

PART THREE: THE FIQH OF FASTING AND RELATED MATTERS

3.1 INITIAL DEFINITIONS

The Arabic words *ṣiyâm* and *ṣawm* literally mean ‘abstention’ and as such any avoidance even of speech may be called *ṣawm*. An example of this comes in *sûrah* Maryam, verse 26: “I have taken an oath to perform *ṣawm*... and as such I will not speak to any human today.” Legally however it means: “for a specific person [the *mukallaf* who intends it] to abstain from specific matters [the three nullifiers] for a specific period [from true dawn until sundown].”

Generally whenever fasting is mentioned it refers to the fast of Ramaḍân as it is the best of fasts. Also according to consensus no other fasting is intrinsically compulsory except for that of Ramaḍân. Talḥah ibn `Ubayd Allâh reports that a Bedouin asked the Messenger regarding Islâm. He replied: “...and to fast Ramaḍân.” He (the Bedouin) then asked: “Is there any other (fast) compulsory on men?” He answered: “No except should you wish to do perform an involuntary fast.” [Bukhârî: 1792 and Muslim: 11]

3.2 HISTORY AND OBLIGATION OF FASTING

Following the *hijrah* [migration from Makkah to Madînah] the Messenger of Allâh used to fast three days of every month and the day of `Ashûrâ. This continued until the second year after *hijrah* when Allâh obligated the fast of Ramaḍân. The *ummah* of the Prophet Muhammad have the distinct honour of being the only nation to fast *Ramaḍân* but other nations also fasted prior to this *ummah* yet in their own way.

The basis for the obligation of the fast of Ramaḍân is verse 185 of *sûrah* al-Baqarah: “*The month of Ramaḍân is that in which the Qurân was revealed as a guidance for mankind, clear signs of guidance and the criterion (between right and wrong). As such whosoever of you witnesses (is alive, well and a resident for) the month should fast it...*,” and the prophetic tradition: “*Islâm is built on five things: 1) the testimony that there is no being worthy of worship but Allâh and that Muhammad is the Messenger of Allah 2) the establishment of ṣalâh 3) the paying of zakâh 4) going on Hajj to the Holy House and 5) the fast of Ramaḍân.*” Bukhârî: 8 and Muslim: 16.

As such fasting the month of Ramaḍân is considered compulsory by Ijmâ` [consensus of scholars] and considered a definitively known component of religion [*ma`lûm min al-dîn bi al-darûrah*]. The one who denies its compulsion is an apostate who should be asked to repent and should he refuse, in a Muslim country the authorities will put him to death. The one who fails to fast but acknowledges its compulsion is a sinner who should be prevented from food and drink for the period of fasting. In this manner at least the superficial form of fasting will exist and perhaps this will cause him to repent.

3.3 ESTABLISHMENT OF THE MONTH OF RAMADÂN

It is not compulsory to fast for the month of Ramaḍân until the advent of the month has been authentically established via one of two means: a) the sighting of the new moon of Ramaḍân or b) the end of 30 days of Sha`bân. This is because in Islâm we follow the lunar calendar which is based on the sighting of the moon and the fact that the lunar month is either 29 or 30 days. This is clear in the *ḥadîth*:

Abû Hurayrah reports that the Prophet [peace be upon him] said: “Fast at its sight (i.e. the new moon of Ramaḍân) and stop fasting at its sight (i.e. the new moon of Shawwâl). But if it is unclear to you (such as when it is overcast), then complete the period of Sha`bân as thirty (days).” [Bukhârî: 1909 and Muslim: 1081]

The new moon of Ramadân must be sighted by at least one Muslim of integrity [*ʿadl*] who must bear witness to it by the Muslim authorities appointed to determine such matters. Although witnessing usually requires two witnesses here one will suffice as it involves the compulsion of an act of worship and as a matter of caution. The witness must be a male and has to be the actual person who sighted but in certain cases a witness to the fact that another had sighted is permitted. `Abdullah ibn `Umar reports that “People saw the moon and I informed the Prophet that I had seen it. He subsequently both fasted and commanded the people to fast.” [Abû Dâwud: 2342]

The month of Shawwâl and all other months must, however, be established via the sighting of two individuals who have testified to the fact. The Amîr of Makkah, the *ṣahâbî* Hârith ibn al-Hâtib gave a public address and said: “The Messenger of Allâh [peace be upon him] commanded us to perform *ʿibâdah* [worship and here meaning *ṣawm*] at its sight (i.e. the sighting of the moon of Ramadân) and should we not personally see it, then there are two witnesses of integrity and we begin our worship by their testimony.”

The testimony of the *kâfir* [non-Muslim], the *fâsiq* [profligate/open sinner] and the *mughaffal* [unmindful and imprecise] is not to be taken as they do not possess integrity. The *aṣaḥḥ* [most correct] view is however that we will accept the testimony of the *mastûr* [one apparently possessing integrity] who as far as we know has not committed anything which would render him a *fâsiq*.

If however someone has sighted the moon of Ramadân but his testimony is rejected by the *qâḍî* [magistrate in charge of such matters] or he is a *fâsiq* or a *mughaffal* or alone in an uninhabited area, then he will personally have to fast the day thereafter. Conversely when any of them sight the moon of Shawwâl they must refrain from fasting the next day albeit secretly so as to avoid suspicion and even punishment.

If the moon is sighted in one area but not another, one has to check whether they are near or far. If near, the people of the second area will also have to fast and if far, they are not required to do so. Scholars consider nearness based on similar lunar appearances [*ittiḥâd al-matâli`*] where if the moon is sighted in one area it is usually sighted in the next as well. This is based on the *ḥadîth* of Kurayb in Muslim: 1087 who tells us that while he was in Shâm [Greater Syria] the moon of Ramadân was sighted on a Thursday evening and when he, near the end of the month, came to Madînah he discovered that they had sighted the moon on the Friday night thereafter. When he spoke to `Abdullâh ibn `Abbâs about it, the latter informed him that they would continue to fast until they either sighted the moon locally or the month completed 30 days. When Kurayb asked him as to why they did not suffice themselves with the sighting of Mu`âwiyah in Shâm, Ibn `Abbâs replied: “No, this is how the Messenger of Allâh commanded us.”

Based on this should one start the fast in one area and then travel to another area were the moon was sighted later he will have to count himself amongst the people of the area he entered in. As such he will only celebrate `Îd when they do even if this means he has to fast more than 30 days. Conversely when he travels to an area that sighted the moon earlier he will enjoy `Îd with them and if he had personally fasted only 28 days, he will have to make *qadâ`* of one.

Also should he have started the day in an area celebrating `Îd and then he travels to an area where they are still fasting, he will have to abstain from the three nullifiers for the remainder of the day. Conversely if he started the day fasting and then travels to a people celebrating `Îd, he will have to break his fast. If this results in him having fasted only 28 days, he will have to make *qadâ`* of one.

If people refrain from fasting [*iftâr*] such as when the new moon of Ramadân was not sighted and then it is proven that it is actually the first of Ramadân, they will have to abstain [*imsâk*] from the three nullifiers for the remainder of the day. As this is not considered a fast and is done only in respect of Ramadân, *qadâ'* of this day will have to be made.

If the moon is sighted in the day it will not affect the day in question but will be considered a valid sighting for the next day. What this means is that if the moon is sighted in daytime on the 30th of Sha`bân or the 30th of Ramadân it will not necessitate *imsâk* [abstaining from the 3 nullifiers] for the former nor *iftâr* [breaking the fast] for the latter as in both cases the 1st of the following month will only start the night following. This is based on the *athar* of `Umar in Dâraqutnî, vol. 2, p. 168.

3.4 THE PREREQUISITES [SHURÛT] OF FASTING

A *shart* or prerequisite is anything which must exist both prior and during the intended act. As such its absence renders the act invalid for the validity of acts rests on the fulfilment of their conditions. Regarding fasting there are two types of conditions: 1) conditions of compulsion [*shurût al-wujûb*] and 2) conditions of validity [*shurût al-sihhah*].

a) Conditions of Compulsion [Who must fast?]

The conditions of compulsion are five:

1) **Islâm**, because although fasting is considered compulsory on the *kâfir* [non-Muslim] and the *murtadd* [apostate] they are not required to fast while being disbelievers nor will it be accepted of them until they become Muslim. The difference between the *kâfir* and the *murtadd* being that should the former embraces Islâm, he will not be required to make *qadâ'* [late performance] [Anfâl: 38] but the latter will have to make *qadâ'* of days of fast missed.

2) **Bulûgh [physical or sexual maturity]**. This is based on the *hadîth* of `Aliy ibn `Abû Tâlib who reports that the Prophet said: “The pen is lifted for three people: the minor until he enters puberty, the one sleeping till he awakes and the insane until he recovers his sanity.” [Abû Dâwud: 4403] Still the minor who is seven years of age and able to fast should be commended to do so while the one of ten years should receive physical admonition when he fails to fast. This is because the fast is analogous to *salâh*.

3) **Sanity and consciousness** with the difference that when sanity is regained there is no *qadâ'* but when consciousness¹ is regained, *qadâ'* of missed fasts must be made.

4) **Being free of menses [*hayd*] and *nifâs* [lochia or post-partum]**. This is because it is impermissible for the lady experiencing menses or *nifâs* to fast. They will however have to make *qadâ'* of days missed because `Â`ishah reports regarding women who had menses: “We were commanded to make *qadâ'* of the fast but not of the *salâh*.” [Muslim: 335]

5) **Being able to bear the difficulty of fasting**. [Baqarah: 184 and Hajj: 78] The unable due to such as old age and illness where recovery is considered unlikely are therefore allowed to abstain from fasting. They should instead pay a *fidyah* [ransom] of one *mudd* [approx. 600g] of food per day of fasting. When suffering apparent difficulty as a result of illness, it is permitted to eat and then to perform *qadâ'* later

¹ This is because unconsciousness such as coma is a sickness and verse 184 of *sûrah* Baqarah, though allowing the sick to refrain from fasting, still obligate its *qadâ'*.

when able. Anyone who becomes sick or fears that he may die of hunger or thirst during the day of fasting may also break his fast.

b) Conditions of Validity [Who may fast?]

The conditions of validity are four:

1) **Islâm.**

2) **Distinction.** Fasting is not compulsory except upon the sane and physically mature. The fast of a minor of seven years of age who possesses distinction is however valid. The fast of those under seven who generally do not possess true distinction is invalid.² In a like manner the fast of the insane is invalid.

3) **Being free from any excuse which prevents fasting** such as *ḥayḍ* [menses] or insanity [*junûn*].

4) **The existence of the period of fasting** which is from true dawn till sundown and in the case of: a) *Ramaḍân* is confirmation of the month via sighting of the moon or completion of the thirty days of *Sha`bân*. b) Other fasts means every day other than *Ramaḍân* except the two days of `Îd, the three days of *tashrîq* and fasting *nafl* without cause on the day of doubt.

3.5 THE ESSENTIALS [ARKÂN] OF FASTING

The essentials of fasting are three: a) the individual that fasts, b) the intention to fast and c) abstention from the nullifiers. As we have already discussed ‘a’ we will now turn our attention to ‘b’ and ‘c’.

a) The Individual that Fasts (previously discussed.)

b) The Intention to Fast

1- Definition of *niyyah* [intention]. The Arabic word *niyyah* means ‘to intend’. The place of intention is the heart and merely saying it on the tongue without intending it with the heart will not suffice. It is however considered good to accompany the intention of the heart with a statement of the same on the tongue. Any act that indicates to the presence of intention in the heart will also suffice such as a) when he wakes in the morning for *sahûr* and b) he abstains from food, drink and sexual intercourse before Fajr fearing true dawn.

2- The ruling on *niyyah*. The intention to fast is an essential and compulsory duty whether for a compulsory or voluntary fast. This is based on the prophetic tradition reported by `Umar [may Allâh be pleased with him]: “All actions are but by the (accompanying) intentions and an individual will have only that which he had intended.” [Bukhârî: 1 and Muslim: 1907] Also fasting is pure worship and therefore requires intention to be valid.

² This apparently contradicts the *ḥadîth* in Bukhârî: 1960 and Muslim: 1136 which states that the *Ṣahâbah* trained their children to fast and made them toys of wool to be given to them when they cried thereby pacifying them till *iftâr*. This is however merely a superficial contradiction because a) the narration in Muslims shows that they were taken to the mosque which means they were at least seven and b) they said they were training them to fast not that they were forcing them to fast; the difference being you can train someone to do something without actually believing their actions to be valid.

3- The prerequisites [*shurûṭ*] of the intention. If the fast is compulsory like *Ramaḍân*, *qadâ'* [belated performance] of *Ramaḍân*, an oath [*nadh'r*], a *kaffârah* [expiation] or *fiyah* [ransom] of Hajj then the following three things are required:

- a) *Tabyt* or that it be done at night. This is based on the *hadith* narrated by *Hafsah* who says that the Prophet [peace be upon him] said: “He who does not intend the fast at night prior to *fajr* [true dawn] cannot attain to the fast.” [Tirmidhî: 730 and Nasâ'î: 2331] In the case of *nafl* fast intention may be made at any time before *zawâl* (sun reaching zenith) on condition that the nullifiers have been avoided since before true dawn. This is based on the *hadith* narrated by Muslim: 1154 on the authority of `Â'ishah who says that the Prophet asked her one day: “Oh `Â'ishah do you have any food³ by you? When I said: “Oh Messenger of Allâh, we have nothing by us,” he said: “In that case I am fasting.”
- b) *Ta'yîn* or specifying the type of compulsory fast such as when he intends the *Ramaḍân* of this year. The *niyyah* of a *nafl* fast does not require specification and the general intention to fast will suffice. It is not necessary that he intends the compulsion of *Ramaḍân* and the intention to fast *Ramaḍân* will suffice. This is different to *salâh* as the fast of *Ramaḍân* by an adult will invariably be compulsory but even a compulsory *salâh* can be offered as a *nafl* such as when one repeats a particular *salâh* so that the latecomer does not miss *salâh* in congregation [*jamâ`ah*]. It is not necessary to intend that the fast is for Allâh as an act of worship by a Muslim is always for Allâh. It is also not necessary to specify that it is for this year. It is however necessary to make a firm intention and as such conditional intentions are invalid. An example of this is: “If it is *Ramaḍân* tomorrow then I am fasting but otherwise not.
- c) *Takrâr* or repetition of the *niyyah* every night of *Ramaḍân*. This is because every day of fasting is a separate and distinct act of worship requiring a separate intention.

c) Abstention from the nullifiers.

The nullifiers of the fast are seven:

- 1- **Eating and drinking.** There is consensus that eating and drinking intentionally is prohibited to the one fasting. As such anyone who eats or drinks of his own free will knowing it to be unlawful and mindful of it has broken his fast.

As such if food is stuck between his teeth and he is unable to remove it even if the taste mixes with his saliva and runs down his throat his fast will not be broken. If however he is able to remove it yet swallows it intentionally, it will break his fast.

If however food or drink is forced down his throat against his will it does not break his fast. Also if he eats or drinks unmindfully it does not break his fast due to the *hadith*: “He who eats or drinks forgetfully when he is fasting should complete his fast as it was Allâh who fed him and gave him to drink.” [Bukhârî: 6669 and Muslim: 1155]

If he had recently embraced Islâm or lives in an uninhabited area far from `Ulamâ' and eats and drinks during *Ramaḍân* it does not nullify the fast as it is similar to the one who had eaten

³ In the version narrated by Dâraqutnî vol. 2 p. 175 it states: “Do you have any *ghadâ'?*” *Ghadâ'* loosely translated means ‘lunch’ and refers to the food Arabs eat just before *zawâl*.

forgetfully. If he eats thinking that true dawn had not yet arrived when it had or that the sun had set when it had not, then his fast is broken and he will have to make *qadâ'*.

- 2- **The arrival of a physical body to the inner cavity via an open orifice.** What is intended by a **physical body** is any substance which can be seen with the naked eye even when small and not edible but not an effect such as an aroma sensed via smelling and heat via taste. The **inner cavity** is the brain and what is beyond the throat up till the stomach and the intestines. An open **orifice** refers to the mouth, the ears, the front private part and the anus.

As such snuff breaks the fast as well as ear drops because the one is via the nose and the other via the ear. Eye-drops and the application of *kuhl* [eye liner] will however not break the fast as there is no natural opening. This is so even when the taste of the *kuhl* is found in the throat because of the *hadîth*: “The Prophet used to apply *ithmid* as an eye-liner when he was fasting.” [Bayhaqî, vol. 4, p. 262] In a like manner injections into the skin and into the veins does not break the fast as it is not via a natural opening.

Also if something arrives to the inner cavity unintentionally even when avoidable it will not break the fast such as with flies, dust from the road and flour particles in the air. This is because its avoidance entails excessive difficulty. Also if he swallows his pure saliva from inside the mouth cavity, even if he amasses it first, this will not break the fast. If however it is allowed to exit the mouth and then swallowed, such as when he moistens a string with his saliva and then sucks it, it will nullify the fast. Also when his blood mixes with his saliva, such as when he has bleeding gums, and he swallows it without rinsing his mouth, his fast will break.

When he rinses his mouth or his nose and water is swallowed he should check whether he had been excessive in the rinsing or not. If excessive it breaks the fast and if not then it doesn't. This is based on the report of Laqîb ibn Sabirah who said the Prophet [peace be upon him] told him: “When you rinse your nose then allow the water in deeply unless you are fasting.” [Ahmad: 15945] If it were not that rinsing deeply will break the fast then the restriction when fasting is without good reason. Entering anything into the anus, the penis and the vagina will break the fast regardless of it being water, a needle or a finger and regardless of amount whether a large quantity or even a drop.

- 3- **Induced vomiting.** If the one fasting induces vomiting by any means even if merely by sticking his finger in his throat, his fast breaks. If he is overcome by vomiting his fast does not break. This is based on the *hadîth* reported by Abû Hurayrah who says that the Messenger of Allâh said: “He who is overcome by vomiting when fasting does not need to make *qadâ'* but he who induced it should perform *qadâ'*.” [Abû Dâwud: 2380 and Tirmidhî: 720]

If he brings up mucus from the throat or down the nasal passage and then swallows it, his fast breaks. If he spits it out, the fast does not break. If it comes down his nasal passage and straight down the throat on its own or due to coughing, it does not nullify the fast. If it however comes to the exterior of the mouth where he is able to spit it out, he has to do so because if left and swallowed it breaks the fast.

- 4- **Intentional sexual intercourse** during the day, whether or not to the point of ejaculation, breaks the fast by consensus. If it is done forgetfully it does not break the fast just like eating and drinking forgetfully. If one engages in petting or kissing and it leads to ejaculation, the fast
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breaks. If there is no ejaculation, the fast does not break. If one is engaged in sexual intercourse and true dawn arrives but withdrawal of the penis causes ejaculation, the fast does not break as it was caused by an unavoidable and lawful act.

When true dawn arrives and one finds oneself in a state of *janâbah* [sexual impurity] due to intercourse or nocturnal emission [*ih̥tilâm*] it does not harm the fast and one should continue the fast. This is based on the *hadîth* reported Ummu Salamah and `Â`ishah who state that the Messenger of Allâh used to sometimes at morning time find himself in a state of *janâbah* due to sexual intercourse and yet he continued fasting. [Bukhârî: 1932 and Muslim: 1109]

- 5- **Masturbation to the point of ejaculation.** If however there is no ejaculation or ejaculation results due to gazing or thoughts it does not break the fast. Likewise if ejaculation results due to *ih̥tilâm* it does not affect the fast.
- 6- **The advent of menses [*ḥayḍ*] or *nifâs* [lochia or post-natal bleeding].** When a lady is fasting and her *ḥayḍ* or *nifâs* starts her fast is nullified and she will have to make *qadâ`*. This is based on the prophetic statement: “Is it not so that when she has *ḥayḍ*, she does not perform *ṣalâh* and does not fast.” [Bukhârî: 1951]
- 7- **Insanity and apostasy.** If the one fasting becomes insane or apostates, his fast is nullified.

3.6 THE EXCUSES THAT PERMIT EATING AND THE QADÂ` OF RAMADÂN

Islâm is a religion of ease and removal of difficulty. As such it permits the breaking of the fast for individuals who have the following excuses:

- 1- **Sickness.** When fasting will cause illness or cause the already sick to become sicker or delay the healing process or when the sickness is severe or it causes the individual pain or discomfort, he is not obliged to fast. This is based on the verse: “*And whoever of you is sick or on journey then a number of other days.*” [Baqarah: 185]

It is not required that he be unable to fast and suffices that fasting causes him clear difficulty which he struggles to bear. The sick may discard the intention to fast at night and should he be fasting when the sickness befalls him, he may break the fast as needed. Minor illnesses which do not cause clear difficulty do not suffice as an excuse to break the fast. A serious illness which might be terminal renders the nullification of the fast obligatory. This is based on the verse: “*Do not kill yourselves. Allâh is Most Merciful with you.*” [Nisâ: 29]

- 2- **Travel.** If someone goes on a journey of 85 km or further it is permissible to break the fast and perform *qadâ`* of any days missed. This is based on the verse: “*And whoever of you is sick or on journey then a number of other days.*” [Baqarah: 185]

The journey must be lawful so that eating does not provide assistance in the performance of sin. Another requisite is that the journey must be begun before true dawn for if he is still a resident at dawn and only later begins the journey it is not permitted to break the fast. This is because he had already started the fast and as an *`ibâdah* it may not be invalidated midway without good reason. See the verse: “*Do not invalidate your deeds.*” [Muḥammad: 33]

It is permitted for the traveller to break his fast⁴ but if fasting causes him no difficulty it is best that he fasts⁵ while if it causes him difficulty it is best that he abstains from fasting. [Bukhârî: 1946 and Muslim: 1115]

When a traveller who had opted to eat arrives at his destination, it is desirable [*mustahabb*] that he abstains from food and drink for the remainder of the day. This is in respect of the period and also so that someone does not see him eating thereby avoiding suspicion and punishment. It is not permitted for a traveller to fail to fast Ramaḍân and instead intend another fast such as *qadâ'*. If this is done the fast is invalid both for Ramaḍân and for any other fast.

- 3- **Inability to fast.** Anyone unable to fast, such as the feeble due to old age or terminal illness, may abstain from fasting and instead pay a *fiyah* [ransom]. The *fiyah* constitutes the feeding of one of the poor a *mudd* [approx. 600 g] of the local staple diet. This is based on the verse: “*And upon those unable to fast except with great difficulty is a fīyah: feeding of the poor.*” [Baqarah: 184] Ibn `Abbâs said: “It is the elderly man or woman who are unable to fast and who will now feed a poor person for every day missed.” [Bukhârî: 4505] Abû Hurayrah said: “He who has reached old age and is unable to fast the month of Ramaḍân must give one *mudd* of wheat for every day. [Bayhaqî, vol. 4, p. 271] If due to poverty he is unable to pay the *fiyah* it falls away according to the *asahh* [more probable] view. If he is able to afford it afterwards it will still not be necessary to do so as the time of liability had ended.
- 4- **Pregnancy and breast-feeding.** It is permitted for the pregnant or breast-feeding lady to break the fast if she fears for herself or the child. If the fast is broken for fear of personal harm only or personal harm and harm to the child, then only *qadâ'* is required. If however it is done solely for fear of harm to the foetus or child then it is obligatory to make *qadâ'* and pay a *fiyah*. A single *fiyah* of one *mudd* for every day is required regardless of amount of children. This law of *qadâ'* and *fiyah* applies to similar cases where the fast is broken for others such as when saving someone from drowning or when breastfeeding someone else's child.

QADÂ' OF RAMADÂN

Anyone who breaks their fast in Ramaḍân via a means other than sexual intercourse will have to make *qadâ'* of that day prior to the advent of the next Ramaḍân. Should he fail to do so and the next Ramaḍân comes he will have to pay *fiyah* of one *mudd* [approx. 600g] of the local staple diet for every day in addition to *qadâ'*. This is based on the *âthâr* [reports] of Ibn `Abbâs, Ibn `Umar and Abû Hurayrah who state: “He should feed on behalf of the first.” Every year that he delays adds a *fiyah* for every day missed even if this continues for many years. If however he had delayed until the advent of the next Ramaḍân due to a valid excuse, such as continued sickness or journey, there is no *fiyah* and he only has to perform *qadâ'*. It is best that the *qadâ'* be done as early as possible and consecutively but he may delay on condition that it is completed prior to the next Ramaḍân.

Anyone who passes away prior to the performance of *qadâ'* has two possible conditions:

⁴ Based on the report of `Â'ishah that Ḥamzah ibn `Amr al-Aslamî asked the Messenger: “Oh Messenger of Allâh should I fast when on journey? The Messenger answered: “If you want then fast and if you want then eat.” [Bukhârî: 1943 and Muslim: 1121]

⁵ See Bukhârî: 1945 and Muslim: 1122 for the Prophet and `Abdullâh ibn Rawâḥah fasting on journey despite such oppressive heat that all the other Sahâbah broke their fast.

- a) The delay was due to a valid excuse which did not allow the performance of *qadâ'* or at the very least permitted its delay such as sickness or travel. In this case there is no sin and the obligation to fast is waived.
- b) If he was able to make *qadâ'* but did not until he passed away it is permitted for his relatives to fast the missed days on his behalf. This based on the report of `Â'ishah who said that the Messenger of Allâh said: "*Whoever passes away while having missed days of Ramadân still to be made, his waliy [guardian] may fast it on his behalf.*" [Bukhârî: 1952 and Muslim: 1147] The term *waliy* that comes in the *hadîth* refers to his relatives especially his heirs. This is because *sawm* is an act of worship which obligates *kaffârah* when nullified and so permits another to fast it on his behalf after his death. In another narration the Prophet said: "*The debt of Allâh has greater right to be settled.*" [Bukhârî: 1953 and Muslim: 1148]

Any relative who fasts on behalf of the deceased or permits a non-relative to fast, even if he has to pay someone, will lift the debt of the deceased. If a non-relative fasts without permission of the relatives and without *wasiyyah* [a bequest] by the deceased it will not count in favour of the deceased. If no one wants to fast the required *fidyah* must be taken from his estate before distribution to his heirs. If he leaves no effects it is permitted to pay the *fidyah* on his behalf. This is also the view of such *shâbah* as Ibn `Abbâs and Ibn `Umar. [Tirmidhî: 718 and Abû Dâwud: 2401]

FIDYAH OF RAMADÂN

It is apparent from what has been mentioned previously that *fidyah* is obligatory in the following instances:

- 1- The frail due to old age and the terminally ill as they do not need to fast but have to pay *fidyah* for every day missed. It may not be paid prior to Ramadân but may be paid after sunrise of every day and before it also.
- 2- The pregnant and the breast-feeding when they break their fast in fear of harm which can fall the child as they will have to make *qadâ'* and pay *fidyah* for each day missed.
- 3- He who had *qadâ'* to be made and delayed its performance until the advent of the next Ramadân as he will now have to pay *fidyah* in addition to *qadâ'* for every day missed.
- 4- *Fidyah* has to be taken and distributed from the estate of the deceased when none of his relatives want to fast his missed days and no stranger has permission from the relatives or a *wasiyyah* from the deceased to do so.

The giving of each *fidyah* is an independent act of worship to be given to the poor and needy. Still it is permitted to give the *fidyah* of the entire month to a single person. This differs from *kaffârah* in that every *mudd* must be given to a different person.

THE KAFFÂRAH OF BREAKING THE FAST

When the fast is broken by indulging in sexual intercourse there are two possibilities:

- 1- There was either a valid excuse to break the fast or some reduction of the sin which changes the ruling. Examples of this include:
 - a) The one who forgot that he was fasting.
 - b) The one who did not know that it was *harâm* such as the new Muslim.

for “The Fiqh of Fasting” presented by mIn Abdurragmaan Khan

- c) The one who broke his fast by eating or drinking and then only engaging in sexual intercourse.
- d) The one on journey or the sick.
- e) The one who was occupied in a fast other than Ramadân.
- f) The one who thought it was still night and afterwards it became clear that it was day already.
- g) The one who ate forgetfully and thinking that he had broken his fast engaged in sexual intercourse.

In all these cases only *qadâ'* is required.

2- In all other cases if he broke his fast by sexual intercourse, he will have to:

- a) abstain from the nullifiers for the remainder of the day
- b) perform *qadâ'*
- c) perform *kaffârah* [an act of expiation]

This is because he had committed a sin and violated the sanctity of the month of Ramadân. In truth he is deserving of punishment in this world and the next, unless he repents which frees him from punishment in the next only.

If he had broken his fast by means other than sexual intimacy such as eating, drinking, masturbation, petting which led to ejaculation there is no *kaffârah* and *qadâ'* will suffice. This is because the text of the *hadîth* is on sexual intimacy as these things cannot be considered analogous to it.

KAFFÂRAH ON THE HUSBAND

Only the husband is obligated to perform the *kaffârah* [expiation] according to the *asahh* [more probable view] as it is a monetary duty resulting from sexual intercourse like dowry which applies only to men. Also the sexual act is attributed to him and so it is his duty to perform *kaffârah*. Still the wife has to perform *qadâ'* for the fast nullified.

TYPES OF KAFFÂRAH

The acts of expiation as a result of sexual intercourse during the fast of Ramadân are arranged sequentially.

- a) If able he has to set free a Muslim slave.
- b) If unable – such as in our time and place – he has to fast two months consecutively.
- c) If unable he has to feed 60 people a *mudd* each.
- d) If he is unable to do any of these, the *kaffârah* will remain in suspension until he is able to do any of the above three.

The evidence for this is the report of Abû Hurayrah who says that a man came to the Prophet [peace be upon him] and said: “I am destroyed oh Messenger of Allâh.” The Prophet said: “And what has destroyed you?” He said: “I have engaged in sexual intercourse with my wife in Ramadân.” The Messenger of Allâh said: “Do you have enough to set free a slave?” He said: “No.” The Prophet said: “Are you able to fast two months consecutively?” He said: “No.” The Prophet said: “Do you have enough to feed sixty poor people?” He said: “No,” and sat down. The Prophet was then brought a basket of dates whereupon he

said: “Give this in charity.” The man said: “Should I give it to someone poorer than us for between the two sides of Madînah there is no household more in need than us.” The Prophet then laughed until his canine teeth could be seen and said: “Go and feed it to your family.” [Bukhârî: 2600 and Muslim: 1111]

The last passage of this *hadîth* is considered a ruling particular [*khusûsiyah*] to this *sahâbî* which cannot be used for others. This is because *kaffârah* must be given to the poor and needy and someone who cannot afford to do so may not give it to his own family as is the law regarding all *kaffârah* and *zakâh*.

MULTIPLE KAFFÂRAHS

Every day of fasting is an independent act of worship and as such when it is broken by sexual intercourse it necessitates an independent act of expiation [*kaffâraf*]. As such should an individual break a number of fast by sexual intercourse he will have to perform expiation for each day individually. If however he engages in multiple rounds of sexual intercourse in one day since he had broken his fast only once he will have to make only one *kaffârah*.

If he breaks his fast by sexual intercourse and then becomes sick or sets out on a journey, he will still have to perform *kaffârah*. This is because the sickness or journey only started after the compulsion of *kaffârah* and therefore cannot obviate it. If however he goes mad or dies after breaking the fast with sexual intercourse the compulsion of *kaffârah* falls away according to the *asahh* as the day is unsuitable for fasting in contradiction to sickness and travel.

THE PREREQUISITES OF KAFFÂRAH

Kaffârah will not be compulsory except when its prerequisites are found:

- 1- **Sexual intercourse** as there is no *kaffârah* on one who breaks the fast due to eating or drinking.
- 2- **Masculinity** as *kaffârah* does not apply to women.
- 3- **Maturity** as *kaffârah* does not apply to the prepubescent child.
- 4- **Nullifying** as there is no *kaffârah* on one who engages in sexual intercourse forgetfully as it does not nullify the fast just like eating and drinking forgetfully.
- 5- **The month of Ramadân** as there is no *kaffârah* on the one who breaks the *nadhr* fast, *qadâ'* and the *nafl* fast.
- 6- **Sin** as there is no *kaffârah* on the one travelling [*musâfir*] and the sick when they engage in intercourse during the days of Ramadân.
- 7- **Fasting** as there is no *kaffârah* on the one who broke his fast by eating or drinking first and the engaging in sexual intercourse.

FREQUENTLY ASKED QUESTIONS

QUESTION: What happens when someone embraces Islâm during the day of Ramadân, must he fast that day too?

ANSWER: No he is not required to fast but it is *mustahabb* [recommended] that he abstain from the three nullifiers for the remainder of the day. In this he is similar to the immature child who enters puberty and the insane who regain their sanity during the day of Ramadân. Additionally they will not be required to make *qadâ'* of the day as fasting was not compulsory on any of them with the sole exception of the *kâfir* but his acceptance of Islâm wipes his slate clean. [Muslim: 121 and Zuhaylî, *Mu'tamad*, vol. 2 p. 169]

QUESTION: If someone loses consciousness while fasting does it affect the fast?

ANSWER: No his fast will still be valid on condition that he eventually regains consciousness. If he never regains consciousness his fast will be considered invalid. On the other hand should someone become insane while fasting this will immediately nullify the fast as it completely destroys *taklif* [accountability].

QUESTION: If one receives an injection or medication is applied to an open wound does it break the fast?

ANSWER: No the fast is not broken as it does not reach to the inner cavity nor is it via an open orifice.

QUESTION: Does the one who breaks a *kaffârah* fast by engaging in sexual intercourse have to perform *kaffârah* for this too?

ANSWER: No but the *kaffârah* fast he was occupied with is rendered invalid as the *consecutiveness* is broken and as such will have to be done over.