplation of the Divine Presence, are sufficient to inspire the heart of the worshipper with true awe of the Divine Being, and to bring before his mind a picture of the great majesty and glory of God, as he stands up, then bows down, then places his forehead on the ground. The law allows certain modifications in certain cases; as, for instance, when a person is sick, he may say his prayers in a sitting position, or if unable to sit down, he may say them while lying down, dispensing with even the rukū' and the sajda if necessary. So, on a journey, a man is allowed to say his prayers while riding a horse or a camel (Bu. 18 : 7, 8, 19), and though this is expressly allowed only in the case of voluntary prayers, the obligatory or fardz prayer, in a railway carriage or on a boat, would follow the same rule, and the postures adopted in all such cases must be subject to the exigencies of the situation. Even the direction may not be towards Qibla. But when there is no exigency, a departure from the form prescribed by the Holy Prophet under the guidance of the Holy Spirit may not be made.

The question is asked sometimes if these positions are essential, and if an alteration in them would, in any way, affect the value of the prayer. Suppose a man simply kneels down and bows his head a little; another man on a chair bows his forehead on to a table placed before him; would it not answer the purpose? Another suggestion is that there should be arrangements in mosques similar to those in churches. These are undoubtedly the suggestions of great persons who do not want to mix with their humbler brethren, and the next step would be to have separate seats for distinguished men, so that they may be able to hold their heads above others proudly even in the House of God. The result would be a death-blow to the very object at

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which Islam aims through the institution of prayer—that is, the creating of a spirit of humility and the levelling of differences between man and man. The spiritual experience of the man who lays his forehead on the ground as a sign of the utmost humility must be altogether different from that of him who sits in a chair; for it cannot be denied that the different postures of the body have a corresponding effect on the mind, and Islam seeks to make the spiritual experience of the Muslim perfect by making him assume one position of reverential humility after another, so that he may pass from one experience to another. And what after all is the idea at the bottom of all these suggestions? Only that such a man thinks himself too important to place his forehead on the ground before his Maker. Surely such a man will fail to acquire any spiritual experience of the true humility, and prayer for him will have no value.

Corresponding to the different postures of humility which the worshipper assumes in saying his prayers, he is enjoined to give expression to the praise and glory of God, to His great attributes of love, mercy, forgiveness, etc., to confess his own weakness, to pray for Divine help to support him in his weakness and for Divine guidance to lead him aright and make him achieve the goal of his existence. All such expressions are known in Arabic by the one name *dhikr*, which is generally translated as *remembrance*. The whole of prayer is called in the Holy Qur'an *dhikr-Allah*, or the remembrance of Allah, as in 29 : 45 ; 62 : 9 ; 63 : 9, etc. The Holy Qur'an is also frequently referred to as *Dhikr*. Hence whether a portion of the Holy Qur'an is recited in prayer, or whether words giving expression to Divine glory and greatness are uttered, as taught by the Prophet, all goes by the name of *dhikr*.

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The *qiyām* starts with the *takbir* or the utterance of

“Allāhu Akbar,” whether it be the
Ḍhikr in *qiyām*. first *rak'a* or a subsequent one.

Nothing besides the *takbir* must be said to open the prayers. To announce that the worshipper intends to say so many *rak'as*, *fardz* or *sunna*, having his face towards the *Qibla*, and so on, is simply absurd, as no trace of it is met with in the *Sunna* of the Holy Prophet or in the practice or sayings of the Companions or the *Ṭabi'in* or the four *Imāms* (ZM. I, p. 51).

Between the *takbirat al-ihram* and the recital of the Opening chapter of the Holy Qur'an, which is the most essential factor in the whole of prayer, several kinds of *Ḍhikr* are reported from the Holy Prophet. This *Ḍhikr* is called *istiftah*, and the best-known *istiftah*, which the second Caliph 'Umar used to recite, is met with in a *ḥadith* of the *Sunan* (ZM. I, p. 52). It is as follows :

سُبْحَانَكَ اللَّهُمَّ وَبِحَمْدِكَ وَ
 تَبَارَكَ اسْمُكَ وَكَعْظَمَ لَ
 جَدُّكَ وَلَا إِلَهَ غَيْرُكَ

Subhāna-k-Allāh-umma
 wa bi-ḥamdi-ka wa
 tabāraka-smu-ka wa ta-
 'ālā jaddu-ka wa lā ilāha
 ghairu-ka (AD. 2 : 120).

Glory to Thee, O Allāh,
 and Thine is the praise,
 and blessed is Thy
 name, and exalted is
 Thy majesty, and there
 is none to be served
 besides Thee.

This *Ḍhikr* is uttered in a low voice not heard by others. *Bukhārī* however relates a *ḥadith* from *Abū Huraira*, according to which the Holy Prophet addressed the following prayer after the *takbirat al-ihram* :

اللَّهُمَّ بَاعِدْ بَيْنِي وَبَيْنَ خَطَايَا
 كَمَا بَاعَدْتَ بَيْنَ الْمَشْرِقِ وَالْمَغْرِبِ
 اللَّهُمَّ نَقِّنِي مِنْ خَطَايَا كَمَا نَقَّيْتَ
 الثَّوْبَ الْأَبْيَضَ مِنَ الدَّنَسِ اللَّهُمَّ
 اغْسِلْ خَطَايَا بِالْمَاءِ وَالطَّلِيمِ وَالْبَرَدِ

Allāh-umma bā'id baini
 wa baina khaṭāyā-ya
 kamā bā'adta bain-al-
 mashriqi wa-l-maghribi ;
 Allāh-umma naqqini
 min-al-khaṭāyā kamā
 yunaqqa-th-thaub-ul-
 abyadzu min-ad-danasi ;
 Allāh-umma aghsil
 khaṭāyā-ya bi-l-mā'i
 wa-th-thalji wa-l-baradi
 (Bu. 10 : 89).

O Allāh ! keep faults
 as distant from me as
 the east is distant from
 the west ; O Allāh !
 cleanse me of all faults
 as a white cloth is
 cleansed of dirt ; O
 Allāh ! wash away my
 faults with water and
 snow and hail.

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Still another form mentioned in other ḥadīth is as follows :

إِنِّي رَجَعْتُ وَنَجَمِي لِلدَّيْنِ فَطَرَدَ
 السَّمَوَاتِ وَالْأَرْضَ حَزِينًا وَأَنَا
 مِنَ الْمُشْرِكِينَ إِنْ صَلَاتِي تَرْضَى
 وَعَمَلِي وَمَالِي فَهُوَ رَبِّي الْعَلِيِّنَ
 لَا مِرْيَكَ لَهُ وَبِذَلِكَ أَمَرْتُ وَأَنَا
 مِنَ الْمُسْلِمِينَ أَلَا أَلَمْ أَنْتَ الْمَلِكُ
 لَدَا الْعَالَمِينَ أَنْتَ رَبِّي وَأَنَا
 عَبْدُكَ ظَلَمْتُ نَفْسِي فَامْحُودٌ بِرَبِّي
 فَاعْفُ عَنِّي وَتُوبِي جَمِيعًا لَا تَغْفِرُ
 الذُّنُوبَ إِلَّا أَنْتَ وَأَهْلِيهِ لِأَخْسِنَ
 الْإِحْلَاقَ لَا يَهْدِي لِأَخْسَنِ إِلَّا
 أَنْتَ وَأَصْرَفْتُ عَنِّي سَبَابَ الْأَرْضِ
 سَبِيحًا إِلَّا أَنْتَ

Inn-i wajjahtu wajhiya li-
 llaḥi faṭar-as-samāwāti
 wa-l-ardza ḥanif-an
 wa mā ana min-al-
 mushrikīn. Inna ṣalāti
 wa nusukī wa maḥyā-ya
 wa mamāti li-llāhi
 Rabbi-l-'ālamīn lā
 sharka la-hū wa
 bi-dhālika umirtu wa
 ana min-al-Muslimīn.
 Allāh-umma anta-l-
 Malīku lā ilāha illā anta,
 anta Rabbi wa ana
 'abdu-ka, ḥalamtu nafsi
 wa-'taraftu bi-dhanbi
 fa-ghfir-li dhunūbi
 jamf'an lā
 yaghfiru-dh-dhunūba
 illā anta ; wa-hdi-ni
 li-aḥsani-l-akhlāqi
 lā yahdi li-aḥsani-hā
 illā anta wa-ḥrif 'anni
 sayyi'a-hā lā yaḥrifu
 sayyi'a-hā illā anta.

(AD. 2 : 119).

Surely I have turned my-
 self, being upright,
 wholly to Him Who
 originated the heavens
 and the earth and I am
 not of the polytheists.
 Surely my prayer and
 my sacrifice and my
 life and my death are
 for Allāh, the Lord of
 the worlds, no associate
 has He ; and this I am
 commanded and I am
 one of those who sub-
 mit. O Allāh ! Thou art
 the King, none is to be
 served but Thee ; Thou
 art my Lord and I am
 Thy servant ; I have
 been unjust to myself
 and I confess my short-
 comings, so forgive
 Thou all my shortcom-
 ings, for none forgives
 the shortcomings but
 Thou. O Allāh ! guide
 me to the best of morals,
 none guides to the best
 of them but Thou, and
 turn away from me bad
 morals, none can turn
 away bad morals but
 Thou.

Some other forms are also given in Ḥadīth, which shows that if the worshipper offers any other prayer or utters any other words glorifying the Divine Being it is quite permissible to him to do so.

The above dhikr is followed by the words :

أَعُوذُ بِكَ مِنَ الشَّيْطَانِ الرَّجِيمِ

A'udhu bi-llāhi mina-
 sh-shaiṭāni-r-rajim.

I seek the refuge of
 Allāh from the accursed
 devil.

PRAYER

The *dhikr* mentioned above is peculiar to the opening rak'a of a prayer. It is actually with the *Fatiha* that the prayer opens, for it is this short sūra that is recited in every rak'a. The *Fatiha*, the salient points of which have already been given, runs thus :

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ الْحَمْدُ لِلّٰهِ رَبِّ الْعَالَمِیْنَ الرَّحْمٰنِ الرَّحِیْمِ یَوْمَ الدِّیْنِ الَّذِیْنَ لَكَ نَعْبُدُ وَرَأٰیكَ فَسْتَعِیْنِ ۝ اِهْدِنَا الصِّرَاطَ الْمُسْتَقِیْمَ ۝ صِرَاطَ الَّذِیْنَ اَنْعَمْتَ عَلَيْهِمْ ۝ غَیْرِ الْمَغضُوبِ عَلَیْهِمْ وَلَا الضَّالِّیْنَ	Bi-smi-llāhi-r-Raḥmāni -r-Raḥīm. 1. Al-ḥamdu li-llāhi Rabbi-l-'ālamīn. 2. Ar-Raḥmāni-r-Raḥīm 3. Māliki yaumi-d-dīn. 4. Iyyā-ka na'budu wa iyyā-ka nasta' in. 5. Ihdī-na-ḡ-ḡirāṭ-al- mustaqīm. 6. Ḥirāṭ-alladhīna an'amta 'alai-him. 7. Ḡhairi-l-maghdzūbi 'alai-him wa la- dz-dzāllīn.	In the name of Allāh, the Beneficent, the Merciful. 1. All praise is due to Allāh, the Lord of the worlds. 2. The Beneficent, the Merciful. 3. Master of the Day of Requital. 4. Thee do we serve and Thee do we beseech for help. 5. Guide us on the right path. 6. The path of those on whom Thou hast besto- wed favours. 7. Not those upon whom wrath is brought down, nor those that go astray.
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At the close of the above is said "Āmīn," which means "Be it so."

The Holy Prophet used to pause a little after the recital of the *Fatiha* (Bu. 10 : 89 ; ZM. I, p. 53) ; perhaps he used this pause to offer some prayer to the Divine Being on his own behalf or on behalf of his community.

The recital of the *Fatiha* is followed by any other portion of the Holy Qur'an ; it may be a short or a long sūra, or it may be one or more verses selected from anywhere, the *qira'a*, as it is called. I give below a short sūra, *al-Ikhlāṣ* or Unity, the 112th chapter of the Holy Qur'an, which in its four very short, verses contains the doctrine of the Unity of the Divine Being in its perfection :

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
 قُلْ هُوَ اللَّهُ أَحَدٌ ۝ اللَّهُ
 الصَّمَدُ ۝ لَمْ يَلِدْ وَلَمْ يُولَدْ
 وَلَمْ يَكُنْ لَهُ كُفُوًا أَحَدٌ

- Bi-smi-llāhi-r-
 Raḥmāni-r-Raḥīm.
 1. Qul huw-Allāhu Aḥad.
 2. Allāhu-ṣ-Ṣamad.
 3. Lam yalid wa lam
 yūlad.
 4. Wa lam yakun la-hū
 kufuw-an aḥad.¹

- In the name of Allāh, the
 Beneficent, the Merciful.
 1. Say, He, Allāh, is One.
 2. Allāh is He on Whom
 all depend.
 3. He begets not nor is
 He begotten.
 4. And none is like Him.

It may be noted here that while the *Fatiḥa* is essential to prayer and must be recited in every rak'a of prayer, the addition thereto of any other portion of the Holy Qur'an is dispensed with in certain cases, as in the third or fourth rak'a in case of a congregational prayer. A little pause was also generally observed by the Holy Prophet after *qira'a* before going to rukū'.

The dhikr in the state of sajda differs but slightly from that in rukū'. Of the following, Dhikr in rukū' and sajda, the first is the best-known dhikr for rukū', the second for sajda, while the third is an alternative form for either.

۱) سُبْحَانَ رَبِّيَ الْعَظِيمِ
 ۲) سُبْحَانَ رَبِّيَ الْأَعْلَى
 ۳) سُبْحَانَكَ اللَّهُمَّ رَبَّنَا
 وَبِحَمْدِكَ اللَّهُمَّ اغْفِرْ لِي

1. Subḥāna Rabbī-al-
 'Aẓīm (AD. 2 : 149).
 2. Subḥāna Rabbī-al-
 A'lā (*Ibid*).
 3. Subḥāna-k-Allāh-umma
 Rabba-nā wa bi-ḥamdi-
 ka Allāh-umma-ghfir-li
 (*Ibid*).
- Glorify to my Lord, the
 Great.
 Glory to my Lord, the
 most High.
 Glory to Thee, O Allāh,
 our Lord! and Thine is
 the praise; O Allāh!
 grant me protection.

This dhikr is repeated thrice, while to it may be added any other dhikr or prayer. The sajda, in parti-

1. The first verse declares the One-ness of God and thus denies any sort of plurality in the Divine Being, such as the Christian doctrine of the Trinity or the Magian doctrine of duality or the Hindū doctrine of polytheism. The second verse declares that nothing is independent of God, and thus denies the independent existence of matter and soul, a doctrine held by a Hindū sect of recent growth, the Ārya Samāj. The third verse is plain enough, God cannot be described either as a Father or as a Son as the Christians hold, nor has He any daughters as some idolaters said. The fourth verse declares that none is like God, and thus deals a death-blow to such doctrines as those of Incarnation and Manifestation, the latter being the basic doctrine of the Bahā'ī religion.

PRAYER

cular, is the most fitting position for addressing any prayer in any language to the Almighty. There are reports showing that the Holy Prophet used to pray in the *sajda* in both forms, in the form of glorifying and praising the Divine Being and in the form of petition or asking the Divine Being for His favours (ZM. I, p. 60). Numerous forms of these prayers are given in *Ḥadīth*, and all of them show an outpouring of the soul in a state of true submission, which is what, in fact, every worshipper needs, and therefore he is free to express the yearning of his soul before his great Maker in any way that he likes.

There are two sitting postures, the first being the

Dhikr in the sitting posture.

jalsa, the short sitting between the two *sajdas*. The prayer addressed in

this position is as follows :

اللَّهُمَّ اغْفِرْ لِي وَارْزُقْنِي وَاهْتَمِرْ
وَعَافِنِي وَارْزُقْنِي (ص ٤٥٠)
وَأَجْعَلْ لِي رِزْقِي (ص ٤٥١)

Allāh-umma-ghfir-li wa-
rḥam-ni wa-hdi-ni wa-
'āfi-ni wa-rzuq-ni (AD.
2 : 143), wa-jbur-ni
wa-rfa'ni (IM. 4 : 24).

O Allāh! grant me protection and have mercy on me and grant me security and guide me and grant me sustenance and set right my affairs and exalt me.

The second sitting position, the *qa'da*, is assumed, after two *rak'as* have been finished. And the following prayer, called *al-tashshahud*, is offered :

الشُّعْبَاتُ لِلَّهِ وَالصَّلَاتُ وَ
الْعَلِيَّاتُ السَّلَامُ عَلَيْكَ أَيُّهَا
النَّبِيُّ وَرَحْمَةُ اللَّهِ وَبَرَكَاتُهُ
عَلَيْنا وَعَلَى عِبَادِ اللَّهِ الصَّالِحِينَ
أَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَشْهَدُ
أَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُولُهُ

At-taḥiyyātu li-llāhi wa-
ṣ-ṣalawātu wa-ṭ-ṭayyibātu ;
as-salāmu 'alai-ka ayyuha-n-nabiyyu
wa rḥamtu-llāhi wa barakātu-hū,
as-salāmu 'alai-nā wa 'alā 'ibādi-
llāhi-ṣ-ṣāliḥīn. Ashhadu an lā ilāha
ill-Allāhu wa ašhadu anna Muḥammad-
an 'abdu-hū wa rasūluh. (Tr.
2 : 100).

All services rendered by words and bodily actions and sacrifice of wealth are due to Allāh. Peace be on thee, O Prophet! and the mercy of Allāh and His blessings. Peace be on us and on the righteous servants of Allāh. I bear witness that none deserves to be worshipped but Allāh, and I bear witness that Muḥammad is His servant and His Apostle.

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If this is only the intermediate sitting in a prayer of three or four rak'as, the worshipper stands up after the above-mentioned *dhikr*, but if it is the final sitting, whether in a prayer of two or three or four rak'as, the following *dhikr*, called *al-ṣala 'ala-l-Nabiyy*, is added :

اللَّهُمَّ صَلِّ عَلَى مُحَمَّدٍ وَعَلَى آلِ
مُحَمَّدٍ كَمَا صَلَّيْتَ عَلَى إِبْرَاهِيمَ
وَعَلَى آلِ إِبْرَاهِيمَ إِنَّكَ حَمِيدٌ مَجِيدٌ
اللَّهُمَّ تَارِكٌ عَلَى مُحَمَّدٍ وَعَلَى
آلِ مُحَمَّدٍ كَمَا تَارِكْتَ عَلَى
إِبْرَاهِيمَ وَعَلَى آلِ إِبْرَاهِيمَ
إِنَّكَ حَمِيدٌ مَجِيدٌ

Allāh-umma ṣalli 'alā Muḥammad-in wa 'alā āli Muḥammad-in kamā ṣallaita 'alā Ibrāhīma wa 'alā āli Ibrāhīma inna-ka Ḥamīd-un Majīd.

Allāh-umma bārik 'alā Muḥammad-in wa 'alā āli Muḥammad-in kamā bārakta 'alā Ibrāhīma wa 'alā āli Ibrāhīma inna-ka Ḥamīd-un Majīd (AD. 2 : 181).

O Allāh! exalt Muḥammad and the true followers of Muḥammad as Thou didst exalt Abraham and the true followers of Abraham; surely Thou art Praised, Magnified. O Allāh! bless Muḥammad and the true followers of Muḥammad as Thou didst bless Abraham and the true followers of Abraham; surely Thou art Praised, Magnified.

The following prayer is then added :

رَبِّ اجْعَلْنِي مَقِيمَ الصَّلَاةِ وَمِنْ
ذُرِّيَّتِي رِيًّا وَتَقَبَّلْ دُعَائِي
رَبَّنَا اغْفِرْ لِي وَلِوَالِدَيْهِ
وَلِلْمُؤْمِنِينَ يَوْمَ يَقُومُ الْحِسَابُ

Rabbi-j'al-ni muqīma-ṣ-ṣalāti wa min dhurriyyati Rabba-nā wa taqabbal du'ā'i; Rabba-na-ghfir li wa li-wālidayya wa li-l-mu'minīna yauma yaqūmu-l-ḥisāb.

My Lord! make me and my offspring keep up prayer; our Lord! and accept my prayer; our Lord! grant protection to me and my parents and to the believers on the day when the reckoning will take place.

This may be followed by any other prayer which the worshipper desires. That suitable for almost every man, occurs in a *ḥadīth* :

اللَّهُمَّ إِنِّي أَعُوذُ بِكَ مِنَ الْهَمِّ
وَالْحُزْنِ وَأَعُوذُ بِكَ مِنَ الْعَجْزِ
وَالكسلِ وَأَعُوذُ بِكَ مِنَ الْجُبْنِ وَالْبُخْلِ

Allāh-umma inni a'ūdhu bi-ka min-al-hamm wa-l-ḥuzni wa a'ūdhu bi-ka min-al-'ajzi wa-l-kasali wa a'ūdhu bi-ka min-al-jubni wa-l-bukhli

O Allāh! I seek Thy refuge from anxiety and grief, and I seek Thy refuge from lack of strength and laziness, and I seek Thy refuge

PRAYER

وَأَعُوذُ بِكَ مِنْ قَلْبٍ دَائِبٍ
وَقَهْرٍ رَاجٍ إِلَيْكَ
بِحَلَاكِكَ عَنْ حَرَامِكَ وَأَعِظُكَ
بِقُدْرَتِكَ عَلَى مَنْ سِوَاكَ

wa a'adhū bi-ka min
ghalabati-d-daini wa
qahri-r-rijāl; Allāh-
umma-kfi-ni bi-halāli-
ka 'an ḥarāmi-ka wa-
ghni-ni bi-fadzli-ka 'an
man siwā ka.

from cowardice and
niggardliness, and I seek
Thy refuge from being
overpowered by debt
and the oppression of
men; O Allāh! suffice
Thou me with what is
lawful to keep me away
from what is prohibited,
and with Thy grace
make me free from want
of what is besides Thee.

The concluding *dhikr* in the sitting posture is *taslīm*, or the utterance of the following words :

السَّلَامُ عَلَيْكُمْ وَرَحْمَةُ اللَّهِ

As-salāmu 'alai-kum wa
raḥmatu-llāh

Peace be on you and the
mercy of Allāh.

These words are uttered first turning to the right and then turning to the left.

Qunūt comes from *qanata* which means *he was humble in obedience* to God, and *qunūt* is really *a prayer of humility*,

The *qunūt*.

but it also means *standing long in prayer*. There are two kinds of *qunūt* spoken of in *ḥadīth*. One of these was the prayer which was specially addressed to the Divine Being on the occasion of some great tribulation, as happened when seventy Muslim missionaries were treacherously murdered by the tribes of Ra'ī, *Dhākwan*, etc. (Bu. 14 : 7 ; 56 : 19). It was a prayer calling for Divine punishment on the tyrants who butchered absolutely innocent people, and this prayer was offered after rising from *rukū'* in the morning and evening congregational prayers. It was on this occasion that the Prophet received a revelation (3 : 127), not to pray for the punishment of a people, but still the Sunna of offering *qunūt* at the time of great disaster or imminent danger was acted upon by his Companions, as by Abū Bakr before the battle with Musailma (ZM. I, p. 75). The

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qunūt in this case was a prayer to God to avert a calamity.

The more well-known qunūt is, however, that offered in the witr prayer in the third rak'a. It is based on a hadīth related in the *Sunan* and the *Musnad* of Aḥmad, and the words of this prayer, as reported by Ḥasan, son of 'Alī, are as follows :

اللَّهُمَّ اهْدِنِي فِيمَنْ هَدَيْتَ وَأَعِزَّنِي
فِيمَنْ عَزَّيْتَهُ وَتَوَلَّوْنِي فِيمَنْ تَوَلَّيْتَهُ
وَبَارِكْ لِي فِيمَا آعْطَيْتَ وَقِي فِي مَا
صَفَيْتَ إِنَّكَ تَقْضِي وَلَا يَفْضُ
عَلَيْكَ رَبُّهُ لَا يَدْرُلُ مِنْ وَآيَتِ
بَارَكْتَ رَبَّنَا وَتَعَالَيْتَ

Allāh-umma-hdi-ni fi man
hadaita wa 'āfi-ni fi man
'āfaita wa tawalla-ni fi
man tawallaita wa bārik
li fi mā a'aita wa qi-ni
sharra mā qaḏzaita
inna-ka taqḏzi wa lā
yuqḏzā 'alai-ka, inna-hū
la yaḏhillu man wālaita
tabārakta Rabba-nā wa
ta'ālaita (ZM. I, p. 70).

O Allāh ! guide me among
those whom Thou hast
guided, and preserve me
among those whom
Thou hast preserved,
and befriend me among
those whom Thou hast
befriended, and bless me
in what Thou hast granted,
and save me
from the evil of what
Thou hast ordered, for
Thou dost order and
no order is given against
Thy order; surely he is
not disgraced whom
Thou befriendest; blessed
art Thou, our Lord !
and highly exalted.

Another form of qunūt is the following :

اللَّهُمَّ إِنَّا نَسْتَوِينَا وَنَسْتَعِينُكَ
وَنُؤْمِنُ بِكَ وَنَتَوَكَّلُ عَلَيْكَ وَ
نُثْنِي عَلَيْكَ الْحَمْدَ وَنُشْكُرُكَ وَلَا
نُكْفِرُكَ وَنُعْظِمُكَ وَنَتَوَكَّلُكَ
اللَّهُمَّ إِنَّا نَعْبُدُكَ وَنَعْبُدُكَ فَصَلِّ
نَسْبُدُكَ يَا إِلَهَ الْعَالَمِينَ

Allāh-umma innā nasta-
'inu-ka wa nastaghfiru-
ka wa nu'minu bi-ka wa
natawakkalu 'alai-ka
wa nuthni 'alaik-al-
khaira wa nashkuru-ka
wa lā nakfuru-ka wa
nakhla'u wa natruku
man yafjuru-ka Allāh-
umma iyyā-ka na'budu
wa la-ka nuṣalli wa
nasjudu wa ilai-ka nas'ā

O Allāh ! we beseech Thee
for help, and seek Thy
protection and believe
in Thee and rely on
Thee and extol Thee
and are thankful to
Thee and are not un-
grateful to Thee and
we declare ourselves
clear of, and forsake, him
who disobeys Thee.
O Allāh ! Thee do we
serve and for Thee do
we pray and prostrate
ourselves and to Thee
do we betake ourselves

PRAYER

وَنُحْفِدُ وَنَسْجُدُ بِرَحْمَتِكَ وَنُحْفِدُ
عَدَاكَ إِنَّ عَذَابَكَ بِالْكَافِرِينَ
مُلْحِقٌ

wa nahfidu wa narjū
rahmata-ka wa nakhshā
'adhāba-ka inna 'adhāba-
ka bi-l-kuffāri mulḥiq.

and to obey Thee we
are quick, and Thy
mercy do we hope for,
and Thy punishment do
we fear, for Thy punish-
ment overtakes the un-
believers.

There is no reference in any ḥadīth to the Holy Prophet raising up the hands for supplication after finishing prayers, as is the general practice, but some kinds of dhikr are recommended :

أَسْتَغْفِرُ اللَّهَ رَبِّي مِنْ كُلِّ
ذَنْبٍ وَأَتُوبُ إِلَيْهِ

Astaghfiru-llāha Rabbi
min kulli dhanb-in wa
atābu ilai-hi.

I seek the protection of
Allāh, my Lord, from
every fault and turn to
Him.

اللَّهُمَّ أَنْتَ الْوَسْوَءُ الْكَرِيمُ
بَارَكْتَ يَا ذَا الْجَلَالِ وَالْإِكْرَامِ

Allāh-umma anta-s-Salāmu
wa min-ka-s-salāmu,
tabārakta yā dha-l-jalāli
wa-l-ikrām.

O Allāh! Thou art the
Author of peace, and
from Thee comes peace,
blessed art Thou, O
Lord of Glory and
Honour.

لَا إِلَهَ إِلَّا اللَّهُ وَحْدَهُ لَا شَرِيكَ
لَهُ لَهُ الْمُلْكُ وَالْحَمْدُ لَهُ وَعَلَى
كُلِّ شَيْءٍ قَدِيرٌ
اللَّهُمَّ لَا مَانِعَ لِمَا أَعْطَيْتَ وَلَا
مُعْطِيَ لِمَا مَنَعْتَ وَلَا يَنْفَعُ دَا
جِدًا مِمَّنْكَ الْجَدُّ

Lā ilāha ill-Allāhu waḥda-
hū lā sharīka la-hū, la-
hu-l-mulku wa-l-ḥamdu
wa huwa 'alā kulli shai'-
in qadīr; Allāh-umma
lā māni'a li-mā a'ṭaita
wa lā mu'ṭiya li-mā
mana'ta wa lā yanfa'u
dha-l-jaddi min-ka-l-
jaddu.

Nothing deserves to be
worshipped except
Allāh, He is One and
has no associate; His
is the kingdom and for
Him is praise, and He
has power over all
things. O Allāh! there
is none who can with-
hold what Thou grant-
est, and there is none
who can give what
Thou withholdest, and
greatness does not be-
nefit any possessor of
greatness as against
Thee.

In addition to these adhkar, (pl. of dhikr), the recital of the *āyat al-kursiyy* (2 : 255) is also recommended; as well as that of *subḥan-Allah*, (glory be to Allāh),

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al-hamdu li-llah (all praise is due to Allāh), and *Allāhu Akbar* (Allāh is the Greatest), thirty-three times each.

As already noted, the essential part of the obligatory prayers called *fardz* is said in congregation. The very form of the different *adhkār* to be recited in prayer shows that Islām has laid special stress on prayer in congregation. The whole Muslim body that can assemble in one place, both men and women, must gather at the appointed time, praise and glorify God, and address their petitions to Him in a body. All people stand shoulder to shoulder in a row, or in several rows, as the case may be, their feet being in one line; and one person, chosen from among them and called the *Imām* which means *leader*, leads the prayer and stands in front of all. If, however, there are women in the congregation, they form a row by themselves at the back of the rows of men; and after the congregational prayer is finished, the men are not allowed to leave their places until the women have gone out. The distance between the *Imām* and the first row, or between the different rows, is such that the back rows may be able to go down in *sajda* or offer prostration, so that their heads may be almost at the feet of the front rows. This space would generally be 4 feet. The smallest number of people that can form a congregation is two, one leading the prayer and the other following, and these two stand together, the *Imām* a little ahead, say about six inches, and standing to the left while the follower stands on the right. If a third person joins while the prayer is thus being led, either the *Imām* moves forward or the person following moves backward, so that the two who follow form a row. The people who stand behind are called *muqtadūn* or *followers*, and the discipline is so perfect that the followers are bound to obey the *Imām*, even though he may make a mistake, though they

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have the right to point out the mistake, by pronouncing the words *subhān-Allah* (glory be to Allah). This amounts to a hint that God alone is free from all defects, such being the meaning of the word *subhāna*. It is however the judgment of the Imām which is the decisive factor, and the followers, after giving the hint, must still obey him.

To announce that the congregational prayer is ready, the iqāma (which means *causing to stand*) is pronounced in a loud voice, though not so loud as the *adhān*. The sentences of the *adhān* are also the sentences which form the iqāma, but with two differences. Those in *adhān* are, with the exception of the concluding *la ilaha ill-Allah* repeated twice, the starting *Allāhu Akbar* alone being pronounced four times; but in the iqāma all these sentences may be uttered only once. The second difference is that after *hayya 'ala-l-jalah*, the following sentence is uttered twice:

قَدْ قَامَتِ الصَّلَاةُ Qad qāmati-ṣ-ṣalā Prayer is ready.

The additional words of the morning *adhān* do not find a place in the iqāma, which is generally recited by the person who calls out the *adhān*, though in his absence, any one else standing behind the Imām may do so.

When the iqāma has been called out, the *muqtadis* Congregational (followers) do not begin the prayer until the Imām starts it by saying "Allāhu Akbar" in a loud voice. With the utterance of these words by the Imām, the whole congregation, like the Imām, raises hands to ears while uttering the same words in a low voice. Both the Imām and the followers then recite, still in a low voice, some introductory *dhikr*, as stated above, after which the Imām recites the *Fatiha* in a loud voice, stopping at every verse, so that during

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the interval the followers may slowly repeat each sentence. The Ḥanafis, however, hold that the Imām's recitation is sufficient, and that the followers need not recite the sentences of the *Fatiha*.

After the Imām has finished the *Fatiha*, the whole congregation says "Āmīn," either in a loud or a low voice, the former, no doubt, having the greater effect. After this, the Imām recites in a loud voice any portion of the Holy Qur'an, the followers listening in silence, occasionally glorifying God or praising Him or addressing some petition to Him, in accordance with the subject-matter of the verses that are being recited. This procedure is followed in the case of the morning prayer, which consists of only two rak'as of farḍ, and of the first two rak'as of the evening and early night prayers. In the case of the first two rak'as of the early afternoon and the late afternoon, prayer is more in the nature of a meditation than a recital, like the private prayer, the Imām reciting the *Fatiha* and a portion of the Qur'an inaudibly and the followers reciting the *Fatiha* alone. In the last two rak'as of both the afternoon prayers and the early night prayer, as well as in the last rak'a of the sunset prayer, the *Fatiha* alone is recited in a low voice. All the takbirs uttered at the changes of posture, and the final taslīm ending the prayer, are, however, uttered by the Imām in a loud voice in all congregational prayers, and so is the dhikr *sami'-Allāhu li-man ḥamida-hū*, recited on rising from rukū', while the followers in this last case say in a low voice, *Rabba-nā wa la-k-al-ḥamd*. The dhikr in rukū' and sajda and the sitting posture is repeated in a low voice by the Imām, as well as those who follow him.

If a mistake is made in prayer, or the worshipper is doubtful about the number of rak'as, he adds, what is called, *sajda sahw*,

Sajda sahw.

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(*sahw* meaning *mistake*) at the close of prayer, just before the *taslīm*. The *sajda sahwa* consists in performing a double prostration like the ordinary prostration in prayer. If the *Imām* has made a similar mistake, he, along with the whole congregation, adds a *sajda sahwa*.

A person who comes late and joins the congregational service when it has already started, must, if he has missed one or more rak'as, complete the number after the *Imām* has finished. A rak'a is deemed to have been completed when a person joins the ruku', though he may have missed the *qiyām*.

In the case of one who is on a journey,¹ the prayers are shortened. The sunnas are all dropped with the exception of the two of the morning prayer, while the number of *farḍ* rak'as in the *Ẓuhr*, 'Aṣr and 'Ishā prayers, which is four ordinarily, is reduced to two, while the three rak'as of the *Maghrib* prayer remain like the two *farḍ* rak'as of the morning prayer. In addition to this, the man who is journeying is allowed to combine the *Ẓuhr* and 'Aṣr prayers and also the *Maghrib* and 'Ishā prayers. The *witr* of the 'Ishā prayer are also retained. If a man who is on a journey is chosen to lead the prayers, he shortens the prayers, while such of the followers who are not on a journey shall complete the number of rak'as; but if the *Imām* is not on a journey, while some or all of the followers are, the latter shall not shorten the prayer.

Such importance is given by the Holy Qur'an to the holding of Divine service that, even when facing the enemy, it must be

1. There is some difference of opinion as to whether it is necessary that the journey should extend over a certain specified distance or a certain specified time. But the best judge on this matter is the person concerned. A time-limit of a day and a night as the minimum is favoured.

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held just the same. But this service is much shortened, and its holding is thus expressly mentioned in the Holy Qur'an :

“And when you journey in the earth, there is no blame on you if you shorten the prayer, if you fear that those who disbelieve will cause you distress, for the disbelievers are your open enemies. And when thou art among them and keepest up the prayer for them, let a party of them stand up with thee and let them take their arms; then when they have prostrated themselves let them go to your rear, and let the other party who have not prayed come forward and pray with thee” (4 : 101, 102).

It appears from this that in case when there is fear of the enemy's attack, the congregation is divided into two parties, each party saying only one rak'a of prayer with the Imām, while the Imām says only two rak'as. This is called *ṣalāt al-khauf* (or *prayer when there is fear*) (Bu. 12 : 1). In case of still greater fear, it is permitted to say prayers whether on foot or riding (Bu. 12 : 2), as the Holy Qur'an says: “But if you are in danger, then say your prayers on foot or on horseback” (2 : 239). This, it is explained, is the saying of prayer by *imā*, i.e., simply by nodding of the head (Bu. 12 : 5).

Sec. 7—The Friday Service.

There is no sabbath in Islām, and the number of prayers on Friday is the same as on any other day, with this difference, that the specially ordained Friday service takes the place of the *Zuhr* prayer. It is the greater congregation of the Muslims at which the people of a place must all gather together, as its very name *yaum al-jumu'a* (lit. *the day of gathering*) indicates. Though all prayers are equally obligatory,

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yet the Holy Qur'an has specially ordained the Friday service, and thereat it enjoins all Muslims to gather together: "O you who believe! when the call is made for prayer on Friday, then hasten to the remembrance of Allah and leave off all business; that is better for you if you know" (62 : 9). Any other prayer may be said singly under special circumstances but not so the Friday service which is essentially a congregational service. For the holding of the Friday service, later jurists have laid down certain conditions which are not met with either in the Holy Qur'an or in Ḥadīth. The call to prayer, which is mentioned in the Holy Qur'an, may be made from any mosque whether it be situated in a village or in a town or in a certain quarter of a town, or it may even be given, when necessary, from a place where there is no mosque. Bukhārī has a special chapter devoted to this subject headed "Friday service in villages and towns," and he cites the case of Ruzaiq who was manager of a farm and whom Ibn Shahāb enjoined to hold the Friday service on his land (Bu. 11 : 11). It is, however, true that the practice has been for all Muslims, who can do so, to gather together at a central mosque, because the underlying idea is, undoubtedly, to enable the Muslims to meet together once a week in as large a number as possible.

The importance of the occasion and the greater number of the persons assembled
Preparations for the Friday service. have made it necessary to issue further instructions regarding cleanliness in preparation for the Friday service. For example, it is recommended that a bath be taken before attending (Bu. 11 : 2); that scent be used (Bu. 11 : 3), and the best clothes available be worn (Bu. 11 : 7); also that the mouth

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be well-cleaned with a tooth-brush (Bu. 11 : 8). These instructions are intended both to foster habits of cleanliness and to make the great concourse of people in Divine service on Friday, as little offensive as possible.

A special feature of the Friday service is the *khuṭba* (lit. an *address*), or a sermon by the Imām, before the prayer service is held. After the people have assembled in the mosque, the mu'adhḥin makes a call for prayer while the Imām is sitting. When the adḥān is finished, the Imām stands up facing the audience and delivers the *khuṭba*. He begins with the *kalima shahāda*;¹ or words speaking of the praise and glory of God, and then goes on to recite a Quranic text² which he expounds to the audience, who are specially enjoined to remain sitting and silent during the sermon (Bu. 11 : 29). This is delivered in two parts, the Imām taking a little rest by assuming the sitting posture in the middle of the sermon, and then continuing. Any subject relating to the welfare of the community may be dealt with in the *khuṭba*. The Holy Prophet is reported to have once prayed for rain during the sermon after somebody had directed his attention to the fact that the cattle and the people were in severe hardship on account of a drought (Bu. 11 : 35). According to another report, a certain person came to the Holy Prophet when he was delivering a *khuṭba*, and questioned him about faith, and the Holy Prophet explained to him what faith was and then resumed the

1. *Ashḥadu an lā ilāha ill-Allāhu wa ashḥadu anna Muḥammad-an 'abdu-hū wa rasūlu-hū*. Between the *kalima shahāda* and the recital of a Quranic text occur the words *ammā ba'du*, which mean *after this*.

2. There is a ḥadīth in Muslim, according to which a certain woman learnt the chapter entitled *Qūf* (ch. 50) from the Prophet's recital of it on the pulpit (M. 7 : 13).

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sermon (M. 7 : 13). As regards the 'Id khutba, it is expressly stated that the Holy Prophet used to order the raising of an army, if necessary, in the khutba, or give any other orders which he deemed necessary, in addition to admonitions of a general nature (ZM. I, p. 125). All these facts show that the khutba is for the education of the masses, to awaken them to a general sense of duty, to lead them into the ways of their welfare and prosperity and warn them against that which is a source of loss or ruin to them. Therefore the khutba must be delivered in a language which the people understand, and there is no sense in delivering it in Arabic to an audience which does not know that language. Divine service is quite a different thing from the sermon. The sermon is meant to exhort the people, to give them information as to what to do under certain circumstances and what not to do; it is meant, in fact, to throw light on all questions of life; and to understand a sermon in a foreign language requires an extensive, almost an exhaustive, knowledge of that language. Not so in the case of Divine service, which consists of a number of stated sentences and the meaning of which can be fully understood even by a child, in one month. Moreover, in Divine service the different postures of the body are in themselves expressive of Divine praise and glory, even if the worshipper does not understand the significance of the words. It is, therefore, of the utmost importance that the masses should know what the preacher is saying. In fact, the Friday sermon is the best means of education for the masses and for maintaining the vitality of the Muslim community as a whole.

After the sermon is finished, the iqāma is pronounced and a congregational service of two rak'as is held, in which the
The Friday service.

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Imām recites the Fatiḥa and a portion of the Qur'an in a loud voice, as he does in the morning and evening prayers. This is the only obligatory service, but two rak'as sunna are said as soon as a man enters the mosque; even if he comes late and the Imām has already started the sermon, the late-comer must still perform these two rak'as (Bu. 11 : 33). Two rak'as sunna are also said after the service has been finished (Bu. 11 : 39). There is not the least authority for saying Zuhr prayers¹ after the Friday service, which in fact takes the place of Zuhr prayers.

As already stated there is, in Islām, no sabbath, or seventh day for Divine worship. Hence the Holy Qur'an plainly speaks of daily business being done before the Friday service, leaving it only for the sake of the service, and again it speaks of business being done after the service has been held: "And when the prayer is ended then disperse abroad in the land and seek of Allāh's grace" (62 : 10). But as a seventh day is necessary for rest from work, Friday may be chosen, if the choice lies with the Muslims. At any rate, Muslims have a religious right to attend the Friday service even when they are under non-Muslim rule.

Sec. 8—The 'Īd Prayers.

There are, in Islām, two great festivals having a religious sanction, and in connection with both of them a congregational service of two rak'as is held, followed by a khutba, or

Festivals of Islām.

1. The origin of this practice is in the wrong impression that Friday service can only be held in a city or under the Muslim rule. As a matter of fact, as already shown, it may be held in a city or in a village or anywhere else. So also the condition that it can only be held under Muslim rule is simply absurd. The Qur'an and the Ḥadīth place no such limitation on the Friday service or on any other service.

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sermon. Both these festivals go under the name of 'Id which means *a recurring happiness*, being derived from 'aud meaning *to return*. The first of these is called the 'Id al-Fiṭr, the word *fiṭr* meaning *to begin*, from which is also derived *fiṭra* meaning *nature*. *Iṣṭār* means *the breaking of the fast*, as if the faster had returned to a natural course or fulfilled the demand of nature, and it is from this that the name 'Id al-Fiṭr seems to have been taken, because it follows the month of fasts and takes place on the first of Shawwāl. The other is 'Id al-Adzḥā, *adzḥā* being the plural of *adzḥat* meaning *a sacrifice*. It is thus clear that both these festivals are connected with the performance of some duty, in the first case the duty of fasting, and in the second the duty of sacrifice. A day of happiness following the performance of duty is intended to show that true happiness lies in the performance of duty.) One characteristic of the Islamic festivals, therefore, is that they have, underlying them, a deep spiritual meaning.) But they have another characteristic as well. In the moment of their greatest joy, the Muslims gather in as vast a congregation as possible and fall prostrate before their great Maker, giving thanks to Him that He has enabled them to perform their duty or to make a sacrifice. The spiritual significance of both festivals is thus brought out in the Divine service which is the chief feature of the day of festival.

The preparation for 'Id is similar to the preparation for the Friday service. One must take a bath, put on one's best clothes, use scent, and do every thing possible to appear neat and tidy. The gathering in the 'Id should preferably be in an open place, but, if necessary, a mosque may also be used for holding the Divine service. An open space is preferable on account of the size of the

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congregation, which a mosque might not be able to hold. No *adhān* is called out for the 'Id prayers, nor an *iqāma* for the arranging of the lines (Bu. 13 : 7).¹ Though women take part in all the prayers and in the Friday service, they are specially enjoined to be present at the 'Id gatherings, for the Holy Prophet is reported to have said that " the young girls and those that have taken to seclusion and those that have their menses on, should all go out (for the 'Id) and be present at the prayers of the Muslims " (Bu. 13 : 15 ; 6 : 23). The time of 'Id prayers is any time after sunrise and before noon.

The 'Id service consists only of two rak'as in congregation. The Imām recites the *Fatiha* and a portion of the Holy Qur'an in a loud voice, as in the Friday service. As already noted, there is neither *adhān* nor *iqāma* for the 'Id prayer, but there is a number of takbīrs in addition to those that are meant to indicate the changes of position. On the best authority, the number of these additional takbīrs is seven in the first rak'a and five in the second, before the recital of the *Fatiha* in both rak'as (Tr. 5 : 5).² The takbīrs are uttered aloud by the Imām one after another as he raises both hands to the ears and then leaves them free in the natural position. Those who stand behind him raise and lower their hands similarly.

1. Some think that the sentence *al-ṣalātū jāmi'at-unn* should be called aloud but such a practice is not traceable to the Prophet (ZM. I, p. 124).

2. As stated above, the number of additional takbīrs given here is on the best authority available. A difference of opinion does however exist on this point. But much importance should not be attached to these matters. Some people say four additional takbīrs in the first rak'a and three in the second, in the latter case before going to rukū'. The ḥadīth however on which this is based is not reliable (ZM. I, p. 124).

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The 'Id sermon is delivered after Divine service is over. As regards the manner and the subjects dealt with, it is similar to the Friday sermon, except that it is not necessary to break it up into two parts by assuming the sitting posture in the middle of it. It was the Holy Prophet's practice to address the women separately, who were all required to be present whether they joined in the service or not.

While celebrating the great 'Id festivals, a Muslim not only remembers God (by attending Divine service) but he is also enjoined to remember his poorer brethren. The institution of a charitable fund is associated with both 'Ids. On the occasion of the 'Id al-Fiṭr, every Muslim is required to give *sadaqa Fiṭr* (lit., the *Fiṭr* charity) which amounts to three or four seers of wheat, barley, rice or any other staple food of the country per head of the family, including the old as well as the youngest members, males as well as females (Bu. 24:70). In India, it generally comes to between 3as. and 4as. per head. The payment is to be made before the service is held, and it is obligatory (*fardz*). Like zakāt, the Fiṭr charity was an organized institution, as expressly mentioned in a ḥadīth: "They gave this charity to be gathered together, and it was not given away to beggars" (Bu. 24:77). According to another ḥadīth, Abū Huraira said that "the Holy Prophet gave him charge of the zakāt of Ramadẓān" (Bu. 40:10). The principle of gathering the Fiṭr charity, so clearly laid down in these ḥadīth, has now been abandoned by the Muslims, and the result is that a most beneficial institution of Islām for the upliftment of the poor and needy has been thrown into neglect, and lacs of rupees which could strengthen national funds thrown away.

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'Id al-Adzḥā also furnishes an occasion for the exercise of charity. The sacrifice of an animal on that day (for which see the next paragraph), not only makes the poorest members of the community enjoy the festival with a good feast of meat, but national funds for the amelioration of the poor or the welfare of the community, can be considerably strengthened if the skins of the sacrificed animals are devoted to this purpose. In addition to this, in places where the number of sacrificed animals is in excess of the needs of the population, the surplus may be dried and sold, and the proceeds thereof used for some charitable object. It is to be regretted that the surplus meat in Makka is buried away instead of being turned to any useful purpose. Islām does not allow the wastage of the natural resources of man, and it has organized all its charities in such a manner that they can be turned to the best use.

Besides these obligatory charities at the two 'Ids, the Holy Prophet used to exhort people in his khuṭba, on the occasion of the 'Id, to contribute whatever they could, voluntarily, for the national cause; and there is mention of women giving away their jewelry at such times (Bu. 13 : 7). The two 'Id festivals of Islām can thus be made great occasions for strengthening the national funds and for the relief of the poor, if the directions of the Holy Prophet be followed faithfully.

At the 'Id al-Adzḥā, every Muslim who can afford to do so sacrifices an animal. In the case of a goat or a sheep, one animal suffices for one household (Tr. 17 : 8). In the case of a cow or a camel, seven men may be partners (Tr. 17 : 7). The animal is sacrificed after the 'Id prayers are over. It may be sacrificed on the day of 'Id or during the two or three days that follow, called the tashriq days, the time during which pilgrims stop in

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Mina (MM. 4 : 49-iii). The two days' limit is preferable, because the pilgrims are allowed to leave after two days: "Then whoever hastens off in two days, there is no blame on him, and whoever remains behind there is no blame on him" (2 : 203). The animal sacrificed must be free from apparent physical defects, and full-grown (*musinna*). The goat or sheep should be a year old, the cow two years and the camel five (H. ch. *al-Adshiya*). As regards the meat of the slaughtered animals, the Holy Qur'an says: "Eat of them and feed the poor man who is contented and the beggar" (22 : 36). There is no harm if it is dried and sold and the proceeds used for the feeding of the poor. The idea that the meat of the sacrifices should not be stored or eaten for more than three days, is contradicted by a saying of the Holy Prophet: "Jabir ibn 'Abd-Allah says, We did not use to eat the flesh of our sacrifices for more than the three days of Mina; so the Holy Prophet gave us permission and said, Eat and take it as a provision for the way; so we ate and made it provision for the way" (Bu. 25 : 124). The giving of one-third, or more, or less, to the poor is simply optional. No hard and fast rules have been laid down. The skin of the animal must, however, be disposed of in charity (Bu. 25 : 121).

To the ordinary mind, the idea underlying sacrifice seems no more than charity, and the question has often been asked, May not a Muslim, instead of sacrificing an animal, give away its price in charity? The answer to this question, in the light of the Islamic law, is in the negative. The sacrifice by the Muslims throughout the world on the 'Id day is intended to make Muslim hearts, throughout the world, beat in unison with the hearts of the unparalleled assemblage at Makka, the centre of Islam. Hundreds of

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thousands of people assemble there from all quarters of the world, people who have sacrificed all comforts of life for no object except to develop the idea of sacrifice, a sacrifice selfless beyond all measure, because it has no personal or even national end in view, a sacrifice for the sake of God alone. However grand that idea, it receives a greater grandeur from the fact that the people who have not been able to make that sacrifice actually, are made to share the same desire and show their willingness to make the same sacrifice by the ostensible act of the sacrifice of an animal, which is the final act of the pilgrimage. One desire moves the hearts of the whole Muslim world from one end to the other at one moment, and this is made possible only by the institution of sacrifice, the red letters of which can be read by the ignorant and the learned alike. That this institution should also serve the purpose of charity is quite a different thing. Islām does not allow its rich members to forget their poorer brethren in the hour of their joy at a time of festival, but charity is not the idea underlying the sacrifice on the occasion of the 'Id or the pilgrimage, and therefore no mere charity can take the place of sacrifice.

That sacrifice does not consist in the act of shedding

The idea underlying the blood of an animal or feeding on sacrifice.

its meat is made plain by the Holy

Qur'an: "There does not reach Allāh their flesh nor their blood, but to Him is acceptable righteousness on your part" (22:37). The underlying significance is made clearer still in another verse: "And to every nation We appointed acts of sacrifice that they may mention the name of Allāh on what He has given them of the cattle quadrupeds; so your God is one God, therefore to Him should you submit, and give good news to the humble ones, whose hearts tremble when Allāh is mentioned, and

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those who are patient under that which afflicts them" (22 : 34, 35). The act of the sacrifice of an animal is thus in some way connected with righteousness, with submission to One God, with humbleness of heart, with patience under sufferings ; and the sacrifice of the animal is plainly regarded as affecting the heart, as making it tremble at the mention of Allāh's name. Here we are told that it is not an empty mention of a word that they make, but the meaning, underlying, is that their hearts should thrill at the mention of that name. Taking away the life of an animal and shedding its blood, does not make them ferocious but, instead of the sterner feeling, creates humbleness in their hearts. Why? Because they realize that if they have sacrificed an animal over which they hold control, it is their duty to lay down their own lives in the way of Allāh, Who is not only their Master but also their Creator and Sustainer, and Who therefore exercises a far greater authority over them than they do over the animals. Hence, in the midst of verses speaking of sacrifice, is introduced a verse which requires the faithful to be patient under trials and hardships, in the way of Allāh. In the sacrifice of animals, the Holy Qur'an thus gives to its followers the lesson of laying down their own lives in the cause of truth ; and the lesson is made clearer still when this section on sacrifice, verses of which have been quoted above, is straightway followed by a section which requires believers to lay down their lives in the defence of truth, the very first verse of that section running thus : " Permission to fight is given to those upon whom war is made because they are oppressed " (22 : 39).

It will thus be seen that Islām has invested the principle of sacrifice with a new meaning. The institution of sacrifice has been accepted in one form or another by all the nations of the world. Like all other

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religious principles which are universally recognized, the principle of sacrifice finds a deeper meaning in Islām. The outward act is still there as of old, but it no longer conveys the meaning attached to it in some ancient religions, namely, that of appeasing an offended deity or serving as an atonement for sin. In Islām it signifies the sacrifice of the sacrificer himself, and becomes thus an outward symbol of his readiness to lay down his life, and to sacrifice all his interests and desires in the cause of truth. The animal that is sacrificed really stands for the animal in man, so that the outward sacrifice of the animal reminds man of the necessity for the sacrifice of the animal within him. And one day, and one particular moment on that day, is chosen so that all Muslim hearts from one end of the world to the other may pulsate with one idea at a particular moment, and thus lead to the development of the idea of self-sacrifice in the community as a whole.

Sec. 9—Service on the Dead.

A Divine service is held over the dead body of every Muslim, young or old, even of infants who have lived only for a few minutes or seconds. It is called *ṣalat al-janā'iz*. *Janā'iz* is the plural of *jināza* or *janāza* meaning *the dead body lying on a bier* or *the bier*, from *janāza* meaning *he concealed* or *hid* (a thing). According to some *jināza* means the *bier*, and *janāza* the *dead body*, or *vice versa* (LL.). When a person dies, the body is washed with soap or some other disinfectant and cleansed of all impurities which may be due to disease. In washing the dead body, the parts which are washed in *wuḍū'* are taken first, and then the whole body is washed (Bu. 23 : 8, 9, 11). It is then wrapped in one or more white sheets (Bu. 23 : 19, 20, 27) and scent is also added (Bu. 23 : 21). In the case of martyrs, or persons slain in

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battle, the washing and wrapping in white cloth is dispensed with (Bu. 23 : 73). The dead body is then placed on a bier or, if necessary, in a coffin, and carried on the shoulders to its last resting-place as a mark of respect; though the carrying of the body by any other means is not prohibited.¹ The Holy Prophet stood up when he saw the bier of a Jew pass by. This he did to show respect to the dead, and then enjoined his followers to stand up as a mark of respect when a bier passed by, whether it was that of a Muslim or a non-Muslim (Bu. 23 : 50).

Following the dead body to the grave and taking part in the Divine service held over it is regarded as a duty which a Muslim owes to a Muslim, and so is also the visiting of the sick (Bu. 23 : 2). Technically, taking part in Divine service is called *jarḍ* *kifāya*, which means that it is sufficient that some Muslims should take part in it. Women are not prohibited from going with the bier, though their presence is not considered desirable, because being more tender-hearted than men they may break down by reason of their grief. The service may be held anywhere, in a mosque or in an open space or even in the grave-yard if sufficient ground be available there. All those who take part in the service must perform *wuḍū'*. The bier is placed in front; the Imām stands facing the middle of the bier whether the body be of a male or a female (Bu. 23 : 64),² and the people form themselves into lines

1. There is a difference of opinion as to the legality of driving or riding when following a bier (AD. 20 : 48). But if the dead body itself is being borne on a carriage, there is no harm in driving when following it; nor so when there is an excuse.

2. According to one ḥadīth, Anas ibn Mālik, when leading the *janāza* prayer, took up a position in the middle of the bier in the case of a woman and a position nearer the head in the case of a man, and on being questioned said that such was the practice of the Holy Prophet (AD. 20 : 54).

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according to the number of those who take part, facing the Qibla. The general practice is to have three lines at least, but Bukhārī is expressly of opinion that there may be two lines or three or more (Bu. 23 : 54). If the number of people is very small, there is no harm if they form only a single line. The service starts with the takbīr, with the pronouncement of which hands are raised to the ears and placed in the same position as in prayer. Four takbīrs in all are pronounced (Bu. 23 : 65). After the first takbīr, the same dhikr relating to the praise and glory of God is repeated in a low voice by the Imām as well as those who follow, as in the first rak'a of the daily service, after *takbīrat al-ihram*, i.e., the dhikr called *istiftāh* (see p. 419) and sūra *Fatiha* (see p. 421), without adding any portion of the Holy Qur'an (Bu. 23 : 66). The second takbīr is then pronounced without raising the hands to the ears, and the dhikr known as *al-ṣala 'ala-l-Nabiyy* is recited in a low voice as in the qa'da (see p. 424). The third and fourth takbīrs are pronounced in a manner similar to the second takbīr, After the third takbīr, a prayer for the forgiveness of the deceased is addressed to God. Different forms of this prayer are reported as having been offered by the Holy Prophet, and it seems that prayer in any form is permissible. The following are the most well-known :

اللَّهُمَّ اغْفِرْ لِحَيِّنَا وَمَيِّتِنَا
 وَشَاهِدِنَا وَأَعْيَابِنَا وَصَغِيرِنَا
 وَكَبِيرِنَا وَذَكَرْنَا وَأُنثَانَا
 اللَّهُمَّ مَنْ أَحْيَيْتَهُ

Allāh-umma-ghfir
 li-ḥayyi-nā wa mayyiti-
 nā wa shāhidi-nā wa
 ghā'ibi-nā wa ṣaghiri-nā
 wa kabiri-nā wa
 dhakari-nā wa unthā-nā ;
 Allāh-umma man
 aḥyaita-hū

O Allāh ! grant protection
 to our living and to our
 dead and to those of us
 who are present and those
 who are absent, and to
 our young and our old
 folk and to our males
 and our females ; O
 Allāh ! whomsoever
 Thou grantest to live

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وَمَا نَأْتِيهِمْ عَلَى الْإِسْلَامِ وَمَنْ
تَوَلَّيْتَهُ مِنَّا فَوَدَّ عَلَى الْإِيمَانِ
اللَّهُمَّ لَا تَحْرِمْنَا أَجْرَهُ وَلَا تَقْتُلْنَا بِعَدَاةِ

minnā fa-aḥyi-hi 'ala-l-
Islāmi wa man tawaffai-
ta-hū minnā fa-twaffa-hū
'ala-l-imāni ; Allāh-
umma lā tahrim-nā
ajra-hū wa lā taftinnā
ba'da-hū (Tr. 8 : 37 ;
MM. 5 : 5-ii).

from among us, cause him to live in Isām (sub-mission) and whomsoever of us Thou causest to die, make him die in faith ; O Allāh ! do not deprive us of his reward and do not make us fall into a trial after him.

Another prayer runs thus :

اللَّهُمَّ اغْفِرْ لَهُ وَارْحَمْهُ وَعَافِهِ وَاعْفُ
عَنْهُ وَاکْرِمْ نَزْلَهُ وَوَسِّعْ مَدْخَلَهُ
وَاجْسِدْهُ بِالْمَاءِ وَالشَّيْبِ وَالْبَرْدِ وَنَقِمْ
مِنَ الْخَطَايَا كَمَا نَقَيْتَ الثُّوبَ
الْأَبْيَضَ مِنَ الدَّنَسِ

Allāh-umma-ghfir la-hū
wa rḥam-hu wa 'āfi-hi
wa-'fu 'an-hu wa akrim
nuzula-hū wa wassi'
madkhala-hū wa-ghsil-
hu bi-l-mā'i wa-th-
thalji wa-l-baradi wa
naqqi-hi min al-khaṭāyā
kamā naqqaita-th-
ṭhaub al-abyadza mina-
d danasi (M. 11 : 27).

O Allāh ! grant him protection, and have mercy on him, and keep him in good condition, and pardon him, and make his entertainment honourable, and expand his place of entering, and wash him with water and snow and hail and clean him of faults as the white cloth is cleaned of dross.

After the fourth takbir, the taslim is pronounced as at the close of prayer (see p. 425). A similar Divine service may be held in the case of a dead man when the dead body is not present. A funeral service was held by the Prophet himself in Madīna when news of the death of the Negus of Abyssinia reached him (Bu. 23 : 4). When the service is finished, the biēr is taken to the grave and buried. The grave is dug in such a manner that the dead body may be laid in it facing Makka. It is generally between four and six feet deep, and an oblong excavation is made on one side, wherein the dead body is to be placed. This is called the *lahd*. The dead body is made to rest in the *lahd* facing the Qibla. If the dead body is contained in a coffin, the *lahd* may be dispensed with. The following words are reported in a ḥadīth as having been uttered by the Holy Prophet when placing a dead body in the grave :

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بِسْمِ اللَّهِ وَاللَّوَعْلَى سُنَّةِ
رَسُولِ اللَّهِ

Bi-smi-llāhi wa bi-llāhi
wa 'alā sunnati Rasūli-
llāh (Tr. 8 : 53).

In the name of Allāh
and with Allāh and
according to the sunna
of the Messenger of
Allāh.

The grave is then filled in and a prayer is again offered for the dead one and the people then depart (AD. 20 : 67). The funeral service of a child¹ is similar to that of one who has reached the age of discretion, except that the prayer after the third takbīr is different :

اللَّهُمَّ اجْعَلْهُ لَنَا فَرْطًا وَ
سَلَفًا وَاجْرًا

Allāh-umma-j'al-hu la-nā
faraṭ-an wa salaf-an wa
dhukhr-an wa ajr-an
(Bu. 23 : 66).²

O Allāh ! make him for
us a cause of recom-
pense in the world to
come and as one going
before and a treasure
and a reward.

It will be seen that the funeral service for children is not a prayer for their forgiveness but a prayer that the young ones who have gone before may be a means of recompense and reward for the parents. There are other ḥadīth which speak of one afflicted with the death of young children as being made to enter Paradise : "A person, three of whose children die before reaching the age of discretion, is saved from the fire, or goes to Paradise" (Bu. 23 : 92). In the heading of his chapter, Bukhārī limits this to the offspring of Muslims, though there are no such words in the ḥadīth itself, and then adds a long ḥadīth in which the Holy Prophet relates a vision in which he saw "the children of all people," i.e., Muslims as well as non-Muslims, around Abraham (Bu. 23 : 93). The words of this latter ḥadīth are thus

1. Funeral service is held over a child that is born alive and then dies; according to one ḥadīth, however, funeral service may be held also over the *siqt*, i.e., a child that is born dead but has the form developed (AD. 20 : 49).

2. The words wa dhukhr-an, i.e., "and a treasure" are not in Bukhārī.

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explained in another version of it: "As regards the children around Abraham, they are the children who die 'ala-l-fiṭra, (lit. *in the state in which they are born*, that being called expressly the state of Islām), or before attaining the age of discretion. Some of the Muslims said: O Messenger of Allāh! the children of the polytheists are also there? He said: Yes, the children of polytheists also" (Bu. 91 : 48). Thus all children go to Paradise; more than this, the death of young children is an affliction which becomes the means of taking one to Paradise, perhaps because it brings about a change in the hearts of the parents.

It may also be added in this connection that Islām forbids indulgence in intemperate grief for the dead. It requires that all affliction be borne patiently, as the Holy Qur'an says: "And We will most certainly try you with somewhat of fear and hunger and loss of property and lives and fruits; and give good news to the patient, who, when a misfortune befalls them, say, Surely we are Allāh's and to Him we shall surely return" (2 : 155, 156). On hearing of the death of a relative or a friend or of any other affliction, a Muslim is enjoined to say, *Innā li-llāhi wa innā ilai-hi rāji'un*: 'We are Allāh's and to Him we shall return.' These words are a source of unlimited solace and comfort in bereavement. Allāh has taken away His own; all of us come from God and must return to Him. Hence it is forbidden that one should utter wailing or smite one's cheeks or tear one's clothes or indulge in regular mourning. When visiting a cemetery, the following words are recommended:

السَّلَامُ عَلَيْكُمْ أَهْلَ الدِّيَارِ
وَمِنَ الْمُؤْمِنِينَ وَالْمُسْلِمِينَ
وَكَأَنَّكُمْ لَمِنَ الْمُؤْمِنِينَ

As-salāmu 'alai-kum ahl-
ad-diyāri min al-mu'mint-
na wa-l-Muslimīna wa
innā inshā Allāhu bi-kum
la-lāhiqūn;

Peace be on you, O resi-
dents of this world
from among the faithful
and the Muslims, and
we will surely join you,

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نَسْأَلُ اللَّهَ لَنَا وَ لَكُمْ الْمَغْنَمَ

nas'alu-llāha la-nā wa la-
kum al-'aḡnya (M. 11 : 35).

if it please Allāh. We
pray to Allāh for security
for you and for oursel-
ves.

With small variations this prayer is repeated in several ḥadīth.

A very large number of innovations has grown up about what may be done for the benefit of the dead. There is no mention in any ḥadīth of distributing charity at the grave, or of making a gift of the Qur'an, or having the Holy Qur'an recited at the grave or elsewhere for the benefit of the dead. There are ḥadīth speaking of the Holy Qur'an being read to the dying person (AD. 20 : 21); but there is no mention at all of its being read over the dead body or over the grave. Neither is there any mention of saying the *Fatiha*, or a prayer for the dead, when people come to console the relatives of the departed. The Holy Prophet is, however, reported as having prayed for the dead when visiting their graves; nor is the simple act of asking forgiveness for the deceased forbidden. Similarly the preparing of food on the third or tenth or fortieth day after death is an innovation. There is no mention of it in any ḥadīth. Instead of the family of the deceased preparing food for others, it is recommended that food should be prepared and sent to the family of the deceased by others (Bu. 70 : 24 ; AD. 20 : 25). Alms may however be given on behalf of the deceased, and doing deeds of charity is the only thing allowed. It is stated in a ḥadīth that "a man came to the Holy Prophet and said that his mother had died suddenly, and he was sure that if she could speak, she would give something in charity, and enquired whether she would get any reward if he gave charity on her behalf." The Holy Prophet is reported to have replied in the affirmative (Bu. 23 : 95). In

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another ḥadīth it is related that Sa'd ibn 'Ubadā asked the Prophet if it would benefit his deceased mother who had died while he was away, if he gave something in charity on her behalf, and the Holy Prophet, in this case also, replied in the affirmative (Bu. 55 : 15).

Sec. 10—*Tahajjud and Tarāwih*

The word *tahajjud* is derived from *hujūd* which means Tahajjud prayer is *sleep*, and *tahajjud* literally signifies voluntary. the *giving up of sleep* (R.). The Tahajjud prayer is so called because it is said after one has had some sleep, and sleep is then given up for the sake of prayer. It is specially mentioned, even enjoined, in the Holy Qur'an itself in the very earliest revelations, but it is expressly stated to be voluntary. The following verses may be noted in this connection :

“ O thou who hast wrapped up thyself ! rise to pray in the night except a little, half of it, or lessen it a little or add to it, and recite the Qur'an well arranged ... Surely the rising by night is the firmest way to tread and most impressive in speech ” (73 : 1-6).

“ Surely thy Lord knows that thou passest in prayer nearly two-thirds of the night, and (sometimes) half of it, and (sometimes) a third of it, and also a party of those with thee ” (73 : 20).

“ And during a part of the night, forsake sleep by it, beyond what is incumbent on thee ; maybe thy Lord will raise thee to a position of great glory ” (17 : 79).

As the above quotation from the 73rd chapter shows, the Holy Prophet used to pass half or even two-thirds of the night in prayer. His practice was to go to sleep immediately after the 'Ishā prayers, and then he generally woke

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up after midnight and passed almost all this latter half of the night in Tahajjud prayers, sometimes taking a short nap, which would give him a little rest, just before the morning prayer. This practice he kept up to the last. While in the congregational prayers the recitation of the Holy Qur'an was generally short, owing to the audience among whom were children and women and aged people, the recitation in the Tahajjud prayer was generally long, and it is related in Ḥadīth that he used to stand so long reciting the Holy Qur'an that his feet would get swollen¹ (Bu. 19 : 6).

The Tahajjud prayer consists of eight rak'as divided into a service of two at a time, followed by three rak'as of witr. To make it easier for the common people the witr prayer, which is really a part of Tahajjud, has been made a part of the 'Ishā or night prayer, and therefore, if the witr prayer has been said with 'Ishā, Tahajjud would consist of only eight rak'as. But if there is not sufficient time, one may stop after any two rak'as (Bu. 19 : 10). The Holy Prophet laid special stress on Tahajjud in the month of Ramadzān, and it was the Tahajjud prayer that ultimately took the form of Tarāwīḥ in that month. He is reported to have said that whoever keeps awake at night to offer prayer in the month of Ramadzān,

1. It is nothing but a distortion of facts to call such a person a voluptuary, simply because he took certain widows under the shelter of his roof and made them share the honour of partnership with him in matrimonial life. The man who passed half and even two-thirds of the night in prayer and who strenuously worked during the day-time for the all-round welfare of a whole nation, could not possibly have time for the indulgence of his passions. It is also a noteworthy fact that the only thing which kept him awake was a recitation of the Holy Qur'an, or the glorification of the Divine Being, and it is impossible to fathom the depth of his love for God and his love for the word of God, when it is borne in mind that only the greatest attraction could keep a man awake during the night and enable him to conquer sleep.

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having faith and seeking only the Divine pleasure, his faults are covered (Bu. 2 : 27); and there are ḥadīth showing that he used to awaken his wives to say prayers (Bu. 14 : 3). He is also said to have gone to the house of his daughter Fāṭima at night to awaken her and her husband 'Alī for Tahajjud prayers (Bu. 19 : 5). Owing to the emphasis laid by the Holy Prophet on this prayer and the injunctions of the Holy Qur'ān quoted above, the Companions of the Holy Prophet were very particular about Tahajjud prayer, though they knew that it was not obligatory, and some of them used to come to the mosque during the latter part of the night to say their Tahajjud prayers. It is reported that the Holy Prophet had a small closet made for himself in the mosque and furnished with a mat as a place of seclusion wherein to say his Tahajjud prayers during the month of Ramadẓān, and on a certain night, when he rose up to say his Tahajjud prayers, some people who were in the mosque saw him and followed him in prayer, thus making a congregation. On the following night, this congregation increased, and swelled to still larger numbers on the third. On the fourth night the Holy Prophet did not come out, saying he feared lest it be made obligatory, and that it was preferable to say the Tahajjud prayers in one's own house (Bu. 10 : 80, 81). Tahajjud, except for these three days, thus remained an individual prayer during the lifetime of the Holy Prophet, the caliphate of Abū Bakr, and the early part of the caliphate of 'Umar (Bu. 31 : 1). But later on, 'Umar introduced a change whereby this prayer became a congregational prayer during the early part of the night, and was said after the 'Ishā prayer. He himself is reported to have said that it was an innovation and that the latter part of night during which people kept on sleeping was better than the early part in which they

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said this prayer (Bu. 31 : 1). But doubtless he had had this suggestion from the example of the Holy Prophet himself, who had said the Tahajjud prayer in congregation for three nights, and allowed the witr, which was also a part of Tahajjud, to be adjoined to the 'Ishā prayer. And though for the average man the change introduced by 'Umar is doubtless welcome, nevertheless in Ramaḍzān, Tahajjud in the latter part of the night and as an individual prayer is preferable.

Tarāwih is the plural of *Tarwihā* which is derived from *raha* and means *the act of taking rest*. The name *Tarāwih* seems to have been given to this prayer because the worshippers take a brief rest after every two rak'as. It is now the practice that the whole of the Holy Qur'an is recited in the *Tarāwih* prayers in the month of Ramaḍzān. But to recite it in a single night is against the express injunctions of the Holy Prophet (Bu. 30 : 58). The number of rak'as in the *Tarāwih* prayers seems, at first, to have been eleven, being exactly the number of rak'as in the Tahajjud prayers (including of course three witr rak'as). It is stated that 'Umar at first ordered eleven rak'as, but later on the number seems to have been increased to twenty rak'as of *Tarāwih* and three rak'as of witr, making a total of twenty-three (Ma. ch. 6—*Targhib fi-l-ṣalat fi Ramaḍzān*). And this practice is now generally maintained throughout the Muslim world, the Ahl Ḥadīth and the Aḥmadīs being almost the only exception, it being customary for the Imām to recite the whole of the Qur'an in *Tarāwih*, whether the number of rak'as be eight or twenty.

Sec. 11—Miscellaneous services.

It is reported that on a certain occasion when there had been a long drought, some one requested the Holy Prophet, while

Service for rain.

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he was delivering the Friday sermon in the mosque, to pray for rain, as both men and cattle were suffering severely, and in response, the Prophet raised his hands and prayed to God for rain (Bu. 11 : 35). Similarly he is reported to have prayed to God when there was excess of rain (Bu. 11 : 35). On another occasion, however, he is said to have gone out into the open with the congregation, and to have prayed for rain and then performed two rak'as of prayer in congregation, reading the *Fatiḥa* in a loud voice, as in the Friday service (Bu. 15 : 1, 16).¹

A prayer service of two rak'as was held by the Holy

Prophet during an eclipse of the sun.

Service during eclipse.

This eclipse occurred on the day of the death of Ibrāhīm, the Holy Prophet's eighteen months old son. The service differed from the ordinary prayer service in that there were two qiyāms and two rukū's in each rak'a. After the first qiyām there was a rukū' as in the ordinary service, though of a longer duration, and then a qiyām followed again in which a portion of the Holy Qur'an was recited ; this was followed by a second rukū' after rising from which, the sajdā was performed as in the ordinary service ; the recitation being in a loud voice, as in the Friday and 'Id prayers (Bu. 16 : 2, 19). There is also mention of a *khuṭba* (sermon) having been delivered after the service (Bu. 19 : 4). In this sermon, the Holy Prophet, while enjoining charity and *istighfar*, referred particularly to Ibrāhīm's death. When the people saw that the sun had darkened, they began to say among themselves that this

1. In some ḥadīth it is stated that before prayer, the Holy Prophet turned over his *ridā'* (a loose wrapper worn over the shoulders). It seems, however, to have been only accidental, or it may have been simply a precautionary measure lest the *ridā'* should fall down in the raising up of the hands (FB. II. pp. 414, 415.)

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was due to Ibrāhīm's death. The Holy Prophet rebutted this idea in his sermon, saying that "the sun and the moon do not suffer eclipse for any one's death or life" (Bu. 16 : 13). This was the only occasion of an eclipse on which a service was held by the Holy Prophet (ZM. I. p. 129).

CHAPTER II

ZAKĀT OR CHARITY

(Charity towards man, in its widest sense, is laid

down in the Holy Qur'an as the second great pillar on which the structure of Islam stands. This is made plain in the very beginning of the Holy Book : "Those who believe in the Unseen and keep up prayer and spend benevolently out of what We have given them; and who believe in that which has been revealed to thee and that which was revealed before thee, and of the Hereafter they are sure. These are on a right course from their Lord, and these it is that shall be successful" (2:3-5). The main principles of Islam, as laid down here, are five, three theoretical and two practical. The three theoretical essentials are belief in God, in Divine revelation and in the Hereafter; and the two practical are, keeping up prayer and spending out of what God has given to man.) The first of these, which has already been discussed in the last chapter, *i. e.* prayer, is the means of the realization of the Divine in man, while the second, or spending out of whatever has been given to man, stands for charity in a broad sense, *i. e.*, for all acts of benevolence and doing good to humanity in general. For, what God has given to man is not only the wealth which he possesses, but the very faculties and powers with which he has been gifted.

That benevolence, or the doing of good to man, is one of the two mainstays of religion, is a constant theme of the Holy Qur'an, but I will quote only one verse more. Speaking of the Jewish and Christian claims to salvation, on the basis of certain dogmas, the Holy Book says :

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“ And they say, None shall enter Paradise except he who is a Jew or the Christians. These are their vain desires. Say, Bring your proof if you are truthful. Yea ! whoever submits himself entirely to Allāh and he is the doer of good to others, he has his reward from his Lord, and there is no fear for them nor shall they grieve ” (2 : 111, 112). In this verse submission to Allāh takes the place of keeping up prayer, and the doing of good to humanity that of spending out of what has been given to man. Thus, theoretically, Islām means a belief in God, in Divine revelation and in the Hereafter, and practically it means the realization of the Divine in man by prayer, or entire submission to God, and the service of humanity. The numerous ordinances relating to various aspects of life, whether contained in the Holy Qur’ān or in the Sunna of the Holy Prophet, are only offshoots of these two practical essentials of religion.

The relation in which prayer stands to charity is

Prayer is useless if it does not lead to charity. made clear by the order in which the two are mentioned. It should be noted that when prayer and charity are spoken of together, and this combination is of frequent occurrence in the Holy Qur’ān, prayer always takes precedence of charity. Does that mean that greater importance is attached to prayer? In this sense only that prayer prepares a man for the service of humanity. To discover the underlying idea we will return to the verse which speaks of the five basic principles of Islām. It will be seen that a belief in the Unseen is immediately followed by an injunction to keep up prayer, and this again by another to do acts of benevolence. This is to show the natural order. Belief in the Unseen is the starting point of man’s spiritual progress. But this would lead to no good if the next step, the seeking of communion with the Unseen through prayer, does not follow. And

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this again is meaningless if it does not lead to acts of benevolence. Prayer, therefore, is the first step because it leads to the second, that is, charity. This is elsewhere made plain: "Woe to the praying ones, who are unmindful of their prayers, who make a show (of prayers) and withhold acts of charity" (107 : 4-7).

The most frequently recurring words for charity are

Conception of charity *infāq*¹ which means *spending benevolently*, *ihsān* which means *the doing of good*, *zakāt* which means *growth* or *purification*, and *ṣadaqa* which is derived from the root *ṣdq*, meaning *truth*, and comes to signify a *charitable deed*. The very words used to denote charitable deeds are an indication of the broadness of its conception. The Holy Qur'an not only lays stress on such great deeds of charity as the emancipation of slaves (90 : 13 ; 2 : 177), the feeding of the poor (69 : 34 ; 90 : 11-16 ; 107 : 1-3), taking care of orphans (17 : 34 ; 76 : 8 ; 89 : 17 ; 90 : 15 ; 93 : 9 ; 107 : 2) and doing good to humanity in general, but gives equal emphasis to smaller acts of benevolence. It is for this reason that the withholding of *ma'ūn* (107 : 7), which specially indicates *small acts of charity*, is stated to be against the spirit of prayer. And in a similar strain, the speaking of a kind word to parents is referred to as *ihsān* in 17 : 23, and generally the use of kind words is recommended as in itself a charitable deed in 2 : 83, 4 : 8 and other places.

Hadith is much more explicit. To remove from the road anything which may cause hurt is called a *ṣadaqa* or a charitable deed (Bu. 46 : 24). According to another hadith, "there is a *ṣadaqa* (charity) on every limb with every new sun, and to do justice among people is

1. The words *fī sabīl Allāh* (meaning *in the way of Allāh*) are sometimes added to the derivatives of *infāq* in the Holy Qur'an, but the significance is the same, even when the word is used without this addition.

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also a charity" (Bu. 53:11). Another gives yet more detail: "On every limb there is a *ṣadaqa* (charity) every day; a man helps another to ride his animal, it is a charity; or he helps him to load his animal, this is also a charity; and so is a good word; and every step, which a man takes in going to pray, is a charity; and to show the way is a charity" (Bu. 56: 72, 128). Examples of other charitable deeds are, "your salutation to people," "your enjoining what is right and forbidding what is wrong" (Ah. II, p. 329), "refraining from doing evil to any one" (Ah. IV, p. 395), and so on. The circle of those towards whom an act of charity may be done is equally wide. To give food to one's wife or one's children is called a charitable deed, while to maintain even one's self is not excluded from the category of charitable deeds: "The Holy Prophet said, Whatever you feed yourself with is a charity, and whatever you feed your children with is a charity, and whatever you feed your wife with is a charity, and whatever you feed your servant with is a charity (Ah. IV, p. 131). The doing of good to the dumb creation is also called a charity? "Whoever tills a field and birds and beasts eat of it, it is a charity" (Ah. IV, p. 55). The Holy Qur'ān also speaks of extending charity not only to all men including believers and unbelievers (2 : 272), but also to the dumb creation (51 : 19).

Charity, in the sense of giving away one's wealth, is of two kinds, voluntary and obligatory. Voluntary charity is generally mentioned in the Holy Qur'ān as *inḥāq* or *iḥsān* or *ṣadaqa*, and though the Holy Qur'ān is full of injunctions on this subject, and hardly a leaf is turned which does not bring to the mind the grand object of the service of humanity as the goal of man's life, it is specially dealt with in the 36th and 37th sections of the second chapter. The reward of charity is first spoken of :

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“ The parable of those who spend their wealth in the way of Allāh is as the parable of a grain growing seven ears with a hundred grains in every ear ; and Allāh multiplies it for whom He pleases ” (2 : 261).

A charitable deed must be done as a duty which man owes to man, so that it conveys no idea of the superiority of the giver or the inferiority of the receiver :

“ As for those who spend their wealth in the way of Allāh, then do not follow up what they have spent with reproach or injury, they shall have their reward from their Lord

“ Kind speech and forgiveness is better than charity followed by injury.....

“ O you who believe ! do not make your charity worthless by reproach and injury ” (2 : 262-264).

Love of God should be the motive in all charitable deeds, so that the very doing of them fosters the feeling that all mankind is but a single family :

“ And they give food out of love for Him to the poor and the orphan and the captive ” (76 : 8).

“ And give away wealth out of love for Him to the near of kin and the orphans and the needy and the wayfarer and the beggars and for the emancipation of captives ” (2 : 177).

“ And the parable of those who spend their wealth to seek the pleasure of Allāh and for the certainty of their souls, is as the parable of a garden on an elevated ground ” (2 : 265).

Only good things and well-earned wealth should be given in charity :

“ O you who believe ! give in charity of the good things that you earn and of what We have brought forth for you out of the earth, and do not aim at giving what is bad, in charity ” (2 : 267).

Charitable deeds may be done openly or secretly :

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“ If you give alms openly, it is well, and if you hide it and give it to the poor, it is better for you ” (2 : 271).

Those who do not beg should be the first to receive charity :

“ For the poor who are confined in the way of Allāh, they cannot go about in the land ; the ignorant man thinks them to be rich on account of their abstaining from begging ” (2 : 273).

Obligatory charity is generally mentioned under the name *zakā* or *zakāt*, but it is sometimes called a *ṣadaqa*, specially in Hadīth. The word *zakāt* is derived from *zakā*, which means *it* (a plant) *grew*. The other derivatives of this word, as used in the Holy Qur’ān, carry the sense of *purification from sins*. The Holy Prophet is again and again spoken of as *purifying* those who would follow him (*yuzakkī-him*, or *yuzakkī-kum*) (2 : 129, 151 ; 3 : 163 ; 9 : 103 ; 62 : 2), and the purification of the soul is repeatedly mentioned as being real success in life (91 : 9 ; 92 : 18). The word *zakāt* is also used in the sense of purity from sin. Thus of John it is said : “ And We granted him wisdom while yet a child, and tenderness from Us and purity (*zakāt*) ” (19 : 12, 13). And on another occasion, one child is spoken of as being “ better in purity (*zakāt*) ” than another (18 : 81). The idea of purity, and that of the growth of human faculties and success in life, are thus connected together. According to Raghīb, *zakāt* is wealth which is taken from the rich and given to the poor, being so called because it makes wealth grow, or because the giving away of wealth is a source of purification. In fact both these reasons hold true. The giving away of wealth to the poorer members of the community, while, no doubt, a source of blessing to the individual, also increases the wealth of the community as a whole, and at the same time it purifies the giver’s heart of the

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inordinate love of wealth which brings numerous sins in its train. The Holy Prophet himself has described zakāt as wealth “which is taken from the rich and returned to the poor” (Bu. 24 : 1)

The two commandments, to keep up prayer and to give zakāt, often go together, and this combination of the two is met with in the earliest chapters of the Holy Qur’ān, as well as in those which were revealed towards the end of the Holy Prophet’s life. Thus in ch. 73, which is undoubtedly one of the very earliest revelations, we have : “ And keep up prayer and pay the zakāt and offer to Allāh a goodly gift ” (73 : 20). And in the ninth chapter, which is the latest in revelation, we have : “ Only he shall visit the mosques of Allāh who believes in Allāh and the last day and keeps up prayer and pays the zakāt and fears none but Allāh ” (9 : 18). Not only are ṣalāt and zakāt mentioned together in a large number of passages,¹ but these two are also treated as being the basic ordinances of the religion of Islām, and their carrying into practice is often mentioned as being sufficient indication that one is a believer in the religion of Islām. The two verses quoted above point to the same conclusion, and I add a few more :

“ And they are not enjoined anything except that they should serve Allāh, being sincere to Him in obedience, upright, and keep up prayer and pay the zakāt, and that is the right religion ” (98 : 5).

“ These are verses of the Book of wisdom, a guidance and a mercy for the doers of good, those who keep up prayer and pay the zakāt and they are certain of

1. Klein says : “ It is mentioned in eighty-two passages of the Qur’ān in close connection with prayer ” (RI. p.156, f.n.). I have not been able to trace the combination of ṣalāt and zakāt in more than 27 passages. But there are a few more passages in which prayer to God and the idea of charity in general are mentioned together.

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the Hereafter" (31 : 2-4).

" But if they repent and keep up prayer and pay the zakāt, they are your brethren in faith " (9 : 11).

Ṣalāt and zakāt are also spoken of together as the

Zakāt as the basic principle of every religion. basic ordinances of the religion of every prophet. Thus of Abraham and his posterity, it is said: " And

We made them leaders who guided people by Our command, and We revealed to them the doing of good and the keeping up of prayer and the giving of zakāt " (21 : 73). The Israelite law is also said to have contained a similar commandment: " And Allāh said, Surely I am with you ; if you keep up prayer and pay the zakāt and believe in My apostles and assist them and offer to Allāh a goodly gift, I will certainly cover your evil deeds, and I will certainly cause you to enter gardens in which rivers flow " (5 : 12). Ishmael is also spoken of as giving the same commandment to his followers: " And he enjoined on his followers prayer and zakāt, and he was one in whom his Lord was well-pleased " (19 : 55). Even Jesus is said to have received a similar Divine commandment: " And He has enjoined on me prayer and zakāt so long as I live " (19 : 31).¹

This view of religion shows that, according to the Holy Qur'an, the service of humanity and the amelioration of the condition of the poor has always been among the principal aims and objects of religion. It is however true that the same stress has not been laid on this principle in the previous religions, and, moreover, the institution of zakāt, like every other principle of religion,

1. The words, *so long as I live*, establish conclusively that Jesus is dead, because zakāt can only be given by one who is in possession of worldly wealth, and of Jesus it could not be said that he was in possession of wealth in heaven, and even if it were so there was none there to receive the zakāt.

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has been brought to perfection, along with the perfection of religion, in Islām.

One of the greatest problems facing humanity is

Problem of the distribution of wealth. undoubtedly the problem of the distribution of wealth, with which is also bound up the question of political power. The system of capitalism which is the foundation-stone, so to say, of the materialistic civilization of modern Europe, has led to the concentration of wealth in fewer and fewer hands and to the growing impoverishment of the masses. Political power has followed in the wake of wealth, and at the bidding of the capitalist the politician has to declare peace and war. The insatiable thirst for wealth on the part of the capitalists, who are the real controllers of political power, has reduced many nations of the world to a state of slavery, and regular plunder has been legalized under different high-sounding phrases such as colonization, occupation, mandate, sphere of influence, and so on. The Great Powers are only great capitalists on a national scale. They can afford to reduce other nations to the beggary to which the masses in their own countries are reduced.

The reaction against capitalism set in towards the middle of the nineteenth century. It came under the name of Socialism and gradually developed into what is now known as Bolshevism. It holds Russia in its grip, perhaps as severely as capitalism still holds other European countries. Whether, in Russia, it has come to stay is a question which only the future can decide. But there is one thing that strikes one as very strange. Bolshevism, which had come in to liberate the people, is as much of a bondage as capitalism. The autocracy of Czardom has only given place to the autocracy of the Soviet. Government by proletariat differs but little from the democratic government of the capitalist countries.

The question before us however is, has Bolshevism,

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by state-ownership of Industry, finally solved the great problem of the distribution of wealth? Five, nay, ten years are but as one moment or even less in world-history. To say that because the five years plan has accelerated production to an extent which could hardly be imagined, and that therefore the state-ownership of Industry is the solution of the problem, is to show over-hastiness in drawing a conclusion. Who knows that the people entrusted with the carrying out of the scheme, the state-agents, may not tomorrow degenerate into an oligarchy similar to the oligarchy of capitalism? Human nature is too prone to these tendencies, and Bolshevism offers hardly any remedy to check such tendencies. But there is more than this. Bolshevism which came as the friend of labour defeats its own end by denying to labour its fruits. The rigid system of doling out the necessaries of life to all alike, to the indolent and the hard worker, the stupid and the intelligent, will undoubtedly foster conditions which must soon become unbearable for humanity; for it is going directly against nature and nature's recognized laws. But its evil results cannot be seen in a day.

To Islām is due the credit of not only solving the Islām's solution of wealth problem but, at the same wealth problem. time, developing the higher sentiments and building up character, on which alone can be laid the foundations of a lasting civilization for the human race. The rigid laws of Bolshevism, which give the body sufficient to live on, are killing the higher sentiments of human sympathy and love, qualities which not only make life worth living but lacking which humanity must degenerate into the worst barbarism. Islām accomplishes both objects by its state institution of charity, which goes under the name of zakāt or poor-rate. Every possessor of wealth in the Islamic commonwealth

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is required to contribute annually one-fortieth of his wealth to a common fund, which is managed by the state, or by the Muslim community where there is no Muslim state, and this fund is utilized by the state or community for the amelioration of the condition of the poor. Zakāt, therefore, acts not only as a levelling influence, but also as a means of developing the higher sentiments of man, the sentiments of love and sympathy towards his fellow-man; while the rigid system of state-ownership and equality of distribution helps to kill man's higher instincts. By this means, too, wealth is made to circulate in the body-politic of Islām, just as blood circulates in a living organism, a fixed portion of the wealth of the richer members being drawn to the centre, whence it is sent forth to those parts of the body-politic which need it most. The institution of zakāt thus becomes not only a levelling influence but also means for the upliftment of the nation as a whole.

It should be borne in mind that zakāt is not simply obligatory charity. It is a state institution. Zakāt is a state institution or where there is no Muslim state, a national institution. The individual is not at liberty to calculate and spend his zakāt as he likes. It must be collected by the state or on a national basis, and spent by the state or community. Where the Holy Qur'an describes the main heads of the expenditure of zakāt, it mentions an item of expenditure on officials appointed to collect and distribute the same, which shows clearly that, by the institution of zakāt, it contemplated either a department of the state or at least a public fund managed entirely by a public body. The donor is not required to give a certain portion of his savings to deserving persons, but to contribute the same to a fund which must be used for the upliftment of the community. It was in this sense that the Holy Prophet

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understood it, and when he assumed control of the government, he made zakāt a state institution, appointing officials to collect it and directing his governors to do the same in distant provinces, as in the case of Mu'adh who was appointed Governor of Yaman (Bu. 24 : 1). Abū Bakr followed in the footsteps of the Holy Prophet when he declared war against some of the tribes which had refused to send their zakāt to the state treasury, adding: "Zakāt is the right (of the state or community) in the wealth (acquired by an individual), and by Allah, if they refuse to make over even one lamb which they used to make over to the Holy Prophet, I will fight with them" (Bu. 24 : 1).

Though injunctions relating to zakāt are met with Property on which zakāt is payable. in very early revelations, the details were given only after Islām was established at Madīna. Silver and gold are the two commodities which man has always loved to hoard, and besides this they are the two precious metals which are the basis of the currencies of the world. These two therefore find special mention as being articles on which zakāt must be paid. Ornaments made of silver or gold were treated as silver or gold. And cash, whether in the form of coins or notes or bank deposits, would follow the same rule. Precious stones were excepted from zakāt, because in taking a part, in this case, the whole would have to be destroyed or deteriorated. Articles of merchandise were also considered as being subject to zakāt to whatever class they may belong.¹ Animals used for trade purposes were subject

1. There is almost a consensus of opinion on this matter. Bukhārī mentions no ḥadīth on this point, but the heading of one of his chapters, the 29th, in the book of Zakāt is as follows: "The ṣadaqa (zakāt) of kasb (what is earned) and tijāra (merchandise)" (Bu. 24 : 29). He is unable, however, to find a ḥadīth supporting it, and contents himself with quoting the following verse of the Holy Qur'an: "O you who

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to zakāt only if they were kept on pastures belonging to the state. There is no mention of immovable property, such as agricultural lands and house property, among the things on which zakāt was levied, but the produce of land, whether cereals or fruits, was subject to a tax called '*uṣhr*', literally, the tenth part. It has been treated as zakāt; actually, however, it falls within the category of land revenue. Vegetables are excepted from zakāt (Tr. 5 : 13). Since zakāt is a tax on property, therefore it is realizable though the property may belong to a minor. According to a ḥadīth, the Holy Prophet is reported to have said: "Whoever is the guardian of an orphan, he should do trading by his property, and should not allow it to lie idle so that it may come to an end by the payment of zakāt" (Tr. 5 : 15).

Zakāt was an annual charge on property which remained in the possession of a person for a whole year, when its value reached a certain limit, called the niṣāb. Niṣāb differed with different kinds of property, the most important being 200 dirhams or 52½ tolas (nearly 21 oz.)

believe! give in charity of the good things that you earn and of what We have brought forth for you out of the earth" (2 : 267). It may, however, be noted that this verse refers to voluntary gifts. Abū Dāwūd mentions a ḥadīth from Sumra ibn Jundub: "The Holy Prophet used to command us that we should pay zakāt out of what we had for sale" (AD. 9 : 31). Some have questioned the authenticity of this ḥadīth, but it is supported by other ḥadīth. For instance, there is a ḥadīth reported by Dār Quṭnī and Ḥākam, according to which the Holy Prophet mentioned *bazz* (cloth for sale) as being one of the things on which zakāt was payable. According to another, also reported by Dār Quṭnī, the Caliph 'Umar ordered a certain man who was carrying on trade in skins, to pay the zakāt by having the price estimated. There is also a ḥadīth in *Baiḥaqī*, according to which Ibn 'Umar said that in '*arṣād*' (commodities other than gold and silver), there was no zakāt unless they were meant for trade (AM-AD. II, p. 4). The last-mentioned ḥadīth is also reported by Abū Dharr (Ah. V, p. 199).

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in the case of silver, and twenty *mithqāls* or $7\frac{1}{2}$ tolas (nearly 3 oz.) in the case of gold. The *niṣāb* of cash was the same as that of silver or gold, according as the cash was held in silver or gold. In the case of merchandise of all kinds, the value was calculated on the basis of, and the *niṣāb* was judged by, the silver standard. In the case of ornaments, the *niṣāb* was that of silver if the ornaments were made of silver, and that of gold if they were made of gold.) But jewels and the like would be excepted, and only the weight of silver or gold would be considered in determining the *niṣāb*. (In the case of animals, the *niṣāb* was, for camels five, for bulls or cows thirty, for goats forty. In the case of horses, no particular *niṣāb* is mentioned, but as *zakāt* in this case was judged by the price, the *niṣāb* must also be judged by the same standard.) In the case of cereals, the *niṣāb* was five *wasāq* which, according to two different calculations, comes to twenty-six maunds and ten seers, or eighteen maunds and thirty-five and a half seers, or nearly a ton in the first case, and about two-thirds of a ton in the second.¹

(With the exception of animals, *zakāt* was levied at

Rate at which *zakāt* almost a uniform rate, being $2\frac{1}{2}$ must be paid. per cent. of the accumulated wealth.

In the case of animals, specially of camels and sheep, detailed rules were laid down, and animals of a particular age were taken as *zakāt* when the herd reached a specified number.² A perusal of the rates given in the

1. The difference arises from the measure of *ṣā'* which, according to the people of 'Irāq, is eight *raṣl* in weight, and according to the people of Ḥijāz, five and one-third *raṣl*.

2. In the case of camels, the rule laid down was as follows: "One goat for five camels, and after that, one for each additional five or part of five, up to 24. When the number reached 25, a young she-camel, one year old, sufficed up to 34. For 35 to 45, the age was raised to two years; for 46 to 60, to three years; for 61 to 75, to four years. For 76 to 90, two young she-camels of the age of two years were given as

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foot-note would show that, though there is a slight variation, yet in the main, the rate of $2\frac{1}{2}$ per cent. seems to have been kept in view. The case of one full-grown cow out of every forty cows, one she-camel, two years old, out of every forty camels, and one goat out of forty goats, makes this clear.

The case of treasure trove, out of which one-fifth was taken, is quite a different matter, and can hardly fall within the category of zakāt, since it cannot be said to be a thing which has remained in the full possession of the owner for one year. In such circumstances, where any other government would take the whole treasure, the Muslim state takes only a fifth. The case of '*ushr*', as already stated, is not technically zakāt; it is really land revenue. The state takes only one-tenth of the produce of agricultural land when it is grown with the aid of rain water or natural springs, and one-twentieth when irrigated by wells or other artificial means in which labour is engaged by the owner of the land (IM. 8 : 17). Considering the high rates of land revenue and canal irrigation prevalent in this country, the agriculturist pays a very small sum in the form of '*ushr*' under the Muslim government.

It will thus be seen that zakāt proper is only a charge on accumulated wealth, and is intended to do away with the

Zakāt under modern conditions.	charge on accumulated wealth, and is intended to do away with the
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zakāt; for 91 to 124, two of the age of three years, and after that one she-camel of the age of two years for every forty camels, or one of the age of three years for every fifty camels, was to be added. In the case of goats and sheep, the zakāt was one goat or sheep for 40 to 120, two for 121 to 200, three for 201 to 300, and after that one for each hundred or part of hundred (Bu. 24 : 38.) In the case of cows, one year old calf for every thirty cows, and a two year old one for every forty, is the rule laid down in a ḥadīth (Tr. 5 : 5). According to Bukhārī (Bu. 24 : 45), horses are exempt from zakāt. The reason appears to be that they were needed in time of war. Later jurists however consider horses to be taxable according to their value at the rate of $2\frac{1}{2}$ p. c. (H. I, p. 173).

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inequalities of capitalism. Wealth has a tendency to accumulate, and zakāt aims at its partial re-distribution in such a manner that the community, as a whole, may derive advantage from it. A part of the amassed wealth or capital of every individual is taken away annually and distributed among the poor and the needy. Zakāt would therefore be payable on all cash hoardings, or hoardings in gold or silver, as well as on any form of capital, whether in shape of cash or kind. Precious stones, as already stated, are excepted, because the payment of zakāt on them would necessitate their sale. Machinery employed in industry must follow the same rule. It should, in fact, be regarded in the same light as the implements of an artisan, and its earnings become taxable when the necessary conditions as to the assessment of zakāt are fulfilled. Stock in trade should be treated in a similar manner; that is to say, only the yearly profit should be taxable, not the stock itself. In the case of all things on which zakāt is payable, whether cereals, live-stock or other articles of merchandise, their value should be determined, and zakāt levied at the universal rate of $2\frac{1}{2}$ per cent. As most of the Muslims are living under non-Muslim governments, and the collection and disbursement of zakāt cannot be undertaken by these governments, the duty devolves on the Muslim community as a whole, and the institution of zakāt must take the shape of a national Muslim institution in every country where there is a Muslim population.

How zakāt should be spent.

The items of the expenditure of zakāt are thus expressly stated in the Holy Qur'an :—

“ Alms (*sadaqāt*) are only for the poor (*fugarā'*), and the needy (*masākin*), and the officials appointed over them, and those whose hearts are made to incline

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to truth (*al-mu'allafati qulūbu-hum*), and captives, and those in debt, and in the way of Allāh, and the wayfarer : an ordinance (*farīdza*) from Allāh, and Allāh is Knowing, Wise " (9 : 60).) As already noted, zakāt is sometimes mentioned under the name of *ṣadaqa*. That this is the significance of *sadaqāt* here is made clear by the concluding words of the verse, where it is called a *farīdza*, or an obligatory duty, which word is applicable to zakāt only. The eight heads of expenditure spoken of here may be divided into three classes. The first relates to those who stand in need of help, including the poor, the needy, those whose hearts are made to incline to truth, captives, debtors and the wayfarer. Secondly, there are the officials appointed for collection and disbursement of the fund. And thirdly, a part of the zakāt is required to be spent in the way of Allāh. A few words of explanation may be added as regards each class.

It will be seen that six kinds of people fall under the first head. The first are *fuqarā'*, pl. of *faqīr*, derived from *faqr* which means *the breaking of the vertebrae of the back*, and *faqīr* therefore means literally *a man who has the vertebrae of his back broken* or *one afflicted by a calamity* (LL.). Apparently it refers to disabled people who, on account of some defect, are unable to earn their living. The second are *masākīn*, pl. of *miskīn*, which is derived from *sakana* meaning *it became still* or *motionless*. *Miskīn* therefore signifies *one caused by poverty to have little power of motion* (LL.). There exists a good deal of difference as to the real distinction between the two words *faqīr* and *miskīn* ; but, keeping the literal significance in view, the real distinction appears to be that *faqīr* is one who is disabled from earning on account of some physical disability, while *miskīn* is one who, though fit to earn sufficient, is unable to do so on account of poverty or lack of resources.

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The *miskīn* is the needy man who if given a little help can earn livelihood for himself. The unemployed would fall in this category.

These are the two chief classes for whose benefit the institution of *zakāt* is maintained, and hence they are separated from others by a mention of the establishment. The other groups falling in this class are also of persons who stand in need of help for some sufficient reason. There are *al-mu'allafati qulūbu-hum*, those whose hearts are made to incline to truth, that is, people who are in search of truth but unable to find means to have access to it on account of poverty. In this category would also fall new converts to Islām who are deprived of the means of their subsistence because of their conversion. Then there are the captives, or those who have been deprived of their liberty, and are unable to regain it by their own exertion. The freeing of slaves falls in this category. Then there are the debtors who are unable to pay their own debts, and, lastly, there are the travellers who are stranded in a foreign country or in a distant place, and are unable to reach their homes.

There are two other heads of expenditure of *zakāt*, the first of which is the maintenance of an establishment and office for the collection of *zakāt*. This shows that *zakāt* was meant to be collected at some central place, and then distributed, and the maintenance of people who did this work was a charge under this head. The Holy Qur'ān, therefore, does not allow the giving away or spending of *zakāt* according to the individual's choice.¹

1. There is a *ḥadīth* which states that the Holy Prophet allowed one-third of the *zakāt* to be spent by an individual for those whom he thought fit to receive the *zakāt*. He is reported to have said : " When you estimate, leave one-third ; if you do not leave one-third, then leave one-fourth " (AD. 9 : 14). Explaining this *ḥadīth*, Imām Shāfi'ī says that the one-third or one-fourth was to be left, so that the person from whom the *zakāt*

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The collection of zakāt, in spite of the remuneration paid for it, is regarded as an act of merit, and according to one ḥadīth, the collector of zakāt is equal in merit to one who takes part in jihād or in a war to defend religion (AD. 19 : 6 ; Tr. 5 : 18).

The establishment charge being a corollary of the

Zakāt may be spent in defence and propagation of Islām.

nationalization of the institution of zakāt, the only item of expenditure besides the help of those in need, for

one reason or another, is, what is called, *fī sabīli-llah*, or *in the way of Allah*, which is accepted generally as meaning *warriors defending the faith* (IJ-C. X, p. 100). While such warriors are undoubtedly the most important national need of a community, it is equally true that they are an exception and not the rule, and hence the significance of the words *fī sabīli-llah* cannot be limited to them. But there is another paramount need of the Muslim community which is called *jihād kabīr*, or the *great jihād*, in the Holy Qur'an : " And if We had pleased, We would have raised a warner in every town. So do not follow the unbelievers, and strive against them a mighty striving (*jihād-an kabīr-an*) with it" (25 : 51-52). The personal pronoun *it*, as the context clearly shows, refers to the Holy Qur'an, and therefore striving with the Holy Qur'an, or taking the message of the Holy Qur'an to distant corners of the world, is the greatest jihād of Islām. And the item of expenditure *fī sabīli-llah* therefore refers to both these paramount needs of national existence, that is, wars to defend religion and the propagation of Islām, the latter being the greatest need of this age. Hence it will be seen that the institution of zakāt, while chiefly aiming at the amelioration of the condition of the poor, and redressing was taken should spend the portion left on his relatives or neighbours as he desired (AM-AD. 9 : 15).

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the wrongs inflicted by capitalism, has also in view the defence and advancement of the Muslim community as a whole.

Zakāt, though the most important, is not, however, the only, national institution of charity built up by Islām. There are two others of a similar nature, both connected with the 'Id festivals; whereby into every Muslim heart is instilled the idea that even when in his happiest mood, he must never forget the distress of his poorer brethren. The first of these institutions is the *ṣadaqa al-Fiṭr* or *sakāt al-Fiṭr*, i.e., charity connected with the 'Id al-Fiṭr. Every Muslim on that occasion is required to give away in charity a certain measure of food, whose value generally varies between 3 to 4 annas. This sum must be collected by every Muslim community and then distributed among those who deserve it.¹ The second institution is connected with the 'Id al-Adḡā, on which occasion not only are the poorer members of the community fed with the meat of the sacrificed animals, but the skins of those animals (and also dried meat, in case the supply is greater than the demand) are sold, and the sum thus realized spent on some charitable object of national value, such as the propagation of Islām.

1. It has already been shown, in the chapter on 'Id prayers, that the Fiṭr charity was collected and then distributed; and here too the choice was not with the individual but with the community.

CHAPTER III.
 ŞAUM OR FASTING

The primary signification of *şaum* is *abstaining*, in an absolute sense (*al-imsāku 'ani-l-fi'l*), and includes abstaining from eating or speaking or moving about; thus a horse that abstains from moving about, or from fodder, is said to be *şa'im*, and wind is said to be *şaum* when it abates, and the day when it reaches the mid point (R.). In the sense of abstaining from speech, the word is used in the Holy Qur'an in an early Makka revelation: "Say, I have vowed a fast to the Beneficent God, so I shall not speak to any man to-day" (19 : 26). In the technical language of the Islamic law, *şaum* and *şiyām* signify *fasting* or abstaining from food and drink and sexual intercourse from dawn till sunset.

The institution of fasting in Islām came after the institution of prayer. It was in Madīna in Islām. in the second year of Hijra that fasting was made obligatory, and the month of Ramadzan was set apart for this purpose. Before that the Holy Prophet used to fast, as an optional devotion, on the tenth day of Muḥarram, and he also ordered his followers to fast on that day, it being a fasting day for the Quraish as well, according to 'Ā'isha (Bu. 30 : 1). The origin of fasting in Islām may thus be traced to the time when the Holy Prophet was still at Makka; but, according to Ibn 'Abbās, it was after his flight to Madīna that he saw the Jews fasting on the tenth day of Muḥarram; and being told that Moses had kept a fast on that day in commemoration of the delivery of the Israelites from Pharaoh, he remarked that they (the Muslims) were nearer to Moses

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than the Jews and ordered that day to be observed as a day of fasting (Bu. 30 : 69).

In the Holy Qur'an, the subject of fasting is dealt with only in one place, that is, in the 23rd section of the second chapter; though there is mention on other occasions of fasting by way of expiation, or *fiḍya*, in certain cases. This section opens with the remark that the institution of fasting is a universal one. "O you who believe! fasting is prescribed for you as it was prescribed for those before you, so that you may guard against evil" (2 : 183). The truth of the statement made here—that fasting "was prescribed for those before you"—is borne out by a reference to religious history. The practice of fasting has been recognized well-nigh universally in all the higher, revealed, religions, though the same stress is not laid on it in all, and the forms and motives vary. "Its modes and motives vary considerably according to climate, race, civilization and other circumstances; but it would be difficult to name any religious system of any description in which it is wholly unrecognized" (En. Br. art. *Fasting*). Confucianism is, according to the writer in the *Encyclopædia Britannica*, the only exception. Zoroastrianism, which is sometimes mentioned as another exception, is stated as enjoining, "upon the priesthood at least, no fewer than five yearly fasts." Present-day Christianity may not attach much value to religious devotions of this sort, but not only did the Founder of Christianity himself keep a fast for forty days and observe fasting on the Day of Atonement like a true Jew, but also commended fasting to his disciples: "Moreover when ye fast, be not as the hypocrites, of a sad countenance But thou, when thou fastest, anoint thine head, and wash thy face" (Mt. 6 : 16, 17). It appears that his disciples did fast, but not as often as did those of the Baptist, and when

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questioned on that point, his reply was that they would fast more frequently when he was taken away (Lk. 5 : 33—35). The early Christians also are spoken of as fasting (Acts 13 : 2, 3 ; 14 : 23). Even St. Paul fasted (II. Cor. 6 : 5 ; 11 : 27).

Cruden's remark in his *Bible Concordance* that fast-
New meaning intro- ing in all nations was resorted to
duced by Islām. "in times of mourning, sorrow and
afflictions" is borne out by facts. Among the Jews generally, fasting was observed as a sign of grief or mourning. Thus, David is mentioned as fasting for seven days during the illness of his infant son (II Sam. 12 : 16, 18); and, as a sign of mourning, fasting is mentioned in I Sam. 31 : 13 and elsewhere. Besides the Day of Atonement, which was prescribed by the Mosaic law as a day of fasting (Lev. 16 : 29)—the people being required to "afflict" their souls while the priest made an atonement for them to cleanse them of their sins—, various other fast-days came into vogue after the Exile "in sorrowful commemoration of the various sad events which had issued in the downfall of the kingdom of Judah" (En. Br.). Four of these became regular fasting-days, "commemorating the beginning of the siege of Jerusalem, the capture of the city, the destruction of the temple and the assassination of Gedaliah" (*Ibid*). Thus it was generally some trouble or sad event of which the memory was kept up by a fast. Moses' fasting for forty days—which example was later followed by Jesus Christ—seems to be the only exception, and the fast, in this case, was kept preparatory to receiving a revelation. Christianity did not introduce any new meaning into the fast; Christ's words, that his disciples would fast oftener when he was taken away from their midst, only lend support to the Jewish conception of the fast, as connected with national grief or mourning.

The idea underlying this voluntary suffering in the

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form of a fast in times of sorrow and affliction seems to have been to propitiate an angry Deity and excite compassion in Him. The idea that fasting was an act of penitence seems gradually to have developed from this, as an affliction or calamity was considered to be due to sin, and fasting thus became an outward expression of the change of heart brought about by repentance. It was in Islām that the practice received a highly developed significance. It rejected *in toto* the idea of appeasing Divine wrath or exciting Divine compassion through voluntary suffering and introduced in its place regular and continuous fasting, irrespective of the condition of the individual or the nation, as a means, like prayer, to the development of the inner faculties of man. Though the Holy Qur'an speaks of expiatory or compensatory fasts in certain cases of violation of the Divine law, yet these are quite distinct from the obligatory fasting in the month of Ramadzān, and are mentioned only as an alternative to an act of charity, such as the feeding of the poor or freeing of a slave. Fasting, as an institution, is here made a spiritual, moral and physical discipline of the highest order, and this is made clear by changing both the form and the motive. By making the institution permanent, all ideas of distress, affliction and sin are dissociated from it, while its true object is made plain, which is "that you may guard (*tattaqūn*)."
The word *ittiqa*, from which *tattaqūn* is derived, means *the guarding of a thing from what harms or injures it, or the guarding of self against that of which the evil consequences may be feared* (R.). But besides this, the word has been freely used in the Holy Qur'an in the sense of fulfilment of duties, as in 4:1 where *arḥam* (ties of relationship) occurs as an object of *ittaqu*, or, as generally in *ittaqu-llah* where Allāh is the object of *ittaqu*, and therefore the significance of *ittiqa* in all these cases is a

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fulfilment of obligations. In fact, in the language of the Holy Qur'an, to be a *muttaqī* is to attain to the highest stage of spiritual development. "Allāh is the friend of the *muttaqīn*" (45 : 19); "Allāh loves the *muttaqīn*" (3 : 75; 9 : 4, 7); "Allāh is with the *muttaqīn*" (2 : 194; 9 : 36, 123); "The good end is for the *muttaqīn*" (7 : 128; 11 : 49; 28 : 83); "For the *muttaqīn* is an excellent resort" (38 : 49)—these and numerous similar passages show clearly that the *muttaqī*, according to the Holy Qur'an, is the man who has attained to the highest stage of spiritual development. And as the object of fasting is to be a *muttaqī*, the conclusion is evident that the Holy Qur'an enjoins fasting with the object of making man ascend the spiritual heights.

Fasting, according to Islām, is primarily a spiritual discipline. On two occasions in the Holy Qur'an (9 : 112; 66 : 5), those who fast are called *ṣā'ih* (from *ṣaha* meaning *he travelled*) or spiritual wayfarers; and according to one authority, when a person refrains, not only from food and drink, but from all kinds of evil, he is called a *ṣā'ih* (R.). In speaking of *Ramadzān*, the Holy Qur'an specially refers to nearness to God, as if its attainment were an aim in fasting, and then adds: "So they should answer My call (by fasting) and believe in Me, so that they may find the way (to Me)" (2 : 186). In *Ḥadīth* too, special stress is laid on the fact that the seeking of Divine pleasure should be the ultimate object in fasting: "Whoever fasts during *Ramadzān*, having faith in Me and seeking My pleasure" (Bu. 2 : 28). "The Prophet said, Fasting is a shield, so the faster should not indulge in foul speech and surely the breath of a fasting man is pleasanter to Allāh than the odour of musk; he refrains from food and drink and other desires to seek My pleasure : fasting is for Me only" (Bu. 30 : 2).

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No temptation is greater than the temptation of satisfying one's thirst and hunger when drink and food are in one's possession, yet this temptation is overcome, not once or twice, as if it were by chance, but day after day regularly for a whole month, with a set purpose of drawing closer and closer to the Divine Being. A man can avail himself of the best diet, yet he prefers to remain hungry; he has the cool drink in his possession, yet he is parching with thirst; he touches neither food nor drink, simply because he thinks that it is the commandment of God that he should not do so. In the inner recesses of his house there is none to see him if he pours down his dry and burning throat a glass of delicious drink, yet there has developed in him the sense of the nearness to God to such an extent that he would not put a drop of it on his tongue. Whenever a new temptation comes before him, he overcomes it, because, just at the critical moment, there is an inner voice, "God is with me," "God sees me." Not the deepest devotion can, of itself, develop that sense of the nearness to God and of His presence everywhere, which fasting day after day for a whole month does. The Divine presence, which may be a matter of faith to others, becomes a reality for him, and this is made possible by the spiritual discipline underlying fasting. A new consciousness of a higher life, a life above that which is maintained by eating and drinking, has been awakened in him, and this is the life spiritual.

There is also a moral discipline underlying fasting,

A moral discipline.

for it is the training ground where man is taught the greatest moral lesson of his life—the lesson that he should be prepared to suffer the greatest privation and undergo the hardest trial rather than indulge in that which is not permitted to him. That lesson is repeated from day to day for a whole month, and just as physical exercise strengthens

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man physically, moral exercise through fasting, the exercise of abstaining from everything that is not allowed, strengthens the moral side of his life. The idea that everything unlawful must be eschewed and that evil must be hated is thus developed through fasting. Another aspect of the moral development of man by this means is that he is thus taught to conquer his physical desires. He takes his food at regular intervals and that is no doubt a desirable rule of life, but fasting for one month in the year teaches him the higher lesson that, instead of being the slave of his appetites and desires, he should be their master, being able to change the course of his life if he so wills it. The man who is able to rule his desires, to make them work as he likes, in whom will-power is so developed that he can command himself, is the man who has attained to true moral greatness.

In addition to its spiritual and moral values, fasting Social value of fasting. as prescribed in the Holy Qur'an has also a social value, more effective than that which is realized through prayer. Rich and poor, great and small, residents of the same vicinity are brought together five times daily in the mosque on terms of perfect equality, and thus healthy social relations are established through prayer. But the appearance of the moon of Ramadzān is a signal for a mass movement towards equality which is not limited to one vicinity or even one country but affects the whole Muslim world. The rich and the poor may stand shoulder to shoulder in one row in the mosque, but in their homes they live in different environments. The rich sit down on tables laden with dainties and with these they load their stomachs four, even six, times daily; while the poor cannot find sufficient with which to satisfy their hunger even twice a day. The latter often feel the pangs of hunger to which the former are utter strangers; how can

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the one feel for the other and sympathize with him? A great social barrier thus exists between the two classes in their homes, and this barrier is removed only when the rich are made to feel the pangs of hunger like their poorer brethren and go without food for a day, and this experience has to be gone through, not for a day or two, but for a whole month. The rich and the poor are thus, throughout the Muslim world, brought on the same level in that they are both allowed only two meals a day, and though these meals may not be exactly the same, the rich have perforce to shorten their menu and to adopt a simpler fare and thus come closer to their poorer brethren. This course undoubtedly awakens sympathy for the poor in the hearts of the rich, and it is for this reason that the helping of the poor is especially enjoined in the month of Ramadzān.

Paradoxical as it may sound, refraining from food during stated intervals only increases the appetite. The rest given to the digestive organs for a whole month only gives them additional strength, like fallow ground which, by rest, becomes more productive, as all organs of the body are so made that rest only increases their capacity for work, and the better the capacity of the digestive organs, the healthier is the physical growth of man.

But fasting has yet another, and a more important, physical value. The man who cannot face the hardships of life, who is not able to live, at times, without his usual comforts, cannot be said to be even physically fit for life on this earth. The moment such a man is involved in difficulty or distress, as he must be every now and again, his strength is liable to give way. Fasting accustoms him to face the hardships of life, being in itself a practical lesson to that end, and increases his powers of resistance.

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With some exceptions, which will be mentioned later on, Muslims are required to fast for 29 or 30 days of the month of Ramadzān. The exact number depends on the appearance of the moon which may be after 29 or 30 days. Fasting commences with the new moon of Ramadzān and ends on the appearance of the new moon of Şawwāl. The Holy Prophet is reported to have said: " We are a people who neither write nor do we keep account ; the month is thus and thus, showing (by his fingers) once twenty-nine and again thirty " (Bu. 30 : 13). Another ḥadīth says: " The Holy Prophet mentioned Ramadzān and said, Do not fast until you see the new moon and do not break fasting until you see it (again), and if it is cloudy, calculate its appearance " (Bu. 30 : 11; M. 13 : 2). Another says that if it is cloudy, thirty days should be completed (Bu. 30 : 11). To begin and end by the actual appearance of the new moon¹ was the easier method for a " people who did not know writing, and did not keep account," and it is still the easier method for the vast masses living in villages and distant places, but the ḥadīth quoted above also allows that the appearance of the moon may be judged by computation. There is however an express prohibition against fasting when the appearance of the moon is doubtful (*yaum al-şakk*) (AD. 14 : 10).

The injunction laid down in the Holy Qur'an relating to fasting in the month of Ramadzān, runs as follows: " The month of Ramadzān is that in which the Qur'an was

1. The actual appearance of the moon may be established by the evidence of a single man if he be trustworthy. It is related that on a certain occasion the people of Madina were doubtful about the appearance of the new moon of Ramadzān and they had decided not to fast, when a man came from the desert and gave evidence that he had seen the new moon. And the Holy Prophet accepted his evidence and directed the people to fast (AD. 14 : 14).

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revealed, a guidance to men and clear proofs of guidance and the distinction; therefore whoever of you witnesses the coming of this month, he shall fast therein" (2: 185). It will be seen from the words of the injunction that the choice of this particular month for fasting is not without a reason. It has been chosen because it is the month in which the Holy Qur'an was revealed. It is well-known that the Holy Qur'an was revealed piecemeal during a period of twenty-three years; therefore by its revelation in the month of Ramadzān is meant that its revelation first began in that month. And this is historically true. The first revelation came to the Holy Prophet on the 24th night of the month of Ramadzān when he was in the cave of Hirā (IJ-C. 2: 185). It was therefore in Ramadzān that the first ray of Divine light fell on the Prophet's mind, and the angel Gabriel made his appearance with the great Divine message. The month which witnessed the greatest spiritual experience of the Holy Prophet was thus considered to be the most suitable month for the spiritual discipline of the Muslim community, which was to be effected through fasting.

There are evident reasons for choosing a lunar month. The advantages and disadvantages of the particular season in which, it falls are shared by the whole world. A solar month would have given the advantages of shorter days and cooler weather to one part of the world, and burdened the other with the disadvantages of longer days and hotter weather. The lunar month is more in consonance with the universal nature of the teachings of Islam, and all people have the advantages and disadvantages equally distributed. On the other hand, if a particular time had not been specified, the discipline would have lost all its value. It is due to the choice of a particular month, that with its advent the whole Muslim world is, as it were, moved by one current

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from one end to the other. The movement effected by the advent of Ramadzān in the Muslim world is the greatest mass movement on the face of the earth. The rich and the poor, the high and the low, the master and the servant, the ruler and the ruled, the black and the white, the Eastern and the Western, from one end of the earth to the other, suddenly change the course of their lives when they witness the tiny crescent of Ramadzān making its appearance on the western horizon. There is no other example of a mass movement on this scale on the face of the earth, and this is due to the specification of a particular month.

The injunction to fast is laid down only for those Persons who may not witness the coming of the fast. month, *man shahida min-kum al-shahra*. The verb *shahida* is from the infinitive *shahāda*, which means *the bearing of witness*; so the injunction to fast is laid upon those only who witness the coming of the month. Evidently all people who live in places where the division into twelve months does not exist, are excluded from the purview of the injunction. Fasting is not compulsory in their case.

People who are exempted are specially mentioned either in the Holy Qur'an or in the Ḥadīth. The Holy Qur'an mentions the sick and those on journey in the following words: "But whoever among you is sick or upon a journey, (he shall fast) a like number of other days, and those who find it hard to do so¹ may effect a

1. The Arabic word is *yusīqūna-hū*, which is generally interpreted as meaning *those who are able to do it*. If this interpretation be adopted, the significance would be that invalids and travellers may either fast afterwards when they are not under such disability, or they may effect a redemption by feeding a poor man for every day of fasting. But I prefer the other interpretation which some commentators have accepted, *vis.*, that *yusīqūna-hū* means *those who find it hard to keep* the fast even afterwards; only such persons are allowed to effect a redemption by feeding a poor man. This interpretation is supported by a different reading '*yusāyyaqūna-hū* which

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redemption by feeding a poor man" (2 : 184). There is not absolute exemption for the sick man and the traveller; they are required to fast afterwards, when the sickness has gone or when the journey ends, but there may be cases of protracted illness or constant journeying, and such people are allowed to effect a redemption by feeding a poor man for every fast missed. Hadīth makes a further extension and gives relaxation to certain classes of people who, on account of some physical disability, are not able to fast. It is related of Anas that he used to feed a poor man when he grew too old to fast (Bu. 65, sūra 2, ch. 22,) and Ibn 'Abbās is reported to have held that the words "those who find it hard to do so may effect a redemption" relate to the old man and the old woman and the pregnant woman and the woman that suckles a child, and that all of them are allowed to break the fast,—the latter two, only if they fear for the child—and feed a poor man instead (AD. 14 : 3). This view was also held by Ḥasan and Ibrāhīm (Bu. 65, sūra 2, ch. 22). It will be seen that the underlying idea is that a burden should not be placed on any one, which he is unable to bear. *The case of old people who have become enfeebled by age is very clear, while in the case of pregnant and the nursing women, the permission to effect a redemption is due to the fact that fasting may cause harm to the unborn baby, or the baby that is being nursed, as well as to the woman herself; and as she is likely to remain in this condition for a sufficiently long time, she is given the benefit of the relaxation. Sickly people and those who are too weak to bear the burden would be dealt with as sick. Ibn Taimiya further extends the principle that the fast may

means those on whom a hard task is imposed. Ibn 'Abbās' reading *yafawwaqēna-hū* (Bu. 65 : sūra 2, ch. 22) carries a similar significance, and he interprets these words as relating to very old people who are unable to fast.

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be deferred in cases of hardship, and holds that those engaged in war may not fast, though they may not be journeying, for, he adds, the hardships of war are greater than the hardships of travel (ZM. I, pp. 165, 166). From this it may be argued that in unavoidable cases of very hard labour, as in gathering the harvest, the choice of postponing the fast may be given to those who are engaged in such labour.

To define the limits of sickness or travel is rather difficult. 'Aḡā was of opinion that whatever the ailment, great or small, it entitled a person to the benefit of the exception (Bu. 65, sūra 2, ch. 25). But generally it has been held that only such sickness as is likely to cause harm comes under the exception. As regards travel, there is nothing on record from the Holy Prophet as to its limit (ZM. I, p. 166). A certain Companion, Diḡya, is reported to have travelled to a village which was about three miles distant from his own place and to have broken the fast, and some people followed his example but others did not (AD. 14 : 48). But it has been held that the proposed journey must be one that extends over more than a day, - *i.e.*, twenty-four hours ; according to others, it must extend over two days ; and others still think it necessary that it should extend over three days at least. But when the journey is actually started, the fast may be broken, whatever the distance travelled over may be. Thus of Abū Başra Ghifārī, a Companion of the Holy Prophet, it is related that he took a boat from Fuşāḡ to Alexandria, and broke the fast while yet the buildings of Fuşāḡ had not disappeared (AD. 14 : 45). I would interpret the exception relating to sickness and travel as meaning a sickness or journey which causes inconvenience to the subject of it, as the exception is followed by the words, " Allāh desires ease for you, and He does not desire for you difficulty " (2 : 185).

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The permission to break the fast for sickness or journey is meant for the convenience of the person who is under an obligation to keep the fast, as the words quoted above show. There is, however, a strong opinion that the permission granted by God must be made use of, just as in the case of prayer the traveller must shorten his prayer. The case of prayer and fasting do not, however, stand on a par, because, if the fasts are broken, the number of days must be completed afterwards, while in the case of prayer, there remains no obligation upon the traveller when the journey is over. The sick person and the traveller have therefore the option of keeping the fast if they do not find it hard, or of availing themselves of the permission and breaking the fast. The permissive nature of the words of the Holy Qur'an is reflected in many of the most reliable ḥadīth. There are ḥadīth showing that the Holy Prophet himself kept a fast while on a journey (Bu. 30 : 33). In one ḥadīth it is stated that on a certain journey on a very hot day, only the Holy Prophet and Ibn Rawāḥa kept the fast (Bu. 30 : 35). There are other ḥadīth showing that when a certain person questioned the Holy Prophet whether he should or should not break the fast when on a journey, his own inclination being for fasting, the Holy Prophet replied : " Keep the fast if thou likest, and break it if thou likest " (Bu. 30 : 33). Anas relates that they used to travel with the Holy Prophet, and those who kept the fast did not find fault with those who broke it, nor did those who broke the fast find fault with those who kept it (Bu. 30 : 37). There is no doubt a saying of the Holy Prophet to the effect that " it is not a virtue to fast when journeying," but these words were spoken to a person who was in severe distress on account of the fast, and around whom people had gathered

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to provide shade for him (Bu. 30:36). Bukhārī's heading of this chapter is significant: "The Holy Prophet's saying to him who was protected with a shade and the heat was severe, It is not a virtue to fast when journeying," the meaning evidently being that one should not fast when one finds it hard. There is a very large number of ḥadīth on this subject, and some of these seem to contradict others, but the weight of evidence lies on the side that one is given the option of keeping the fast or breaking it.

The commandments of the Holy Qur'an are meant for those who are full-grown, and so is the injunction relating to fasts. According to Imam Mālik, minors should not fast, but the Caliph 'Umar is quoted as saying: "Even our children are fasting" (Bu. 30 : 47). Probably this may have been done when the weather was not too hot, and the object may have been to habituate the children to fasting. From what has been stated above, it would further appear that only such people are bound to fast as are physically fit. The jurists lay down three conditions, *vis.*, that of being *baligh* (one who has reached the age of majority), *qadir* (physically fit) and *'aqil* (sane). Women are bound to fast if they are free from menstruation (Bu. 30 : 41). But while the woman who has the menstruation on is freed from the obligation of prayer completely, she is bound to make good the fasts that she has broken and complete the number of days after Ramadẓān, being treated in this respect like a sick person. The bleeding of child-birth is considered as menstruation with this difference, that if the mother is nursing the baby, she can effect a redemption by feeding a poor man. In all cases in which fasts have to be recovered, whether it is the case of a sick person or a traveller or a menstruating woman, a person is at liberty

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to do it when he or she likes, before the coming of the next Ramadhan (Bu. 30 : 39).

In all the four principal ordinances of Islam, prayer, charity, fasting and pilgrimage, there is an obligatory part (*fard*) and a voluntary part (*nafl*). But there are some restrictions imposed on voluntary fasting, for, if carried to an extreme, it would weaken the constitution. The following hadith is illustrative of how far voluntary fasting may be resorted to : "Ibn 'Umar says that the Holy Prophet was informed of my resolve to fast in the day and keep awake in the night so long as I lived. (On being questioned) I admitted that I had said so. The Holy Prophet said, Thou canst not bear this, therefore keep the fast and break it and keep awake and have sleep, and keep (voluntary) fast for three days in the month, for virtue has a tenfold reward, and this would be like your fasting every day. I said, I can bear more than this. The Prophet said, Then fast for one day and break the fast for two days. I said, I can bear more than this. He said, Then keep the fast for one day and break it for one day, and such was the fasting of David, on whom be peace, and this is the best of voluntary fasts. I said, I can bear more than this. The Prophet said, There is nothing better than this" (Bu. 30 : 56). This hadith shows that what the Holy Prophet really recommended was voluntary fasting for three days in the month, but on no account should the voluntary fast be continuous. There are hadith in which it is stated that the Holy Prophet especially recommended for voluntary fasting the last days of Sha'ban (Bu. 30 : 62 ; AD. 14 : 56), or the *ayyam al-bid*, that is the 13th, 14th and 15th of the lunar month (Bu. 30 : 60 ; Ah. IV, p. 165), or Monday and Thursday (AD. 14 : 59), or the 'Arafa day, that is,

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one day before the 'Id al-Adzha¹ (Tr. 6 : 45), or the first six days of Shawwal (AD. 14 : 57), or Muḥarram (AD. 14 : 55), or the Tashriq days, that is, 11th, 12th and 13th of Dhu-l-Ḥijja (Bu. 30 : 68), or the 'Āshūra', that is, 10th Muḥarram² (Bu. 30 : 69); but his own practice was that he never specified any particular day or days for voluntary fasting, as the following ḥadīth shows: " 'Ā'ishā was asked, Did the Holy Prophet, peace and blessings of Allāh be on him, specify any days (for fasting). She said, No " (Bu. 30 : 64).

Voluntary fasting is particularly prohibited on the two 'Id days (Bu. 30 : 66). It is also forbidden that Friday should be specially chosen for voluntary fasting (Bu 30 : 63). Nor should a day or two before Ramadzān be specially selected (Bu. 30 : 14). Other restrictions are that it should not be resorted to if it is likely to interfere with other duties. There is no asceticism in Islām, and no one is allowed to go to the length of neglecting his worldly duties for the sake of religious exercises. Religion is meant to enable a man to live a better life, and voluntary fasting should be undertaken only if the aim is to enable a man so to do. This is made clear in the story of Abū Dardā' and Salmān, between whom brotherhood had been established by the Holy Prophet. Salmān paid a visit to Abū Dardā' and saw his wife in a neglected condition (*mutabaddhila*). Being asked the reason she replied that Abū Dardā' had become an ascetic. When Abū Dardā' came home and the meals were served, Abū Dardā' refused to eat

1. There is a ḥadīth showing that a cup of milk was sent to the Holy Prophet on the 'Arafa day by Umm al-Fadzl to settle the question, and the Prophet drank it (Bu. 30 : 65).

2. The tenth of Muḥarram was particularly observed as a fasting day before the fasting of Ramadzān was made obligatory, but afterwards it was voluntary (Bu. 30 : 1).

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because he was fasting. Salmān said that he would not take any food until Abū Dardā' took it, so he ate (and broke the fast). When the night came and Abū Dardā' woke up after a little rest, Salmān asked him to remain sleeping, and when it was the latter part of the night, they both said their Tahajjud prayers. Then Salmān said to Abū Dardā': "Verily thou owest a duty to thy Lord, and thou owest a duty to thyself, and thou owest a duty to thy wife and children." When this was mentioned to the Holy Prophet, he approved of what Salmān had said and done (Bu. 30 : 51). Here therefore the husband was forbidden to fast, for the sake of the wife. Similarly the wife should not resort to voluntary fasting without the permission of her husband (Bu. 67 : 85). And as the host in the instance cited above broke the fast on account of his guest, there is a ḥadīth stating that the guest should not undertake a voluntary fast, without the permission of the host (Tr. 6 : 69).

Fasts are also recommended as an expiation for breaking certain commandments.

Expiatory fasts.

The expiatory fasts mentioned in the Holy Qur'an are, (1) two months' successive fasting when a Muslim has killed a Muslim by mistake and the killer has not the means sufficient to free a slave (4 : 92); (2) two months' successive fasting when the husband resorts to the practice called *sihar* (putting away of the wife by saying, Thou art to me as the back of my mother), and he has not the means to free a slave (58 : 3,4); (3) three days' fasting as an expiation for taking an oath by which one deprives himself of something lawful when one is unable to free a slave or feed ten poor men (5 : 89); (4) fasting as decided on by two judges, as an expiation for killing game while one is on pilgrimage as an alternative to feeding the poor (5 : 95).

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Hadith mentions two months' successive fasting by way of expiation when a fast during **Ramadzān** is broken intentionally (Bu. 30 : 30). This was the case of a man who had sexual intercourse with his wife while fasting in **Ramadzān**, and the Holy Prophet told him to free a slave. On being told that he was too poor for that, he was asked if he could fast for two months successively, and he replied in the negative. Then he was asked if he could feed sixty poor men, and he again said, No. Thereupon the Holy Prophet waited till there came a sack of dates to be given in charity, and the Holy Prophet gave this away to the breaker of the fast, telling him to give it in charity. He said that there was no one in **Madīna** poorer than himself, upon which the Holy Prophet laughed heartily and allowed him to take away the sack of dates for his own use. This would show that the keeping of expiatory fasts for two months was only meant to make the violater feel contrite for his offence. **Abū Huraira** was, however, of opinion that the act of not fasting for one day in **Ramadzān** cannot be expiated, even if the man fasts his whole life long; others (**Sha'bi**, **Ibn Jubair**, **Qatāda**, etc.) have held that the expiation for not fasting for one day is simply one day's fast to be kept afterwards (Bu. 30 : 29).

Fasting is also mentioned as being resorted to by
Compensatory fasts. way of effecting redemption (*fidya*),
that is to say, as a compensation
for not being able to do some act. Thus in the case of
pilgrims who, for some reason, cannot observe fully
the requirements of *ihram*, compensatory fasting (for
three days) is mentioned as an alternative to giving away
something in charity and sacrificing an animal (2 : 196);
and in the case of pilgrims who may in combining '*umra*
with *hajj* (*tamattu'*) get out of the condition of *ihram*

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in the interval between the two, three days' fasting during the pilgrimage and seven days' after returning from the pilgrimage (2 : 196).

An instance of a vow to take a fast is mentioned in the Holy Qur'an where Mary the mother of Jesus says: "Surely I have vowed a fast to the Beneficent God, so I shall not speak to any man to-day" (19 : 26). This however appears to be only a fast to keep silent and not to talk with any person; a similar fast of silence is spoken of in the case of Zacharias: "Thy sign is that thou shouldst not speak to men for three days except by signs, and remember thy Lord much and glorify Him in the evening and the morning" (3 : 40). The case of Zacharias shows that the object of the fast of silence was the remembrance of God. From certain ḥadīth it appears that if one has vowed to keep a fast, the vow must be fulfilled (Bu. 30 : 42), while in one report it is stated that a woman came to the Holy Prophet and spoke of her mother who died; and she had taken a vow to fast for a certain number of days and the Prophet told her to fulfil the vow (*Ibid*). But there is no ḥadīth recommending the taking of such vows.

The limits of a fast are clearly laid down in the Holy Qur'an: "And eat and drink until the whiteness of the day becomes distinct from the blackness of the night at dawn (*al-fajr*), then complete the fast till night (*al-lail*) (2 : 187). *Lail* (night) begins when the sun sets, and hence the fast in the terminology of Islam is kept from the first appearance of dawn, which is generally about an hour and a half before sunrise, till sunset. *Wiṣal* (lit. *joining together*) in fasting, or continuing the fast throughout the night and then the next day so that there is no break, is definitely prohibited (Bu. 30 : 48, 49).

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But one ḥadīth permits continuity of fast till day-break (Bu. 30 : 50). This would mean that a man may not, if he chooses, break the fast at sunset but must take the morning meal for fasting for the next day; in other words, he must take a meal once in twenty-four hours at least. *Wiṣal* was prohibited lest people should, in trying continuous fast, impair their health or make themselves unfit for worldly work, for it appears that the Holy Prophet himself sometimes kept a continuous fast (Bu. 30 : 48, 49 ; 94 : 9 ; 96 : 6); but for how many days, does not definitely appear. Only on one occasion, when some of the Companions joined with the Holy Prophet in keeping a continuous fast, it was continued for three successive days, and being the close of the month, the moon appeared on the evening of the third day, the Holy Prophet adding that if the moon had not appeared he would have continued the fast. When some one asked him, why he forbade *wiṣal* to others, when he himself kept continuous fasts, he replied: "I pass the night while my Lord gives me food and makes me drink" (Bu. 30 : 49). He referred of course to the spiritual food which sometimes makes a man bear hunger and thirst in an extraordinary way, thus, in a sense, taking the place of food and drink. But all men had not the same spiritual sustenance, and, moreover, continuity of fast, if allowed generally, would have given rise to ascetic practices which Islām does not encourage. It should be noted in this connection that fasting, according to the Holy Qur'ān, meant abstaining from food as well as from drink, and three days' continual suffering of hunger and thirst, in a hot country like Arabia, shows the extraordinary power of endurance which the Companions of the Holy Prophet had developed, while his own power of endurance was much greater. This endurance was no doubt due to

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extraordinary spiritual powers.

In this connection it may be further noted that, though the taking of a morning meal is not made obligatory, yet special stress is laid on it, and it is said to be a source of blessing, because it enables a man the better to cope with the hardship of the fast. The Holy Prophet is reported to have said: "Take the morning meal, for there is blessing in the morning meal (*suhūr*)" (Bu. 30 : 20). This meal was taken very near the break of dawn. One Companion relates that, after taking the morning meal, he hastened to the mosque so that he might be able to join the morning prayer. Another says that the interval between the finishing of the morning meal and the beginning of prayer in congregation was such that hardly fifty verses could be recited in it (Bu. 9 : 27). It is even recommended that the morning meal should be taken as near the break of dawn as possible (Ah. V, p. 147). In one ḥadīth it is stated that the *adhān* of Bilāl should not lead you to give up the morning meal, for, it is added, he utters the *adhān* while yet it is night, so that the man who is saying his Tahajjud prayers may finish his prayers and the one who is sleeping may get up from his sleep (Bu. 10 : 13). And according to another, the morning meal was to be continued till Ibn Umm Maktūm gave the call to prayer, for he was a blind man and he did not give the call till (dawn became so clear and well-established that) people called out to him, The dawn has broken, the dawn has broken (Bu. 10 : 11). And even if the *adhān* is called out when the dawn has fully appeared, and a man has a cup in his hand ready to drink, he need not put it away and may drink it up (AD. 14 : 18). And as it is recommended in the case of the morning meal that it should be as late as possible, it is recommended that the breaking of the fast should be as early as possible. The Holy Prophet is reported to

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have said that when the sun is set, the fast should be broken (Bu. 30 : 45). And according to another ḥadīth : " People will have the good so long as they hasten in breaking the fast " (Bu. 30 : 45). Some wait to break the fast till they see the stars, thinking that the night does not set in till darkness is spread, but there is no authority for this.

A good deal of misunderstanding prevails on the question of *niyya* in the observance of fasts. The *niyya* really means *intention, aim* or *purpose* in the doing of a thing ; but it is wrongly supposed that the *niyya* consists in the repetition of certain words stating that one intends to do so and so. Bukhārī shows the true significance of *niyya* when he gives as the heading to one of his chapters " He who fasts during Ramadzān having faith (in God) (*īmān-an*) and seeking His pleasure (*ihtisab-an*) and having an aim or purpose (*niyyat-an*) " (Bu. 30 : 6). And he adds a portion of a ḥadīth reported by 'Ā'isha in which it is stated that " people will be raised up (on the Judgment Day) according to their aims (*'alā niyyāti-him*). " The very first ḥadīth with which Bukhārī opens his book is an example of what *niyya* means : " (Good) actions shall be judged only by their aims¹—*innama-l-a'mālu bi-l-niyyat*. " Hence if a good action is done with a bad aim, it shall not benefit the doer. Exactly the same object is in view in the statement that there must be a *niyya* in fasting, as Bukhārī says ; that is, the man who fasts must

1. I have translated the word *a'māl* as meaning *good actions*. A reference to what follows in the ḥadīth makes it clear, for the example of actions given there is *hijra*, the flight of a man for the sake of his principles which is an action of the highest value, but as the ḥadīth tells us, if the *hijra* is undertaken with a bad aim in view, to attain worldly wealth or for the love of a woman, it loses all its value. That there can be no question of a good aim in evil actions is self-evident, and hence by *a'māl* in this ḥadīth are meant *good actions*.

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have an aim or purpose before him. The aim or purpose of fasting has already been stated, being, according to the Holy Qur'an, the attainment of *taqwā*, to make the fast a spiritual discipline to attain nearness to God and to seek His pleasure in all one's actions, and to make it a moral discipline to shun all evil. It is in this sense alone that the *niyya* is of the essence of fasting, as it is in fact of the essence of all good actions.

“Formulating the *niyya*,” or the expression of one's intention in set words, is unknown to the Qur'an and the Ḥadīth, and is in fact meaningless, for a man will not fast unless he intends to do it. Only in the case of voluntary fasting, it is stated in a ḥadīth, that the Holy Prophet sent a crier to inform the people on the day of 'Āshūrā', in daytime, that people who had not eaten anything up to that time may fast. And of Abū Dardā' it is related that he used to ask his wife if there was any food, and if none was found, he used to keep the fast (Bu. 30 : 21). According to 'Ā'ishā, the Holy Prophet used to ask if there was any food in the house, and when none was found he would fast (AD. 14 : 70). In the case of voluntary fasts one can understand the making up of mind in daytime, but there is no question of such intention in the month of Ramadzān, when everybody knows that he must fast.

The word for breaking the fast is *iftār*, from *fatr* meaning to cleave or split a thing lengthwise (R.), and the things which break a fast are called *muftirāt*, pl. of *muftir*. The three things which one should abstain from in fasting being eating, drinking and having sexual intercourse, these three, if resorted to of free will¹ and intentionally, between

1. Therefore anything done under compulsion or involuntarily does not break the fast.

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day-break and sunset, would break the fast, but if done through forgetfulness or inadvertently, the fast remains and must be completed (Bu. 30 : 26). Rinsing the mouth with water or with a tooth-brush, gargling or sniffing the water into the nostrils, even if a little water passes into the throat unintentionally, does not break the fast (Bu. 30 : 25, 26, 27, 28). Nor does taking a bath or keeping a wet cloth on the head (Bu. 30 : 25), or pouring water on the head (MM. 7 : 4-ii) break the fast, even though done intentionally to relieve the severity of thirst. Cupping and vomitting also do not break the fast, for as Ibn 'Abbās and 'Ikrama say, a fast is broken by that which goes into the body, not by that which comes out¹ (Bu. 30 : 32). It is related that the Holy Prophet would kiss his wife when fasting (Bu. 30 : 23). There is a difference of opinion regarding the punishment for breaking a fast intentionally before its time, as shown under the heading "Expiatory fasts." The Holy Qur'an is silent on this point, while the Ḥadīth only shows that it is sufficient that the violater should be sincerely repentant. If fast is broken on a cloudy day, under the impression that the sun has set, and the sun then appears, then the fast should be completed (Bu. 30 : 46). If a man is fasting and then undertakes a journey, the fast may be broken (Bu. 30 : 34). The same rule may be followed in the case of sickness. In the case of voluntray fast, a man is at liberty to break the fast on account of a guest or the persistence of a friend (Bu. 30 : 51).

What has been said hitherto relates only to the external side of the fast but, as stated
Ethical side of fasting. in the beginning, the essence of the fast is its moral and spiritual value, and the Holy Qur'an and Ḥadīth have laid special stress on this. "Whoever

1. There is a difference of opinion on some of these minor points, but what has been said here is based on weightier authority.

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does not give up," says one ḥadīth, "lying and acting falsely, Allāh does not stand in need of his giving up food and drink" (Bu. 30: 8). This is true of all the Islamic injunctions. A man who says his prayers and does not keep in view their inner meaning, the object of prayer, is condemned in clear words: "Woe to the praying ones, who are unmindful of (the object of) their prayers" (107: 4, 5). In another ḥadīth, the ethical side of the fast is shown in the following words: "Fasting is a shield, so let the man who fasts not indulge in any foul speech or do any evil deed (*la yajhal*), and if any one fights or quarrels with him or abuses him, he should say, I am fasting. By Him Who holds my soul in His hand, the breath of the faster is pleasanter with Allāh than the scent of musk" (Bu. 30: 2). It is not refraining from food that makes the breath of the faster so sweet; it is refraining from foul speech and abuse and evil words and deeds of all kinds, so much so that he does not even utter an offensive word by way of retaliation. Thus the faster undergoes not only a physical discipline by curbing his carnal desires, the craving for food and drink, and the sex appetite, but he is actually required to undergo a direct moral discipline by avoiding all kinds of evil words and evil deeds. It is not only a training on the physical side, which has a moral value; it is a direct training on the spiritual side as well. In the sight of God, as plainly stated in these ḥadīth, the fast loses its value not only by taking food or drink but also by telling a lie, using foul language, acting unfaithfully, or doing an evil deed.

The moral value of the fasting discipline is further enhanced by laying stress on the doing of good to humanity in the month of Ramadzān. The example of the Holy Prophet is quoted in this connection in a ḥadīth: "The Holy Prophet, may peace and the blessings of Allāh be upon him, was the most bountiful of all people,

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and he exceeded his own bounty in the month of Ramadzān (Bu. 30 : 7). In another ḥadīth it is stated that "the Holy Prophet used, on the arrival of Ramadzān, to free every captive and to give alms to every beggar." A third describes the month of Ramadzān as "a month in which the sufferings of the poor and the hungry must be attended to" (MM. 7 : 1-iii).

These injunctions make clear the significance of the ḥadīth which says that when the month of Ramadzān arrives, "the doors of Heaven are opened and the doors of Hell are closed and the devils are put into chains" (Bu. 30 : 5). This is true of the man who keeps the fast, both physically and morally. The devils are chained in his case because he curbs and conquers the lower passions by exciting which the devil makes a man fall into evil. The doors of Hell are closed on him because he shuns all evil which is man's hell. The doors of Heaven are opened for him because he rises above physical desires and devotes himself to the service of humanity. In one ḥadīth, fasting is described as bringing about a forgiveness of sins "for him who fasts having faith (in God) and to seek His pleasure and having an aim or purpose" (Bu. 2 : 28; 30 : 6). There is not the least doubt that fasting as qualified here, that is, when it is kept having true faith in God and when the faster resorts to it as a discipline for seeking the pleasure of God and with a good aim, is practical repentance of the highest value; and when a man sincerely repents of sins, his previous sins are forgiven, because the course of his life has been changed.

There is, however, yet another sense in which the doors of Heaven are opened for the faster in the month of Ramadzān. It is specially suited for spiritual advancement, for attaining nearness to God. Speaking of Ramadzān, the Holy Qur'an says: "And when My

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servants ask thee concerning Me, then surely I am very near; I accept the prayer of the suppliant when he calls on Me" (2 : 186). The ways of attaining nearness to God are here spoken of as being specially opened in Ramadzān, and this nearness is to be sought through prayer. It is for this reason that the Holy Prophet used to have special regard for Tahajjud prayers in the month of Ramadzān. And he also recommended that his followers should, during this month, awake at night for prayers (Bu. 2 : 27).

I'tikāf is derived from *'akafa 'alai-hi*, meaning *he kept, or clave, to it constantly or perseveringly* (L.L.), and i'tikāf means literally to stay in a place; technically it is staying in a mosque for a certain number of days, especially the last ten days of the month of Ramadzān. Bukhārī has devoted a whole book to i'tikāf (book 33), showing the practice of the Holy Prophet in this connection. During these days, the mu'takif, the man who enters the state of i'tikāf, dissociates himself from all worldly affairs, and he does not leave the mosque unless there is necessity (*ḥāja*), such as evacuation, or having a bath, etc. (Bu. 33 : 3, 4). Usually a tent was pitched for the Holy Prophet in the yard of the mosque (Bu. 33 : 7). Women are also allowed to enter a state of i'tikāf (Bu. 33 : 6). The mu'takif may be visited by other people or by his wife (Bu. 33 : 11). According to one ḥadīth, he may visit a sick person¹ (AD. 14 : 78). An i'tikāf may be performed in other days (AD. 14 : 75), but the last ten days of Ramadzān are specially mentioned in Ḥadīth, and i'tikāf is spoken of in the Holy Qur'ān in connection with Ramadzān.

1. There are other ḥadīth showing that he should not visit the sick, nor assist at a burial, but evidently such deeds fall within the meaning of ḥāja

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One of the last ten nights of the month of Ramadzan is called *lailat al-Qadr*. The word *lailat al-Qadr*. The word *lail* or *laila* means *night* and *qadr* means originally *measuring*. But *lailat al-Qadr* is also translated as meaning *the night of grandeur or majesty*. In the Holy Qur'an, it is spoken of in two places. In ch. 97, it is mentioned thrice as *lailat al-Qadr*: "Surely We revealed it on *lailat al-Qadr*. And what will make thee comprehend what *lailat al-Qadr* is? *Lailat al-Qadr* is better than a thousand months. The angels and the inspiration (*al-ruh*) descend in it by the permission of their Lord for every commandment (*amr*). Peace! it is till the break of the morning." Here this night is spoken of as the night in which the Holy Qur'an was revealed, and it is further stated that it is the night on which angels and inspiration descend. It is also mentioned in ch. 44 where it is called *laila mubarak*: "Consider the Book that makes manifest (the truth): We revealed it on a blessed night—surely We are ever warning—therein every wise commandment (*amr*) is made distinct, a command (*amr*) from Us" (44 : 2—5). It will be seen that, in both places, the Holy Qur'an is spoken of as having been revealed on this night, and elsewhere it is stated that the Holy Qur'an was revealed in the month of Ramadzan, which shows that this night occurs in the month of Ramadzan. The revelation of the Holy Qur'an on this night means that its revelation began on that night; in other words, the first revelation came to the Holy Prophet on this night. It is called the night of measure because on it was laid the basis of a new revelation to the world which contains every commandment (*amr*) full of wisdom and knowledge (*hakim*); for the same reason, it is called a blessed night or the grand night. The *lailat al-Qadr* is, therefore, as it were, the anniversary of the revelation of the Holy Qur'an.

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As shown above, the last ten days of Ramadzān are specially observed as days of devotion, so much so that, though Islām discourages asceticism, yet in these ten days, a Muslim is allowed to lead an ascetic life, by keeping himself to the mosque and giving up all worldly affairs. There are various ḥadīth showing that the Muslims should look for this night as one of the odd nights in the last ten nights of Ramadzān (Bu. 32 : 3) or in the last seven nights (Bu. 32 : 2). According to some ḥadīth, it is the twenty-fifth or twenty-seventh or twenty-ninth night of Ramadzān. One ḥadīth says that some of the Companions of the Holy Prophet were shown lailat al-Qadr in their dreams in the last seven nights (MM. 7 : 9—ii). It should be borne in mind that lailat al-Qadr is a spiritual experience, as it was the spiritual, not the physical experience of the Holy Prophet, and as the last-quoted ḥadīth shows, it was the spiritual experience of the Companions, and therefore it is an error to think that it can be beheld as a physical experience, or that any physical change is witnessed on that night. It is the spiritual experience of the man who exerts himself in Ramadzān to seek nearness to the Divine Being.

CHAPTER IV

HAJJ OR PILGRIMAGE

The word *hajj* means, literally, *repairing to* a thing *for the sake of a visit* (*al-qasḍ li-l-ziyāra*) (R.), and in the technicality of law *the repairing to Bait-Allāh* (the House of Allāh) to observe the necessary devotions (*iqāmat-an li-l-nusuk*) (R.). Bait-Allāh is one of the names by which the Ka'ba is known; and *nusuk* means 'ibāda (worship or devotion), or ṭā'a (obedience); it is also the plural of *nasika* meaning *dhabīha* (the animal that is sacrificed) (N.). From the same root and carrying the significance of 'ibāda, is *mansik*, and its plural *manāsik* is particularly used to signify the acts of devotion prescribed in hajj. It is generally under the head *manāsik* that injunctions relating to hajj are mentioned in Ḥadīth collections.

As an institution hajj existed, before the advent of Islām, from a very remote antiquity. European views on adoption of hajj by Islām. Modern European criticism takes the view that its adoption by Islām, with certain reforms, of course, was due to several causes which sprang up after the Prophet's flight to Madīna. Chief among these causes are said to be the victory won by Islām at Badr which, it is opined, made the Prophet look forward to the conquest of Makka, and the final rupture with the Jews, whom the Prophet had, at first, hopes of winning over to his cause. Hughes advances this theory in his *Dictionary of Islām* under the heading "Ka'bah":

"When Muḥammad found himself established in al-Madīnah, with a very good prospect of his obtaining possession of Makkah, and its historic associations, he

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seems to have withdrawn his thoughts from Jerusalem and its Sacred Rock and to fix them on the house at Bakkah as the home founded for mankind.The Jews proving obdurate and there being little chance of his succeeding in establishing his claim as their prophet, spoken of by Moses, he changes the qiblah, or direction for prayer, from Jerusalem to Makkah. The house at Makkah is made 'a place of resort unto men and a sanctuary.' "

Other European writers have advanced the same theory, and recently A. J. Wensinck has incorporated it into the *Encyclopædia of Islām*. Writing under "Ḥadjdj" he says:

"Muḥammad's interest in the Ḥadjdj was first aroused in al-Medina. Several causes contributed to this, as Snouck Hurgronje has shown in his *Mekkaansche Feest*. The brilliant success of the battle of Badr had aroused in him thoughts of a conquest of Mecca. The preparations for such a step would naturally be more successful if the secular as well as the religious interests of his companions were aroused. Muḥammad had been deceived in his expectations regarding the Jewish community in Medina and the disagreements with the Jews had made a religious breach with them inevitable. To this period belongs the origin of the doctrine of the religion of Abraham, the alleged original type of Judaism and Islām. The Ka'ba now gradually advances into the centre of religious worship; the father of monotheism built it with his son Ismā'il and it was to be a 'place of assembly for mankind.'.....In this period also the Ka'ba was made a kibla....This is the position of affairs in the year 2 of the Hidjra."

On the face of it, it appears to be a very plausible theory but it is in flat contradiction to historical facts. The battle of Badr was fought in the month of

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Ramadzān, in the second year of Hijra, and the final rupture with the Jews came in the third year after the battle of Uḥud; while the Ka'ba was made a qibla sixteen months after the Hijra (Bu. 8 : 31), that is to say, about three months before the battle of Badr. The structure which, according to Hughes, Wensinck and Hurgrönje, was built on the victory of Badr and the rupture with the Jews, the idea of formulating a doctrine of the religion of Abraham, the father of monotheism, as a prototype of Islām, Judaism and Christianity; of the sacredness of the Ka'ba and its connection with the names of Abraham and Ishmael; of the Ka'ba being made a qibla and of the institution of ḥajj with prospects of conquering Makka; all this existed not only long before the battle of Badr but even before the Prophet's flight to Madīna. The religion of Abraham as pure monotheism is mentioned in a sūra belonging to the middle Makka period, where Abraham is also called a *ḥanīf*: "Abraham was an exemplar, obedient to Allāh, upright (*ḥanīf*) Then we revealed to thee: Follow the faith (*milla*) of Abraham, the upright one (*ḥanīf*), and he was not of the polytheists" (16 : 120-123). And again in a sūra belonging to the last Makka period: "My Lord has guided me to the right path, to a most right religion, the faith (*milla*) of Abraham, the upright one (*ḥanīf*), and he was not of the polytheists" (6 : 162). It is surprising to find Orientalists so learned ignoring such broad facts of history for the sake of a pet theory.

Similarly, the sacredness of Makka and its connection with the names of Abraham and Ishmael, finds clear mention in the early Makka revelations. In one of the earliest sūras, Makka is described as "this city made secure" (95 : 3). In another equally early revelation,

Sacredness of Makka and the Ka'ba recognized in earliest revelations.

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it is referred to as the "City": "Nay! I call to witness this City—and thou shalt be made free from obligation in this City—and the begetter and whom he begot" (90 : 1-3); where, in the last words, Abraham and Ishmael are referred to. The Ka'ba is called *al-Bait al-ma'mūr*, or *the House that is visited*, in a revelation of the same period (52 : 4), while another revelation of the early Makka period speaks of *al-Masjid al-Harām* or the Sacred Mosque (17 : 1). The sacredness of Makka is spoken of in still clearer words in revelations belonging to the middle Makka period : "I am commanded only that I shall serve the Lord of this City, Who has made it sacred, and His are all things" (27 : 91). The names of Abraham and Ishmael in connection with Makka, its sacredness and the fact of its being a place of resort for men, also find mention in the middle Makka revelations : "And when Abraham said : My Lord! make this City secure and save me and my sons from worshipping idols ... O our Lord! I have settled a part of my offspring in a valley unproductive of fruit near Thy Sacred House, our Lord! that they may keep up prayer; therefore make the hearts of some people yearn towards them and provide them with fruits" (14 : 35-37).

The theory thus built up by European savants has
Why Ka'ba was not no foundation whatever. The sac-
made qibla earlier? redness of Makka and its great
Mosque, the connection therewith of the names of
Abraham and Ishmael, and the fact of Makka being
made a resort for men, are all themes of the earliest as
well as the later revelations. It is true that the various
commandments and prohibitions were revealed gradually,
and that the command to make the Ka'ba a qibla,
was revealed at Madīna, but even this happened before
the battle of Badr. Notwithstanding all that was said in
the Holy Qur'an with regard to the sacredness of Makka

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and of the Ka'ba, notwithstanding the fact that pilgrimage to Makka had been ordained as a duty of the Muslims towards the close of the Prophet's stay at Makka, as shown later, notwithstanding even the fact that it was the Holy Prophet's own desire that the Ka'ba should be made his qibla (Bu. 2 : 30 ; 8 : 31 ; 65, sūra 2, ch. 18), he continued to follow the qibla of the last prophet that had passed away before him, that is, Jerusalem, and awaited the Divine direction. The Holy Qur'an recognized the truth of all the prophets, including the prophets of Israel, and as Jesus was the last of those prophets and his qibla the same as that of the Israelite prophets,¹ namely, the temple at Jerusalem, which place was honoured by the Holy Qur'an (17 : 1) as *al-Masjid al-Aqṣā* (lit., *the Remote Mosque*), he retained it as his qibla until he received an express revelation to turn towards the Sacred Mosque. Moreover, he did not receive that commandment when he was at Makka among the polytheists when it might have been said that he was scheming to win over the Arabs ; but it was after his coming to Madīna, at a time when relations with the Jews were still friendly, when the prospects of winning over the Arabs were as distant as ever, and when war with the *Quraysh* at Makka had become inevitable, that the Prophet received a revelation to turn to the Ka'ba as the future qibla of the Muslim world. For sixteen long months at Madīna, he had continued to pray with his back to Makka, the avowedly sacred territory, because he would not do anything of his own desire. As soon as he came to Madīna, he felt the difficulty that he could no more, as at Makka, turn his face to both places, to the Holy temple at Jerusalem and to the Sacred Mosque at Makka ; he realized that in turning his face to one

1. It should be noted that the Christians themselves ceased to follow the qibla of Christ.

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he must turn his back on the other ; and however much he desired that the Sacred Mosque at Makka should be his qibla, still he would not turn his back to the qibla of the last prophet before him, until he received a Divine commandment to that effect.

The ḥajj was a recognized institution in the first and second years of Hijra before
When was ḥajj first instituted. the commencement of the war with the Quraish. The second chapter which was, in the main, revealed in the first and second years of Hijra, is full of directions relating to ḥajj, the context whereof shows clearly that fighting had not actually taken place, though prospects of a war were in sight. The months in which ḥajj is to be performed are thus spoken of: "They ask thee concerning the new moons ; say, They are times appointed for the benefit of men and for the pilgrimage" (2 : 189). And again: "The pilgrimage is performed in well-known months" (2 : 197). Between these two verses, which speak of the months of ḥajj, occur the verses by which the Muslims were permitted to take up the sword to defend themselves: "And fight in the way of Allāh with those who fight with you" (2 : 190) ; from which it will be seen that the details of ḥajj were being given when fighting was as yet only permitted, and it was after that, that the actual fighting began. The details of ḥajj were, therefore, revealed before the battle of Badr. The rules of conduct to be observed when proceeding on ḥajj are also stated in the same context : "Whoever determines the performance of the pilgrimage therein, there shall be no foul speech, nor abusing, nor disputing in the pilgrimage" (2 : 197). The sa'y (running) between Ṣafa and Marwa is spoken of in still earlier verses : "The Ṣafa and the Marwa are among the signs of Allāh, so whoever makes a pilgrimage to the House or pays a visit to it, there is

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no blame on him if he goes round them both" (2 : 158). This was said because there were at the time two idols on the Şafā and the Marwa. The going to 'Arafāt and Muzdalifa is also spoken of: "So when you hasten on from 'Arafāt, remember Allāh near the Holy Monument" (2 : 198); and there is a clear injunction to accomplish the ḥajj: "And accomplish the ḥajj and the 'umra for Allāh" (2 : 196).

The mention of these details of ḥajj is a proof that the institution of ḥajj had already been recognized as part of the laws of Islām. In fact, we find a Muslim, here and there, performing the ḥajj, when, on account of some alliance, he deemed himself secure, it being impossible, of course, for the generality of the Muslims. Thus it is related of Sa'd ibn Mu'adh that on account of his friendship with Umayya ibn Khalf, a Quraish chief, he went to Makka to perform an 'umra after the Hijra and before the battle of Badr—that is, in the first year of Hijra—and had an altercation with Abū Jahl, whom he threatened with cutting off the Quraish trade with Syria (Bu. 64 : 2). He would not have done so unless the institution of ḥajj had been adopted by Islām. Hence it is clear that ḥajj was a recognized institution of Islām in the first year of Hijra. In fact, ḥajj was instituted before the Hijra took place, and while the Holy Prophet was still in Makka. The chapter entitled *al-Hajj* was revealed towards the close of the Holy Prophet's career at Makka¹, and it was in this chapter

1. Rodwell is certainly wrong in placing this chapter among the latest Madīna revelations. The best authorities are agreed that it was revealed at Makka, though some are of opinion that some of its verses were revealed in the early days at Madīna, but even this view is untenable. The verses relating to ḥajj, however, are not placed in this category. Muir puts this chapter at the close of the Makka sūras of the fifth period, and internal as well as external evidence shows this to be correct. A recent writer concludes his discussion as to the date of

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that ḥajj was proclaimed to be an institution of Islām: "And proclaim among men the ḥajj¹: they will come to thee on foot and on every lean camel, coming from every remote path, that they may witness advantages for them and mention the name of Allah during stated days over what He has given them of the cattle quadruped, then eat of them and feed the distressed one, the needy. Then let them accomplish their needful acts of shaving and cleansing, and let them fulfil their vows and let them go round the Ancient House" (22 : 27-29). These verses leave not the least doubt that ḥajj was ordained as an Islamic institution before the Hijra.

As the chief features of the ḥajj centre round the Description of the Ka'ba, something must be said about Ka'ba. this building and its name. The root-word *ka'aba* means *it swelled* or *became prominent* (L.L.), or *it became high and exalted* ('*alā wa-rtafa'a*) (N.); and the Sacred House is called Ka'ba on account of its glory and exaltation (N.). The Ka'ba is a rectangular building, almost in the centre of the Masjid al-Ḥarām, whereof the front and back walls (north-east and south-west) are each 40 feet in length, and the two side-walls 35 feet each, the height being 50 feet,

revelation of this chapter with the following words: "To conclude: Sūra 22 is thoroughly homogeneous, containing *no* elements from the Medina period. And (as was said a moment ago) much stronger evidence than has thus far been offered must be produced before it can be maintained that Mekkan Sūras were freely interpolated after the Hijra." (*The Jewish Foundation of Islam*, by C. C. Torrey, p. 100).

I. This verse is preceded by one in which Abraham is spoken of: "And when We assigned to Abraham the place of the House, saying, Do not set up aught with Me, and purify My House for those who make the circuit and who stand to pray and who bow and prostrate themselves." The words "Proclaim among men the ḥajj" are, therefore, generally understood to have been addressed to Abraham. Even if this view is accepted, it is equally an address to the Holy Prophet, for as the context shows, the mention of Abraham is only by way of parenthesis; and inasmuch as the pilgrimage is an ordinance common to both the Abrahamic and the Islamic faiths, the address is equally to both prophets.

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the four walls running north-west, north-east, south-west and south-east.

The four corners of the building are known by four different names, the north corner as *al-rukn al-'Irāqī* (after 'Irāq or Mesopotamia), the south corner as *al-rukn al-Yamānī* (after Yaman), the west corner as *al-rukn al-Shāmī* (after Shām or Syria) and the east corner as *al-rukn al-Aswad* (after the Ḥajar al-Aswad, or the Black Stone). The four walls of the Ka'ba are covered with a black curtain called Kiswa, lit., *clothing*. The door of the Ka'ba is in the north-east wall, about seven feet from the ground, not in the middle of the wall but nearer the Black Stone. When the Ka'ba is opened, a stair-case is placed in front of it to enable the visitors to reach the entrance. Outside the building is an open space, called al-Ḥijr (lit., *prohibited*), marked by a semi-circular wall three feet high, running opposite the north-west wall of the Ka'ba, the two ends of this wall being about six feet distant from the north and west corners of the Ka'ba, and the central part about 37 feet from the wall. This part is also called al-Ḥaḥīm (from *ḥaṭama* meaning *it crushed*), though Ibn 'Abbās is reported as saying that it should not be called by that name, as this name was given to it in the days of Ignorance and carried with it the superstitious association of throwing there one's whip or shoe at the time of taking an oath (Bu. 63 : 27). For the purpose of making circuits, the Ḥijr is included in the building. There are ḥadīth showing that the Ḥijr was considered by the Holy Prophet to be part of the building of the Ka'ba (Bu. 25 : 43 ; M. 15 : 66). It was for this reason that 'Abd-Allāh ibn Zubair included it in the building proper, but it was again left an open space when the Ka'ba was rebuilt after him, by Ḥajjāj.

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In the east corner at the height of about five feet is the Ḥajar al-Aswad (lit., *the Black Stone*) built into the wall. It is of a reddish black colour about eight inches in diameter, and is now broken into pieces held together by a silver band. The Maqām Ibrāhīm must also be mentioned in connection with the Ka'ba. It means "the place of Abraham," and the name is given to a very small building within the Sacred Mosque, about five feet square, supported on six columns eight feet high. This name, handed down from antiquity from one generation to another, is a decided proof of the connection of Abraham with the Ka'ba, and attention is drawn to this in the Holy Qur'ān in 3 : 96. But as used in 2 : 125, Maqām Ibrāhīm means the Sacred House itself.

The Ka'ba is stated in the Holy Qur'ān to be "the first House (of Divine worship) appointed for men" (3 : 95). In one place it is called *al-Bait al-'Atiq* or the Ancient House (22 : 29). It is also called *al-Bait al-Ḥarām* (5 : 97), or *al-Muḥarram* (14 : 37) which carries the same significance as *al-Ḥarām*, both meaning originally *al-mamnū' min-hu* or *that which is forbidden*; in other words, a place whereof the sanctity must not be violated. There is nothing in the Holy Qur'ān, or the Ḥadīth, to show when and by whom the Ka'ba was first built; but it is said to have been rebuilt by Abraham and Ishmael: "And when Abraham and Ishmael raised the foundations of the House, Our Lord! accept from us" (2 : 127). An earlier revelation makes it clear that the Ka'ba was already there when Abraham left Ishmael in the wilderness of Arabia: "O our Lord! I have settled a part of my offspring in a valley unproductive of fruit near Thy Sacred House" (14 : 37). It appears from this that Ishmael had been purposely left near the Sacred House; it was, in

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fact, under a Divine commandment that Abraham took this step (Bu. 60 : 9). It would seem that the Ka'ba was then in a demolished condition and was afterwards, when Ishmael grew to manhood, rebuilt by Abraham and Ishmael as stated in 2 : 127. In a long ḥadīth of Ibn 'Abbas, speaking of Abraham leaving Ishmael and his mother near the Ka'ba, it is said : " And the House was then rising above the surface of the earth like a mound, the flood waters passing to its right and to its left " (Bu, 60 : 9). The ḥadīth then goes on to narrate how long after this, when Ishmael had grown to manhood and was a married man, Abraham came to pay a visit to him and told him that Almighty God had commanded him to build a house at the place where the mound was, and how the father and the son built the Ka'ba. Besides being in a ruined condition, it seems to have had idols placed in it and Abraham was required to purify it of these : " And We enjoined Abraham and Ishmael, saying, Purify My House for those who visit it and those who abide in it for devotion and those who bow down and those who prostrate themselves " (2 : 125). Nearly the same words occur in an earlier revelation ; see 22 : 26.

The Ka'ba was again rebuilt by the Quraish when the Holy Prophet was a young man, and he personally took part in its building, carrying stones on his shoulders. During the construction a dispute arose as to who should place the Black Stone in its place. Every tribe was desirous of having this honour accorded to its representative. Finally a settlement was arrived at, namely that the decision of the man who made his appearance first in the Ka'ba should be accepted by all. Fortunately, the man who appeared first was Muḥammad, and there was an outcry that al-Amin (the Faithful one) had come. The Holy Prophet decided this dispute with his usual sagacity, placing the stone in a cloth with his own hands,

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and then asking a representative of each of the tribes to hold a corner of that cloth and lift the stone to its position, the Prophet himself fixing it in position. The Ka'ba remained as it was built by the Quraish until the time of 'Abd-Allah ibn Zubair, when the building having been damaged by the Umayyad army which had besieged Makka, 'Abd-Allah decided to rebuild it, instead of repairing it, including the Hġjr in the building proper. But after the fall of 'Abd-Allah, Hġjjġj again rebuilt it on the foundations of the structure enacted by the Quraish. And the building to-day rests on the same foundations.

The Ka'ba stands in the centre of a parallelogram whose dimensions, as given in the *Encyclopædia of Islam*, are as follows: N. W. side 545 ft., S. E. side 553 ft., N. E. side 360 ft., S. W. side 364 ft. This area is known as al-Masjid al-Hġrġm or the Sacred Mosque, the famous mosque of Makka. The name is met with in pre-Islamic literature (En. Is.). In the Holy Qur'an this name occurs in revelations of the early Makka period, as in 17 : 1. The area of the Sacred Mosque contains, besides the Ka'ba, the Maġġm Ibraġhm and the Zamzam buildings. The Sacred Mosque was the centre of all administrative activities before Islġm, as within it was situated the Dġr al-Nadwa (the Makkan Council Hall), where all important matters regarding the weal or woe of the people were settled. After the advent of Islġm, the Sacred Mosque has been the pivot of the intellectual activities of Makka, and the whole Muslim world looks upon it as its central point.

The Holy Qur'an claims the Ka'ba as the first house of Divine worship on earth, and all available historical evidence upholds this claim. It is sufficient to quote Muir :

“ A very high antiquity must be assigned to the main

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features of the religion of MeccaDiodorus Siculus, writing about half a century before our era, says of Arabia washed by the Red Sea, 'there is, in this country, a temple greatly revered by the Arabs.' These words must refer to the Holy house of Mecca, for we know of no other which ever commanded such universal homageTradition represents the Kaaba as from time immemorial the scene of pilgrimage from *all* quarters of Arabia :—from Yemen and Hadhramaut, from the shores of the Persian Gulf, the deserts of Syria, and the distant environs of Hira and Mesopotamia, men yearly flocked to Mecca. So extensive a homage must have had its beginnings in an extremely remote age" (*Life of Mahomet*, p. xc.).

Not only does Muir recognize "a very high anti-Abrahamic origin of quity" for the Ka'ba, but also for chief features of hajj. "the main features of the religion of Mecca," that is to say for the main features of hajj. In fact, as he says, the sacredness of the territory around Makka and the fact of its being a centre of pilgrimage, can only have come down from time immemorial, for there is no tradition or record showing that it was introduced at any time within historical memory. Some of the ceremonial is undoubtedly due to Abraham, as for instance the sa'y (running between Şafa and Marwa), which is in commemoration of Hagar's running to and fro to seek water for the baby Ishmael, or the sacrifice which is in commemoration of Abraham's endeavour to obey the Divine commandment which, he thought, meant the sacrifice of Ishmael. The ṭawāf (circumambulation) of the Ka'ba, however, must have existed before Abraham. But all the main features of the hajj, as existing at the advent of the Holy Prophet Muḥammad, were undoubtedly based on the authority of Abraham. Such at any rate was the tradition, and such is the

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statement of the Holy Qur'an, for the order was given to Abraham and Ishmael: "And when We assigned to Abraham the place of the House, saying, Do not set up aught with Me, and purify My House for those who make the circuit and who stand to pray and who bow and prostrate themselves. And proclaim among men the pilgrimage (ḥajj)" (22 : 26, 27). Thus Abraham not only rebuilt the Ka'ba and purified it of all traces of idolatry, but he also enjoined ḥajj with its main features which were therefore based on Divine revelation. Elsewhere, Abraham and Ishmael are spoken of as praying to God: "And show us our ways of devotion" (2 : 128). The Arabic word for *ways of devotion* is *manāsik*, the very word which is, throughout Ḥadīth collections, adopted for the devotional acts of ḥajj. And it was by Divine revelation that the Holy Prophet Muḥammad was led to adopt them.

The only change introduced into the features of ḥajj, after Abraham, seems to have been the placing of idols in the Ka'ba and other important places of the ḥajj. Thus two idols, the Usāf and the Na'ila, were placed on the Şafa and the Marwa, respectively (IJ-C. II, pp. 26, 27). The Ka'ba itself had within it 360 idols, all of which were thrown out by the Holy Prophet, at the conquest of Makka. Some other minor changes were introduced. For instance, the Quraish and the Kanāna, who styled themselves the Ḥums, as a mark of their strength and vehemence, used to stay at Muzdalifa, thinking it beneath their dignity to join other pilgrims in going forth to the plain of 'Arafāt. This distinction was evidently an innovation on the part of the more powerful tribes; and as Islām tolerated no distinctions, they were ordered to go forth to 'Arafāt along with the others. Another change was the prohibition to go naked,

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while making circuits round the Ka'ba (Ba. 25 : 66). Another ḥadīth shows that before Islām people did not leave Muzdalifa, where the night was passed, until they saw the sun shining. The Holy Prophet abolished this practice and ordered the march from Muzdalifa to begin before sunrise. It may be that the polytheists of Arabia connected it in some way with the worship of the sun, and the change may have been ordered to destroy "a solar rite;" but evidently it was to facilitate matters for the pilgrims to enable them to start immediately after saying their morning prayers, that time being more suitable for moving from one place to another as the heat of the sun was avoided. This also seems to be the reason why the march from 'Arafāt was deferred till after sunset.

Islām discourages asceticism in all its aspects. It with secularism. Asceticism combined condemns monkery outright, and speaking of the Christian practice, the Holy Qur'an says: "And as for monkery, they innovated it—We did not prescribe it to them" (57 : 27). Yet Islām lays the greatest stress upon the spiritual development of man, and in its four main institutions, prayer, zakāt, fasting and ḥajj, introduces workable ascetic formulæ into the daily life of man—an asceticism which is quite in keeping with the secular side of life. The five daily prayers require the sacrifice of a small part of his time, and without in any way interfering with his everyday life, enable him to realize the Divine that is within him. The institution of zakāt demands the giving up of a small portion of his wealth without interfering with his right to property. Fasting requires the giving up of food and drink but not in such a manner as to make him unfit for carrying on his regular work or business. It is only in ḥajj, that asceticism assumes a marked form, for the pilgrim is required not

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only to give up his regular work for a number of days, for the sake of the journey to Makka, but he must, in addition, give up many other amenities of life, and live, more or less, the life of an ascetic. The ḥajj is, however, a function which generally comes only once in a lifetime, and, therefore, while leading a man through the highest spiritual experience, it does not interfere in any appreciable degree with the regular course of his life. Thus does Islām make a man pass through an ascetic course of life without neglecting his secular duties.

No other institution in the world has the wonderful influence of the ḥajj in levelling all distinctions of race, colour and rank. Not only do people of all races and all countries meet together before the Holy House of God as His servants, as members of one Divine family, but they are all clad in one dress—in two white sheets—and there remains nothing to distinguish the high from the low. There is a vast concourse of human beings, all clad in one dress, all moving in one way, all having but one word to speak, *labbaika Allah-umma labbaika* meaning *here are we, O Allah! here are we in Thy presence*. It is ḥajj alone that brings into the domain of practicality what would otherwise seem impossible, namely that all people to whatever class or country they belong should speak one language and wear one dress. Thus is every Muslim made to pass once in his life through that narrow gate of equality which leads to broad brotherhood. All men are equal in birth and death; they come into life in one way and they pass out of it in one way, but ḥajj is the only occasion on which they are taught how to live in one way, how to act in one way and how to feel in one way.

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The description of hajj by European writers takes

A higher spiritual experience. notice only of its outward actions and has never tried to discover their real significance and inner value. The details of hajj will be discussed later on, but looking broadly at the scene at Makka during the hajj days, one is struck in the first place by the unity which is achieved among the discordant elements of humanity. Deeper than that, however, lies another value of hajj, and this is the higher spiritual experience which is made possible by this unique assemblage of men, the experience of drawing nearer and nearer to God till man feels that all those veils which keep him away from God are entirely removed and he is standing in the Divine presence. It is true that God does not live in Makka, nor is the Ka'ba the House of God in a material sense ; true too that a Muslim is taught to hold communion with God in a remote corner, in solitude, in the dead of nights, and thus all alone he goes through the experience of drawing nearer to God ; but there is yet a higher spiritual experience to which he can attain in that vast concourse of men assembled in the plain of 'Arafat. Every member of this great assemblage sets out from his home with that object in view. He discards all those comforts of life which act as a veil against the inner sight. He is required to put on the simplest dress, to avoid all talk of an amorous nature and all kinds of disputes, and to undergo all the privations entailed by a journey to a barren land like Arabia, so that he may be able to concentrate all his meditation on the Divine Being. The comforts of life are undoubtedly a veil which shut out the other world from human sight, and sufferings and privations as certainly make a man turn to God. To concentrate all one's ideas on God, not in solitude but in the company of others, is thus the object of hajj. A man may have the company of his

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wife and yet he must not have amorous talk with her ; he may be in the company of his adversary, yet he is not allowed to have any quarrel with him ; and all this that he may have a higher spiritual experience, the spiritual experience not of the hermit who is cut off from the world, not of the devotee holding communion with God in the corner of solitude, but of the man living in the world, in the company of his wife, his friends and his foes.

The higher significance of a man's spiritual experience in an assemblage is evident from another point of view as well. That there is a mysterious way from one heart to another is an undeniable truth ; it is recognized even by the materialist. Therefore the company of a man who is inspired by similar feelings and who is undergoing a similar experience would undoubtedly give additional force to the spiritual experience of each one of such companions. Now, take the case of thousands of men, even hundreds of thousands, all inspired by the one idea of feeling the presence of the Divine Being, all concentrating their minds on the One Supreme Being Who for the time is their sole object. And add to this the mighty effect of the outward unity of them all, all being clad in the same two sheets, all crying in one language what is understood by all, *labbaika Allah-umma labbaika*—“ Here we are, O Allāh ! here are we in Thy august presence.” Their appearance, as well as the words which are on their lips, show that they are standing in the Divine presence, and are so engrossed in the contemplation of the Divine Being that they have lost all ideas of self. Europeans who have observed this wonderful scene but who have yet not gone deep enough into its inner significance have wondered that in this vast concourse of humanity, there are sobbings on every side, there are tears flowing from every eye, but perhaps

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they have never given a thought to the inner change which thus affects them outwardly. So engrossing is the Divine presence in which they feel themselves to be that they quite forget that they are in the midst of an assemblage; they forget even themselves, and the Divine presence is all in all to them. God is surely not in Makka to the exclusion of other places, yet that vast assemblage at Makka sees Him and feels His presence as if He is actually there in their very midst. Such is the higher spiritual experience of the pilgrims to Makka, the experience not of the hermit shut up in his closet, cut off from the world, but the experience of a mighty concourse gathered together in one place.

Ḥajj is obligatory on every adult, only once in his life, and its performance oftener is voluntary (AD. 11 : 1). The obligation to perform the ḥajj is further subject to the condition that one is able to undertake a journey to Makka: "And pilgrimage to the House is incumbent upon men for the sake of Allāh, upon every one who is able to undertake the journey to it" (3 : 96). The ability to undertake the journey depends on various circumstances. There may be a physicāl disability, such as renders a man unable to bear the hardships of the long journey. For instance, a very aged man was deemed to be exempt from the obligation (Bu. 25 : 1). Or, the disability may be due to financial reasons, as when a man has not got sufficient provision for the journey as well as for the dependents whom he leaves behind. The condition of taking sufficient provisions for the journey is laid down in the Holy Qur'an: "And make provision, for the benefit of the provision is the guarding of oneself" (2 : 197). It is related that people from Yaman used to come for pilgrimage without any provisions with them, saying that they were *mutawakkil* (people trusting in God), and

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when they came to Makka, they resorted to begging (Bu. 25 : 6).

There is also an express prohibition against vowing to go for pilgrimage on foot. When the Holy Prophet saw such a man performing the journey in distress, and was told that he had vowed to make the pilgrimage on foot, he said, Allāh does not need that this man should punish himself thus, and ordered him to get on the back of an animal (Bu. 28 : 27). Similarly a vow to walk bare-footed to Makka was annulled by the Holy Prophet (AD. 21 : 19). This shows that a man must have sufficient provision to reach Makka comfortably. Danger to life may also be a reason for freeing a man from the obligation of ḥajj. The Holy Prophet himself and many of his Companions could not perform a pilgrimage after the flight to Madīna, because their lives would not have been safe at Makka. And when ultimately the Prophet undertook a pilgrimage ('umra) with about 1,400 Companions in the sixth year of Hijra, he was not allowed to proceed beyond Ḥudaibiya which was outside the limits of the Ḥaram, and had to come back without performing a pilgrimage.

The word '*umra* is derived from '*amara* meaning *he inhabited a place or paid a visit* to it, and in the terminology of Islām '*umra* means a visit to the Ka'ba. It differs from ḥajj in two respects. In the first place, ḥajj cannot be performed except at the fixed time, while '*umra* may be performed at any time; Shawwal, Dhi-qa'd and ten days of Dhi-l-Ḥijja are particularly spoken of as months of ḥajj (2 : 197 ; Bu. 25 : 34), so that a man can enter into the state of iḥrām for ḥajj only in these months, while the actual devotions of ḥajj are limited from the 8th to the 13th Dhi-l-Ḥijja. Secondly, the going to 'Arafāt and the assembling there is dispensed

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with in the case of 'umra, while it is an essential part of ḥajj. Another difference is that the sacrifice of an animal as the concluding act is essential to ḥajj but not so in the case of 'umra. The 'umra may be performed separately, or along with ḥajj, when it is like a parallel devotion to the latter. Though ḥajj is spoken of oftener in the Holy Qur'an, yet there is an express injunction to accomplish both: "And accomplish the ḥajj and the 'umra for Allāh" (2 : 196). Ḥadīth also speaks of *wujūb al-'umra*, or the obligatory nature of the 'umra, and Ibn 'Umar is quoted as saying: "There is no man but on him rests the obligation of the ḥajj and the 'umra," while Ibn 'Abbās said that the 'umra is the companion of ḥajj in the Book of Allāh (Bu. 26 : 1). In one ḥadīth it is said that 'umra in Ramadzān is equivalent to ḥajj (Bu. 26 : 4). According to another, 'umra is not obligatory (Tr. 7 : 38). But any one who performs the ḥajj can easily perform the 'umra.

There are two ways in which ḥajj may be combined with 'umra, *tamattu'* and *qirān*. *Tamattu'* (lit. *profiting*) consists in combining the ḥajj and the 'umra in such a manner that the pilgrim should enter a state of *iḥrām* in the months of ḥajj with the intention of performing an 'umra, and get out of that state after the performance of the 'umra, again entering into a state of *iḥrām* in the days of ḥajj. Thus between the 'umra and the ḥajj, the pilgrim profits by living in his ordinary condition and is not bound by the strict rules of *iḥrām*, and for this he is required to make a sacrifice, or fast for three days in the ḥajj and seven days after returning from ḥajj (2 : 196)¹. The *qirān* (lit. *uniting together*) consists in

1. Snouck Hurgronje's theory regarding *tamattu'* has been incorporated into the *Encyclopædia of Islām* by A. J. Wensinck under the heading *Iḥrām*: "According to Snouck Hurgronje's suggestion.....the restrictions which were imposed by the *iḥrām* became too sévère for Muḥammad, so that during his stay in Mecca before the *ḥadīdī* he

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entering into a state of *iḥrām* in the months of ḥajj with the intention of performing both ḥajj and 'umra, and not getting out of that state until both have been performed, or entering into a state of *iḥrām* in the months of ḥajj with the intention of performing an 'umra, and remaining in the same state until the ḥajj is also performed. Thus the difference between *tamattu'* and *qirān* is that in *tamattu'* there is a break in the state of *iḥrām*, while in *qirān* that state is continuous. When ḥajj alone is performed, it is called *ifrād* (lit., *to isolate a thing*). With the two differences pointed out above, whatever is said below concerning ḥajj, applies also to 'umra.

conducted himself in a secular fashion. As his followers looked askance at him for this, the revelation in Sūra 2 : 192 is said to have been given." The authority referred to in the concluding words is not stated, but as a matter of fact there is no such early authority. It must have been some other critic of the same type. The Holy Prophet performed ḥajj, after coming to Madina, only once, and this was also his last ḥajj, and it was only about eighty days after this that he died. There is not the flimsiest ground for supposing that the verse speaking of *tamattu'* was revealed on that occasion. On the other hand, there is the clearest evidence that this verse had been revealed prior to the battle of Badr, more than eight years before the Farewell Pilgrimage. *

There is also evidence to show that the Holy Prophet did not on this occasion break the continuity of the *iḥrām*. Thus the long ḥadīth which speaks of the Holy Prophet having entered into a state of *iḥrām* for 'umra and ḥajj, says, after speaking of the performances of his 'umra: "Then nothing which was forbidden to him became lawful to him until he performed his ḥajj and sacrificed his offering (*hady*, or the animal brought for sacrifice) on the day of sacrifices, then he returned and made circuits of the House, then every thing which was forbidden to him became lawful to him, and the people who had brought their offerings with them as the Prophet had done, did the same as was done by the Prophet" (Bu. 25 : 104). The restrictions of *iḥrām* becoming too severe for the Prophet, the looking askance of his Companions and the revelation of 2 : 192 (2 : 196, according to our computation) on this occasion, are all inventions of an ingenious brain, which, instead of being exposed by Wensinck have been gladly incorporated into a standard work like the *Encyclopædia of Islām*, and yet the same learned writer in his index of Ḥadīth, *Handbook of Tradition*, admits, under the heading *Iḥrām*, that the Holy Prophet did not give up the state of *iḥrām* in combining ḥajj and 'umra: "Muḥammad makes use of *tamattu'* but does not abandon the sacred state at Makka."

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The state into which the pilgrim is required to put himself on the occasion of ḥajj is called *iḥrām* (from *ḥaram* meaning *prevention* or *forbidding*), or entering upon a state in which a particular dress is put on and certain acts, ordinarily lawful, are forbidden. When the Holy Prophet was asked as to what dress the *muhrim* (the man entering into a state of *iḥrām*) should put on, he replied: "He should not put on a shirt or a turban or trousers or a cap, nor a dress coloured by *wars* (red) or saffron (yellow); and if he does not find shoes, let him put on leather stockings (*khuffain*)" (Bu. 3 : 53). Another ḥadīth describes his own dress in the state of *iḥrām* as follows: "He wore his unsewed waist-wrapper (*isār*) and his unsewed outer garment covering the upper part of the body (*ridā*)" (Bu. 25 : 23). The *iḥrām* dress, therefore, consists of two seamless sheets, a sheet reaching from the navel to below the knees and a sheet which covers the upper part of the body. Both these sheets must be, preferably, white. As regards women, they can wear their ordinary clothes, and 'Ā'ishā held that there was no harm if a woman pilgrim wore cloth dyed black or red or wore boots (*khuff*). She further held that a woman should not cover her face or wear a veil in *iḥrām* (Bu. 25 : 23). Change of clothes during *iḥrām* is not forbidden, according to one authority (*Ibid*). But even women must wear simple dress. The object is to remove all distinctions of rank, and this is done, in the case of men, by making them all wear two seamless sheets, and in the case of women by requiring them to give up the veil, which was a sign of rank. Probably the *iḥrām* dress of two seamless sheets, dates back from Abraham, and the simple patriarchal dress has been preserved in ḥajj to give men a practical lesson in simple living.

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Before donning the iḥrām dress, the pilgrim must take a bath and utter *talbiya*, facing the Qibla. The practice is also to say two rak'as of prayer, but all that is related of the Holy Prophet is that he entered a state of iḥrām after saying two rak'as of the early afternoon prayer. During the state of iḥrām, and even before that, from the beginning of the journey to Makka, no amorous discourse is allowed and sexual intercourse is therefore also forbidden: "So whoever determines the performance of the pilgrimage therein, there shall be no amorous speech, nor abusing nor disputing in ḥajj" (2 : 197); nor is the use of scent allowed in the state of iḥrām, nor shaving, nor the paring of nails. The cares of the body are sacrificed for a few days to devote greater attention to the cares of the soul, and this is a practical lesson which serves a useful purpose on many occasions in one's life.

The state of iḥrām, as described above, may be entered upon at any time during the months of ḥajj, after the journey is undertaken; but as it would be too inconvenient to remain in this state for a long time, the law has fixed certain places on the different routes to Makka, on reaching which the pilgrims enter upon a state of iḥrām. Such a place is called *miqāt* (from *waqt* meaning *time*) meaning *an appointed time, or a place in which a certain action is appointed to be performed*. The *miqāt* is also called a *muhill* (from *ahalla* meaning *he raised his voice*), which signifies *the place of raising voices with talbiya*. The *talbiya* consists in saying aloud *labbaika Allah-umma labbaika*, meaning "Here am I, O Allah! here am I in Thy august presence."¹ As soon as the state

1. The full *talbiya* runs thus: *Labbaika Allāh-umma labbaika, lā sharīka la-ka labbaika; inn-al-ḥamda w-al-ni'mata la-ka w-al-mulka la-ka lā sharīka la-ka*, which means "Here am I, O Allah! here am I in Thy

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of *iḥrām* is entered upon, with the determination to devote as little attention to the cares of the body as possible, the spiritual aspect of ḥajj is brought to mind by all the pilgrims crying aloud that they are in the august Divine presence. The place where *iḥrām* is entered upon is, therefore, also the place where voices are raised aloud for the remembrance of God, and the *miqāt* is, for that reason, also called the *muhill*. The several places appointed for *iḥrām* are: Dhu-l-Ḥulaifa for pilgrims coming from the direction of Madīna, Juḥfa for those coming from Syria and Egypt, Qarn al-Manāzil for those from Najd, Yalamlam for those from Yaman (among which are included all pilgrims from India, Java and other countries, proceeding by boats *via* 'Adan) and Dhāt 'Irq for those from 'Irāq (Bu. 25 : 7-13). For all places within these limits, the *miqāt* is the place from which the pilgrim starts, and for the people of Makka, the *miqāt* is Makka itself (Bu. 25 : 7).

The word *ṭawāf* is derived from *ṭafa* (*he went round* a thing), and in the technical language of Islām it means *making circumambulation of the Ka'ba*. The command to perform the *ṭawāf* of the house is contained in the Holy Qur'an in a Makka revelation : " And let them go round the Ancient House" (22 : 29). In the devotional acts of ḥajj, *ṭawāf* occupies the most important place, being the first act of the pilgrim on his arrival at Makka and his last act when he leaves the holy place. Bukhārī heads one of his chapters as follows : " He who makes circumambulations of the House on his arrival in Makka before he goes to his abode, then offers two rak'as of prayer,

presence; there is no associate with Thee, here am I ; surely all praise is Thine and all favours are Thine and the kingdom is Thine, there is no associate with Thee " (Bu. 25 : 26).

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then goes out to Şafa " (Bu. 25 : 62). Under this heading he reports the ḥadīth of Ibn 'Umar, which says " that the Holy Prophet made circumambulations on his first arrival in ḥajj and 'umra, then offered two rak'as, then went to and fro (*ṭāfa*) between Şafa and Marwa." The pavement on which the ṭawāf is made is called the maṭāf. The ṭawāf is performed by going round the Ka'ba, as near the walls of the sacred building as possible, but on the north-western side, keeping close to the small semi-circular wall, as the Ḥijr is included in the maṭāf. Before the ṭawāf, it is necessary to make ablutions (Bu. 25 : 77), if possible to take a bath. Men and women perform ṭawāf together, the women keeping apart from the men, but women are not allowed to go inside the Ka'ba until it is emptied of men (Bu. 25 : 63). Before Islām, some people used to make ṭawāf naked ; but Islām forbade it (Bu. 25 : 66). The ṭawāf made on arrival is called *ṭawāf al-quḍūm* (the ṭawāf of arrival), the ṭawāf made on departure is called *ṭawāf al-wada'* (the ṭawāf of departure), and the ṭawāf on the day of sacrifices (*yaum al-nahr*, or the tenth of *Dhi-l-Ḥijja*) is called *ṭawāf al-siyāra* (the ṭawāf of visit), this last being one of the necessary devotional acts of ḥajj (Bu. 25 : 129), while the first two are not obligatory though they are generally resorted to.

The ṭawāf begins at the Ḥajar al-Aswad (the Black Stone) which is kissed (Bu. 25 : 55), but even the making of a sign over it is sufficient (Bu. 25 : 59, 60). The Holy Prophet used to kiss both the rukn al-yamāni and the Ḥajar al-Aswad, but many Companions are reported as kissing all the four corners of the Ka'ba (Bu. 25 : 58). In going round, the Ka'ba is kept to the right, and seven rounds are made in all. The first three rounds are made at a fast pace (*raml*), and the remaining four at an ordinary pace (Bu. 25 : 62). But if necessary, the ṭawāf

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may be performed while one is riding on the back of an animal. The Holy Prophet performed the ṭawāf in his Farewell Pilgrimage on the back of a camel, and allowed Umm Salma to do the same on account of her illness (Bu. 25 : 73). The doing of an act or speaking if there is necessity for it, is not forbidden in ṭawāf (Bu. 25 : 64, 65). Prayers or supplications may be addressed to God in the course of ṭawāf. The Holy Prophet is reported to have prayed thus : " Our Lord ! grant us good in this life and good in the Hereafter and save us from the punishment of the fire " (AD. 11 : 50). Menstruating women should postpone the ṭawāf, and the sa'y between Ṣafā and Marwa, until they are purified. For those who enter upon iḥrām for both ḥajj and 'umra at the same time (*ḥajj qārin*), the first ṭawāf (*ṭawāf al-quḍūm*) is sufficient (Bu. 64 : 77 ; AD. 11 : 52). But in the case of *tamattu'*, a second ṭawāf must be performed when the iḥrām for ḥajj is entered upon.

Reference has already been made to the Ḥajar al

The Black Stone.

Aswad (lit., *black stone*), in the history of Ka'ba, where its description is given, and under the heading "Ṭawāf," where it is stated that it is kissed by the pilgrims as they pass by it in their circumambulations. There is not the least indication to show where this stone came from and when it was placed there, but as it was there before the advent of Islām and was even kissed, it must have been there at least from the time of Abraham, as the main features of the ḥajj are traceable to that patriarch. Yet it is remarkable that though the Ka'ba had 360 idols within its walls before the coming of Islām, the Black Stone was never regarded as an idol by the pre-Islamic Arabs, nor was it ever worshipped by them like the idols of the Ka'ba

1. *Rabba-nā ʿātt-nā fī-l-dunyā ḥasanat-an wa fī-l-āk̄īrati ḥasanat-an wa qī-nā 'aḥbāba-l-nār.*

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The fact that the practice of kissing it in the course of circumambulations has been retained, has been turned by Western critics of Islām into an argument that Islām retains remnants of pre-Islamic idolatry. There are even critics who are of opinion that the ṭawāf of the Ka'ba itself is an idolatrous practice. But a cursory glance at facts is enough to show the absurdity of this view. Among the innumerable objects which were taken for gods by the pre-Islamic Arabs, the Ka'ba and the Black Stone are the only two which are conspicuous by their absence, notwithstanding the reverence which the Arab mind had for them before Islām. The Ka'ba was known by the name *Bait Allah* or House of God, and there was a belief prevalent among them that no enemy could destroy it. It was due to this belief that when Abraha attacked Makka, the people of Makka took to the surrounding hills, offering no resistance, and when Abraha asked 'Abd al-Muṭṭalib why he did not ask him to spare the Ka'ba, his reply was that the Ka'ba was the House of God and He would take care of it. Yet notwithstanding all this reverence, the Ka'ba was never worshipped. It, no doubt, contained idols, yet it was the idols that were worshipped, and not the Ka'ba ; and the same is true of the Black Stone. It was kissed but it was never taken for a god, though the Arabs worshipped even unhewn stones, trees and heaps of sand.

And the Muslims, to say nothing of the Holy Prophet, were so averse to idolatry that when they saw two idols, the Usāf and the Nā'ila, on the Ṣafa and the Marwa respectively, they refused to make the sa'y between these two mountains, until a verse was revealed : " Surely the Ṣafa and the Marwa are among the signs appointed by Allāh, so whoever makes pilgrimage to the House or pays a visit to it, there is no blame on him if he goes round them both " (2 : 158). The words used here " there

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is no blame on him" clearly show that the Muslims thought that there was a *sin* in going round places wherein idols had been set. Evidently they had not the same scruples about the Ka'ba, as the idols in the Ka'ba were shut up in the building, while those on the Şafa and the Marwa were not only exposed to view but even touched by the pilgrims. The Muslims so hated idolatry that they could not brook the thought of idols being connected in any way with their religious practices. How could they think of worshipping the Ka'ba and the Black Stone, which even the idolaters had never worshipped. Had the idea of idolatry been connected in the least with the circuits round the Ka'ba and the kissing of the Black Stone, the Muslims would never have resorted to those practices. Nay, they had no hesitation in turning their backs to the Ka'ba when on reaching Madīna they were required to take Jerusalem for their qibla of prayer. And it has just been shown that the Holy Prophet made circuits of the Ka'ba on the back of a camel; he also touched the Black Stone with the rod in his hand; all of which goes to show that the Muslims never entertained the idea of the worship of these things, nor was their attitude towards them at any time that of the worshipper towards the object of his worship. Nor was the Black Stone alone kissed; the Holy Prophet kissed both the Black Stone, which is in the Eastern corner, and the Yaman corner, while some of the Companions kissed all the four corners of the Ka'ba.

To say that ṭawāf of the Ka'ba is a remnant
Significance underlying of idolatry is to force a meaning on
ṭawāf of the Ka'ba. idolatry which it has never borne.
Circumambulation of an object which is considered sacred
is met with in the history of the Israelites, "where the
altar is circumambulated once on the first six days and
sometimes on the seventh" (En. Is., art. *Ṭawāf*), yet

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no critic has ever asserted that the altar was worshipped by the Israelites. And, of all men, the Muslim would be farthest from the idea of idol-worship in his *ṭawāf* of the Ka'ba, when he feels himself in the presence of the One God, crying aloud, *labbaika Allah-umma labbaika, la sharika la-ka labbaika*, "Here am I, O Allah! here am I in Thy presence, there is no associate with Thee, here am I." From the time when he is still at a distance of several miles from Makka, to the time when he leaves the Holy City, there is but one phrase on his tongue, one idea in his heart, *there is no associate with God*. How could he at the same time entertain the idea of idol-worship? And what is *ṭawāf* itself? It is going round about the House which is an emblem of Divine Unity, the place from which sprang the idea of Divine Unity, the place which would always be the centre for all believers in Divine Unity. All ideas of the pilgrim at that time are concentrated upon one theme, the theme of Divine Unity. The pilgrim forgets everything and remembers only the One God. He forgets even his own presence, and to him the august Divine presence is all in all. That is the *ṭawāf*.

That the Ka'ba was rebuilt by Abraham is an historical fact. That the Black Stone has been there ever since the Ka'ba has been known to exist, there is not the least reason to doubt. That it was a stone sent down from Paradise, or that it was originally white and became black on account of the sins of men, there is no reliable *ḥadīth* to indicate. The Black Stone is, in fact, the corner-stone of the Ka'ba, and stands there only as an emblem, a token that that part of the progeny of Abraham which was rejected by the Israelites was to become the corner-stone of the Kingdom of God. The

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Psalms contain a clear reference to it: "The stone which the builders refused is become the head-stone of the corner" (Ps. 118: 22). Ishmael was looked upon as rejected and the Divine covenant was considered to have been made with the children of Isaac only. That was the Jewish view, and it was due to the fact that Ishmael was placed by Abraham near the Ka'ba. And again while prophet after prophet appeared among the Israelites, no prophet appeared of the progeny of Ishmael, and hence the Jewish belief that Ishmael was rejected became stronger. Yet it was from the progeny of Ishmael that the Last Prophet, "the head-stone of the corner" in the words of the Psalmist, was to arise, and the Black Stone, whencesoever brought, was placed as the corner-stone of the Ka'ba, as a sign that the rejected Ishmaelites were the real inheritors of the Divine Kingdom. And while David referred to it as "the stone which the builders refused," Jesus spoke of it more plainly in the parable of the husbandman, telling the Israelites that the vineyard, which in the parable stands for the Kingdom of God, would be taken away from them and given to "other husbandmen;" that is, to a non-Israelite people: "Did ye never read in the Scriptures, The stone which the builders rejected, the same is become the head of the corner?" (Mt. 21: 42); "The Kingdom of God shall be taken from you, and given to a nation bringing forth the fruits thereof" (Mt. 21: 43). That by the rejected stone in the prophecy was meant a rejected nation is made clear by Jesus Christ. That that rejected nation was no other than the Ishmaelites is borne out by history. And in the whole world there is only this unhewn stone, the stone "cut out of the mountain without hands" (Dan. 2: 45), that is the corner-stone of a building which in point of importance stands unique in the world.

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Sa'y means *running*, and in the Islamic terminology it signifies the running of the pilgrims between the two little hills situated near Makka, called the *Şafā* and the *Marwa*. In the devotional acts of *ḥajj*, it occupies a place next to the *ṭawāf*. In fact, in the case of 'umra, the minor pilgrimage as it is called, *ṭawāf* and *sa'y* are the only functions of importance, and the 'umra therefore ends with the *sa'y*, unless of course there is an animal to be sacrificed when 'umra alone is to be performed. The *sa'y* is spoken of in the Holy Qur'an: "Surely the *Şafā* and the *Marwa* are among the signs appointed by Allāh, so whoever makes a *ḥajj* to the House or an 'umra, there is no blame on him if he goes round about them" (2 : 158). The word used in the Holy Qur'an is not *sa'y* but a derivative of *ṭawāf* (*yattawwafa*). These two hills were the scene of Hagar's running to and fro in quest of water for her baby Ishmael, when she was left there by Abraham (Bu. 60 : 9). They have thus become monuments of patience under the hardest trials, and it is in connection with the teaching of patience that the *ṭawāf* of *Şafā* and *Marwa* is spoken of in the Holy Qur'an, as the context of 2 : 158 would show. Between these two hills there is now a street with houses and shops on both sides.

Ṭawāf and *sa'y* are the individual acts of every pilgrim when he first arrives at Makka, whether he intends to perform the 'umra or the *ḥajj*, or unites *ḥajj* with 'umra (*iqrān*) or combines the two (*tamattu'*). In case it is simply an 'umra or in case of *tamattu'*, the pilgrim emerges from the state of *iḥrām* after performing the 'umra, the *ḥajj* proper beginning on the 8th of *Dhi-l-Ḥijja* when the whole body of pilgrims moves together. It is called the *yaum al-tarwiya* (lit., *the day of watering or satisfying the*

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thirst), because on that day the pilgrims provide themselves with water for the following days (N.), or because the commencement of the ḥajj proper means the satisfaction of spiritual thirst. The pilgrims who have got out of the state of *iḥrām* on account of *tamattu'*, again enter into *iḥrām* on the morning of the 8th, and so also do the residents of Makka who wish to perform the pilgrimage (Bu. 25 : 81). The whole body of pilgrims then moves to Minā, a plain which is midway between 'Arafāt and Makka, about four miles distant from the Holy City. The way into this plain which is about a mile long goes over a hill which is called the 'Aqaba, famous in the history of Islām because of the two pledges taken there by the Holy Prophet from the Madīna Muslims. To the north side rises Mount Thabīr. During the ḥajj proper, the pilgrims' longest, and in fact only, stay, is in Minā. Minā must be reached before noon, so that the early afternoon prayer, *Zuhr*, may be said there. The night is also passed in Minā, and next day, the 9th Dhi-l-Ḥijja, at midday the pilgrims move to the plain of 'Arafāt.

'Arafa or 'Arafāt is the name of the plain which is situated to the east of Makka at a distance of about nine miles. It is derived from '*arf* or *ma'rifa*, which means *knowledge* of a thing, and *ma'rifa* especially means *the knowledge of God*. The name given to this plain seems to be based on the fact that here men assembled together, as equals in all respects, are best able to *know* their God. This plain is bounded on the east by the lofty mountains of Ṭa'if, while northward rises a small hill of the same name, 'Arafāt, about 200 feet above the level of the plain. The *Jabal al-Raḥma* (lit., *the mountain of mercy*), on which is the pulpit from which the sermon is delivered, is situated to the east, sixty steps of stone leading to the top.

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Leaving Mina at noon on the ninth Dhi-l-Hijja, the pilgrims reach 'Arafāt in time to say the Zuhr and 'Aṣr prayers combined, after which the Imām delivers a khutba (sermon) from the pulpit on the *Jabal al-Rahma*. The pilgrims' stay in 'Arafāt lasts only from afternoon till sunset and is known as *wuquf* (lit., *halting* or *standing still*), but so important is the place it occupies in the devotional acts of ḥajj, that ḥajj is considered to have been performed if the pilgrim reaches 'Arafāt in time on the 9th Dhi-l-Hijja, but if he is unable to join in the *wuquf*, the ḥajj is not performed. The whole time of the pilgrims, from afternoon till sunset, is passed in glorifying God and crying aloud *labbaika Allah-umma labbaika*. Before the advent of Islam, the Quraish and certain other tribes, who claimed superiority over the other Arab tribes, did not go to 'Arafāt, hence the injunction in the Holy Qur'an levelling down this distinction: "Then go forth from the place from which people go forth" (2 : 199). The Holy Prophet ordered people to go forth calmly (Bu. 25 : 94).

After sunset the pilgrims leave 'Arafāt, and stop at Muzdalifa. Muzdalifa (from *salf* meaning *nearness*), which is so called because by staying there nearness to God is sought (N.). In the Holy Qur'an it is called *al-Mash'ar al-Harām* (lit., *the Sacred Monument*), and the remembrance of God at that place is specially enjoined: "Then when you hasten on from 'Arafāt, remember Allah near the Holy Monument, and remember Him as He has guided you, though before that you were certainly of the erring ones" (2 : 198). It has also received the name of *al-Jam'* (lit., *the place of gathering together*). On reaching Muzdalifa, the pilgrims say their Maghrib and 'Isha prayers, combining the two (Bu. 25 : 96). There the night is passed, and then after saying the morning prayer at an early

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hour the pilgrims leave for Minā. Those who are infirm are allowed to leave even before the morning prayer (Bu. 25 : 98). Before Islām the pilgrims did not leave until the sun shone on the Mount Thabīr (Bu. 25 : 99). It may be that the idea of sun-worship was in some way connected with this custom.

Thus the pilgrims again reach Minā on the morning of 10th Dhī-l-Ḥijja, which is called *Yaum al-naḥr* in Minā. *yaum al-naḥr* (lit. *the day of sacrifices*), being the day which is celebrated as the 'Id al-Adḡā all over the Muslim world. After saying the 'Id prayers in Minā, the animals are sacrificed,¹ the pilgrims then return and perform the ṭawāf of the Ka'ba. This is called the ṭawāf al-ifāḡza, and with it, the pilgrim emerges from the state of iḥrām, by having his head shaven or his hair clipped. But before the sacrifice there is another small act of devotion called the *ramy* or *ramy al-jimār*, which I will describe presently. Though the pilgrim leaves the state of iḥrām after the ṭawāf al-ifāḡza, yet he must return to Minā again, for it is in Minā that the ḡajj ends.

The pilgrims are required to stay in Minā for three or at least two days after the *yaum al-naḥr*, that is, on the 11th, 12th and 13th Dhī-l-Ḥijja. This stay is required by an express injunction of the Holy Qur'ān, where the ending of the devotional acts of ḡajj is thus spoken of :—

“ And laud Allāh during the numbered days, then whoever hastens off in two days, there is no blame on him, and whoever remains behind, there is no blame on him, for him who guards against evil, and be careful of your duty to Allāh, and know that you shall be gathered together to Him ” (2 : 203).

1. The subject of sacrifices has been fully dealt with in the chapter on Prayer, Section 8.

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The "numbered days" referred to here are the two or three days that are spent in Minā after the *yaum al-nahr*, and they are known by the name of *ayyām al-tashriq* or the days of *tashriq*. The word *tashriq* is derived from *sharq* signifying *east*; but, according to some, these three days of pilgrimage are given the name *tashriq* because one of its meanings is spreading out flesh in sun for the purpose of drying it, and the flesh of the sacrificed animals was dried during these days to form part of provision for the journey (N.). Another explanation is that they were so named because the animals were sacrificed after the rising of the sun, which is also one of the meanings of *tashriq* (N.). But, again, *tashriq* also means *going east* (LL.), and Minā lies to the east of Makka; or it may have a deeper spiritual significance in that it also means *being beautiful and shining in the face* (LL.). From the quotations given above it will be further seen that in pre-Islamic days, after the performance of ḥajj, men used to boast of the greatness of their fathers when they gathered together in 'Ukāz and other markets. Islām discontinued this and set apart these days for the glorification of God.

During the last day of ḥajj, the 10th *Dhi-l-Hijja* and the three *tashriq* days, the pilgrims are required to cast stones at certain fixed places. This is known as *ramy al-jimār* (*ramy* meaning *throwing*, and *jimār*, pl. of *jamra*, meaning *small stones*). Each of the three places in Minā, where stones are thrown, is also called Jamra, because of the *throwing* or the *collection of stones* there. Of the three Jamras, that nearest to Makka is called Jamra 'Aqaba being situated on the 'Aqaba; the second Jamra *wuṣṭā* or the middle Jamra, is near the Mosque of Minā; and a little further on is the third, the Jamra *ṣuḡhrā*, or the smallest Jamra. The practice of the

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Holy Prophet is thus described. On the *yaum al-naḥr* he threw stones in the forenoon, and in *tashriq* days in the afternoon (Bu. 25 : 134). Again, while a start was made with Jamra 'Aqaba on the *yaum al-naḥr*, the order was reversed in the *tashriq* days. The number of stones thrown at each Jamra was seven, and every stone thrown was accompanied with takbīr (Bu. 25 : 138). It is also related that after throwing stones at the first Jamra he proceeded a little further, and then stood for a long time raising both hands for prayer and facing the Qibla; then he went to the second Jamra and after throwing stones there again proceeded a little further, then stood for a long time raising both hands for prayer facing the Qibla, and last of all he came to the last Jamra and departed after throwing stones there (Bu. 25 : 142). It is true that in the ḥajj, many pre-Islamic practices were retained, but as has been shown above, the origin of these practices is traceable to Abraham, and every one of them carries with it a spiritual significance. The whole atmosphere of ḥajj is a demonstration of the greatness of God and the equality of man. The ḥajj is, as it were, the final stage in man's spiritual progress. Yet in spiritual advancement the temptations of real life must not be forgotten, and the throwing of stones draws attention to the temptations of the Evil one. To live in perfect peace, that is the message of Islām, but there is no peace of mind for the man who makes peace with evil. The throwing of stones teaches the lesson that man must learn to hate evil and that the Evil one should be kept distant a stone's throw. The nearer a man gets to temptations, the more likely he is to yield, and the best way of avoiding them is to keep them at a distance. The throwing of stones is, moreover, a reminder of the spiritual fight which man must wage against evil.

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Though ḥajj is meant to bring about an ascetic

Other activities allowed in pilgrimage. experience in man's practical life, yet so closely combined are the ascetic and secular experiences in Islām, that the utilizing of the pilgrimage to Makka for secular purposes is not excluded. The Holy Qur'an, while enjoining the making of sufficient provision for the ḥajj journey, adds: "There is no blame on you for seeking bounty from your Lord" (2 : 198). The seeking of bounty is accepted here by all commentators as meaning the seeking of increase in one's wealth by means of trade in the pilgrimage season. Explaining this verse, Ibn 'Abbās says that Dhu-l-Majāz and 'Ukāz were markets for trade in the pre-Islamic times. The Muslims however did not like the idea of mixing up the spiritual lessons of pilgrimage with material advantages, until this verse was revealed which allowed the carrying on of trade in the pilgrimage season (Bu. 25 : 150). These markets were held in or near 'Arafāt, from the beginning of Dhī-Qa'd till the 8th Dhī-l-Ḥijja, when pilgrimage began. The Holy Qur'an thus not only allows the carrying on of trade in the pilgrimage season, but in a way recommends it by calling it a "bounty from your Lord;" and it is easy to see that, even if trading is allowed in the pilgrimage season, this great assemblage of Muslims from all quarters of the world may also be made the occasion of other advantages of a material or cultural nature, and it should serve the purpose of unifying the Muslim world and removing misunderstandings between nation and nation. Conferences have indeed been held sometimes, and this should, in the new conditions of the world, be a regular feature of the ḥajj, and the best minds among the various nations should on this occasion discuss all problems affecting the Muslim world, not the least important of which is the advancement of Islām itself.

CHAPTER V

JIHĀD

A very great misconception prevails with regard to the duty of jihād in Islām, and that is that the word *jihād* is supposed to be synonymous with *war*; and even the greatest research scholars of Europe have not taken the pains to consult any dictionary of the Arabic language, or to refer to the Holy Qur'an, to find out the true meaning of the word. So wide-spread is the misunderstanding that a scholar of the fame of A. J. Wensinck, when preparing his concordance of Hadith, *A Handbook of Early Muhammadan Tradition*, gives not a single reference under the word *jihad*, referring the reader to the word *war*, as if the two were synonymous terms. The *Encyclopædia of Islām* goes even further, beginning the article on *Djihād* thus: "The spread of Islām by arms is a religious duty upon Muslims in general;" as if jihād meant not only *war* but *war undertaken for the propagation of Islām*. Klein in *The Religion of Islām* makes a similar statement: "Jihād.—The fighting against unbelievers with the object of either winning them over to Islām, or subduing and exterminating them in case they refuse to become Muslims, and the causing Islām to spread and triumph over all religions is considered a sacred duty of the Muslim nation." If any of these learned scholars had taken the trouble to consult an ordinary dictionary of the Arabic language, he could never have made such a glaring mis-statement. The word *jihad* is derived from *jahd* or *juhd* meaning *ability*, *exertion* or *power*, and *jihad* and *mujahida* mean *the exerting of one's power in repelling the enemy* (R.). The same authority then goes on to say: "Jihād is of three kinds; *vis.*, the

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carrying on of a struggle: 1. against a visible enemy, 2. against the devil, and 3. against self (*nafs*).” According to another authority, *jihād* means *fighting with unbelievers, and that is an intensive form (mubālagha)*, and *exerting one's self to the extent of one's ability and power whether it is by word (qaul) or deed (fi'l)* (N.). A third authority gives the following significance: “*Jihād*, inf. n. of *jāhada*, properly signifies *the using or exerting of one's utmost power, efforts, endeavours or ability, in contending with an object of disapprobation*; and this is of three kinds, namely, a visible enemy, the devil, and one's self; all of which are included in the term as used in the Kur. xxii. 77” (LL.). *Jihād* is therefore far from being synonymous with *war*, while the meaning of “war undertaken for the propagation of Islām,” which is supposed by European writers to be the significance of *jihād*, is unknown equally to the Arabic language and the teachings of the Holy Qur'an.

Equally, or even more important is the consideration of the sense in which the word is used in the Holy Qur'an. It is an admitted fact that permission to fight was given to the Muslims when they had moved to Madīna, or, at the earliest, when they were on the eve of leaving Makka. But the injunction relating to *jihād* is contained in the earlier as well as in the later Makka revelations. Thus, the '*Ankabut*, the 29th chapter of the Holy Qur'an, is one of a group which was undoubtedly revealed in the fifth and sixth years of the Call of the Prophet, yet there the word *jihād* is freely used in the sense of *exerting one's power and ability*, without implying any war. In one place it is said: “And those who strive hard (*jāhadū*) for Us, We will certainly guide them in Our ways, and Allāh is surely with the doers of good” (29 : 69). The Arabic word *jāhadū* is derived from *jihad* or *mujahida*, and the

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addition of *fi-nā* (for Us) shows, if anything further is needed to show it, that the jihād, in this case, is the spiritual striving to attain nearness to God, and the result of this jihād is stated to be God's guiding those striving in His ways. The word is used precisely in the same sense twice in a previous verse in the same chapter: "And whoever strives hard (*jāhada*), he strives (*yujahidu*) only for his own soul," that is, for his own benefit, "for Allāh is Self-sufficient, above need of the worlds" (29 : 6). In the same chapter, the word is used in the sense of a contention carried on in words : "And We have enjoined on man goodness to his parents, and if they contend (*jāhada*) with thee that thou shouldst associate others with Me, of which thou hast no knowledge, do not obey them" (29 : 8).

Among the later revelations may be mentioned *al-Nahl*, the 16th chapter, where it is said, towards the close : "Yet thy Lord, with respect to those who fly, after they are persecuted, then they strive hard (*jāhadu*) and are patient (*ṣabarū*), thy Lord after that is surely Forgiving, Merciful" (16 : 110). There is another very prevalent misconception, namely, that at Makka the Holy Qur'ān enjoined patience (*ṣabr*) and at Madīna it enjoined jihād, as if patience and jihād were two contradictory things. The error of this view is shown by the verse here quoted, since it enjoins jihād and patience in one breath.

I may quote two more examples of the use of the word *jihad* in the Makka revelations. In one place it is said : "And strive hard (*jāhidu*) for Allāh, such a striving (*jihad*) as is due to Him" (22 : 78). And in the other : "So do not follow the unbelievers and strive hard (*jāhid*), against them a mighty striving (*jihad-an*) with it" (25 : 52), where the personal pronoun *it* refers clearly to the Holy Qur'ān, as the context shows. Now in both

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these cases, the carrying on of a *jihād* is clearly enjoined, but in the first case it is a *jihād* to attain nearness to God, and in the second it is a *jihād* which is to be carried on against the unbelievers, but a *jihād* not of the sword but of the Holy Qur'an. The struggle made to attain nearness to God and to subdue one's passions, and the struggle made to win over the unbelievers, not with the sword but with the Qur'an, is, therefore, a *jihād* in the terminology of the Qur'an, and the injunctions to carry on these two kinds of *jihād* were given long before the command to take up the sword in self-defence.

A struggle for national existence was forced on the Muslims when they reached Madīna, and they had to take up the sword in self-defence. This struggle went also, and rightly, under the name of *jihād*; but even in the Madīna sūras the word is used in the wider sense of a struggle carried on by words or deeds of any kind. As a very clear example of this use, the following verse may be quoted which occurs twice: "O Prophet! strive hard (*jāhid* from *jihād*) against the unbelievers and the hypocrites, and remain firm against them; and their abode is Hell; and evil is the destination" (9 : 73 ; 66 : 9). Here the Prophet is bidden to carry on a *jihād* against both unbelievers and hypocrites. The hypocrites were those who were outwardly Muslims and lived among, and were treated like Muslims in all respects. They came to the mosque and prayed with the Muslims. They even paid the *zakāt*. A war against them was unthinkable and none was ever undertaken. On the other hand, they sometimes fought along with the Muslims against the unbelievers. Therefore the injunction to carry on a *jihād* against both unbelievers and hypocrites could not mean the waging of war against them. It was a *jihād* in the same sense in which the word is used in Makka

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revelations, a jihād carried on by means of the Holy Qur'an as expressly stated in 25 : 52, a striving hard to win them over to Islām. In fact, on other occasions as well, it is a mistake to think that jihād means only fighting; the word is almost always used in the general sense of striving hard, including fighting where the context so requires. "Those who believe and those who fly from their homes and strive hard in the way of Allah" (2 : 218; 8 : 74), is a description which applies as much to the fighters as to those who carry on the struggle against unbelief and evil in other ways. And the *ṣābirīn* (those who are patient), and the *mujāhidīn* (those who struggle hard), are again spoken of together in a Madīna revelation as they are in a Makka revelation: "Do you think that you will enter the garden while Allah has not yet marked out those who strive hard from among you and He has not marked out the patient" (3 : 141).

Even in Ḥadīth literature, the word jihād is not used exclusively for fighting. For example, ḥajj is called a jihād: "The Holy Prophet said, The ḥajj is the most excellent of all jihāds" (Bu. 25 : 4). Of all the collections of Ḥadīth, *Bukhārī* is most explicit on this point. In *I'tiṣām bi-l-Kitāb wa-l-Sunna*, the 4th chapter is thus headed: "The saying of the Holy Prophet, A party of my community shall not cease to be triumphant being upholders of Truth," to which are added the words, "And these are the men of learning (*ahl al-'ilm*)" (Bu. 96 : 11). The Prophet's actual saying, as reported in other ḥadīth, contains the additional word *yūqatīlun*, as in AD. 15 : 4. Thus *Bukhārī*'s view is that the triumphant party of the Prophet's community does not consist of fighters, but of the men of learning who disseminate the truth and are engaged in the propagation

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of Islām. Again, in his book of Jihād, Bukhārī has several chapters speaking of simple invitation to Islām. For instance, the heading of 56 : 99 is: "May the Muslim guide the followers of the Book to a right course, or may he teach them the Book;" that of 56 : 100: "To pray for the guidance of the polytheists so as to develop relations of friendship with them;" that of 56 : 102: "The invitation (of the unbelievers) by the Holy Prophet to Islām and prophethood, and that they may not take for gods others besides Allāh;" that of 56 : 143: "The excellence of him at whose hands another man accepts Islām;" that of 56 : 145: "The excellence of him who accepts Islām from among the followers of the Book;" and that of 56 : 178: "How should Islām be presented to a child."

These headings go to show that up to the time of Bukhārī, the word jihād was used in the wider sense in which it is used in the Holy Qur'an, invitation to Islām being looked upon as jihād. Other Ḥadīth literature contains similar references. Thus Abū Dāwūd (AD. 15 : 4) quotes under the heading "The continuity of jihād" a ḥadīth to the effect that "a party of my community shall not cease fighting for truth and it shall be triumphant over its opponents," which words are thus explained in the '*Aun al-Ma'bud*, a commentary of Abū Dāwūd, on the authority of Nawawī: "This party consists of different classes of the faithful, of them being the brave fighters, and the *faqīhs* (jurists), and the *muḥaddithun* (collectors of Ḥadīth), and the *zahids* (those who abstain from worldly pleasures and devote themselves to the service of God), and those who command the doing of good and prohibit evil, and a variety of other people who do other good deeds." This shows that jihād in Ḥadīth includes the service of Islām in any form.

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It is only among the jurists that the word jihād

Use of the word jihād lost its original wider significance by jurists. and began to be used in the narrower sense of *qital* (fighting). The reason is not far to seek. The books of fiqh codified the Muslim law, and in the classification of the various subjects with which the law dealt, *qital* (fighting) found a necessary place, but invitation to Islām, though a primary meaning of the word jihād, being a matter of free individual choice, did not form part of the law. The jurists who had to deal with *qital*, therefore, used the word jihād as synonymous with *qital*, and, by and by, the wider significance of jihād was lost sight of, though the commentators on the Holy Qur'an accepted this significance when dealing with verses such as 25 : 52. But that was not the only misuse of the word. Together with this narrowing of the significance of jihād, the further idea was developed that the Muslims were to carry on a war against unbelieving nations and countries, whether they were attacked or not, an idea quite foreign to the Holy Qur'an.

The propagation of Islām is no doubt a religious

The spread of Islām by force. duty of every true Muslim, who must follow the example of the Holy Prophet, but "the spread of Islām by force," is a thing of which no trace can be found in the Holy Qur'an. Nay, the Holy Book lays down the opposite doctrine in clear words: "There is no compulsion in religion," and the reason is added: "The right way is clearly distinct from error" (2 : 256). This verse was revealed after the permission for war had been given, and it is therefore certain that the permission to fight had no connection with the preaching of religion. That the Holy Qur'an never taught such a doctrine, nor did the Holy Prophet ever think of it, is a fact which is

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now being gradually appreciated by the Western mind. After beginning his article on *Djihad* with the statement that "the spread of Islām by arms is a religious duty upon Muslims in general," D. B. Macdonald, the writer of the article in the *Encyclopædia of Islām*, in a way questions the correctness of his own allegation, by adding that there is nothing in the Holy Qur'an to corroborate it, and that the idea was not present even to the mind of the Prophet :

"In the Meccan Sūras of the Kur'an patience under attack is taught; no other attitude was possible. But at Medīna, the right to repel attack appears, and gradually it became a prescribed duty to fight against and subdue the hostile Meccans. Whether Muḥammad himself recognized that his position implied steady and unprovoked war against the unbelieving world until it was subdued to Islām may be in doubt. Traditions are explicit on the point;* but the Kur'anic passages speak always of the unbelievers who are to be subdued as dangerous or faithless."

Here is a plain confession that the Qur'an does not enjoin the waging of war against all unbelievers so as to subdue them to Islām, nor was the idea present to the mind of the Holy Prophet. The logical consequence of this confession is that genuine ḥadīth cannot inculcate such a doctrine, for Ḥadīth is the saying of the Prophet. And if the Qur'an and the Prophet never taught such a doctrine, how could it be said to be the religious duty of the Muslims? There is obviously a struggle here in the writer's mind between preconceived ideas and an actual knowledge of facts.

It is a mis-statement of facts to say that patience

* It will be shown later on that even Ḥadīth does not teach propagation of Islām by force.

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Circumstances under which war was permitted.

under attack was taught at Makka, because there was no other alternative, and that the right to repel attack came at Madīna. The attitude was no doubt changed but that change was due to the change of circumstances. At Makka there was individual persecution and patience was taught. If the conditions had remained the same at Madīna, the Muslim attitude would have been the same. But individual persecution could no more be resorted to by the Quraysh, as the Muslims were living out of their reach. This very circumstance fanned the fire of their wrath, and they now planned the extinction of the Muslims as a nation. The sword was taken up to annihilate the Muslim community or to compel it to return to unbelief. That was the challenge thrown at them, and the Prophet had to meet it. The Holy Qur'an bears the clearest testimony to it. The earliest permission to repel attack is conveyed in words which show that the enemy had already taken up the sword or decided to do so: "Permission to fight is given to those upon whom war is made because they are oppressed and Allah is well able to assist them, those who have been expelled from their homes without a just cause except that they say, Our Lord is Allah. And had there not been Allah's repelling some people by others, there would have been pulled down cloisters and churches and synagogues and mosques in which Allah's name is much remembered; and Allah will help him who helps His cause" (22 : 39, 40). The very words of this verse show that it is the earliest on the subject of fighting, as it speaks of a permission being given now which evidently had not been given up to this time. This permission was given to a people upon whom war was made by their enemies (*yūqataluna*); and it was not a permission to make war with people in general but only

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with the people who made war on them, and the reason is stated plainly "because they are oppressed" and "have been expelled from their homes without a just cause." It was clearly an aggressive war on the part of the enemies of Islām who thus sought to exterminate the Muslims or to compel them to forsake their religion: "And they will not cease fighting with you until they turn you back from your religion if they can" (2 : 217). It was a holy war in the truest sense because, as stated further on, if war had not been allowed under these circumstances, there would be no peace on earth, no religious liberty, and all houses for the worship of God would be destroyed. Indeed there could be no holier war than the one which was needed as much for the religious liberty of the Muslims as for that of other people, as much to save the mosques as to save the cloisters and the synagogues and churches. If there had ever been just cause for war in this world, it was for the war that had been permitted to the Muslims. And undoubtedly war with such pure motives was a jihād, a struggle carried on simply with the object that truth may prosper and that freedom of conscience may be maintained.

The second verse giving to the Muslims permission to fight runs as follows: "And fight in the way of Allāh with those who fight with you, and be not aggressive; surely Allāh does not love the aggressors" (2 : 190). Here again the condition is plainly laid down that the Muslims shall not be the first to attack; they had to fight—it had now become a duty—but only with those who fought with them; aggression was expressly prohibited. And this fighting in self-defence is called fighting *in the way of Allāh (fi sabili-llah)*, because fighting in defence is the noblest and justest of all causes. It was the cause Divine, because if the Muslims had not fought they would have been swept out of existence, and there

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would have been none to establish Divine Unity on earth. These were the very words in which the Holy Prophet prayed in the field of Badr : " O Allāh ! I beseech Thee to fulfil Thy covenant and Thy promise ; O Allāh ! if Thou wilt (otherwise), Thou wilt not be worshipped any more " (Bu. 56 : 89). The words *fi sabili-llah* are misinterpreted by most European writers as meaning the *propagation of Islām*. Nothing could be farther from the truth. The Muslims were not fighting to force Islām on others ; rather were they being fought to force them to renounce Islām, as shown by 2 : 217 quoted above. What a travesty of facts to say that war was undertaken by the Muslims for the propagation of Islām !

It is sometimes asserted that these injunctions, relating to defensive fighting, were abrogated by a later revelation in ch. 9. Yet any one who reads that chapter cannot fail to note that it does not make the slightest change in the principles earlier laid down. Fighting with idolaters is enjoined in the ninth chapter, but not with all of them. In the very first verse of that chapter, the declaration of immunity is directed towards only " those of the idolaters with whom you made an agreement "—not all the idolafers—and even in their case an exception is made : " Except those of the idolaters with whom you made an agreement, then they have not failed you in anything and have not backed up anyone against you, so fulfil their agreement to the end of their term ; for Allāh loves those who are careful of their duty " (9 : 4). This shows that there were idolatrous tribes on friendly terms with the Muslims, and the Muslims were not allowed to fight with them ; it was only the hostile tribes who broke their agreements and attacked the Muslims that were to be fought against. And individual idolaters, even if belonging to hostile tribes, could still have safety, if they wanted to enquire about Islām, and were given a safe

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conduct back home even if they did not accept Islām : “ And if one of the idolaters seek protection from thee, give him protection till he hears the word of Allāh, then make him attain his place of safety ; this is because they are a people who do not know ” (9 : 6). The idolater who stood in need of seeking protection evidently belonged to a hostile tribe, because the friendly tribes, being in alliance with the Muslims, had no need of seeking protection of the Muslim government. Thus even a hostile idolater was to be sent back safely to his own tribe and not molested in any way, as the words of the verse show. The idolaters with whom fighting was enjoined were those who had violated treaties and were foremost in attacking Muslims, as the words that follow show : “ If they prevail against you, they would not pay regard in your case to ties of relationship, nor those of covenant ” (9 : 8) ; “ Will you not fight a people who broke their oaths and aimed at the expulsion of the Apostle and they attacked you first ” (9 : 13). Thus chapter 9, which is supposed to abrogate the earlier verses, still speaks of fighting only against those idolaters who “ attacked you first,” and this is the very condition laid down in earlier verses, such as 2 : 190.

Notwithstanding that ch. 9, as shown above, does not go beyond what is contained in the earliest revelations on the subject of war, the fifth verse of that chapter is called by some people “ the verse of the sword,” as if it inculcated the indiscriminate massacre of all idolaters or unbelievers. The misconception is due to the fact that the words are taken out of their context, and a significance is forced on them which the context cannot bear. The following words occur in the 5th verse : “ So when the sacred months have passed away, slay the idolaters wherever you find them ” (9 : 5). But similar words occur also in

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the earliest revelation on the subject : " And kill them wherever you find them " (2 : 191). In both places it is the context which makes it clear as to the identity of the persons regarding whom the order is given. In both cases those against whom the order is given are the people who have taken up the sword and attacked the Muslims first. It has already been shown that the injunction to fight against the idolaters, as contained in the opening verses of the 9th chapter, relates only to such idolatrous tribes as had made agreements with the Muslims and then broken them, and had attacked the Muslims, and not to all idolatrous people, wherever they may be found in the world. If only we read the verse that precedes the fifth verse, not the shadow of a doubt will remain that *all* idolaters are not spoken of here. For the fourth verse, as quoted already, states that those idolaters were not within the purview of the order who had remained faithful to their agreements. The order was therefore directed against specified idolatrous tribes, the tribes that had made agreements with the Muslims and broken them repeatedly, as expressly stated in 8 : 56. It is a mistake to regard the order as including all idolatrous people living anywhere in the world or even in Arabia. And if the verse preceding the so-called " verse of the sword " makes a clear exception in case of all friendly idolatrous tribes, that following it immediately makes a clear exception in favour of such members of idolatrous hostile tribes as ask the protection of the Muslims (see v. 6, quoted in the preceding paragraph). And then continuing the subject, it is further laid down that the order relates only to people " who broke their oaths and aimed at the expulsion of the Prophet and they attacked you first " (9 : 13). With such a clear explanation of the fifth verse contained in the preceding and following verses, no sane person would interpret it as

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meaning the killing of all idolaters or the carrying on of unprovoked war against all idolatrous tribes.

It is thus clear that the Muslims were allowed to fight only in self-defence, to preserve their national existence, and they were forbidden to be aggressive. The Holy Qur'an nowhere gives them permission to enter on an unprovoked war against the whole world. Conditions were also laid down as to when war should cease: "And fight with them until there is no persecution, and religion should be only for Allāh, but if they desist, then there should be no hostility except against the oppressors" (2: 193).

The words, *religion should be only for Allāh*, are sometimes misinterpreted as meaning that all people should accept Islām, a significance utterly opposed to the very next words: "But if they *desist*, there should be no hostility except against the oppressors." The *desisting* plainly refers to desisting from persecution. Similar words occur in another early Madīna revelation: "And fight with them until there is no more persecution and all religions should be only for Allāh; but if they desist, then surely Allāh sees what they do" (8: 39). Both expressions, "religion should be only for Allāh," and "all religions should be only for Allāh" carry one and the same significance, namely, that religion is treated as a matter between man and his God, a matter of conscience, in which nobody has a right to interfere. It may be added that if the words had the meaning which it is sought to give them, the Holy Prophet would have been the first man to translate that teaching into practice, while as a matter of fact he made peace with the enemy on numerous occasions, and stopped fighting with idolatrous tribes when they wanted peace. Even

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when he subjugated a people, he gave them full liberty in their religion as it happened in the conquest of Makka.

Notwithstanding what has been said above, the Muslims were told to accept peace in the middle of war if the enemy wanted peace: "And if they incline to peace, do thou incline to it and trust in Allāh; He is the Hearing, the Knowing. And if they intend to deceive thee—then surely Allāh is sufficient for thee" (8 : 61, 62). It should be noted that peace is here recommended even though the enemy's sincerity may be doubtful. And there were reasons to doubt the good intentions of the enemy, for the Arab tribes did not attach much value to their treaty agreements: "Those with whom thou makest an agreement, then they break their agreement every time and they are not careful of their duty" (8 : 56). None could carry those precepts into practice better than the Holy Prophet, and he was so prone to make peace whenever the enemy showed the least desire towards it, that on the occasion of the Hudaibiya truce he did not hesitate to accept the position of a defeated party, though he had never been defeated on the field of battle, and his Companions had sworn to lay down their lives one and all if the worst had come to the worst. Yet he made peace and accepted terms which his own followers looked upon as humiliating for Islām. He accepted the condition that he would go back without performing a pilgrimage and also that if a resident of Makka embraced Islām and came to him for protection, he would not give him protection. Thus the injunction contained in the Holy Qur'an to make peace with the idolaters if they desired peace combined with the practice of the Holy Prophet in concluding peace on any terms is a clear proof that the theory of preaching Islām by the sword is a pure myth so far as the Holy Qur'an is concerned.

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Thus neither in the earlier revelation nor in the later, is there the slightest indication of any injunction to propagate Islām by the sword. On the other hand, war was clearly allowed as a defensive measure up to the last. It was to be continued only so long as religious persecution lasted, and when that ceased, war was to cease *ipso facto*. And there was the additional condition that if a tribe, against whom the Muslims were fighting because of its aggressive and repeated violation of treaties, embraced Islām, it then and there became a part of the Muslim body-politic, and its subjugation by arms was therefore foregone, and war with it came to an end. Such remained the practice of the Holy Prophet during his lifetime. And there is not a single instance in history in which he offered the alternative of the sword or Islām to any tribe or individual. Nay! in the life of the Holy Prophet there is not a single instance in which he led an aggressive attack. The last of his expeditions was that of Tabūk, in which he led an army of thirty thousand against the Roman Empire, but when he found, on reaching the frontier, after a very long and tedious journey, that the Romans did not contemplate an offensive, he returned without attacking them. His action on this occasion also throws light on the fact that the permission to fight against the Christians contained in 9 : 29, was also subject to the condition laid down in 2 : 190 that the Muslims shall not be aggressive in war.

The opinion now held among the more enlightened European critics of Islām is, that though the Holy Prophet did not make use of force in the propagation of Islām, and that though he did not lead an aggressive attack against an enemy, in the whole of his life, yet this position was adopted by his immediate successors, and was therefore a natural development of his teaching.

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This opinion is also due to a misconception of the historical facts which led to the wars of the early Caliphate with the Persian and Roman empires. After the death of the Holy Prophet, when Arabia rose in insurrection and Abū Bakr was engaged in suppressing the revolt, both Persia and Rome openly helped the insurgents with men and money. It is difficult to go into details of history in a book which does not deal with the historical aspect of the question,¹ but I will quote a modern writer who is in no way friendly to Islām :

“ Chaldæa and southern Syria belong properly to Arabia. The tribes inhabiting this region, partly heathen but chiefly (at least in name) Christian, formed an integral part of the Arab race and as such fell within the immediate scope of the new Dispensation. When, however, these came into collision with the Muslim columns on the frontier, *they were supported by their respective sovereigns,*²—the western by the Kaiser, and the eastern by the Chosroes. Thus the struggle widened” (*The Caliphate*, by Sir W. Muir, p. 46).

There is actual historical evidence that Persia landed her forces in Baḥrain to help the insurgents of that Arabian province, and a Christian woman, Sajāḥ, marched at the head of Christian tribes, from her home on the frontier of Persia, against Madīna, the capital of Islām, and traversed the country right up to the central part. Persia and Rome were thus the aggressors, and the Muslims, in sheer self-defence, came into conflict with those mighty empires. The idea of spreading Islām by the sword was as far away from their minds as it was from that of the great Master whom they followed.

1. I have dealt with this subject fully in my book *The Early Caliphate*.

2. Italics are mine.

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Thus even Muir admits that so late as the conquest of Mesopotamia by 'Umar, the Muslims were strangers to the idea of making converts to Islām by means of the sword: "The thought of a world-wide mission was yet in embryo; obligation to enforce Islām by a universal Crusade had not yet dawned upon the Muslim mind" (*The Caliphate*, p. 120). This remark relates to the year 16 of Hijra, when more than half the battles of the early Caliphate had already been fought. According to Muir, even the conquest of the whole of Persia was a measure of self-defence on the part of the Muslims, not of aggression: "The truth began to dawn on 'Omar that necessity was laid upon him to withdraw the ban against advance. In self-defence, nothing was left but to crush the Chosroes and take entire possession of his realm" (*The Caliphate*, p. 172). And if the wars with the Persian and Roman empires were begun and carried on for five years without any idea of the propagation of Islām by arms, surely there was no occasion for the idea to creep in at a subsequent stage.

As already stated, Ḥadīth cannot go against the Ḥadīth on the object Holy Qur'an. Being only an explanation of war. of war. of the Holy Book, it must be rejected if it contains anything against the plain teachings of the Holy Qur'an. Yet Macdonald, in the *Encyclopædia of Islām* (art. *Djihad*), advances a very strange view. The Qur'an, he admits, does not sanction unprovoked war against non-Muslims. Even the Prophet had no idea that his teaching would develop into such a position. Yet Ḥadīth, he says, is explicit on the point: "Whether Muḥammad himself recognized that his position implied steady and unprovoked war against the unbelieving world until it was subdued to Islām may be in doubt. Traditions are explicit on the point..... Still, the story of his writing to the powers around him shows that such a

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universal position was implicit in his mind.²⁴ Now Hadith is nothing but a collection of what the Holy Prophet said or did. How could it be then that a thing of which the Prophet had no idea, as admitted in the above quotation, is met with in Hadith? He could not say or do that of which he had no idea. The propagation of Islām by force is neither contained in the Holy Qur'an, nor did the Prophet ever entertain such an idea, yet Hadith, which is an explanation of the Holy Qur'an and a record of what the Prophet said or did, explicitly states that Islām must be enforced at the point of the sword until the whole world is converted to Islām! These remarks are obviously due to carelessness on the part of the writer.

The only hadith referred to in the article is "the story of the Prophet's writing to the powers around him." But that letter does not contain a single word about the enforcement of Islām at the point of sword. The wording of one of these letters addressed to the king of the Copts—and all these letters were addressed in similar words—is as follows:

"I invite thee with the invitation of Islām; become a Muslim, and thou wilt have entered security; Allāh will give thee a double reward. But if thou turnest back, then on thee is the sin of the Copts. O followers of the Book! come to an equitable proposition between us and you that we shall not serve any but Allāh and that we shall not associate aught with Him and that some of us shall not take others for lords besides Allāh, but if they turn back, then say, Bear witness that we are Muslims."

The mere writing of these letters to all the kings is undoubtedly an evidence of the universality of Islām, but by no stretch of imagination can it be made to yield the conclusion that Islām was to be spread by force of

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arms. The letter is simply an invitation, combined with an appeal to the followers of all revealed religions to accept the common principle of the worship of one God.

There is one ḥadīth however which has sometimes been misconstrued, as meaning that the Prophet was fighting people to make them believe in the Unity of God. The ḥadīth runs thus: "Ibn 'Umar says, The Holy Prophet said, I have been commanded to fight people until they bear witness that there is no god but Allāh and that Muḥammad is the messenger of Allāh and keep up prayer and pay the zakāt. When they have done this, their lives and their properties are protected unless there is an obligation of Islām, and their account is with Allāh" (Bu. 2 : 17). It has already been shown that the principles of Islām are one and all taken from the Holy Qur'an, not from Ḥadīth, and the Holy Qur'an lays down in express words that no force shall be used in religion. How then could a ḥadīth contradict it? But let us consider the words of the ḥadīth. It begins with the words *I am commanded to fight*, and surely the commandments to the Prophet were given through Divine revelation and are therefore all of them contained in the Holy Qur'an. The reference in the ḥadīth is thus undoubtedly to a Quranic verse. In fact, such a verse is met with in the second section of the chapter entitled "Immunity": "But if they repent and keep up prayer and pay the zakāt, they are your brethren in faith" (9 : 11). The subject-matter of the ḥadīth is exactly the same, and clearly the commandment referred to in the ḥadīth is that contained in this verse. It only requires to read the context to find out the purport of these words. Some of these verses have already been quoted but, on account of the importance of

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the subject, I quote four of these verses together below :

V. 10. " They do not pay regard to ties of relationship nor those of covenant in the case of a believer ; and these are they who are guilty of excess."

V. 11. " But if they repent and keep up prayer and pay the poor-rate, they are your brethren in faith : and We make the communications clear for a people who know."

V. 12. " And if they break their oaths after their agreement and openly revile your religion, then fight the leaders of unbelief—for their oaths are nothing—so that they may desist."

V. 13. " What ! will you not fight a people who broke their oaths and aimed at the expulsion of the Apostle, and they attacked you first ; do you fear them ?"

No comment is needed. The context clearly shows that there were certain tribes that had no regard for ties of relationship or for agreements entered into, and they were the first to attack the Muslims and made plans to expel the Prophet. These were the people to be fought against. The 9th chapter was revealed in the year 9 of Hijra, and this was the time when tribe after tribe was coming over to Islām, and so the condition was laid down that if one of the tribes, that had been hostile to Islām, and had broken its agreements, and was at war with the Muslims, came over to Islām, all hostilities against it were to be stopped immediately, because those people became brethren in faith with Muslims. Old wrongs and iniquities had to be forgotten and not one individual of it was to be harmed, however guilty he may have been, unless, in the words of the ḥadīth, an obligation of Islām rendered punishment necessary. The ḥadīth does not mean that the Holy Prophet was

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commanded to *wage* war against people until they accepted Islām; it simply means, as a reference to the Holy Qur'an shows, that he was commanded to *cease* fighting with people who were at war with the Muslims if they of their own accord embraced Islām. Even people who had been guilty of the murder of a Muslim were not to be put to death if they accepted Islām afterwards; and examples of this are mentioned in Hadīth (Bu. 56 : 28).

One such case may be cited here. "Miqdād ibn 'Amr al-Kindī referred the following case to the Holy Prophet: I meet in battle a man from among the unbelievers and we two fight against each other; he cuts off one of my hands with his sword, then he takes the shelter of a tree and says, I submit (*aslamtū*) to Allāh; can I kill him, O Messenger of Allāh! after he has spoken those words? The Holy Prophet said, Do not kill him. But, I said, he has cut off one of my hands, O Prophet! and then he says this after he has cut it off. The Holy Prophet said, Do not kill him, for if thou killest him, he is in thy place before thou didst kill him, and thou art in his place before he uttered those words which he spoke" (Bu. 64 : 12). This shows that the Holy Prophet had given definite orders, which were known to his Companions, that fighting should immediately cease when the person or tribe fighting declared Islām. It is in this light that the hadīth under discussion has to be read, *viz.*, that the Prophet had been commanded to cease war when an enemy at war with him professed Islām. Numerous examples of this are met with in the history of the Prophet's wars, but there is not a single instance in which he declared war against a peaceful neighbour because that neighbour was not a believer in Islām.

The fact that treaties and agreements were entered

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into by the Holy Prophet with polytheists (*mushrikīn*) and the Jews and the Christians is proof that the *al-nās* (people) spoken of in the ḥadīth were particular tribes which, as the Holy Qur'ān shows, violated their treaties again and again. If there had been any commandment like that which it is sought to deduce from this ḥadīth, the Prophet would have been the first man to act on it. But he always made peace and entered into agreements with his enemies, not once in his whole life demanding that a people vanquished in battle should accept Islām. The injunction to make peace with a nation inclined to peace (8 : 61), and the fact of the Prophet's repeatedly making treaties with unbelievers, are clear negations of the impossible construction which it is sought to put upon the words of the ḥadīth, namely, that the Holy Prophet was commanded to wage war against people until they embraced Islām.

Other ḥadīth which are sometimes misinterpreted are of a similar nature. For instance, in one it is stated that the Holy Prophet when he went out to fight with a people, did not attack them till morning, and if he then heard the *adhān* being called out, he refrained from attacking the people (Bu. 10 : 6). This ḥadīth evidently refers to such people as are spoken of in the ninth chapter as breaking their agreements repeatedly and attacking the Muslims. At this very time, that is, in the ninth and tenth years of Hijra, the time to which the 9th chapter relates, tribe after tribe came over to Islām, deputations from different tribes coming to Madīna and going back to their people to convert them to the new faith. Therefore, when an expedition had to be sent for the punishment of a tribe which had proved unfaithful to its agreement, it had to be ascertained that it had not in the meanwhile accepted Islām, and therefore the precaution spoken of in the ḥadīth was taken.

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In another ḥadīth occur the words, "He who fights that the word of Allāh may be exalted," which being severed from the context are sometimes construed as meaning fighting for the propagation of Islām, but when read with the context, their meaning is clear. The ḥadīth runs thus: "A man came to the Holy Prophet and said, There is a man who fights for gain of riches and another man who fights for the sake of reputation, and another man who fights that his exploits may be seen, which of these is in the way of Allāh? The Prophet said, The man who fights that the word of Allāh may be exalted, that is in the way of Allāh" (Bu. 56 : 15). It is clear that these words only mean that a man who fights in the way of Allāh (which, as shown from the Holy Qur'an, means only *in defence of the faith*) should have his motives free from all taint of personal gain or reputation. The unbelievers sought to annihilate the faith of Islām, and the defence of the faith was, therefore, equivalent to the exaltation of the word of Allāh. In the Holy Qur'an these words are used on the occasion of the Prophet's flight to Madina. The Prophet's safe flight is spoken of as making the word of the disbelievers lowest, and the word of Allāh highest: "And made lowest the word of those who disbelieved, and the word of Allāh, that is the highest" (9 : 40).

There are many ḥadīth which speak of the excellence of jīhād or of the excellence of fighting, and these are sometimes misconstrued, as showing that a Muslim must always be fighting with other people. It is in a ḥadīth that a Muslim is defined as being "one from whose hands and tongue Muslims—or, according to another account, people—are secure" (Bu. 2 : 4 ; FB. I, p. 51); and a Muslim literally means "one who has entered into peace." According to another ḥadīth, a *mu'min* (believer) is "one from whom people are secure concerning

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their lives and properties" (MM. 1—ii). But war is undoubtedly a necessity of life, and there are times when fighting becomes the highest of duties. Fighting in the cause of justice, fighting to help the oppressed, fighting in self-defence, fighting for national existence are all truly the highest and noblest of deeds, because in all these cases a man lays down his life in the cause of truth and justice, and that is, no doubt, the highest sacrifice that a man can make. Fighting, in itself, is neither good nor bad ; it is the occasion which makes it either the best of deeds or the worst of them.

The question is simply this, What was the object for which the Prophet fought ? There is not the least doubt about it, as the Holy Qur'an is clear on the point : "Permission to fight is given to those upon whom war is made, because they are oppressed" (22 : 39) ; " And had there not been Allāh's repelling some people by others, there would have been pulled down cloisters and churches and synagogues and mosques in which Allāh's name is much remembered " (22 : 40) ; " And what reason have you that you should not fight in the way of Allāh and of the weak among the men and the women and the children who say, Our Lord ! cause us to go forth from this town, whose people are oppressors, and give us from Thee a guardian and give us from Thee a helper " (4 : 75) ; " What ! will you not fight a people who broke their oaths and aimed at the expulsion of the Apostle, and they attacked you first " (9 : 13) ; and so on. If then there are ḥadīth which speak of the excellence of keeping a horse (Bu. 56 : 45), or of keeping horses ready on the frontier of the enemy (Bu. 56 : 73), or ḥadīth recommending the learning of shooting (*ramy*) (Bu. 56 : 78), or practising with implements of war (Bu. 56 : 79), or ḥadīth speaking of swords and shields and armour and so on, they show, not that the Muslims were spreading Islam

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by force of arms, not even that they were waging aggressive war against peaceful neighbours, but that they had to fight, and hence all deeds done to carry on a successful war are praised. Indeed in one ḥadīth it is stated that "Paradise (*al-Janna*) is under the shadow of swords" (Bu. 56 : 22). All this is true so long as the sword is used in a right cause.

The wrong notion of *jihād*, introduced by the Jurists' wrong notion of *jihād*, was owing to a misconception of certain verses of the Holy Qur'an, due, in the first place, to the fact that no regard had been paid to the context, and, in the second place, to a disregard of the circumstances under which the Holy Prophet fought. It has already been shown that the fifth verse of the ninth chapter contains nothing that is not contained in the earlier revelation, and that it is simply a re-assertion of the original injunction to fight against tribes that were first to attack the Muslims and that broke their agreements; but reading it out of its context, a significance was given to it that was never contemplated, and it received the name of *āyat al-saif* (the verse of the sword), which is assuredly a misnomer. Another verse which the *Hidāya* brings in support of this wrong conception of *jihād*, is the 36th verse of the ninth chapter, which runs as follows : "And fight the polytheists all together as they fight you all together" (9 : 36). Now this is, in fact, only an injunction to the Muslims to remain united in the war against the polytheists, as they, the polytheists, were united in their war against the Muslims. It does not mean that there were no polytheist tribes that did not fight against the Muslims, for this is not only historically untrue, but is also contradicted by the Holy Qur'an itself : "Except those of the idolaters with whom you made an agreement, then they have not failed you in anything and have not backed up any one against you"

(9: 4). A reference to history would show that there were idolatrous tribes that never fought against the Muslims, but, on the other hand, were in alliance with them, and the Muslims fought in their behalf. Such alliances are met with not only in the lifetime of the Holy Prophet but also in the wars of the early Caliphate.¹ Nor does the verse mean that there should be no Muslim on the face of the earth who should not be engaged in war against the polytheists. Even the supporters of unprovoked war hardly go so far as that. The *Hidāya*, after quoting this verse in support of a war against all polytheists, adds that this is a *fardz kifāya*, an obligation which if performed by some Muslims relieves others of the duty. Now the word *kāffa* (meaning *all together*) occurs in this verse twice, once in connection with the Muslims and again in connection with the idolaters, so that if *all* polytheists, without any exception, are to be fought against, *all* Muslims without any exception must fight against them. As this is impossible, it follows that the verse only enjoins unification in the ranks of the Muslims, in like manner as there was unification in the ranks of the idolaters, and there is nothing said here as to the conditions under which fighting is to be carried on. These conditions are expressly laid down in other verses and can on no account be dispensed with: "And fight in the way of Allāh with those who fight with you and be not aggressive, for Allāh does not love the aggressors" (2: 190).

1. The *Khuzā'a* were an idolatrous tribe that entered into an alliance with the Muslims after the truce of Ḥudaibiya, and when they were attacked by the allies of the *Quraish* with the latter's help, the Holy Prophet led an attack on Makka to punish the *Quraish* for their breach of agreement. There were many other tribes in similar alliance with the Muslims. In the early Caliphate wars, Christian soldiers fought side by side with the Muslims, and so also some of the Magian tribes.

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The jurists themselves have challenged the accuracy of the principle on which their wrong notion of jihād is based. For instance, the *Hidāya* gives the following reason for jihād being a *fardz kifāya*: "It is not made obligatory for its own self (*li 'aini-hi*), for in itself it is the causing of mischief (*ifsād*), and it is made obligatory for the strengthening of the religion of Allah and for the repelling of evil (*daf' al-sharr*) from His servants" (H. I, p. 537). The use here of the words *daf' al-sharr* shows that, even according to the jurists, jihād in its origin is only for repelling evil and is therefore defensive, not offensive. Again, when discussing the reasons for the prohibition of killing a woman and a child and an old man and one who refrains from fighting (*muq'id*) and a blind man, the *Hidāya* says: "For what makes the killing lawful (*mubih li-l-qatl*) according to us, is the fighting (*hirāb*), and this is not true in their case, and therefore the man whose one side is withered (*yabis al-shiqq*) and the man whose right hand is cut off and a man whose hand and foot are cut off cannot be killed" (H. I, p. 540). Here it is admitted that what makes the killing of a man lawful is not his unbelief (*kufr*) but his fighting (*hirāb*), for, if men could be killed for unbelief, even women, children, and old and incapacitated men would not be spared. That is indeed a sound basis. But if the reason given on this occasion is true, and it is unlawful to kill any one merely on account of unbelief, it is also unlawful to undertake war against a people because they are unbelievers or idolaters, as in such a war people would be killed for mere unbelief.

In still more plain words, the *Hidāya* recognizes, in its discussion on the making of peace with unbelievers, that the real object of jihād is the repelling of the enemy's mischief: "And when the Imām is of opinion that he should make peace with those who are fighting

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(against the Muslims) (*ahl al-ḥarb*), or with a party of them, and it is in the interests of the Muslims, there is no harm in peace, on account of what Allah says, 'And if they incline to peace, do thou incline to it and trust in Allah;' and the Holy Prophet entered into agreement with the people of Makka, in the year of Ḥudaibiya, that there shall be no war between him and them for ten years; and because entering into agreement is jihād in spirit, when it is for the good of the Muslims, as the object, which is the repelling of mischief (*daf' al-sharr*), is attained thereby" (H. I, p. 541). Here again it is admitted that the real object of jihād is *the repelling of the enemy's mischief*, and it is on this basis alone that peace can be made with the unbelievers. The annotator of the *Hidāya* does not conceal the fact that it is a plain contradiction of what is said elsewhere¹ as to the object of jihād. But the question is, how can peace with unbelievers and idolaters be justified? If the object of jihād is the enforcing of Islām at the point of the sword, peace with unbelievers is simply a contradiction of this object. But peace with unbelievers is not only a matter of choice; it is an injunction which must be carried out when the enemy is inclined to peace: "And if they incline to peace, do thou incline to it" (8 : 61).

The above quotations from the *Hidāya* will show that even the jurists felt that their exposition of jihād was opposed to its basic principles as laid down in the Holy Qur'an. Probably the new doctrine grew up slowly. It is clear that the earlier jurists did not go so far as their later annotators. Notwithstanding the wrong conception which was introduced into the meaning of jihād,

1. The annotator's note on *daf' al-sharr* (repelling of the enemy's mischief) as the object of jihād runs thus: "In many places it has been stated that the object of jihād is the exaltation of the word of 'Alīh and this contradicts what is stated here."

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by not paying proper attention to the context of the Holy Qur'an and the circumstances under which the Holy Prophet fought, they still recognized that the basic principle of jihād was the repelling of the enemy's mischief, and that hence peace with the unbelievers was jihād in spirit. But the later generation would not tolerate even this much. Some of them have gone to the length of holding that not permanent peace but only peace for a limited period can be concluded with the unbelievers, an opinion flatly contradicting the Quranic injunction in 8 : 61. It must however be repeated—and it would bear repetition a hundred times—that, essentially, the Holy Qur'an is opposed to taking the life of a man for unbelief. It gives full liberty of conscience by stating that there is no compulsion in religion (2 : 256) ; it establishes religious freedom by enjoining war to cease when there is no religious persecution, and religion becomes a matter between man and his God (2 : 193) ; it plainly says that the life of a man cannot be taken for any reason except that he kills a man or causes mischief (*fasād*) in the land (5 : 32).

With the new notion introduced into the word jihād, Dār al-ḥarb and Dār al-Islām. the jurists artificially divided the whole world into dār al-ḥarb and dār al-Islām. *Dār al-ḥarb* literally means *the abode or seat of war*, and *dār al-Islām*, *the abode of Islām*. The words are not used in the Holy Qur'an, nor have I been able to trace them in any ḥadīth. Bukhārī uses the word dār al-ḥarb in the heading of one of his chapters, "When a people embrace Islām in dār al-ḥarb" (Bu. 56 : 180). Two ḥadīth are mentioned under this heading, in neither of which do the words dār al-ḥarb occur. The first speaks of Makka, and the subject-matter of the ḥadīth is that, when after the conquest of Makka, the unbelieving Quraish accepted Islām, they were recognized as owners of the

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property of which they had become masters, though it originally belonged to those Muslims who had fled to Madīna. The second speaks of Rabdhā, a place at a distance of about three days' journey from Madīna, the lands near which were turned into a pasture by 'Umar and, on the owners' protest, made over to them. Both Makka and Rabdhā were at one time at war with the Muslims, and on this account Bukhārī speaks of them as dār al-ḥarb. Dār al-Islām is evidently a place where the laws of Islām prevail and which is under a Muslim ruler. The use of dār al-ḥarb in the sense of a place actually at war with the Muslims, is unobjectionable. But the jurists apply the word to all states and countries which are not dār al-Islām or under the Muslim rule, though they may not be at war with the Muslims, and thus look upon a Muslim state as being always in a state of war with the whole of the non-Muslim world. This position is not only inconsistent with the very basic principles of Islām, but actually it has never been accepted by any Muslim state that has ever existed in this world. The difficulty has been met by some jurists by bringing in a third class, called dār al-ṣulḥ or dār al-'ahd, or a country which has an agreement with the Muslims. But even this does not exhaust the whole world. Many of the laws relating to war are based on this fictitious division of the world, for which there is not the least authority either in the Holy Qur'an or Hadith.

The word *jizya* is explained as meaning *the tax that is taken from the free non-Muslim subjects of a Muslim government, whereby they ratify the compact that ensures them protection, or a tax that is paid by the owner of land, being derived from jaza which means he gave satisfaction or he compensated him for a certain thing, or for what he had done (LL.).* In the Holy Qur'an, *jizya*

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is spoken of only in one place, and there in connection with wars with the followers of the Book: "Fight those who do not believe in Allāh out of those who have been given the Book, until they pay the jizya in acknowledgment of superiority and they are in a state of subjection" (9 : 29). The Holy Prophet made treaties subject to the condition of payment of jizya with the Magians of Bahrain (Bu. 58 : 1), with Ukaidar, the Christian chief of Dāma (AD. 19 : 29 ; IH.), with the Christian ruler of Ayla (IJ-H. III, p. 146), with the Jews of Jarbā' and Adhruḥ¹ (*ibid*), and with the Christians of Najrān (IS. T. I-ii, p. 35). But in all these cases, the jizya was a tribute paid by the state and not a poll-tax. Bukhārī opens his book of Jizya with a chapter headed as follows: "Jizya and concluding of peace with *ahl al-harb* (those at war with the Muslims)" (Bu. 58 : 1). Continuing, he is more explicit, remarking under the same heading: "And what is related in the matter of taking jizya from the Jews and the Christians and the Magians (*Majūs*) and the non-Arabs (*'Ajam*)." The rule of the jizya was thus applicable to all enemy people, and the Prophet's own action shows that treaties subject to the payment of jizya were concluded, not only with the Jews and the Christians but also with Magians. It would be seen from this that the words *ahl al-Kitāb* used in 9 : 29, quoted above, must be taken in the wider sense of followers of any other religion. But jizya, which was originally a tribute paid by a subject state, took the form of a poll-tax later on in the time of 'Umar ; and the word was also applied to the land-tax which was levied on Muslim owners of agricultural land. The jurists however made a distinction between the poll-tax and the land-tax

1. Dāma, Ayla, Jarbā' and Adhruḥ are all places situated on the Syrian frontier, and these treaties were made during the expedition to Tabāk, in the ninth year of Hijra.

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by giving the name of *kharaḥj* to the latter. Both together formed one of the two chief sources of the revenue of the Muslim state, the zakāt paid by the Muslims being the other source.

European writers on Islām have generally assumed that, while the Holy Qur'an offered *jizya* was not a religious tax. only one of the two alternatives, Islām or death, to other non-Muslims, the Jews and the Christians were given a somewhat better position, since they could save their lives by the payment of *jizya*. This conception of *jizya*, as a kind of religious tax whose payment entitled certain non-Muslims to security of life under the Muslim rule, is as entirely opposed to the fundamental teachings of Islām as is the myth that the Muslims were required to carry on an aggressive war against all non-Muslims till they accepted Islām. Tributes and taxes were levied before Islām, and are levied to this day, by Muslim as well as non-Muslim states, yet they have nothing to do with the religion of the people affected. The Muslim state was as much in need of finance to maintain itself as any other state on the face of this earth, and it resorted to exactly the same methods as those employed by other states. All that happened in the time of the Holy Prophet was, that certain small non-Muslim states were, when subjugated, given the right to administer their own affairs, but only if they would pay a small sum by way of tribute towards the maintenance of the central government at Madīna. It was an act of great magnanimity on the part of the Holy Prophet to confer complete autonomy on a people after conquering them, and a paltry sum of tribute (*jizya*) in such conditions was not a hardship but a boon. There was no military occupation of their territories, no interference at all with their administration, their laws, their customs and usages, or their religion; and, for the tribute paid, the Muslim

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state undertook the responsibility of protecting these small states against all enemies. Were the civilized powers of to-day to follow the example of the Founder of Islām, more than half the nations of the world would be freed from the burden of a foreign yoke. In the later conquests of Islām, while it became necessary for the Muslims to establish their own administration in the conquered territories, there was still as little interference with the usages and religion of the conquered people as was possible, and for enjoying complete protection and the benefits of a settled rule they had to pay a very mild tax, the *jizya*.

It may, however, be said that the Muslim state made a discrimination between the Muslim and the non-Muslim, and that it was this feature of *jizya* which gave it a religious colouring. A discrimination was indeed made, but it was not in favour of the Muslim but in that of the non-Muslim. The Muslim had to do compulsory military service and to fight the battles of the state, not only at home but also in foreign countries, and in addition had to pay a tax heavier than that which the non-Muslim was required to pay, as I will presently show. The non-Muslim was entirely exempt from military service on account of the *jizya* he paid, and half a guinea or a *dīnār* a year is certainly cheap for exemption from military service. So the Muslim had to pay the *zakāt*, a far heavier tax than *jizya*, and do military service, while the non-Muslim had only to pay a small tax for the privilege of enjoying all the benefits of a settled rule.

The very name *ahl al-dhimma* (lit., *people under protection*) given to the non-Muslim subjects of a Muslim state, or to a non-Muslim state under the protection of Muslim rule, shows that the *jizya* was paid as a compensation for the protection afforded; in other words, it was a contribution of the non-Muslims towards the military

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organisation of the Muslim state. There does not exist a state to-day that does not stand in need of putting a similar burden on its subjects for its military expenses. There are cases on record in which the Muslim state returned the jizya, when it was unable to afford protection to the people under its care. Thus, when the Muslim forces under Abū 'Ubaida were engaged in a struggle with the Roman Empire, they were compelled to beat a retreat at Hims, which they had previously conquered. When the decision was taken to evacuate Hims, Abū 'Ubaida sent for the chiefs of the place and returned to them the whole amount which he had realized as jizya, saying that as the Muslims could no longer protect them, they were not entitled to the jizya.

It further appears that exemption from military service was granted only to such non-Muslims as wanted it, for where a non-Muslim people offered to fight the battles of the country, they were exempted from jizya. The Banī Taghlib and the people of Najrān, both Christians, did not pay the jizya (En. Is.). Indeed the Banī Taghlib fought alongside the Muslim forces in the battle of Buwaib in 13 A. H. Later on in the year 17 A. H., they wrote to the Caliph 'Umar offering to pay the zakāt, which was a heavier burden, instead of the jizya. "The liberality of 'Omar," says Muir in his *Caliphate*, "allowed the concession; and the Benī Taghlib enjoyed the singular privilege of being assessed as Christians at a 'double *Tithe*,' instead of paying the obnoxious badge of subjugation" (p. 142). Military service was also accepted, in place of jizya, in the time of 'Umar, from Jurjān. Shahbarāz, an Armenian chief, also concluded peace with the Muslims on the same terms.

The manner too, in which the jizya was levied shows that it was a tax for exemption from military service. The

Incidence of the jizya.

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following classes were exempt from jizya: all females, males who had not attained majority, old people, people whom disease had crippled (*samin*), the paralyzed, the blind, the poor (*faqir*) who could not work for themselves (*ghair mu'tamil*), the slaves, slaves who were working for their freedom, *mudbirs*, and the monks (H.I, pp. 571, 572). And besides this, "in the first century many persons were entirely exempt from taxation, though we do not know why" (En. Is.). It has already been shown that certain non-Muslim tribes that had agreed to do military service, were also exempted from jizya, and these two facts—the exemption of non-Muslims unfit for military service and of the able-bodied who agreed to military service—taken together lead to but one conclusion, namely that the jizya was a tax paid by such Dhimmis as could fight, for exemption from military service.

A study of the items of the expenditure of jizya leads to the same conclusion, for the jizya was spent for strengthening of the frontiers or obstructing the frontier approaches (*sadd al-thaghar*), for the building of bridges, payment to judges and governors and the maintenance of the fighting forces and their children (H. I, p. 576).

In spite of exemptions on so vast a scale, the rate of jizya was very low, being originally one dīnār per head for a whole year, the dīnār¹ being about the value of Rs. 10. Later on, the rate was raised in the case of rich people, who had to pay four dīnārs or forty-eight dirhams annually, or four dirhams monthly; next came those who paid two dīnārs annually, or two dirhams per month; the lowest rate being one dīnār, at which all were

1. The dīnār was a gold coin, the original weight of which was 65·4 grains troy.

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originally assessed. This is according to Ḥanafī law, while Shafī'i retained the original rate of one dīnār per head in all cases (H.). The three grades are defined thus : (1) the rich man (*al-ṣāhir al-ghinā*, or he whose wealth is manifest) who owns abundant property, so that he needs not work for his livelihood ; (2) the middle class man who owns property, but in addition thereto needs to earn money to make a living ; and (3) the poor man who has no property, but earns more than is necessary to maintain himself. The Muslim was, apparently, more heavily taxed, for he had to pay at the rate of 2½ per cent. of his savings, and, in addition, to perform military service. The jizya was levied in a very sympathetic spirit, as the following anecdote will show. The Caliph 'Umar once saw a blind Dhimmi (non-Muslim) begging, and finding on enquiry that he had to pay jizya, he not only exempted him but, in addition, ordered that he be paid a stipend from the state-treasury, issuing further orders at the same time that all Dhimmis in similar circumstances should be paid stipends.

Another myth concerning the early Caliphate was
Islām, jizya or the sword. may be removed in connection with
the discussion of jizya. It is generally thought that the Muslims were out to impose their religion at the point of the sword, and that the Muslim hosts were over-running all lands with the message of Islām, jizya or the sword. This is, of course, quite a distorted picture of what really happened. If the Muslims had really been abroad with this message, and in this spirit, how was it possible for non-Muslims to fight in their ranks. The fact that there were people who never became Muslims at all, nor ever paid jizya, and yet were living in the midst of the Muslims, even fighting their battles, explodes the whole theory of the Muslims

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offering Islām or jizya or the sword. The truth of the matter is that the Muslims finding the Roman Empire and Persia bent upon the subjugation of Arabia and the extirpation of Islām, refused to accept terms of peace without a safeguard against a repetition of the aggression ; and this safeguard was demanded in the form of jizya, or a tribute, which would be an admission of defeat on their part. No war was ever *started* by the Muslims by sending this message to a peaceful neighbour ; history belies such an assertion. But when a war was undertaken on account of the enemy's aggression—his advance on Muslim territory or help rendered to the enemies of the Muslim state—it was only natural that the Muslims did not terminate the war before bringing it to a successful issue. They were willing to avoid further bloodshed after inflicting a defeat on the enemy, only if he admitted defeat and agreed to pay a tribute, which was only a token tribute as compared with the crushing war indemnities of the present day. The offer to terminate hostilities on payment of jizya was thus an act of mercy towards a vanquished foe. But if the payment of a token tribute was unacceptable to the vanquished power, the Muslims could do nothing but have recourse to the sword, until the enemy was completely subdued.

The only question that remains is whether the Muslim soldiers invited their enemies to accept Islām ; and whether it was an offence if they did so ? Islām was a missionary religion from its very inception, and every Muslim deemed it his birth-right to invite other people to embrace Islām. The envoys of Islām, wherever they went, looked upon it as their first duty to spread the message of Islām, because they felt that Islām imparted a new life and vigour to humanity, and

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offered a real solution of the problems of every nation. Islām was offered, no doubt, even to the fighting enemy, but it is a distortion of facts to say that it was offered at the point of the sword, when there is not a single instance on record of Islām being enforced upon a prisoner of war; nor of Muslims sending a message to a peaceful neighbouring state to the effect that it would be invaded if it did not embrace Islām. All that is recorded is, that in the midst of war and after defeat had been inflicted on the enemy in several battles, when there were negotiations for peace, the Muslims in their zeal for the faith related their own experience before the enemy chiefs. They stated how they themselves had been deadly foes to Islām and how, ultimately, they were undeceived and found Islām to be a blessing and a power that had raised the Arab race from the depths of degradation to great moral and spiritual heights, and had welded their warring elements into a solid nation. In such words did the Muslim envoys invite the Persians and the Romans to Islām, not before the declaration of war, but at the time of the negotiations for peace. If the enemy then accepted Islām, there would be no conditions for peace, and the two nations would live as equals and brethren. It was not offering Islām at the point of the sword, but offering it as a harbinger of peace, of equality and of brotherhood. Not once in the wars of the early Caliphate did the Muslims send a message to a peaceful neighbour that if it did not accept Islām, the Muslim forces would carry fire and sword into its territory. Wars they had to wage, but these wars were due to reasons other than zeal for the propagation of Islām. And they could not do a thing which their Master never did, and which their only guide in life, the Holy Qur'an, never taught them.

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The directions given to his soldiers by the Holy Prophet, also show that his wars were not due to any desire to enforce religion. " 'Abd-Allāh ibn 'Umar reports that in a certain battle fought by the Holy Prophet, a woman was discovered among the slain. On this, the Holy Prophet forbade the killing of women and children (in wars)" (Bu. 56 : 147, 148). Ḥadīth relating to this prohibition are repeated very often in all collections of Ḥadīth (AD. 15 : 112 ; Tr. 19 : 19 ; Ah. I, p. 256 ; II, pp. 22, 23 ; III, p. 488 ; M. 32 : 6). Now if the wars of Islām had been undertaken with the object of forcing Islām upon a people, why should women and children have been excepted? It would rather have been the easier task to win them over to Islām, by holding the sword over their heads, because women and children naturally have not the power to resist, like men who can fight. The fact that there is an express direction against killing three-fourths of the population, as women and children must be in every community, shows that the propagation of religion was far from being the object of these wars. In some ḥadīth, the word '*asīf*' is added to *women* and *children*, showing that there was also a prohibition against killing people who were taken along with the army as "labour units" (Ah. III, p. 488 ; IV, p. 178 ; AD. 15 : 112). There is yet another ḥadīth prohibiting the killing of *shaiikh fanī* (very old man) who is unable to fight (MM. 18 : 5-ii). Monks were also not to be molested (Ah. I, p. 300). It was only in a night attack that the Holy Prophet excused the chance killing of a woman or a child, saying, "They are among them" (Bu. 56 : 146) ; what he meant was that it was a thing which could not be avoided, for at night children and women could not be distinguished from the soldiers.

The above examples may be supplemented by some

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others taken from Sayyid Amīr 'Alī's *Spirit of Islam*. The following instructions were given to the troops dispatched against the Byzantines by the Holy Prophet: "In avenging the injuries inflicted upon us, molest not the harmless inmates of domestic seclusion; spare the weakness of the female sex; injure not the infant at the breast, or those who are ill in bed. Abstain from demolishing the dwellings of the unresisting inhabitants; destroy not the means of their subsistence, nor their fruit trees; and touch not the palm" (p. 81). Abū Bakr gave the following instructions to the commander of an army in the Syrian battle: "When you meet your enemies quit yourselves like men, and do not turn your backs; and if you gain the victory, kill not the little children, nor old people, nor women. Destroy no palm trees, nor burn any fields of corn. Cut down no fruit trees, nor do any mischief to cattle, only such as you kill for the necessity of subsistence. When you make any covenant or article, stand to it, and be as good as your word. As you go on, you will find some religious persons that live retired in monasteries, who propose to themselves to serve God that way. Let them alone, and neither kill them nor destroy their monasteries" (p. 81).

The treatment of prisoners of war, as laid down in the Holy Qur'an and Ḥadīth, also bears evidence of the fact that the idea of the enforcement of Islām by the sword is entirely foreign to the conception of Islamic warfare. If the wars, during the time of the Holy Prophet or early Caliphate, had been prompted by the desire of propagating Islām by force, this object could easily have been attained by forcing Islām upon prisoners of war who fell into the hands of the Muslims. Yet this the Holy Qur'an does not allow, expressly laying down that

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they must be set free: "So when you meet the disbelievers in battle, smite the necks until when you have overcome them, make them prisoners, and afterwards either set them free as a favour or let them ransom themselves, until the war 'lays down its weapons'" (47:4). It will be seen from this that the taking of prisoners was allowed only so long as war conditions prevailed; and even when the prisoners are taken, they cannot be kept permanently as slaves, but must be set free either as a favour or at the utmost by taking ransom. The Holy Prophet carried this injunction into practice in his lifetime.¹ In the battle of Ḥunain, six thousand prisoners of the Hawāzin tribe were taken, and they were all set free simply as an act of favour (Bu. 40:7; IJ-H. III, p. 132). A hundred families of Banī Muṣṭaliq were taken as prisoners in the battle of Muraisī', and they were also set at liberty without any ransom being paid (IJ-H. III, p. 66). Seventy prisoners were taken in the battle of Badr, and it was only in this case that ransom was exacted, but the prisoners were granted their freedom while war with the Quraish was yet in progress (AD. 15:122; Ah. I, p. 30). The form of ransom adopted in the case of some of these prisoners was that they should be entrusted with some work connected with teaching (Ah. I, p. 247; Z. I, p. 534). When war ceased and peace was established, all war-prisoners would have to be set free, according to the verse quoted above.

1. In spite of the clear injunction of the Holy Qur'ān to set free all prisoners, and the practice of the Holy Prophet who never killed a single prisoner of war and generally set them free as an act of favour, the Revd. Klein writes in *The Religion of Islām*: "Unbelievers taken in war, except idolaters of Arabia and apostates who must be killed, who do not embrace Islām may either be killed, or made captives.....or e granted their liberty on condition of their becoming Zimmis" (p. 179). This is an entirely baseless statement.

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This verse also abolishes slavery for ever. Slavery was generally brought about through raids by stronger tribes upon weaker ones. Islām did not allow raids or the making of prisoners by means of raids. Prisoners could only be taken after a regular battle, and even then could not be retained for ever. It was obligatory to set them free, either as a favour or after taking ransom. This state of things could last only so long as war conditions existed. When war was over, no prisoners could be taken.

The name applied to prisoners of war is *mā malakat zimānu-kum*, lit., *what your right hands possess*. What one's right hand possesses means that which one has obtained by superior power, and prisoners of war were given this name because it was by superior power in war that they were reduced to subjection. The name 'abd (slave) was also applied to them, because they had lost their freedom. Slavery may have been abolished by civilization in name but, in fact, it exists even to-day, for nations which are subjugated and ruled by other nations are as a matter of fact in a state of slavery. The treatment accorded to prisoners of war or slaves in Islām is unparalleled. No other nation or society can show a similar treatment even of its own members when they are placed in the relative position of a master and a servant. The slave or the prisoner was, no doubt, required to do a certain amount of work, but the condition in which it was ordained that he should be kept, freed him of all abject feelings. The golden rule of treating the slave like a brother was laid down by the Holy Prophet in clear words: "Ma'rūr says, I met Abū Dharr in Rabdhā and he wore a dress and his slave wore a similar dress. I questioned him about it. He said, I abused a man (i. e. his slave) and found fault with him on account of his mother (addressing him as son of a Negress). The Holy Prophet said to me, O Abū

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Dharr! thou findest fault with him on account of his mother, surely thou art a man in whom is ignorance; your slaves are your brethren, Allāh has placed them under your hands; so whoever has his brother under his hand, let him give him to eat whereof he himself eats, and let him give to wear what he himself wears, and do not impose on them a work which they are not able to do, and if you give them such a work, then help them in the execution of it" (Bu. 2 : 22). The prisoners were distributed among the various Muslim families because no arrangements for their maintenance by the state existed at the time, but they were treated honourably. A prisoner of war states that he was kept in a family whose people gave him bread while they themselves had to live on dates (IJ-H. II, p. 287). Prisoners of war were therefore not only set free but so long as they were kept prisoners, they were kept honourably.

It will be seen from what has been stated above

War as a struggle to concerning the injunctions relating be carried on honestly. to war and peace, that war is recognized by Islām as a struggle between nations—though a terrible struggle—which is sometimes necessitated by the conditions of human life; and when that struggle comes, a nation is bound to acquit itself of its responsibility in the matter in an honourable manner, and fight it to the bitter end whatever it is. Islām does not allow its followers to provoke war, nor does it allow them to be aggressors, but it commands them to put their whole force into the struggle when war is forced on them. If the enemy wants peace after the struggle has begun, the Muslims should not refuse, even though there is doubt about the honesty of his purpose. But the struggle, so long as it exists, must be carried on to the end. In this struggle, honest dealing is enjoined even with the enemy, throughout the Holy Qur'an: "And let not hatred of a

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people—because they hindered you from the Sacred Mosque—incite you to exceed the limits; and help one another in goodness and piety, and do not help one another in sin and aggression” (5 : 2); “And let not hatred of a people incite you not to act equitably; act equitably, that is nearer to piety” (5 : 8). This is in a chapter which was revealed towards the close of the Holy Prophet's life. Ḥadīth too enjoins honest dealing in war : “Fight and do not exceed the limits and be not unfaithful and do not mutilate bodies and do not kill children” (M. 32 : 2). Such are some of the directions given which purify war of the elements of barbarity and dishonesty in which warring nations generally indulge. Neither inhuman nor immoral practices are allowed.

A ḥadīth is sometimes cited as allowing deceit in war. This is due to a misinterpretation of the words of the ḥadīth. Deceit and lying¹ are not allowed under any circumstances. The ḥadīth runs thus : “The Holy Prophet said, The Chosroes shall perish and there shall be no Chosroes after him, and the Cæsar shall perish and there shall be no Cæsar after him, and their treasures shall be distributed in the way of Allāh, and he called war a deception (*khad'at-an*)” (Bu. 56 : 157). These words were uttered by the Holy Prophet, when he received the news that the Chosroes had torn his letter to pieces and ordered his arrest; and the words contain a clear prophecy that the power of both the Chosroes and the Cæsar shall depart in their wars with the Muslims, so

1. The ḥadīth that Abraham told a lie on three occasions must be rejected, as the Holy Qur'ān particularly lays stress on his truthfulness, calling him *ṣiddīq* which means a very truthful man or a truthful man who never tells a lie. Rāzī rejects the ḥadīth, saying that it is more reasonable to call the reporter of this ḥadīth a liar than to attribute lying to a prophet of God (Rz. VII, p. 151). The occasions on which Abraham is said to have made an untrue statement are dealt with in my notes on the Translation of the Holy Qur'ān; see 21 : 63; 37 : 89; and also 19 : 41.

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that there shall be neither a Persian empire under the Chosroes, nor a Roman empire under the Cæsar. Evidently the concluding words "and he called war a deception" explain how the Chosroes and the Cæsar shall perish. War is a deception, in the sense that sometimes a great power makes war upon a weaker power thinking that it will soon crush it, but such war proves a deception and leads to the destruction of the great aggressive power itself. This was what happened in the case of the wars of Persia and Rome against the Muslims. They both had entered upon an aggressive war against the Arabs, thinking that they would crush the rising power of Arabia in a little time. They began by helping the tribes on the frontiers of Arabia to overthrow the Muslim power, and were thus drawn into a war with the Muslims which ultimately crushed their own power. This is the explanation given in *Bukhārī's* famous commentary, the '*Ainī*': "Whoever is deceived in it once (*i. e.* overthrown or defeated), he is exhausted and perishes and is unable to return to his former condition" (Ai. VII, p. 66). Ibn Athīr gives three explanations, according as the word is read *khad'a* or *khud'a* or *khuda'a*, and in all three cases the meaning is almost the same as given in '*Ainī*'. Taking the first reading which it calls the most correct and the best, the significance is thus explained: "In the first case the meaning is that the affair of the war is decided with an overthrow; when the fighter is overthrown once, then he finds no respite" (N.). In the case of the third reading "the meaning is that war deceives people; it gives them hopes but does not fulfil them" (N.). It is only imperfect knowledge of the Arabic language which has led some people to think that the *ḥadīth* means that it is lawful to practise deception in war. The Islamic wars were in fact purified of all that is unworthy when the Muslims

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were plainly told that a war fought for any gain (which includes acquisition of wealth or territory) was not in the way of Allāh (Bu. 56 : 15). The Holy Qur'ān puts it more clearly still: "Let those fight in the way of Allāh who sell this world's life for the Hereafter" (4 : 74).

The word *irtidad* is the measure of *ifti'al* from *radd* which means *turning back*. *Ridda* and *irtidad* both signify *turning back to the way from which one has come*, but *ridda* is specially used for *going back to unbelief*, while *irtidad* is used in this sense as well as in other senses (R.), and the person going back to unbelief from Islām is called *murtadd* (apostate). There is as great a misconception on the subject of apostasy as on the subject of jihād, the general impression among both Muslims and non-Muslims being that Islām punishes apostasy with death. If Islām does not allow the taking of the life of a person on the score of religion, and this has already been shown to be the basic principle of Islām, it is immaterial whether unbelief has been adopted after being a Muslim or not, and therefore so far as the sacredness of life is concerned, the unbeliever (*kāfir*) and the apostate (*murtadd*) are on a par.

The Holy Qur'ān is the primary source of Islamic laws and therefore we shall take it first. In the first place, the Holy Qur'ān nowhere speaks of a *murtadd* by implication. *Irtidad* consists in the expression of unbelief or in the plain denial of Islām, and is not to be assumed, because a certain person who professes Islām, expresses an opinion or does an act which, in the opinion of a learned man or a legist, is un-Islamic. Abuse of a prophet or disrespect towards the Holy Qur'ān are very often made false excuses for treating a person as *murtadd*, though he may avow in the strongest terms that he is a believer

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in the Qur'an and the Prophet. Secondly, the general impression that Islam condemns an apostate to death does not find the least support from the Holy Qur'an. Heffening begins his article on *murtadd*, in the *Encyclopædia of Islam*, with the following words: "In the Qur'an the apostate is threatened with punishment in the next world only." There is mention of *irtidād* in one of the late Makka revelations: "He who disbelieves in Allāh after having believed, not he who is compelled while his heart is at rest on account of faith, but he who opens his breast for disbelief—on these is the wrath of Allāh, and they shall have a grievous chastisement" (16 : 106). Clearly the *murtadd* is here threatened with punishment in the next life, and there is not the least change in this attitude in later revelations, when Islamic government had been established, immediately after the Holy Prophet reached Madīna. In one of the early Madīna revelations, apostasy is spoken of in connection with the war which the unbelievers had waged to make the Muslims apostates by force: "And they will not cease fighting with you until they turn you back from your religion, if they can : and whoever of you turns back from his religion (*yartadda* from *irtidād*), then he dies while an unbeliever—these it is whose works shall go for nothing in this world and the Hereafter, and they are the inmates of the fire : therein they shall abide"¹ (2 : 217). So if a

1. In their zeal to find a death sentence for apostates in the Holy Qur'an, some Christian writers have not hesitated to give an entirely wrong translation of the word *fa-yamut* (*then he dies*) as meaning *then he is put to death*. *Fa-yamut* is the active voice and *yamūtu* means *he dies*. The use of this word shows clearly that apostates were *not* put to death. Some interpreters have drawn a wrong inference from the words "whose works shall go for nothing." These words do not mean that he shall be treated as outlaw. By his "works" are meant the good deeds which he did when he was a Muslim, and these in fact go for nothing even in this life, when a man afterwards adopts unbelief and evil courses. Good works are only useful if they continue to lead a man on to better things.

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man becomes apostate, he will be punished—not in this life, but in the Hereafter—on account of the evil deeds to which he has reverted, and his good works, done while he was yet a Muslim, become null because of the evil course of life which he has adopted.

The third chapter, revealed in the third year of Hijra, speaks again and again of people who had reverted to unbelief after becoming Muslims, but always speaks of their punishment in the Hereafter: "How shall Allah guide a people who disbelieved after their believing and after they had borne witness that the Apostle was true" (3 : 85); "Their reward is that on them is the curse of Allah" (3 : 86); "Except those who repent after that and amend" (3 : 88); "Those who disbelieve after their believing, then increase in disbelief, their repentance shall not be accepted" (3 : 89).

The most convincing argument that death was not the punishment for apostasy is contained in the Jewish plans, conceived while they were living under the Muslim rule in Madīna: "And a party of the followers of the Book say, Avow belief in that which has been revealed to those who believe, in the first part of the day, and disbelieve at the end of it" (3 : 71). How could people living under a Muslim government conceive of such a plan to throw discredit on Islām, if apostasy was punishable with death? The *Ma'ida* is one of the chapters revealed towards the close of the Holy Prophet's life, and

and develop in him the consciousness of a higher life. Elsewhere the deeds of a people are spoken of as going for nothing, when they work solely for this life and neglect the higher: "They whose labour is lost in this world's life and they think that they are well-versed in skill of the work of their hands. These are they who disbelieve in the communications of their Lord and His meeting, so their deeds become null, and therefore We will not set up a balance for them on the Day of Resurrection" (18 : 104, 105). In this case *ḥabḥ* of the works of this life means their being useless so far as the higher life is concerned.

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yet even there the *murtadd* is free from any punishment in this life: "O you who believe! should one of you turn back from his religion, then Allah will bring a people whom He shall love and they too shall love Him" (5 : 54). Therefore so far as the Holy Qur'an is concerned, there is not only no mention of a death-sentence for apostates but such a sentence is negated by the verses speaking of apostasy, as well as by that *magna charta* of religious freedom, the 256th verse of the second chapter, *la ikrahā fi-l-dīn*, "There is no compulsion in religion."

Let us now turn to Ḥadīth, for it is on this authority

Ḥadīth on apostasy. that the Fiqh books have based their death-sentence for apostates.

The words in certain ḥadīth have undoubtedly the reflex of a later age, but still a careful study leads us to the conclusion that apostasy was not punishable unless combined with other circumstances which called for punishment of offenders. Bukhārī, who is undoubtedly the most careful of all collectors of Ḥadīth, is explicit on this point. He has two "books" dealing with the apostates, one of which is called *Kitāb al-muḥārribin min ahl al-kufr wa-l-ridā* or "the Book of those who fight (against the Muslims) from among the unbelievers and the apostates," and the other is called *Kitāb istitāba al-mu'anidin wa-l-murtaddin wa qitali-him*, or "the Book of calling to repentance of the enemies and the apostates and fighting with them." Both these headings speak for themselves. The heading of the first book clearly shows, that only such apostates are dealt with in it as fight against the Muslims, and that of the second associates the apostates with the enemies of Islām. That is really the crux of the whole question, and it is due to a misunderstanding on this point that a doctrine was formulated which is quite contrary to the plain teachings of the Holy Qur'an.

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At a time when war was in progress between the Muslims and the unbelievers, it often happened that a person who apostatized went over to the enemy and joined hands with him in fighting against the Muslims. He was treated as an enemy, not because he had changed his religion but because he had changed sides. Even then there were tribes that were not at war with the Muslims, and if an apostate went over to them, he was not touched. Such people are expressly spoken of in the Holy Qur'an : " Except those who reach a people between whom and you there is an alliance, or who come to you, their hearts shrinking from fighting you, or fighting their own people ; and if Allah had pleased He would have given them power over you so that they should have fought you ; therefore if they withdraw from you and do not fight you and offer you peace, then Allah has not given you a way against them " (4 : 90).

The only case of the punishment of apostates, mentioned in trustworthy ḥadīth, is that of a party of the tribe of 'Ukul, who accepted Islām and came to Madina, but found that the climate of the town did not agree with them ; so the Holy Prophet sent them to a place outside Madina where the state milch-camels were kept, so that they might live in the open air and drink of milk. They got well and then killed the keeper of the camels and drove away the animals. This being brought to the knowledge of the Holy Prophet, a party was sent in pursuit of them and they were put to death¹ (Bu. 56 : 152).

1. It is stated in some ḥadīth that they were tortured to death. If it ever happened, it was only by way of retaliation, as before the revelation of the penal laws of Islām, retaliation was the prevailing rule. In some reports it is stated that this party of the tribe of 'Ukul put out the eyes of the keeper of the camels and threw him on hot stones to die a slow death of torture, and that they were put to death in a similar manner (Ai. VII, p. 58). But others have denied that the law of retaliation was applied in this case. According to these reports, the Holy Prophet had

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The report is clear on the point that they were put to death, not because of their apostasy, but because they had killed the keeper of the camels.

Much stress is laid on a ḥadīth which says : " Who-ever changes his religion, kill him " (Bu. 88 : 1). But in view of what the *Bukhari* itself has indicated by describing apostates as fighters or by associating their name with the name of the enemies of Islām, it is clear that only those changers of faith are meant, who join hands with the enemies of Islām and fight with the Muslims. It is only by placing this limitation on the meaning of the ḥadīth that it can be reconciled with other ḥadīth or with the principles laid down in the Holy Qur'an. In fact, its words are so comprehensive that they include every change of faith, from one religion to any other whatsoever ; thus even a non-Muslim who becomes a Muslim, or a Jew who becomes a Christian, must be killed. Evidently, such a statement cannot be ascribed to the Holy Prophet. So the ḥadīth cannot be accepted, without placing a limitation upon its meaning.

Another ḥadīth relating to the same subject throws further light on the significance of that quoted above. In this ḥadīth it is stated that the life of a Muslim may only be taken in three cases, one of which is that " he forsakes his religion and separates himself (*al-tārik*) from his community (*li-l-jamā'a*) " (Bu. 87 : 6). According

intended to put them to death by torture in the same way as they had put to death the keeper of the camels, but before they were executed he received the revelation dealing with the punishment of such offenders : " The punishment of those who wage war against Allāh and his Apostle and strive to make mischief in the land is only this, that they should be killed or crucified or their hands and their feet should be cut off on opposite sides or they should be imprisoned " (5 : 33) (I.J.-C. VI, p. 121). The apostates are thus spoken of here as waging war against God and His Apostle. The punishment varies according to the nature of the crime ; it may be death or even crucifixion, where the culprit has caused terror in the land, or it may be simply imprisonment.

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to another version, the words are "who forsakes (*al-mufāriq*) his community." Evidently separation from the community or the forsaking of it, which is here added as a necessary condition, means that the man leaves the Muslims and joins the enemy camp. Thus the words of the ḥadīth show that it relates to war-time; and the apostate did not forfeit his life for changing his religion, but for desertion.

An instance of a simple change of religion is also contained in the *Bukhārī*. "An Arab of the desert came to the Holy Prophet and accepted Islām at his hand; then fever overtook him while he was still in Madīna; so he came to the Holy Prophet and said, Give back my pledge; and the Holy Prophet refused; then he came again and said, Give me back my pledge; and the Holy Prophet refused; then he came again and said, Give me back my pledge; and the Holy Prophet refused; then he went away" (Bu. 93 : 48). This ḥadīth shows that the man first accepted Islām, and the next day on getting fever he thought that it was due to his becoming a Muslim, and so he came and threw back the pledge. This was a clear case of apostasy yet it is nowhere related that anyone killed him. On the other hand, the ḥadīth says that he went away unharmed.

Another example of a simple change of religion is that of a Christian who became a Muslim and then apostatized and went over to Christianity, and yet he was not put to death: "Anas says there was a Christian who became a Muslim and read the *Baqara* and the *Āl 'Imrān* (2nd and 3rd chapters of the Holy Qur'an), and he used to write (the Holy Qur'an) for the Holy Prophet. He then went over to Christianity again, and he used to say, Muḥammad does not know anything except what I wrote for him. Then Allah caused him to die and they buried him" (Bu. 61 : 25).

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The ḥadīth goes on to say how his body was thrown out by the earth. This was evidently at Madina after the revelation of the second and third chapters of the Holy Qur'an, when a Muslim state was well-established, and yet the man who apostatized was not even molested, though he spoke of the Holy Prophet in extremely derogatory terms and gave him out as an impostor who knew nothing except what he (the apostate) wrote for him.

It has already been shown that the Holy Qur'an speaks of apostates joining a tribe on friendly terms with the Muslims, and of others who withdrew from fighting altogether, siding neither with the Muslims nor with their enemies, and it states that they were to be left alone (4: 90). All these cases show that the ḥadīth relating to the killing of changers of religion applied only to those who fought against the Muslims.

Turning to Fiqh, we find that the jurists first lay down a principle quite opposed to the Holy Qur'an, namely that the life of a man may be taken on account of his apostasy. Thus in the *Hidayā*: "The *murtadd* (apostate) shall have Islām presented to him whether he is a free man or a slave; if he refuses, he must be killed" (H. I, p. 576). But this principle is contradicted immediately afterwards when the apostate is called "an unbeliever at war (*kāfir-un ḥarabiyy-un*) whom the invitation to Islām has already reached" (H. I, p. 577). This shows that even in Fiqh, the apostate forfeits his life because he is considered to be an enemy at war with the Muslims. And in the case of an apostate woman, the rule is laid down that she shall not be put to death, and the following argument is given: "Our reason for this is that the Holy Prophet forbade the killing of women, and because originally rewards (for belief or unbelief) are deferred to the latter abode, and their hastening (in this life) brings

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disorder, and a departure from this (principle) is allowed only on account of an immediate mischief and that is *ḥirāb* (war), and this cannot be expected from women on account of the unfitness of their constitution" (H. I, p. 577). And the annotator adds: "The killing for apostasy is obligatory in order to prevent the mischief of war, and it is not a punishment for the act of unbelief" (*Ibid*). And again: "For mere unbelief does not legalize the killing of a man" (*Ibid*). It will be seen that as in the case of war against unbelievers, the legists are labouring under a misconception, and a struggle is clearly seen going on between the principles as established in the Holy Qur'an and the misconceptions which had somehow or other found their way into the minds of the legists. It is clearly laid down that the apostate is killed, not on account of his unbelief but on account of *ḥirāb* or of his being in a state of war, and the argument is plainly given that killing for unbelief is against the accepted principles of Islām. But the misconception is that the mere ability to fight is taken as a war condition, which is quite illogical. If it is meant that the apostate possesses the potentiality to fight, then potentially even a child may be called a *ḥarabiyy* (one at war), because he will grow up to be a man and have the ability to fight; even women apostates cannot be excepted because they also possess the potentiality to fight. The law of punishment is based, not on potentialities, but on facts. Thus, even the Fiqh recognizes the principle that the life of a man cannot be taken for mere change of religion and that unless the apostate is in a state of war, he cannot be killed. It is quite a different matter that the legists should have made a mistake in defining *ḥirāb* or a state of war.

CHAPTER VI

MARRIAGE

Sec. 1—Significance of Marriage.

In the foregoing five chapters we have dealt with laws relating to the self-development of man, or to the welfare and development of the community as a whole, or, as they are generally called, the laws governing the relations of man to God—the religious duties of man in a stricter sense. In the terminology of Fiqh, these are classed as *'ibadat* (pl. of *'ibada* meaning *the service of God*). They undoubtedly relate not only to the spiritual growth of man, but also to the growth of the community, or rather humanity, as a whole. But the scope of the religion of Islām is, as I have remarked in the introduction, very wide, and covers the whole field of the relations of man to man, as well as that of man to God. The object of the laws relating to this part of human life is to teach man his duties and obligations to others, and to show him how to lead a happy life in this world in his relations with others. Technically, these are called *mu'āmalāt* or *transactions* (pl. of *mu'āmala*, from *'aml* meaning *work*), and include the laws relating to home life, civic life and the political life of man. In the Fiqh terminology, the *mu'āmalāt* are either contracts and agreements, to which the mutual consent of the contracting parties is required, or matters depending on the will of a single person, or general laws and regulations.

In all these matters the Islamic law imposes certain restrictions upon the free acts of men for the benefit of society as a whole, and therefore, ultimately for the benefit of each

Ḥudūd or restrictions.

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member of that society. The Arabic word for these restrictions is *ḥudūd*, pl. of *ḥadd*, which means *prevention, restraint, prohibition* and the like, and hence *a restrictive ordinance, or statute, of God respecting things lawful and things unlawful* (LL.). In the Holy Qur'an, the expression *ḥudūd-Allah* (limits of God) is used in connection with the Divine ordinances on various subjects, such as matters relating to marriage and divorce and good treatment of women (2 : 229, 230 ; 58 : 4 ; 65 : 1), fasting (2 : 187) and laws of inheritance (4 : 13, 14), and also in a general sense relating to all kinds of restrictive ordinances (9 : 97, 112), but never with regard to punishments inflicted for the infringement of certain laws, that being the sense in which this word has been used in Ḥadīth and Fiqh.

The basic principle in the matter of all restrictive

ordinances is that a thing which is not disallowed is deemed to be lawful, as the well-known juridical dictum has it: *Al-ibāḥa aṣl-un fi-l-ashya'* (NA. p. 197), *i.e.*, "Lawfulness is a recognized principle in all things." In other words, everything (in which is included every free act of man) is presumed to be lawful, unless it is definitely prohibited by law. This dictum is in fact based on the plain words of the Holy Qur'an: "He it is who created for you all that is in the earth" (2 : 29). There are some jurists who have held the contrary view that everything is unlawful unless the law declares it to be lawful, but this view is, on the face of it, absurd and impossible; moreover it is against the clear principle laid down in the Holy Qur'an, that everything has been created for the benefit of man, which leads to the only possible presumption that everything can be made use of by him, unless a limitation is placed, by law, on that use.

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The most important of the restrictive regulations of Islām are those relating to marriage institution. marriage, which institution is, in fact, the basic principle of human civilization. The Arabic word for marriage is *nikah* which originally means 'aqd or uniting. Marriage in Islām is a sacred contract which every Muslim must enter into, unless there are special reasons why he should not. Thus in the Holy Qur'an, it is said: "And marry those among you who are single and those who are fit among your male slaves and your female slaves; if they are needy, Allāh will make them free from want out of His grace;¹ and Allāh is Ample-giving, Knowing. And let those who do not find a match keep chaste until Allāh makes them free from want out of His grace" (24 : 32, 33). In another verse, marriage-relationship is given the same importance as blood-relationship: "And He it is Who has created man from water, then He has made for him blood-relationship and marriage-relationship" (25 : 54). Ḥadīth also lays stress upon living in a married state. The Holy Prophet is reported to have said to certain people who talked of fasting in the daytime and keeping awake during the night, praying to God and keeping away from marriage: "I keep a fast and I break it, and I pray and I sleep, and I am married, so whoever inclines to any other way than my Sunna, he is not of me" (Bu. 67 : 1). Another saying of the Holy Prophet laying stress upon marriage is worded thus: "O assembly of young people! whoever of you has the means to support a wife (*al-ba'a*), he should get married, for this (*i.e.*, marriage) is the best means of keeping the looks cast

1. Merely being poor is not sufficient excuse for not marrying, because the needy are told that if they marry, Allāh will make them free from want out of His grace. The Holy Prophet is reported to have performed the marriage of a man who did not possess so much as a ring of iron (Bu. 67 : 16).

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down and guarding the chastity ; and he who has not the means, let him keep fast, for this will act as castration" (Bu. 67 : 2). Celibacy (*tabattul*) was expressly forbidden by the Holy Prophet (Bu. 67 : 8). According to one ḥadīth, "the man who marries perfects half his religion" (MM. 13 : 1-iii). Another says : "Matrimonial alliances increase friendship more than anything else" (*Ibid*).

The Holy Qur'an repeatedly speaks of the two

Marriage as the union of two natures which are one in their essence. mates, man and woman, as being created from each other : "O people!

be careful of your duty to your Lord, Who created you from a single being and created its mate of the same (kind) and spread from them two many men and women" (4 : 1) ; "He it is Who created you from a single being and of the same did He make his mate that he might incline to her" (7 : 189). Both these verses are generally understood as referring to the creation of the first man and the first woman,¹ but that they signify the relation of man to woman in general is obvious from other verses : "And Allāh has made wives for you from yourselves (*min anfusi-kum*), and has given you sons and daughters from your wives" (16 : 72) ; "And one of His signs is that He created mates for you from yourselves (*min anfusi-kum*), that you may find quiet of mind in them" (30 : 21). And thus, in a Makka revelation of the middle period : "The Originator of the heavens and the earth ; He made

1. Nowhere in the Holy Qur'an, or in any reliable ḥadīth, is there any mention of the woman being created from the rib of man or of Eve being created from the rib of Adam. The allegation made is that God created all men from a single being (*nafs-in wāḥidat-in*) and created the *zauj* (mate) of that being from the same. The word *wāḥida* as well as the personal pronoun *hā*, used twice, are all in the feminine gender, and three renderings are possible ; the male being created from the female, or the female being created from the male, or both being created from the same essence.

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mates for you from yourselvesmultiplying you thereby " (42 : 11). Thus marriage is, according to the Holy Qur'an, the union of two souls which are one in their essence.

It will be noted that in the above verses, the multipli-

Multiplication of the human race through marriage.

cation of the human race is mentioned as one of the objects of marriage. But it may be said that

the multiplication of the race can be brought about without marriage, as with the lower animals, that is to say, without uniting one man with one woman for their whole life. This would be only true if man lived upon earth like other animals, if there was nothing to distinguish him from the brute creation, if there were no such thing as civilization, no society, no sense of respect for one's own obligations and the rights of others, no sense of property and ownership. Deprived of its civilization there would be no human race at all, but a race of brutes in human form. The family which is the real unit of the human race and the first cohesive force which makes civilization possible, owes its existence solely to marriage. If there is no marriage, then there can be no family, no ties of kinship; no force uniting the different elements of humanity, and consequently, no civilization. It is through the family that humanity is held together and civilization made possible.

The institution of marriage is also responsible to a

Feelings of love and service developed through marriage.

very great extent for the development of those feelings of love and service which are the pride of

humanity to-day. The mutual love of husband and wife—a love based not on momentary passion but life-long connection—and the consequent parental love for offspring, leads to a very high development of the feeling of love of man for man as such, and this to the disinterested

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service of humanity. This love is described as a sign of God, in the Holy Qur'an: "And one of His signs is that He created mates for you from yourselves that you may find quiet of mind in them, and He put between you love and compassion" (30:21). The natural inclination of the male to the female and of the female to the male finds expansion through marriage and is developed, first into a love for the children, then a love for one's kith and kin, and ultimately into a disinterested love for the whole of humanity. The home, or the family, is in fact the first training ground of love and service. Here a man finds real pleasure in the service of humanity, and the sense of service is thus gradually developed and broadened. It is in fact a training ground for every kind of morality, for it is in the home that a man learns to have a sense of his own obligations and responsibilities, to have a respect for others' rights, and above all, to have a real pleasure in suffering for the sake of others. The Holy Prophet is related to have said: "The best of you is he who treats his wife best" (IM. 9:49).

Europe is undoubtedly leaning more and more to Marriage and "free love." "free love" in the place of marriage, but "free love" will certainly prove the ruin of European civilization. Marriage is being discarded, not on account of any inherent defect in it, but simply because it entails certain responsibilities on both parties to the marriage contract, and it is really these responsibilities that are shirked in avoiding marriage. Marriage undoubtedly strengthens the ties of the natural love of the two mates, but it also requires them to share each other's cares and sorrows; for human life has its cares and sorrows as well as its pleasures. "Free love" makes each of the mates selfish in the extreme because, while the male and the female become each other's partners in happiness, each is free to leave the other,

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uncared for, in his or her sorrow. Marriage again makes the two mates jointly responsible for the welfare of the children, but in "free love," either the procreation of children is altogether avoided, and thus the end which nature has in view in the union of the male and the female defeated, or when either of the parents has had his or her satisfaction of the other, the children may be left without a shelter. The institution of marriage is found in all countries and all nations, has been practised in every age for thousands of years and has worked to the advancement and welfare of humanity on the whole. Free love, if practised on so large a scale for half a century, would either put an end to the human race altogether, or bring such chaos in society as would destroy its very foundations. It may suit a few irresponsible selfish persons, who are the slaves of their passions but there can be no spark of true love in a union which may end abruptly at the whim of either, and it can serve no useful purpose for humanity in general.

Sec. 2—Legal Disabilities.

A marriage for a fixed period was recognized before Mut'a or temporary Islām. It went under the name of marriage disallowed. mut'a, meaning *profiting by* or *enjoying a thing*. Besides the temporary marriage, four kinds of union of man and woman were recognized by the pre-Islamic Arabs (Bu. 67 : 37). The first of these was the permanent marriage tie which, in a modified form, was recognized by Islām. The second was known as the *istibdā'* (from *bidz'* meaning *a portion* or *a large portion of wealth, sufficient to carry on a trade*)(R.). The following explanation of this word is given in *Bukhari* and other authorities : "A man would say to his wife, Send for such a one and have cohabitation with him ; and the husband would remain aloof from her and would not touch her

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until her pregnancy was clear" (Bu. 67 : 37; N.). This is exactly the form which goes under the name of *niyoga* in the reformed Hindū sect, Ārya Samāj. The third form was that in which any number of men, less than ten, would gather together and have cohabitation with a woman, and when she became pregnant and gave birth to a child, she would call for all those men and would say that the child belonged to such a one from among them, and he was bound by her word to accept the responsibility. Fourthly, there were prostitutes who were entered upon promiscuously and when one of them bore a child, a man known as *qā'if* (lit. *one who recognized*) was invited and his decision, based on similarity of features, was final as to who was the father of the child. The last three forms only legalized adultery in one form or another and Islām did not recognize any of them, nor was any such practice resorted to by any Muslim at any time.

Temporary marriage stood on a different basis, and reform in this matter was brought about gradually. Recently the idea has appealed to the Western mind which is seeking in temporary marriage, by way of experiment, a remedy for the rigidity of the Christian marriage laws. Islām, however, discarded the idea of temporariness in marriage, because it opens the way to loose relations of the sexes, and entails no responsibility of any kind on the father, for the care and bringing up of the children who, with the mother, might thus be left quite destitute. Occasions may arise for the dissolution of a permanent marriage, and will continue to arise so long as human nature is what it is, but the remedy for this is divorce and not temporary marriage. The moment the idea of temporariness is introduced into marriage, it loses its whole sanctity, and all responsibilities which are consequent on it are thrown off. According to the Holy Qur'an, the union of the two sexes is only lawful because of the

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acceptance of the responsibilities consequent thereupon, and the idea of a temporary marriage is not in accordance with it. A union of the sexes with the acceptance of the consequent responsibilities is called *iḥṣān* (marriage), and without such acceptance it is called *safāḥ*¹ (fornication), and the Holy Qur'an allows the first while it forbids the second (4: 24).

There is some confusion in Ḥadīth about the mut'a. Bukhārī has the following as the heading of the chapter on Mut'a: "The prohibition by the Holy Prophet of mut'a finally." Under this heading he cites first a ḥadīth which says that 'Alī (the reporter) said to Ibn 'Abbās that the Holy Prophet prohibited mut'a and the eating of the flesh of domestic asses at the time of the Khaibar (expedition) (Bu. 67 : 32). It is then related that Ibn 'Abbās, being asked if the permission to practise mut'a related to the time of distress and when the number of women was very small, replied in the affirmative (*Ibid*). The third ḥadīth is that of Salma ibn Akwa' who says that they were in an expedition when a messenger of the Holy Prophet came and said that they were permitted to contract temporary marriages, at the end of which Bukhārī adds, "and 'Alī has made it clear, reporting from the Prophet that this was abrogated" (*Ibid*). Abū Dāwūd has two ḥadīth from Sabra, the first stating that the Holy Prophet prohibited mut'a in the year of the Farewell Pilgrimage (10 A. H.), and the second simply that he prohibited mut'a (AD. 12 : 13). There is no

1. *Iḥṣān* is derived from *ḥaṣuna*, meaning *it was or became inaccessible, or it was fortified or protected against attack*, and *safāḥ* is derived from *safā*, meaning *pouring out of water or shedding of blood* (LL.). The first word carries the idea of a permanent strengthening through marriage and the second that of satisfying a passion. It is clear that mut'a, or temporary marriage of any kind, falls within the second category. Ibn 'Umar is reported to have spoken of mut'a or temporary marriage as *safāḥ* (AM.—AD. II, p. 186).

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mention of mut'a having ever been allowed. Muslim has several contradictory ḥadīth. But even there it is admitted that though mut'a was permitted on certain occasions, it was finally prohibited (M. 16 : 3).

A consideration of the various ḥadīth shows that orders against mut'a were issued on several occasions : First on the occasion of the Khaibar expedition, according to 'Alī ; secondly on the occasion of the 'umra known as al-Qadsa ; thirdly at the conquest of Makka ; fourthly in the Auṭas expedition ; fifthly in the Tabūk expedition ; sixthly in the Farewell Pilgrimage. The earliest occasion is thus the Khaibar expedition, which took place in the beginning of the seventh year of Hijra. The 'umra al-Qadsa also relates to the 7th year, the other occasions to the 8th, 9th and 10th years. If mut'a was prohibited in the 7th year, as Bukhārī states on the authority of 'Alī, and this ḥadīth is repeated four times (Bu. 64 : 40 ; 67 : 32 ; 72 : 27 ; 90 : 4), and is also accepted by Muslim and others, it could not have been permitted by the Holy Prophet after this. But as the only occasions on which it is reported to have been permitted relate to the 8th year, it seems that there must have been some misconception. The explanation given by some authorities, that it may have been prohibited on the earliest occasion only as a temporary measure, and that the final and decisive prohibition may have come later, is not only repugnant to reason, but goes against the whole course of the history of reform, as brought about by Islām. The evils that prevailed in Arabia were not touched until the Prophet received a Divine revelation, but when a reform was introduced after a Divine revelation, it was impossible that the Prophet himself should have allowed the evil again. It is very probable that the first or a later reporter laboured under a misconception ; or, if the ḥadīth which speak of temporary marriages

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having been contracted, are accepted as true, the right explanation seems to be that the practice of *mut'a* was a deep-rooted one, and that repeated injunctions had to be given by the Holy Prophet, or that all people were not at once apprised of the order of its prohibition.

At any rate the report that the Holy Prophet had sent a messenger to inform people of the legality of temporary marriages in the battle of *Auṭās*, in the 8th year of *Hijra*, clearly seems to have been due to a misconception. It may be that some man who had not, up to that time, been informed of the illegality of a temporary marriage, told his companions that it was allowed, but the Holy Prophet could not have said so, after having declared its prohibition at *Khaibar*. Notwithstanding its clear prohibition in the time of the Holy Prophet, it is stated that some men remained under a misconception even up to the time of 'Umar, who had again to make a public declaration that temporary marriage was not allowed in Islām (M. 16 : 3). It may be further added that even those who legalized it, considered its legality to be dependent on *idṣtirār*, and as on the same level as the permission to use prohibited food when driven by necessity (Bu. 67 : 32; M. 16 : 3).¹ But even this position is unacceptable, as being quite opposed to the Holy Qur'an and to the clear injunctions of the Holy Prophet prohibiting it. All the Muslim sects agree in holding temporary marriage to be unlawful, with the exception of *Akhbārī Shī'as*, but even according to them it is not a very honourable transaction.²

1. The words in Muslim are : *Kānat ruḥḥuṣat-an fī auwālī-l-Islāmi li-man-idṣturra ilai-hi ka-l-mailati wa-l-dami wa laḥmi-l-ḥḥinsīr* ; and in *Bukhārī* : *Innamā dhilika fi-l-ḥālī l-shadīd*.

2. Thus Sayyid Amr 'Alī writes in his *Muḥammadan Law* : " It is declared to be abominable, though not actually prohibited, to marry in the *mut'a* form a virgin girl who has no father.....the reason being that, as such a marriage is to her prejudice. and she has had no paternal

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Prohibitions to marry The Holy Qur'an forbids certain marriage relations:

“Forbidden to you are your mothers and your daughters and your sisters and your paternal aunts and your maternal aunts and brothers' daughters and sisters' daughters, and your mothers that have suckled you and your foster-sisters, and mothers of your wives and your step-daughters who are in your guardianship, born of your wives to whom you have gone in—but if you have not gone in to them, there is no blame on you—and the wives of your sons who are of your own loins, and that you should have two sisters together, except what has already passed” (4 : 23).

It will be seen that these prohibitions arise either from consanguinity, as in the cases of mother, daughter, sister, brother's daughter, sister's daughter, father's sister and mother's sister ; or from fosterage, such as in the case of foster-mother and foster-sister ; or from affinity, such as in the case of wife's mother, wife's daughter and son's wife. Fiqh has enlarged the conception of certain relations, and the *Hidaya* thus expands these prohibitions :

1. Mother includes all female ascendants both on the male, *i.e.* the father's, and the female, *i.e.* the mother's, side.
2. Daughter includes daughter of son or daughter, *i.e.* all female descendants how low soever.
3. Father's sister and mother's sister do not include the daughters of the paternal and maternal aunts but include grandfather's sister and grandmother's sister and so on.

The second class of prohibitions relates to fosterage, but while the Holy Qur'an mentions only the foster-

advice or guidance in the matter, she should not be subjected to the degradation of a temporary union.”

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mother and the foster-sister, Ḥadīth is clear on the point that all those relations that are prohibited in marriage on account of consanguinity are prohibited also on account of fosterage¹ (Bu. 67 : 21). Thus the foster-uncle of Ḥafṣa was declared to fall within the prohibitions of the Holy Qur'an, and a daughter of Ḥamza who, though an uncle of the Holy Prophet, was also his foster-brother, was regarded as forbidden for the Prophet (Bu. 67 : 21). Certain foster-relations may, however, be complete strangers, though they would not be so in the case of blood relations. For instance, the brother's mother is either the mother or step-mother of a man, and in both cases she is among the prohibited relations, but the foster-brother's mother may be quite a stranger and in that case is not prohibited.

As to what constitutes fosterage (*radṣā'a* or giving suck), there is a very slight difference of opinion. A child is recognized as a suckling only up to the age of two years, in the Holy Qur'an (2 : 233), and there is no difference on this point. Ḥadīth lays down that foster-relationship is not established unless the child is suckled when hungry (Bu. 67 : 22). Imām Abū Ḥanīfa, however, considers the child's being given suck only once, as sufficient to establish foster-relationship; Imām Shafī'i is of opinion that he must have been suckled four times,

1. Sayyid Amr 'Alī mentions the following exceptions to this rule as recognized by the Ahl Sunna : (i) The marriage of the father of the child with the mother of his child's foster-mother; (ii) with her daughter; (iii) the marriage of the foster-mother with the brother of the child whom she has fostered; (iv) the marriage with the foster-mother of an uncle or aunt. And he adds: "According to the *Durr al-Mukhtār* there are twenty-one exceptions to this rule. For example, the foster-mother of a child and her mother are lawful to the child's grandfather. Similarly a man may marry his brother's or sister's foster-mother; his son's foster-sister; paternal or maternal uncle's foster-mother, son's paternal aunt by fosterage, etc. The husband of the foster-mother may marry the natural mother or sister of his wife's foster-child." The Shr'as recognize no exception.

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while the Shi'as consider it necessary that he should have been suckled at least for twenty-four hours.

The third class of prohibitions is that which arises from affinity, and here, too, Fiqh expands the conception of relationship in the same manner as in the case of consanguinity. Thus wife's mother includes wife's mother's mother, and so on; wife's daughter includes her daughter's daughter;¹ son's wife² includes son's son's wife. Step-mothers are expressly prohibited in the Holy Qur'an: "And marry not women whom your fathers married" (4: 22). Fiqh also lays down that a man's unlawful connection with a woman includes her in the category of a wife so far as prohibitions arising from the wife's connections are concerned.

The last prohibition relates to the gathering together of two sisters as co-wives. Hadith expands this conception and prohibits the gathering together of a woman with her paternal aunt or her maternal aunt (Bu. 67: 27, 28). Fiqh expands the conception further and includes the wife's brother's and sister's daughter in the same category. The rule is in fact laid down in the *Hidaya* that it is prohibited to have as wives at one time two women so related to each other that if one of them were a man, their marriage would be prohibited.

The only other ground on which marriage is prohibited in the Holy Qur'an is Marriage relations between Muslims and non-Muslims. *shirk* or associating gods with God: "And do not marry the idolatresses (*al-mushrikat*) until they believe, and certainly a believing maid is better than an idolatress even though she should

1. The wife's mother is prohibited unconditionally while the wife's daughter is prohibited only in case a man has gone in to his wife; see 4: 23 quoted above.

2. It is expressly laid down in the Holy Qur'an that the son whose wife is forbidden is one from one's own loins. The adopted son who is really not a son at all, is thus excluded.

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please you ; and do not give (believing women) in marriage to idolaters until they believe, and certainly a believing slave is better than an idolater even though he should please you " (2 : 221). Along with this, it is necessary to read another verse which allows marriage with women who profess one of the revealed religions : " This day all good things are allowed to you, and the food of those who have been given the Book is lawful for you and your food is lawful for them ; and the chaste from among the believing women and the chaste from among those who have been given the Book before you (are lawful for you) when you have given them their dowries, taking them in marriage, not fornicating nor taking them for paramours in secret " (5 : 5). Thus it will be seen that while there is a clear prohibition to marry idolaters or idolatresses, there is an express permission to marry women who profess a revealed religion (*Ahl al-Kitab*). And, as the Holy Qur'an states that revelation was granted to all nations of the world (35 : 24), and that it was only the Arab idolaters who had not been warned (32 : 3 ; 36 : 6), the conclusion is evident that it was only with the Arab idolaters that marriage relations were prohibited, and that it was lawful for a Muslim to marry a woman belonging to any other nation of the world that followed a revealed religion. The Christians, the Jews, the Parsis, the Buddhists and the Hindus¹ all fall within this category ; and it would be seen that, though the Christian doctrine of calling Jesus Christ a God or son of God is denounced as shirk, still the Christians are treated as followers of a revealed religion and not as *mushrikin*, and matrimonial relations with them are allowed. The case of all those people who have originally been given a revealed religion, though at present they may be guilty of shirk, would be

1. Sikhs would be treated essentially as Hindus.

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treated in like manner, and Pārsī and Hindū women may be taken in marriage, as also may those who follow the religion of Confucius or of Buddha or of Tao. Fiqh, however, recognizes only the legality of marriage with women belonging to the Jewish and Christian faiths, and this is due to the narrow conception of the word *Ahl al-Kitāb* adopted by the jurists. It is strange, however, that while the Majūs or Pārsīs are not accepted as *Ahl al-Kitāb*, the Sabians are expressly spoken of in the *Hidaya*, as being *Ahl al-Kitāb*: "And it is lawful to marry Sabian women (*Ṣābiyat*) if they profess a religion and accept a revealed book, for they are among *Ahl al-Kitāb*." If the Sabians are *Ahl al-Kitāb* simply for the reason that they profess a religion and accept a revealed book, there is no reason why the Magians, the Hindūs and others who profess a religion and accept a revealed book, should not be treated as such.

It may be noted here that while there is an express mention of a Muslim man marrying a non-Muslim woman who professes a revealed religion, there is no mention of the legality or illegality of a marriage between a Muslim woman and a non-Muslim man.¹ The mere fact however that the Holy Qur'ān speaks of the one and not of the other is sufficient to show that marriage between a Muslim woman and a non-Muslim man is not allowed.

A marriage which is otherwise legal may be illegal

1. The Jewish law does not allow marriage with non-Jews in any case: "Neither shalt thou make marriages with them; thy daughter thou shalt not give unto his son, nor his daughter shalt thou take unto thy son" (Deut. 7: 3). Paul follows the Jewish law: "Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness?" (II, cor. 6: 14). The Hindū law is even stricter, and allows marriage of a member of one caste of Hindūs only within that caste.

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because it does not fulfil a requirement of the law. For instance, the divorced woman and the widow have both to observe the *'idda*, a waiting period, and marriage during this period is illegal. A woman who has been divorced thrice is not allowed to remarry her first husband. As the pregnant woman is required to observe *'idda* till delivery (65 : 4), marriage during pregnancy is not allowed. But if a woman is pregnant by fornication, her marriage with either the fornicator or somebody else is allowed by Imām Abū Ḥanīfa and Imām Muḥammad, only in the latter case sexual intercourse is forbidden till delivery (H.I, p. 293). But according to other Imāms, including Imām Abū Yūsuf, it is illegal. The Shī'a law follows Imām Abū Ḥanīfa.

Sec. 3—Form and Validity of Marriage.

The very fact that marriage is looked upon as a Preliminaries of marriage. contract, in Islām, shows that before marriage both parties must satisfy themselves that each will have a desirable partner for life in the other. The Holy Qur'an lays down expressly : "Marry such women as seem good to you (*ma ṭaba la-kum*)" (4 : 3). The Holy Prophet is reported to have given an injunction to this effect : "When one of you makes a proposal of marriage to a woman, then if he can, he should look at what attracts him to marry her" (AD. 12 : 18), the heading of this chapter being : "A man should look at the woman whom he intends to marry." Bukhārī also has a chapter, headed "To look at the woman before marriage" (Bu. 67 : 36). Muslim has a similar chapter : "Inviting a man who intends to marry a woman to have a look at her face and hands" (M. 16 : 12). In this chapter is cited the case of a man who came to the Prophet and said that

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he was marrying a woman from among the Anṣār, and the Holy Prophet said to him, Hast thou looked at her? On his replying in the negative, the Prophet said, Then go and look at her, for there is a defect in the eyes of (some) Anṣār. In another ḥadīth, it is reported that when Mughīra ibn Shu‘ba made a proposal of marriage to a woman, the Holy Prophet asked him if he had seen her and on his replying in the negative, he enjoined him to see her, because “it was likely to bring about greater love and concord between them” (MM. 13 : 2-ii). The jurists are almost all agreed upon the *istiḥbāb* (approval) of looking at the woman whom one intends to marry. And since the contract is effected by the consent of two parties, the man and the woman, and one of them is expressly told to satisfy himself about the other by looking at her, it would seem that the woman has the same right to satisfy herself before giving her assent. The consent of both the man and the woman is an essential of marriage, and the Holy Qur‘ān lays down expressly that the two must agree : “Do not prevent them from marrying their husbands when they agree among themselves in a lawful manner” (2 : 232). In this respect, however, much will depend upon the customs prevailing among a people, and satisfaction may be obtained either personally or through female relatives, as is generally the way in India. Aḥmad Shukrī, quoting an earlier authority (‘Abd al-Qādir, *al-Nahr*, p. 218), says : “The time for seeing her should precede the betrothal The woman is recommended to have a look at the man, if she wants to marry him ; because anything that would please her with him will please him with her and each of them can renew his or her glances whenever he or she wants, in order to discern the features of his or her object, so that he or she may not repent after marriage” (ASh., p. 43).

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The word *khataba* which means *he addressed* (another) also signifies *he made a proposal of marriage*. The infinitive noun *khutba* means *an address* and *khitba* means *a proposal of marriage*. When a man, who wants to marry, has satisfied himself about a woman, he makes a proposal of marriage either to the woman in question or to her parents or guardians. When a man has made a proposal of marriage to a woman, others are forbidden to propose to the same woman, till the first suitor has given up the matter, or has been rejected (Bu. 67:46). A woman may also make a proposal of marriage to a man (Bu. 67 : 33), or a man may propose the marriage of his daughter or sister to a man (Bu. 67 : 34); generally, however, it is the man who makes the proposal. When assent has been given to the proposal of marriage, it becomes an engagement, and usually a certain time is allowed to pass before the nikāḥ (marriage) is performed. This period allows the parties to study each other further, so that if there be anything undesirable in the union, the engagement may be broken off by either party : it is only after the nikāḥ has been performed that the two parties are bound to each other.

No particular age has been specified for marriage, in the Islamic law; in fact, with the difference of climatic conditions, there would be a difference as to the marriagable age in different countries. But the Holy Qur'an does speak of an age of marriage which it identifies with the age of majority : "And test the orphans until they attain (the age of) marriage (*nikāḥ*); then if you find in them maturity of intellect, make over to them their property, and do not consume it extravagantly and hastily, anticipating their attaining to full age" (4 : 6). Thus it will be seen that the age of marriage and the age of maturity of intellect

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are identified with full age or the age of majority. And as marriage is a contract the assent to which depends on personal liking, as already shown on the basis of the Holy Qur'an and Ḥadīth, and since this function cannot be performed by any one but the party who makes the contract, it is clear that the age of marriage is the age of majority, when a person is capable of exercising his choice in matters of sexual liking or disliking. A man or a woman who has not attained to puberty is unable to exercise his or her choice in sexual matters and unable to decide whether he or she will like or dislike a certain woman or man as wife or husband.

It is true that Fiqh, following the general law of contracts, recognizes, in the case of a marriage contract, the legality of the consent of a guardian on behalf of his ward, but there is no case on record showing that the marriage of a minor through his or her guardian was allowed by the Holy Prophet after details of the law were revealed to him at Madīna. His own marriage with 'Ā'ishā, which took place when she was nine years of age, is sometimes looked upon as sanctioning the marriage of a minor through his guardian, but there are two points worth consideration in this matter. In the first place, 'Ā'ishā's nikāḥ at nine was tantamount only to an engagement, because the consummation of marriage was postponed for full five years, to allow her, no doubt, to attain majority.¹ In the second place, 'Ā'ishā's nikāḥ was performed in Makka long before the details of the Islamic law were revealed to the Holy Prophet, and therefore her marriage at nine can be no argument for the marriage of a minor. There is no reliable ḥadīth showing that marriages were contracted by minors through their guardians in the time of the Holy Prophet, after the

1. I have discussed the question of the age of 'Ā'ishā fully, in my *Early Caliphate*.

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revelation of the fourth chapter which identifies the age of marriage with the age of majority. In the chapter headed "The giving in marriage by a man of his minor children" (Bu. 67 : 39), two arguments are brought forward; first the report relating to 'A'isha's marriage which has just been dealt with ; and, secondly, a verse of the Holy Qur'an (65 : 4), whereon light is thrown in the next paragraph. Similar chapters in other books (M. 16 : 10 ; AD. 12 : 33) mention simply the case of 'A'isha.

Support is sometimes sought for the marriage of minors from the verse which speaks of women not having their courses, as being divorced : "And for those of your women who have despaired of menstruation, if you have a doubt, the prescribed time shall be three months, and of those too who have not had their courses" (65 : 4). But it is wrong to identify women who have not had their courses with minors, for there may be cases in which a woman reaches the age of majority though she has not had her courses, and it is with such exceptional cases that this verse deals. At any rate, there is no mention anywhere in the Holy Qur'an or Hadith of minors being married or divorced. Fiqh, however, recognizes the legality of the marriage of a minor when contracted by a lawful guardian. This subject is further discussed under the heading "Guardianship in marriage."

Marriage is called a *mithaq* (covenant) in the Holy Qur'an, a covenant between the husband and the wife: "And how can you take it (i. e. the dowry) when one of you has already gone in to the other and they have made with you a firm covenant (*mithaq-an ghalis-an*)" (4 : 21). The marriage contract is entered into by mutual consent expressed by the two parties, the husband and the wife, in the presence of witnesses, and that is the only essential. This mutual consent is technically called *ijab* (affirmation

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or declaration), and *qubul* (acceptance or consent) in Fiqh. The marriage is made complete by the expression of mutual consent in the presence of witnesses,¹ but it was the practice of the Prophet to deliver a *khuṭba* (sermon), before the declaration of marriage was made, to give it the character of a sacred contract. A dowry (mahr) must also be settled on the woman, according to the Holy Qur'an, but the marriage is valid even if mahr is not mentioned, or even if the amount of mahr is not agreed upon. The expression of the consent is in the preterite form according to the *Hidaya*; for instance, the parties would say, *qabiltu* (I have accepted) or *sawwajtu* (I have taken as my mate or partner), but no particular form or particular words are essential; any expression which conveys the intention of the parties in clear words is sufficient. It is not necessary that the proposal should come from one side and the acceptance from the other, or that the one should precede the other. The words of mutual consent may be addressed to each other by the two parties, but generally it is the *khatib* (the man who delivers the *khuṭba*) who puts the proposal before each party, the latter giving consent to the proposal.

The second most important thing in marriage is the Mahr or the nuptial mahr or dowry. The word generally gift. used for dowry in the Holy Qur'an is *ajr* (pl. *ujūr*), meaning *reward*, and *a gift that is given to the bride* (LL.). In fact, *ajr* is *that in which there is gain but no loss* (R.). The word *ṣaduqat* (pl. of

1. Sayyid Amr 'Alī says in his *Muhammadan Law* that according to the *Shr'as*, the marriage is valid without the presence of witnesses, but this doctrine cannot hold in the presence of what is clearly stated to be the practice of the Holy Prophet. Moreover, when there is a plain direction in the Holy Qur'an as to the necessity of witnesses at the time of divorce, it stands to reason that the presence of witnesses at marriage should be equally necessary.

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ṣaduqa) is also once used in the Holy Qur'an to signify the nuptial gift (4 : 4), and other words from the same-root signifying dowry are *ṣudaq* and *ṣidaq*. The root word *ṣadāqa* (verb) means *he was truthful*, and an obligatory deed is called a *ṣadaqa* (noun) when the doer of it aims thereby at truthfulness (R.). Another word sometimes used in the Holy Qur'an to indicate the nuptial gift is *farīḍa*, literally *what has been made obligatory* or *an appointed portion*. The word *mahr* is used in Hadith to signify dowry, or the nuptial gift. According to the Holy Qur'an, the *mahr* is given as a free gift by the husband to the wife, at the time of contracting the marriage: "And give women their dowries as a free gift" (4 : 4). The payment of the *mahr* on the part of the husband is an admission of the independence of the wife, for she becomes the owner of property immediately on her marriage, though before it she may not have owned anything. The settling of a dowry on the woman at the marriage is obligatory: "And lawful for you are all women besides these, provided that you seek them with your property, taking them in marriage not committing fornication. Then as to those whom you profit by (by marrying) give them their dowries as appointed" (4 : 24). The payment of dowry is also necessary in the case of marriage with a slave-girl: "So marry them with the permission of their masters and give them their dowries justly" (4 : 25); and also in the case of a Muslim marrying a non-Muslim woman: "And the chaste from among the believing women and the chaste from among those who have been given the Book before you, when you have given them their dowries, taking them in marriage" (5 : 5).

It would appear from this that the Holy Qur'an renders the payment of dowry necessary at the time of

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marriage. Ḥadīth leads to the same conclusion. The payment of the dowry was necessary even though it might be a very small sum (Bu. 67 : 51, 52 ; AD. 12 : 29, 30, 31). In exceptional cases, marriage is legal even though the amount of mahr has not been specified, but it is obligatory and must be paid afterwards. Thus the Holy Qur'an says, speaking of divorce : " There is no blame on you if you divorce women when you have not touched them, or appointed for them a dowry " (2 : 236). This shows that marriage is valid without specifying a dowry. Ḥadīth also speaks of the validity of a marriage, even though dowry has not been named (AD. 12 : 31). But the dowry must be paid, either at the time of the consummation of marriage or afterwards. The amount of dowry in this case would depend upon the circumstances of the husband and the position of the wife. The Holy Qur'an makes this clear by requiring the provision for wife to depend upon the circumstances of the husband, " the wealthy according to his means and the straitened in circumstances according to his means " (2 : 236). In a ḥadīth it is related that the case of a woman, whose husband had died before fixing a dowry and consummating marriage, was referred to 'Abd-Allāh ibn Mas'ūd, who decided that she should be paid a dowry according to the dowry of the women of like status with herself (*ka-ṣadaqi nisā'i-hā*), and this decision was afterwards found to be in accordance with the decision of the Holy Prophet in a similar case (AD. 12 : 31). In Fiqh, it is called *mahr mithl* (lit., the mahr of those like her, or her equals) or customary dower. It is determined by the mahr of her sisters and paternal aunts and uncles' daughters (H. I, p. 304) ; that is to say, with reference to the social position of her father's family. Therefore even if the dowry has not been specified at the marriage, it is to be determined and paid afterwards, and if unpaid in the

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husband's lifetime, it is a charge on his property after his death. The plain words of the Holy Qur'an require its payment at marriage, barring exceptional cases when it may be determined or paid afterwards. Imām Malik follows this rule and renders payment necessary at marriage, while the Ḥanafī law treats it more or less as a debt.

No limits have been placed on the amount of mahr. The words used in the Holy Qur'an show that any amount of dowry may be settled on the wife: "And you have given one of them a heap of gold" (4 : 20). Thus no maximum or minimum amount has been laid down. The Holy Prophet paid varying amounts to his wives; in one case when the Negus paid the amount to Umm Ḥabība (Abū Sufyān's daughter), who was then in Abyssinia, where the marriage took place, it being four thousand dirhams, while in the case of the other wives it was generally five hundred dirhams (AD. 12 : 28). The mahr of his daughter Fāṭima was four hundred dirhams. The lowest amount mentioned in Ḥadīth is a ring of iron" (Bu. 67 : 52), and a man who could not procure even that, was told to teach the Holy Qur'an to his wife (Bu 67 : 51). In some ḥadīth two handfuls of meal or dates are also mentioned (AD. 12 : 29). The amount of the dowry may however be increased or decreased by the mutual consent of husband and wife, at any time after marriage; and this is plainly laid down in the Holy Qur'an: "Then as to those whom you profit by (by marrying), give them their dowries as appointed; and there is no blame on you about what you mutually agree after what is appointed of dowry" (4 : 24).

In India, however, mahr is treated simply as a check upon the husband's power of divorce, and very high and extravagant sums are sometimes specified as mahr. This

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practice is foreign to the spirit of the institution, as laid down by Islām ; for, mahr is an amount which should be handed over to the wife at marriage or as early afterwards as possible ; and if this rule were kept in view, extravagant mahr would disappear of itself. The later jurists divide mahr into two equal portions, one of which they call *mu'ajjal* (lit., *that which is hastened*) or prompt, and the other *mu'ajjal* (lit., *deferred for a time*). The payment of the first part must be made immediately on the wife's demand, while the other half becomes due on the death of either party, or on the dissolution of marriage.

Among the pre-Islamic Arabs, *shighār* was a recognized form of marriage, a marriage by exchange, in which one man would give his daughter or sister or other ward in exchange for taking in marriage the other man's daughter or sister or ward, neither paying the dowry. Such a marriage was expressly forbidden by the Holy Prophet because it deprived the woman of her right of dowry (Bu. 67 : 29) ; which shows that the woman's right of dowry is a right of which the wife cannot be deprived under any circumstances, and that it is her property and not the property of her guardians.

Where the Holy Qur'an speaks of marriage, it at the same time excludes clandestine sexual relations, "taking them in marriage, not fornicating, nor taking them for paramours in secret" (4 : 24, 25 ; 5 : 5). Thus the one fact distinguishing marriage from fornication and clandestine relations, is its publicity. The mutual consent of two parties to live as husband and wife does not constitute a marriage unless that consent is expressed publicly and in the presence of witnesses. An essential feature of the Islamic marriage is therefore the publication of the news by gathering together, preferably in a public place. There

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are ḥadīth showing that marriage must be made publicly known, even with the beat of drums (Tr. 9 : 6 ; Ns. 26 : 72 ; IM. 9 : 19 ; Ah. IV, pp. 5, 77). With the same object in view music is allowed at marriage gatherings. On such an occasion, girls sang with the beating of drum (ḍarb al-ḍuff)¹ in the presence of the Holy Prophet (Bu. 67 : 49). The following ḥadīth on this subject may be quoted : "Make public this marriage and perform it in the mosques and beat drums for them;" "The difference between the lawful and the unlawful (*i. e.* marriage and fornication) is proclamation and the beating of drums;" "'Ā'ishā had with her a girl from among the Anṣār whom she got married. The Holy Prophet came and said, Have you sent the young girl to her husband? And on receiving a reply in the affirmative, he said, Have you sent with her those who would sing? 'Ā'ishā said, No. Said the Prophet, The Anṣār are a people who love singing, and it would have been better if you had sent with her some one to sing thus and thus" (MM. 13 : 4 —ii). The presence of witnesses, when so much stress is laid on proclamation, is a foregone conclusion.

The delivery of a sermon before the announcement of marriage is another factor which helps the publicity of the marriage, and, at the same time, serves the double purpose of giving it a sacred character and making it an occasion for the education of the community. When the friends and relatives of both parties have assembled, a sermon is delivered by some one from among the party, or by the Imām, before announcing the marriage itself. The text of this sermon, as reported from the Holy Prophet by Ibn Mas'ūd consists of tashahhud, with which every

1. *Duff* or *daff* (the former more approved, and the latter now more common) is tambourine or a certain thing with which one beats or with which one plays (LL.).

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sermon generally opens, and of three verses of the Holy Qur'an. *Tashahhud*, literally, means *the act of bearing witness*, and technically *the bearing of witness to the Unity of God and the prophethood of Muhammad*, and the *tashahhud* of the marriage sermon consists of the following words :—

أَحْمَدُ لِلَّهِ مُحَمَّدٌ وَنَسْتَعِينُهُ
نَسْتَعِينُهُ وَنَعُوذُ بِاللَّهِ مِنْ مَرَدِّهِ
أَنْفُسَنَا وَمِنْ سَيِّئَاتِ أَعْمَالِنَا
مَنْ يَهْدِهِ اللَّهُ فَلَا مُضِلَّ
لَهُ وَمَنْ يَضِلَّ فَلَا هَادِيَ
لَهُ وَأَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ
وَأَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ
وَرَسُولُهُ

Al-ḥamdu li-llāhi naḥma-
du-hū wa nasta'inu-hū
wa nastaghfiru-hū wa
na'ūdhu bi-llāhi min
shurūri anfusi-nā wa
min sayyi'āti a'māli-nā,
man yahdi-hi-llāhu fa-lā
muḍzillā la-hū wa man
yudzill fa-lā hādiya la-
hū, wa ashhadu an lā
ilāha ill-Allāhu wa ash-
hadu anna Muḥammad-
an 'abdu-hū wa rasūlu-
hū.

All praise is due to Allāh ;
we praise Him and we
beseech Him for help
and we ask for His
protection and we seek
refuge in Allāh from the
mischiefs of our souls,
and from the evil of
our deeds; whomsoever
Allāh guides, there is
none who can lead him
astray and whom Allāh
finds in error, there is
none to guide him; and
I bear witness that there
is no god but Allāh and
that Muḥammad is His
servant and His Mes-
senger.

After the *tashahhud*, the Holy Prophet would take as his text the following three verses of the Holy Qur'an, *viz.*, 3 : 101 ; 4 : 1 ; 33 : 70, 71 (MM. 13 : 4—ii). All three verses remind man of his responsibilities in general and the middle one lays particular stress on the obligations towards women. I quote the three verses, as they form an essential part of the marriage sermon :—

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ
حَقَّ تَقَاتِهِ وَلَا تَكُونُوا مِنَ
الْمُتَكِبِينَ ○

Yā ayyuha-lladhīna āma-
nu-ttaqu-llāha ḥ a q a
tuqāti-hi wa lā tamū-
tunna illā wa antum
Muslimūn (3 : 101).

○ you who believe! be
careful of your duty to
Allāh with the care
which is due to Him
and do not die unless
you are Muslims.

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّ الَّذِي
خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ

Yā-ayyuha-n-nāsu-ttaqū
R a b b a-k u m u-lladhī
khalaqa-kum min nafs-in

○ people! be careful of
your duty to your Lord,
Who created you from

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وَأَحَدٌ مِّنْهُمَا زَوْجُهُمَا
 وَبَيْنَهُمَا رِجَالٌ كَافِرَاتٌ
 بِنِسَائِهِنَّ فَأَتَى اللَّهَ الَّذِي
 تَسَاءَلُونَ بِهِ وَالرَّسُولَ لِيُنزِلَ
 اللَّهُ لَكُمْ آيَاتٍ مِّنْهُ

wa ḥidā-tin wa
 khālaqa min-hā zauja-
 hā wa baththa min-
 humā rijāl-an kathīr-an
 wa nisā'a; wa-ttaqu-
 llāha-lladhī tasā'alūna
 bi-hi wa-l-rasūl; inn-
 Allāha kāna 'alai-kum
 raqībah (4 : 1).

a single being and of
 the same created its
 mate, and spread from
 these two many men
 and women; and be
 careful of your duty to
 Allāh, by Whom you
 demand one of another
 your rights and to the
 ties of relationship;
 surely Allāh watches
 over you.

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ
 قُلُوبًا مَّا لَكُمْ بِهِ لَعْنَةُ
 اللَّهِ وَالَّذِينَ آمَنُوا
 وَمَنْ يُطِيعِ اللَّهَ وَالرَّسُولَ لَنَجْزِلْ
 لَهُ أَجْرًا عَظِيمًا

Yā-a-y-yu-ha-lladhīna
 āmanu-ttaqu-llāha wa
 qūlū qaul-an saḍīd-an
 yuṣliḥ la-kum a'māla-
 kum wa yaghār la-kum
 dhunūba-kum wa man
 yuṣī'i-llāha wa rasūla-hū
 fa-qad faza fauz-an
 'aẓīmā (33 : 70, 71).

O you who believe! be
 careful of your duty to
 Allāh and speak the
 right word; He would
 put your deeds into a
 right state for you, and
 forgive you your faults;
 and whoever obeys
 Allāh and His Apostle,
 he indeed achieves a
 mighty success.

The sermon of course must expatiate on these verses and explain to the audience the mutual rights and duties of husband and wife. At the conclusion of the sermon is made the announcement that such and such a man and such and such a woman have accepted each other as husband and wife, and the dowry is also announced at the time. The man and the woman are then asked if they accept this new relationship, and, on the reply being given in the affirmative, the marriage ceremony proper is concluded. In India the consent of the woman is generally obtained through her father or other guardian or relation. After the expression of consent by both parties, the whole audience raises its hands and prays for the blessings of God on the newly wedded couple. Generally some dates or sweets are distributed before the audience disperses. The words of prayer in one ḥadīth are *bārak-Allahu la-ka*, or may Allah shower His blessings on thee (Bu. 67 : 57). In

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another, the words are, *barak-Allāhu wa bāraka 'alai-ka wa jama'a baina-kumā fi khair-in* (Tr. 9 : 6)—which means, “May Allah shower His blessings (on the union) and may He bless you and unite you two in goodness.”

That there should be witnesses of marriage is clear enough from what has already been stated. The Holy Qur'an requires witnesses even for ordinary contracts and business transactions (2 : 282), and marriage is a contract of the highest importance, a contract affecting the lives of two persons to an extent to which no other contract affects them. It further requires witnesses even in the case of the dissolution of marriage by divorce (65 : 2). The Hanafi law rightly lays special stress on this point, so that marriage is not valid if there are not two witnesses at least (H. I, p. 286). To procure the best testimony and one free from doubt of all kinds, it is quite in accordance with the law of Islām that all marriages should be registered.

After nikāḥ is over, the bride is conducted to the husband's house, and this is followed by the marriage-feast called *walīma*. This feast is another step in the publicity of the marriage, and hence the Holy Prophet laid stress on it. It is related of 'Abdal-Raḥmān ibn 'Auf that, when on seeing on him signs of *ṣufra* (a certain colour), the Holy Prophet was told that he had married, he prayed for him and told him to arrange for a feast though there be only one goat to feed the guests (Bu. 34 : 1 ; 67 : 7, 57). On the occasion of his own marriage with *Ṣafīyya*, when returning from *Khaibar*, he gave a feast in which every one was required to bring his food with him (Bu. 8 : 12). Of course this was on a journey, but at the same time it shows the great importance given to the marriage-feast. He also invited his friends to a

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walima feast on the occasion of his marriage with Zainab, which is said to have been the most sumptuous of all his walima feasts, and yet he slaughtered only one goat (M. 16 : 15). Bukhārī devotes several chapters to walima in particular, in addition to numerous stray references. I quote a few headings: "The walima is necessary" (Bu. 67 : 68); "The walima (is necessary) though there be only one goat to feed the guests" (Bu. 67 : 69); "He who entertains in walima with less than a goat" (Bu. 67 : 71); "It is necessary to accept an invitation to walima" (Bu. 67 : 72).

The essence of marriage being then, according to Guardianship in marriage. Islām, the consent of two parties, after they have satisfied themselves about each other, to live together as husband and wife permanently and accepting their respective responsibilities and obligations in the married state, it follows from its very nature, that the marriage contract requires that the contracting parties should have attained puberty and the age of discretion. The Holy Qur'ān has already been quoted on this point, and Fiqh also recognizes this principle. Thus, according to the *Fatawa Ālamgīrī*, "among the conditions which are requisite for the validity of a contract of marriage are understanding (*'aql*), puberty (*bulughā*) and freedom (*hurriyya*) in the contracting parties" (Ft.A. II, p. 1). A distinction is however made between a minor who is possessed of understanding and one who is not so possessed, and while a marriage contracted by the latter is recognized as a mere nullity, one contracted by the former can have its invalidity removed by the consent of his guardian. As regards those who have attained majority, there is no difference of opinion in the case of the man, who can give his consent to marriage without the approval of a guardian, but some difference exists in the case of the

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woman, whether she can give such consent without the approval of her father or guardian. The Ḥanafī view of the law of Islam answers this question in the affirmative: "The marriage contract of a free woman who has reached the age of majority, and is possessed of understanding, is complete with her own consent, whether she is a virgin or has been married before, though it may not have been confirmed by her guardian" (H. I, p. 293). The Shī'a view is exactly the same: "In the marriage of a discreet female (*rāshida*, or one who is adult), no guardian is required" (AA.). Both Malik and Shafī'i hold that the consent of the guardian is essential. Bukhārī inclines to the same view as that of Malik and Shafī'i, the heading of one of his chapters being, "Who says that there is no marriage except with the consent of a guardian" (Bu. 67 : 37); though he adds another, "The father or any other guardian cannot give in marriage a virgin or one who has been married before without her consent" (Bu. 67 : 42). At the same time, he extends the meaning of the word guardian, saying that "the king is a guardian" (Bu. 67 : 41), and cites under this heading the case of a woman who came to the Holy Prophet and offered herself for marriage, and she was then and there married to a person, who could not even settle any dowry on her on account of his poverty. It does not appear whether or not she had a natural guardian (father or other near relative). Some Qurānic verses are quoted which however do not speak of a guardian in express words. Thus: "And when you divorce women and they end their term of waiting, do not prevent them from marrying their husbands when they agree among themselves in a lawful manner" (2 : 232). From this it is probably concluded that the injunction against preventing women from marrying husbands who have divorced them presupposes a right of the guardian. This argument is, however,

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defective, as the guardians are here prohibited from exercising any such right, in the case at least of a *ṭhayyiba* (a woman who has seen a husband). The other verse quoted is: "And do not give believing women in marriage to idolaters until they believe" (2 : 221). The argument is that the verse is addressed to the guardians, who have therefore the right to give in marriage. But this is also doubtful as the verse may just as well be addressed to the Muslim community as a whole, as on so many other occasions.

Among the ḥadīth cited by Bukhārī, the first ḥadīth is that in which 'Ā'ishā speaks of four kinds of marriage, and the first of these which was the only form sanctioned by Islām is stated to be that in which "one man makes a proposal to another regarding his ward or his daughter, then he settles a dowry on her and marries her." But that describes the general practice, and does not lead to the conclusion that a woman cannot marry without the consent of a guardian. The second ḥadīth is also from 'Ā'ishā and in it she speaks of the guardian of an orphan girl marrying her himself. That however is only 'Ā'ishā's interpretation of a certain verse of the Holy Qur'an, and there is no reference in it to any particular incident that might have occurred. The third speaks of 'Umar proposing his widowed daughter Ḥafṣa to Abū Bakr. This, too, does not establish that marriage is invalid without the consent of a guardian. It only shows that the father of a widow may exert himself to procure a match for his daughter. None of the other three ḥadīth mentioned in this chapter has any bearing on this subject.

On the other hand, the Holy Qur'an, as well as Ḥadīth, recognizes a woman's right to marry the man she pleases. Thus the verse quoted above says plainly: "Do not prevent them from marrying in a lawful manner"

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(2 : 232). This is the case of a divorced woman. And of a widow, the Holy Qur'an says : " But if they themselves go away, there is no blame on you for what they do of lawful deeds by themselves " (2 : 240). This recognizes the widow's right to marry herself. These two verses clearly recognize the right of the *thayyiba* (the divorced woman or the widow) to give herself in marriage, and prohibit the guardian from interference when the woman herself is satisfied. This is quite in accordance with a ḥadīth : " *Al-ayyim* (the widow and the divorced woman) has greater right to dispose of herself (in marriage) than her guardian " (AD. 12 : 25). The words of another ḥadīth are : " The guardian has no business in the matter of a *thayyiba* " (*Ibid*)

In view of the verses and ḥadīth quoted above, it seems clear that the widow and the divorced woman are allowed complete freedom in the choice of their husbands. Does the same rule apply to virgins ? The Imām Abū Ḥanīfa answers this question in the affirmative. His principle is that, since a woman who has attained the age of majority can dispose of her property without reference to a guardian, so she is also entitled to dispose of her person. But at the same time it cannot be denied that there is a natural bashfulness about the virgin, and, moreover, she has not the same experience of men and affairs as has a widow or a divorced woman, and it is therefore in the fitness of things that her choice of a husband should be subject to the check of a father or other guardian, who would also settle the terms, and guard her against being misled by unscrupulous people. But as the contract, after all, depends on her consent and not on the consent of the guardian, which in fact is only needed to protect her, her will must ultimately prevail, and the opinion of Imām Abū Ḥanīfa is more in accordance with the essentials of marriage as expressed by the Holy Qur'an.

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He says: "Her is the right of marrying, and the guardian is only sought lest it (the contraction of marriage) should be attributed to *waqāḥa* (want of shame)" (H. I, p. 294); and again: "It is not lawful for the guardian to compel a virgin who has attained majority to marry according to his wishes" (*ibid*). Ḥadīth also supports this view, for the Holy Prophet is reported to have said: "The widow and the divorced woman shall not be married until her order is obtained, and the virgin shall not be married until her permission is obtained" (Bu. 67 : 42). And Bukhārī's next chapter is headed thus: "When a man gives his daughter in marriage and she dislikes it, the marriage shall be repudiated" (Bu. 67 : 43), and a ḥadīth is quoted showing that the Holy Prophet repudiated such a marriage.

The jurists have also dealt with cases of the marriage of minors. According to Ḥanafī interpretation of the Muslim law, "the marriage of a minor boy or girl is lawful, whether the minor girl is a virgin or a *ṭhayyiba*, provided the guardian is one of the *'aṣaba* (relations on the father's side) (H. I, p. 295). Mālik recognizes such marriage only when the guardian is a father, and Shāfi'ī when the guardian is a father or a grandfather (*Ibid*). Again in the Ḥanafī law, if the minor has been given in marriage by a guardian who is not the father or the grandfather, the minor has the option on attaining majority of repudiating the marriage. But, as a ḥadīth already quoted shows, even if the father gives away his daughter in marriage against her wishes, and she is of age, the marriage must be repudiated if the girl desires, and so in the case of a minor too if on coming of age she finds the match unsuitable. Bukhārī speaks only of a *ṭhayyiba* (a widow or a divorced woman), but another ḥadīth is reported from Ibn 'Abbās, stating that a virgin

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girl came to the Holy Prophet and said that her father had married her against her wishes, and the Holy Prophet gave her the right to repudiate the marriage (AD. 12 : 25). He also mentions the case of a *thayyiba* (AD. 12 : 27).

Akfa' is the plural of *kuf'* which means *an equal* or *one alike*. For example, the Arabs are the *akfa'* of the Arabs, and the Quraish are the *akfa'* of the Quraish. Thus the people of one tribe or one family would be *akfa'* among themselves, and people of one race would be *akfa'* among themselves. There is nothing in the Holy Qur'an or in the Hadith to show that a marriage relation can only be established among the *akfa'*. It is quite a different thing that, generally, people should seek such relations among the *akfa'*, but Islām came to level all distinctions, whether social, tribal or racial, and therefore it does not limit the marriage relationship to *akfa'*. The principle that tribes and families have no special value with God is clearly established: "O you men! We have created you of a male and a female, and made you tribes and families that you may know each other; the most honourable of you with Allah is the one among you most careful of his duty" (49 : 13). The way is opened for establishing all kinds of relationships between the faithful to whatever country or tribe they may belong by declaring that "the faithful are all brethren" (49 : 10), and "the believing men and the believing women are friends (*auliya'*) of each other" (9 : 71). The Holy Prophet interpreted these verses by saying: "The Arab has no precedence over the non-Arab, nor the non-Arab over the Arab, nor the white man over the black one, nor the black man over the white one except by excelling in righteousness."

When speaking of contracting marriage-relationships, the Holy Qur'an speaks only of certain forbidden relations and then adds: "And lawful for you are all women

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besides this" (4 : 24). And again it goes so far as to allow marital relations with non-Muslims: "And the chaste from among the believing women and the chaste from among those who have been given the Book before you are lawful for you" (5 : 5). The Holy Prophet recommended the marriage of a lady of the tribe of Quraish of the noblest family, his aunt's daughter, Zainab, to Zaid who was a liberated slave; and Bilal, a negro, was married to the sister of 'Abd al-Raḥmān ibn 'Auf. There are other examples of the same kind in the early history of Islām. In one ḥadīth it is stated that the Holy Prophet recommended a certain man, called Abū Hind, to the tribe of Banī Bayādz, to whom he stood in the relation of a *maula* (a liberated slave), and followed the profession of *ḥajāma* (the craft of the cupper), saying: "O Banī Bayādz! give (your daughters) to Abū Hind in marriage and take in marriage his daughters" (AD. 12 : 26). This ḥadīth cuts at the root of the limitation of marriage to *akfa'*; yet the jurists have insisted on it. Imām Malīk, in this respect, differs from others, saying that *kafa'a* (equality) is brought about by religion, that is to say, all Muslims are alike or equal. The majority of the jurists require equality in four things, religion, freedom, descent and profession. Imām Shāfi'i says that he could not declare a marriage outside the *akfa'* to be illegal (*ḥarām*); it is a disability which is removed by the consent of the woman and her guardians.

It is lawful to impose and accept conditions, which are
Conditions imposed at not illegal, at the time of marriage,
the time of marriage. and the parties are bound by such
conditions. The Holy Prophet is reported to have said :
" The best entitled to fulfilment of all conditions that you
may fulfil, are the conditions by which sexual union is
legalized " (Bu. 67 : 53 ; AD. 12 : 40). It is also related
that the Holy Prophet spoke of a son-in-law of his (an

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unbeliever), in high terms, saying : " He spoke to me and he spoke the truth, and he made promises with me and he fulfilled those promises " (Bu, 67 : 53). Illegal conditions are those which are opposed to the law of Islām or to public morality, for instance that the wife shall have the right to frequent immoral places or that she shall not be entitled to any dower or maintenance or that the husband and the wife shall not inherit from each other. If such a condition be imposed, the condition is void while the marriage is valid. Examples of legal conditions are that the wife shall not be compelled to leave her *dār* (conjugal domicile) (AḌ. 12 : 40), that the husband shall not contract a second marriage during the existence of the first, that the husband and the wife or one of them shall live in a specified place, that a certain portion of the dower shall be paid immediately and the remainder on death or divorce, that the husband shall pay the wife a certain amount by way of maintenance, that he shall not prevent her from receiving visits from her relatives, that the wife shall have the right to divorce for a specified reason or for any reasonable cause, and so on (AA.).

As a rule, Islām recognizes only the union of one man and one woman as a valid form of marriage. Under exceptional circumstances it allows the man more wives than one, but does not allow the woman more husbands than one. Thus while a married woman cannot contract a valid marriage, a married man can do it. There is no difficulty in understanding this differentiation, if the natural duties of man and woman in the preservation and upbringing of the human species are kept in view. Nature has so divided the duties of man and woman, in this respect, that while one man can raise children from more wives than one, one woman can have children only from one husband. Therefore while polygyny may

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at times be a help in the welfare of society and the preservation of the human race, polyandry has no conceivable use for man.

In the first place it must be borne in mind that

Polygyny is an exception. Polygyny is allowed in Islām only as an exception. It is expressly so stated in the Holy Qur'an: "And if you fear that you cannot act equitably towards orphans, then marry such women as seem good to you, two and three and four; but if you fear that you will not do justice (between them), then (marry) only one" (4 : 3). This is the only passage in the Holy Qur'an that speaks of polygyny, and it will be seen that it does not enjoin polygyny; it only permits it, and that, too, conditionally. Before we consider the significance of this verse, it must be understood clearly that polygyny is here allowed only when there are orphans to be dealt with, and it is feared that they will not be dealt with justly. This condition relates more to the welfare of society than to the needs of the individual.

The traditional interpretation put upon this verse is that of 'Ā'isha, as contained in the *Bukhari*. She is reported to have said: "This is the orphan girl who is under the care of her guardian and is his partner in his property, and her property and her beauty please him, so her guardian wishes to marry her without being just in regard to her mahr, so that he should give her what another man would give; so they were forbidden to marry them unless they would do justice to them and give them their dowries according to their usage, and therefore they were commanded to marry other women that seemed good to them" (Bu. 65, sūra 4, ch. 1). It will be seen that this explanation introduces into the passage words and phrases of which there is no trace, nor is this significance traceable to the Holy Prophet.

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It is unacceptable for another reason too. Verse 127 of this very chapter, which is admittedly a further explanation of the verse under discussion, is thus explained by 'Ā'ishā: "It is the man who has got an orphan girl of whom he is a guardian and an inheritor, so she becomes his partner in his property, even in the palm trees, and he is disinclined to marry her, nor does he like that she should marry another person who would thus become his partner in his property on account of her partnership and therefore prevents her from marrying" (*Ibid*). Admittedly the latter verse explains the previous one, but 'Ā'ishā's explanation of the latter is just the opposite of her explanation of the former. The guardian is explained as desiring to marry his girl ward in the first case, and the first verse is said to be a prohibition against it, while in the case of the latter verse he is said to be disinclined to marry her himself or to anybody else.

Hence it is that the commentators have suggested three other explanations. The first of these is that this verse (4 : 3) is only meant to prohibit the marrying of more wives than four, so that not having too many wives they may not be tempted to embezzle the property of the orphans, when their own proved insufficient. The second is that if you fear that you cannot be just to orphans, you should also fear that you cannot be just to too many wives. The third is that if you fear that you cannot be just to orphans, you should also fear the great sin of adultery, and to shun it you are allowed up to four wives.

It will be seen that these explanations are even less satisfactory than the one given in the *Bukhari*. The meaning of this verse is really explained by v. 4 : 127 : "And they ask thee a decision about women. Say, Allah makes known to you His decision concerning them,

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and that which is recited to you in the Book, concerning orphans of the women to whom you do not give what is appointed for them—and you are not inclined to marry them—nor to the weak among children, and that you should deal towards orphans with equity.” The reference to “that which is recited in the Book” is admittedly to v. 4 : 3. And the reference in “whom you do not give what is appointed for them.....nor to the weak among children” is to the Arab custom, according to which women and minor children did not get a share of inheritance, the recognized usage being that only he could inherit who could ride on the back of a horse and take the field against the enemy. The position was therefore this, that when a widow was left with orphans to bring up, she and her children would get no share of the inheritance, nor were people inclined to marry widows who had children. In v. 4 : 3, the Holy Qur’an has therefore enjoined that, if you cannot be otherwise just to orphans, marry the mothers of such orphans so that you may thus be interested in their welfare, and for this purpose you are allowed to contract other marriages.

A consideration of the historical circumstances of the time when this chapter was revealed corroborates this conclusion. It was a time when the Muslims were compelled to carry on incessant war against an enemy bent upon their extirpation. The bread-winners had all to take the field against the enemy, and many had been lost in the unequal battles that were being fought by the small Muslim band against overwhelming forces. Women had lost their affectionate husbands and young children their loving fathers, and these widows and orphans had to be provided for. If they had been left to the mercy of circumstances, they would have perished, and the community would have been weakened to such

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an extent that it would have been impossible to maintain the struggle for life. It was under these circumstances that the fourth chapter was revealed, allowing the taking of more wives than one, so that the widows and orphans may find a shelter. If you fear, says the revelation, that you will not be able to do justice to orphans, marry women (the mothers of the orphans) up to four, but only on condition that you are just to all of them. That by *women* here are meant *the mothers of orphans* is made clear by v. 127, as already shown.

It might be said that other arrangements could be made for the maintenance of widows and orphans. But a home-life could not be given to them in any other manner, and home-life is the real source whence all those good qualities of love and affection spring, which are the greatest asset of social life and civilization. Islām bases its civilization on home-life ; and under exceptional circumstances, where monogamy fails to provide a home for widows and orphans, it allows polygyny to extend to them that advantage. Even if it be half a home that the women and children find in a polygynous family, it is better than no home at all. Moreover, a community the ranks of whose fighting men were daily dwindling stood in urgent need of increasing its numbers by all possible means, and hence also it was necessary to provide a home for the widows so that they might be helpful in strengthening the numerical position of the community. The moral aspect of the question is not the least important. The war had decimated the male population and the number of women exceeded that of men. This excess, if not provided with a home, would have led to moral depravity, which is the greatest danger to a civilization like that of Islām, which is based on morality.

The question of war is not peculiar to one age or one country. It is a question which affects the whole of

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humanity for all ages to come. War must always be a source of decrease in the number of males, bringing about a corresponding increase in the number of females, and a solution will have to be sought by all well-wishers of humanity for the problem of the excess of women over men. Monogamy is undoubtedly a right rule of life under normal conditions, but when abnormal conditions are brought about by the excess of females over males, monogamy fails, and it is only through a limited polygyny that this difficulty can be solved. Europe is to-day confronted with that question, independently of war, and war only aggravates its seriousness. Professions may be opened up for women to enable them to earn bread, and Islām has never closed the door of any profession against women. But the crux of the question is, not the provision of bread but the provision of a home-life, and that question cannot be solved without polygyny.

It may be added here that polygyny in Islām is, both in theory and in practice, an exception, not a rule, and as an exception it is a remedy for many of the evils of modern civilization. It is not only the preponderance of females over males that necessitates polygyny in certain cases, but there is a variety of other circumstances which require polygyny to be adopted under exceptional circumstances, not only for the moral but also the physical welfare of society. Prostitution, which is on the increase with the advancement of civilization, and which is eating into it like a canker, with its concomitant increase of bastardy, is practically unknown to countries where polygyny is allowed as a remedial measure.

It may be further stated that the institution of polygyny, which was allowed by Islām only as a remedy, has largely been abused by sensual people, but then there are people in every society who would abuse any

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institution, however necessary it may be to the right growth of human society. In countries where polygyny is not allowed, the sensuality of man has invented a hundred other ways of giving vent to his carnal passions, and these are a far greater curse to society than the abuse of polygyny. Indeed that abuse can be easily remedied by the state by placing legal limitations upon its practice, while the state is quite helpless against the evils which result from its entire rejection.

Sec. 4—Rights and Obligations of Husband and Wife.

From a material as well as a spiritual point of view, Woman's position in Islām recognizes the position of general. woman to be the same as that of man. Good works bring the same reward, whether the doer is a male or a female: "I will not waste the work of a worker among you, whether male or female, the one of you being from the other" (3 : 194). Paradise and its blessings are equally for both: "And whoever does good deeds, whether male or female, and he (or she) is a believer—these shall enter the Garden" (40 : 40 ; 4 : 124). Both shall enjoy the higher life: "Whoever does good deeds, whether male or female, and he (or she) is a believer, We will make him (or her) live a happy life" (16 : 97). Revelation which is God's greatest spiritual gift in this life is granted to men as well as to women: "And when the angels said, O Mary! Allāh has chosen thee and purified thee" (3 : 41); "And We revealed to Moses' mother, saying: Give him suck, and when thou fearest for him, cast him into the river and do not fear nor grieve" (28 : 7). From a material point of view, woman is recognized as on a par with man. She can earn money and own property just as man can do and therefore she may, if she feels the need, follow any profession: "Men shall have the benefit of what they earn and women shall have the

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benefit of what they earn " (4 : 32). She has full control over her property and can dispose of it as she likes : " But if they (the women) of themselves be pleased to give up to you a portion of it (*i.e.*, their property), then eat it with enjoyment " (4 : 4). Women can also inherit property as men can : " Men shall have a portion of what the parents and the near relatives leave, and women shall have a portion of what the parents and the near relatives leave " (4 : 7).

By entering the married state, woman does not lose

Woman's position as any of the rights which she possesses
wife. as an individual member of society.

She is still free to carry on any work she likes, to make any contract she desires, to dispose of her property as she wishes ; nor is her individuality merged in that of her husband. But she is at the same time recognized as undertaking new responsibilities of life, which carry with them new rights. The Holy Qur'an settles the principle : " And they (the wives) have rights similar to their obligations in a just manner " (2 : 228). These are the rights and responsibilities of the home. Ḥadīth describes her position in the home as that of a *ra'īya* or ruler : " Every one of you is a ruler and every one shall be questioned about his subjects ; the Amir (the King) is a ruler, and the man is a ruler over the people of his house, and the woman is a ruler over the house of her husband and his children, so every one of you is a ruler and every one shall be questioned about his subjects " (Bu. 67 : 91). Thus so far as the home is concerned, the wife has the position of a ruler in it, the home being her territory. By marriage she is at once raised to a higher dignity and acquires new rights, though at the same time she incurs new responsibilities. Her rights as regards her husband are also affirmed in Ḥadīth, as the Holy Prophet said to 'Abd-Allāh ibn 'Umar : " Thy body has a right over thee and

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thy soul has a right over thee and thy wife has a right over thee" (Bu. 67 : 90).

As already stated the mutual relation of husband

Mutual relation of husband and wife is described in the Holy husband and wife.

Qur'an as one of a single soul in two bodies: "And one of His signs is that He created mates for you from yourselves that you may find quiet of mind in them, and He put between you love and compassion" (30 : 21); "He it is Who created you from a single being, and of the same did He make his mate, that he might find comfort in her" (7 : 189). The same idea is elsewhere very beautifully described in different words: "They (your wives) are an apparel for you and you are an apparel for them" (2 : 187). The closest union of two souls could not be described more aptly; yet Islām is a practical religion and it does not shut its eyes to the hard realities of life. It describes the home as a unit in the greater organization of a nation as a whole, and just as in the vaster national organization there is somebody to exercise the final authority in certain cases, so the smaller organization of the home cannot be maintained without a similar arrangement. Hence the husband is first spoken of as being "a ruler over the people of the house" and the wife is then described as "a ruler over the house of her husband and his children." The home is thus a kingdom in miniature, where authority is exercised by both the husband and the wife. But unless one of them is given a higher authority, there would be chaos in this kingdom. The reason for giving the higher authority to the male parent is thus stated in the Holy Qur'an: "Men are the maintainers of women, because Allāh has made some of them to excel others, and because they spend out of their property" (4 : 34). The Arabic word for *maintainers* is *qawwāmūn*, pl. of *qawwām*, derived from *qāma*, meaning *he stood up*, but when used

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with *bā* or *'ala*, *qāma* carries the significance of *maintaining* or *managing*. Thus *qāma bi-l-yatīm* means *he maintained the orphan*, and *qāma 'alai-hā* means *he maintained the woman and managed her affair* (LL.). The word *qawwāmūn* (maintainers) carries a double significance. It means that the husband provides maintenance for the wife, and also that he has final charge of the affairs of the home, thus exercising authority over the wife when there is need for it. The reason for giving a higher authority to man is contained in the word *qawwāmūn* itself. It is the man who can be entrusted with the maintenance of the family, and therefore it is he who must hold the higher authority.

The functions of the husband and the wife are quite distinct, and each is entrusted with

A division of work.

the functions which are best suited

for his or her nature. The Holy Qur'an says that God has made man and woman to excel each other in certain respects. The man excels the woman in constitution and physique, which is capable of bearing greater hardships and facing greater dangers than the physique of woman. On the other hand, the woman excels the man in the qualities of love and affection. Nature, for her own purpose of helping in the growth of creation, has endowed the female among men, as well as the lower animals, with the quality of love to a much higher degree than the male. Hence there is a natural division as between man and woman of the main work which is to be carried on for the progress of humanity. Man is suited to face the hard struggles of life on account of his stronger physique: woman is suited to bring up the children because of the preponderance of the quality of love in her. The duty of the maintenance of the family has therefore been entrusted to the man, and the duty of bringing up the children to the woman. And each is vested with authority

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suitcd to the function with which he or she is entrusted. Modern civilization is ultimately coming round to the opinion that the true progress of humanity demands a division of work, and that while the duty of bread-winning must be generally left to man, the duty of the management of the home and the bringing up of the children belongs to the woman. Hence it is that men are spoken of as being the maintainers of women, and women as "rulers over the household and the children."

This division of work is only the general rule ; it does not mean that woman has been entirely excluded from other kinds of activity. A study of the Hadith literature shows that, notwithstanding her rightful position in the home, as the bringer up of children and manager of the household, woman took interest in all the national activities of the Muslim community. The care of the children did not prevent her from repairing to the mosque to join the congregational prayers (Bu. 10 : 162, 164), nor was this care an obstacle in her way to join the soldiers in the field of battle, to perform a large number of duties, such as the carrying of provisions (Bu. 56 : 66), taking care of the sick and the wounded (Bu. 56 : 67), removing the wounded and the slain from the battle-field (Bu. 56 : 68), or taking part in actual fighting when necessary (Bu. 56 : 62, 63, 65). One of the Holy Prophet's wives, Zainab, used to prepare hides and to devote the proceeds of the sale to charitable work (FB. III, p. 228). Women also helped their husbands in the labour of the field (Bu. 67 : 108), served the male guests at a feast (Bu. 67 : 78) and carried on business (Bu. 11 : 40) ; they could sell to and purchase from men, and men could sell to and purchase from them (Bu. 34 : 67). A woman was appointed by the Caliph 'Umar as superintendent of the market of Madina. But these were exceptions. The

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proper sphere of the woman was the house, and care of the children.

The family concern must be kept going by husband

Rights of husband and wife in mutual co-operation.
and wife.

The husband is mainly required to earn for the maintenance of the family, and the wife is responsible for the management of the household and the bringing up of the children. The rights of each against the other are therefore centred in these two points. The husband is bound to maintain the wife according to his means, as the Holy Qur'an says: "Let him who has abundance spend out of his abundance, and whoever has his means of subsistence straitened to him, let him spend out of that which Allah has given him; Allah does not lay on any soul a burden except so far as He has granted it the means" (65 : 7). He must also provide for her a lodging: "Lodge them where you lodge according to your means" (65 : 6). The wife is bound to keep company with her husband, to preserve the husband's property from loss or waste, and to refrain from doing anything which should disturb the peace of the family. She is required not to admit any one into the house whom the husband does not like, and not to incur expenditure of which the husband disapproves (Bu. 67 : 87). She is not bound to render personal service such as the cooking of food, but the respective duties of the husband and wife are such that each must always be ready to help the other. The wife must help the husband even in the field of labour if she can do it, and the husband must help the wife in the household duties. Of the Holy Prophet himself, it is related that he used to help his wives in many small works of the household, such as the milking of the goats, patching his clothes, mending of shoes, cleansing the utensils and so on.

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The Holy Qur'an lays the greatest possible stress

Stress laid on kind on kindly and good treatment to-
treatment towards wife. wards the wife. "Keep them in
good fellowship" and "treat them kindly" is the oft-
recurring advice of the Holy Qur'an (2 : 229, 231 ; 4 : 19,
etc.). So much so that kindness is recommended even
when a man dislikes his wife, for "it may be that you
dislike a thing while Allāh has placed abundant good in
it" (4 : 19). The Holy Prophet laid equally great stress
upon good treatment of a wife. "The most excellent
of you," he is reported to have said, "is he who is best
in his treatment of his wife" (MM. 13 : 11-ii). "Accept
my advice in the matter of doing good to women," is
another ḥadīth (Bu. 67 : 81). In his famous address at
the Farewell Pilgrimage, he again laid particular stress
on the good treatment of women: "O my people! you
have certain rights over your wives and so have your
wives over you They are the trust of Allāh in
your hands. So you must treat them with all kindness"
(M. 15 : 19).

In one ḥadīth which enjoins kindness to women,
the woman is compared to a rib: "The woman is like
a rib, if thou try to straighten it, thou wilt break it"¹
(Bu. 67 : 80). The rib is bent in its make and not
straight, and it serves best its purpose in the state in
which it is created, and so of the woman it is said that
being like a rib she serves her purpose best in the state

1. In another ḥadīth (Bu. 60 : 1 ; 67 : 81), instead of *like a rib* the words are *khuliqat min dzil'-in*, i.e., "she has been created of a rib." The meaning is still the same, that is to say, her *nature* or temperament may be compared to a rib. It is the woman in general, not Eve, that is spoken of here; nor is it said that woman has been created of the rib of man. In Arabic, we often say a certain thing has been created of so and so, meaning that the temperament of that thing is so. Thus the Holy Qur'an says: "Man has been created of haste (*min 'ajal*)" (21 : 37), the significance being that the characteristic of haste is prominent in him.

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in which she has been created ; to straighten her, *i.e.*, to make her work just as the man pleases, or to try to make her possess the sterner qualities of man, is to break her down. As already pointed out, the temperament of man differs from that of woman in one respect. Man is stern and harsh, therefore largely unyielding ; it was necessary that he should be so, so that he might be able to face the hard struggles of life. The woman who is meant to bring up the children has been so created that the quality of love preponderates in her, and she is devoid of the sternness of man ; she is therefore inclined to one side sooner than the man, and on account of this quality she is compared to the rib. Her being bent like the rib is adduced as an argument for being kind to her and for leaving her in that state.

While, however, great stress is laid on the kind treatment of woman, and it is even allowed in case of immoral conduct. recommended that she may be allowed to work in any way she likes, the husband is permitted to take stern measures in case of her immoral conduct. Islām places the highest value upon the chastity of the woman, and therefore if there is a falling off from this high standard of morality, the woman is not entitled to that honour and kindly treatment which is accorded to her otherwise. The Holy Qur'an allows stern measures in the case of *nushūz*, which means *the rising of the wife against her husband or her revolt* and includes *resisting the husband, and hating, and deserting, him* (LL.). Some commentators explain *nushūz* as meaning *her leaving the husband's place and taking up an abode which he does not like* (AH.). Apparently the word covers a wide range of meaning and, therefore, the remedy suggested in such cases is of three kinds : " And as to those on whose part you fear desertion

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(*nushuz*), admonish them and leave them alone in the sleeping-places, and give them corporal punishment" (4 : 34). When the *nushuz* is very ordinary and there is nothing serious about it, for instance, when it is a mere resistance of the husband's authority, the remedy suggested is simple admonition. If hatred is combined with resistance of authority, a stronger remedy is suggested, and the husband is allowed, in that case, to show his disapproval of her conduct by keeping her separated from himself. But if the wife goes beyond that, and deserts the husband, and her conduct becomes suspicious, then, as a last measure, the husband is allowed to inflict slight corporal punishment, to bring her back to her senses and to her home. It cannot be denied that cases do happen when this extreme step becomes necessary, but these are exceptional cases and their occurrence is generally limited to the rougher strata of society where the remedy of slight corporal punishment is not only unobjectionable but necessary.

There are ḥadīth showing that the infliction of slight corporal punishment was permitted only when the conduct of the wife became suspicious, and she was as it were in open revolt against the husband. Thus a ḥadīth in *Muslim* says: "And be careful of your duty to Allah in the matter of women, for you have taken them as the trust of Allah..... and they owe to you this obligation that they will not allow any one to come into your house whom you do not like. If they do, then give them (slight) corporal punishment which may not leave any effect on their bodies" (M. 15 : 19). This direction was given in the Farewell Pilgrimage, and it shows that the infliction of slight corporal punishment is limited only to the extreme cases where the wife's conduct is suspicious. Another ḥadīth shows that such conduct on the part of the wife, or such treatment on

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the part of the husband, would not be expected in any good family. When certain women complained to the Holy Prophet of the ill treatment of their husbands, he is reported to have admonished the men in the following words: “Many women have come to the house of Muḥammad complaining about their husbands; these are by no means the good ones among you” (AD. 12 : 42). Bukhārī also refers to the ḥadīth of Muslim quoted above and gives another ḥadīth, under the heading “What is disliked in the matter of giving corporal punishment to women,” according to which the Holy Prophet is reported to have said: “Let not one of you inflict corporal punishment upon his wife as he would inflict it upon his slave, for he will be having amorous relations with her soon afterwards” (Bu. 67 : 94).

On another occasion too, the husband is allowed to exercise his authority against the wife, and this too is an occasion where the wife's conduct is openly immoral: “And as for those who are guilty of an open indecency (*fahisha*) from among your women, call to witness against them four witnesses from among you; then if they bear witness, confine them to the houses until death takes them away, or Allāh opens some way for them” (4 : 15); Allāh's opening a way for them means that they show sincere repentance. The *fahisha* spoken of here is clearly immoral conduct, and the punishment is a restriction on the woman's movements so that she is deprived of the liberty to move freely in society. Reading this verse along with v. 4 : 34, relating to the infliction of corporal punishment, it appears that confining to the house is the first step, and it is when they repeat their evil deeds in the house, or do not submit to the authority of the husband and desert him, that permission is given to inflict corporal punishment

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which is the last resort. And if even this step does not make them mend their ways, matrimonial relations may be ended.

The question of birth-control, which has recently come into prominence, also falls under this category. Evidently the entrance into matrimonial relations by a man and a woman is undertaken with only one end in view, *vis.*, the multiplication of the human race. Birth-control is therefore a nullification of the very object of marriage. European civilization is however daily drifting more and more to chaotic conditions in the matter of sexual relations and sexual responsibilities, and along with the new idea of "free love," which however, in the language of the Holy Qur'an, is nothing but *safah* (temporary sexual union devoid of the consequent responsibilities), another idea is finding favour along with the advancement of material civilization, *vis.*, to keep marriage free from the anxieties and responsibilities of children. Medical science is helping this idea by introducing various devices of birth-control, and the result is that in many civilized countries the decline in the birth-rate is causing grave anxiety to the politicians. The serious significance of married life, the care and bringing up of children, as the ultimate object of sexual pleasures, has lost its importance, and the enjoyment of sexual pleasures is becoming an end in itself. This is entirely opposed to the spirit of Islamic teaching on marriage, as already explained.

There is however another consideration in the adoption of birth-control, and that is poverty or the lack of means to bring up children. Strangely enough this consideration carries no weight with the poorer classes, who are indeed prolific in the bearing of children. It is only well-to-do people who put forward the excuse of lack of

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means. The Holy Qur'an has referred to this subject in two places, and on both occasions it speaks of birth-control as the actual killing of children: "And do not slay your children for fear of poverty. We give them sustenance and yourselves too" (17 : 31 ; 6 : 152). The reference here is evidently not to the burying alive of daughters, which practice was not due to fear of poverty ; the children spoken of are the prospective children who are kept off by birth-control devices, and this amounts practically to the killing of children, for fear that one will not be able to provide for them.¹

One form of birth-control is, however, spoken of in certain ḥadīth as not being forbidden by the Holy Prophet. This is called '*azl*.'² Jābir is reported to have said: "We used to revert to '*azl* in the time of the Holy Prophet and the Holy Qur'an was then being revealed" (Bu. 67 : 97). According to another ḥadīth, when this matter was referred to the Holy Prophet, he said: "What ! do you do it ? There is no soul that is to be till the Day of Resurrection but it will come into life" (*Ibid*). '*Azl* being a birth-control device, and as stated above a nullification of the very object of marriage, could not be allowed except for some strong reason. In fact, it could not be permitted unless the wife was unfit or unable to bear children, so that conception would endanger her life or impair her health. That is the only reason which can justify birth-control. And so it is recognized in Fiqh where it is said to be allowed

1. Another explanation of these words has also been given : "It has been said that this prohibition (not to kill the children) is a prohibition against keeping them occupied in such a manner that they cannot get education" (R.). To keep the children ignorant and to deprive them of education is thus spoken of as killing them in a metaphorical sense.

2. '*Azala* originally means *he put a thing away or aside*, and with reference to sexual relations it means *he (a man) did not desire her (a woman) to have offspring*, technically *paulo ante emissionem (penum suum) extraxit, et extra vulva semen emisit* (LL., TA.).

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conditionally, on the wife's consent (Ft. A. II, p. 53), but there must be sufficient reason to justify it.

It has already been shown that women are not forbidden to take part in any activity when necessary, nor is there any injunction in the Holy Qur'an or the Ḥadīth shutting them up within the four walls of their houses. On the other hand, the Holy Book speaks of a Muslim society in which men and women had often to meet each other : " Say to the believing men that they cast down their looks and guard their private parts ; that is purer for them And say to the believing women that they cast down their looks and guard their private parts and not display their ornaments except what appears thereof " (24 : 30, 31). A later revelation supports the same conclusion : " O Prophet ! say to thy wives and thy daughters and the women of the believers that they let down upon them their over-garments ; this will be more proper, that they may be known ; and thus they will not be given trouble " (33 : 59). If women did not go out of their houses, where was the necessity of asking them to wear a distinctive dress, and where was the occasion for their being troubled ? According to Ḥadīth, the Holy Prophet is reported to have said to women : " It is permitted to you to go out for your needs (*ḥāja*) (Bu. 4 : 13 ; 67 : 116). The injunction to the Prophet's wives in the Holy Qur'an does not mean that they were not to go out for their needs. The verse in question runs thus : " And stay in your houses and do not display your finery like the displaying of the ignorance of yore " (33 : 33). This is evidently an injunction against the parading of finery and thus exciting the uncontrolled passions of youth. It cannot and does not mean, as explained by the Holy Prophet himself, that women are not allowed to go out for their needs. Display of beauty

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and going out for one's needs are quite different things. There is, therefore, no seclusion in Islam in the sense that women are shut up within their houses, for they are as free to move about for their needs, or the transaction of their affairs, as men. Only their needs outside the home are generally fewer, and their duties are to a large extent limited to the home.

The next question is, if women are commanded to veil themselves when they have to go out for their needs. These needs may be either religious or secular. Two prominent instances of the former are taking part in public prayers, and the performance of pilgrimage.) If it had been necessary for women to wear veils, an injunction should have been given to wear them on these two sacred occasions, since these are the occasions on which men's sentiments should be purest, and when, therefore, all those things that excite the passions must be avoided. There is however not only no such injunction, but it was a recognized practice that women came into the congregation of men in mosques, unveiled (IJ-C. XVIII, p. 84). It is even admitted by the jurists that women should not veil themselves at prayers and on pilgrimage. In the conditions of prayer it is laid down that the body of the woman must be covered entirely except her face and her hands (H.I., p. 88, *Shurāt al-Sala*). The exception of these two parts, it is added, is due to the fact that they must of necessity be left exposed. (As regards pilgrimage, there is an express injunction in Hadith that no woman shall put on a veil during the pilgrimage (Bu. 25 : 23). It is also a well-established fact that the mosques in the Prophet's time contained no screens to keep the two sexes separate. The only separation between the men and the women was that women stood

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in separate rows behind the men. Otherwise they were in the same room or in the same yard, and the two sexes had to intermingle. In the pilgrimage, there was a much greater intermingling of the sexes, women performing circumambulations of the Ka'ba, running between Şafa and Marwa, staying in the plain of 'Arafat and going from place to place, along with men, and yet they were enjoined not to wear a veil.

If then, as admitted on all hands, women did not wear a veil when the two sexes intermingled on religious occasions, when the very sacredness of the occasion called for a veil, if the veil was ever a necessity, it is a foregone conclusion that they could not be required to veil themselves when going out for their secular needs whose very performance would be hampered by the veil. And there is no such injunction either in the Holy Qur'an or the Ḥadīth. In fact, no such injunction could be given when there existed an injunction that women shall remain unveiled in pilgrimage. This injunction rather shows that the veil was adopted simply as a mark of rank or greatness,¹ and the unveiling was required in order to bring all on a level of equality. However that may be, the order to remain unveiled in the pilgrimage is a clear proof that wearing the veil is not an Islamic injunction or practice. And the verses requiring both men and women to keep their looks cast down (see vv. 24 : 30, 31 quoted above), show clearly that when the two sexes had to intermingle as a matter of necessity, the women were not veiled, for otherwise there would

1. The veil is still a mark of rank. Ninety per cent. of the population in any country has to live on labour in which women are also required to take a share to a certain extent. In India, ninety per cent. of the Muslims living in rural areas cannot afford to have their women veiled. It is generally among the very few big zamindārs in villages and in the higher and middle classes of the urban population that the women wear a veil.

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have been no need for the men to keep their looks cast down. And to make the matter clearer still, it is added that they should "not display their ornaments, except what appears thereof." The part that necessarily appears is the face and the hands, and this is also the view of the vast majority of commentators (IJ-C. XVIII, p. 84; RM. VI, p. 52).¹ There is also a ḥadīth according to which the Holy Prophet is reported to have excepted the face and the hands from the parts which were required to be covered: "Asmā', daughter of Abū Bakr, came to the Holy Prophet, and she was wearing very thin clothes (through which the body could be seen). The Prophet turned away his face from her and said, O Asmā'! when the woman attains her majority, it is not proper that any part of her body should be seen except this and this, pointing to his face and his hands" (AD. 31 : 30).

(All that the Holy Qur'an requires is that women should be decently dressed when they go out and that they should not

Decent dress.

1. Ibn Jarir quotes three different explanations of *illā mā ṣahara min-hā* (except what appears thereof); 1. The view of Ibn Mas'ūd that these words mean the adornment of dress; 2. The view of Ibn 'Abbās, Sa'id, Dzahāk, 'Aṭā, Qatāda, Mujāhid and others that they mean the adornment which it is lawful for the woman to show, *i. e.*, collyrium, ring, bangles and face; 3. The view of Ḥasan that they mean the face and the clothes; and then adds his own view in the following words:

"The most correct explanation of these words is that they mean the face and the hands and include collyrium, ring, bangles and dyeing of hands. We say it is the most correct explanation because there is a consensus of opinion (*ijmā*) that it is obligatory for him who says his prayers that he should cover all those parts of the body which it is necessary to cover, and for the woman it is obligatory that she should uncover her hands and face in prayers and cover the rest of the body, except that it is reported from the Holy Prophet that he allowed the uncovering of half of her wrist. When there is a consensus of opinion on this, it follows as a matter of course that she can keep uncovered that part of the body which is not included in '*aura*' (the part which it is necessary to cover), for it is not unlawful to uncover that which is not the '*aura*'. And as she can keep it uncovered, it follows that this is what is meant by *illā mā ṣahara min-hā*" (IJ-C. XVIII, p. 84).

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uncover their bosoms. This is made clear in v. 24 : 31 : "And say to the believing women that they..... should not display their ornaments except what appears thereof, and let them wear their head-coverings over their bosoms.") The practice in Arabia, in pre-Islamic times, of displaying beauty, included the uncovering of the bosom, and hence the injunction relating to the covering of the bosom. (A difference was thus made between the dress of women within their houses and when they appeared in public; in the former case, in the presence of fathers and sons and husband's fathers and sons, etc., they were allowed to be more at ease in the matter of their dress, but in public they had to be particular so that their very appearance should be indicative of modesty. On another occasion, the Muslim women are required to wear a dress whose very appearance should distinguish them from such women as did not have a good reputation : " O Prophet ! say to thy wives and thy daughters and the women of the believers that they let down upon them their over-garments ; this will be more proper that they may be known and thus they will not be given trouble " (33 : 59).) It seems that this injunction was required by the special circumstances which then prevailed at Madina, where the hypocrites would molest a good Muslim woman who went out to transact her affairs and then offer the excuse that they thought her to be a woman of ill repute. This is plainly hinted in the verse that follows : " If the hypocrites and those in whose hearts is a disease and the sedition-mongers in the city do not desist, We shall certainly set thee over them, and they shall not be thy neighbours in it but for a little while " (33 : 60). The Arabic word for over-garment is *jilbab* and it means *a garment with which the woman covers her other garments or a woman's head-covering, or a garment with which she covers her*

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head and bosom (LL.). It may be part of an ordinary dress or it may be a kind of overcoat.) Nor is the wearing of it compulsory under all circumstances; it is, rather, a kind of protection when there is fear of trouble, and in the case of older women it is dispensed with altogether as stated elsewhere: "And as for women advanced in years who do not hope for a marriage, it is no sin for them if they put off their cloaks without displaying their ornaments." (24 : 60).

Islam sets great value on the privacy of home-life.

Privacy. In the first place going into houses without permission is strictly forbidden: "O you who believe! do not enter houses other than your own houses until you have asked permission and saluted their inmates" (24 : 27). And again: "O you who believe! let those whom your right hands possess and those of you who have not attained to puberty ask permission of you three times; before the morning prayer, and when you put off your clothes at midday in summer, and after the prayer of night-fall; these are three times of privacy for you" (24 : 58). The Prophet's privacy was also to be respected: "O you who believe! do not enter the houses of the Prophet unless permission is given to you for a meal, not waiting for its cooking being finished—but when you are invited, enter, and when you have taken the food then disperse And when you ask of them (the women) any goods, ask of them from behind a curtain (*hijab*)" (33 : 53). The concluding words of the verse aim not only at privacy but also afford a rule of guidance for the maintenance of better relations between the husband and the wife. In fact, all the above rules relating to privacy aim at creating a better atmosphere of sexual morality.

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In the struggle of life the intermingling of the two

Intermingling of the two sexes. Intermingling of the sexes cannot be avoided, and Islām allows such intermingling even for religious purposes, as in prayers and pilgrimage. On all such occasions, when intermingling is necessary, the Holy Qur'ān requires the women to appear in their simplest dress, or to wear an over-garment which should cover their ornaments, at the same time requiring both sexes to keep their looks cast down. Unnecessary mingling of the sexes is discouraged. Some ḥadīth prohibit a woman being alone in private with a man who is not her near relative (*dhu mahram*, or a person with whom marriage is prohibited) unless a *dhu mahram* is present (Bu. 67 : 112), but when other people are also present, or one is exposed to public view, there is no harm in being alone with a woman (Bu. 67 : 113). The intermingling of the sexes in social functions generally cannot be traced in the early history of Islām, though there are examples in which a woman entertained the male guests of her husband (Bu. 67 : 78). This was a case of a marriage-feast (*walīma*) in which the bride served the guests, but it cannot be said whether this was before the revelation of the 24th chapter or after it. In fact, much would depend, in these matters, on the social customs of the people, and no hard and fast rules can be laid down as to the limits to which the intermingling of the sexes may be allowed. The great object before Islām is to raise the moral status of society and to minimize the chances of illicit sexual relations growing up between the sexes, so that the home may be a haven of peace for the husband, the wife and the children.

Sec. 5.—*Marriage of Slaves.*

Slavery was an institution recognized by all people before Islām. To Islām belongs the credit of laying down principles which,

Prostitution abolished and marriage introduced.

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if developed on the right lines, would have brought about its ultimate extinction. But it was not the work of a day, and therefore, so long as the institution remained, provision had to be made for slaves which should make them as good citizens as the free men. Before Islām, slave-girls served the purpose of either satisfying the master's carnal passions or earning money for him through prostitution. To both these evil practices, an end was put immediately, and order was given that both free men and slaves, males as well as females, should remain in a married state: "And marry those among you who are single and those who are fit among your male slaves and your female slaves; and do not compel your slave-girls to prostitution when¹ they desire to keep chaste, in order to seek the frail goods of this world's life (24 : 32, 33). The order to keep the male as well as female slaves in a married state is here combined with the order which puts an end to prostitution, and thus the two evil practices of pre-Islamic Arabia, which were the result of keeping slave-girls in an unmarried state, were put an end to by the one clear injunction that they shall be married. To this order there is no exception either

1. The Arabic word for *when* is *in* which is generally translated as meaning *if*, but *in* in Arabic conveys both senses, *if* as well as *when*. The rendering *if* here is not allowed by the context, for the significance would then be that if the slave-girls desire to keep chaste, they may not be compelled to prostitution. This would lead to the evident conclusion that if they do not desire to keep chaste, they may be compelled to prostitution which is self-contradictory. Hence the rendering adopted here, the meaning being that, as it is the very nature of woman, whether free or slave, that she would remain chaste, slave-girls who are under the control of their masters, should not be compelled to prostitution by not allowing them to marry. A modern writer is of opinion that in Arabia "prostitution was too firmly established to be at once removed" (*Sociology of Islam* by Levy, vol. I.). This opinion is due to a misinterpretation of the Quranic words. The significance of this verse is further clarified by Ḥadīth, as there is a very large number of ḥadīth stating that prostitution and its wages were expressly forbidden by the Holy Prophet (Bu. 34 : 113 ; 37 . 20 ; 68 : 50 ; AD. 22 : 39, etc.).

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in the Holy Qur'an or in Ḥadīth. The injunction could be carried out in one of the three ways ; by marriage, 1. between two slaves ; 2. between a free person and a slave ; and 3. between the master and the slave. There is no fourth alternative. At the present day, when the institution of slavery has almost been abolished in the whole of the civilized world, there is no need of going into the details of the marriages of the first two classes. The third class of marrying may however be dealt with briefly, as there exists a great misunderstanding to the effect that Islām allows concubinage.

Concubinage is regular sexual connection with a

female who does not hold the legal status of a wife ; in other words, keeping a woman in the position of a wife without marrying her. There is a general impression that Islām gives an unlimited license to have as many concubines as one likes, so long as the concubine is a slave or a prisoner of war and not a free woman. Concubinage was undoubtedly practised in Arabia before Islām, and it may have been practised by some Muslims until the revelation of the verse quoted above. By this revelation, however, concubinage was put an end to. A plain injunction had been received that all male and female slaves must be married. If any master of a female slave kept her as a concubine after that, it was against the Qur'anic injunction. The Qur'an does not make any exception in favour of the master ; on the other hand, it lays the responsibility, of having the slaves married, on the masters. No master of a slave-girl could keep her as a concubine when the Holy Qur'an enjoined him to have her married, and if he did so keep her, his deed, whether due to his ignorance of the Qur'anic injunction or to intentional violation of it, had no value in law.

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The legality of concubinage has been inferred from certain expressions used in the Holy Qur'an. The most important of these are the following words: "And who guard their private parts, except before their mates or those whom their right hands possess, for they are not blameable" (23 : 5, 6 ; 70 : 29, 30). This is a description of true believers and applies to men as well as women, the latter being clearly described as possessing all the good and great qualities which are possessed by men (33 : 35). If therefore the above description of the faithful, which occurs twice in the Holy Qur'an, and no more, can justify a man having sexual relations with his female slaves, it can also justify similar relations of a woman with her male slaves. But no one has ever drawn such an absurd conclusion from these words. The Arabic word for *private parts*, as used here, is *furūj*, pl. of *farj* which means *the part of a person which it is indecent to expose* (LL.). *Ḥifẓ al-farj* therefore signifies not only refraining from actual sexual intercourse but also refraining from exposing certain parts of the body which it is indecent to expose. But a certain degree of freedom in this latter sense is allowed, to both men and women, in the presence of their slaves who had to wait upon them on all occasions. Ideas of decency may differ, so much so that there have grown up people in all civilized countries who think that it is not indecent to be nude in the presence of others ; on the other hand, they take pride in remaining naked even in public and sometimes try to take out processions of naked people, both men and women. Such practices are revolting to Islamic ideas of decency, and Islām does not allow the exposure, on the part of women, even of such parts as are commonly to be seen in ball-rooms and theatres. But even if, for the sake of argument, the inference drawn from these words, to wit, that Muslims

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are allowed to have concubines, were accepted as true, that inference loses all its value when it is borne in mind that the two chapters in which this expression occurs are early Makka revelations, when Islām had not yet introduced its reforms, and that the permission, if ever there was any, to keep concubines was taken away by the reforms introduced at Madīna, when a clear injunction was given that all female slaves should be kept in a married state. If the female slave must be married, the master certainly has no right to sexual enjoyment with her.

It must be further borne in mind that neither the Holy Qur'an, nor the Ḥadīth, anywhere speaks of the right of the master to have sexual intercourse with a slave. In other words, ownership is nowhere recognized as legalizing sexual relationship. The only thing that legalizes sexual intercourse is a contract, duly witnessed, between the two parties to undertake the responsibilities accruing from that contract, with a dowry settled upon the woman, and thus marriage, whether with a free person or a slave, is the only means of legalizing sexual connection.

Evidently, then, the master could have sexual connection with his female slave under the rules laid down in the Holy Qur'an, relating to the marriage of a free man with a slave girl: "And whoever among you has not within his power ampleness of means to marry free believing women, (he may marry) of those whom your right hands possess from among your believing maidens; and Allāh knows best your faith; you are (sprung) the one from the other; so marry them with the permission of their masters, and give them their dowries justly, being chaste, not fornicating, nor receiving paramours This is for him among you who fears falling into evil" (4:25). The conditions of marriage as laid down in this case, are the same as those

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in the case of a free woman, with one addition, *vis.*, that the consent of the master of the slave must be obtained, in addition to the consent of the girl herself. The mahr must be paid as in the case of the free woman, though the burden would be lighter. In v. 4 : 3 again, the taking of a slave as wife is permitted, but still it is through proper marriage that she can become a wife,¹ as explained further on in v. 4 : 25.

There is only one more verse of the Holy Qur'an which has a bearing on this subject. It runs thus: "O Prophet! We have made lawful to thee thy wives whom thou hast given their dowries, and those whom thy right hand possesses, out of those whom Allāh has given to thee as prisoners of war.....specially for thee, not for the rest of the believers. We know what We have ordained for them concerning their wives and those whom their right hands possess" (33 : 50). Here it is stated that all his wives and all those whom his right hand possessed, out of the prisoners of war, were made lawful to the Prophet specially. These words must be read along with v. 4 : 3, which lays down that the permission for plurality of wives was limited to four. Those of the believers who had more than four wives were thus required to divorce the excess number, but a special permission was given to the Prophet to retain all his wives, and those whom his right hand possessed, out of the prisoners of war, though their number was more than four. This phrase *mā malakat yaminu-ka* (what thy right hand possesses) is the same as *mā malakat aimānu-kum*

1. The verse states first that a man may marry up to four wives under exceptional circumstances and then adds that if he fears that he will not be able to do justice, then (he should marry) only *one* or (if he cannot find a free woman as wife, then he may marry) *that which your right hands possess*. A reference to the original would show that both *wahidai-an* (*one*) and *mā malakat aimānu-kum* (that which your right hands possess) are objects of *ankihū* (marry).

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(what your right hands possess), the former speaking of one person and the latter of many. Now the question is, who were the women that fell in the category of "what thy right hand possesses?" Were they women to whom the Prophet had gone in simply because they had fallen into his hands as captives of war? In other words, were these concubines with whom sexual relations were legalized because of the right of ownership? There was none such in the Prophet's household. The Prophet had taken only two women as wives out of the prisoners of war, *viz.*, Şafiyya from among the Jews, and Juwairiya from among the Banī Muşţalaq. They were not concubines but lawfully married wives, taken as wives in as honourable a manner as any of the others. If there was any difference, it was this that their freedom was considered as their mahr (dowry). This verse, read along with the history of the Prophet's life, sets at rest the question, what is meant by *mā malakat aimānu-kum* (what your right hands possess) in the Holy Qur'an. Such women were from among the prisoners of war, but they were lawfully married wives. Hence the only difference between *azwāj* (wives) and *mā malakat yamīnu-ka* (those whom thy right hand possesses) is that the former were free women at the time of marriage while the latter were captives, but both were lawfully married.

In the same verse, the words *mā malakat aimānu-kum* have again been used regarding the believers generally: "We know what We have ordained for them concerning their wives and those whom their right hands possess." It shows that there already existed some ordinance in the Holy Qur'an both as regards wives and as regards those "whom your right hands possess." Now the ordinance as regards wives is contained in v. 4 : 3 and elsewhere, but the only ordinance as regards *mā malakat aimānu-kum* is that contained in v. 4 : 25, where conditions

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are laid down, under which prisoners of war can be taken in marriage. There is no ordinance with regard to them anywhere else in the Holy Qur'an, except of course that contained in v. 24 : 32, which lays an obligation upon all owners of slaves or prisoners of war to have them married. Therefore prisoners of war or slaves can only be taken in marriage, if sexual relations with them are to be legalized.

The case of the master of a female slave who would himself have sexual relations with her differs only in one respect, *viz.*, that he, being himself her master, does not stand in need of permission from anybody else. But there must still be a legal marriage. The Prophet's example however shows that when a prisoner of war was elevated to the dignity of wifehood, she was also set free. It was in this manner that he took two ladies, who were prisoners of war, as wives. He set an example in this matter, and the faithful were enjoined to take him for an exemplar (33:21) and imitate him. Nay, his acting in this manner was undoubtedly based on his interpretation of the Quranic revelation, and that interpretation, of which the proof exists in his act, must be followed by all Muslims. He was divinely guided to act in this manner, and a Muslim who does not follow his example follows his own desire, instead of following the Divine guidance. But more than this. The Prophet most emphatically laid it down that the master of a salve-girl should educate her, set her free and marry her: "The Holy Prophet said, There are three people for whom there is a double reward; a person belonging to the Ahl al-Kitab who believes in his own prophet and believes in Muhammad, and the slave owned by another when he performs his obligations towards Allah and his obligations towards his master, and the man

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who has a slave-girl with him¹, then he teaches her good manners and instructs her well in polite accomplishments, and he educates her and gives her a good education, then he sets her free and marries her; he has a double reward" (Bu. 3 : 31 ; 49 : 14, 16 ; 56 : 145 ; 60 : 48 ; 67 : 13 ; M. 16 : 14 ; AD. 12 : 5, etc.) This ḥadīth which is repeated in the *Bukhārī* no less than six times, and is accepted by all the six reliable collections of Ḥadīth, claims a very high degree of reliability. If the words of this ḥadīth were only recommendatory, they would still show what reform the Holy Prophet desired to bring about, and combined with his own practice they lead to the certain conclusion that his ultimate object was to raise slave-girls to a status of perfect equality with free women. But the recommendation is really of an imperative nature. It is not meant that the man who believes in his own prophet may reject Muḥammad, nor that the slave who performs his obligations towards his master may not care for his obligations towards God. The double reward is rather due to the fact that he overcomes a great temptation. A man who believes in one prophet thinks that is sufficient for him, but this is not actually the case : a belief in Muḥammad is a greater necessity, as the man who believes in him believes in other prophets as well. Similarly, it is not sufficient for the slave to do his duty to his master ; to bear in mind his obligations towards the Great Master is a greater necessity still. And thus,

1. In only one report of this ḥadīth (Bu. 3 : 31), some copies of *Bukhārī* add the words *kāna yaḥa'u-kā* after *amat* (slave-girl), in which case the meaning would be that he had a slave-girl with whom he used to have sexual relations, but the more authoritative copies do not contain these words. That this addition is a later interpolation is clear from the fact that *Bukhārī* narrates this ḥadīth five times again through different channels, and these words do not occur in any copy in all these places, nor is this addition met with in *Muslim* and *Abū Dāwūd*. But even if the Prophet spoke them, he was referring to the conditions that prevailed before this reform was introduced.

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even if the master treats his slave-girl well, and gives her the best of education, it is not sufficient; he must set her free and raise her to the status of a wife, if he desires to have sexual relations with her.

The Holy Qur'an, the Prophet's practice and Ḥadīth are thus all agreed that slave-girls must be married; there is no exception to that rule whether her husband is a slave or a free man or the master himself. It is only in Fiqh that we find the rule laid down that a master may have sexual relations with his slave-girl simply because of the right of ownership which he has in her. But even Fiqh maintains that cohabitation with a slave-girl is only allowed if all those conditions are fulfilled which must be fulfilled if she were to be taken in marriage as a wife. For instance, it is necessary that such a slave-girl should be either a Muslim or one following a revealed religion, and that she should not be married. Both these are also necessary conditions of marriage. Again, just as a man cannot have two sisters as wives at one and the same time, a master, according to Fiqh, cannot cohabit with two slave-girls who are sisters or who stand to each other in such relationship that their being taken as wives together is prohibited. This shows that even the Fiqh, though allowing cohabitation on the ground of ownership recognizes such cohabitation as the equivalent of marriage.

Sec. 6 -- Divorce.

Though marriage, according to Islam, is only a civil contract, yet the rights and responsibilities consequent upon it are of such importance to the welfare of humanity, that a high degree of sanctity is attached to it. But in spite of the sacredness of the character of the marriage-tie, Islam recognizes the necessity, in exceptional circumstances, of

Marriage and divorce.

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keeping the way open for its dissolution. With the exception, perhaps, of the Hindū law, the necessity of divorce has been recognized by all people. The right of divorce according to the Jewish law belongs to the husband who can exercise it at his will. The Christian law recognizes the right of divorce only when there is faithlessness on the part of either of the parties, but the divorced parties are precluded from marrying again. According to Hindū law marriage once performed can never be dissolved. Islām effected several reforms in divorce. It restricted the husband's right to divorce while recognizing the wife's right to it.

The Arabic word for divorce is *ṭalāq* which carries the literal significance of *freeing* or *the undoing of a knot* (R.). In the terminology of the jurists, the *ṭalāq* is called a *khul'* (meaning literally *the putting off or taking off* of a thing), when it is claimed by the wife. Both from the Holy Qur'an and the Ḥadīth it appears that, though divorce was permitted, yet the right could be exercised only under exceptional circumstances. The Holy Prophet is reported to have said: "Never did Allah allow anything more hateful to Him than divorce" (AD. 13 : 3). According to a report of Ibn 'Umar, he said: "With Allah the most detestable of all things permitted is divorce" (*Ibid*). The Holy Qur'an also approves of the Holy Prophet insisting that Zaid should not divorce his wife, notwithstanding a dissension of a sufficiently long standing. The incident is thus spoken of: "And when thou didst say to him to whom Allāh had shown favour and to whom thou hadst shown a favour, Keep thy wife (*i.e.*, do not divorce her) and be careful of thy duty to Allāh" (33 : 37). Refraining from divorce is spoken of here as *taqwā* or righteousness. Elsewhere divorce is thus discouraged: "If you hate

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them (*i.e.*, your wives), it may be that you dislike a thing while Allāh has placed abundant good in it" (4 : 19). Remedies are also suggested to avoid divorce so long as possible : "And if you fear a breach between the two (*i.e.*, the husband and the wife), then appoint a judge from his people and a judge from her people ; if they both desire agreement, Allāh will effect harmony between them" (4 : 35). It was due to such teachings of the Holy Qur'an that the Holy Prophet declared divorce to be the most hateful of all things permitted. And it is due to this that in spite of the facility with which it may be effected, divorce takes place only rarely among the Muslims, compared with the large number of divorces in Christian countries. The mentality of the Muslim is to face the difficulties of the married life along with its comforts, and to avoid disturbing the disruption of the family relations as long as possible, turning to divorce only as a last resort.

From what has been said above, it is clear that not only must there be a good cause for divorce, but that all means to effect reconciliation must have been exhausted before resort is had to this extreme measure. The impression that a Muslim husband may put away his wife at his mere caprice, is a grave distortion of the Islamic institution of divorce. But though the Holy Qur'an refers to several causes when divorce may become necessary, it does not enumerate all of them, nor does it strictly limit them to specified cases. In fact, if the different nations of Europe and America, who profess the same religion, are at the same level of civilization and the same stage of advancement, and have an affinity of feeling on most social and moral questions, cannot agree as to the proper causes of divorce, how could a universal religion like Islām, which was meant for all ages and all countries, for

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people in the lowest grade of civilization as well as those at the top, limit those causes which must vary with changing conditions of humanity and society.

The principle of divorce spoken of in the Holy Qur'an, and which in fact includes to a greater or less extent all causes, is the decision no longer to live together as husband and wife. In fact, marriage itself is nothing but an agreement to live together as husband and wife, and when either of the parties finds him or herself unable to agree to such a life, divorce must follow. It is not, of course, meant that every disagreement between them would lead to divorce; it is only the disagreement to live any more as husband and wife. In the Holy Qur'an such disagreement is called *shiqaq* (from *shaqq* meaning *breaking into two*). But not even the *shiqaq* entitles either party to a divorce, unless all possibilities of agreement have been exhausted. The principle of divorce is, therefore, thus described in the Holy Qur'an: "And if you fear a breach (*shiqaq*) between the two, then appoint a judge from his people and a judge from her people; if they both desire agreement, Allāh will effect harmony between them; surely Allāh is Knowing, Aware" (4 : 35). And further on it is added: "And if they separate, Allāh will render them both free from want out of His ampleness, and Allāh is Ample-giving, Wise" (4 : 130).

This verse gives us not only the principle of divorce, which is *shiqaq* or a disagreement to live together as husband and wife, but also the process to be adopted when a rupture of marital relations is feared. The two sexes are here placed on a level of perfect equality. A "breach between the two" would imply that either the husband or the wife wants to break off the marriage agreement, and hence either may claim a divorce when the parties can no longer pull on in agreement. In the

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process to be adopted, both husband and wife are to be represented on a status of equality; a judge has to be appointed from his people and another from her people. The two are told to try to remove the differences and reconcile the parties to each other. If agreement cannot be brought about, a divorce will follow.

It will be seen that the principle advanced here in the matter of divorce is an all-inclusive one. All causes of divorce are subject to the condition that one of the parties cannot pull on with the other. For instance, the husband is impotent, or one of the parties has a disease which makes him or her unfit for sexual relations. In such cases justice would demand a divorce, but only when the party entitled to it, wants it. If both are willing to live in marital agreement, in spite of the defects in one of them, no power on earth can effect a divorce; but if the aggrieved party finds that she or he is unable to live in marital agreement with the other, it would be a case of *shiqaaq* or breach of the marriage agreement. Similarly, if the husband is imprisoned for life, or for a long period, or if he is absent and no news can be had of him, or if he is maimed for life and is unable to provide maintenance for his wife, it will be a case of *shiqaaq* if the wife wants a divorce, but if she does not, the marriage will remain. In case the husband is aggrieved in a similar manner, he has the option of taking another wife.

The *shiqaaq* or breach of the marriage agreement may also arise from the conduct of either party; for instance, if either of them misconducts himself or herself, or either of them is consistently cruel to the other, or, as may sometimes happen, there is incompatibility of temperament to such an extent that they cannot live together in marital agreement. The *shiqaaq* in these cases is more express, but still it will depend upon the parties whether

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they can pull on or not. Divorce must always follow when one of the parties finds it impossible to continue the marriage agreement and is compelled to break it off. At first sight it may look like giving too much latitude to the parties to allow them to end the marriage contract thus, even if there is no reason except incompatibility of temperament, but this much is certain that if there is such disagreement that the husband and the wife can not pull together, it is better for themselves, for their offspring and for society in general that they should be separated than that they should be compelled to live together. No home is worth the name wherein instead of peace there is wrangling; and marriage is meaningless if there is no spark of love left between the husband and the wife. It is an error to suppose that such latitude tends to destroy the stability of marriage, because marriage is entered into as a permanent and sacred relation based on love between a man and a woman, and divorce is only a remedy when marriage fails to fulfil its object

It will have been seen that the Holy Qur'an places

Wife's right of divorce.

the two parties on a perfect level of equality in the matter of divorce.

Hadith makes it clearer still. The Holy Prophet is related to have married a woman called Umaima or Ibnat al-Jaun, and when he went in to her, she said that she sought refuge in God from him, that is to say, wanted a divorce; and he granted her a divorce, and sent her off with some presents (Bu. 68 : 3). Another case is that of Thabit ibn Qais whose wife is reported to have come to the Holy Prophet and said : " O Messenger of Allah ! I do not find fault in Thabit ibn Qais regarding his morals or faith but I cannot pull on with him."¹ The Holy Prophet said : " Wilt thou return to him his orchard

1. The words in one report are : " I hate *kufr* (ungratefulness) in Islām," and in another : " I cannot bear him (*lā uḥṣu-hū*)."

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(which he had settled upon her as a dowry)?” On receiving a reply in the affirmative, the Holy Prophet sent for Thābit and ordered him to take back his orchard and divorce his wife (Bu. 68 : 11). These two examples are sufficient to show that the wife had the right to claim divorce on those very grounds on which the husband could divorce his wife.

The right of the wife to claim a divorce is not only recognized by the Holy Qur'an and Ḥadīth but also in Fiqh. The technical term for the wife's right to divorce by returning her dowry is called *khul'*, and it is based on the ḥadīth already quoted, and the following verse of the Holy Qur'an: "Divorce may be pronounced twice; then keep them in good fellowship or let them go with kindness; and it is not lawful for you to take any part of what you have given them unless both fear that they cannot keep within the limits of Allāh: then if you fear that they cannot keep within the limits of Allāh, there is no blame on them for what she gives up to become free thereby" (2 : 229). By keeping, "within the limits of Allāh" here is clearly meant the fulfilment of the object of marriage or performance of the duties imposed by conjugal relationship. The dowry is thus a check on the party who wants the divorce; if the husband wants to divorce the wife, the wife shall have the dowry; if the wife wants the divorce, the husband is entitled to the dowry. But it is the judges spoken of in v. 4 : 35, and referred to here in the words "if you fear that they cannot keep within the limits of Allāh," that shall decide whether the husband or the wife is responsible for the breach and which of them is entitled to the dowry.

The wife is also entitled to a divorce if the husband is missing, or *mafqūd al-khabar*, which means that he has disappeared and cannot be communicated with, because though there is no *shiqāq* in this case, yet the

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husband is unable to fulfil his marital obligations. There is no definite statement in the Holy Qur'an, or Ḥadīth, to show how long the wife should wait in such a case. The Hanafī law on this point is very unreasonable, requiring the wife to wait for 120 or 100 years, according to the opinions of Imām Abū Ḥanīfa and Abū Yūsuf respectively (H. I, pp. 598, 599). The Shāfi'ī law requires seven years' waiting, while according to Imām Mālik she should wait for four years (H. I, p. 597). The view of Imām Aḥmad ibn Ḥanbal and the Shī'a view agree with Mālik. This is a more reasonable view. Bukhārī has a chapter on the *Mafqud* (Bu. 68 : 21), in which there is no ḥadīth of the Holy Prophet relating to the subject proper, but the view of Ibn al-Musayyab is quoted, according to which when a person becomes *mafqud* in the course of fighting, his wife shall wait for a year; and a report is added relating to Ibn Mas'ūd who searched for the husband of a maid-servant of his for one year and then treated him as *mafqud*, and this was not the case of a man lost in fighting. Under present conditions when communication is so easy, one year would be a sufficient period of waiting for the *mafqud*.

Though the Holy Qur'an speaks of the divorce being pronounced by the husband, yet a limitation is placed upon the exercise of this right. The following procedure is laid down in clear words: "And, if you fear a breach between the two, then appoint a judge from his people and a judge from her people; if they desire agreement, Allāh will effect harmony between them" (4 : 35). "And if they separate, Allāh will render them both free from want out of His ampleress" (4 : 130). It will be seen that in all disputes between the husband and the wife, which it is feared will lead to a breach, two judges are to be appointed from the respective people of

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the two parties. These judges are required first to try to reconcile the parties to each other, failing which divorce is to be effected. Therefore, though it is the husband who pronounces the divorce, he is as much bound by the decision of the judges, as is the wife. This shows that the husband cannot repudiate the marriage at will. The case must first be referred to two judges and their decision is binding. The Caliph 'Alī is reported to have told a husband, who thought he had the sole right to divorce, that he would have to abide by the judgment of the judges appointed under this verse (Rz. III, p. 320). The Holy Prophet is reported to have interfered and disallowed a divorce pronounced by a husband, restoring the marital relations (Bu. 68 : 1, 2). It was no doubt a matter of procedure, but it shows that the authority constituted by law has the right to interfere in matters of divorce. The only question is as to the procedure to be adopted when the Muslims are living under non-Muslim rule. In such a case, if no Qādī has been appointed by the authorities, the appointment of the judges shall be in the hands of the Muslim community, and it may exercise that right in any way it likes. Failing even such arrangements, the parties may come to an agreement between themselves. If, therefore, a Muslim government or the Muslim community makes any rules laying down the procedure of divorce and placing such limitations upon the husband in matters of divorce as are not inconsistent with the principles laid down by the Holy Qur'an, it would be quite Islamic.

The menstrual discharge is looked upon as pollution
Divorce during men- in many religions, and the woman
struation. who has her courses on is segregated,
as among the Hindūs and the Jews. In the Holy Qur'an,
the subject of menstruation is dealt with as a preliminary

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to that of divorce, and sexual intercourse is prohibited when the courses are on, as it is said to be "harmful" (2 : 222). It is owing to this temporary cessation of the amorous relations between the husband and the wife, that divorce is prohibited during the period when the menstrual discharge is on. It was brought to the notice of the Holy Prophet that Ibn 'Umar had divorced his wife while she was menstruating. The divorce was declared to be illegal by the Holy Prophet, and Ibn 'Umar was asked to take back his wife (Bu. 68 : 1). Thus divorce is only permitted in the state of *tuhr* (when the woman is clear from the menstrual discharge), there being the further condition that the husband and the wife should not have copulated during that *tuhr*. Evidently this is meant as a sort of check upon the freedom of divorce.

The final breaking off of marital relations is discouraged in many other ways and every chance is afforded to the parties to maintain the conjugal tie, even after differences have arisen leading to divorce. Every divorce must be followed by a period of waiting called the 'idda : " O Prophet ! when you divorce women, divorce them for their 'idda (*prescribed or waiting time*) " (65 : 1). The 'idda is about three months : " And the divorced women should keep themselves in waiting for three courses (*qurū*) " (2 : 228). A *qar'* (pl. *qurū*) is the entering from the state of *tuhr* (cleanness) into the state of menstruation. In normal cases it is about four weeks, but there are variations in the case of different women. In the case of women who do not menstruate as well as those whose courses have stopped, the 'idda is three months (65 : 4), and in the case of pregnant women, the waiting period is till delivery (*ibid*). The 'idda among other purposes serves the purpose of affording the parties

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a chance of reconciliation. Though they are divorced, yet they still live in the same house, the husband being plainly told not to expel the wife from the house in which she has been living unless she is guilty of misconduct, and a similar advice is given to the wife not to leave the house (65 : 1). This injunction clearly aims at restoring amicable relations between the parties and minimizing chances of the accentuation of differences. If there is any love in the union, its pangs would assert themselves during the period of waiting and bring about a reconciliation.

In fact, reconciliation is recommended in plain words when, speaking of the 'idda, Divorce is revocable. the Holy Qur'an says : " And their husbands have a better right to take them back in the meanwhile if they wish for reconciliation " (2 : 228). Every divorce is thus an experimental temporary separation during its initial stages, and by making the parties live together, every chance is afforded to them to re-establish conjugal relations. Even after the period of waiting has passed away, the two parties are allowed, even encouraged, to remarry : " And when you have divorced women and they have ended their term of waiting, do not prevent them from marrying their husbands, when they agree among themselves in a lawful manner ; with this is admonished whosoever among you believes in Allah and the last day ; this is more profitable and purer for you : and Allah knows while you do not know " (2 : 232). Remarriage of the divorced parties is thus encouraged and recommended as being more profitable and purer for the parties. The condition is also laid down that such a revocable divorce, allowing reunion of the parties, can be pronounced twice : " Divorce may be pronounced twice : then keep them in

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good fellowship or let them go with kindness" (2 : 229). Thus the revocable divorce, the *ṭalāq raj'i* in the terminology of the jurists, can be pronounced twice.

After the first divorce, the parties have the right to reassert their conjugal relations within the period of waiting, and to remarry after the waiting period is over. A similar right is given to them after a second divorce, but not after a third. Before Islām, however, while the wife had no right of divorce, the husband had an unchecked license to divorce the wife and to reassert his conjugal rights during 'idda as many times as he pleased (Rz. II, p. 372). Thus women were looked upon as mere chattel which could be discarded and taken at will. This had demoralized the whole institution of marriage. Islām not only gave the wife a right of divorce, but also checked the husband's license to divorce as often as he liked, by declaring that revocable divorce could be given only twice: "Divorce may be pronounced twice: then keep them in good fellowship or let them go with kindness" (2 : 229). It was thus laid down that, after the second revocation or remarriage, the parties must make their choice either to live together as husband and wife for ever, or to separate for ever, never thinking of reunion. Hence if even the second experiment failed and the parties were separated by a divorce for the third time, this was an irrevocable divorce, or *ṭalāq ba'in*, in the terminology of the jurists.

The jurists have recognized divorce in three forms.

Pronouncement of divorce in three forms. A man would sometimes pronounce divorce thrice on one and the same occasion, and this would be understood as meaning that divorce had been given thrice. This is called *ṭalāq bid'i* or an innovation in divorce after the Holy Prophet's (time). Or a man would divorce his wife for the first

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time in one *ṭuhr*, following on with a second divorce in the second *ṭuhr* and with a third divorce in the third, thus divorcing thrice in one 'idda or one period of waiting. This method of *ṭalāq* is called *ṭalāq ḥasan* (a good way of divorcing) in the terminology of the jurists. The name *ṭalāq aḥsan* (or the best method of divorcing) is given to the form in which *ṭalāq* is pronounced in a *ṭuhr* only once, and this is followed by the period of waiting (H. I, p. 333). This last method is the only method recognized by the Holy Qur'ān. It is plainly laid down : " O Prophet ! when you divorce women, divorce them for their prescribed time ('idda), and calculate the number of the days prescribed, and be careful of your duty to Allāh, your Lord" (65 : 1). The divorce is thus to be pronounced only once, and when it has been pronounced, the 'idda, or waiting period, follows, and during this time the parties have a right to revocation of the divorce. All other forms of divorce are against the Holy Qur'ān and the Sunna of the Prophet.

Thus the Holy Qur'ān recognizes *ṭalāq*, only in one form, the *ṭalāq al-sunna*, or the *ṭalāq aḥsan* of the Ḥanafī jurists. Subterfuges to make the revocable divorce irrevocable. There is no mention at all of the other two forms, either in the Holy Qur'ān or in Ḥadīth. These two forms are, in fact, only subterfuges to make the revocable divorce an irrevocable one. The tendency to resort to these subterfuges is noticeable even in the lifetime of the Holy Prophet. The pronouncing of three divorces without an interval, seems to have been a remnant of pre-Islamic days. The Holy Prophet is reported to have shown indignation when it was brought to his notice that a certain person had pronounced three divorces together (Ns. 27 : 6), and a divorce thus pronounced was annulled by him (Ah. I, p. 265). Another report shows that until the time of 'Umar, people used

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to pronounce three divorces together, but that they counted as a single divorce (Ah. I, p. 314). 'Umar, in order to restrain people from such an un-Islamic proceeding, ordered three divorces given at one time to be reckoned as three separate acts of divorce, taking place at intervals, but this order had the opposite effect to that intended. It became a general practice to pronounce divorce three times on one occasion, and this was supposed to have the effect of three separate acts of divorce, thus making a revocable divorce irrevocable. This is really a negation of the very principle underlying the institution of divorce in Islām. It is true that divorce is allowed, but as it disturbs the normal family relations, it is looked upon with disfavour and is permitted only in extreme cases when the carrying on of marital obligations by the husband or the wife becomes impossible. But even after this extreme step has been taken, not only are the parties still free to resume conjugal relations within the waiting period, and to remarry after that period has expired, but they are actually encouraged to do so. The two forms of divorce, called *bid'i* and *hasan*, take away the freedom to reunite which the Holy Qur'an has conferred upon the two parties, and they are therefore against the teachings of the Holy Qur'an and must be discarded. The revocable divorce of the Holy Qur'an cannot be made irrevocable, as by this change, a death-blow is dealt to the beneficial spirit underlying the institution of divorce in Islām. Hence, whether divorce is pronounced once or thrice or a hundred times, it is only a single divorce, and it is revocable during the waiting period.

It is clear from what has been stated that irrevocable divorce is the very rarest of things that can happen among Muslims, and it can only occur if the two un-Quranic

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forms of divorce, to make revocable divorces irrevocable, are brought in. When a man and a woman have found by two experiments that they cannot live together as husband and wife, it is absurd on their part to think of remarriage again. Hence the Holy Qur'an lays down that they shall not remarry after the second failure of the union, except in one case: "So if he divorces her (for the third time), she shall not be lawful to him afterwards until she marries another husband; then if he (the second husband) divorces her, there is no blame on them both if they return to each other (by marriage), if they think that they can keep within the limits of Allah" (2 : 230). Thus the one case in which marriage with the first husband is allowed, after being divorced for the third time, is that in which a marriage has been contracted with a second husband and that too has proved a failure. If there be such a rare case, the parties to the marriage have probably learned a lesson through another marital union to the effect that they should behave better towards each other. An irrevocable divorce, being in itself a rarity according to the teachings of the Holy Qur'an, a case like the one spoken of, in the verse quoted above, would be a still greater rarity, but still if such a case should arise, the parties are allowed to remarry even after an irrevocable divorce.

Tahlil or *ḥalāla*, which means *legalizing* or *making a thing lawful*, was a pre-Islamic practice. When the wife was divorced irrevocably, by thrice pronouncing the divorce formula, and the husband wanted to take her back again, she had first to marry a third person on condition that he would divorce her after having sexual connection with her. This was called *ḥalāla*. It is a mistake to

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confound the *halala* with the marriage spoken of in the verse quoted under the previous heading, since *halala* was a kind of punishment for the woman who had to undergo the disgrace of sexual connection amounting practically to adultery, while the marriage spoken of in the previous paragraph is a perpetual marital tie, and the divorce in that case may not follow at all; in fact, in the normal course of things it would not follow at all. It is for this reason that the Holy Prophet cursed those who resorted to this practice, his words being: "The curse of Allah be on the man who commits *halala* and the man for whom the *halala* is committed" (Tr. 9: 25). The Caliph 'Umar is reported to have said that if there were brought to him two men who took part in the practice of *halala*, he would treat them as adulterous people. The three divorces, as allowed in the Holy Qur'an, of which the third is irrevocable, were of very rare occurrence, as such divorces naturally occurred at long intervals. The case of Rukana is mentioned in the reports; he first divorced his wife in the time of the Holy Prophet, then remarried her and divorced her a second time in the reign of 'Umar, and finally in the caliphate of 'Uthman (ZM. II, p. 258).

Divorce may be given orally, or in writing, but it must take place in the presence of witnesses: "So when they have reached their prescribed time, then retain them with kindness or separate them with kindness, and call to witness two men of justice from among you, and give upright testimony for Allah" (65: 2). Whatever the actual words used, they must expressly convey the intention that the marriage tie is being dissolved. As to whether a divorce would be effective under certain circumstances, there are differences among the various schools of jurists. Evidently intention is as necessary

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a factor in the dissolution of marriage as in the marriage itself. but while some recognize that divorce is ineffective if given under compulsion or influence, or in a state of intoxication, or in anger or jest, or by mistake or inadvertance, others hold it to be ineffective in some of these cases and effective in others. The Ḥanafī law recognizes that divorce is effective whether the words be uttered in sport or jest or in a state of drunkenness and whether a person utters them willingly or under compulsion, but Imām Ṣhafi'ī takes the opposite view (H. I, p. 337). Evidently the Ḥanafī views are against the spirit of the teachings of the Holy Qur'an which declares divorce to be a very serious matter, and lays down special procedure to be gone through before it is resorted to.

Īlā' and *ṣihār* were two parctices of the pre-Islamic days by which the wife was kept in a state of suspense, sometimes for the whole of her life. *Īlā'*, which means literally *swearing*, signifies technically *the taking of an oath that one shall not go in to one's wife*. In the pre-Islamic days the Arabs used to take such oaths frequently, and as the period of suspension was not limited, the wife had sometimes to pass her whole life in bondage, having neither the position of a wife, nor that of a divorced woman free to marry elsewhere. The Holy Qur'an reformed this state of things by commanding that if the husband did not re-assert conjugal relations within four months, the wife should be divorced: "In the case of those who swear that they will not go in to their wives, the waiting period is four months; then if they go back, Allah is surely Forgiving, Merciful. And if they resolve on a divorce, then Allah is surely Hearing, Knowing" (2 : 226, 227).

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The word *zihār* is derived from *ṣahr* meaning *back*.

zihār. An Arab in the days of ignorance would say to his wife, *anti 'alayya ka-ṣahrī ummī, i.e.*, thou art to me as the back of my mother. This was technically called *zihār*. No sooner were these words pronounced, than the relation between husband and wife ended as by a divorce, but the woman was not at liberty to leave the husband's house, and remained as a deserted wife. One of the Muslims, *Aus ibn Ṣāmit* treated his wife *Khāula* in a similar manner. The wronged woman came to the Holy Prophet and complained of her husband's ill-treatment. The Holy Prophet told her that he was unable to interfere. She went back disappointed and it was then that he received the following revelation: "Allāh indeed knows the plea of her who pleads with thee about her husband and complains to Allāh, and Allāh knows the contentions of both of you; surely Allāh is Hearing, Seeing. As for those of you who put away their wives by likening them to the backs of their mothers, they are not their mothers; their mothers are no others than those who gave them birth; and most surely they utter a hateful word and a falsehood" (58 : 1, 2). The man who resorted to this practice was ordered to free a slave; or if he could not find one, then to fast for two successive months, and if unable to do that, to feed sixty poor people (58 : 3, 4).

The word *li'ān* is derived from *la'na* meaning *curse*.

Li'ān. *Li'ān* and *mula'ana* signify literally *mutual cursing*. Technically, however, the two words indicate that particular form of bringing about separation between the husband and the wife in which the husband accuses the wife of adultery but has no evidence to support the accusation, while she denies it. The Holy Qur'an makes adultery a severely punishable crime, since it aims at the destruction of the

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whole social fabric. At the same time it makes an accusation of adultery an equally serious crime, punishable like adultery if strong evidence of adultery be not forthcoming. This is to stop the tongue of slander, which is generally very busy, and does not spare even the most innocent persons. One man has no concern with another's private affairs, but if a man has strong reasons to believe that his own wife is adulterous, the case is quite different. The *li'an* is suggested in this case, as the means of bringing about separation between husband and wife, for whether the accusation is right or wrong, it is in the interests of both to get separated. The following verses deal with this subject: "And as for those who accuse their wives and have no witnesses except themselves, the evidence of one of these should be taken four times, bearing Allāh to witness that he is of the truthful ones. And the fifth time that the curse of Allāh be on him if he is one of the liars. And it shall avert the punishment from her if she testify four times, calling Allāh to witness, that he is one of the liars. And the fifth time that the wrath of Allāh be on her if he is one of the truthful" (24 : 6-9). After the parties have thus borne witness, they are separated for ever. It will be noticed that there is no mutual cursing in this case; only each of the parties, while bearing witness of his or her own truthfulness, calls for the curse or wrath of God on himself or herself if he or she speaks a lie.

Divorce is looked upon as a necessity in marital Charitable view of relations, under the varying human divorce. conditions, irrespective of moral turpitude on the part of husband or wife. The Holy Qur'an takes the most charitable view of the necessity for divorce, and therefore recommends as much kindness towards women in the case of divorce, as in that of

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marriage. Again and again stress is laid on this point: "Divorce may be pronounced twice; then keep them in good fellowship or let them go with kindness (*ihsan*)" (2:229); "And when you divorce women and they reach their prescribed time, then either retain them in good fellowship or set them free with liberality" (2:231); "So when they have reached their prescribed limit, then retain them with kindness or separate them with kindness" (65:2). Thus woman is to be treated with equal kindness and generosity, whether she is a sharer in a man's weal or woe as wife, or one from whom he has been compelled to part company. Marital differences, like other differences, may be as often honest as not, but the Holy Qur'an recommends that the most charitable view of them should be taken.

CHAPTER VII

ACQUISITION AND DISPOSAL OF PROPERTY

Property may be acquired in three ways, by *iktisab* (earning), by *warātha* (inheritance) and by *hiba* (gift). Of these, inheritance, on account of its importance is dealt with in a separate chapter. Acquisition of property by the individual, whether male or female, is recognized by Islām as one of the basic laws regulating human society: "Men shall have the benefit of what they earn and women shall have the benefit of what they earn" (4 : 32). Both sexes have also an equal right to inheritance of property: "Men shall have a portion of what the parents and the near relatives leave and women shall have a portion of what the parents and the near relatives leave" (4:7). No limitation is placed upon the property or wealth which an individual may acquire or give away. The Holy Qur'an speaks even of heaps of gold being in the possession of a man which he may give away to a woman as her dowry: "And if you have given one of them a heap of gold, take not from it anything" (4 : 20). Islām is thus opposed to Bolshevism, which recognizes no individual right of property; but it is at the same time socialistic in its tendencies, inasmuch as it tries to bring about a more or less equal distribution of wealth.

All unlawful means of acquiring property are denounced: "O you who believe! do not devour your property among yourselves falsely, except that it be trading by your mutual consent" (4 : 29); "And do not swallow up your property among yourselves by false means, neither seek

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to gain access thereby to the judges, so that you may swallow up a part of the property of men wrongfully while you know" (2 : 188). The latter verse alludes to bribery. Dacoity and theft are spoken of elsewhere as punishable crimes (5 : 33, 38). Misappropriation is forbidden : "Allah commands you to make over trusts to their owners" (4 : 58). Gambling is prohibited as being a false or dishonest means of acquiring property : "They ask thee about intoxicants and games of chance. Say, In both of them is great sin and some advantages for men, and their sin is greater than their advantage" (2 : 219); "Intoxicants and games of chance..... are only an uncleanness, the devil's work ; shun it therefore that you may be successful" (5 : 90). Intoxicating liquors and gambling are mentioned together in both places, and one of the reasons for their prohibition is that they are an aid to creating mischief and enmity between members of the same society : ".The devil only desires to cause enmity and hatred to spring in your midst by means of intoxicants and games of chance" (5 : 91). All kinds of lotteries and the playing of bridge, however small the sum involved, fall within the definition of games of chance, and are therefore prohibited by Islām. They not only promote habits of indolence and are thus a negation of honest labour, but also reduce some members of society to penury while others prosper at their expense. Usury, which is dealt with later on, is also prohibited for the same reason.

The Holy Qur'an gives full rights of disposal of

The Holy Qur'an on the exercise of property rights. property to its owner, whether male or female, but at the same time, it requires that owner to be most care

ful in spending it. There are many injunctions of a general nature to that effect. Thus, speaking of the righteous servants of God (*'ibād al-Rahmān*) it says,

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“ And they who when they spend, are neither extravagant, nor parsimonious, and keep between these the just mean ” (25 : 67). And elsewhere : “ And do not make thy hand to be shackled to thy neck, nor stretch it forth to the utmost limit of its stretching forth, lest thou shouldst (afterwards) sit down blamed, stripped off ” (17 : 29). But it does not content itself with these general directions, and gives society or the state a right to interfere when money is being squandered by its owner : “ And do not give away your property which Allāh has made for you as a means of support (*qiyām*) to the weak of understanding (*sufahā'*), and maintain them out of the profits of it, and clothe them and speak to them words of honest advice ” (4 : 5). Here certain owners of property are called *sufahā'*, and the community or the state is enjoined not to give such people control of their property, which is here described as *your property*, because Allāh has made it “ for you a means of support ; ” and the rule is laid down that these owners of property should be maintained, out of the profits of that property, the management being clearly in other hands. Thus wealth, though possessed by individuals, is recognized as a national asset, and a check is placed upon the rights of the individual if money in his possession is being wasted. *Sufahā'* is the plural of *safih* which means *a person deficient or unsound in intellect or understanding or having little or no understanding* (TA., LL.). The commentators make various suggestions as to what is here meant by this word, some saying that it applies to women or children, but Ibn Jarīr rightly points out that this view is wrong, and the word conveys a general significance (IJ-C. IV, p. 153). In fact, minors are not spoken of in this verse at all, since they are mentioned separately in the verse that follows, and the *sufahā'* of this verse are persons who, on account of deficiency or unsoundness in intellect, are

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unable to manage their own property.

This conclusion is further corroborated by the use of the word *safih* in connection with the contracting of debts: "But if he who owes the debt is unsound in understanding (*safih*) or weak (*dza'if*), or if he is unable to dictate, let his guardian dictate with fairness" (2 : 282). Here the *safih* and the *dza'if* are mentioned separately; the former signifying the weak in understanding whether males or females, and the latter minors. Thus the Holy Qur'an requires that persons who, on account of weakness of intellect, mismanage their property and squander their wealth should be deprived of the control of their property and maintained out of its profits, the control being handed over to some other person who is called a *waliyy* (*guardian*) in v. 2 : 282.

This restriction on the exercise of rights of property Hajr or restrictions by individual owners is spoken of in on disposal of property. Hadith collections as *hajr* (Bu. 43), which literally means *what is forbidden*, that being also the terminology of the jurists. Hadith lays great stress on saving wealth from being wasted. Bukhari has the following heading for one of his chapters: "There is no charity unless a man has sufficient to give, and whoever spends in charity and he is himself in want or his family is in want or he has a debt to pay, it is more in the fitness of things that the debt should be paid than that he should spend in charity or free a slave or make a gift, and such a gift or charity shall be annulled, for he has no right to waste the wealth of the people (*amwal al-nas*); and the Holy Prophet has said, Whoever takes the wealth of the people that he may waste it, Allah will destroy him, unless he is a man well-known for his patience (*ṣabr*) so that he prefers others before himself, though poverty may afflict him" (Bu. 24 : 18). Here, the individual property of a man is called the wealth of the people, and

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a man is prohibited from making even charitable gifts when he has not sufficient to support those dependent on him. According to a ḥadīth, the Holy Prophet is reported to have said : " Allāh hates three things in you, useless talk and wasting of wealth and asking or begging (*su'āl*) frequently " (Bu. 24 : 53). This ḥadīth is repeated frequently in the *Bukhārī* and other Ḥadīth collections, and forms the basis of restrictions¹ which may rightly be laid on owners of property, for their benefit. The State is therefore entitled to make laws for the benefit of owners of property, placing restrictions upon them as to the disposal of that property.

A guardian is also appointed to deal with the property of minors. The Quranic injunction on this point is as follows : " And test the orphans until they attain (the age of) marriage ; then if you find in them maturity of intellect, make over to them their property, and do not consume it extravagantly and hastily, anticipating their attaining to full age ; and whoever is rich, let him abstain, and whoever is poor, let him eat reasonably. And when you make over to them their property, call witnesses in their presence ; and Allāh is enough as a Reckoner " (4 : 6). A minor is thus not allowed to manage his own property which must be made over to a guardian. If the guardian is rich, he is required to do the work of guardianship honorarily, and if he is poor, his wages would be a charge on the property. The age of majority is eighteen years, according to Abū Ḥanīfa, in the case of males and seventeen in

1. The Land Alienation Act as enforced in the Punjab obviously falls within the definition of *bay'at*, as based on the Holy Qur'ān and recognized by Ḥadīth and the jurists. In this case, the owners of agricultural land are prevented from selling their lands in certain cases, except with the permission of the State ; and this measure is in their own interest, for otherwise all agricultural land would gradually pass out of their hands and they would be left without any means of support.

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the case of females (H. II, p. 341), but according to Shafi'i and Ahmad, it is fifteen in both cases (H. II, p. 342). In a hadith it is stated that Ibn 'Umar was not enlisted in the army when he was fourteen years old but was taken when he was fifteen (Bu. 52 : 18), but this by no means shows that maturity of intellect is attained at fifteen, for at that time there were so few Muslims that could take the field against overwhelming numbers, that boys and old men had to be enlisted perforce.

Subject to what has been stated above and what will be stated further on, the owner of honest dealing in business transactions. movable or immovable property, whether a male or a female, has the right to sell or barter it. The Holy Qur'an lays stress on honest and straight dealing in the very earliest revelations: "Woe to the defaulters, who, when they take the measure from men, take it fully; but when they measure out to others or weigh out for them, they are deficient" (83 : 1-3); "And give full measure when you measure out and weigh with a fair balance; this is fair and better in the end" (17 : 35); "Give a full measure and be not of those who diminish; and weigh things with a right balance, and do not wrong men of their things and do not act corruptly in the earth making mischief" (26 : 181-183). Hadith also lays stress on honest dealing, so much so that if there is any defect in a thing it must be pointed out to the intending buyer (Bu. 34 : 19; Ah. III, p. 491). The Holy Prophet is himself reported to have written to 'Adda' ibn Khalid as follows: "This is the writing by which Muhammad, the Messenger of Allah, has made a purchase from 'Adda' ibn Khalid, the barter of a Muslim with a Muslim, there is no defect in it nor any deception nor an evil" (Bu. 34 : 19). According to another hadith he is reported to have said: "If the two parties speak the truth and make manifest, their transaction shall be blessed, and if

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they conceal and tell a lie, the blessing of their transaction shall be obliterated" (Bu. 34 : 19). Honesty and *bona fides* in matters of sale are stressed in a very large number of ḥadīth.

The many other details that are met with in Hadīth General directions rela. need not be stated here, being but ting to sale transactions. of minor importance ; a few only which are of a general nature are briefly noted. Men and women are expressly mentioned as selling to and buying from one another, so that there is not the least sex disqualification in this respect (Bu. 34 : 67). While a transaction is being carried on with a man, another should not interyene (Bu. 34 : 58), but auction is allowed (Bu. 34 : 59). There is no restriction in the matter of to whom a man may sell his property, but the withholding of food-stuffs so that they may become dear (*ihṭikar*) is prohibited (Bu. 34 : 54), and so is the booming of prices in general. Thus the seller of cattle is prohibited from leaving them un milked some days before selling, so that they may fetch a higher price (Bu. 34 : 64). Sale of fruits or crops before they are in a fit condition to be reaped is deprecated, because it gives rise to disputes (Bu. 34 : 85). In the ḥadīth narrated in this chapter it is expressly stated that it was not an injunction but advice. If the fruits on trees are valued, they may be sold (Bu. 34 : 75, 82, 83). Imaginary sales, when there are no goods to deliver, are prohibited (Bu. 34 : 61), neither should one sell what one does not possess (Ah. II, pp. 189, 190). The sale of land is not favoured, and it is recommended that one should not sell his land or house unless he intends to purchase other land or another house with the money (Ah. I, p. 190 ; III, p. 467). The taking of oaths in sale transactions is expressly forbidden (Ah. V, p. 297).

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Mortgage of property, or giving it as security for debt, is also allowed. The Holy

Mortgage.

Qur'an expressly allows the giving or taking of a security of which possession is taken by the mortgagee (*rihān-un maqbūḍa*) (2 : 283); and though this case is mentioned in connection with a journey, the words have by all commentators been taken as conveying a general permission, and reliable ḥadīth corroborate this conclusion. It is related that the Holy Prophet himself left his shield as security with a Jew when borrowing some barley from him (Bu. 48 : 1, 2). When a horse was given as a security, the mortgagee was allowed to use it for riding as a compensation for feeding it. Similarly a milch-animal's milk was allowed to the mortgagee when he fed the animal (Bu. 48 : 4). Hence it is evident that when agricultural land or a house is mortgaged, the mortgagee can derive benefit from it when he pays land-revenue or house-tax, or spends money on the upkeep of the property.

An owner of property is also allowed to bequeath

Bequest.

his property for a charitable object or to anyone excepting a legal heir.

This is called *waṣīyya*, and the making of a will is specially recommended. The Holy Qur'an speaks of the making of a will as a duty incumbent upon a Muslim when he leaves sufficient property for his heirs: "Bequest is prescribed for you when death approaches one of you, if he leaves behind wealth for his parents and near relatives according to usage, a duty incumbent upon the righteous" (2 : 180). And the Holy Prophet is reported to have said: "It is not right for a Muslim who has property to bequeath, that he should pass two nights without having a written will with him" (Bu 55 : 1). But this duty, or right, is subject to certain limitations. In the first place, not more than one-third

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of the property can be disposed of by will (Bu. 55 : 2, 3); and secondly, no will can be made in favour of an heir (AD. 17 : 6; Ah. IV, p. 186). But, as expressly stated in the Holy Qur'an, the making of a will is incumbent only on well-to-do people. This is also mentioned in Hadith (D. 22 : 5). The reason for limiting the bequest to one-third is clearly stated in a hadith: "That one should leave his heirs free from want is better than that they should be begging of other people" (Bu. 55 : 2). And the reason for excluding the heirs is that no injustice may be done to certain heirs at the expense of others. A *wasīyya* which is against these principles would be ineffective to that extent. It may be added that if a property in respect of which a bequest is made is encumbered with a debt, the debt is payable before the will is executed.

An owner of property has also the right to dispose of his property by *hiba* or gift. The giving and accepting of gifts is recommended very strongly, and even the smallest gift is not to be despised (Bu. 51 : 1). A *hiba* is allowed in favour of a son, but it is recommended that similar gifts should be made in favour of other sons (Bu. 51 : 12). The husband can make a gift to his wife, and the wife to her husband, or others than husband (Bu. 51 : 14, 15). Gifts from, and in favour of, non-Muslims are allowed (Bu. 51 : 28, 29). A gift may also be compensated (Bu. 51 : 11). The jurists allow a *hiba bi-l-'iwad̄s*, or a gift for a consideration, and also *hiba bi-shart̄i-l-'iwad̄s*, or a gift made on the condition that the donee shall give to the donor some determinate thing in return for the gift (AA.). The *hiba* is complete when the donee has accepted it and taken possession of the gift. It is not allowed to a person to revoke the *hiba* when it has

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been accepted by the donee (Bu. 51 : 30). While a will is allowed only to the extent of one-third of the property, no such limitation exists on *hiba*, because in this case the owner divests himself of all rights in the property immediately, while in the case of a will, not the owner but the heirs are deprived.

Waqafa means literally *he was*, or *became*, *still* or *stationary* or *he continued standing* (LL.), and in law *waqf* is "the settlement in perpetuity of the usufruct of any property for the benefit of individuals or for a religious or charitable purpose" (AA.) Subject to conditions already noted, and those which follow, an owner of property has a right to make his property *waqf* or dedicate it to a particular purpose. In *Bukhari*, the ḥadīth relating to *waqf* are given in the book of *Waṣāya* (Wills), though the two differ in many respects. *Waqf*, like gift, takes effect immediately while the will takes effect after the death of the testator, and it differs from both, gift and will, inasmuch as the property which is dedicated remains untouched, not being the property of a particular person, and it is only the income drawn from it that is spent on the particular objects specified in the *waqf* deed. Many cases of *waqf* are reported in Ḥadīth. Abū Ṭalḥa created a *waqf*, the income from which was to be spent on his poor relatives (*aqārib*), and this was done under the Holy Prophet's direction (Bu. 55 : 10). From this it is evident that a man can create a *waqf* for the benefit of his own relatives. It is made clear in another ḥadīth that a man's son or his wife falls within the definition of his relatives (Bu. 55 : 11). The man who creates a *waqf* is allowed to draw benefit from it, for he himself may be its *mutawalli* (manager) as well as anybody else, even though this be not stated in the *waqf* deed (Bu. 55 : 12). Another ḥadīth states that 'Umar created

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a waqf in accordance with the directions of the Holy Prophet in favour of the poor and his rich (*ghani*) relatives and guests (Bu. 55 : 29). There are other instances on record in which a waqf was created for the benefit of the poor as well as the near relatives (*aqrabin*) (Bu. 55 : 29). The person who creates the waqf may also include himself among the beneficiaries of the trust (Bu. 55 : 33).

In accordance with the spirit of these ḥadīth, an Act was passed in 1913, called "The Musalmān Waqf Validating Act." The Musalmān Waqf Validating Act, 1913" which enacts as follows :

" 3. It shall be lawful for any person professing the Musalmān faith to create a waqf which in all other respects is in accordance with the provisions of the Musalmān Law, for the following among other purposes :—

" (a) for the maintenance and support wholly or partially of his family, children or descendants : and

" (b) where the person creating a waqf is a Ḥanafī Musalmān, also for his own maintenance and support during his life-time or for the payment of his debts out of the rents and profits of the property dedicated :

" Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognized by the Musalmān law as a religious, pious or charitable purpose of a permanent character.

" 4. No such waqf shall be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious or charitable purpose of a permanent nature is postponed until after the extinction of the family, children or descendants of the person creating the waqf."

CHAPTER VIII

INHERITANCE

The reform introduced by Islām into the rules relating

Reform introduced by
Islām.

to inheritance is twofold : it makes
the female a co-sharer with the male,

and divides the property of the deceased person among his heirs on a democratic basis, instead of handing it all over to the eldest son, as is done by the law of primogeniture. The Arabs had a very strong tradition that he alone could inherit who smites with the spear, and therefore they did not give any portion of inheritance to such of the heirs as were not capable of meeting the enemy and fighting in battles (IJ-C. IV, p. 171). Owing to this tradition, which strongly appealed to people among whom tribal fighting was carried on day and night, not only were all females—daughters, widows and mothers—excluded, but even male minors had no right to inheritance. Woman, in fact, was looked upon as part of the property of the deceased (4 : 19), and therefore her right to property by inheritance was out of the question. Even in the Jewish law she had no better position : " There could have been no question in those days of a widow inheriting from her husband, since she was regarded as part of the property which went over to the heirs Nor could there have been a question about daughters inheriting from their father, since daughters were given in marriage either by their father, or by their brothers or other relatives after the father's death, thus becoming the property of the family into which they married " (En. J., p. 583).

Islām came as the defender of the weaker sex and the orphans, and just when a defensive war against the whole of Arabia was being carried on by a handful

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of Muslims, the prevailing law of inheritance, which gave the whole of the property to those members of the family who bore arms, was declared to be unjust, and a new law was given which put widows and orphans on a level of equality with those who fought for the defence of the tribe and the country. When the change was first introduced, some of the Companions thought it very hard and complained to the Holy Prophet, saying that they were required to make over half the property to a daughter who did not ride on horse-back or fight with the enemy (IJ-C. IV, p. 171). The general principle of inheritance is first laid down in the following words : " Men shall have a portion of what the parents and the near relatives leave, and women shall have a portion of what the parents and near relatives leave, whether there is little or much of it " (4 : 7).

Inheritance law as
contained in the
Qur'ān.

The law of inheritance is then
stated in the following words :

" Allāh enjoins you concerning your children : the male shall have the equal of the portion of two females ; but if there are more than two females, they shall have two-thirds of what he has left, and if there is one, she shall have the half ; and as for his parents, each of them shall have the sixth of what he has left, if he has a child ; but if he has no child and only his two parents inherit him, then his mother shall have the third ; but if he has brothers, then his mother shall have the sixth, after the payment of any bequest he may have bequeathed, or a debt And you shall have half of what your wives leave if they have no child, but if they have a child, then you shall have a fourth of what they leave after payment of any bequest they may have bequeathed or a debt ; and they shall have the fourth of what you leave if you have no child, but if you have a

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child, then they shall have the eighth of what you leave after payment of any bequest you may have bequeathed or a debt ; and if a man or a woman, having no children, leaves inheritance and he (or she) has a brother or a sister, then each of these two shall have the sixth, but if they are more than that, they shall be sharers in the third after payment of any bequest that may have been bequeathed or a debt that does not harm others " (4 : 11 : 12).

" Allah gives you decision concerning the person who has neither parents nor offspring ; if a man dies and he has no son and he has a sister, she shall have half of what he leaves, and he shall be her heir if she has no son ; but if there be two sisters, they shall have two-thirds of what he leaves ; and if there are brethren, men and women, then the male shall have the like of the portion of two females " (4 : 177).

The persons spoken of in these verses, as inheriting the property of the deceased, may be divided into two groups, the first group consisting of children, parents and husband or wife, and the second consisting of brothers and sisters. All the persons mentioned in the first group are immediate sharers, and if all three of them are living, they have all of them a right in the property, while the members of the second group only inherit if all or some of the members of the first group are wanting. Both groups are capable of further extension ; as for instance grandchildren, or still lower descendants, taking the place of children ; grandparents, or still higher ascendants, taking the place of parents ; and uncles, aunts and other distant relatives taking the place of brothers and sisters.

Among the members of the first group, children are mentioned first, then parents, and then husband or wife, and that is the natural order. In the case of children, only a broad principle is laid down—the male shall have

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double the share of the female. Thus, all sons and all daughters would be equal sharers, the son however having double the share of the daughter. Another example of apparent inequality of treatment of the two sexes, is that in which a man leaves only female issue. If there is only one daughter, she takes half the property; if there are two¹ or more daughters, they take two-thirds of the whole, the residue going to the nearest male members, according to a ḥadīth quoted further on. The reason for this is not far to seek. Man is generally recognized as the bread-winner of the family, and that is the position assigned to him in the Holy Qur'an. Keeping in view his greater responsibilities, it is easy to see that he is entitled to a greater share, and therefore the Holy Qur'an has assigned to him double the share of the female. In fact, if the responsibilities of the two sexes are kept in view, there is real justice and real equality beneath this apparent inequality.

If there are no other members of the first group besides the children, the whole property will be divided among the latter, but if there are other members, then evidently the children take the residue, because the shares of the other members are fixed, one-sixth in the case of each parent and one-fourth or one-eighth in the case of husband or wife.

Children's children and lower descendants are, as is usual in the language of the Holy Qur'an, included among the children, but the basis of division will still be the immediate descendants. Thus if there are grandsons,

1. The words in the Holy Qur'an are *ḥawḍ iḥḥnatain* which literally mean *above two*, but as the other case mentioned is that of only one daughter, two are included in *ḥawḍ iḥḥnatain*. It may be noted that in v. 4: 177 only two sisters are spoken of and *more than two* are included therein. Thus the two verses read together explain each other—*above two* in the one case including *two*, and *two* in the other including *more than two*.

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they will take the shares of their respective fathers. The case in which there are sons and grandsons should be treated on a similar basis, but here the jurists make a distinction, treating the grandsons as the remoter relatives and therefore not entitled to any inheritance, so long as there is a son. Again a son's daughters, where there is no son, are treated by the jurists, not as taking the place of that son who, if alone, would have taken all the property, but as the daughters of the deceased, taking one-half in case of a single daughter and two-thirds in case there are two or more. But curiously enough, a son's daughter when co-existing with one daughter of the deceased is considered as a sharer in inheritance, the two being treated together as two daughters of the deceased.

The words of the Holy Qur'an may however be interpreted in a manner which will avoid all such inconsistencies. The issue of son or daughter would take the place of their father or mother, and would take what their father or mother would have taken if alive. Suppose a person has one daughter only, who is dead at the time of the death of her father, but who has got children; these would take the share of their mother, *i. e.*, one-half of the property. Again, suppose there are several children, some of whom are dead and have left issue behind them, while others are alive. It is only an equitable principle that the issue of the dead offspring should take the place of their parents, and that is also the natural interpretation of the words of the Holy Qur'an. Moreover if this interpretation is adopted, the law of inheritance becomes very simple and free from all the complications and inconsistencies which juristic reasoning has in some cases introduced into it. All that is traceable to the Holy Prophet in this case is only a broad principle :

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“ Give the fixed portions (*ḡara'id*) to those who are entitled to them, and what remains should go to the nearest male ” (Bu. 85 : 6). This ḡadīth does not show at all that the grandson is not entitled to inheritance, if there is a son living ; though it is on this that the juristic principle of excluding grandsons is based. The application of the ḡadīth may be illustrated by an example. A man dies leaving two parents and one daughter. The parents will get one-third ; one half of the residue will go to the daughter and the remaining half will revert to the father who is the nearest male relative. The selection of the nearest male relative is based on a principle of equity, because it is he who is required to maintain the family.

The case of parents is taken after that of children, each of the parents taking a sixth, if the deceased has children. It is clear from this statement that after the parents have taken one-sixth each, the residue will go to the children and this residue will be divided among them, as laid down above, equally, the son taking double the share of the daughter. If however the deceased leaves only daughters, one-half of the residue shall go to a single daughter, and two-thirds to two or more than two daughters, and what remains shall go to the nearest male relative, according to the ḡadīth quoted above. If the father or the mother is not alive, the grandfather or grandmother shall take his or her place.

The second case in which parents inherit from a deceased person, is that in which the deceased leaves no issue. In this case it is said that if the parents are the only heirs, that is there is neither a husband or a wife, nor brothers and sisters, the mother takes one-third, the remaining two-thirds evidently going to the father. But if the deceased has no issue but has brothers (or sisters), the mother shall receive only one-sixth. It is not here

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stated what the father shall get or what the brothers' and sisters' share shall be. The prevalent view is that the presence of brothers reduces only the mother's share; the remaining five-sixths going to the father. Though, even in this case, the brothers and sisters, if dependent on the father, will benefit by the father's increased share, yet it seems more reasonable that when the share of the mother is decreased on account of the presence of brothers and sisters, the latter should be entitled to a share in the property in their individual capacity.

The latter part of v. 4 : 12 lends support to this view, where, after specifying portions of the husband and the wife, it is added: " And if a man or a woman having no children (*kalala*) leaves inheritance, and he (or she) has a brother or a sister, then each of them shall have the sixth, but if they are more than that, they shall be sharers in the third." The *kalala* is spoken of here as well as in v. 4 : 177, where the brothers and sisters take the whole property. The explanation generally adopted is that the brothers and sisters spoken of in v. 4 : 12 are uterine, while those spoken of in v. 4 : 177 are full or consanguine. But there are strong reasons for the view that the *kalala* spoken of in the two places carries a different significance; for while *kalala* is generally explained by lexicologists as meaning *one who has neither children nor parents*, according to the Caliph 'Umar and Ibn 'Abbās it also means *one who has no children* simply (IJ-C. IV, p. 177 ; VI, p. 25). Now in v. 4 : 11, the Holy Qur'an speaks of an issueless person who has parents as well as brothers or sisters, but it does not there speak of the shares of these brothers or sisters. The conclusion is evident that the shares of these brothers and sisters have been mentioned elsewhere. In fact what has been left unexplained in v. 11 has been fully explained in v. 12, and the case of

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kalāla there, is the case of the inheritance of a person who has no children but who has parents as well as brothers or sisters. According to v. 11, the mother gets one-third if a person has no issue, nor brothers or sisters, and she gets one-sixth if the issueless person has brothers or sisters. This reduction of her share is evidently due to the presence of brothers or sisters, and it is these brothers or sisters that are spoken of in v. 12, so that the *kalāla* of that verse is the issueless person who has parents. Thus when a person dies without issue but leaves parents, brothers and sisters, according to v. 4 : 12, get a share which is one-sixth of the deceased's property if there is only one brother or one sister, and one-third of it if there are two or more brothers and sisters. And according to v. 4 : 177, a single sister (of a male deceased) or brother (of a female deceased) is entitled to one-half, two or more sisters to two-thirds, brothers and sisters to the whole property, the male having double the share of the female. This evidently is the case in which the deceased leaves neither issue nor parents.

The case of husband or wife is also dealt with in v. 12. The husband gets one-half if the deceased wife has no issue, and one-fourth if she leaves issue. The wife gets one-fourth if the deceased husband has no issue, and one-eighth if he leaves issue. The share of the husband or the wife, being fixed like that of the portions of the parents, must be taken out first, and the rest of the property will go to the children, or in case there are no children, to brothers and sisters.

Briefly, the inheritance law as laid down in the Holy Qur'an is this. After the payment of debts and execution of the will, if any, the shares of the parents and husband or wife shall be first taken out; after which the rest of the property shall go to the children, the son having double the portion of the daughter; if there are no

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children and there are brothers and sisters, one-sixth if there is only one brother or sister, and one-third if there are more than one, shall go to them; if the deceased leaves neither children nor parents, the whole of the property, after the husband's or the wife's share has been taken out, shall go to brothers and sisters; if there is a single female, daughter or sister, she shall take one-half of the property, a single brother following the same rule, and if there are two or more daughters or sisters they shall take two-thirds, the residue going to the nearest male relative according to Hādīth; if a person entitled to inheritance is dead but leaves behind offspring, that offspring shall take his place; if the father or the mother is dead, the grandfather or the grandmother shall take his or her place; all brothers and sisters, whether uterine or consanguine or full, shall be treated equally; if there are no brothers or sisters, the nearest relatives after them, such as father's brothers or father's sisters, shall take their place.

The inheritance law as explained above, on the basis of the Holy Qur'an, is very simple, and not the least complication arises in its application. It is when the spirit underlying that law is neglected that complications arise. For instance, it is clear that when there are parents and a husband or wife along with the children, the parents and the husband or the wife would get their shares first and the rest of the property would go to the children. In case there are two or more daughters only among the children, two-thirds of the residue ought to go to them, the remaining one-third going to the nearest male relative. But the jurists in this case adopt a peculiar course. They allot two-thirds of the whole to the daughters, one-third to the parents and one-fourth or one-eighth to the husband or the wife,

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as the case may be. This evidently leads to a complication, as the daughters get two-thirds, parents one-third, husband or wife one-fourth or one-eighth, the total amount of shares being $5/4$ or $9/8$. This difficulty has been solved by dividing the property into fifteen parts in the first case, and giving $8/15$ to the daughters, $4/15$ to the parents and $3/15$ to the husband, and into 27 parts in the second case, giving $16/27$ to the daughters, and $8/27$ to the parents and $3/27$ to the wife. These are not the shares specified in the Holy Qur'an, and this is due to neglect of the spirit of the ordinance which, while allowing the whole of the residue, after taking away the shares of the parents and the husband or wife, to the children if they are all sons or sons and daughters mixed, allows them only two-thirds of the residue if they are only daughters, the rest going to the nearest male relative according to Ḥadīth. The jurists' convention goes under the name of '*aul*'. The introduction of the '*aul*' is however due only to an infringement of the real essence of the ordinance relating to the two-thirds share of the daughters.

Similarly, the jurists treat a son's son, when the son is dead, as belonging to the second group of inheritors, whereas he really belongs to the same category as the son, because he takes the dead son's share. Suppose a man has three sons, one of whom is dead at the time of the death of his father, but leaving children. To deprive these children is to go against all rules of equity, but the jurists are of opinion that the grandsons are excluded by the living sons and are not entitled to their father's share. In fact, if the rule were generally adopted that when a person entitled to a share in an inheritance is dead, his children shall take his place, many of the complications, which are the result of juristic reasoning, would disappear. The third point on which, in my

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opinion, the jurists have gone against the spirit of the Qur'an, is the distinction between uterine and sanguine and full brothers which is the result of a misconception about the word *kalala* and which has been fully explained above.

In the Ḥanafī law of inheritance, the heirs are divided into two groups.¹ The first group goes under the name *aṣḥāb al-fara'idz* or *dhawī-l-furuḏz*, i.e., those whose shares are specified, *fara'idz* or *furudz* being the plural of *faridza* (lit. *anything made obligatory*) meaning a *portion* or *share made obligatory*. For this reason, the law of inheritance is generally spoken of as '*ilm al-fara'idz*'. These sharers are twelve in number; four males, the father, the grandfather, the uterine brothers and the husband; and eight females, wife, daughter, son's daughter, mother, grandmother, full sister, consanguine sister, uterine sister. The father's share is one-sixth when the deceased leaves a son or a son's son, but he sometimes takes as a simple residuary and sometimes both as a sharer and as a residuary, the former being the case when he co-exists with a simple sharer such as a husband, a mother or a grandmother, and the latter being the case when he co-exists with a daughter or son's daughter. The father's father takes the same share as the father when the father is not living. The uterine brother, if one, takes one-sixth; if there are more than one, they are sharers in one-third. The husband takes one-half when the deceased leaves no children, otherwise one-fourth.

Among the female sharers, the widow takes one-fourth if the deceased leaves no children, otherwise

1. For this summarization of the Ḥanafī law of inheritance, I am indebted to Sayyid Amr 'Alī's *Muḥammadaṣ Law*.

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one-eighth. The daughter, when only one, takes one-half ; if there are two or more daughters, they are equal sharers in two-thirds. The son's daughter takes one-half, if she is only one and there is no lineal male descendant ; if there are two or more in a similar position, they take two-thirds ; co-existing with one daughter only, she takes one-sixth. The mother takes one-sixth, if there are children or two or more brothers or sisters ; otherwise one-third. The grandmother takes the mother's share when there is no mother. The full sister and the consanguine sister takes one-half, if she is only one ; two or more than two take two-thirds. The uterine sister's share is the same as the uterine brother's.

The second group of inheritors goes under the name of *ahl al-mirāth* or the heirs who take a residuary interest. The most important of these are the '*aṣaba*, or relations on the male side, as the lineal male descendants, the lineal male ascendants, the direct collaterals such as full or consanguine brothers or their sons, or indirect collaterals such as full or consanguine uncles and their sons, or full or consanguine uncles of the father and their sons, and so on ; and the *dhawi-l-arḥam* or relations connected through females, such as (a) the sons and daughters of daughters, (b) the father of the paternal grandmother or mother of the paternal grandfather, (c) the children of sisters, daughters of full and consanguine brothers, sons of uterine brothers, and (d) paternal aunts and their children, maternal uncles and their children, maternal aunts and their children and uterine paternal uncles and aunts and their children.

Besides these are recognized, (a) residuaries for special cause to which class belongs the emancipator of a slave, (b) the patron of the deceased, (c) heirs by acknowledgment, (d) the universal legatee (one to whom

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the deceased has bequeathed the whole of his property) and lastly the *bait al-mal* or public treasury. The subject is too technical and complicated to be dealt with in a book intended for the layman ; and the bare outline of the law of inheritance according to the jurists, as given above, is sufficient for the purposes of this book. If however the law is applied in its simplicity, as given in the Holy Qur'an, even the layman will find no difficulty in its application as I have shown above.

Debts. It will be seen that debts are the first charge on the property of the deceased, as the words "or a debt" in verses 11 and 12 show. The expenses relating to burial are also regarded as a debt which must be paid out of the property of the deceased. The wife's dower, if unpaid, is also a debt and must be paid out of the property before it is divided. In the case of a person who leaves no issue, the words are "or a debt that does not harm others," the implication evidently being that a person who has no children may contract a debt simply to deprive his heirs. The jurists divide debts into three kinds; (a) those contracted in health ; (b) those contracted during illness which ends fatally ; and (c) those contracted partly in health and partly in illness (A.A.). All wages due to servants are also included in debts.

Bequest. The legality of a bequest is clearly admitted in both the verses dealing with the law of inheritance. The property left is to be divided "after payment of a bequest that may have been made or a debt" (4 : 11, 12). There is a further injunction, of an earlier date, relating to bequests : "Bequest is prescribed for you when death approaches one of you, if he leaves behind wealth for

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parents and near relatives,¹ according to usage, a duty incumbent upon the righteous " (2 : 180). There is also mention of a bequest in a verse which was decidedly revealed later than vv. 4 : 11, 12 : " O you who believe ! call to witness between you when death draws nigh to one of you, at the time of making the will, two just persons from among you " (5 : 106). All these verses afford clear proof that a person can make a will with regard to his property.

There are, however, reliable ḥadīth which place a certain limitation upon the right to make a bequest, and, in fact, if no limitation were placed, the injunctions contained in vv. 4 : 11, 12, would be nullified, for there would be no property to be divided among the legal heirs. Sa'd ibn Abī Waqqāṣ is said to have made the following report : " I fell ill in the year in which Makka was conquered, being almost on the brink of death when the Holy Prophet paid me a visit. I said to him, O Messenger of Allāh ! I possess much wealth and my only heir is a single daughter ; may I therefore make a will with regard to the whole of my property ! The Prophet said, No. I then enquired about two-thirds of it, and he again said, No. I then said, if I may give away half, and he still said, No. I then asked him, if I may give away one-third of my property by will, and he approved of one-third, adding, A bequest of one-third is much, for if thou leavest thine heirs rich, it is better than that thou shouldst leave them poor, begging of

1. Generally the words "for parents and near relatives" are supposed to be connected with the injunction to make a bequest, the import of the passage thus being that a man who leaves wealth should bequeath it to parents and kindred, and owing to this interpretation the verse is looked upon as being abrogated by vv. 4 : 11, 12. But as already shown, both these verses expressly speak of the bequest and require the property to be divided only after payment of bequest or debt. The interpretation I have adopted makes it consistent with other verses of the Holy Qur'an.

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other people, and thou dost not spend anything with which thou seekest the pleasure of Allah but thou art rewarded for it, even for the morsel that thou puttest into thy wife's mouth" (Bu. 85 : 6 ; M. 25 : 1 ; Tr. 28 : 1). The same ḥadīth is reported somewhat differently through another channel and, according to this report, Sa'd ibn Abī Waqqāṣ said : " The Holy Prophet paid me a visit when I was ill, and he asked me if I had made a will. I said, Yes. He then asked, How much. I said, I have bequeathed the whole of my property to be spent in the way of Allah. He said, And what hast thou left for thy children. I said, They are in sufficiently good circumstances. He said, Better make a will about one-tenth of thy property. I then continued to ask him for less and less (for the heirs), until he said, Make a will of one-third of property and one-third is much" (MM. 12 : 20-ii). These reports make it clear that the will spoken of on various occasions in the Holy Qur'an is a charitable bequest, and not a will for the heirs, and that this bequest was to be limited to one-third of the property, so that the heirs might not be deprived of their share of inheritance, the well-being of the heirs being as good a consideration with the lawgiver as charity. It may also be added that, according to another ḥadīth, a bequest is not allowed in favour of an heir : " There is no bequest for an heir" (AD. 17 : 6 ; Tr. 28 : 4 ; IM. 22 : 6). To this are added in some reports the words " unless the heirs wish it" (MM. 12 : 20-ii). Thus while generally a will can be made only for charitable objects, and not for the heirs, it is permissible to make a will in favour of heirs, if they wish it ; so that if they have no objection, any arrangement may be made for the disposal of the property by will. Hence if the heirs agree, a man may either divide the whole property by will, or he may leave the property undivided, fixing the shares of the heirs in the income.

CHAPTER IX

DEBTS

Writing of debts.

The writing down of debts is an ordinance of the Holy Qur'an :

“ O you who believe ! when you deal with each other in contracting a debt for a fixed time, write it down, and let a scribe write it down between you with fairness ; and the scribe should not refuse to write ; as Allāh has taught him, so he should write ; and let him who owes the debt dictate, and he should be careful of his duty to Allāh, his Lord, and not diminish anything from it ; but if he who owes the debt is unsound in understanding or weak, or if he is not able to dictate, let his guardian dictate with fairness, and call in to witness from among your men two witnesses.....and be not averse to writing it, whether it is small or large, with the time of its falling due ; this is more equitable in the sight of Allāh and assures greater accuracy in testimony, and the nearest way that you may not entertain doubts afterwards ” (2 : 282).

Debtors should be dealt with most leniently : “ And if the debtor is in straitness, then let there be postponement until he is in ease ; and if you remit it as alms, it is better for you, if you knew ” (2 : 280).

These two regulations, the writing down of debts according to the dictation of the debtors recommended. debtor in the presence of witnesses, and lenient dealing with those in straitened circumstances, are the basis of Islamic regulations on debts, and are supplemented by a large variety of detailed directions and recommendations contained in Ḥadīth. The concern of the Holy Prophet for the debtors is reflected in his sayings on this point, of which I quote a few only :

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“ May Allāh have mercy on the man who is generous when he sells and when he buys and when he demands payment of debt ” (Bu. 34 : 16).

“ The angels received the soul of a person from among those who were before you and asked him if he had done any good. He said, I used to deal leniently with the well-to-do debtor and to remit the debt to one who was in straitened circumstances, so he was forgiven ” (Bu. 34 : 17).

“ Allāh will give shelter to the servant who gives respite to one in straitness or remits to a debtor ” (Ah. I, p. 73).

“ Whoever gives respite to one in straitness or makes a remission in his favour, Allāh will save him from the vehement raging of the heat of Hell ” (Ah. I, p. 327).

“ There is no believer but I am nearest to him in this world and the Hereafter,.....so any believer who leaves behind him property, his relatives shall inherit whoever they may be, but if he leaves a debt, or a family for whom there is none to care, I am his *maula* (guardian)-” (Bu. 65, sūra 33, ch. 1).

“ I am nearer to the believers than themselves, so whoever of the believers dies and leaves a debt, its payment is on me, and whoever leaves property, it is for his heirs ” (Bu. 69 : 15).

These ḥadīth show that the debts of a debtor who is in straitened circumstances and unable to pay must either be remitted or paid by the state.

While the lender is advised in numerous ḥadīth to be lenient and not to exert undue pressure, and to remit, if the debtor is in straitened circumstances, part, or even the whole, of a debt, the debtor is also told to repay the debt in a goodly

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and liberal manner (Bu. 40 : 5, 6). In the ḥadīth narrated in these chapters, the Holy Prophet is reported to have said : " Among the best of you are those who are good in payment of debt." The rich, especially, are told not to postpone payment of debt. Postponement in their case is called injustice (*ẓulm*) (Bu. 38 : 1, 2). The man who contracts a debt intending not to pay it back is condemned (Ah. II, p. 417). The ḥadīth has already been quoted which shows that the payment of debt has preference over spending in charity. In the case of an inheritance, the heirs do not take their shares until all debts have been paid (Ah. IV, p. 136) ; and when there is a will, the debts must be paid before its execution (Ah. I, p. 79).

Though the necessity of contracting debts at times is recognized, and the Holy Prophet himself is reported to have done so on occasions, yet he, at the same time, gave warnings against being in a state of indebtedness. It is related in a ḥadīth that " he used to pray very frequently, O Allāh ! I seek Thy refuge from faults and debts. A man said to him, O Messenger of Allāh ! it is very frequently that thou prayest against being in debt ; and he replied, A man when he is in debt speaks and tells lies and makes promises and fails to fulfil them " (Bu. 43 : 10). According to another ḥadīth, " Anas said that he heard the Holy Prophet often praying, O Allāh I seek Thy refuge from anxiety and grief, and from lack of strength and indolence, and from niggardliness and cowardice, and from being overcome by debt and the oppression of men " (Bu. 56 : 74). It is also related that when a bier was brought to him, he would enquire if the dead man was in debt, and if so, he would tell his Companions to say funeral prayers over him ; and if he was told that he had

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left something to pay his debts, he would personally lead his funeral prayers (Bu. 69 : 15).

It will be seen from what has been stated above that helping those in distress forms the basic outlook of Islām on human society. The prohibition of usury rests on the same basis. Even the earlier revelation at Makka denounced usury, yet without prohibiting it : " And whatever you lay out at usury, so that it may increase in the property of men, it shall not increase with Allāh ; and whatever you give in charity desiring Allāh's pleasure, it is these that shall get manifold " (30 : 39). Prohibition came later, and is contained in the following verses which are among the latest revelations :

Usury prohibited.

" Those who swallow down usury (*riba*) cannot arise except as one whom the devil has prostrated by his touch does arise ; that is because they say, Trading is only like usury ; and Allāh has allowed trading and forbidden usury " (2 : 275).

" Allāh does not bless usury and He causes charitable deeds to prosper, and Allāh does not love any ungrateful sinner " (2 : 276).

" O you who believe ! be careful of your duty to Allāh and relinquish what remains due from usury, if you are believers. But if you do it not, then be apprised of war from Allāh and His Apostle ; and if you repent, then you shall have your capital ; neither shall you make the debtor suffer loss, nor shall you be made to suffer loss " (2 : 278, 279).

To these may be added an earlier revelation :

" O you who believe ! do not devour usury, doubling and redoubling, and be careful of your duty to Allāh that you may be successful " (3 : 129).

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The prohibition of usury is clearly associated in these Quranic verses with charity, for inasmuch as charity is the broad basis of human sympathy, usury annihilates all sympathetic affection. The usurer is compared with him whom the devil has prostrated by his touch, so that he is unable to arise. Such is, in fact, the usurer who would not hesitate to reduce the debtor to the last straits if thereby he might add a penny to his millions. He grows in selfishness until he is divested of all sympathetic feelings. Usury moreover promotes habits of idleness, since the usurer, instead of doing any hard work or manual labour, becomes like a parasite living on others. In the great struggle that is going on between capital and labour, Islām sides with labour, and by its prohibition of usury tries to restore the balance between the two, not allowing capital to enthrall labour. It is in reference to the honourable place that Islām gives to labour that the Holy Qur'an says that "Allah has allowed trading and forbidden usury," for while trading requires the use of labour and skill, usury does not. To help the distressed one who is in straits is the object of Islām and to reduce him to further straits is the end of usury, and hence it is that usury is called "war" with Allah and His Apostle.

Hadīth is equally emphatic against usury. It condemns not only the usurer but also the man who pays the usury (Bu. 34 : 25), because he helps the cause of usury; and, according to one hadīth, the witnesses and the scribe in a usurious transaction are equally blamable (Bu. 34 : 24). Certain details are also added, describing the exchange of gold with gold, and wheat with wheat, and dates with dates, as *ribā* (usury), unless it is a hand to hand transaction (Bu. 34 : 54). Another hadīth makes it more

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and also in the execution of important national schemes. It is true that this prohibition, if taken in a broad sense, does not fit in the frame of the modern world conditions, but the high ideal which Islām places before itself is not unworkable, and the great Muslim nation of early days, spread over vast territories, the vanguard of the great nations of the world in the march of civilization, carried the Quranic injunction regarding *riba* faithfully into practice. The material civilization of Europe has, however, given rise to conditions in which usury and interest seem to be unavoidable, and so the Muslims were told thirteen centuries before :

“The Holy Prophet said, A time will come over people when not a single person will remain who does not swallow down *riba*, and if there is any one who refrains from it, still its vapour (or dust) will overtake him” (AD. 22 : 3).

Such is the time in which we are living, and until a new civilization is evolved which is based on morality and the sympathy of man for man, some solution has to be sought for the great economic questions which confront the Muslim nation. In the forefront of all these questions is the modern banking system. Is this system in conformity with the Quranic law which prohibits *riba*? Usury is undoubtedly universally condemned to-day, though it is still rampant in India and has entirely demoralized both the lenders and the borrowers, but the banking system with its legalization of interest is looked upon as a necessary condition of economic life, and in the prevailing conditions this seems to be unavoidable. Not only Muslims living under non-Muslim governments cannot avoid it but even Muslim states seem to be driven to the necessity of employing it. Take only the question of trade, which is, to-day, no longer a national but an

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international concern, and it will be found that it is entirely dependent on the banking system. Now the banking system, if it had to be evolved anew, could have been based on a co-operative system in which capital and labour should be sharers in profit as well as in loss ; but as it is, the modern banking system favours capitalism and the amassing of wealth instead of its distribution. But whatever its defects, it is there, and the dust of *ribā* overtakes the man who does not swallow it, as the hadīth says.

The question of deposits in banks, on which interest is payable, seems to be more or less like the question of trade, a necessity of modern world conditions, which cannot be avoided. The bank receives the deposits not as a borrower but as a trustee, where money is safe and may be withdrawn in need. But at the same time it does not allow the money to lie idle, and draws some profit from it, the major portion of which again comes in the shape of interest. Out of this profit, the bank pays a certain amount to the depositors, the rate of which depends generally on the economic conditions prevailing in the country concerned, or in the world at large. It does not make over the entire profit either to the shareholders or to the depositors, but carries a certain amount to a reserve fund which it can fall back upon in less profitable years, or in cases of loss. So far, therefore, as it is a part of the profits earned by the bank, there is nothing objectionable in it, but that profit itself being largely income from interest, the question of *ribā* comes in indirectly.

To be on the safe side, a depositor may spend the excess amount which he receives as interest on his

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deposit for a charitable object.¹ In fact, if the depositor deposits his money with the intent that he would not receive the interest for his personal use, and, on receiving the amount from the bank, he actually makes it over to some charitable institution, he has relinquished the *ribā*, as commanded by the Holy Qur'an. The only difference is that he relinquishes it, not in favour of the bank, which takes the place of the borrower in the case of a debt, but in favour of some charity. But still the depositor, who takes the place of the creditor, does relinquish the interest. A little thought will show that, in this case, the person in whose favour the interest should be relinquished is not the bank, or a Government treasury, which does not stand in need of such help, but only charitable institutions which are working for the welfare of the Muslim community as a whole. It is a pity that lacs of rupees of interest, which Muslim depositors are relinquishing in favour of banks or Government treasuries, are not only a loss to the Muslim community, but are actually being used to help non-Muslim propaganda against Islām, because they are made over to Christian societies, the banks or the treasuries having no right under the law to claim the money thus relinquished. It is short-sightedness on the part of the Muslim depositor to relinquish what he considers to be *ribā*, not for the benefit of his own community but to its detriment, and for the benefit of a community which is carrying on

1. It was the founder of the Ahmadiyya movement who first suggested this course. On account of his great anxiety for the propagation of Islām, he directed that the interest on bank deposits should be spent for the propagation of Islām. He particularly laid stress on the point that insistence on receiving the *ribā* was called a "war" with "Allāh and His Messenger" (2 : 279), and that therefore the money so received should be spent on the struggle which was being carried on for the defence and propagation of Islām. The opinion that the amount of interest on bank deposits should be spent on charitable objects has now been adopted by the *Jam'at al-'Ulamā*, a representative body of Muslim theologians.

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a war against Islām.

The co-operative banks are more in consonance with the spirit of the teachings of Islām, as the idea underlying them is the amelioration of the lot of the poor who are thus saved from the clutches of the usurious banias. There is moreover this difference between an ordinary bank and a co-operative bank, that the former is generally for the benefit of the rich and the capitalists, and the latter for that of the poor and the labourers. In the co-operative bank, moreover, the shareholders are also the depositors as well as the borrowers of money, and the interest paid to the bank is, more or less, in the nature of a contribution by which the borrower of money is also ultimately benefited.

Interest on the capital with which a business is run differs a little from ordinary debt. It is in fact a case in which capital and labour are sharers. Islām does not prohibit a partnership in which one person supplies the capital and the other labour. But it requires that both capital and labour shall be sharers in profit as well as in loss. The payment of interest at a fixed rate means that capital shall always have a profit, even though the business may be running at a loss. It is true that when the business is profitable, the rate of interest may be much less than the profit earned, but in all such uncertainties the viewpoint of Islām is that neither side should have undue advantage or be made to suffer undue loss. If the business is run at a profit, let capital have its due share of the profit, but if it is being run at a loss, let capital also share in the loss. It is sometimes urged that the keeping of an account of profit and loss

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is impracticable, but this is really not the case, as every business man must keep an account of profit and loss, if only for the purposes of taxation. Similar accounts are also kept by all joint-stock companies, and there is not the least difficulty in keeping them. This method is more advantageous for the general welfare of the community than the method of charging interest on capital, which promotes capitalism and is unjust to labour.

Borrowings by a state or a company for the purpose of executing big projects, such as the building of railways, canals, etc., stand on a different basis. In such cases the shareholders who supply the capital are generally paid a dividend, which is calculated on the basis of profits. But sometimes the shareholders are paid a fixed rate of interest. The question is whether these cases would come under the Quranic prohibition of *riba*! The rate of interest is no doubt fixed, but still this interest is paid out of the profits and is generally a part of the profits. Occasionally the profits of the concern may be less than the amount of interest paid, or there may be even a loss, but in such cases there is a reserve fund to fall back upon. It cannot however be denied that the payment of a varying dividend is more in accordance with the spirit of the teachings of Islām than the payment of a fixed rate of interest.

CHAPTER X GENERAL REGULATIONS

Sec. 1.—Foods.

In addition to rules and regulations for the perfection of self and for the better relations of man with man, there are certain restrictive regulations of a general nature, the object of which is to teach man ways of clean living. These regulations relate to foods, drinks, dress and a number of other things, and have both a physical and a moral value. It is a recognized fact that the food which a man uses, nay even his dress, effects not only his constitution but also the building up of his character, and hence in a complete code of life, it was necessary that men should be taught ways of clean eating, clean drinking, clean dressing, clean appearance and clean habits of all kinds. These regulations are sometimes obligatory but very often of a recommendatory nature.

The first general rule regarding foods, and which applies to drinks as well, is laid down in the following words in the Holy Qur'an: "O people! eat the lawful and good things out of what is in the earth" (2:168). The Arabic word for lawful is *halal*, and that for good things *tayyib*. *Halla* means *he untied* or *undid a thing*, and hence *hill* or *halal* means *being free* or *allowable*. The first condition therefore is that the food and drink made use of, is allowed by law, or more definitely, is not prohibited by law. The other condition is that it should be *tayyib*. This word is derived from *taba* which means *it was good, pleasant, delightful, delicious or sweet, or it was considered to be so, or it was or became pure* or

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clean, and hence *tayyib* carries both significances, *pleasant*, *delightful*, *delicious* or *sweet*, and *pure* or *clean* (L.L.). An impure or unclean thing or a thing which offends good taste should therefore not be used as an eatable. The same rule applies to drinkables.

The above rule, to avoid unlawful and unclean things, is supplemented by two other equally important directions of a general nature. The first is an interdiction against excess: "And eat and drink and be not immoderate, for He does not love the immoderate" (7 : 31). Immoderation may either be in the taking of diet, when one overloads his stomach with food, or it may be in the taking of particular kinds of food. For instance, meat and vegetables both serve as food for man, but it would be a mistake either to insist on meat to the exclusion of vegetables, or on vegetables to the exclusion of meat. Any food, however good, is injurious to health if taken in excess. Moderation in eating is a guarantee of health. And just as overfeeding spoils the system, underfeeding undermines the health. Hence the direction is given: "O you who believe! do not forbid yourselves the good things which Allah has made lawful for you and do not exceed the limits" (5 : 87). In these words, all self-denying practices by which a man either deprives himself of the necessary quantity of food or of certain kinds of food, are denounced. Good things which are helpful in building up the system should not be denied.

Four things are expressly prohibited in the Holy Qur'an: "O you who believe! eat of the good things that We have provided you with, and give thanks to 'Allah, if Him it is that you serve. He has only forbidden you that which dies of itself, and blood and flesh of swine, and that

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over which any other name than that of Allah has been invoked ; but whoever is driven to necessity, not desiring nor exceeding the limit, no sin shall be upon him ; surely Allah is Forgiving, Merciful " (2 : 172, 173). The same prohibition had already been revealed in v. 16 : 15, while the Holy Prophet was yet at Makka, in nearly the same words, whereas in v. 6 : 146, another Makka revelation, reasons are added for the prohibition, while v. 5 : 3, which is the latest revelation on the point, adds several things by way of explanation.

The prohibited foods thus are :—

1. That which dies of itself.¹ According to v. 5 : 3, the following are included : " The strangled animal, and that beaten to death and that killed by a fall and that killed by being smitten with the horn, and that which wild beasts have eaten." " That which died of itself and that which was torn by beasts " were forbidden by the law of Moses also (Lev. 17 : 15).

2. Blood, explained as " blood poured forth " in v. 6 : 146. This was also forbidden by the law of Moses (Lev. 7 : 26).

3. Flesh of swine. This was also forbidden by the law of Moses (Lev. 11 : 7). Jesus Christ, like a true Jew, seems to have held the swine in abhorrence : " Neither cast ye your pearls before swine " (Mt. 7 : 6). He is also reported to have cast out a number of unclean spirits which he then allowed to go into a herd of swine, causing it to perish thereby (Mt. 8 : 30-32; Mk 5 : 11, 12). This shows that he looked upon the animal as unclean. St. Peter compares sinners who relapse into evil to

1. The flesh is prohibited, but the skin may be used. The Prophet saw a dead goat of which the skin had not been removed, and said that what was unlawful thereof was the flesh, and that there was no harm in profiting by its skin (Bu. 72 : 29). From this it may be concluded that other parts, such as bones, may also be made use of.

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swine who go again to wallow in the mire after they are washed (2 Pet. 2 : 22).

4. The fourth kind of forbidden food is that over which any other name than that of Allah has been invoked at the time of slaughtering it. In v. 5 : 3 " what is sacrificed on stones set up (for idols) " is added, and it evidently comes under this description.

It may be added that the Holy Qur'an speaks of the first three forbidden foods, carrion, blood and pork, as unclean things, while the fourth, the invocation of other than Allah's name at the time of slaughtering an animal, is called *fisq* or a transgression of the Divine commandment. The reason for this distinction is that there is uncleanness in the case of the first three, since they have a pernicious effect upon the intellectual, the physical or the moral system ; while in the fourth case, the spiritual side is affected, as the invocation of other than Allah's name or sacrificing for idols, associates one with idolatry. In this case the thing is not unclean in itself, like blood or carrion or pork ; it is forbidden because the use of such food associates a man with idolatry.

According to the law of Islām, all animals that are
Slaughtering of an animal. allowed as food must be slaughtered in such a manner that blood flows out. The Arabic word for slaughter is *dhabaha* which means originally *he cut* or *divided lengthwise* ; in a general sense, *he killed* or *slaughtered* and technically *he slaughtered* an animal *in the manner prescribed by law*, i. e. *by cutting the two external jugular veins*, or *by cutting the throat, from beneath, at the part next to the head* (LL.). According to Fiqh, four veins are cut off in slaughtering an animal, *hulqum* or the *windpipe, mari'* or the *œsophagus* and the *wadajan* or *two external jugular veins* (H. II, p. 421). In the Holy Qur'an, however, this word is used in a general sense, while the technical

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word for slaughtering an animal for food in a particular manner is *tadhkiya* which occurs in v. 5 : 3. *Tadhkiya* is the intensive form of *dhak-an* or *dhaka'* which is originally applied to the *burning or flaming of fire, and dhakka-l-nār* means *he made the fire to burn* (LL.). According to the same authority, the proper significance of *tadhkiya* (the infinitive form of *dhakka*) is *the causing of the natural heat to pass forth*, but it is used peculiarly in the law to signify *the destroying of life in a particular manner*, being the same as *dhakh*. The idea underlying this particular manner of slaughter is causing the blood to flow so that the poisons contained in it should not form part of food.¹ The same appears to be the reason for prohibition of blood as food. Fish, or other water-game, does not require to be slaughtered (Bu. 72 : 11), and it is allowed whether caught by a Jew or a Christian or a Magian (*ibid*), or by anybody else; so also fish which has been thrown out by the sea or river on dry land or which has been left by the water having receded from it (5 : 96), and which has therefore died before it is caught. Ibn 'Abbās however adds, unless you hate it, that is to say, it stinks (Bu. 72 : 11).

It should be further noted that when an animal is slaughtered, it is necessary that the

Invoking the name of God on slaughtered animal.

name of God should be invoked.

The Holy Qur'an lays down plainly :

“ And do not eat of that on which Allāh's name has not been mentioned, and that is most surely a transgression ” (6 : 122). Hence it is necessary that at the time of slaughtering an animal, the following words should be pronounced : *Bismillah Allahu Akbar*—In the name of

1 *Jhatkā* or killing the animal by one stroke does not allow the blood to flow forth, and it is therefore not allowed to the Muslims. Similar is the case with all other methods of killing in which blood does not flow out completely.

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Allah, Allah is the Greatest of all. This practice is traceable to the Holy Prophet (Bu. 72 : 16 ; Ah. III pp. 115, 183).¹ If the man who slaughters the animal forgets to pronounce these words, the flesh of the animal is allowed (Bu. 72 : 14), but if he omits the words intentionally, there is a difference of opinion, Imām Shāfi'ī allowing it even in this case against the Ḥanafī view (H. II, p. 419). In slaughtering an animal, any sharp instrument may be used which causes the blood to flow, and the flesh of an animal which was slaughtered by a maid with a stone was allowed (Bu. 72 : 17). The food of the followers of the Book is expressly allowed in the Holy Qur'an: "And the food of those who have been given the Book is lawful for you, and your food is lawful for them" (5 : 5). A Muslim may therefore invite the followers of the Book to his own table and he may eat at their table. But Ḥadīth makes it further clear that the animal slaughtered by the Ahl al-Kitāb is allowed in this verse, Zuhri adding the condition that if the slaughterer was heard uttering a name other than that of God, the flesh was not to be eaten, but if he was not so heard, then it was lawful for the Muslims to eat it (Bu. 72 : 21). An animal slaughtered by an uncircumcised person is also allowed (*Ibid*). As stated elsewhere, the words Ahl al-Kitāb are applicable to followers of all revealed religions, such as the Magi, the Hindūs etc., and a certain food (cheese) prepared by the Magi was allowed by the Holy Prophet, though he was told that in its preparation use had been made of what died of itself; and he only said, Mention the name of Allah over it (Ah. I, p. 302). Dhabīḥat al-A'rāb—Animals slaughtered by desert Arabs—is the heading of one of

¹ Aḥmad speaks of both *tasmiya* (saying *bismillāh*) and *taḥbīr* (saying *Allāhu Akbar*), while Bukhārī speaks only of mentioning the name of Allah, which in fact includes both *tasmiya* and *taḥbīr*.

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Bukhārī's chapters, and under this is mentioned a ḥadīth from 'Ā'ishā, according to which a certain people came to the Holy Prophet and enquired of him about meat which was brought to them by other people, and they did not know whether the name of God had been mentioned over it or not. The Holy Prophet's reply was: "Mention the name of Allāh over it and eat it" (Bu. 72 : 20). This gives a wide latitude in doubtful and difficult cases where a Muslim must depend on food provided or prepared by other people.

The Holy Qur'an expressly allows game: "Say, the good things are allowed to you and what you have taught the beasts and birds of prey, training them to hunt—you teach them of what Allāh has taught you—so eat of that which they catch for you, and mention the name of Allāh over it" (5 : 4). Ḥadīth makes it clear that the name of Allāh is to be mentioned when letting off the beast or bird of prey (Bu. 72 : 1). The animal caught may be eaten even though it is killed by the beast or bird of prey (Bu. 72 : 2). The killing of game by throwing pebbles and hazel-nuts is however forbidden (Bu. 72 : 4). Killing it by arrow is allowed (Bu. 72 : 7), since the arrow causes the blood to flow. Game shot with a gun must follow the same rule, but in both cases the *bismillah* must be uttered at the time of letting off the arrow or discharging the gun, and if the game is killed before it is caught and slaughtered, there is no harm. As regards the game of sea or water, it is all to be taken as slaughtered (Bu. 72 : 11).

According to Ḥadīth, the Holy Prophet prohibited all beasts of prey with a *nāb* (the canine tooth) (Bu. 72 : 28), and all birds of prey with a claw (AD. 26 : 32). The tame ass is also prohibited (Bu. 56 : 130), but not the wild ass which

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is allowed (Bu. 28 : 3); the mule is prohibited but not the horse (AD. 26 : 23). *Dzabb* (lizard) is not prohibited, but the Holy Prophet did not eat it when it was brought before him (Bu. 51 : 7). In one ḥadīth it is said that the Holy Prophet did not eat the hare, though he did not prohibit it (AD. 26 : 26), as if, he did not like it personally, but this is the view of 'Abd-Allah ibn 'Umar and a very few others as against the universal view; and Bukhārī has a clear ḥadīth that when a hare was hunted by Abū Ṭalḥa and he sent a part of it to the Holy Prophet, it was accepted by him (Bu. 72 : 31), and therefore there is no reason to suppose that he disliked it. To the list of prohibitions mentioned in Ḥadīth, Fiqh adds hyenas, foxes, elephants, weasels, pelicans, kites, carrion-crows, ravens, crocodiles, otters, asses, mules, wasps and all insects (H. II, p. 424). As shown at the very outset of this section, among things which are allowed much depends on personal liking and disliking; a thing which may be good (*ṭayyib*) as food for one man or one people may not be so for another. Certain things may be good and even useful as food, but their use might be offensive to others; it was due to this that the Holy Prophet said that whoever ate raw onions and garlic, he should not approach the mosque (Bu. 10 : 160), because the odour would be offensive to others; but there is no harm in taking them in a cooked form (Tr. 23 : 3; Ah. I, p. 15), or in some other form in which it may not give an offensive odour, or on occasions when one is not likely to appear in public.

It is recommended that hands should be washed before the taking of food and after finishing it (AD. 26 : 11), and that when one begins a meal, he should do so with the pronouncement of *bismillah* (Bu. 70 : 2), and that when he finishes it, he should give thanks to God or say

Good manners in eating.

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al ḥamdu li-llah (Bu. 70 : 55). The following form of thanksgiving is recommended in a ḥadīth: *Al-ḥamdu li-llāhi-lladhī kafa-nā wa arwānā ghaira makfiyy-in wa la makfur-in* (Bu. 70 : 55) ; which rendered into English is as follows : “All praise is due to Allāh Who gave us sufficient to eat and to drink, praise which is not rejected nor denied.”

In another ḥadīth, the man who gives thanks to God after taking a meal is compared to the man who fasts and is patient in suffering (Bu. 70 : 57). It was the Holy Prophet's practice to cleanse the mouth with water after taking food (Bu. 70 : 52), so that no particle of food should be left in the mouth. There is also a direction that a man should eat with the right hand (Bu. 70 : 2). To blow on food or drink is prohibited (Bu. 74 : 24 ; Ah, I, 309, 357). Taking of food when in a reclining posture is not commended (Bu. 70 : 14), nor eating and drinking while standing (Ah. III, p. 199), but Bukhārī reports that 'Alī intentionally drank water while standing, and added that people did not like it but he had seen the Holy Prophet drinking water while standing (Bu. 74 : 15). It is also regarded as good manners in eating that a man should take only so much in his plate as not to leave anything on it after eating (Ah. III, p. 177), and that he should take a morsel from what lies near his hand (Bu. 70 : 3). Of the Holy Prophet it is related that he would never find fault with the food which he was offered ; if he liked it he would eat of it, and if he disliked it he would leave it (Bu. 70 : 22). There is nothing to show that taking food while sitting on a chair is forbidden, or that helping oneself with a spoon or a knife is disapproved of. On the contrary, the Holy Prophet is spoken of as helping himself with a knife to cut cooked meat (Bu. 10 : 43 ; Tr. 23 : 32). Feeding the hungry when one sits at a

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meal is also regarded as good manners in eating (Bu. 70: 1, 11). Eating and drinking in vessels of silver and gold was prohibited (Bu. 70: 30; 74: 27, 28), because it is a luxury which can be enjoyed by the rich at the expense of the poor, and is against the democratic spirit of Islam.

For the fostering of good relations it is recommended that a man should have no hesitation in eating at the house of his relatives and friends: "There is no blame that you eat at your houses, or your fathers' houses, or your mothers' houses, or your brothers' houses, or your sisters' houses, or your paternal uncles' houses, or your paternal aunts' houses, or your maternal uncles' houses, or your maternal aunts' houses, or houses whereof you possess the keys, or your friends' houses" (24: 61). Apparently, it is meant that among near relatives and close friends, one may eat at another's house if the time has arrived for a meal, though he may not have been invited beforehand. Stress is laid on the acceptance of an invitation to a feast: "The Holy Prophet said, 'When a person is invited and he does not accept (or reply), he disobeys Allah and His Messenger'" (AD. 26: 1). Entertainment of guests is also emphasized (AD. 26: 5). It is stated that when the Holy Prophet came to Madina, he sacrificed a camel or a cow (to feast his friends) (AD. 26: 4); from which it is concluded that when a person comes home from a journey, he should entertain his friends at meals. Inviting the followers of other religions, and accepting their invitation, is expressly spoken of in the Holy Qur'an: "And the food of those who have been given the Book is lawful for you, and your food is lawful for them" (5: 5). The Holy Qur'an speaks of eating together or separately as one likes: "It is no sin in you that you eat together or separately"

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(24 : 61). Ḥadīth recommends social functions in which people should eat together : "Gather together at your meals, you will be blessed therein" (AD. 26 : 14). The levelling influence of Islām asserts itself even in eating, and it is recommended that a servant may be seated at the same table with his master, or at least he should be given a part of the food which the master eats (Bu. 70 : 56). Islām therefore allows no distinction between superiors and subordinates in sitting at the same table at meals, as in standing in the same row at prayers. In its physical as well as spiritual aspects, it is essentially the religion of democracy.

Section 2.—Drinks.

The drink prohibited in the Holy Qur'an is described under the name *khamr*. *Khamara* Intoxicating liquors. originally means *it veiled or covered or concealed a thing*,¹ and wine is called *khamr* because *it veils the intellect*. *Khamr* is differently explained as meaning *what intoxicates, of the expressed juice of grapes, or the juice of grapes when it has effervesced and thrown up froth, and become freed therefrom and still, or it has a common application to intoxicating expressed juice of anything, or any intoxicating thing that clouds or obscures the intellect* (LL.). And it is added : "The general application is the more correct, because *khamr* was forbidden when there was not in Madīna any *khamr* of grapes, the beverage of its inhabitants being prepared only from dates.....it is sometimes prepared from grains" (*Ibid*). The wider sense of *khamr*, as prepared from other things besides grapes, is borne out by the Holy Qur'an (16 : 67), quoted in the next paragraph. According to 'Umar, wine, when prohibited, was made of five things, grapes, dates, wheat, barley and honey (Bu. 74 : 4).

1 From the same root is *khamār* which means a woman's head-covering.

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Hence *khamsr* is intoxicating liquor prepared from anything.

Intoxicating liquors are first spoken of in deprecatory terms towards the close of the Makka period : " And of the fruits of the palms and the grapes—you obtain from them intoxication and goodly provision " (16 : 67). Intoxication is here spoken of in contrast with goodly provision. The Holy Prophet himself never used intoxicating liquors at any period of his life, and the same is true of Abū Bakr. The prohibition against their use, however, belongs to the Madīna period, and the earliest revelation on this point is that contained in the first long chapter revealed at Madīna : " They ask thee about intoxicating liquors and games of chance. Say, in both of them is great sin and some advantages for men, and their sin is greater than their advantage " (2 : 219). This was the first stage in the prohibition of wine, but it was more of a recommendatory nature as it only says that the disadvantages of the use of intoxicating liquors preponderate over their advantages. The next stage was that in which the Muslims were prohibited from coming to mosques while drunk : " O you who believe ! do not go near prayer when you are intoxicated until you know what you say " (4 : 43). Finally intoxicating liquors were definitely forbidden : " O you who believe ! intoxicants and games of chance and sacrificing to stones set up and the divining arrows are only an uncleanness, the devil's work ; shun it therefore that you may be successful " (5 : 90). These three stages of the prohibition of wine are clearly mentioned in a ḥadīth (Ah. II, p. 351). On the last of these occasions, a proclamation was made by the orders of the Holy Prophet that wine was prohibited, and people who heard the proclamation emptied their stores of wine immediately (Bu. 74 : 2 ; 46 : 21), so that wine flowed in the streets of Madīna (Ah. III, p. 217).

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As wine is prohibited on account of its intoxication, it is stated in a ḥadīth that every intoxicant is prohibited (*kullu muskir-in ḥarām-un*) (Bu. 64 : 61). *Bhang, charas* and other intoxicating things are therefore also forbidden; only a drink that does not intoxicate is allowed. The Holy Prophet was questioned about *bit'*—*an intoxicating beverage made of honey* (LL.)—and he replied, "Every drink that intoxicates is prohibited" (Bu. 74 : 3). It is further related that Abū Usaid invited the Holy Prophet to a wedding feast at which his wife, the bride herself, served food, and at this feast a beverage of dried dates, over which only one night had passed, was used and there was no objection (Bu. 74 : 8), because it had not become intoxicant. Mālik ibn Anas was asked about *fuqqā'*—*a beverage made of barley or a kind of beer* (LL.)—and he said: "So long as it does not intoxicate there is no harm" (Bu. 74 : 3). *Nabīdh*, or fresh juice of grapes over which not more than a night or a day has passed, is also allowed. Thus a certain people is spoken of as having come to the Holy Prophet and asked him what to do with their grapes, and he told them to dry them and then make use of their juice in the evening if they were wet in the morning, and in the morning if they were wet in the evening (AD. 25 : 10). And when a beverage becomes intoxicant, even a small quantity of it, that could not intoxicate, is not allowed: "That of which a large quantity intoxicates, even a small quantity of it is prohibited" (AD. 25 : 5). The question whether a very small quantity may be given as a medicine is quite different. It is true that there is a ḥadīth according to which one, Ṭāriq ibn Suwaid, was ordered by the Holy Prophet not to make wine, and when he said that he made it to be used as a medicine, the Holy Prophet replied that it was not a medicine (*dawā'*) but a disease (*da'*) (M. 36 : 3). But this prohibition was, in all likelihood,

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directed only against the making of wine ; and as Navawī, the famous commentator of *Muslim*, explains, in a serious case, when life was in danger, wine could be used to save life, for even carrion and flesh of swine could be used in such a case. It may be added here that trading in wine was also prohibited by the Holy Prophet (Bu. 34 : 24), and indeed it was necessary to prohibit both the preparing of wine and trading in it when the use of it was no longer permitted.

Section 3.—Toilet.

The Holy Qur'an lays down a general rule on toilet

Toilet and cleanliness recommended.

as follows: "Say, Who has prohibited the adornment (*zina*) of Allah which He has brought forth for His servants and the goodly provisions" (7:32). The word *zina*, in this verse, has generally been understood to mean apparel, but it has really a wider significance, including both the dress and make-up of a person. *Zina* has further been explained as including spiritual adornment, such as knowledge and good beliefs ; bodily adornment, such as strength and tallness of stature ; and extrinsic adornment, such as wealth and dignity (R.). A good toilet is recommended even when going to a mosque : "O children of Adam! attend to your embellishment at every time of prayer" (7:31). The Holy Qur'an lays the greatest stress on cleanliness, and literally gives it a place next to godliness when it says in one of the earliest revelations : "O thou who art clothed ! arise and warn, and thy Lord do magnify, and thy garments keep purified, and uncleanness do shun" (74 : 1-5). Great stress is laid on outward as well as on inward purity, throughout the Holy Qur'an.

No limitations are placed upon the form or quality of clothing, either in the Holy Qur'an or Hadith. The Holy Prophet is reported

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to have said: "Eat and drink and wear clothes and be charitable, not being extravagant or self-conceited" (Bu. 77 : 1). Ibn 'Abbās said: "Eat what you like and wear what you like, so long as you avoid two things, extravagance and vanity" (*Ibid*). Thus Islām requires no particular dress. A man may choose what he eats and what he wears. The only thing required is that the clothes should be clean and good (AD. 31 : 13). Anything which may serve as a covering for the body is allowed. A simple sheet or trousers or shorts may serve the purpose, and so a shirt or a coat or a loose coat (*chughha*) (Bu. 8 : 9), so long as it covers the '*aura*' (the parts which it is necessary to cover). The '*aura*' is thus defined: "The part or parts of the person which it is indecent to expose; in a man, what is between the navel and the knee, and in a free woman, all the person except the face and the hands as far as the wrists" (LL., TA.). Silk is forbidden to men (Bu. 23 : 2 ; 34 : 40 ; 77 : 12) but women are permitted to wear it (Bu. 77 : 30), which shows that silk is not discarded for men on account of any impurity attaching to it, but because the wearing of it is not in consonance with the hard life which men have to lead to earn their living, and also because it is a luxury, and the money thus wasted would be better spent on the amelioration of the condition of the poor. In some cases even men were allowed to wear silk. Thus, a Companion of the Holy Prophet is reported as wearing *khazz* (Ah. IV, p. 233), which is explained as being *a cloth woven of wool and silk* and also *a cloth woven entirely of silk* (LL., TA.). The same is related of another Companion, who at the same time remarked that the Holy Prophet had said that on whomsoever God bestowed a favour, He also loved to see the effect of that favour on him (Ah. IV, p. 438). To 'Abd al-Rahmān and Zubair the wearing of silk was allowed on account of

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itching (Bu. 77 : 29). Once a silk garment was presented to the Holy Prophet and he wore it and said his prayers in it ; but afterwards he took it off, as though he did not like it (Bu. 77 : 12). Those who wear long garments or trail the train of the garment in order to be looked at, or for vanity, are censured (Bu. 77 : 4, 5).

The make-up of a man or a woman like his or her clothes is a matter of choice. Very long hair, in the case of men, was not approved (Ah. IV, p. 180). There is an injunction to cut off the hair after the pilgrimage is over, and therefore there is no sin in keeping the hair cut. One may have his head shaved or keep his hair short or long. The Holy Prophet is himself reported to have worn his hair in different ways (AD. 32 : 8, 9). Trimming of the beard and clipping short the moustaches is however recommended (Bu. 77 : 65), so also the removal of superfluous hair under the navel or in the armpits (Bu. 77 : 64). The use of perfumes is recommended (Bu. 77 : 74, 78, 79, 80, 81), especially on Fridays when there is an assemblage of people (Bu. 11 : 3, 6), and to women in particular after their cleansing from menstruation (Bu. 6 : 12, 14). While women may make use of any ornaments they like (Ah. IV, p. 392 ; AD. 33 : 8), men are allowed only the wearing of a seal-ring, the Holy Prophet himself wearing one which was made of silver and was used to seal letters (Bu. 3 : 7).

CHAPTER XI
PENAL LAWS

The penal laws of Islām are called *ḥudūd* in the *Ḥadīth* and *Fiqh* books. This word *Ḥudūd* is the plural of *ḥadd*, which means *prevention, hindrance, restraint, prohibition*, and hence a *restrictive ordinance, or statute, of God, respecting things lawful and things unlawful (LL.)*. The same authority then goes on to add: "*Ḥudūd* of God are of two kinds: first, *those ordinances prescribed to men respecting eatables and drinkables and marriages, etc., what are lawful thereof and what are unlawful*; the second kind, *castigations, or punishments, prescribed, or appointed, to be inflicted upon him who does that which he has been forbidden to do*. In *Fiqh*, the word *ḥudūd* is limited to punishments for crimes mentioned by the *Qur'ān* or the *Ḥadīth*, while other punishments left to the discretion of the *Imām* or the ruler are spoken of as *ta'zīr* (lit., *chastisement*). The general word for punishment is *'uqūba* (from *'aqb* meaning *one thing coming after another*), being so called because punishment follows transgression.

It should be pointed out at the very beginning of a discussion on the penal laws of Islām, that all violations of Divine limits in a general sense are not punishable; punishment is inflicted only in those cases in which there is violation of other people's rights. For instance, neglect of prayers, or omission to keep fasts or perform pilgrimage is not punishable; but in the case of *zakāt* there is a difference. *Zakāt* is a charity as well as a tax, and the Holy Prophet appointed official collectors to collect the *zakāt*, which was received in the *baīṭ al-māl* (the state treasury), thus showing that its collection was a

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duty of the Muslim state. Hence it was that when, after the death of the Holy Prophet, certain Arab tribes refused to pay, Abū Bakr sent out troops against them, this step being taken because the withholding of *zakāt* on the part of an entire tribe was tantamount to rebellion.

(The punishable crimes in Islamic law are those which
General law of affect society ; and those spoken of
punishment. in the Holy Qur'an are murder,
dacoity or highway robbery, theft, adultery or fornication
(*sina*) and accusation of adultery.) Before discussing in
detail the various punishments prescribed in these cases,
it may be stated that the Holy Qur'an lays down a general
law for the punishment of offences in the following
words.

“ And the recompense of evil (*sayyi'a*) is punishment (*sayyi'a*) proportionate thereto, but whoever forgives and amends, he shall have his reward from Allah ” (42 : 40).

This golden rule is of very wide application, since it applies both to individual wrong done by one person to another and to offences of a less particular nature, offences against society. Similar instructions as to the punishment of offenders are given elsewhere in the Holy Qur'an: “ And if you punish (*aqabtum*), then punish (*aqibu*) with the like of that with which you were afflicted ; but if you are patient, it will certainly be best for those who are patient ” (16 : 126) ; “ And he who punishes evil (*aqaba*) with the like of that with which he has been afflicted (*uqiba*) and he has been oppressed, Allah will certainly aid him ” (22 : 60) ; “ Whoever acts aggressively (*i'tada*) against you, inflict injury (*i'tadu*) on him ” (2 : 194).

While in the verses quoted above and similar other verses, a golden rule is laid down for the individual wronged, that he should in the first instance forgive the

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offender provided he amends by forgiveness, the basis also is ordained of penal laws in general for the protection of society, and that basis, according to all these verses, is that the punishment of evil should be proportionate thereto. Every civilized code of penal laws is based on that principle, and by enunciating this general rule, ample scope is given to Muslim peoples and states to formulate their own penal laws. It is for this reason that the Holy Qur'an does not go into many details, and speaks of punishment only in cases of the most glaring offences against person and property. It should be further noted that the Holy Qur'an generally adopts the same word for punishment, as for the crime. Thus in v. 42 : 40, both the evil and its punishment are called *sayyi'a* (evil); in vv. 16 : 126 and 22 : 60, it is a derivative of *'uquba* (punishment); and in v. 2 : 194, it is *i'tida'* (aggression). The adoption of the same word *evil* for the crime and its punishment indicates that punishment itself, though justified by the circumstances, is a necessary evil.

Undoubtedly the greatest crime known to society is *qatl*, or the taking away of the life of another man. It is a crime denounced in the early Makka sūras : "And do not kill the soul which Allāh has forbidden except for the requirements of justice" (17 : 33 ; 6 : 152). "And they whodo not slay the soul which Allāh has forbidden except in the requirements of justice and he who does this shall find a requital of sin ; the chastisement shall be doubled to him on the Day of Resurrection, and he shall abide therein in abasement" (25 : 68-69).

The punishment of murder is, however, prescribed in a Madīna sūra :

" O you who believe ! retaliation (*qiṣās*) is prescribed

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for you in the matter of the slain ; the free for the free, and the slave for the slave and the female for the female, but if any remission is made to any one by his (aggrieved) brother, then prosecution (for the bloodwit) should be made according to usage, and payment should be made to him in a good manner ; this is an alleviation from your Lord and a mercy ; and whoever exceeds the limit after this, he shall have a painful chastisement. And there is life for you in the law of retaliation, O men of understanding, that you may guard yourselves" (2 : 178, 179).

The word *qisās*, rendered as *retaliation*, is derived from *qaṣṣa* meaning *he cut it* or *he followed his track in pursuit*, and it comes therefore to mean retaliation by *slaying for slaying, wounding for wounding and mutilating for mutilating* (LL.). The law of *qisās* among the Israelites extended to all these cases, but the Holy Qur'an has expressly limited it to cases of murder (*fi-l-qatla*). It speaks of retaliation in wounds as being an ordinance of the Mosaic law (5 : 45), but it is nowhere prescribed as a law for the Muslims, who are required to observe it only in the case of the slain (2 : 178). In some *ḥadīth*, it is no doubt mentioned that the Holy Prophet ordered retaliation in some cases of wounds, but this was in all likelihood due to the fact that he followed the earlier law until he received an express commandment to the contrary.

The law of retaliation in murder cases is followed by the words "the free for the free, the slave for the slave and the woman for the woman," which have sometimes been misunderstood /as meaning that if a free man has been murdered, a free man should be murdered in his place and so on. This is falsified by the very word *qisās* which requires that the murderer should be murdered and not an innocent man. The words were meant to abolish an old Arab custom,

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for the Arabs before Islām used to insist, when the person killed was of noble descent, upon the execution of others besides the murderer. So it was made clear that whoever it might be, a free man or a slave or a woman, the murderer himself was to be slain.

An alleviation is, however, allowed in case the person who suffers from the death of the murdered man makes a remission, and is satisfied with *diyya* or blood-money.

Another case in which blood-money takes the place of a death sentence is that of unintentional killing. The Holy Qur'an says :

“ And it does not behove a believer to kill a believer except by mistake, and whoever kills a believer by mistake, he should free a believing slave, and blood-money should be paid to his people unless they remit it as alms, but if he be from a tribe hostile to you and he is a believer, the freeing of a believing slave suffices ; and if he is from a tribe between whom and you there is a covenant, the blood-money should be paid to his people along with the freeing of a believing slave ” (4 : 92).

It may be here noted that by the hostile tribe, Murder of a non-Muslim. spoken of in the above quotation, is meant a tribe at war with the Muslim state. The murder of a non-Muslim living under a Muslim state or in a friendly non-Muslim state, is punishable in exactly the same way as the murder of a Muslim. The Holy Prophet is reported to have said : “ Whoever kills a *mu'ahad* (a non-Muslim living under the protection of a Muslim state), he shall not perceive the odour of Paradise, and its odour is perceivable from a distance of forty years' journey ” (Bu. 87 : 29 , Tr. 14 : 11 ; Ah. II, p. 186). Thus, even from a purely religious point of view, not the least distinction is made between the murderer of a Muslim and a non-Muslim,

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and therefore any distinction in their temporal punishments is out of question. And where the Holy Qur'an speaks of a murderer, it always speaks of the murderer of a *nafs* (person), and not of a Muslim: "Whoever kills *any one* unless it be for manslaughter or mischief in the land, it is as though he slew all men" (5 : 32). It is true that 'Alī is stated to have with him a *ṣahīfa* (written paper), according to which a Muslim was not to be killed for an unbeliever (Bu. 87 : 30), but evidently this related to a state of war and not a state of peace; the latter is expressly spoken of in Bu. 87 : 29, as already referred to. In fact, the rights of non-Muslims in a Muslim state are in all respects on a par with those of Muslims, so much so that Muslims are required even to fight in their defence (Bu. 56 : 174); and the Holy Prophet is reported to have said: "Their property is like our property and their blood is like our blood." According to another report: "The property of the *mu'ahads* is not lawful for the Muslims" (Ah. IV, p. 89).

Hadith speaks of cases of murder in which the murderer's intention is doubtful and in these cases too, blood-money is to be paid (AD. 38 : 18, 25; Ah. II, p. 36). And where the murderer could not be discovered, blood-money was paid from the state treasury (Bu. 87 : 21). I have not been able to find any reported case in which the murderer may have been imprisoned in case of unintentional murder, but the *alleviation* of punishment in such cases is clearly provided for in the Holy Qur'an. The form of alleviation spoken of in the Holy Book is the payment of blood-money, but the right of the Imām or of the state to give that alleviation any other form is not negatived.

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Another crime for which capital punishment may be awarded, is dacoity. In the Holy dacoity.

Qur'an, dacoity is spoken of as waging war against God and His Apostle :

“The punishment of those who wage war against Allah and His Apostle and strive to make mischief (*fasād*) in the land is only this, that they should be put to death, or crucified, or their hands and their feet should be cut off on opposite sides,¹ or they should be imprisoned;² this shall be as a disgrace for them in this world and in the Hereafter they shall have a grievous chastisement (5 : 33).

It has been accepted by the commentators, by a consensus of opinion, that dacoits and murderers who create disorder in a settled state of society, are referred to in this verse. The punishment prescribed is of four kinds, which shows that the punishment to be inflicted in any particular case would depend upon the circumstances of the case. If murder has been committed in the course of dacoity, the punishment would be the execution of the culprit, which may take the form of crucifixion if the offence is so heinous or the culprit has caused such terror in the land that the leaving of his body on the cross is necessary as a deterrent. Where the dacoits have committed excesses, one of their hands and feet may be cut off. In less serious cases of dacoity, the punishment may be only imprisonment.

1. The original words for “on opposite sides” are *min khilāf*, which might as well mean *on account of opposition*, referring to their creation of mischief in the land, while God and His Apostle want to establish peace in which the life and property of every man shall be secure. The word *khilāf* originally means *opposition*.

2. The Arabic words are *yunfau min-al-ardz* and *naḡā-hu* means *he drove away or expelled or banished him* (LL.). Therefore the words may mean either transportation or imprisonment, because in imprisonment, too, a man is banished from his usual place of habitation. Both Imām Abū Ḥanifa and Aḡmad take the words here as meaning imprisonment.

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Punishment for theft. Theft is the next punishable crime spoken of in the Holy Qur'an:

"And as for the man who steals and the woman who steals, cut off their hands as a punishment for what they have done, an exemplary punishment from Allah, and Allah is Mighty, Wise.

"But whoever repents after his iniquity and reforms himself, Allah will turn to him mercifully; for Allah is Forgiving, Merciful" (5 : 38, 39).

The cutting off of hands may be taken metaphorically, as in *qata'a lisāna-hū* (lit., *he cut off his tongue*) which means *he silenced him* (L.A.). But even if taken literally, it is not necessary to cut off the hands for every type of theft, and this is a fact which all jurists have recognized. As stated above, in the case of dacoity four grades of punishment are mentioned, ranging from death or crucifixion to mere imprisonment. It is evident that theft is not as serious a crime as dacoity, and hence the minimum punishment for it could not be severer than the minimum punishment for dacoity, which is imprisonment, the next higher being the cutting off of hands. Evidently what is meant is that whereas the maximum punishment for dacoity is death, the maximum punishment for theft is the cutting off of the hand. Therefore it is for the judge to decide which punishment will suit a particular case. The state of society may sometimes demand the maximum punishment, even in less serious cases, but there are several circumstances which go to show that the maximum punishment of the cutting off of hands may ordinarily be reserved for habitual thieves :

- (a) The minimum punishment for dacoity, having already been mentioned in v. 33, may also be taken as the minimum punishment for the

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much less serious offence of theft, and this would meet the ends of justice.

- (b) The cutting off of hands, being a punishment for the more serious offences falling under dacoity, should also be reserved for the more serious offences falling under theft, and the offence of theft generally becomes more serious when it becomes habitual.
- (c) The punishment of cutting off of hands, in cases of theft, is called an exemplary punishment, and such punishment could only be given in very serious cases, or when the offender is addicted thereto, and the milder punishment of imprisonment has no deterrent effect upon him,
- (d) V. 39 shows that the object of the punishment is *reform*, and an occasion to reform can only be given if the punishment for a first or second offence is less severe.

It is true that the cutting off of the hand, for even a first crime, is reported in Ḥadīth, but this may be due to the particular circumstances of society at the time, and it is for the judge to decide which punishment will suit the circumstances. For instance, according to some ḥadīth the hand was cut off when the amount stolen was one-quarter of a *dīnār* or more; according to others when it was one *dīnār* or more (AD. 37 : 12 ; Ns. 46 : 7). According to one ḥadīth, the hand of the thief was not to be cut off at all when a theft was committed in the course of a journey or on an expedition (AD. 37 : 19 ; Tr. 15 : 20 ; Ns. 46 : 13). The words in *Abu Dawūd* are : "I heard the Messenger of Allāh say, Hands shall not be cut off in the course of a journey." Probably some other punishment was given in such cases. There are also ḥadīth showing

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that the hand was not to be cut off for stealing fruit on a tree (AD. 37 : 13). The cutting off of the hand is also prohibited in the case of criminal misappropriation (AD. 37 : 14). When Marwān was Governor of Madīna, a certain slave stole young palm trees from the garden of a man, and being caught was imprisoned by Marwān, who intended to cut off his hand. The master of the slave went to Rāfi' ibn Khudaij who said that he had heard the Prophet say that there was to be no cutting off of the hand in the case of theft of fruit, and when Rāfi' related this to Marwān, the slave was let off. It is further related, however, that Marwān had him flogged (AD. 37 : 13). In another ḥadīth it is stated that when a certain person stole another's mantle valued at thirty dirhams from underneath his head, the owner of the mantle offered that he would sell the same to the person who had stolen it, without demanding immediate payment, and the Holy Prophet approved of this arrangement (AD. 37 : 15). These examples show that great latitude was allowed to the judge in the choice of the punishment.

Adultery and the accusation of adultery are both punishable according to the Holy Qur'an :

“ The adulteress and the adulterer, flog each of them, giving a hundred stripes, and let not pity for them detain you in the matter of obedience to Allah, if you believe in Allah and the last day, and let a party of believers witness their chastisement ” (24 : 2).

In the case of slave-girls, who are guilty of adultery, the punishment is half of this :

“ And when they (the slave-girls) are taken in marriage, then if they are guilty of fornication, they shall suffer half the punishment which is inflicted upon free women ” (4 : 25).

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These are the only verses speaking of punishment for adultery, and they clearly show that flogging, and not death or stoning to death, is the punishment for adultery. In fact v. 4 : 25 precludes all possibility of death having ever been looked upon by the Holy Qur'an as a punishment for adultery. It speaks clearly of the punishment of adultery in the case of married slave-girls, and says further that the punishment is half the punishment of adultery in the case of free married women. It is generally thought that while the Holy Qur'an prescribes flogging as a punishment for fornication, *i.e.*, when the guilty person is not married, stoning to death is the punishment for adultery, and that this is based on the Holy Prophet's practice. But the Holy Qur'an plainly speaks of the punishment for adultery in the case of married slave-girls as being half the punishment of adultery in the case of free married women (*muḥṣanāt*), and therefore death or stoning to death cannot be conceived of as a possible punishment in case of adultery as it cannot be halved, while imprisonment or flogging may be. Thus the Holy Qur'an not only speaks of flogging, and not death, as punishment for adultery, but it positively excludes death or stoning to death.

A few words may be added as to the method of flogging. The Arabic word for flogging is *jald* which means *skin*, and *jalada* signifies *he hit or hurt his skin* (LL.). *Jald* (flogging) was therefore a punishment which should be felt by the skin, and it aimed more at disgracing the culprit than torturing him. In the time of the Holy Prophet, and even for some time after him, there was no whip, and flogging was carried out by beating with a stick or with the hand or with shoes (RM. VI, p. 4). It is further stated by the same authority that the culprit

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was not stripped naked for the infliction of the punishment of flogging ; only he was required to take off thick clothes such as would ward off the stroke altogether. According to a report of Ibn Mas'ud, baring the back for flogging is forbidden among the Muslims, and according to Shāfi'i and Aḥmad, a shirt or two must be left over the body (RM. VI, p. 5). It is further related that it is preferable to give the strokes on different parts of the body so that no harm should result to any one part, but the face and the private parts must be avoided (RM. VI, p. 5).

Stoning to death, as a punishment for adultery, is no-

Stoning to death in where spoken of in the Holy Qur'an ;
Jewish law.

on the other hand, the injunction to halve the punishment in certain cases is a clear indication that stoning to death was never contemplated as the punishment of adultery, by the Word of God. In Ḥadīth, however, cases are met with in which adultery was punished with stoning to death. One of these cases is expressly mentioned as the case of a Jew and a Jewess : "The Jews came to the Holy Prophet with a man and a woman from among them who had committed adultery : and by his order they were stoned to death near the place where funeral services were held" (Bu. 23 : 61). Further explanation of this incident is given in another ḥadīth where it is stated that when the Jews referred the case to him, he enquired of them what punishment the Torah prescribed in case of adultery. The Jews tried at first to conceal the fact that it was stoning to death, but on 'Abd-Allah ibn Salam giving the reference,¹ they

1. That the present Torah does not give stoning as the punishment for adultery is only proof that the text has been altered. The Gospels show that such was the punishment up to the time of Jesus : "And the scribes and the Pharisees brought unto him a woman taken in adultery ; and when they had set her in the midst, they say unto him, Master, this woman was taken in adultery, in the very act. Now Moses in the law

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admitted it, and the guilty persons were dealt with as prescribed in Torah (Bu. 61 : 25). According to a third version, which is the most detailed, the Jews who desired to avoid the severer punishment of stoning for adultery said one to another : " Let us go to this Prophet. for he has been raised with milder teachings ; so if he gives his decision for a milder punishment than stoning, we will accept it." It is then related that the Holy Prophet went with them to their *midras* (the house in which the Torah was read), and asked them what punishment was prescribed in their sacred book. They tried to conceal it at first but the truth had to be admitted at last, and the Holy Prophet gave his decision saying : " I give my judgment according to what is in the Torah" (AD. 37 : 25).

These reports leave not the shadow of a doubt that Jewish practice ⁶¹. stoning was the punishment of adultery in the Jewish law, and that it was in the case of Jewish offenders that this punishment was first resorted to by the Holy Prophet when he came to Madina. There are other ḥadīth which show that the same punishment was given in certain cases when the offenders were Muslims, but apparently this was before the revelation of the verse (24 : 2) which speaks of flogging as the punishment for both the adulterer and the adulteress, it being the practice of the Holy Prophet to follow the earlier revealed law until he received a definite revelation on a point. A suggestion to that effect is contained in a ḥadīth : "Shaibānī says, I asked 'Abd-Allāh ibn Abī Aufā, Did the Holy Prophet stone to death? He said, Yes. I said, Was it before the chapter entitled *the Light* (the 24th chapter) was revealed or after it?

commanded us, that such should be stoned: but what sayest thou (Jn. 8 : 3-5).

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The reply was, "I do not know" (Bu. 86 : 21). The chapter referred to is that which speaks of flogging as a punishment for adultery, and the question shows clearly that the practice of stoning for adultery was recognized as being against the plain injunction contained in that chapter. It is likely that some misunderstanding arose from the incidents which happened before the Quranic revelation on the point, and that that practice was taken as the Sunna of the Holy Prophet. The Khawarij, the earliest Muslim sect, entirely rejected *rajm* as a punishment in Islam (RM. VI, p. 6).

The question seems to have arisen early as to how an adulterer could be stoned, when the Holy Qur'an prescribed flogging as the only punishment for adultery. 'Umar is reported to have said that "there are people who say, What about stoning, for the punishment prescribed in the Book of Allah is flogging" (Ah. I, p. 50). To such objectors 'Umar's reply is stated as follows: "In what Allah revealed, there was the verse of *rajm* (stoning); we read it and we understood it and we guarded it; the Holy Prophet did stone (adulterers to death) and we also stoned after him, but I fear that when more time passes away, a sayer would say, We do not find the verse of *rajm* in the Book of Allah" (Bu. 86 : 31). According to another version he is reported to have added: "Were it not that people would say that 'Umar has added in the Book of Allah that which is not in it, I would have written it" (AD. 37 : 23). The argument attributed to 'Umar is very unsound. He admitted that the Holy Qur'an did not contain any verse prescribing the punishment of stoning for adulterers, and at the same time he is reported as stating that there was such a verse in what Allah revealed. In all probability what 'Umar meant, if he ever spoke those words, was that the verse of stoning

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was to be found in the Jewish sacred book, the Torah, which was undoubtedly a Divine revelation, and that the Holy Prophet stoned adulterers to death. The use of the words "Book of God" (*Kitab-Allah*) for the Torah is common in the Holy Qur'an itself, the Torah being again and again spoken of as *Kitab-Allah* or the Book of God, or *al-Kitab*, i.e., the Book (2 : 213, etc.). In all likelihood 'Umar only spoke of *rajm* as the punishment of adultery in the Mosaic law and he was misunderstood. At any rate he could not have spoken the words attributed to him. Had there been such a verse of the Holy Qur'an, he would have brought it to the notice of other Companions of the Holy Prophet, when a complete written copy was first prepared in the time of Abū Bakr at his own suggestion. The words, as attributed to him in some of these ḥadīth, are simply meaningless. How could he say that there was a verse of the Qur'an which he would have written down in the Qur'an but he feared that people would say that he had made an addition to the Qur'an, that is to say, added to it what was not a part of it? A verse could not be said to be a part of the Qur'an and not a part of the Qur'an at one and the same time.

There is further evidence in Ḥadīth itself that 'Umar himself at least in one reported case, (and it is a reliable report), punished adultery with flogging as laid down in the Holy Qur'an in v. 24 : 2, and not with stoning to death. According to Bukhārī, one of 'Umar's collectors, Ḥamza by name, found that a married man who had committed adultery with his wife's slave-girl had been punished by 'Umar with a hundred stripes, and he referred the case to 'Umar, and 'Umar upheld his first decision (Bu. 39 : 1). His own action therefore negatives the ḥadīth which attributes to him the statement that stoning to death as a punishment for adultery was an

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ordinance contained in a Quranic verse. An explanation is sometimes offered, that such a verse had been revealed but that it was abrogated afterwards, though the ordinance contained in it remained effective. There is no sense at all in this explanation. If the words of the verse were abrogated, the ordinance contained in those words went along with them. No ordinance can be given except in words, and if the words are abrogated, the ordinance is also abrogated. If therefore such a verse was ever revealed (for which there is no testimony worth the name), the admission that it was abrogated leaves the matter where it was before its revelation.

A false accusation of adultery is
Accusation of adultery. punished almost as severely as
adultery itself :

“And those who accuse free women, then do not bring four witnesses, flog them, giving eighty stripes, and do not admit any evidence from them ever; and these it is that are the transgressors.

“Except those who repent after this and act aright, for Allah is Forgiving, Merciful” (24 : 4, 5).

It may be added here that while in ordinary matters two witnesses are required (2 : 282), in the case of an accusation of adultery four witnesses must be produced. Thus a case of adultery can be established only on the strongest possible evidence. That circumstantial evidence is accepted is shown by the Holy Qur'an itself in Joseph's case who, when accused of an assault on the chief's wife, was declared free of the charge on circumstantial evidence (12 : 26-28). There is also a number of hadith showing that circumstantial evidence was accepted when it led to the establishment of a certain fact.

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The Holy Qur'an does not speak of any punishment for the man who drinks wine, but there are ḥadīth showing that the Holy Prophet inflicted punishment in such cases. This punishment seems to have been of a very mild type. It, moreover, appears that punishment was inflicted only in cases when a man was intoxicated with drink. Thus it is related that a certain person called Nu'aimān or Ibn Nu'aimān was brought to the Holy Prophet in a state of intoxication, and it distressed the Holy Prophet, so he ordered those who were in the house to give him a beating, and he was beaten with shoes and sticks (Bu. 86 : 4). Another incident is related in which the person who had drunk wine was beaten with hands and with shoes and with garments (*thaub*) (Bu. 86 : 5). Such remained the practice in the time of the Holy Prophet and that of Abū Bakr, and for some time in the reign of 'Umar, and very mild punishment was inflicted with hands or shoes or *ardiya* (pl. of *rida'*, being the wrapping garment covering the upper half of the body), but 'Umar then introduced flogging, giving forty stripes, raising the punishment to eighty stripes, it is added, when people behaved inordinately (*atau*) and transgressed limits (*fasaqū*) (Bu. 86 : 5). It is very likely that punishment, or at any rate the severer punishment, was inflicted for disturbance of the public peace by drunkards.

Punishment must be inflicted without respect of persons, nor should mediation be accepted in such cases. When, in the case of a certain woman who was guilty of theft, some people sought to intercede on her behalf through Usāma, since she came of a good family, the Holy Prophet was enraged and said, Dost thou intercede in the matter of a *ḥadd* (punishment)? and then addressed the people in general, saying, Those

General directions for execution of punishments.

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before you went astray, for, when one of them committed a crime and he was a great man, they would not punish him, and when he was a poor man they would execute the punishment (Bu. 86 : 12). But lenience was shown in the execution of punishment when the guilty person showed signs of repentance (Bu. 86 : 27 ; AD. 37 : 9). It is strictly forbidden that one man should be punished for the crime of another (AD. 38 : 2). Nor is any punishment to be inflicted on a madman or a minor (Bu. 86 : 22 ; AD. 37 : 17). The punishment of the pregnant woman is to be deferred until she has delivered her child (IM. 21 : 36).

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