

Notes of Lectures on Fiqh

by Maulana Sadiq Hasan in Melbourne

Lecture # 7 (Friday 27 July 2001)

IMPORTANCE OF HAJJ

☀ Among all the acts of worship (furoo-e-deen), Hajj is the only worship, for which a complete surah (Surah Hajj) is revealed in the Holy Quran. Hajj is also mentioned in Surah Ale Imran and Surah Baqarah in Quran. Hajj is also the only worship, which, if started, must be completed and can not be left half-done, even if it is a Mustahab Hajj (unlike Mustahab Sawm, which can be broken anytime, if necessary, without any sin).

☀ Quran: "And the Hajj is incumbent upon mankind for the sake of Allah, for those who can afford to undertake journey to it; and whoever denies, then surely Allah is Self-sufficient, independent of the worlds", Surah Ale Imran, (3:97).

☀ Hadees 1: If a person, on whom Hajj has become wajib, does not perform Hajj and dies, he/she will die as a christian or a jew.

Hadees 2: If Hajj becomes wajib on a person and it is not performed, then he/she will be raised as a christian or jew on the day of judgement.

Hadees 3: When a person, on whom Hajj becomes wajib, completes the Hajj properly, his/her sins are forgiven such as if he/she is a newly born person.

Hadees 4: When a person completes a Hajj properly, his/her every dua is accepted for four months.

WHEN DOES HAJJ BECOME WAJIB ?

☀ Hajj becomes wajib only when a Muslim attains certain capability (*Isteta'at*) as defined by Islamic sharia. Hajj is therefore a conditional wajib (*wajibe mashroot*) act as opposed to absolute wajib (*wajibe mutlaq*) acts such as salat and sawm. Another example of conditional wajib act is Salatul Juma (Friday Prayer). For conditional wajib acts, it is not necessary for a person to deliberately create the conditions for the act to become wajib.

☀ If a person does not attain the required capability (Isteta'at), then Hajj is not wajib on him/her. If such a person performs the Hajj without the required capability, then his Hajj is OK, but he has to perform the Hajj again in future if and when he attains the required capability (isteta'at).

☀ It is not wajib on a person to try to achieve the required capability in order to perform Hajj. This is not the case for other acts of worship such as wudu for wajib salat, for which it is wajib to try to get the water for performing wudu.

☀ The wajib Hajj is of two types depending upon how it becomes wajib:

- (1) Hajje Isteta'ei (wajib when attaining required Isteta'at automatically)
- (2) Hajje Bazli (wajib when someone gifts sufficient money to someone for Hajj)

☀ When someone gives you sufficient money as a gift for performing the Hajj, then it is wajib for you to accept the gift and go for Hajj. For example, if husband is willing to pay for his wife or for his baligh child for Hajj, then it is wajib for the wife or that child to go for Hajj. If they go to Hajj with this gifted money, then they have performed their wajib Hajj and need not go again even if they get their own sufficient money in future.

☀ If someone is giving sufficient money as a gift to someone without putting a condition to go for Hajj, then it is not wajib for the receiver to accept the money. But if he accepts and the money is sufficient and other conditions of isteta'at exist, then he has to go for Hajj.

☀ If a person, on whom Hajj is not wajib (eg na-baligh person, or when the passage is not safe), performs the Hajj somehow, then he will get the sawab of that Hajj, but he will have to go to do his wajib Hajj in future when Hajj becomes wajib on him.

CONDITIONS OF ATTAINING CAPABILITY (ISTETA'AT) FOR HAJJ

☀ There are four types of capability (**isteta'at**) which must all exist for the Hajj to become wajib. Such a wajib Hajj is called Hajj-e-Islam. These capabilities are:

- (1) Mental Capability (Isteta'at-e-Aqli)
- (2) Passage Capability (Isteta'at-e-Tariqi)
- (3) Physical Capability (Isteta'at-e-Badni)
- (4) Financial Capability (Isteta'at-e-Mali)

☀ **Mental Capability** means that the person must be aqil (sane) and baligh Islamically.

☀ **Passage Capability** means that the passage for going to Hajj and return must be secure and safe without any danger to life. This also includes getting the visa. If passport or visa is denied, Hajj is not wajib.

☀ **Physical Capability** means that the person must be physically fit to perform the Hajj. If a person has sufficient money to perform the Hajj, but he is physically unfit and does not expect to become fit in future, then it is wajib for him to send someone else to perform the Hajj on his behalf. This is the only situation when a person can perform a Hajj on behalf of a living person. But if the unfit person gains health in future and gains physical capability, then he must perform the wajib Hajj himself if other capabilities (financial, mental, passage) also exist. According to some marja, if he is physically unfit now, he has to send a naib (representative) to do Hajj on his behalf as well as perform Hajj himself later on when he becomes fit, if other capabilities also exist.

☀ **Financial Capability** means that the person must fulfil the following conditions:

- (a) Has expenses for to-and-fro travel to Mecca
- (b) Has funds for local travel
- (c) Has funds to maintain his dependants during his absence due to Hajj
- (d) His source of income or any job is maintained after returning from Hajj

✳️ When the financial capability is attained by having a certain amount of funds to meet above expenses (say \$5000), then it is wajib to go for Hajj, even if you spend lesser amount during the completion of your Hajj. But if you did not have the financial capability (by not having the required amount, say \$5000), and if you still went ahead somehow and performed the Hajj, then you will have to perform the wajib Hajj again in future when you gain financial capability (plus other capabilities).

✳️ If Hajj had become wajib on a person once in the past, but he did not go to Hajj at that time, then it remains wajib on him even if he loses the required capabilities later on, and in such a case, he has to go and perform the Hajj even with hardships and with any minimum amount of funds possible.

✳️ It is not necessary that the required funds for expenses for Hajj should be available in cash in hand. Two cases will clarify this rule:

✳️ Case 1: If the Mahr of a woman, fixed at the time of marriage, is of sufficient amount to perform the Hajj, and the agreed time of Mahr payment has also come, then it is wajib on her to claim the Mahr from her husband, and use it to perform Hajj.

✳️ Case 2: If you have given a loan to someone, and the amount is sufficient to perform Hajj, and the time of loan return is due or the borrower is willingly to pay even before due date, then it is wajib on you to claim the loan back from that person, and use it to perform Hajj. And if the borrower refuses to return the loan, then it is wajib to take him to court or use other legal means to get back the loan in order to perform the Hajj. And if he is incapable of returning the loan, then you must try to find a person who can purchase that loan and give money to you on agreed terms. If Hajj has become wajib on you due to the loan money, then it is also not allowed to forgo the loan or gift away the loan to the borrower if the amount is sufficient for Hajj and, without it, you can not do your Hajj.