

# **Notes of Lectures on Fiqh by Maulana Sadiq Hasan Lecture # 5 (Friday 16 March 2001)**

## **MORE ON RULES OF PERMISSION (IZN)**

✳ When a property has many owners (such as Partnership of a Business), then one owner can not use the property without the permission of all other owners. In case one owner is not giving permission or in case of any other dispute on the common property, the matter can be settled by referring to a Mujtahid. The Mujtahid has the authority to sell the property to settle the dispute if required. (Note: The term property means any item or thing of value)

✳ When a Muslim dies, the ownership of his property immediately changes to ownership of all his heirs. One heir cannot use the property without the permission of all other owners.

✳ There are two cases where permission is not required

- (a) Wali (guardian) of a na-baligh child does not need permission to use the property of his na-baligh child
- (b) Mujtahid does not need permission of the owner of the property to settle a dispute

✳ **Rules for use of contents of a Mosque, Imambargah, Islamic Centre or any Waqf property:**

- (a) The use of an item belonging to these religious centres by any person will depend upon the initial purpose and intention of putting that item in that centre. For example if the Quran was kept to be used within the Centre, then no one (including managing committee) is allowed to take it outside the Centre. Similarly if turbat (sajdagah) was kept to be used in the Centre, no one has the authority to sell it to anyone. If books and videos were kept for borrowing, then one can borrow them.
- (b) If someone donates some items (such as Quran, turbat, sheets, VCR etc) to a Centre, and says that it can be used within the Centre or outside by any Muslim, then it is allowed to take it out for that purpose. But if he has not specified the purpose at the time of donating, then it is assumed that it be used within the Centre unless there is some indication about his intention through other sharia ways as described in Lecture 4. After donating that item to the Centre, the donor also does not have the permission to take it back or take it outside the Centre. If someone donates an item, it is better that he gives permission that the managing committee can use it for other valid purposes.
- (c) If there are surplus items or funds (not needed) at a Centre, and if it seems they will not be needed in the future, then they should be donated to a similar other Centre.
- (d) Any momin donating Tabarruk or food to the Centre is responsible to take it back if it is left over after distribution. If he has left it at the Centre without any instructions, then

the managing committee can distribute it in whatever way it deems appropriate. Same applies to food bought by the funds of the Centre.

### **EXCEPTIONS IN ISLAMIC LAWS**

✳ In Islamic laws, there are exceptions to such laws in certain conditions.

- (a) Example 1: Telling a lie is haram in Islam. But, as an exception, it is allowed in order to patch up the differences between two Muslims.
- (b) Example 2: To recite salat at its initial time (awwale waqt) has the greatest sawab, but, as an exception, delaying it will give more sawab in the following situations:
  - (i) Waiting for jamaat prayer for that salat unless it is too late
  - (ii) In hajj, on 9<sup>th</sup> Zilhajj, delaying Maghrib salat to join Isha salat at Muzdalifa
  - (iii) Recite Nafila of Zohr (or Asr) first, then read Zohr (or Asr)
  - (iv) After Maghrib salat, offering Isha salat with a delay

### **IJTIHAD & TAQLEED**

✳ Only a Mujtahid has the power to give a fatwa. It is haram for a non-Mujtahid to give fatwa. According to Holy Prophet (SAW), any one who gives a fatwa without knowledge is a kafir and reserves his seat in hellfire.

✳ It is allowed for a Momin to communicate a Mujtahid's fatwa to others on the strict condition that he has the capability of not mixing up one fatwa with other fatwas. He must have clear understanding of different issues when communicating a fatwa. Two examples will clarify this.

✳ Example 1: A wife, whose husband has divorced her before any sexual relationship was established, does not need to keep Iddah (waiting period). But a wife, whose husband has died even before any sexual relationship was established, must keep an Iddah; then only she can marry someone else. If a woman marries someone during Iddah period, then such a marriage is batil and they become haram for each other for ever.

✳ Example 2: A wife, whose husband has disappeared and she heard the news that he was dead and she believed the news, then she is allowed to marry someone else. But after sometime, if her first husband was found to be alive and returns to her, then her second marriage becomes null and void immediately and she must live with her first husband. To avoid this problem, the woman could have got a divorce from her first husband through a Mujtahid when she intended to marry second time, and in this case if her first husband returns to her, he has no right on her wife and her first marriage is considered null and void.