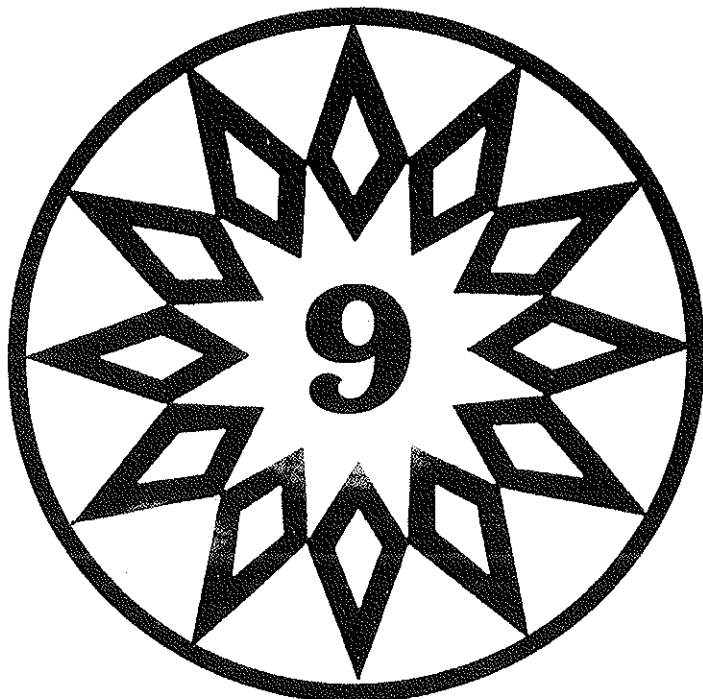


تسهيل الفقه

Tas-heelul Fiqh

Fiqh Made Easy



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If there are any errors or suggestions please write to:

**THE SYLLABI COMMITTEE
JAMIATUL ULAMA TAALIMI BOARD
P.O.BOX 929
LENASIA
1820**

We make dua that Allah Ta'ala reward all those who have made this possible.

JAZAKUMULLAH

SHABAAN 1419

Draft edition

<u>CONTENTS</u>	<u>PAGE</u>
LESSON 1	3
Salaah	
LESSON 2	20
Zina (Adultery/Fornication)	
LESSON 3	28
Nikaah (Marriage)	
LESSON 4	39
The pre-requisite of nikaah	
LESSON 5	42
The conditions of nikaah	
LESSON 6	44
Mahaarim	
Guidelines Choosing A Marriage Partner	
LESSON 7	60
The Wali (guardian)	
LESSON 8	72
Mehr (Dowery)	
LESSON 9	79
Kufu'	
LESSON 10	84
The method of nikaah	
LESSON 11	95
Polygamy	
LESSON 12	98
Walimah	

LESSON 13	103
The duties after nikaah	
LESSON 14	122
Breast feeding	
LESSON 15	130
Rules of talaaq	
LESSON 16	133
Method of talaaq	
LESSON 17	137
Talaq Bid'ee	
LESSON 18	141
Raj'at	
LESSON 19	145
Types and amounts of talaaq given	
LESSON 20	152
Miscellaneous Talaaqs	
LESSON 21	154
Talaq Mareedh	
LESSON 22	155
Khula'	
LESSON 23	163
Iddat	
LESSON 24	169
The custody of children	
LESSON 25	175
Haiz (menstruation)	

LESSON 1

SALAAH

Istisqaa

Literal Meaning: To seek rain

Shar'i Meaning: To seek rain from Allah Ta'ala at the time of drought.

The method of making Istisqaa:

1. To perform Salaah in the form of a dua without making jamaat.
2. To make sincere istighfaar (repentance) and to seek Allah Ta'ala's forgiveness.
3. To make dua.

The Method:

1. For 3 consecutive days, the inhabitants of the town should go out into an open field. Everyone should be included i.e. young and old, male and female. They should take their animals with them. The people should display total humility and should be dressed in old, worn out clothes.
2. The people should lower their heads in humility while walking.

3. They should distribute charity to the needy ones prior to the Salaatul Istisqaa on all these days.
4. In the case of having to perform Istisqaa,
 - a. In Makkah: the people will assemble in Masjidul Haraam.
 - b. In Madeenah: the people will assemble in Masjidun Nabawi.
 - c. In Jerusalem: the people will assemble in Masjidul Aqsaa.
5. The Imaam will face the Qibla while making dua.
6. The congregation will also sit facing the Qibla while the following dua is being made and will say Aameen at the appropriate places.
7. The dua is:

اَللّٰهُمَّ اسْقِنَا غَيْثًا مُّغِيثًا هَنِيئًا مُّرِيْعًا عَذَقًا مُّجَلَّلًا سَحًا طَبَقًا دَائِمًا
8. The dua should be read in a low voice.
9. The reversal of the sheet worn by the Imaam is not masnoon. (This is done as a plea and symbolises the change for conditions).
10. No kuffar (non-Muslims) should be present in the congregation.

SALAAT-UL-KHAUF

Salaat-ul-Khauf is the performance of Fardh Salaah in a specific manner whilst in combat with the enemy in Jihad.

Rules:

1. It will only be permissible to read this type of Salaah while confronting the enemy.
2. When all those present want to perform Salaah behind the same Imaam at the same time.

Method of Salaat-ul-Khauf

The army would be divided into two groups.

While one group is in combat with the enemy the other one would follow the Imaam in Salaat.

If the Salaah has 4 rakaats	The soldiers would perform 2 rakaats with the Imaam
If the Salaah has 2 rakaats	They would read 1 rakaat with the Imaam

Thereafter the first group who read one or two rakaats with the Imaam will return to the battle field to continue to fight the enemy and the second group that was fighting will join the Imaam in reading the remaining one or two rakaats. The Imaam will make salaam.

The first group would return to complete their Salaah individually without reading Qiraat similar to that of a Laahiq (i.e. a late comer), make salaam and return to fight. Thereafter the second group would now come to complete their Salaat in the same manner.

Rules of Salaat-ul-Khauf

1. If there is great danger of an imminent attack by the enemy, and the time of Salaat sets in whilst still mounted on a conveyance, one will be allowed to perform Salaat without alighting. This Salaat will be performed individually. Ruku and Sajdah will be done by means of signs. Salaat can be performed in any direction that is possible.
2. If the group is not in active combat with the enemy it will not be correct to read Salaat-ul-Khauf.
3. It is Mustahab to have one's weapon with one while in Salaah.
4. If there is no dispute of all wanting to read Salaah behind one Imaam then it would best for each group to perform Salaah with jamaat separately.

SALAATUL TASBEEH

Virtues of Salaatul Tasbeeh

Rasoolullah (sallallahu alayhi wa sallam) once said to his uncle, Sayyidina Abbas (radhiyallahu anhu), "O, Abbas, my uncle! I want to make a special gift to you (i.e. to tell you something special), so that if you act upon it Almighty Allah will forgive all your sins, whether old or new, intentional or unintentional, minor or major, open or secret. That action is to offer four rakaats of Nafil Salaat, and during each rakaat, after you have recited Surah Fatihah and a Surah, you should then say

سُبْحَانَ اللَّهِ الْحَمْدُ لِلَّهِ لَا إِلَهَ إِلَّا اللَّهُ اللَّهُ أَكْبَرُ

15 times, while standing still, then repeat it 10 times when you are in Ruku, 10 times when you rise from the Ruku, 10 times in the first Sajdah, 10 times when you rise from the first Sajdah, 10 times in the second Sajdah, and 10 times when you sit up after the second Sajdah. The total in each rakaat comes to 75 times. If possible, you should offer this Salaat once everyday, and if you cannot do it daily, then offer it every Friday, or once a month, or once a year or at least once in your lifetime."

Method A:

1 st Rakaat	2 nd Rakaat	3 rd Rakaat	4 th Rakaat
Thana			
15 times (3 rd) Fatiha & Surah Ruku 10 times Qauma 10 times 1 st Sajdah 10 times Jalsa 10 times 2 nd Sajdah 10 times Before standing up for 2 nd rakaat sit and read 10 times	15 times (3 rd) Fatiha & Surah Ruku 10 times Qauma 10 times 1 st Sajdah 10 times Jalsa 10 times 2 nd Sajdah 10 times Qa'dah Ula before Tashahhud 10 times	15 times (3 rd) Fatiha & Surah Ruku 10 times Qauma 10 times 1 st Sajdah 10 times Jalsa 10 times 2 nd Sajdah 10 times Before standing up for 4 th rakaat sit and read 10 times	15 times (3 rd) Fatiha & Surah Ruku 10 times Qauma 10 times 1 st Sajdah 10 times Jalsa 10 times 2 nd Sajdah 10 times Qa'dah Akhirah before Tashahhud 10 times
75	75	75	75
= 300			

The 3rd kalimah must be read 75 times in each rakaat

Method B:

1 st Rakaat	2 nd Rakaat	3 rd Rakaat	4 th Rakaat
Thana			
15 times	15 times	15 times	15 times
3 rd Kalima	3 rd Kalima	3 rd Kalima	3 rd Kalima
Fatiha & Surah	Fatiha & Surah	Fatiha & Surah	Fatiha & Surah
10 times	10 times	10 times	10 times
Ruku	Ruku	Ruku	Ruku
10 times	10 times	10 times	10 times
Qauma	Qauma	Qauma	Qauma
10 times	10 times	10 times	10 times
1 st Sajdah	1 st Sajdah	1 st Sajdah	1 st Sajdah
10 times	10 times	10 times	10 times
Jalsa	Jalsa	Jalsa	Jalsa
10 times	10 times	10 times	10 times
2 nd Sajdah	2 nd Sajdah	2 nd Sajdah	2 nd Sajdah
10 times	10 times	10 times	10 times
	<i>Qadah Ula</i>		<i>Qadah Akhira</i>
75	75	75	75
↓	↓	↓	↓

$$= 300$$

In each rakaat the 3rd Kalima must be read 75 times.

Rules:

1. In this Salaat, no Surah is particularly specified. Any Surah may be recited. However, some scholars have stated that any four of the five surahs mentioned viz. Hadeed, Hashr, Saf, Jumu'ah, and Taghabun should be recited. According to some Ahadeeth at least twenty Ayaats should be recited. According to some, it should be any of the following i.e. Surahs Al-Asr, Kafiroon, Nasr, and Ikhlaas:
2. Counting should not be done audibly i.e. by mouth as this act will nullify the Salaat. Counting on the fingers or by the means of a string of beads is permissible but not desirable. The best way is that the fingers should be kept in their position, but should be pressed individually to facilitate counting.
3. If one forgets to read the Kalimah at any stage, one should make up the number in the next posture of Salaat, except that no deficiency should be made up after rising up from Ruku, between the two Sajdahs or after the second Sajdah. In these three positions, one should read the Kalimahs as specified and then make up

the deficiency in the next act. For instance, if one forgets the recitation of the Kalimah in Ruku one should make up this deficiency in the first Sajdah. Similarly the deficiency of the first Sajdah should be made up in the second Sajdah and that of the second Sajdah in the second rakaat while standing or, if one forgets to do so then in the last rakaat : while sitting before reciting At-tahiyat.

4. If for some reason, Sajdah Sahw is to be made, the Kalimah is not to be recited then, because the total number of 300 has already been completed. If however the total has been less than 300, the deficiency can be made up in Sajdah Sahw as well.
5. According to some Ahadeeth, the following dua should be recited after At-tahiyat and before the Salaam:

اَللّٰهُمَّ اِنِّىْ اَسْأَلُكَ تَوْفِيقَ اَهْلِ الْهُدٰى وَ اَعْمَالَ اَهْلِ الْيَقِيْنِ وَ مَنَاصِحَةَ اَهْلِ
التَّوْبَةِ وَ عَزَمَ اَهْلِ الصَّبْرِ وَ جَدَّ اَهْلِ الْخَشْيَةِ وَ طَلَبَ اَهْلِ الرِّغْبَةِ وَ تَعَبَدَ اَهْلِ
الْوَرَعِ وَ عِرْفَانَ اَهْلِ الْعِلْمِ حَتّٰى اَخَافَكَ اَللّٰهُمَّ اِنِّىْ اَسْأَلُكَ مَخَافَةَ تَحْجِزُنِىْ
بِهَا عَنْ مَعَاصِيكَ وَ حَتّٰى اَعْمَلَ بِطَاعَتِكَ عَمَلًا اَسْتَحِقُّ بِهٖ رِضَاكَ وَ حَتّٰى
اُنَاصِحُكَ فِى التَّوْبَةِ خَوْفًا مِنْكَ وَ حَتّٰى اُخْلِصَ لَكَ النَّصِيْحَةَ حُبًّا لَكَ وَ

حَتَّى أَتَوَكَّلَ عَلَيْكَ فِي الْأُمُورِ حُسْنَ الظَّنِّ بِكَ سُبْحَانَ خَالِقِ الثُّورِ رَبَّنَا
 أَنِّمِ لَنَا نُورَنَا وَ اغْفِرْ لَنَا إِنَّكَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ بِرَحْمَتِكَ يَا أَرْحَمَ

الرَّاحِمِينَ رواه ابو نعيم

Translation:

“O Allah! I pray to you for granting me righteousness (as) of those who are on the right path, actions (as) of those who are true Believers, sincerity (as) of those who do Taubah, constancy (as) of the contented ones, precaution (as) of those who fear You, yearning (as) of those who love You, devotion (as) of pious devotees and knowledge (as) of religious scholars, so that I may fear You. O, Allah! Grant me such fear as may prevent me from doing any wrong, so that, through submission to You, I may do such deeds as may earn for me your pleasure and your approval, and so that I may do Taubah with sincerity out of Your fear, and I may become truly sincere out of Your love, and I may rely on You, because I may always hope for better (things) from You. O! the Creator of Nur, You are above all defects.

O! our Sustainer, grant us complete light (Nur) and forgive us; no doubt You have complete control over everything. O! You, the Most Merciful, grant my prayer out of Your Mercy."

6. Except for the three forbidden times, this Salaat can be offered at any time of the day or night. However, the more appropriate times, in order of preference, are: after midday, any time during the day and any time during the night.
7. According to some Ahadeeth the Third Kalimah should also be followed by *لَا حَوْلَ وَلَا قُوَّةَ إِلَّا بِاللَّهِ الْعَلِيِّ الْعَظِيمِ*. It is, therefore, better to recite it sometimes in addition to the third Kalimah.

SALAATUL ISTIKHAARAH

Whenever one intends to make any important decision, one should seek the advice and counsel of Allah Ta'ala. This act of seeking advice from Allah Ta'ala is called Istikhaarah. Rasoolullah (sallallahu alayhi wa sallam) has pointed out that not to seek the counsel of Allah Ta'ala or not to make Istikhaarah is a matter of misfortune.

When making arrangements to seek a partner for marriage or undertaking a journey or doing anything else, one should not proceed without Istikhaarah. Insha-Allah, one will never regret the course of action taken after making Istikhaarah.

Rasoolullah (sallallahu alayhi wa sallam) taught the Sahaba (radhiyallahu anhum) Salaatul Istikhaarah and such importance was attached to it, that it was taught with the care taken as teaching the Holy Qur'aan. (Bukhari, Tirmidhi, Abu Dawood)

METHOD:

1. Make the niyyah of Salaatul Istikhaarah.
2. Complete the Salaat as normal and after salaam, one should recite the praises of Allah Ta'ala and send

salutations upon Rasoolullah (sallallahu alayhi wa
sallam) [i.e. durood].

3. One should then read the dua for Istikhaarah:

DUA FOR ISTIKHAARAH

اَللّٰهُمَّ اِنِّىْ اَسْتَخِيْرُكَ بِعِلْمِكَ وَ اَسْتَقْدِرُكَ بِقُدْرَتِكَ وَ اَسْأَلُكَ مِنْ فَضْلِكَ الْعَظِيْمِ

فَاِنَّكَ تَقْدِرُ وَ لَا اَقْدِرُ وَ تَعْلَمُ وَ لَا اَعْلَمُ وَ اَنْتَ عَلَامُ الْغُيُوْبِ

اَللّٰهُمَّ اِنْ كُنْتَ تَعْلَمُ اَنَّ هَذَا الْاَمْرَ خَيْرٌ لِّىْ فِىْ دِيْنِىْ وَ مَعَاشِىْ وَ عَاقِبَةِ اَمْرِىْ فَاقْدِرْهُ لِىْ

وَ يَسِّرْهُ لِىْ ثُمَّ بَارِكْ لِىْ فِيْهِ وَ اِنْ كُنْتَ تَعْلَمُ اَنَّ هَذَا الْاَمْرَ شَرٌّ لِّىْ فِىْ دِيْنِىْ وَ مَعَاشِىْ وَ

عَاقِبَةِ اَمْرِىْ فَاصْرِفْهُ عَنِّىْ وَ اصْرِفْنِىْ عَنْهُ وَ اقْدِرْ لِىْ الْخَيْرَ حَيْثُ كَانَ ثُمَّ اَرْضِنِىْ بِهِ

When one reaches the words ‘Haadhal Amr’ indicated by the line appearing in the Arabic script, concentrate on the matter at hand while reciting the words. Soon after this, one should lie down on a clean and unpolluted sheet in a state of wudhu, and with one’s face towards Qiblah, go to sleep.

Upon waking up, the thought, with respect to the solution of the previous night’s Istikhaarah, which is uppermost in one’s mind, and which is felt very strongly in the heart, is the answer to one’s predicament and which is to be acted upon.

If in the first attempt nothing is known, anxiety remains and uncertainty lingers in the heart, try again the next day. In this way make Istikhaarah for upto seven nights and, Insha Allah, one will surely know whether or not the action contemplated is beneficial or harmful.

If intending to go for Hajj one should not inquire in Istikhaarah “Should I go or not?”, but rather “Shall I go on such and such a day or not?” (Behishti Zewar part 2)

RULES:

1. Salaatul Istikhaarah is to be read as a Nafil Salaat, followed by the dua for Istikhaarah. Thereafter, the heart may be inclined on what to do.
2. It is stated in Shaami that Salaatul Istikhaarah should be performed for 7 days.
3. If one has to decide on a particular method very urgently, one should read Salaatul Istikhaarah, read the dua, sit and ponder for a short while and Insha Allah, Allah Ta’ala will guide one.
4. It is not a condition that after performing Salaatul Istikhaarah one has to see a dream. However, what is important is the inclination of the heart.

WORKSHEET

1. What is the Shar'i meaning of Istisqa?

2. Explain the method of performing Salaatul Istisqa.

3. Explain what Salaatul Khauf means.

4. Salaatul Khauf has two main principles. What are these principles?

5. Explain the method of performing Salaatul Khauf.

6. If there is no dispute of all wanting to read salaah behind the same Imaam, what is the ruling?

7. What is the virtue of performing Salaatut Tasbeeh?

8. Method B

1 st Rakaat	2 nd Rakaat	3 rd Rakaat	4 th Rakaat
Thana 15 times 3 rd Kalima	15 times 3 rd Kalima	15 times 3 rd Kalima	15 times 3 rd Kalima
75	75	75	75

Complete the above chart explaining the method of performing Salaatut Tasbeeh.

9. When is Salaatul Istikhaarah read?

10. What is the benefit of Salaatul Istikhaarah?

11. How is Salaatul Istikhaarah performed?

LESSON 2

ZINA (ADULTERY / FORNICATION)

Allah Ta'ala says:

“And do not go near zina. It is indeed a shameful and an evil path.” (Surah 17, Ayah 32)

Allah Ta'ala says:

“The woman and the man guilty of fornication - lash each of them with a hundred lashes. Let not compassion move you in their case, in a matter prescribed by Allah, if you believe in Allah and the Last Day and let a group of believers witness their punishment.” (Surah 24, Aayah 2)

Rasoolullah (sallallahu alayhi wa sallam) said:

“..... adultery of the eyes is when it looks at that which is Haraam; adultery of the ears is when it listens to that which is Haraam; adultery of the tongue is when it utters Haraam; adultery of the tongue is when it utters Haraam; adultery of the hands is when it touches Haraam; adultery of the heart is when it desires and hopes for that which is Haraam; adultery of the private parts is when it succumbs to that which is Haraam.” (Targhib wa Tarheeb)

From the above Hadeeth it is clear and apparent that Islam forbids not only the act of adultery but all acts that invite and encourage the act of zina. Islam shuts the door to the root of every evil.

Rasoolullah (sallallahu alayhi wa sallam) said:

“There are three such people whom Allah Ta’ala will not speak to (with words of mercy and kindness) nor will Allah Ta’ala look at them (with eyes of mercy) nor will Allah Ta’ala purify them, and for them is a painful punishment.

1. *An old person who commits zina.*
2. *A king or leader who is exceptionally deceptive (he lies a lot).*
3. *A needy person who is proud".* (Muslim)

Once Rasoolullah (sallallahu alayhi wa sallam) remarked, "*A dayyooth (cuckold) will never enter Jannah*". The Sahabah (radhiyallahu anhum) enquired, "*Who is a dayyooth?*" Rasoolullah (sallallahu alayhi wa sallam) replied: "*A man who is not bothered about who visits his wife.*" (Sunnats).

Touching a strange woman with lust.

It has been reported that the person who touches a strange woman with lust, on the day of resurrection his hands will be shackled to his neck. If he kissed her, his lips will be cut off and thrown in the fire of Jahannum. If he committed adultery then his thighs will bear witness to it and testify against him on the day of Qiyaamat. His thighs will say to him, "I was mounted for something impermissible." Allah Ta'ala will look at him with anger. The flesh of his face will fall off and he will proclaim "What did I do?" His tongue will testify and say "I spoke to whom it was not permissible for you to talk to." His legs will testify, "I walked towards something unlawful." His hands will testify "I held something which was prohibited for you." His eyes will testify "I gazed at unlawful things." His private parts will testify "I committed the act." An angel will say "I heard it" while another will say "I've written it down." Allah Ta'ala will say "I was aware of it and I concealed it." Then Allah Ta'ala will say to the angels. "Let him taste of my punishment, My anger has increased on one who has no shame." (Kitab-ul-Kaba'ir)

In a Hadeeth narrated by Samurah (radhiyallahu anhu) regarding a dream of Rasoolullah (sallallahu alayhi wa sallam) it is mentioned that Jibra'eel and Mikaa'eel (Alayhimas Salaam) came to Rasoolullah (sallallahu alayhi wa sallam).

Rasoolullah (sallallahu alayhi wa sallam) says: *“We walked until we came to something that looked like an oven. Its top section was narrow and the inside was broad. From it sounds of screaming and noise was heard.”*

Rasoolullah (sallallahu alayhi wa sallam) further says: *“We looked inside and we saw naked men and women. We also saw flames from beneath them. When these flames scorched them, they screamed.” I asked Jibra'eel (Alayhis Salaam) “Who are these people?” He replied “These are the males and females who committed the grave act of zina. This will be their punishment till the day of Qiyaamat.”* (Bukhari)

Homosexuality and its disastrous consequences.

The Qur'aan has mentioned the story of the nation of Lut (Alayhis Salaam) in this regard. Rasoolullah (sallallahu alayhi wa sallam) said: *“I fear for my nation that they become involved in the act of the nation of Lut (Alayhis Salaam), and whosoever does such an action is accursed.”* Then Rasoolullah (sallallahu alayhi wa sallam) said thrice: *“May Allah curse the person who does the act of the nation of Lut (Alayhis Salaam).”* (Kitaab-ul-Kabair).

Rasoolullah (sallallahu alayhi wa sallam) speaks to youth.

Rasoolullah (sallallahu alayhi wa sallam) said: *“Oh youth! those amongst you who have the capability of getting married (fulfilling the rights of a wife), he should get married because this will be a means of keeping your gazes lowered and a protection for your private parts (against evil). Those amongst you who are not capable of performing nikaah should fast. Fasting will lower ones passions.”* (Mishkaat).

Rasoolullah (sallallahu alayhi wa sallam) encouraged young men to marry so that they be saved from sin and the wrath of Allah.

The harms of zina/fornication are manifold:

1. Allah Ta'ala becomes very angry.
2. The reckoning in the hereafter will be very severe.
3. The person will enter Jahannam.
4. The barakaat (blessing) of his rizq is lost.
5. He is deprived from doing good.
6. He becomes hated and cursed in the eyes of the common people.
7. The nation involved in zina will be afflicted with droughts.
8. Diseases and plagues will spread.

9. Localities will be destroyed.
10. It will be the cause of earthquakes.
11. Women will give birth to illegitimate children.

A youth seeks permission to commit adultery.

A youth (from the outlying regions) came to Rasoolullah (sallallahu alayhi wa sallam) and said: "Please permit me to commit adultery." The companions of Rasoolullah (sallallahu alayhi wa sallam) were enraged at his words, but Rasoolullah (sallallahu alayhi wa sallam) said to him: "*Come nearer to me. Would you like anyone to commit adultery with your mother?*" He said: "Not at all." Rasoolullah (sallallahu alayhi wa sallam) said: "*Then other people will also never tolerate such a shameful act with their mothers.*" Then Rasoolullah (sallallahu alayhi wa sallam) asked him the same question about his sister, aunt, etc. and he answered each time in the negative. Then Rasoolullah (sallallahu alayhi wa sallam) put his hand on his chest and prayed: "*O Allah! Purify his heart, forgive his sins and guard him against adultery.*" The reporters say that, after this, nothing was more hateful to him than adultery.

LESSON 3

NIKAAH

The virtues of performing nikaah:

Allah Ta'ala says in the Noble Qur'aan:

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ ۚ إِن يَكُونُوا فُقَرَاءَ يُعْنِهِمُ اللَّهُ
مِنْ فَضْلِهِ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ ۚ وَلَيْسَتُغْفِرَ الَّذِينَ لَا يَجِدُونَ نِكَاحًا حَتَّىٰ يُعْنِيَهُمُ اللَّهُ مِنْ
فَضْلِهِ

Translation: *“Marry those among you who are single, and the virtuous ones among your slaves, male and female. If they are poor, Allah will give them means out of His grace, for Allah is ample giving, and He knoweth all things. Let those who find not the means for marriage keep themselves chaste, until Allah gives them means out of His grace”. (Surah Noor - Verse 32-33)*

وَمِنْ آيَاتِهِ أَن يَخْلُقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً
إِنَّ فِي ذَلِكَ لَآيَاتٍ لِّقَوْمٍ يَتَفَكَّرُونَ

Translation:

“And among His signs is this, that he created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your hearts. Verily in that are signs for those who reflect”. (Surah Room - Verse 21)

وَلَقَدْ أَرْسَلْنَا رُسُلًا مِّن قَبْلِكَ وَجَعَلْنَا لَهُمْ أَزْوَاجًا وَذُرِّيَّةً

Translation:

“And we sent messengers before thee, and appointed for them wives and children”. (Surah Ar-Ra’ad - Verse 38)

وَأَن خِفْتُمْ أَن لَّا تَقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُم مِّنَ النِّسَاءِ مَثْنَىٰ وَثُلَاتَ وَرُبْعَ فَإِن خِفْتُمْ أَن لَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ آدَنَىٰ أَن لَّا تَعُولُوا

Translation:

“If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two, or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or that which your right hand possess, that will be more suitable to prevent you from doing injustice”. (Surah Nisaa - Verse 3)

Ahaadeeth:

عَنْ أَنَسٍ (رضى الله عنه) قَالَ: قَالَ رَسُولُ اللَّهِ (صلى الله عليه وسلم): إِذَا تَزَوَّجَ الْعَبْدُ
فَقَدْ اسْتَكْمَلَ نِصْفَ الدِّينِ فَلْيَتَّقِ اللَّهَ فِي النِّصْفِ الْبَاقِي (مشكوة)

Translation:

Sayyidina Anas (radhiyallahu anhu) narrates that Rasoolullah (sallallahu alayhi wa sallam) said: *“If any bondsman (person) performs nikaah, he has completed half his religion. To fulfill the other half of His Deen (religion) he should fear Allah Ta’ala.”* (Mishkaat)

عَنِ ابْنِ عَبَّاسٍ (رضى الله عنهما) قَالَ: قَالَ رَسُولُ اللَّهِ (صلى الله عليه و سلم): لَمْ تَرَ
لِلْمُتَحَابِّينَ مِثْلَ النِّكَاحِ (مشكوة)

Translation:

It is narrated by Ibn Abaas (radhiyallahu anhuma) that Rasoolullah (sallallahu alayhi wa sallam) said: ***“Nikaah creates a bond of love (between husband and wife) that no other bond can create.”*** (Mishkaat)

Literally nikaah means to join.

Technically nikaah is a contract between a male and a female which permits the authority of matrimonial relations.

The objectives of nikaah.

To follow the Sunnah of Rasoolullah (sallallahu alayhi wa sallam).

النَّكَاحُ مِنْ سُنَّتِي

Translation:

“Nikaah (marriage) is from among my ways”.

Rasoolullah (sallallahu alayhi wa sallam) also said:

مَنْ رَغِبَ عَن سُنَّتِي فَلَيْسَ مِنِّي

Translation:

“Whoever turns away from my Sunnah is not from amongst me (among my followers).”

To increase the progeny of Adam (Alayhis Salaam)

تَزَوَّجُوا الْوَدُودَ الْوَلُودَ فَإِنِّي مُكَاثِّرُ بِكُمْ الْأُمَمَ يَوْمَ الْقِيَامَةِ (ابو داود)

Translation:

“Make nikaah to such women who are extremely fond of their husbands and who can bear many children so that I

[Rasoolullah (sallallahu alayhi wa sallam)] could be proud over the other ummats on the Day of Qiyaamah due to your large numbers.” (Abu Dawood)

To abstain from sin.

يَا مَعْشَرَ الشَّبَابِ مَنِ اسْتَطَاعَ مِنْكُمُ الْبَاءَةَ فَلْيَتَزَوَّجْ فَإِنَّهُ أَغْضُ لِلْبَصَرِ وَأَحْصَنُ لِلْفَرْجِ وَ
مَنْ لَمْ يَسْتَطِعْ فَعَلَيْهِ بِالصَّوْمِ فَإِنَّهُ لَهُ وَجَاءٌ (مشكوة)

Translation:

Rasoolullah (sallallahu alayhi wa sallam) addressed the youth thus: *“Oh youth! those amongst you who have the capability of getting married (fulfilling the rights of a wife), should get married because this will be a means of keeping your gazes lowered and a protection for your private parts (against evil). Those amongst you who are not capable of performing nikaah should fast. Fasting will lower ones passions.” (Mishkaat).*

- 1 To get married is a sunnat of Rasoolullah (sallallahu alayhi wa sallam). If a person practices on a sunnat he will be rewarded.
- 2 By making nikaah a person saves himself from committing sin (immoral deeds) and his lust is kept under control. His thoughts are controlled and his eyes are saved from looking at indecent scenes.
3. A married man receives more reward for his ibaadah (worship) in comparison to an unmarried man.
4. Allah Ta'ala will bless one with pious children. They will benefit the ummat and become a means of their parents entry into Jannat.
5. To increase the ummat of Rasoolullah (sallallahu alayhi wa sallam) by having children.

The status of nikaah in Shariah.

The ruling of performing nikaah will differ with individual persons.

1. The performance of nikaah will be **Fardh** when:
 - a. the desire and passion over powers a person
 - b. there is certainty of committing zina
 - c. one is in a position of giving mehr (dowery) and maintaining his wife
 - d. there is no fear of ill treatment and oppression of one's wife.
2. The performance of nikaah will be **Wajib** when:
 - a. desire and passion is over powering a person
 - b. there is fear of committing zina
 - c. one is in a position of giving mehr (dowery) maintaining one's wife
 - d. there is no fear of ill treatment and oppression of one's wife.
3. The performance of nikaah will be **sunnat muakkidah** when:
 - a. the person is of **moderate** nature,
 - b. there is no real fear of committing zina

- c. one is in a position of giving mehr (dowry) maintaining one's wife
 - d. there is no fear of ill treatment and oppression of one's wife.
4. The performance of nikaah will be **mustahab** when:
 - a. one has no wealth to give as mehr and maintaining his wife. He should take an interest free loan and repay the loan.
 5. The performance of nikaah is **makrooh tahrimi** when there is fear of oppression.
 6. The performance of nikaah will be **haraam** when there is conviction of committing oppression. If the desire and passion is overpowering and there is a fear of committing zina and also fear of oppression then making nikaah will be haraam or **makrooh tahrimi**.

WORKSHEET

1. The harms of zina are many. List a few of them.

2. Give an explanation of zina of the eyes.

3. The Qur'aan speaks about the virtues of nikaah. Mention some of them.

4. Give an example of a hadeeth explaining the virtues of nikaah.

5. What does the word nikaah mean in Shariah?

1

6. List the objectives of nikaah.

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7. Explain the following:

- When will the performance of nikaah be Fardh?
- When will the performance of nikaah be Sunnat Muakkida?
- When will the performance of nikaah be Haraam?

[illegible]

LESSON 4

THE PRE-REQUISITES OF NIKAH

1. The fundamental requirement of nikaah is
 - a) to make a proposal (Ijab)
 - b) acceptance (Qabul).

Proposal means for one partner (male or female) to ask the other of getting married to him/her.

Acceptance means for the other partner to accept this request.

Once the **proposal** is made, **acceptance** must be done using the words in the past tense. e.g.

Proposal (Ijaab)	Reply acceptance (Qubool)
"I propose to you in my nikaah"	"I have accepted you in my nikaah"

The words "**accepted**" is in the past tense which confirms the proposal without doubt.

Words	tense	words in these tenses do not confirm the proposal
accepting	present tense	
will accept	future tense	

2. The proposal (Ijaab) and acceptance (Qabool) must both be done verbally.
3. If the proposal is done in writing and response (i.e. the Qabool [acceptance of proposal] is given in writing, then it is necessary to read it (Qabool) out in the presence of two witnesses before sending it off.
4. A person says: "Give so and so daughter of yours to me in marriage." The father replies: "I gave her to you in marriage" in saying so the nikaah will be valid if she is immature and two witnesses are present.
5. If the daughter is present and the father says: "I give this daughter of mine to you in marriage ." The person replies: "I accepted her," even then the nikaah will be valid. It will not be necessary to mention her name.
6. In order for a nikaah to be valid, it is also a pre-requisite for at least two males or one male and two females to be present, to hear the nikaah being performed, and to hear the two words [i.e. the Ijaab

(offer) and the Qabool (acceptance] being uttered. Only then will the nikaah be valid. If two persons sit together in privacy and one says to the other: "I give my daughter to you in marriage" and the other person replies: "I accept your daughter"; the nikaah will not be valid. Similarly, if the nikaah was performed in the presence of one person only, then too the nikaah will not be valid.

7. The bride and groom both must accept the proposal and give the acceptance in an audible manner. If the witnesses do not hear the Ijaab and Qabool the nikaah is not valid.

LESSON 5

THE CONDITIONS OF NIKAH

1. **Witness**

There must be two or more witnesses to the nikaah. If there is one or no witness to the nikaah, the nikaah will be invalid.

2. **Children, insane, slave**

The nikaah of a child, insane person or a slave will be valid only if permission is granted by the parent or guardian.

3. **Muharramaat**

The nikaah cannot be made with any of the Mahaarim, i.e. those categories of males or females with whom one cannot make nikaah, as mentioned in the Qur'aan-e-Kareem.

4. **Kufu' (compatibility)**

If a female wishes to make nikaah to a minor or a mature person who is not compatible with the family

(kufu') permission of the father or guardian is conditional.

5. **Maturity and Sanity**

If one wishes to arrange one's own nikaah then one must be:

- a. Mature
- b. Sane

If the guardian performs the nikaah then he must be:

- a. Mature
- b. Sane

A minor can be a wakeel (representative).

6. **The Mehr**

If one has no intention of giving mehr (dowry) and the woman consents to make nikaah without the acceptance of any mehr, the nikaah will be incorrect.

7. **Temporary Nikaah**

It is incorrect to make nikaah for a stipulated period of time e.g. 24 months, five years or ten years etc.

LESSON SIX

MAHAARIM

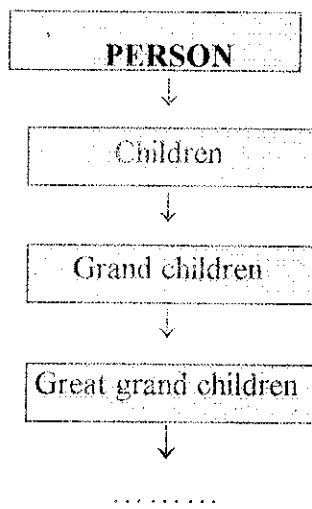
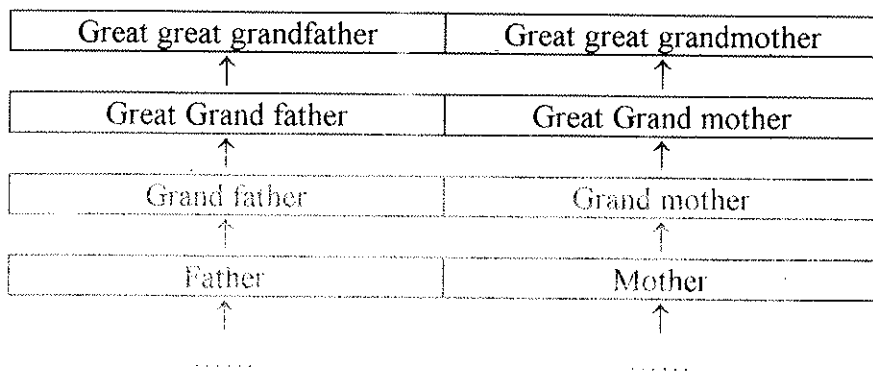
Mahaarim are those persons to whom nikaah is prohibited in Islam.

The Qur'aan guides us:

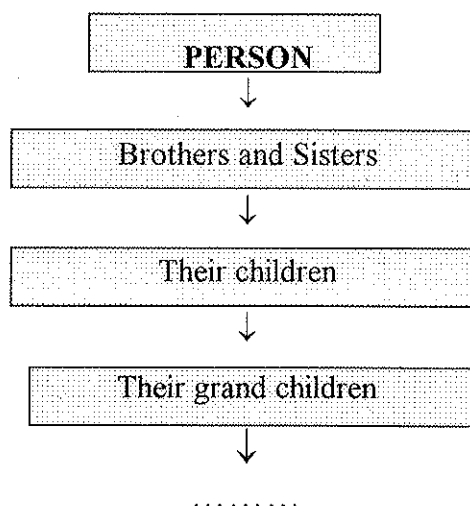
“Prohibited to you (for marriage) are your mothers, daughters, sisters, father’s sisters, mother’s sisters; brother’s daughters, sister’s daughters; foster-mothers (who gave your suck), foster-sisters; your wives’ mothers; your step-daughters under your guardianship born of your wives to whom ye have gone in, - no prohibition if ye have not gone in; - (those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, except for what is past; for Allah is Oft-forgiving, Most Merciful; (S. Nisaa V.43)

There are eight causes of prohibition in Shariah. A detailed exposition is given hereunder:

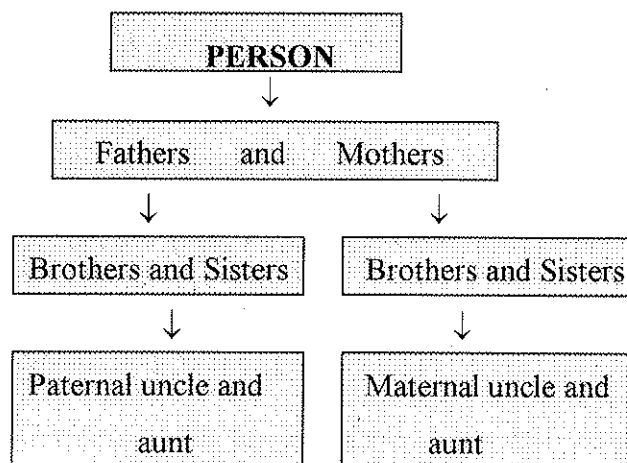
1A. Prohibition due to blood relations:



B.

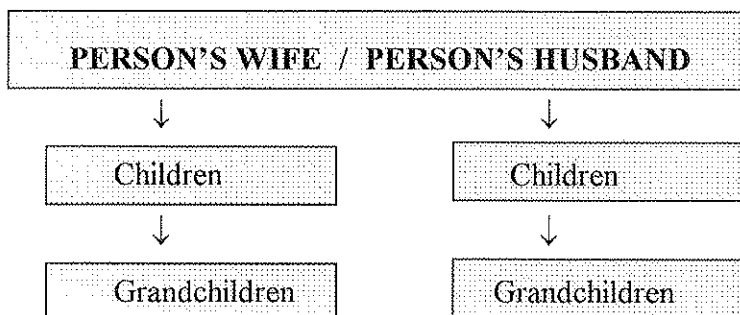


C.

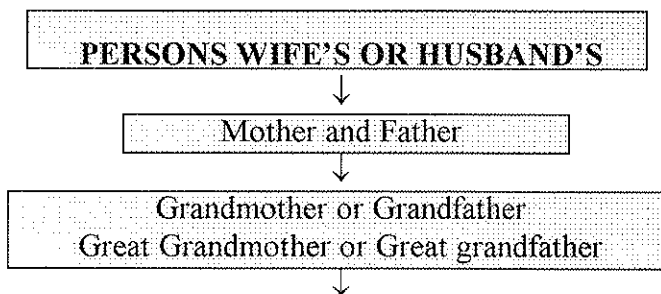


2. The second cause of prohibition

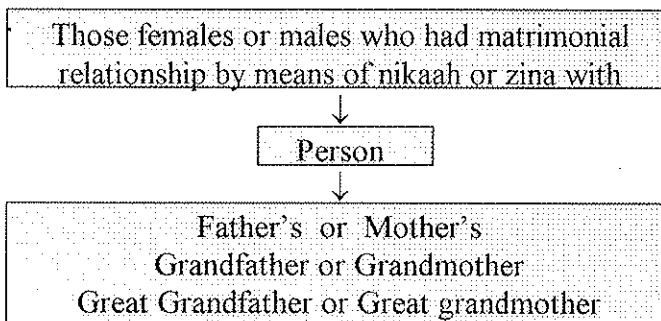
A. The wife's or husband's family (in laws)



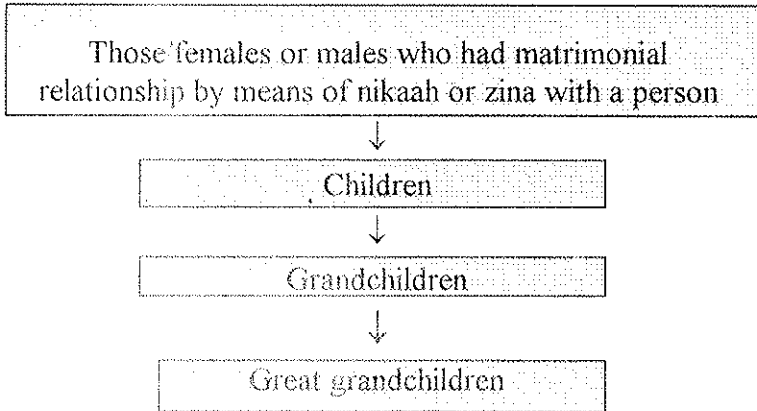
B.



C.



D.



C. There are some actions that will also cause nikaah to be haraam in the family of the female or male due to the following.

1. To see the inside of the females private parts.
2. To kiss or touch her.
3. To hug

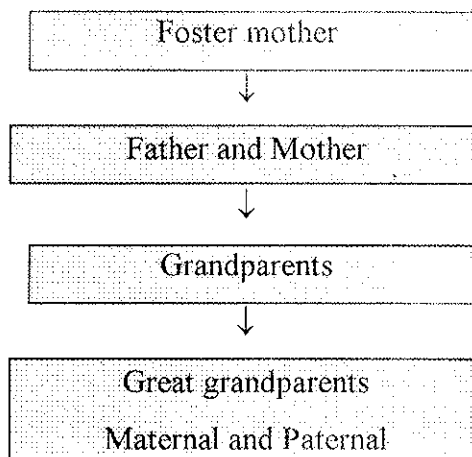
D. The above is done to a:

1. Matured person
2. Done with lust
3. The person have no clothes or are wearing very thin clothes when any of the above are done.

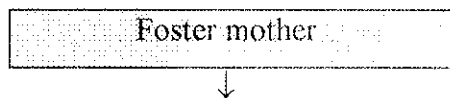
3. The third cause of prohibition is foster relations

Foster relations are established when babies i.e. children of different mothers are breastfed by the same woman.

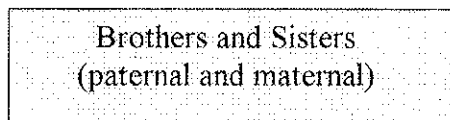
A.



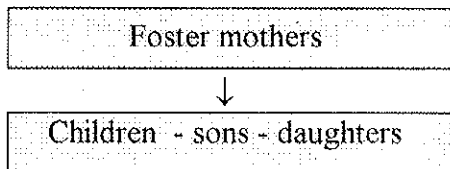
B.



C.



D.



Rules on foster relations

- i Foster relations are established only if the baby was weaned/suckled during the two year period of breast feeding.
2. The breast milk does not necessarily have to be suckled from the breast to establish foster relations. If the same milk is expressed into a container and given to a baby to drink, this will also establish foster relations.

4. Prohibition due to religious difference.

It is not permissible for a Muslim to make nikaah to idol worshippers, fire worshippers, mushrikeen.

5. Prohibition due to species similarity.

- a. It is prohibited for a male to perform nikaah with a male.
- b. It is prohibited for a female to perform nikaah with a female.
- c. It is not permissible for a transsexual to make nikaah with a male or female because a transsexual person has both male and female organs.

6. Prohibition due to being non human.

A male or female to make nikaah with non human beings e.g. Jinn (invisible creation made from fire) or any other creation.

7. Prohibition due to an irrevocable divorce.

- a. It is prohibited for a person to make nikaah to one's wife who has been divorced "three times" by her husband.
- b. If the "thrice pronounced" divorced wife wishes to make nikaah to her previous husband it will be permissible only if the wife remarries someone else and he either dies or divorces her.

8. Prohibition due to close related women being in one person's marriage.

- a. To make nikaah with two sisters at the same time.
- b. To make nikaah with aunt and niece at the same time.
- c. To make nikaah with mother and daughter at the same time.

Note: E.g B and C

The male can make nikaah after the death of one.

WORKSHEET

1. List a few main points of the pre-requisites of nikaah.

2. Why will it be incorrect to use words of the present and future tense while performing nikaah?

3. What are the seven conditions of nikaah?

4. What are those persons called to whom nikaah is prohibited in Islam?

5. Write the Qur'aanic aayat prohibiting those persons with whom nikaah is haraam.

6. How many causes are there that prohibit nikaah?

7. Explain any three causes that prohibits it.

GUIDELINES CHOOSING A MARRIAGE PARTNER.

Abdullah bin Umar (radhiyallahu anhum) has narrated from Rasoolullah (sallallahu alayhi wa sallam) saying:

الدُّنْيَا كُلُّهَا مَتَاعٌ وَخَيْرُ مَتَاعِ الدُّنْيَا الْمَرْأَةُ الصَّالِحَةُ (مشكوة)

“Every item of this world is (an item) of benefit. However, the item of most benefit is a pious wife.” (Mishkaat)

تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ لِمَالِهَا وَلِحَسَبِهَا وَلِجَمَالِهَا وَلِدِينِهَا فَاطْفَرُ بَنَاتِ الدِّينِ تَرَبَّتْ

يَذَاكَ (مشكوة)

Abu Hurairah (radhiyallahu anhu) narrates that Rasoolullah (sallallahu alayhi wa sallam) said:

“Women are married for four qualities, some are married for wealth, some for the family (lineage) status, some for beauty and some for the Deen (piety). Marry a woman for her Deen (piety) you shall be happy/successful.” (Mishkaat.)

The following qualities should be found in the woman one wishes to marry:

1. She must be inclined to Deen (pious).
2. Upright in character.
3. Beauty
4. A woman who does not demand an excessive mehr.
5. Not to be barren.
6. One who is young and not married before.
7. She should be from a good, pious and respectable family.

The woman should also look at the following qualities in a man:

1. He must be pious
2. Be of good character
3. The man should be from a good respectable family.
4. He must be handsome.

Women one should abstain from marrying:

It is narrated that Sayyidina Ilyas (Alayhis Salaam) met a traveller and instructed him to make nikaah. He cautioned him from four types of women:

1. One who always demands new and nice clothes.
2. One who boasts with pride over her worldly possessions.
3. One who has loose morals and is unchaste.
4. One who is disobedient to her husband. (Fadhaail Nikaah)

An Arabic couplet puports that one should not marry six types of women:

1. One who always cries and screams
2. One who reminds her husband of her favours and her wealth.
3. That woman who is more kind to her first husband's children because she will spend her second husband's wealth on them.
4. One who attracts others towards her.
5. One who is very busy beautifying herself.
6. One who has a foul tongue.

A person should marry into a pious and honoured family. He should be wise and ponder over the consequences of marrying into an irreputable family.

A Hadeeth informs us:

إِيَّاكُمْ وَخَضِرَاءُ الدَّمَنِ

“Save yourself from the vegetables of the dumping yard.”

Meaning: Don't marry in a bad family. Choose a good woman in marriage because a woman gives birth to a progeny similar in character to her brothers and sisters. The wife's family, character and habits has an effect on the children.

What to do when one decides to make nikaah

1. a. To find the best and most pious woman.
 b. According to the Shariah it is permissible to see the girl that one intends to marry so that one may not regret later.
2. To make istikharah.
3. To take members of one's family to propose.
4. To keep making dua to Allah Ta'ala to guide one and to give one the correct partner.
5. The proposal should be submitted to the wali (guardian) of the girl.

What one is not allowed to do:

1. To date and court the woman before nikaah.
2. To abstain from visiting the woman at home or elsewhere.
3. To phone each other.
4. To go out shopping and on holidays together.
5. To sent a proposal to a divorcee/widow during her iddat.
6. To propose to a woman in the state of ihraam.
7. To submit a proposal when someone else has already proposed to the same woman. Rasoolullah (sallallahu alayhi wa sallam) has stopped us from doing this.

To see the partner before nikaah

Jaabir (radhiyallahu anhu) narrates that Rasoolullah (sallallahu alayhi wa sallam) said:

عَنْ جَابِرٍ (رَضِيَ اللَّهُ عَنْهُ) قَالَ: قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ): إِذَا خَطَبَ أَحَدُكُمْ الْمَرْأَةَ فَإِنْ اسْتَطَاعَ أَنْ يَنْظُرَ إِلَى مَا يَدْعُوهُ إِلَى نِكَاحِهَا فَلْيَفْعَلْ (مَشْكُورَةٌ)

“When one of you send a proposal for nikaah, then if possible try to see her.” (Mishkaat)

عَنِ الْمُغِيرَةِ بْنِ شُعْبَةَ قَالَ: خَطَبْتُ امْرَأَةً فَقَالَ لِي رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) هَلْ نَظَرْتَ إِلَيْهَا قُلْتُ لَا قَالَ لَا فَانْظُرْ إِلَيْهَا فَإِنَّهُ أَحْرَى أَنْ يُؤَدَّمَ بَيْنَكُمَا

Mughirah bin Shu'bah (radhiyallahu anhu) narrates that I proposed to a woman. Rasoolullah (sallallahu alayhi wa sallam) enquired: ***“Did you see her?”*** I said no. Rasoolullah (sallallahu alayhi wa sallam) said: ***“See her because it will assist in creating love between you two.”*** (Fadhaail Nikaah)

LESSON 7

THE WALI (GUARDIAN)

The nikaah of a child (immature) i.e. one who has not reached puberty, slave and insane person cannot take place without the consent of the wali.

Hereunder follows a list of guardians in order of preference. If the first one on the list is not alive the authority will be vested with the next in line on the list.

1. Father
2. Grandfather
3. Blood brother
4. Step brother (from the same father)
5. The nephew
6. Nephew's son
7. Nephew's grandson
8. Blood uncle
9. Step uncle (i.e. step brother of the father)
10. Son of the blood uncle, thereafter his grandson
11. The son of step uncle and thereafter his grandson

12. The father's uncle
13. Thereafter his children
14. The grandfather's uncle
15. Thereafter his children, grandchildren and great grandchildren
16. The mother
17. Paternal grandmother
18. Maternal grandmother
19. Blood sister
20. Step sister (from the same father)
21. Step brother
22. Step sister
23. Paternal aunt
24. Maternal uncle
25. Maternal aunt

WORKSHEET

1. What guidelines does the hadeeth give on choosing a marriage partner?

2. What did Nabi Ilyas (Alayhis Salaam) instruct a traveller regarding nikaah?

3. When one decides to make nikaah what should be done?

4. What is one not allowed to do before nikaah?

5. Is a person permitted to see the prospective partner before nikaah?

6. Rank the order of the wali according to the status from the list below.

1	The grandfather's uncle	
2	The father's uncle	
3	Father	
4	Thereafter his children	
5	Blood uncle	
6	Step-uncle	
7	Blood brother	
8	Grandfather	
9	The son of step uncle thereafter his grandson	
10	Step brother from the same father	
11	The mother	
12	Maternal uncle	
13	The nephew's son	
14	Paternal grandmother	
15	Maternal aunt	
16	The nephew	
17	The step brother	
18	Maternal grandmother	
19	Step sister	
20	Grandfather's uncle - his children	
21	Step sister from the same father	

The rules of taking consent.

1. A mature girl has the choice to marry or not to marry.

She can marry whomsoever she wishes - no one can force her to marry a particular person. If she marries a person on her own, the nikaah will be valid irrespective of whether the wali is informed or not, whether the wali gives his consent or not. In all cases the nikaah will be valid. However, if she does not marry a person who is of the same kufu' (social standing) as her, and instead, marries a person who is of a lower standing than her family; and her wali is not happy about this marriage, then the fatwa (Shar'i verdict) in this case is that nikaah will not be valid.

If she marries a person who is in the same kufu' (social standing) as her, but the mehr that she receives is less than what her paternal grandmothers received; then although the nikaah will be valid, the wali will have the right to annul this marriage. The mehr that one's paternal relatives have been receiving is known as mehrul mithl (family dowery). The wali can go to a Muslim court and have such a marriage annulled. However, it should be borne in mind that this right of annulment is only possessed by all those walis (guardian) whom we had mentioned before the mother. In

other words, from the father onwards to the children of the grand-father's uncle.

2. Despite the father being present, the uncle, brother or some other wali sought the permission of a virgin girl. If she remains silent, it will not be considered to be a form of granting permission. Only when she gives a verbal permission will it be considered. However, if the father sent these persons to seek her permission, her silence will be considered to be a form of consent.

The same rules apply to a mature boy, i.e. he cannot be forced into a marriage, nor can the wali perform his nikaah without his permission. If his nikaah is performed without his permission, it's validity will be dependent on his permission. If he expresses his consent, his nikaah will be valid; if not, it will not be valid. However, it should be borne in mind, that the boy's silence is not considered to be a form of granting permission. He will have to give a verbal reply.

3. If the father or grandfather perform the nikaah of an immature girl or boy, they do not have the right to reject or repudiate this nikaah even after they become mature. This is irrespective of whether the marriage was executed with a person who is the same kufu' (social standing), or whether

it was executed with a person of a lower class; and whether the nikaah was performed with mehrul mithl or far less than the mehrul mithl. In all cases the nikaah will be valid and they cannot reject or repudiate this nikaah.

The power given to the wali

1. An immature person cannot become a wali of anyone.

A kaafir cannot be a wali for any Muslim, nor can an insane be a wali for anyone.

The wali (guardian) has the authority to perform the nikaah of a minor girl or minor boy without their permission. The father and grandfather has the right, even if it may incur loss on the side of the child, or if the nikaah is not performed within the kufu' (social standing of the bride / groom).

2. Besides the father and grandfather, if any other wali performs the nikaah without kufu' (social standing,) then the nikaah will be incorrect.
3. In the case of an adult the wali will act as a representative. It is mustahab for a girl to give over the authority of her nikaah to her wali.
4. An adult slave girl's nikaah will be performed only with the permission of her master.

5. If an adult male or female makes nikaah without permission or pleasure of the wali, the nikaah will be correct, but if she makes nikaah without kufu' (social standing) and without the pleasure of the wali the nikaah will be incorrect, even if the wali becomes pleased after the nikaah is performed.
6. If an adult woman performed nikaah without the happiness of the wali and accepted her dowery to less than mehr mithal (family dowery), the wali will have the right to object to the qadhi (Islamic judge) to annul the nikaah, but if the shortfall of the mehr mithal was paid, then the wali will not have the right to object.
7. If a woman has more than one wali and all are equal in rank then the happiness of a few will be similar to all of them agreeing.
8. If a woman has more than one wali, of unequal rank then the happiness of those in the lower rank will not be considered if those in the higher rank are displeased. Those in the higher rank will have the authority to object.
9. A wali performed the nikaah of a mature girl without asking her or without seeking her consent, the validity of such a nikaah will be dependent on her permission and consent. If she grants her permission, the nikaah will be valid.

10. The wali informed a young virgin girl that he intends performing her nikaah with a certain person, or that he has already performed her nikaah with a certain person. Upon hearing this, she remained silent, began smiling, or began to cry. All these responses of her's will be considered to be her permission and consent. Now, if the wali performs her nikaah, it will be valid; and if he has already performed it, it will be regarded as valid. It is not a pre-requisite for her to give a verbal permission. Those who force a girl in giving a verbal permission are in error.
11. The woman had married previously and this is her second marriage. When the wali asks her or seeks her permission for this second marriage, her mere silence will not be considered to be a form of granting permission. Instead, she will have to give a verbal reply. If she does not give a verbal reply but remains silent, and despite this the wali performs her nikaah; the nikaah will be valid.
12. If a boy or a girl is immature, they do not have their own choice. Their nikaah (on their own) is not valid without a wali. If a boy (or girl) performs his nikaah on his own, or someone else performs it; it will be dependent on the permission of the wali. If the wali grants permission, the nikaah will be valid; if not, it will not be valid.

13. If some wali other than the father or grandfather performed the nikaah, and it was performed with a boy of the same kufu' (social standing) and even the mehr mithl was given; then in such a case the nikaah will be valid. However, after reaching the age of maturity, she has the right to endorse this nikaah or have this marriage annulled by a Muslim judge. But if the wali performed her marriage with a person of a lower class, or accepted a mehr which was far less than the mehr mithl; then the nikaah will not be valid from the very outset. Similarly, if the wali performed the nikaah of a boy with a mehr which was far more than the mehrul mithl of the girl, the nikaah will not be valid from the very outset.
14. The person who is most entitled of being the wali of an immature girl has gone to a foreign country. He is so far away that if the rest of the family had to await his arrival in order to consult him, the girl will lose this opportunity of marriage. Furthermore, the person who has come with the proposal is not prepared to wait for so long and it will be difficult for the girl to receive a similar proposal. In such a case, the person who is next in line to become her wali can also perform the nikaah. If he performs the nikaah without consulting the girl, it will be valid. But if the first wali is not very far away, her nikaah should not be performed without

consulting him. If it is performed, it will be dependent on his permission. Once he grants his permission, the nikaah will become valid.

15. Similarly, if the second wali performs the nikaah of an immature girl despite the most rightful wali being present; it will be dependent on his permission. For example, if the grandfather performs the nikaah without consulting the father despite the latter being present, then it will be dependent on the father's permission. Or, if the right belonged to the brother but the nikaah was performed by the uncle, it will be dependent on the brother's permission.

WORKSHEET

1. Which group of walis have the right to object?

2. What is the proof of consent of a virgin.

3. How will the consent of a woman who was married previously be taken?

LESSON 8

MEHR (DOWERY)

Mehr is the wealth which is given by the groom to the bride in lieu for her nikaah (from the Halaal wealth or items) by which the husband gains his matrimonial rights.

Hadeeth

The best of women is one who is beautiful and her dowery is very little. [Fadhaail Nikaah by Moulana Siddeeq Ahmed Bandawi (rahmatullahi alayh)]

Rasoolullah (sallallahu alayhi wa sallam) made nikaah with some of his wives for as little as ten dirhams. (Fadhaail Nikaah)

Umar (radhiyallahu anhu) disliked and stopped people from taking huge amounts for mehr. (Fadhaail Nikaah)

Rasoolullah (sallallahu alayhi wa sallam's) daughters besides Sayyidatina Fatima (radhiyallahu anha) whose mehr was five hundred dirhams more than the others. (Fadhaail Nikaah)

Sheikh Abdul Haq Muhaddith Dehlawi (rahmatullahi alayh) says it is related in a Hadeeth: “Barkat for a woman is that she makes nikaah quickly and quickly becomes a mother and mehr is of a small amount.” (Fadhaail Nikaah)

The different types of mehr

1. **Mehr Mu-'ajjal** - immediate dowery, i.e. dowery which is given immediately upon marriage.
2. **Mehr Mu-ajjal** - deferred dowery, i.e. dowery which is delayed to a specified or unspecified time.
3. **Mehr Musamma** - a stipulated amount (of dowery) which is agreed upon at the time of nikaah.
4. **Mehr Mithal** - family dowery, i.e. mehr given according to the women of the father's family.

This mehr is formed with thirteen things in common:

- a. Age
- b. Beauty
- c. Wealth
- d. Town / city
- e. Era
- f. Intellect
- g. Piety

- h. Virgin or non virgin
 - i. Knowledge
 - j. Manners
 - k. Character
 - l. Fertility (ability of having children)
5. Mehr Faatima (Faatimi) means the mehr which was given to Sayyidina Faatima (radhiyallahu anha) by Sayyidina Ali (radhiyallahu anhu).

This amount equals 500 Dirhams (silver coins)

silver	grams	tolas	troy oz.	grain
500 dirhams	1530,9	131,3	49,2150	23625



price in rands to be calculated from here

Rules of Mehr

1. The mehr (dowry) is one of the fundamental conditions of nikaah.
2. The amount agreed for mehr should be mentioned at the time of nikaah.
3. The commodity used for mehr should be from one's Halaal wealth. It is not permitted to be given from wealth which is haraam.
4. There should be no delaying in giving of the mehr. It is best to give it on the day of the nikaah.
5. If the husband refuses to give the mehr on the demand of his wife, she has the right to stop all matrimonial relations.
6. It is unlawful and incorrect for the husband not to give the mehr, or to intend not to give her the mehr.
7. The mehr should not be less than ten dirhams.

Silver	Grams	Tolas	Troy oz.	Grains
10 dirhams	30.618	2.626	9843	472.5

Equivalent to R: _____ in November 1998

8. If a woman is married for less than ten dirhams then in this case ten dirhams will be waajib because mehr cannot be less than this amount.
9. Mehr Musamma will be waajib upon the amount which was agreed upon at the time of nikaah.
10. Mehr Mithal will be waajib:
 - a. If at the time of nikaah no mention of mehr was made.
 - b. If at the time of nikaah the amount of mehr is not stipulated.
11. If a person makes nikaah with mehr of ten dirhams and before retiring into privacy of the room she has been divorced then 5 dirhams will be waajib as mehr.

WORKSHEET

1. What is the meaning of Mehr?

2. Fill in the missing letters. The four different types of mehr are:

A

M	E	H	R	-	M				A	L
---	---	---	---	---	---	--	--	--	---	---

B

	E	H		-		I	T	H		
--	---	---	--	---	--	---	---	---	--	--

C

			R	-	M		S		M	M
--	--	--	---	---	---	--	---	--	---	---

D

M			R	-		U	'A			J
---	--	--	---	---	--	---	----	--	--	---

3. What are the thirteen most common things needed when mehr mithal is taken into account?

4. A.	SILVER	TOLAS	GRAMS	TROY-OZ	GRAINS
	DIRHAMS				

Fill in the above table mehr given to Sayyiditina Faatimah (radhiyallahu anha).

B. What is the value of Mehr Faatimah (Faatimi) today?

5. What is the least mehr? Fill in the table.

A	SILVER	TOLAS	GRAMS	TROY-OZ	GRAINS
	DIRHAMS				

B What is its value in rands today? _____

6. List five rules to be taken into account when giving mehr.

LESSON 9

KUFU'

The question of social standing (compatability)

1. The Shariah has taken great precautions in that nikaah with an incompatible person or a person of a lower social standing should not take place. In other words, do not perform the nikaah of a girl with a man who is not equal to her in status or who is of no match to her.
2. Social standing or equality is considered in several factors:
 - a. Lineage
 - b. Islam
 - c. Piety
 - d. Wealth
 - e. profession / occupation

Equality in lineage

In matters of lineage, the lineage of the father is considered and not the mother.

Equality in being a Muslim

A man who accepts Islam and his father was a kaafir cannot be on par or equal to a woman who is a Muslim and her father was also a Muslim.

A man whose father and grandfather were Muslims, but his great grandfather was a kaafir, will be regarded as equal to a woman whose several forefathers were Muslims. In short, this equality is only considered until the grandfather. Equality beyond the grandfather, such as the great grandfather and beyond him, is not considered.

Equality in Piety

Equality in piety means that a man who does not follow the dictates of the Shariah will not be considered to be equal to a pious, chaste, and religious woman.

Equality in Wealth

Equality in wealth means that a person who is an absolute pauper cannot be compatible to a rich woman.

Equality in Profession

Equality in profession / occupation means that a female doctor (for example) is not equal to a man who is a street sweeper.

Duties of a parent and guardian

عَنْ أَبِي سَعِيدٍ وَابْنِ عَبَّاسٍ (رَضِيَ اللَّهُ عَنْهُمَا) قَالَا: قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَ
سَلَّمَ): مَنْ وَلِدَ لَهُ وَلَدٌ فَلْيُحْسِنْ اسْمَهُ وَادِّبْهُ فَإِذَا بَلَغَ فَلْيُزَوِّجْهُ فَإِنْ بَلَغَ وَلَمْ يُزَوِّجْهُ
فَأَصَابَ إِيَّاهُ فَإِنَّمَا أَثْمُهُ عَلَى أَبِيهِ

Sayyidina Abu Saeed Khudri (radhiyallahu anhu) and Sayyidina Ibn Abbas (radhiyallahu anhuma) narrate from Rasoolullah (sallallahu alayhi wa sallam):

“The one to whom a child is born should give a good name to the child and train him with good character and when he is matured get him married. If he (the father) did not get him married and the boy commits a sin (zina) the father will be responsible for the sin.” (Faadhail Nikaah)

عَنْ عُمَرَ بْنِ الْخَطَّابِ وَآنَسِ بْنِ مَالِكٍ (رَضِيَ اللَّهُ عَنْهُمَا) عَنْ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ
وَسَلَّمَ) قَالَ: فِي التَّوْرَةِ مَكْتُوبٌ مَنْ بَلَغَتْ ابْنَتُهُ اثْنَتَيْ عَشْرَةَ سَنَةً وَلَمْ يُزَوِّجْهَا
فَأَصَابَتْ إِيَّاهُ فَإِنَّمَا أَثْمُ ذَلِكَ عَلَيْهَا

Sayyidina Umar bin Khataab (radhiyallahu anhu) and Sayyidina Anas (radhiyallahu anhu) narrate from Rasoolullah (sallallahu alayhi wa sallam):

“It is written in the Torah that one whose daughter becomes twelve years old and does not get her married and she commits sin (zina) the father will be responsible for the sin.”

(Faadhail Nikaah)

What to do after receiving a proposal

عَنْ أَبِي هُرَيْرَةَ (رضي الله عنه) قَالَ: قَالَ رَسُولُ اللَّهِ (صلى الله عليه وسلم): إِذَا خَاطَبَ إِلَيْكُمْ
مَنْ تَرْضَوْنَ دِينَهُ وَخُلُقَهُ فَرُجُوهُ إِذْ لَمْ تَفْعَلُوا تَكُنْ فِتْنَةٌ فِي الْأَرْضِ وَفَسَادٌ عَرِضٌ

Abu Hurairah (radhiyallahu anhu) narrates that , Rasoolullah (sallallahu alayhi wa sallam) said:

“When one of you receives a proposal from such a person with whose Deen (piety) and character you are pleased then marry him / her to the person, and if you reject it there will be widespread corruption on earth”. (Tirmidhi)

By wide-spread of corruption on earth is meant:

1. Piety will decrease.
2. Evil doers will increase.

It is important to:

1. see the person
2. find out about his/her character
3. make istikharah Salaah
4. accept or reject the proposal
5. make mashwarah (consult) with the family.

Not to delay in the performance of the nikaah

We are instructed not to delay in three things:

1. When the time of **Salaah** approaches not to delay from performing it at its mustahab time.
2. In **Janaazah** after ghusal and kafn is given not to delay in the burial by waiting for someone.

In the performance of a **nikaah** do not delay after a suitable match is found.

LESSON 10

THE METHOD OF NIKAH

Aadaab of Nikaah

1. There is no place for engagement parties, mendhi night, kitchen teas, bridal showers etc. in Islam.
2. There is no month in Islam in which marriages cannot take place and the same can be said for dates and days. These are all mere superstition.
3. It is mustahab to perform nikaah on a Friday.
4. Once the proposal has been accepted there should be no delay in the performance of the nikaah.

Place of Nikaah

Sayyidatina Ayesha (radhiyallahu anha) narrates that Rasoolullah (sallallahu alayhi wa sallam) said:

عَنْ عَائِشَةَ (رَضِيَ اللَّهُ عَنْهَا) قَالَتْ: قَالَ رَسُولُ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) أَغْلِبُوا هَذَا النِّكَاحَ وَاجْعَلُوهُ فِي الْمَسَاجِدِ

“Announce your nikaah and perform them in the Masjid”.

(Fadhaail Nikaah)

It is mustahab to announce the nikaah and not to perform it in the privacy of one's home. This is done by having a nikaah performed in the Masjid so as to inform the public and to avoid anyone from harbouring a doubt.

The nikaah ceremony

1. It is mustahab that people from the community are present. Females do not come to the Masjid for the nikaah.
2. One of the learned and pious walis (guardians) or a wakeel (representative) of the bride should be present at the nikaah ceremony.
3. The wakeel (representative) of the bride, in the presence of at least two pious witnesses, will take permission from her to marry her off to the man. Avoid witnesses who are irreligious.

4. The bride will give her consent to the wakeel verbally saying “I give you permission to perform my nikaah to (name of the groom)” and this consent is given in the presence of the witness.
5. The qadhi (or Imaam) who performs the nikaah will perform the nikaah by doing the following:
Read the masnoon khutbah which consists of:
 - a. Praises of Allah, salutations on our beloved Rasoolullah (sallallahu alayhi wa sallam)
 - b. Tauheed and Risalat
 - c. Shahadat
 - d. Adhering to the laws of Allah Ta’ala.
 - e. Ayats on the fear of Allah Ta’ala
6. It is best to read the khutbah mentioned in the Hadeeth.
7. It is masnoon for the khutbah to be read by the wali of the bride. Rasoolullah (sallallahu alayhi wa sallam) read the khutbah of Sayyiditina Faatima (radhiyallahu anha) as stated in the kitaab Muwahib Ladunni. If the wali is not a learned person then a Qadhi or Mufti or an Aalim can read the khutbah and perform the nikaah.
8. After reading the nikaah khutbah the Khatib (the person performing the nikaah) will address the groom and say:
“I have given you so and so in your nikaah with a mehr

(dowry) of R1.500 cash in presence of these two witnesses. Have you accepted her in your nikaah?" The groom will reply: "I have accepted her in my nikaah".

The khatib (the person performing the nikaah, i.e. anyone besides the wali) will first seek permission from the wakeel (representative of the bride) to proceed. After reading the nikaah khutbah he will address the groom: e.g. "Ismail, I have solemnised your nikaah to the bride e.g. Fatima with a cash dowry of R1 500 with permission of the wakeel (representative of the bride) brother e.g. Cassim and his two witnesses (who were present and when 'Faatima' granted her wakeel the authority to marry her off) named e.g. Yusuf and Dawood in your nikaah, have you accepted her in your nikaah?" The groom will reply: **"I have accepted her in my nikaah."**

N.B. The groom must reply in the past tense.

9. Dua will be made for the bride and groom as mentioned in the Hadeeth.
10. It is mustahab to distribute dates.

11. Having a function after the nikaah whereby guests are invited to the home of the bride as is done nowadays is customary. It is not Sunnah.
12. Islam prohibits one from being extravagant. Therefore splashing money on a big hall, elaborate decorations etc. are all contrary to the teachings of Islam.
13. There is absolutely no permissibility of music and bands. Sayyidina Mak'hool (rahmatullahi alayh) narrates that Rasoolullah (sallallahu alayhi wa sallam) said:

عَنْ مَكْحُولٍ (رَضِيَ اللَّهُ عَنْهُ) عَنْ رَسُولِ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ)
 اسْتِمَاعُ الْمَلَاهِي مَعْصِيَةٌ وَالْجُلُوسُ عَلَيْهَا فِسْقٌ وَالتَّلَذُّدُ بِهَا مِنَ الْكُفْرِ

“Listening to music and singing is sinful and to sit in its gathering is fisq (transgression of Shariah) and taking enjoyment from it is kufr (i.e. it leads to kufr).”

عَنْ مُجَاهِدٍ أَنَّهُ قَالَ: سَمِعَ عَبْدُ اللَّهِ بْنُ عُمَرَ صَوْتَ طَبْلٍ فَأَدْخَلَ اصْبَعَيْهِ فِي أُذُنَيْهِ وَقَالَ هَكَذَا رَأَيْتُ رَسُولَ اللَّهِ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) يَصْنَعُ

It is narrated from Mujahid (rahmatullahi alayh) that once Abdullah bin Umar (radhiyallahu anhu) heard the

sounds of drums. He put his fingers in his ears and said, I saw Rasoolullah (sallallahu alayhi wa sallam) doing likewise.

The Hadeeth clearly illustrates that we should avoid listening to music and it is totally forbidden in Islam.

14. At the time of her nikaah, Sayyiditina Faatima (radhiyallahu anha) was sent walking to the home of Sayyidina Ali (radhiyallahu anhu) accompanied by Sayyiditina Umme Ayman (radhiyallahu anha) without any pomp or show. We learn how simple the queen of Jannat departed from her father's home to the home of the groom, Ali (radhiyallahu anhu).

JAMIATUL ULEMA - TRANSVAAL
(Council of Muslim Theologians)
SPECIMEN COPY

MARRIAGE CERTIFICATE

IN ACCORDANCE WITH ISLAMIC RITES

MARKETING CERTIFICATE

THIS IS TO CERTIFY THAT THE MARRIAGE OF:

GROUN

232

ID NUMBER: _____ DATE OF BIRTH: _____

ID NUMBER _____ DATE OF BIRTH _____

SIGNATURE:

BRIDE.

ID NUMBER:

ID NUMBER: _____ **DATE OF BIRTH:** _____

ID NUMBER: _____ **DATE OF BIRTH:** _____

RESIDENTIAL ADDRESS:

WAS SOLEMINIZED IN ACCORDANCE WITH ISLAMIC LAW
WITH A DOWRY OF _____ [CASH AND DEFERRED]

SPRITHS

THE DAY OF _____ 19____ CORRESPONDING WITH THE THE DAY OF _____ 14____

AT: [TIME] [VENUE: ...] [TOWN: ...]

NAME:	DATE OF BIRTH	ADDRESS	SIGNED
WAKEL			
witness of wakel			
WITNESS: 1			
WITNESS: 2			
OFFICIAL			
WITNESS		WITNESS	
WITNESS		WITNESS	

The Nikaah Khutbah

الْحَمْدُ لِلَّهِ تَحْمَدُهُ وَتُسْتَعِينُهُ وَتَسْتَعْفِرُهُ وَتَتَوَكَّلُ عَلَيْهِ وَنَعُوذُ بِاللَّهِ مِنْ شُرُورِ أَنْفُسِنَا وَ
مِنْ سَيِّئَاتِ أَعْمَالِنَا مَنْ يَهْدِهِ اللَّهُ فَلَا مُضِلَّ لَهُ وَ مَنْ يَضِلَّهُ فَلَا هَادِيَ لَهُ وَ نَشْهَدُ أَنْ لَا
إِلَهَ إِلَّا اللَّهُ وَ نَشْهَدُ أَنَّ مُحَمَّدًا عَبْدُهُ وَ رَسُولُهُ أَرْسَلَهُ بِالْحَقِّ بَشِيرًا وَ نَذِيرًا مَنْ يُطِيعِ اللَّهَ وَ
رَسُولَهُ فَقَدْ رَشَدَ وَ مَنْ يَعْصِمْهُمَا فَإِنَّهُ لَا يَضُرُّهُ إِلَّا نَفْسُهُ وَ لَا يَضُرُّ اللَّهَ شَيْئًا

قَالَ اللَّهُ يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَ خَلَقَ مِنْهَا زَوْجَهَا وَ
بَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَ نِسَاءً وَ اتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَ الْأَرْحَامَ إِنَّ اللَّهَ كَانَ
عَلَيْكُمْ رَقِيبًا يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تُقَاتِهِ وَ لَا تَمُوتُنَّ إِلَّا وَ أَنْتُمْ مُسْلِمُونَ يَا أَيُّهَا
الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَ قُولُوا قَوْلًا سَدِيدًا يُصْلِحْ لَكُمْ أَعْمَالَكُمْ وَ يُعْفِرْ لَكُمْ ذُنُوبَكُمْ وَ
مَنْ يُطِيعِ اللَّهَ وَ رَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا نَسْأَلُ اللَّهَ أَنْ يَجْعَلَنا مِنْ يَطِيعِهِ وَ يَجْتَنِبُ
سَخَطَهُ فَإِنَّمَا نَحْنُ مِنْهُ وَ لَهُ قَالَ رَسُولُ اللَّهِ (صلى الله عليه و سلم) أَلْتَكَاخُ مِنْ سُنَّتِي وَ
أَيْضًا قَالَ مَنْ رَغِبَ عَنْ سُنَّتِي فَلَيْسَ مِنِّي رَبَّنَا هَبْ لَنَا مِنْ أَزْوَاجِنَا وَ ذُرِّيَّتِنَا قُرَّةَ أَعْيُنٍ وَ
اجْعَلْنَا لِلْمُتَّقِينَ إِمَامًا بَارَكَ اللَّهُ لَكَ وَ بَارَكَ عَلَيْكَ وَ جَمَعَ بَيْنَكُمَا فِي الْخَيْرِ وَ صَلَّى
اللَّهُ عَلَى خَيْرِ خَلْقِهِ مُحَمَّدٍ وَ آلِهِ وَ صَحْبِهِ أَجْمَعِينَ

In The Name Of Allah - Most Merciful - Most Compassionate

Alli praise is due to Allah, we celebrate His praise - beseech His help, beg His forgiveness and in Him do we trust. We seek protection in Allah from our wicked souls and wretched deeds. Whosoever He guides, there is none to lead astray - Whosoever He leaves to stray there is none to guide. We bear testimony that Muhammed (sallallahu alayhi wa sallam) is His servant and messenger, (Allah) sent him with the truth as a giver of glad tidings and a warner. He who obeys Allah and His Prophet is indeed righteous whilst he who sins harms none but himself - He harms Allah not in the least. The Noble Qur'aan states: "O' mankind! Fear your Lord Who has created you from a single person and created its mate therefrom - and from them both has he scattered multitudes of men and women. Fear Allah, through Whom you mutually ask for (your rights) and fear (your duty to your) blood ties. Indeed Allah is ever watchful over you. O you who believe! Fear Allah your Lord as He ought to be feared and die not except in the state of Islam. O you who believe! Fear Allah and utter appropriate words, He would make sound for you your deeds and forgive your sins. He who obeys Allah and His Messenger has achieved a supreme triumph. We ask Allah to make us of those that obey Him and His Messenger, pursue (the course of) His pleasure and abstain from (acts that will incur) His

wrath. For indeed we stem from Him and to Him shall we return.”

Rasoolullah (sallallahu alayhi wa sallam) says:

“Nikaah is from my way of life”.

Rasoolullah (sallallahu alayhi wa sallam) also says:

“He who detests my way of life is not of me”.

O Lord, grant us the comfort of our eyes from our wives and offspring and make us a leader over the righteous.

May Allah Ta’ala bless you, engulf you with His blessings and unite the two of you with enduring goodness.

May Allah Ta’ala send His blessings on the best of creation - Muhammad - his family and on all his companions.

LESSON 11

POLYGAMY

The Qur'aan says:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَّةَ وَرُبُعَ
فَإِنْ خِفْتُمْ أَلَّا تُعَدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ آدَنُ أَلَّا تَعُولُوا

"If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; But if ye fear that ye shall not be able to deal justly (with them), then only one, or that which your right hands possess. That will be more suitable, to prevent you from doing injustice." (Surah Nisaa - Verse 3)

The Qur'aanic verse regarding polygamy was revealed immediately after the battle of Uhud, wherein many orphans and widows were left destitute. Muslims were allowed to marry them, provided that they could safeguard their interests, their property and treat them with perfect justice.

The jurists, therefore, deduce that one who does not have the capacity to support more than one wife cannot marry more than one.

Some scholars stipulate the following conditions for the validity of taking more than one wife:

- a. The wife is paralysed or suffers from epilepsy or a contagious disease.
- b. She is sterile.
- c. She is mentally ill.
- d. She cannot sufficiently care for the husband and the household due to old age.
- e. She has a fiery character.
- f. She leaves the house of the husband and is blatantly disobedient.
- g. She is unable to fulfill the conjugal needs of the husband.
- h. When women and children are left without anyone to care for them, because of war.

The permission to marry more than one wife is an exception rather than a rule.

The ruling

1. It is necessary to make nikaah to one wife only when one fears that one is unable to fulfill the rights of more than one wife.
2. The Qur'aan gives permission to marrying a maximum of four wives at one time if one is able to fulfill their rights evenly.
3. It is permissible to make nikaah to any Muslim woman who is not from the Mahaarim (the prohibited women).

WORKSHEET

1. What does the Qur'aan say regarding polygamy?

2. Islam allows the taking of more than one wife, but certain conditions are ordained. What are these conditions?

LESSON 12

WALIMAH

Walimah is a feast (meal) given by the groom after the consummation of the marriage or after the bride and groom have met in privacy for the first time.

عَنْ أَنَسٍ (رضى الله عنه) أَنَّ النَّبِيَّ (صلى الله عليه و سلم) رَأَى عَلَى عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَثَرَ صُغْرَةٍ فَقَالَ مَا هَذَا قَالَ إِنِّي تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَاةٍ مِّنْ ذَهَبٍ قَالَ بَارَكَ اللَّهُ أَوْلَمَ وَلَوْ بِشَاةٍ (مشكوة)

It is narrated by Anas (radhiyallahu anhu) that Rasoolullah (sallallahu alayhi wa sallam) saw on Abdur Rahman bin Auf (radhiyallahu anhu) signs of yellow stains (on his clothes). Rasoolullah (sallallahu alayhi wa sallam) asked him what is this? Abdur Rahman (radhiyallahu anhu) replied: "I married a woman and gave her gold to the amount of one date pit as her dowery." Rasoolullah (sallallahu alayhi wa sallam) made dua for barkat and told him to make walimah (feast) even if it be one sheep. (Mishkaat).

عَنْ أَنَسٍ (رضى الله عنه) قَالَ أَوْلَمَ رَسُولُ اللَّهِ (صلى الله عليه و سلم) حِينَ بَنَى بَرَزِيْبَ بِنْتِ حَحْشٍ فَأَشْبَعَ النَّاسَ خُبْرًا وَلَحْمًا

It is narrated from Anas (radhiyallahu anhu) that when Rasoolullah (sallallahu alayhi wa sallam) consummated his nikaah with Zainab bint Jahsh (radhiyallahu anha), walimah was made with meat and bread. People ate to their full.

عَنْ أَنَسٍ (رَضِيَ اللَّهُ عَنْهُ) قَالَ: أَقَامَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) نِيفَ خَيْرٍ وَ الْمَدِينَةِ
ثَلَاثَ لَيَالٍ يَبْنِي عَلَيْهِ بِصَفِيَّةَ فَدَعَوْتُ الْمُسْلِمِينَ إِلَى وَلِيمَةٍ وَمَا كَانَ فِيهَا إِلَّا أَنْ أَمَرَ
بِالْأَنْطَاعِ فَبَسِطْتُ فَأَلْقَى عَلَيْهَا التَّمْرَ وَالْأَقِطَ وَالسَّمْنَ

It is narrated by Anas (radhiyallahu anhu) that when Rasoolullah (sallallahu alayhi wa sallam) returned from Khaiber, he stayed at a place for three nights. During that time Safiyyah (radhiyallahu anha's) nikaah was consummated. Anas (radhiyallahu anhu) says that at the walimah of Rasoolullah (sallallahu alayhi wa sallam) all the Muslims who were present were invited. There was no meat or bread. The food cloth was laid on which were some dates, cheese and home melted butter (ghee).

عَنْ صَفِيَّةَ بِنْتِ شَيْبَةَ (رَضِيَ اللَّهُ عَنْهَا) قَالَتْ: أَوْلَمَ النَّبِيُّ (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ) بَعْضَ
نِسَائِهِ بِمُدَّيْنٍ مِنْ شَعِيرٍ

Sayyidatina Safiyyah (radhiyallahu anha) Binti Shaibah narrates that in one of the walimahs of Rasoolullah (sallallahu alayhi wa sallam) only two mud (type of measure) of barley was offered.

The above narrations give us a great lesson on how simple should a walimah feast be.

A few rules:

1. The walimah should be simple and according to one's means.
2. There is no need to take a loan to have a walimah.
3. Islam strictly prohibits mixed gatherings.
4. One can invite family and friends according to one's means.
5. One should not forget to invite the poor as well.
6. The intention of a walimah must be to follow the Sunnah of Rasoolullah (sallallahu alayhi wa sallam).
7. The walimah should not be like the feasts of the non-Muslims.
8. One should not refuse an invitation to a walimah if the laws of shariat are not contravened.

إِذَا دُعِيَ أَحَدُكُمْ إِلَى الْوَلِيمَةِ فَلْيَأْتِهَا

Rasoolullah (sallallahu alayhi wa sallam) said: ***"When you are invited for walimah then you should go."*** (Mishkaat)

Rasoolullah (sallallahu alayhi wa sallam) said: ***"The worst of food is that which is served in as walimah where only the rich are invited and the poor are left out..."*** (Mishkaat)

WORKSHEET

1. What is kufu'?

2. In which instances is kufu' to be considered?

3. What guidelines does the hadeeth give about getting children married?

4. What warning is given in the hadeeth for rejecting a good proposal?

5. There are three things one should not delay in carrying out. What are they?

6. Choose the correct one?
- a. Nikaah is mustahab on (Thursday, Friday, Sunday)
 - b. Nikaah should be performed in a (Hall, Hotel, Masjid)
 - c. The bride's witness must be two (non-Muslim, two pious Muslims, one lady).
7. How will the bride give her consent to the wakeel (representative)? _____

8. What does the nikaah khutbah consist of?

9. How does the Khatib address the groom while performing the nikaah? _____

10. The distribution of _____ is _____ after nikaah?
11. What is Walimah? _____

12. Describe two of Rasoolullah (sallallahu alayhi wa sallam's) Walimahs? _____

LESSON 13

THE DUTIES AFTER NIKAH

The rights of the wife.

1. The mehr (dowry)
2. Maintenance
3. Just treatment
4. Deeni Taalim

1. The Mehr (dowry)

- a. To give the dowry in cash if promised
- b. If the dowry was promised to be handed at some fixed time it should be handed to her on its due time.
- c. If the husband does not give the dowry at the fixed time as promised, the wife has the right to refuse the husband all matrimonial relations and she can also refuse to travel with him.
- d. The husband will have to support her even if she refuses matrimonial relations because of him not giving her the promised dowry.

2. Maintenance

In Shariah it is waajib for the husband to provide his wife with:

- a. food
- b. clothes
- c. shelter (living quarters/home)

Maintenance of the wife will be waajib in all conditions whether the wife be:

- 1. A new Muslim or old Muslim
- 2. Rich or poor
- 3. Old or young

If the wife is staying with her parents then maintenance is not waajib. If the wife refuses to go to the home of the husband despite having the ability (i.e she is not ill) then the maintenance will not be waajib.

If the wife becomes ill it will not be waajib for the husband to bear the costs, but if he has the means he can pay for it.

2a. Food

The husband will provide food according to his standard.

- 1. If both are rich, then he will provide the food which is normally consumed by rich people.
- 2. If both are poor, then the husband will provide the food which is consumed by poor people.

3. If one of them is rich and other poor, the husband will provide the food which is consumed by the people of the middle class.
4. If the husband is very poor and the wife is from a very rich home and the husband is unable to provide food which she is accustomed to or slightly lower, then he will provide her with what he can. The day the husband has more wealth he should pay her back as best for what he was not able to provide previously.

5. Cooking food.

- i. If the wife refuses to cook and do the house work then the lifestyle of her parents' home will be taken into consideration.

If in her parents' home the cooking and housework is done by the family members then it will not be waajib for the husband to get someone to cook and clean the house for his wife, but it will be waajib for the wife to do these duties.

- ii. If in the home of the wife's parents they employed someone to cook and do the house work, then it will be waajib on the husband to employ someone to cook the food and do the household chores.

- 6 It will be waajib for the husband to provide household items such as stove, utensils, fridge, pots, groceries etc which are needed to run a home efficiently and which are of a necessity according to his financial means.
7. The husband will provide for all his wife's personal items and toiletries such as bath soap, hair oil, comb, etc.

2b. Clothing:

The husband will provide clothing according to his financial means. It is waajib for the husband to provide clothing twice a year i.e. winter and summer clothes.

- i. If both are rich, the husband will provide that quality of clothing which a rich person buys.
- ii. If both are poor, the husband will provide that quality of clothing which is affordable by the poor.
- iii. If one is rich and the other is poor, the husband will provide clothing of an average quality affordable by the middle class.
N.B. In the provision of clothes the husband will consider what is worn by the Muslim community according to Shariah.
- iv. The husband will provide bedding, blankets, linen etc.

2c. Home (living quarters):

The husband must provide living quarters for his wife according to their financial means.

- i. It is *waajib* on the man to provide a living quarters for his wife. This place must be such that no other relative of the husband lives there, whereby the husband and wife can live without any constraints. However, if the wife does not mind living with others, it will be permissible for him to keep her in the same house with other relatives of his.
- ii. If the wife is provided with a separate room within the house where she can keep all her belongings and personal effects safely, where no one else can enter and only she has possession of it and she can live there; then the responsibility of the husband will be fulfilled. The wife cannot claim more than this and ask for an entirely separate house.
- iii. Just as the wife has the right to ask for a separate house where none of her husband's relatives are living and over which she has complete control, in the same way, the man also has the right to prevent or stop her relatives from coming to the house in which she is living. He can stop anyone, irrespective of whether it

be her mother, father, brother, or anyone else from among her relatives. The wife cannot leave nor allow anyone into the home of her husband without the permission of the husband.

3. To treat with equality and justice:

- i. It is waajib for the husband to live in harmony and to treat his wife at all times justly and to please her.
- ii. In Islam a man is permitted to have more than one wife up to four, but he must treat them equally.

Rasoolullah (sallallahu alayhi wa sallam) said:

مَنْ كَانَ لَهُ امْرَأَتَانِ فَمَالَ إِلَى أَحَدِهِمَا جَاءَ يَوْمَ الْقِيَامَةِ وَ أَحَدُ شِقْيِهِ سَاقِطٌ رواه احمد

“Whoever has two wives and inclines (unfairly) to the one over the other, he will come forth on the day of judgment with his one side being lame.” (Tirmidhi)

- i. If a person has more than one wife it will be waajib upon him to treat each one equally. Whatever he gives to one wife, the other wife also has the right to claim something equal to that in value. This rule of equality applies to all types of wives, i.e. irrespective of whether both were virgins at the time of marriage, or both were previously married, or one was a virgin at the time of

marriage while the other had been previously married. If he spends one night with one wife, he will have to spend one night with the other wife as well. If he spends two or three nights with one wife, he will have to do the same with the other wife as well. Whatever wealth, jewellery, clothes, etc. he gives to one wife, the other wife also has the right to claim something equal to that in value.

- ii. If a person marries a second woman, the rights of this new wife and the rights of the old wife are the same. There is no difference in rights between the two.
- iii. Equality is based on spending the night and it is not necessary to spend an equal time with them during the day. If a person spends more time with one wife during the day and less time with the other, there is no harm in this. However, it is waajib to spend an equal time with them at night. However, if a person's occupation is such that he works at night and remains at home during the day; for him, the basis of equality will be the day.
- iv. There is no equality in engaging in sexual intercourse.
- v. There is no sin in loving one wife more than the other because these matters are connected to the heart and one does not have any control over one's heart.

- vi. Equality is not waajib when embarking on a journey. The husband can take whichever wife he wishes. However, it is preferable to cast a lot and to take the wife in whose favour the lot was drawn. In this way there won't be any unhappiness or disgruntlement.

Rules:

- i. If the wife's father¹ is ill and there is no one to take care of him, the wife should go and see to his needs whenever the need arises, even if it means going daily. If her father is a kaafir, then too the same rule will apply. In fact, even if her husband stops her from going, she should still go. However, if she goes despite her husband stopping her from going, then she does not have the right to claim food and clothing from her husband.
- ii. The woman who has been issued with a divorce also has the right to receive food, clothing, and shelter until the end of her iddah (waiting period). However, the woman whose husband has passed away does not have

¹ Even if her mother or some other relative who has rights over her fall ill, she should still go.

the right to claim for food, clothing and shelter. Obviously, she will receive a share of the inheritance.

- iii. If the nikaah is broken due to some reason caused by the wife, she will not be entitled to receive any food or clothing while she is in her iddah. But, she will be entitled to receive a living quarters. Examples of nikaah being broken because the wife: (a) engages in sexual intercourse with her step-son or merely touches him with the passions of youth, and the husband therefore divorces her. (b) she becomes a kaafir and turns away from Islam. However, if the wife decides to leave on her own and not take advantage of the right to receive some shelter, she may leave and thereby forfeit this right.

4. Deen and Taleem:

It is *waajib* for the husband to give his wife taleem (education) of Deen.

- i. He should correct her aqaaid (Islamic beliefs).
- ii. Instruct her to practise on Deen.
- iii. If the husband is not learned he should ask some lady to teach his wife.

- iv. While educating her, the husband could be stern in the training of Deen and on the performance of Salaah, etc.
- v. The husband can reprimand her verbally, or physically without causing her any pain. He should not to slap her on the face.

Rights of the husband

It is reported in a Hadeeth that once a camel bowed in prostration before Rasoolullah (sallallahu alayhi wa sallam). The Sahabah on seeing this said: "When this animal prostrates before you, why should we not have this honour too?" He replied: "Never! If I could make somebody prostrate before anybody besides Allah, I would ask the wives to prostrate before their husbands."

The following is reported to have been said by Rasoolullah (sallallahu alayhi wa sallam) in this regard:

- i. "A woman whose husband is pleased with her at the time of her death goes straight into Paradise."
- ii. "A woman is cursed by the angels if her husband is displeased with her, and she stays away from him in anger for the night."

- iii. “The Salaat of two persons hardly rises beyond their heads in its flight to heaven for acceptance. These two persons are, a run-away slave and a disobedient wife.”

Rules:

1. She must please the husband.
2. It is waajib for the wife to obey her husband however, it should not be against the orders of Allah Ta’ala.
3. The wife must dress and beautify herself only for her husband.
4. The wife must guard her modesty.
5. The wife must take care and look after the wealth of her husband.
6. The wife must respect her husband.
7. The wife must talk with respect and honour to her husband and not to back answer.
8. The wife must not nag her husband.

WORKSHEET

1. List the rights of the wife.

2. Mention the rights of educating the family.

3. What are the rights of the husband?

4. Explain the rules regarding the wife in connection with the following:

- a. standard of food
- b. cooking
- c. clothing
- d. feeding

BIRTH OF THE CHILD

The Sunnahs of Rasoolullah (sallallahu alayhi wa sallam) at the birth of a baby

Five events are sunnah at the birth of the child.

a. Adhaan

First the baby has to be bathed. Thereafter Adhaan is to be given. Rasoolullah (sallallahu alayhi wa sallam), said:

*“If one has a baby and makes the adhaan in its right ear and the iqamah in its left ear,
Shaitaan will not disturb the child, Allah willing.”*

(Baihaqi)

This should be done as soon as possible after the child is born according to the instructions of Rasoolullah (sallallahu alayhi wa sallam). It is reported in the Hadeeth collection of Abu Dawood that Rasoolullah (sallallahu alayhi wa sallam) made the adhaan in the ear of his grandson, Hasan bin Ali (radhiyallahu anhuma), immediately after Sayyidatina Fatima (radhiyallahu anha) gave birth to him. This may be done either by the parent or by any

Muslim. However, according to the Shafi'ee school of thought, it is disliked for anyone to recite the adhaan if they are in a state of impurity. Therefore, according to that school, the mother should refrain from reciting the adhaan while experiencing post-natal partum bleeding.

Rules:

- i. The adhaan should be given in the right ear and the iqamah in the left ear.
- ii. The iqamah should be given in a lower and quick tone as that of the adhaan.

b. Tahneek (masticatory feeding)

Tahneek refers to the Sunnah of softening a date by chewing and rubbing a small amount in the baby's mouth. It is mustahab that Tahneek be done by some pious member of the family and if not then any other person can do this, following it with dua (supplication) for the child, emulating the example of Rasoolullah (sallallahu alayhi wa sallam) who chewed dates to soften them before feeding it to the newborn.

Abu Musa (radhiyallahu anhu) said: A son was born to me and I took him to Rasoolullah (sallallahu alayhi wa sallam), who named him Ibrahim, did tahneek for him with a date, invoked Allah Ta'ala to bless him, and returned him to me. (Bukhari)

c. Aqeeqah

Aqeeqah means to slaughter an animal after the birth of the child. Every child is ransomed by his aqeeqah which is done on the seventh day. (Tirmidhi, Al nasai, Ibn Majah)

If anyone has a child born to him and wishes to offer a sacrifice on its behalf, he may offer two sheep resembling each other (of equal value) for a boy and one for a girl. (Abu Dawood)

It is mustahab to offer aqeeqah on the seventh day, e.g. the baby is born on a Friday:

Fri	Sat	Sun	Mon	Tues	Wed	Thur
1	2	3	4	5	6	7
Baby is born						Aqeeqah be done on this day

For a boy	2 sheep or 2 goats	or 2 shares in a cow for qurbani
For a girl	1 sheep or 1 goat	or 1 share in a cow for qurbani

Thereafter to shave the hair of the newborn baby. To weigh the hair and give silver or its equivalent in cash or kind in charity. It is mustahab to bury the hair.

d. Tasmiyah (naming the baby)

It is the duty of the parents to give the child a good Muslim name. Rasoolullah (sallallahu alayhi wa sallam) favoured names reflecting servanthood to Allah Ta'ala - Most High, such as Abdullah, Abdur Rahman. He also advised calling boys the names of the Ambiya (Alayhimus Salaam) e.g. Ebrahim, Moosa, Dawood (Alayhis Salaam). Similarly, it is also encouraged to keep the names of Sahabahs e.g. Zubair, Talha, Saad, Umar (radhiyallahu anhum).

Rasoolullah (sallallahu alayhi wa sallam) has said:

“On the day of Qiyaamat you will be called by your names and by your fathers names, so give yourself a good name.” (Abu Dawood)

Parents should not give their children nick names or spoil their names e.g. Sulaiman to Solly, Faatima to Faatim or Fatu, Abdus Samad to Sam, Zaakira to Zaki.

One should not give names which has no meaning. Similarly, names that have a bad meaning should be avoided. It is also not advised to give the names of non-Muslims.

e. Khitaan (circumcision)

Rasoolullah (sallallahu alayhi wa sallam) said:

“The (practices related to) fitrat (the pure, correct human nature) are five: circumcision, shaving the pubic hair, trimming the moustache, cutting the nails, and removing the underarm hair.” (Bukhari; Muwatta)

In the time of Rasoolullah (sallallahu alayhi wa sallam), khitaan was done for boys at about the time of their aqeeqah, as reported in al-Baihaqi. Other Ahadeeth mention it being done later. It goes without saying that this minor operation is easier on a small baby than it is on an older boy.

When the child starts to speak

Rasoolullah (sallallahu alayhi wa sallam) says,

“Teach the Kalimah to a child when he starts speaking and persuade a dying person to recite the Kalimah. He who has had his beginning with the Kalimah and has his end with the Kalimah, would not be required to account for any of his sins, even though he lives for a thousand years.” (i.e. either he would commit no sin, or if he happened to commit any sin, it would be written off by virtue of kalimah or through the sheer mercy of Almighty Allah).

Parents should make an effort to teach their children the name of Allah Ta’ala first when the child starts talking.

WORKSHEET

1. Explain the following acts after the birth of a newborn baby
 - a. Adhaan
 - b. Tahneek
 - c. Aqeeqah
 - d. Tasmiyah (naming the child)
 - e. Khitaan

2. What are the first words to be taught to the child?

LESSON 14

BREAST FEEDING (RIDHAA'AT)

Ridhaa'at means to suckle a baby. The period of ridhaa'at is two years.

Rules:

1. When a child is born, it is waajib on the mother to breast-feed the child. However, if the father is wealthy and the services of a wet nurse can be obtained, there will be no sin on the mother if she does not breast-feed the child.
2. It is not permissible to breast-feed someone else's child without the permission of the husband. However, if the child is extremely hungry and there is a fear that if it is not fed it will die, then in such a case a woman can feed the child without seeking the permission of the husband.
3. The maximum period of breast-feeding is two years. It is haraam to breast-feed a child beyond two years.

If the child has commenced eating solids and because of this the woman stopped breast-feeding the child before the expiry of two years, there is no harm.

When a child drinks the milk of some other woman, that woman becomes the foster mother of this child. The husband of that woman becomes this child's foster father. The children of this woman are regarded as foster brothers and sisters of this child and nikaah between them is now haraam. All the relations that become haraam through lineage (blood relations) become haraam through this foster relationship as well. According to the majority of the Ulama, this rule will only apply if the child drinks the milk during the first two years of the child's life. If a child drinks the milk of another woman after the age of two, this will not be taken into account. This woman will not be regarded as the child's mother, nor will her children be regarded as the child's foster brothers and sisters. Therefore, if they happen to marry, their nikaah will be valid. However, Imaam Abu Hanifah (rahmatullahi alayh) says that even if a child drinks the milk of another woman upto two and a half years of age, the nikaah will still not be valid.

6. The moment the milk goes down the throat of the child, all relations that we have mentioned above will become haraam for that child. This is irrespective of whether very little milk went down, or a lot of milk went down its throat.
7. If the child did not drink the milk directly from the woman's breast, and instead, she expressed some of the milk and fed it to the child even then all the foster mother's blood relations will become haraam for that child.
8. If the milk of a woman is mixed with water, medicine, or some other substance and given to a child; one will have to check whether the milk is more or the substance it is mixed with is more, or both are equal. If the milk is more or equal to the other substance, then the woman to whom the milk belongs will become the child's foster mother and all blood relations will become haraam for that child. But if the water, medicine etc. is more than the milk, it will not be considered and the woman will not be regarded as the child's foster mother.
9. The milk of a woman is mixed with cow's or goat's milk and the child drinks this milk. If the woman's milk is equal to or more than the other milk, all her blood

relations will become haraam for that child and this child will be regarded as the offspring of the woman to whom the milk belongs. But if the cow's or goat's milk is more, it will not be considered and it will be regarded as if the child did not even drink the woman's milk.

10. If a virgin girl happens to get milk and some child happens to drink it, all relations will become haraam for this child.
11. It is not permissible to add a woman's milk into any medicine. If this is done, it will be haraam and not permissible to consume it or apply it. Similarly, it is not permissible to apply breast-milk in the eyes or ears as a form of medication. In short, it is not permissible to take any benefit from the milk of females or to use it for one's personal use besides that for breastfeeding.

WORKSHEET

1. What is the ruling on breast feeding after the maximum period stated by Shariah?

2. Explain what is meant by foster mother, father, brothers, and sisters, and what is the ruling?

3. When a certain amount of breast milk has been consumed foster relations will be established. What amount is to be consumed to establish this relationship?

4. Is it permissible to engage in the services of a wet nurse?

KITAABUT TALAAQ

Talaaq in Shariah means to sever (break) the bond of nikaah.

Allah Ta'ala says in the Qur'aan:

وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

“And fear Allah Ta’ala when you ask one another your needs through his name. And fear Allah Ta’ala by keeping your family ties connected and truly Allah Ta’ala is forever watchful over you.” (S. Nisaa-Verse 1)

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا

يُوفِّقَ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

“If you fear a breach between the two of them, then appoint two arbitrators, one from his family and the other from hers. If they seek to set things aright, Allah Ta’ala will cause their reconciliation. For Allah Ta’ala has full knowledge and is acquainted with all things.” (S. Nisaa-Verse 35)

The above aayat guides us on the method of reconciliation and settling of disputes.

وَالَّتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ
فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيًّا كَبِيرًا

“As for those women on whose part you fear disloyalty and ill-conduct, admonish them (first), (next) refuse to share their beds, (and last) strike them lightly, but if they return to obedience, seek not against them means of annoyance, for Allah Ta’ala is Most High, Great above all.” (S. Nisaa-Verse 34)

The above ayat gives the Qur’aanic guidance on how to rectify a situation when the wife is disobedient.

Rasoolullah (sallallahu alayhi wa sallam) has said:

“The man who bears the ill manners of his wife shall receive rewards equivalent to what Allah Ta’ala gave Ayoob (Alayhis Salaam) when he suffered his afflictions. The woman who bears her husband’s ill manners shall receive the reward equivalent to what he granted Aaseeyah (Alayhas Salaam), the righteous wife of Pharoah.”

Rasoolullah (sallallahu alayhi wa sallam) has said:

“The curse of Allah Ta’ala rests on him who repudiates his wife with no proper reasons.”

Rasoolullah (sallallahu alayhi wa sallam) has said:

“Among the things that Allah Ta’ala greatly dislikes but has allowed, is divorce. (Abu Dawood, Ibn Majah)

Rasoolullah (sallallahu alayhi wa sallam) has said:

ثَلَاثٌ جِدُّهُنَّ جِدٌّ وَهَزْلُهُنَّ جِدٌّ النِّكَاحُ وَالطَّلَاقُ وَالرَّجْعَةُ (رواه الخمسة الا النسائي)

“There are three things when it takes place, its seriousness is taken in earnest and its jest is taken in earnest;

(1) marriage,

(2) talaaq and

(3) the raj-ah (revoking a talaaq decree)

(Bukhari, Muslim, Tirmidhi, Abu Dawood, Ibn Majah)

Thowban reported that Rasoolullah (sallallahu alayhi wa sallam) has said:

أَيُّمَا امْرَأَةٍ سَأَلَتْ زَوْجَهَا طَلَاقًا مِنْ غَيْرِ بَأْسٍ فَحَرَامٌ عَلَيْهَا رَائِحَةُ الْجَنَّةِ رواه الترمذی

“Any woman who asks her husband to divorce (talaaq) her for no reason at all, then the fragrance of Jannah (paradise) will be haraam for her.” (Tirmidhi)

LESSON 15

RULES OF TALAAQ

1. The talaaq (divorce) given by a sane, married adult made to his wife will be valid.
2. The talaaq given by a child and insane will be invalid.
3. The talaaq given during sleep by the husband to his wife will be invalid.
4. The talaaq given during the state of intoxication will be valid.
5. The female cannot divorce her husband, but under certain serious conditions the wife can appeal to the qadhi (Islamic Judge) to have the nikaah annulled.
6. The talaaq given in the state of anger will be valid, since no one gives a talaaq in a state of happiness.
7. The talaaq if uttered whilst joking or in jest will be valid.
8. The talaaq uttered under the condition of threat and duress will be valid.

9. The amount of talaq that could be uttered by the husband are either one or two or three. The maximum talaqs are three for a free woman i.e. one who is not a slave, and for the slave woman two talaqs are maximum.
10. The husband who gave one or two talaqs can reconcile by retracting by means of raj'at (revocation).
11. If three talaqs are given in one sentence it will be regarded as three talaqs and not one.
12. The maintenance for the divorced woman is paid by the husband until her iddat is over.
13. The husband who is dumb will divorce his wife by means of signs or writing.

WORKSHEET

1. What does the word talaq mean in Shariah?

2. Write down any two hadeeth on talaq.

3. State whether the talaq will be valid or invalid in the following instances:

- a. Talaq given by a minor child

- b. Talaq given by an insane person

- c. Talaq given in the state of intoxication

- d. The divorce by a female

- e. The talaq given in the state of anger

- f. Talaq whilst joking

- g. Talaq given under the condition of a threat and duress.

LESSON 16

METHODS OF TALAAQ

There are three methods of applying talaaq:

1. Talaaq Ah'san
2. Talaaq Hasan
3. Talaaq Bid'ee

1. Talaaq Ah'san

The husband gives his wife one talaaq while she is taahir (not menstruating) on condition that he does not cohabit with her during this period of tuhur (purity). Thereafter she is allowed to complete her iddat of three complete menstrual cycles if she is not expecting. An expectant mother's iddat will terminate at childbirth.

Taahir	Haiz	Taahir	Haiz	Taahir	Haiz	Taahir
↓	(1)	(2)	(3)	Spends in iddat		

Husband gives one talaaq to his wife and does not cohabit with her.

Rules of Talaq Ah'san

1. The husband may reconcile with his wife (without making a new nikaah) before the termination of her iddat by means of raj'at.
2. The husband may reconcile with his wife after her iddat. However, this is done by performing a new nikaah.

2. Talaq Hasan

The husband gives his wife three talaqs in three consecutive taahir (non menstruating) periods. It is conditional that the husband does not cohabit with his wife during these three taahir periods.

Husband divorce his wife one talaq (1)	← → Taahir	Husband can reconcile without a new nikaah.
	Haiz	
Husband divorce his wife one talaq (2)	← → Taahir	Husband can reconcile without a new nikaah
	Haiz	
Husband divorce his wife one talaq (3)	← → Taahir	Husband cannot reconcile
	Haiz	
	→ Taahir	Husband cannot reconcile

Rules:

1. The husband can reconcile with his wife after the first divorce by means of raj'at (revocation).
2. The husband can reconcile with his wife after the second divorce by means of raj'at.
3. But the husband cannot be reconciled with his wife after the third divorce.

WORKSHEET

1. Explain the method of Talaq Ah'san.

2. What are the rules of Talaq Ah'san?

3. What is the method of carrying out a Talaq Hasan.

	← → Taahir	
	Haiz	
	← → Taahir	
	Haiz	
	← → Taahir	
	Haiz	
	→ Taahir	

LESSON 17

TALAAQ BID'EE

1. A husband divorces his wife with three talaqs in one instance (sentence). .E.g. He says: "I give you three talaqs" or he says "I give you talaq, I give you talaq, I give you talaq."
2. A husband divorces his wife one or two talaqs while she is in the state of haiz (menstruating).
3. A husband divorces his wife giving one talaq while in haiz (menstruating) or a husband divorces his wife giving her one talaq while she is taahir (non menstruating period) and also cohabitated with her.

Taahir →	e.g. (1) Husband divorces his wife 3 talaqs in one instance.
Haiz →	e.g. (2) Husband divorces his wife with 1 talaq.
Taahir →	
Haiz →	e.g. (3) Husband divorces his wife with 2 or 3 talaq
Taahir →	e.g. (4) Husband divorces his wife with 1 or 2 talaqs and also cohabited with his wife eg.4 (talaq bid'ee)
Haiz	

Rules

1. If the husband had given talaaq to his wife while she was menstruating, it is mustahab for the husband to retract his divorce by means of raj'at (revocation).
2. If he still wishes to divorce his wife after retracting, this could be done while she is taahir (not menstruating). He could then give her the divorce.
3. The husband should avoid giving the above talaaq (talaaq bid'ee).
4. Any form of talaaq bid'ee will be considered as a valid and recognised talaaq. Therefore, if the husband gave his wife a talaaq bid'ee, but thereafter retracted it and gave her another talaaq, then this will be regarded as two talaqs given.
5. Talaaq given in a state of haiz prolongs the iddat. (see diagram).

Taahir	
Haiz →	→ Talaq given = iddat starts
Taahir	
Haiz →	→ (one complete haiz)
Taahir	
Haiz →	→ (two complete haiz)
Taahir	
Haiz →	→ (three complete haiz)
Taahir→	→ Iddat ends upon the termination of the 3rd complete haiz.

N.B.

- The iddat for a non-expectant mother who is divorced is three complete haiz cycles.
- The iddat for a pregnant mother who is divorced will be until the child is born, irrespective of whether this child is born after one day or after eight months.

WORKSHEET

1. What is talaq bid'ee?

2. What is the rule when the husband divorces his wife while she is menstruating?

3. After talaq bid'ee can the husband remarry his divorced wife? If this is possible how should it be done?

LESSON 18

RAJ'AT/ (retraction/revocation)

This means that the husband takes back his wife during the iddat period, after having divorced her by one or two unambiguous talaqs. No new nikaah is required and the couple is still in the contract of their first nikaah. However, although the husband revokes the talaq it will still be counted when adding the talaqs. For example, if he gives her one talaq (whether he revokes it or not) it will be considered as one thus leaving him with only two talaq opportunities and if he gives her two (even though he retracts them) it will leave him with only one talaq opportunity.

Rules of raj'at (retraction)

1. The condition of raj'at is that less than three talaqs have to be given (i.e. one or two divorces).
2. It is mustahab to make a verbal raj'at in the presence of two witnesses.
3. Raj'at could also be made practically.

Method of verbal raj'at (retraction)

1. The husband tells his wife, "I have taken you back in my nikaah".
2. The husband tells someone else, "I have taken my wife back".
3. It is mustahab to do this in the presence of two witnesses.
4. It should be done before the period of iddat expires.

Method of practical raj'at

The husband does all those acts which cause Hurmat-Musahirat (affinity). E.g. kisses his wife passionately or caresses her passionately or to have intercourse.

Types of words used for talaaq

1. Talaaq Sareeh
2. Talaaq Kinaayah

1. Talaaq Sareeh (Explicit)

Talaaq Sareeh is when a husband divorces or gives a talaaq to his wife with unambiguous words, i.e. it is clear even if the husband intends something else, the talaaq will be applicable. I.e. to use the words "talaaq" or "divorce" or

any word which definitely denotes talaq in a particular language, e.g. a. "I give you talaq". b. "I divorce you."

2. Talaq Kinaayah (inferred/ambiguous)

Talaq Kinaayah is when the husband divorces his wife, and the words and phrases used have a dual meaning and depend solely on the intention of the husband. E.g.

1. The husband tells his wife, "You are alone." This could mean the wife is divorced/separated from the husband or it could mean that the man tells his wife she is his only wife.
2. "Count your iddat." This could mean the wife should calculate the number of days for her iddat or that she is going to sit in iddat.
3. If the words of Kinaayah were used after an argument, then talaq will take place.

In the above situation, the intention of the husband is taken into consideration i.e. if he intended talaq, a talaq is counted; if he did not intend talaq, no talaq would have taken place.

WORKSHEET

1. Define Raj'at

2. What are the rules of Raj'at?

3. Name the two methods of Raj'at?

4. Mention any 3 points on verbal Raj'at.

LESSON 19

TYPES AND AMOUNTS OF TALAAQ

There are three categories of talaqs:

1. Talaq Raj'ee
2. Talaq Baa'in
3. Talaq Mughallaza

1. Talaq Raj'ee (revocable divorce)

Talaq Raj'ee means that the husband divorces his wife by using words of Talaq Sareeh (I have divorced you once). The husband only gives one or two such divorces, but he does not give all three divorces.

Note: for a slave woman, the maximum amount of divorces that can be given is two and in this case he should only give one.

Rules of Talaq-e-Raj'ee

1. Cohabitation does not become haraam by this talaq.
2. If the husband wishes to reconcile after talaq Raj'ee he may do so by retracting his divorce before the period of iddat expires.
3. It is mustahab for the husband to have at least two male witnesses while making raj'at.

4. If the husband gave 3 such talaqs, he cannot marry her again.

2. Talaq Baa'in (irrevocable)

Talaq Baa'in means that the husband divorces his wife by using the words of Kinaayah. The rules of this talaq are as follows:

1. If one or two such talaqs are given the husband could reconcile by performing a new nikaah after the period of iddat.
2. In this type of talaq, one cannot reconcile by means of a practical raj'at i.e. he cannot have intercourse with the woman.
3. If the husband gave 3 such talaqs, he cannot marry her again.

3. Talaq Mughallaza (Supreme)

Talaq Mughallaza means that the husband gives his wife three (3) divorces and it can be as follows:

1. Three divorces in one sentence.
2. Three divorces in the course of one non-menstruating period.

3. Two divorces and then he reconciles. After reconciliation he gives her another divorce. (This totalling upto 3 divorces).
4. Three talaqs spread over three periods of tuhur.

Rules of Talaq Mughallaza

1. One cannot make raj'at after talaq mughallaza.
2. The husband cannot re-marry his wife after divorcing her three times even after the period of iddat.
3. It is immaterial whether the husband gives his wife 3 talaq Sareeh or 3 talaq Baa'in (with the intention of divorce); in both cases it will be considered as talaq Mughallaza.
4. The husband can only marry her again if one of the following takes place:
 - a. If the wife remarries and the second husband dies and she completes her iddat, the first husband can remarry her thereafter.
 - b. If the wife remarries after her iddat, her second husband divorces her due to some problem, she may marry her first husband after completion of her iddat.

Note: The wife's second marriage must not be a planned marriage and the marriage must be consummated.

SPECIMEN COPY OF A FORMAL ISSUE OF TALAAQ

"Of all things permitted, divorce is the most disliked by Allah Ta'ala" (Hadeeth). (reference)

Choose the type of talaq by marking the appropriate box and fill in the relevant details.

SECTION ONE:

☐ I _____ I.D. No _____

being of sound mind and judgement hereby issue

One explicit talaq to: _____/No _____

based on the formula of Talaq Ahsan, i.e. one explicit revocable talaq (Raj'ee issued in a "clean" period wherein no cohabitation had taken place.

SECTION TWO

☐ I _____ I.D. No _____

being of sound mind and judgement

hereby issue: One inferred Talaq (Baa'in) to :

_____ I.D. No _____ based on the formula of Talaq Baa'in
i.e. One irrevocable talaq issued in a "clean" period wherein no cohabitation had taken place.

Thus done and signed on the _____ day, of _____ 19 _____
Corresponding with the _____ day, of _____ 14 _____
of the Islamic calendar.

SPECIMEN COPY
_____ Husband

Witnesses:

(1) _____
(2) _____

JAMIATUL ULAMA TRANSVAAL

Branch: _____

Ref No: _____

WORKSHEET

1. What is the difference between Talaq Sareeh and Talaq Kinaayah?

2. Give a few examples on Talaq Kinaayah.

3. Define Talaq Raj'ee.

4. Define Talaaq Baa'in.

5. Explain the method of Talaaq Mughallazah.

6. What are the rules of Raj'at in Talaaq Mughallazah?

7. What is the rule of three talaqs in one sentence?

LESSON 20

MISCELLANEOUS TALAAQS

TALAAQ TAFWEED

Talaaq Tafweed means when the husband gives someone else the option of talaaq.

Method:

There are three ways of implementing it:

- a. The husband authorizes the wife.
 - b. The husband authorises someone else.
 - c. The husband sends someone with the message of talaaq.
-
1. There are three types of words that are used in this type of talaaq:
 - a. Decide yourself.
 - b. Whatever you desire or wish
 - c. You are in control of what you do.

Example: 1

The husband tells his wife decide yourself and he intends divorce with this statement. During the conversation, the wife says I will choose myself, in this case one talaq baa'in will take place.

Example: 2

If the husband tells his wife decide for yourselves and the wife stood up or walked away or busied herself with some other activity and showed no interest in the option of divorce offered by her husband, she loses the option of divorce.

Talaq Ta'leeq

Talaq Ta'leeq is a talaq linked to the condition of time and / or place.

Method of Talaq Ta'leeq (for time)

If the husband tells his wife, "when Ramadhan starts, you are divorced" or "if tomorrow comes, you are divorced." Then talaq becomes effective from the stipulated times.

Method of Talaq Ta'leeq (for place)

If the husband tells his wife, "if you enter the house, you are divorced" or "if you enter your mother's house you are divorced" then the talaq becomes effective when the stated conditions happen. In both the above cases (place or time), one talaq raj'ee becomes effective.

LESSON 21

TALAAQ-UL-MAREEDH

If a husband divorces his wife on his deathbed with a talaq baa'ir and thereafter he dies then the wife will observe the iddat for divorce.

Rules of Talaq-ul-Mareedh

1. If the husband dies while she is in iddat, she will inherit.
2. If the husband dies after completion of her iddat, she will not inherit. This is because the husband divorcing her while on his deathbed, intended to disinherit her.
3. If the husband gives the option of divorce to the wife, (talaq tafweedh) and he dies, then the woman does not inherit.

Note: The reason why the wife inherits during iddat is because iddat is the last portion of nikaah and during iddat, it is waajib for the husband to pay maintenance to the wife during iddat.

LESSON 22

KHULA' **(Compensational divorce)**

Khula' means to discontinue the contract of nikaah by accepting an amount of wealth from the wife as a compensation for divorce.

Rules of Khula'

1. When enmity takes place between husband and wife, and the wife wishes to release herself from the bond of nikaah, Islam has given permission to the wife to release herself by offering a compensation to the husband. If the husband accepts the compensation one talaq baa'in will be effective.
2. If the enmity is caused by the husband it will be makrooh for him to take anything or accept anything from her as compensation. If the enmity is caused by the wife, it will be makrooh for him to take an amount more than the dowry (mehr).

3. Whatever is permissible to be given as mehr, could be given as compensation in khula'.
4. If the husband did not give dowry at the time of nikaah, the wife can forfeit this as payment of khula'.
5. Maintenance in iddat is the duty of the husband. It is also the duty of the husband to provide shelter for the woman.
6. If the husband becomes abusive or violent after verbally agreeing to accepting the khula' one talaaq baa'in comes into effect and the wife will not be responsible for any compensation.

Thus, the definition of khula' is the request of a wife to her husband for a divorce with the payment of some compensation in the form of wealth.

ZIHAAR

The definition of zihaar is for a husband to give his wife a similarity to one of his female mahrams or to give similarity to any part of the body that cannot be unveiled with the intention or implication that just as his female mahrams are haraam for him, he intends making his wife haraam for him.

Example:

The husband tells his wife 'You are like my mother'. If his intention is, 'just as my mother is haraam for me in matrimonial relations, you are also haraam for me' then one talaq baa'in becomes effective. If a person tells his wife the above statement without the intention of divorce ('you are like my mother' i.e. in beauty) then no divorce takes place.

Example:

A husband tells his wife 'your back is like the back of my mother'. If his intention is 'just as my mother is haraam upon me, (i.e. in matrimony) I am making you haraam', one talaq baa'in becomes effective. If however, a man does not intend divorce, his statement will be taken in the literal sense and no divorce becomes effective.

Rules:

1. If the husband intends talaq by drawing similarities through the words of zihaar, one talaq baa'in would come into effect.
2. By drawing a similarity and one abstains from cohabitation intentionally then this act will be called zihaar.

- 3 By drawing similarity to his mahrams with any other intention will not be called zihaar.
4. If a person makes zihaar he could retract it by giving kaffaarah (compensation). No matrimonial relations with his wife may take place until kaffaarah is given.
5. The kaffaarah of zihaar is:
 - a. To free a slave
 - b. To fast 60 consecutive days
 - c To feed one person for 60 days (both meals) or 60 people two meals.
 - d. The equivalent of one meal each in cash or kind (amount of sadaqatul fitr) may be distributed to 60 people.

Ilaa

Ilaa means to take an oath of not having intercourse with one's wife.

Example:

A husband takes an oath and says "I swear by Allah that I will never have intercourse with you (his wife)". After taking this oath, if he abstains from intercourse with his wife for a period of four months then one talaaq baa'in takes place.

Rules of Ilaa

1. If four months passes without breaking his oath then one talaq baa'in will come into effect. They cannot reconcile without making a new nikaah..
2. If the husband breaks his oath within the four months period he will have to give kafaarah for breaking his oath.
3. By breaking the oath before four months no talaq will take place. It will be permissible to reconcile without making a new nikaah. However, kaffaarah, will still be necessary upon him.

Liaan

Liaan is an accusation by the husband where he denies that the child born from his wife is his child. Both the husband and wife are reliable and fulfill the requirements to be Shar'i witnesses (i.e. they are sane, they are not slaves and they are adults) then Liaan will become waajib. Also, the accused wife must be a chaste woman before Liaan takes place.

Method of Liaan

After the allegations, husband and wife will appear in front of a qadhi (Islamic judge). The qadhi will first ask the husband to take an oath 4 times saying ‘I call Allah to bear witness to the truth of my testimony concerning the adultery with which I charge this woman,’ and again a fifth time “may the curse of Allah fall upon me if I have spoken falsely concerning the adultery with which I charge this woman.” Thereafter the qadhi will request the woman to give evidence 4 times saying “I call Allah to witness my husband’s words are altogether false in respect to the adultery with which he charges me,” and again the fifth time “may the wrath of Allah fall upon me if my husband is just.”

Rules of Liaan

1. After the oaths have been taken, the qadhi will bring about separation between the husband and wife and the child will be given to the wife. The child will not be regarded as the husband’s child and the wife will have to care for the child.

WORKSHEET

1. Define Talaq Tafweeth.

2. What is the method of Talaq Tafweeth?

3. Give an example of Talaq Tafweeth.

4. Explain Talaq Ta'leeq.

5. What are the rules of Talaq-ul-Mareeth?

6. Define Khula’.

7. What is the method of making Khula’?

8. Define Zihaar.

9. What type of Talaq takes place by Zihaar?

10. How does the husband retract from Zihaar?

11. Define Ilaa

12. Define Liaan

13. What is the method of Liaan?

LESSON 23

IDDAT

Iddat is the period of waiting which a woman observes after the death or divorce of the husband.

Period of iddat

Types of Women	Death of Husband	Divorce
regular menstrual cycles	4 months & 10 days	3 menstrual cycles
irregular menstrual cycles	4 months & 10 days	3 months
no menstrual cycle; either because of old age or immaturity	4 months & 10 days	3 months
pregnant	till the child is born	till the child is born

Iddat of a widow (non pregnant)

Muharram	
Safar	Husband dies on 1 st Safar. Woman starts her iddat
Rabiul Awwal	1 st Rabiul Awwal. 1 st month of iddat completed
Rabiul Akhir	1 st Rabiul Akhir. 2 nd month of iddat completed
Jumadal Ula	1 st Jumadal Ula. 3 rd month completed
Jumadal Ukhra	10 th Jumadal Ukhra. 4 months and 10 days completes her iddat

Note: The time for iddat is calculated using the lunar calendar and not the solar calendar.

Iddat of a divorcee with a regular menstrual cycle:

TUHUR	→	Divorce
HAIZ	→	1 st menstrual cycle
TUHUR	→	
HAIZ	→	2 nd menstrual cycle
TUHUR	→	
HAIZ	→	3 rd menstrual cycle
TUHUR	→	Iddat expires on the termination of the 3 rd haiz

Iddat of a divorcee (type 2 and 3):

Muharram	→	Divorce (on 1 st) commence iddat
Safar	→	1 st Safar 1 st month of iddat completed
Rabiul Awwal	→	1 st Rabiul Awwal 2 nd month of iddat completed
Rabiul Akhir	→	1 st Rabiul Akhir 3 rd month of iddat completed

Rules of iddat

1. The woman will remain in her husband's home for the period of iddat.
2. It is not permissible for her to go out of the house.
3. If there is no one available to provide for her, she is permitted to leave for the day and return before sun set (e.g. she should seek employment such as sewing; etc. during the day and return before sunset).
4. When the husband passes away while the wife is on a journey of less than 76km, the wife must return to spend the iddat in the home of her husband.
5. A divorced woman's maintenance will be borne by the husband.
6. The woman in iddat cannot accept proposals or get married.
7. The woman should not beautify herself during the period of her iddat.

The following acts are considered haraam for a woman during her iddat.

- a. to apply perfume
- b. to wear jewellery and ornaments
- c. to apply surmah (antimony)
- d. to use cosmetics
- e. to apply oil to the head
- f. to beautify the hair
- g. dyeing the hair with henna
- h. to wear beautiful clothes
- i. to wear silk, or colourful clothes

However, if the clothes are not colourful, it will be permissible to wear them irrespective of what colour they may be. The condition is that they must not be clothes that are used to beautify oneself.

If a woman who is in iddat experiences a headache and therefore feels it necessary to apply some oil on her head, she may do so as long as the oil is free of any fragrance. It is also permissible to apply surmah if it is applied as a medication. However, this surmah will have to be applied at night and removed the following morning. It is also

permissible to comb the hair. However, she should not allow her hair to hang down over her face or forehead in a stylish way, nor should she use a very fine comb which causes the hair to fall off. Instead, she should use a comb with large teeth so that no beauty may become apparent.

8. It is not permissible for a woman to mourn the death of anyone apart from her husband's death. However, if her husband does not stop her, then it will be permissible to mourn the death of one of her close relatives for upto three days, and not more. If her husband prevents her from mourning even for three days, she will be obliged to obey.

WORKSHEET

1. What does iddat mean?

2. Complete the following table?

Types of women	Death of husband	Divorce
Regular menstrual cycles		
Irregular menstrual cycles		
Pregnant		

3. Where will the woman spend her iddat?

4. A number of acts are considered haraam for a woman during her iddat. List these acts.

5. What is the rule of leaving the home whilst in iddat?

LESSON 24

THE CUSTODY OF CHILDREN

1. The husband and wife have been separated, divorce has taken place and they have a child. The mother of the child has the right of custody over the child. The father cannot take this child away. However, the father will have to pay for all the expenses that will be borne in order to bring up the child. If the mother does not take the child, and instead, gives it to the father, he will have to take it. The mother cannot be forced to keep the child.
2. If the mother marries a person who is not a mahram relative of the child, i.e. this relative is such that nikaah with him is permissible, then the mother does not have the right of custody over the child. However, if the woman marries a mahram relative of this child, and this relative is such that nikaah with him is not valid (for the child), for example, she (the mother) marries the child's paternal uncle or some other similar relative; then the mother's right of custody will remain. In the absence of the mother, if any other woman such as the

child's sister, maternal aunt, etc. marries a non mahram man (i.e. a non mahram man to the child); then even in this case the same rule will apply. That is, the right of custody over the child no longer remains with this woman.

3. If the right of custody over the child had been forfeited on account of the woman marrying a non mahram (of the child), then by this man divorcing her or he passes away, the right of custody will return to her and the child will be handed over to her.
4. If, from among the relatives of the child, no woman can be found in order to take custody of the child, the father will be the most eligible, and thereafter the same order that we had mentioned in the chapter on the wali (or guardian) at the time of nikaah, will be followed. However, if the relative is a non mahram and there is some fear over the moral safety of the child in the future, then in such a case the child will be given to someone who is reliable and trustworthy.
5. The right of custody over a boy remains as long as he does not reach the age of seven. Once he reaches the age of seven, the father can take him forcefully if he wishes to do so. The right of custody over a girl

remains until she reaches nine years of age. Once she turns nine, the father can take her and the mother does not have the right to prevent her from going.

Once the child reaches puberty and has the ability to discern for himself/herself, he/she would have the option of choosing to stay with either parent.

Abu Hurairah (radhiyallahu anhu) narrates that a woman came to Rasoolullah (sallallahu alayhi wa sallam) and said: "My husband intends to take my son away, while he (the son) gave me water to drink and served me." Rasoolullah (sallallahu alayhi wa sallam) said to the boy, "this is your father and this is your mother. Take the hand of any of them you desire." He took the hand of his mother and thus set off. (Mishkaat)

Maintenance

The Noble Qur'aan states:

"Let the man of means spend according to his means and the man whose resources are restricted, let him spend according to what Allah has given him." (Surah Talaq Verse 7)

Wife:

A woman is entitled to maintenance from her husband, during the period of iddat. Thereafter the responsibility of maintaining her lies with:

1. Her grown sons
2. Her father
3. Her brothers

The amount of maintenance is determined according to the financial status of the husband and the social status of the wife.

Children:

The husband is obliged to maintain his children until they are mature and capable of earning their own livelihood (in the case of sons) and until they marry (in the case of daughters).

The amount of maintenance is determined according to the financial status of the father and the social status of the children.

WORKSHEET

1. Who has the right of custody over minor children?

2. When does the father get the right to custody?

3. If the mother is unable to care for the minors who has the right to custody?

4. Who will maintain the children?

5. Upto what age is the father obligated to maintain his children

6. The right to custody over a boy and a girl is different. At what age can the father exercise his right to custody for:
 - a. a boy _____
 - b. a girl _____

**THIS SECTION OF THE KITAAB WILL BE
TAUGHT TO THE GIRLS ONLY.**

**BOYS WILL DO PRACTICALS OF THE
DIFFERENT ASPECTS OF FIQH**

HAIZ (MENSTRUATION)

Haiz is that blood which flows from the womb of a matured woman, not due to illness or pregnancy or menopause. The minimum period of haiz is 3 days and the maximum period is 10 days.

Rules:

1. The bleeding which a woman generally experiences every month is called haiz and Islam has prescribed special laws for it.
2. A girl below the age of nine years does not menstruate. If such a girl notices blood, it is not haiz, but istihaaza, meaning bleeding due to some illness.
3. Normally a woman does not menstruate after the age of fifty years, but if she gets absolutely red or black blood, it is haiz; however, if the blood is yellow, green or muddy in colour, it is not haiz provided she never experienced this type of bleeding during her earlier cycles. If she did

experience this type of bleeding during her earlier period, then this would also be counted as haiz. If the colour of the blood is different from that of her earlier periods, then this is not haiz but istihaaza.

4. In order to protect her body and clothes from impurity during menstruation it is mustahab (preferable) and Sunnah for a woman to use cotton wool, sanitary pads or a piece of old, used clothing to cover her private part. Any of the above items, which is used to cover the private part, is called Kursoof. If the bleeding is excessive, then she may also use something additional which will protect her body and clothes from impurity.

The colour of the kursoof when wet is the deciding factor which will help to determine whether the bleeding is haiz or istihaaza, e.g. if the kursoof (pad) is red when wet and white after drying, then it is a sign of haiz; if it is white when wet and yellow after drying, then it is not haiz, but istihaaza.

5. If during haiz, there is some sign of whiteness in the blood or if the blood is more reddish in colour, then it is haiz, if it is more whitish in colour, then it is istihaaza.

6. If a woman is sure that the flow of blood is not from the vagina, but from some wound or from the anus, then the bleeding is not haiz, but istihaaza.
7. As soon as the blood appears on the skin immediately outside the vagina, haiz has commenced even if the blood does not flow out beyond this. If someone keeps cotton wool or something similar (tampon) inside the vagina which prevents the blood from flowing out, then as long as the blood remains inside the vagina and not a single drop is seen on the outside end of the cotton wool, etc., then this is not yet regarded as haiz. The time of haiz will commence only when blood comes out onto the outer skin of the vagina or, when the cotton wool, etc. is removed from the vagina and it is found to be stained with blood.

If a woman who is ceremonially pure (paak) puts on sanitary pads, etc. at night and in the morning when she removes it, she finds it to be blood-stained, then her haiz commences only at the time when she notices the blood.

9. If a menstruating woman notices no sign of blood on her kursoof, then the clean period will be counted from the time the kursoof was put on.
10. It is makrooh for a menstruating woman to bath a dead person.
11. Any person who is in the state of janaabat, haiz or nifaas (post natal bleeding) should excuse him/herself from the place where the deceased is laid.
12. A sticky fluid, resembling mucus, which flows from the vagina due to some illness, is napaak (impure) and this only causes the wudhu to break.

The duration of haiz:

1. The minimum period for haiz is three days and three nights (seventy two hours). If bleeding is for less than this period (seventy two hours), it is not haiz, but istihaaza.²

² According to the Shafi'ee mathab the minimum period of haiz is one day and one night (twenty four hours).

2. Continuous flow of blood is not necessary. If blood flowed for a while in the beginning, then stopped, and flowed again on the second or third day, then according to Shariah it is regarded as one continuous menstrual flow.
3. The maximum period of haiz is ten days and ten nights (two hundred and forty hours). Bleeding beyond this is not haiz, but istihaaza.³
4. According to the Shariah, the minimum period for remaining clean between two haiz is fifteen days and there is no limit to the maximum period. A woman is considered ceremonially pure (paak) for as long as she does not experience haiz even if it be for months on end.
5. As far as haiz and nifaas (bleeding after childbirth) are concerned, Islam takes into consideration a woman's habit. A woman who gets haiz or nifaas for the first time is called a Mu'taadah and a woman who has experienced either of it before is called Muta'ada. Laws for both are different in many instances according to Imam Abu Hanifa (rahmatullahi alayh).

³ The maximum period is fifteen days and fifteen nights according to the Shafi'ee math-hab.

6. Impurity are of two kinds, viz. Haqeeqi (visible) and Hukmi (invisible).
 - a. Sometimes a woman bleeds but Shariah does not regard it as haiz. This is called Hukmi purity. For example, if a mubtadi-ah bleeds for fifteen days, the first ten days would be regarded as haiz and the other five days as istihaaza. The purity in these five days would be Hukmi.
 - b. Sometimes a woman does not bleed yet Shariah regards it as menstruation. This is called Hukmi (invisible) impurity. For example, a woman bleeds for a day and the bleeding stops for five days and then she again bleeds for a day. All these seven days would be regarded as one menstrual flow. The impurity in the five days would be Hukmi (invisible) and the impurity on the first and seventh day Haqeeqi (visible).

Between one haiz and the next there must be 15 clear days.

Date	No. of days	Bleeding of this month
1.		
2.	Bleeding (1)	Bleeding commenced
3.	Bleeding (2)	
4.	Bleeding (3)	
5.	Bleeding (4)	Bleeding stopped
6.		
7.		Number of days between haiz 1 Haqeeqi
8.		2
9.		3 Purity = 11 days
10.		4
11.	Bleeding (1)	5 → Istihaaza = Hukmi
12.	Bleeding (2)	6 → Istihaaza
13.	Bleeding (3)	7 → Istihaaza = Purity
14.		8
15.		9
16.		10
17.		11 Haqeeqi
18.		12 Purity
19.		13
20.		14
21.		15
22.	Bleeding 1	→ Haiz (considered as
23.	Bleeding 2	→ Haiz a change in
24.	Bleeding 3	→ Haiz haiz routine)

1.	Bleeding 4	1	Bleeding
2.	Bleeding 5	2	
3.	Bleeding 6	3	will
4.	Bleeding 7	4	
5.	Bleeding 8	5	be
6.	Bleeding 9	6	
7.	Bleeding 10	7	regarded
8.	Bleeding	8	
9.	Bleeding	9	as
10.	Bleeding	10	haiz
11.	Bleeding	This bleeding will be called Istihaaza	
12.	Bleeding		
13.	Bleeding		
14.	Bleeding		
15.	Bleeding		
16.	Bleeding		
17.			
18.			
19.			
20.			

Miscellaneous

1. If a young girl experiences bleeding for the first time, then it should be observed whether it continues for three days and three nights (seventy two hours).⁴ If it does, then it is haiz.
2. If bleeding continues for more than three days and three nights and stops at any time within ten days⁵ and ten nights, then all of it would be haiz, similarly all of it would be haiz if bleeding continued for full ten days (two hundred and forty hours).
3. If bleeding continued for more than full ten days and ten nights then the ten days and ten nights will be haiz and the bleeding beyond it is istihaaza. Since any bleeding beyond ten full days is istihaaza, she should take a bath after ten days and begin reading her Salaat. But if a woman is a mu'taada (one who has a normal set haiz period) and bleeding continues beyond her habit, then it should be seen, if it stops within ten days, all of it is haiz and if it continues after ten days, then only the days of her habit would be

⁴ According to Imam Shafi'ee (rahmatullahi alayh) for twenty four hours.

⁵ Fifteen days and fifteen nights according to Imam Shafi'ee (RA).

regarded as haiz and the days after that is istihaaza. Therefore, she should perform qadha Salaat for the days beyond her habit. If she has a habit of seven days and she bled for twelve days then only seven days would be haiz and the rest istihaaza. But if she bled for nine or ten days only then all of it is haiz.

4. If a mubtadi-ah keeps bleeding continuously for a few months, then in every month ten days from the day when bleeding started, these are of haiz and the remaining nineteen to twenty days are of istihaaza, e.g. if bleeding started on the fifth of a particular month, the days between the fifth and the fifteenth of every month are days of istihaaza.

Note: only Islamic (lunar) calendar must be used regarding Islamic matters.

5. If a woman notices blood for three full days and three nights or more, or any number of days up to ten days and ten nights and then remains clean for full fifteen days or more, and again sees blood for three or more days then both

bleedings are called haiz and the days in between are regarded as a period of purity.

6. If a woman notices blood for three days and three nights or more and then remains clean for fifteen days or more and again sees blood for less than three days then the first bleeding was haiz while the second bleeding is istihaaza because the bleeding was for less than three days although the period of purity was for fifteen days.
7. If a woman notices blood for less than three days and three nights and after full fifteen days or more sees blood again for less than three days then both bleedings are called istihaaza and she will be regarded as clean for all these days. As soon as the bleeding stops within three days, she should make wudhu and commence her Salaat during the last moments (end part) of mustahab (preferable) time (i.e. just before makrooh time) per salaah. She must also offer qadha Salaat for those days which she has missed while she was bleeding.
8. A mu'tadi-ah should stop Salaat as soon as she notices blood. If bleeding continues for three days and three nights, then it is definitely haiz. After this, if bleeding stops within ten days or if she notices pure whitish matter, then she

should take a bath and begin her Salaat. This period for which the bleeding continued is now established as her HABIT e.g. if she had seven days of haiz and then remained pure for twenty three days, then according to Shariah these seven days would be regarded as her haiz habit and twenty three days as her clean habit. But if this course changes e.g. bleeding continues for nine days and she stays paak for twenty days, then this is called CHANGE IN HABIT. Nine days will now be regarded as her new habit. **THUS, EVERY PREVIOUS COURSE IS CONSIDERED AS HABIT FOR THE COURSE THAT FOLLOWS IT.** Many laws depend upon this habit. In order that her faraa'idh may be performed correctly, it is advisable for her to keep a note book recording her habit, with columns drawn under separate headings as illustrated below. This will be a great help in the event of problems arising due to change of habit or if she forgets it later on.

No	Date & month of noticing blood	Date on which bleeding stopped	Total no of days of haiz	Total no of clean days
1	5 th Muharram 1418	12 th Muharram	7	23
2	6 th Safar 1418	11 th Safar	5	25
3	4 th Rabiul Awwal 1418			
4				

If a woman takes a little trouble and she continues entering the above details regularly, then she will Insha Allah benefit greatly from it later on. A similar table for nifaas could be drawn up as follows:

No	Beginning of Nifaas	Last day of Nifaas	Total no of days of Bleeding	Name of child
1	5 th Muharram 1418	10 th Safar 1418	35	Zaid
2	6 th Safar 1419	11 th Rabiul Awwal 1419	36	Amr

9. If a woman forgets her habit and if istihaaza begins, the laws in such a case are quite complicated and this must be referred to an Aalim for clarification. Such a woman is known in the Shariah as Mutahayyirah. (A woman with no fixed habit).
10. If blood appeared for one day or more and she remained in a state of purity for less than fifteen days, then the whole period will be regarded as unclean and continuous flow, e.g. she bled on the first of a certain month then remained clean for fourteen days and then bled again for one day. The full sixteen days from the first bleeding will be regarded as

continuous bleeding. If she is a mubtadi-ah, then the first ten days will be counted as haiz and the remaining six as istihaaza. Now, if she had started Salaat after she bled for one day only, thinking that it was nothing and finding out later that her first ten days were of haiz and that she read Salaat for full fifteen days in this condition, then she will have to offer qadha Salaat from the eleventh day onwards, because she should have taken a bath after the tenth day.

Therefore, for safety, such a woman should take a bath after ten days even if she had taken a bath after bleeding stopped on the first day so that the remaining Salaat after the ten days will not go unaccounted. If she had kept Fardh fasts during the ten days, then those will not be valid and she will have to offer qadha fasts because those were days of haiz.

11. If a mutahiyyara (a woman with no fixed habit) remained ceremonially pure and did not bleed for fifteen days, it is regarded as purity according to Shariah and she is no longer a Mutahiyyara but is now Taahira (clean woman). Now, if she bleeds for three or more days, it is haiz, and her new

habit has now commenced. If it is for less than three days, it is istihaaza.

2. If haiz continues according to habit but there is variation in the number of clean days, then this change does not in any way interfere with the laws concerning the haiz habit, e.g. haiz was for seven days and the clean period was for twenty two days or haiz was for seven days and the clean period was for either twenty or twenty five days, then the haiz habit still remains the same.

Example 1

1.		
2.		
3.	Bleeding- day 1	Normal
4.	Bleeding 2	
5.	Bleeding 3	monthly
6.	Bleeding 4	
7.	Bleeding 5	habit
8.	Bleeding 6	
9.	Bleeding 7	of haiz
10.	No Bleeding 8	
11.	No Bleeding 9	
12.	Bleeding 10	This will also be haiz
13.		
14.		
15.		

Example 2

1.		
2.	Bleeding - day 1	Normal
3.	Bleeding 2	
4.	Bleeding 3	monthly habit
5.	Bleeding 4	
6.	Bleeding 5	of haiz
7.	No Bleeding 6	
8.	No Bleeding 7	
9.	No Bleeding 8	
10.	Bleeding 9	This bleeding will be haiz, because
11.	Bleeding 10	its still in the ten day period
12.		
13.		

- 1 . If the haiz habit happens to vary (keep changing) it is necessary for the woman to keep on checking the kursoof at every Salaat time on the last days of haiz. If it gets bloodstained, then she should change it so that this will give her an idea during the next Salaat time whether the bleeding has stopped or not. In this way no problems will arise regarding Salaat. Again, if the bleeding gets disrupted or if it turns out to be istihaza, it then becomes necessary for her to learn the beginning and ending times of the mustahab and makrooh times of Salaat because these will have to be applied to many laws.

Rules of Haiz and Salaat

1. Salaat is not permissible during haiz. Therefore do not perform it when menstruating. Do not even offer qadha Salaat after the haiz is over. Salaat is totally forbidden and haraam during haiz.
2. If haiz begins during Salaat, do not complete the Salaat, but break it immediately. If it is a fardh Salaat it is pardoned and there is no qadha for it but in the case of Sunnah and Nafl it becomes necessary to perform the qadha after the haiz is over and when she is taahir.⁶
3. If haiz starts during the time of Salaat and if the Salaat was not performed, it is forgiven and qadha is not necessary.
4. If haiz is over before a Salaat time ends and there is so little time left only for a bath and Takbeer-e-tahreema (the first Allahu Akbar in Salaat) to be said, then that Salaat has become obligatory for her. She must take a bath and perform the Salaat immediately except during Fajr Salaat in which case she must wait till after sunrise and offer it as

qadha. If, however, she could not take a bath on time, then she must perform Salaat as qadha after she has taken her bath. This law applies only if bleeding is over in less than ten days. (this is not a condition for Shafi'ees). If bleeding stops at the end of the tenth day at such a moment that there is no time for a bath but there is only little time to say Allahu Akbar and the time for that Salaat goes by, then this Salaat becomes compulsory and must be offered as qadha. After taking a bath she must perform this qadha Salaat first and thereafter the normal Salaat of that time should be performed.

5. If she hears a Qur'aanic verse of Sajda-e-tilaawat during haiz, sajda is not compulsory for her.⁷
6. If a woman with a seven day haiz habit bleeds for more than seven days, she must observe caution. If it stops before ten days, she should have a bath and offer Salaat just before the

⁶ According to the Shafi'ee mathab, the fardh Salaat should be broken, but **must** be performed as qadha. The Nafil Salaat need not be repeated.

⁷ Sajda-e-tilaawat is not compulsory for Shafi'ees. When a person cannot perform it due to janaabat, haiz, nifaas or being without wudhu, he or she may recite four times Subhanallahi wal-hamdu lillahi walaailaaha illallahu wallahu Akbar.

mustahab time ends. All these days are of haiz and qadha is not necessary. But if bleeding continues after ten days, then the seven days of habit are haiz and the remaining are istihaaza. For this reason she must have a bath immediately after ten days have passed and start performing Salaat. She must also offer qadha Salaat for the last three days.

- 7 If any woman menstruates for less than her normal habit, e.g. her habit was for seven days and her bleeding stopped after five days, then towards the end of the mustahab time of Salaat, she should take a bath and offer her Salaat. If she bleeds again within ten days from the time when she first started bleeding then she must stop Salaat because if it continued for up to ten days or less, all these days are of haiz. If bleeding continued for more than ten days, then the seven days of habit are counted as haiz and the remaining days are istihaaza. She must offer qadha Salaat for all days missed since the seventh day. (One should therefore take account of one self and ensure that one does not neglect one's Salaat in such circumstances).

8. If a woman bled for a day or two and then stopped, it is not necessary for her to bath. She should make wudhu and perform her Salaat. She is not permitted to leave out Salaat. If she started to bleed again within the ten days, then she must stop her Salaat. A mu'tadi-ah should have a bath after ten days and start her Salaat. In the case of a mu'taada, she will be considered to be in haiz up to her normal habit. After this she should take a bath and offer her Salaat.
9. During haiz it is mustahab (desirable) for a woman to make wudhu at the time of every Salaat and to sit where she performs her Salaat and occupy herself in zikr of Subhanallah, La-ilaha Illallahu etc., for the time it normally takes to complete her Salaat so that her habit of performing her Salaat remains.

It is related in one hadeeth that Rasoolullah (sallallahu alayhi wa sallam) said: "during haiz, if a woman reads Subhanaka astaghfirullahullazi laa-ilaaha ilahoowal hayyul kayyoom seventy times at the time of every Salaat, or any other istighfaar even if she reads astaghfirullah only then she will get the reward of reading one thousand rakaats of Salaat, seventy of her sins will be forgiven, her status is raised in the eyes of Allah and for every letter of

istighfaar she gets a noor (light) and for every vein of the body one Haj and Umrah is written.” (Masjalisul Abraar - urdu, no.98 page 698)

10. If bleeding stops within ten days in the case of a mu'tadi-ah or in the case of a mu'taada if it stops before her normal habit is complete, then she should not have a bath immediately because there is a possibility that she may bleed again. She should, therefore, observe caution and wait till the mustahab time of that particular Fardh Salaat is just about to end, she should then take a bath and offer her Salaat.

Rules of Haiz and Saum (fasting)

1. Although fasting during Ramadhaan remains obligatory during haiz, a woman should not fast during this period but it becomes compulsory for her to observe these as qadha fasts later on.
2. If bleeding commenced while she was fasting, her fast breaks even if there was a very little portion of the fast still left. Since the fast is not valid it is necessary for her to

repeat it, whether it is Fardh or Nafil (Shafi'ee women need not repeat Nafil fast).

3. If a woman starts menstruating on the day when she was fasting, thereby causing her fast to break, she must still not eat or drink anything on that day. It is necessary for her to appear like others as if she is fasting.
4. She should also not eat or drink on the day she becomes pure (paak) from haiz and should also appear as if she is fasting.
5. If bleeding stops after Subhe Saadiq in Ramadhaan and although she has not eaten anything, her fast is not valid even if she makes an intention to fast. Qadha becomes necessary for that particular fast as she was unclean for a certain portion of the day.
6. If bleeding continued for full ten days and ten nights and stopped just before subhe saadiq, leaving no time even to say takbeer-e-tahrima, then that particular fast becomes compulsory for her. She should make an intention and keep the fast. If, however, bleeding stops within ten days and

ten nights and there is time for a quick bath before subh saadiq, then that fast becomes compulsory; but if there is no time for a bath, then it is not compulsory to fast that day. In the case when the fast becomes compulsory, she should make an intention and keep the fast. It does not matter if she takes a bath later on.

Rules of Haiz, Haj and Umrah

1. All Haj activities are allowed during haiz except tawaaf. Tawaaf is not allowed because it is performed in the Masjid for which the state of purity is a necessary condition for entering. Since a menstruating woman is not in a state of purity, tawaaf cannot be performed. Sa'ee at Safaa and Marwaa will also not be performed because tawaaf is necessary before Sa'ee can be performed (except in one instance).
2. If a woman is on her way to Haj and she menstruates, then there is no harm. She should put on her ihraam (Haj clothes), make intention and read Labbaik. If she has the time, she should have a bath which is Sunnah and then don her ihraam. It must be remembered that this bath will not

make her paak. A similar incident happened to Sayyidatina Ayesha (radhiyallahu anha) on her way to Haj.

If a woman dons her ihraam only for Haj and she reaches Makkah Mukarramah in a state of haiz, then she must not perform tawaaf-ul-qudoom (tawaaf upon entry to Makkah). If she becomes paak before leaving Makkah for Haj, she must perform the tawaaf-ul-qudoom. If, however, there is no time and Haj activities have commenced, she is then exempted from tawaaf-ul-qudoom. It is forgiven. Haj activities begin when she leaves for Mina on the 8th.

Similarly tawaaf-ul-widaa (tawaaf upon departure) is waajib (obligatory) before departing from Makkah. If she is menstruating, she is allowed to leave without tawaaf-ul-widaa as she is exempted from this tawaaf. A similar incident happened to Sayyidatina Safiyyah (radhiyallahu anha). But tawaaf-ul-ziyaarat (tawaaf of Haj) which is performed after returning from Muzdalifah is compulsory and if she is menstruating she should wait and perform it when paak, otherwise her Haj will not be complete and her ihraam cannot be removed. Therefore, a woman should not

leave Makkah for home without executing this tawaaf. A 'dam' (penalty) does not compensate for its loss.

5. If a woman is unable to execute her tawaaf-ul-ziyaarat (Fardh tawaaf of Haj) before her departure because of menstruating then, it is permissible for her to resort to medical means to postpone her haiz.

Note: These days many women stop haiz and nifaas through medicine and injections, this is extremely harmful to their health. Therefore, a woman should avoid resorting to these methods unless it is absolutely necessary. A woman used these pills to stop her haiz in Ramadhaan but thereafter when she began bleeding, it continued for twenty days. Another woman was unable to give birth after using it for a few years because her haiz had completely stopped.

Regarding the pill the Encyclopedia Britannica writes: 'Research suggests that there may be several hazards in the use of birth control pills. There appears to be a possible relation between their use and the cancer of the breast and the uterus. There is some evidence of increased hypertension, abnormal glucose tolerance, and other biochemical changes. There is a slight

possibility of genetic damage to the ovarian egg. The pill can aggravate such allergies as asthma, eczema and migraine and such other conditions as alopecia, psoriasis, epilepsy, multiple sclerosis and porphyria. The worst hazard seems to be a ninefold increase in thromboembolic disorders (involving clotting of blood or plasma).

6. If haiz starts during a Nafl, waajib or fardh tawaaf, she must stop the tawaaf and leave the Masjid immediately. It is sinful to complete the tawaaf or stay in the Masjid. If she has completed four or more rounds of the tawaaf then the tawaaf is regarded as complete. She should give sadaqa for each of the incomplete rounds (this sadaqa is same as sadaqatul-fitr). If less than four rounds are completed, then the whole tawaaf is regarded as incomplete and qadha is necessary when she becomes taahir (clean).⁸
7. If the complete tawaaf or the major part of the tawaaf (i.e. four or more rounds) was completed in a state of purity and then haiz started and the sa'ee at Safaa-Marwaa is still to be

⁸ Qadha is not necessary for Nafl tawaaf according to Imam Shafi'ee (RA)

done, then she should complete it in the state of haiz because purity is not a required condition for sa'ee. She should not perform the tahiyyatut-tawaaf (two rakaats Salaat after tawaaf) as she is pardoned from reading it.

8. She is allowed to don the ihraam for Umrah during haiz but she should not make tawaaf in this condition. If the tawaaf of four or more rounds was performed, and thereafter haiz started, then she should do as explained above.
9. If haiz started after she had donned the ihraam for Umrah and she was unable to perform the Umrah, and the Haj activities i.e. going to Mina, Arafat etc., have already commenced, then she should cancel the Umrah ihraam and don the Haj ihraam and begin the rites of Haj, she will have to perform qadha of Umrah later and she will have to give 'dam' (penalty) for cancelling the Umrah ihraam. A similar incident happened to Sayyidatina Ayesha (radhiyallahu anha). The Umrah ihraam is cancelled by first making an intention to cancel the ihraam and then she must undo her hair and comb it. The penalty is given by either sacrificing one goat or one part (one seventh) of a big animal (e.g. cow, camel etc.) which are subject to the same laws as Qurbani.

Rules of Haiz and the Qur'aan

1. It is not permissible to read the Qur'aan during haiz. According to some Ulama a woman is allowed to read less than an aayat in parts, in separate breaths but not the full ayat at one time.
2. If a woman is teaching others while in a state of haiz, she is allowed only to spell the words but she should take care not to recite the aayat at one time. She should read the aayat in separate breaths and in parts.
3. It is permissible for a woman during haiz to read Bismillahir rahmanir rahim and Alhamdulillahil rabbil aalameen, while eating or drinking because here the object is not to recite the Qur'aan but the object is to obtain barkat (blessings) and express shukr (thanks).
4. She is not allowed to touch any object on which an aayat of the Qur'aan is written. She is however, allowed to touch those books in which the verses of the Qur'aan are less than the actual subject matter in the book, but she is not allowed to touch the actual verse of the Qur'aan.

5. She is not allowed to touch any utensil, plate or piece of paper on which only an ayat of the Qur'aan is written. She is, however allowed to touch these utensils etc with some other separate piece of cloth.
6. She is allowed to hold the Qur'aan with a cover (juzdaan) which can be separated from and is not sewn to the Qur'aan. Similarly, she is allowed to touch the Qur'aan with any other piece of cloth which is separate and which she is not wearing. She is not allowed to touch the Qur'aan with a cover which is sewn and attached to it (juzdaan) or with any clothes which she is wearing, like a scarf, or a sleeve or a dress etc.
7. The laws concerning touching the Qur'aan without wudhu (ablution) are the same as above except that one can read the Qur'aan by heart without wudhu provided one does not touch it. Whereas, it is not permissible to do so when one is menstruating or in a state of janaabat.
8. It is permissible for a woman to read a portion of any aayat provided it is less than half the aayat and not equivalent to any small aayat of the Qur'aan.

Rules of Haiz and Zikr

1. It is permissible to make zikr of Allah Ta'ala and send salawaat to Rasoolullah (sallallahu alayhi wa sallam) and make istighfaar (seek repentance) or read any other wazifaas (duas) during menstruation. She should be constant in her usual zikr. She should not recite the Qur'aan at all but she may recite duas (supplications) for different occasions and tasbihaat. She may also recite the relevant verses of duas which are quoted from the Qur'aan when making dua e.g. Rabbana aatinaa fiddunya hasantaw wafil aakhirate hasantaw waqeenaa athabannaar.
2. She may touch the paper on which these duas are written but not the actual words. She is allowed to read, teach or touch all other religious books but it is not desirable to touch these books unnecessarily. She must not touch the actual aayats of the Qur'aan which appear in these books. It should be remembered that in this state of impurity (haiz) she should try and remain clean and occupy herself in zikr, duas, salawaat, istighfaar etc. in this way she will be saved, Insha Allah, from shaytaan who is very active during this period.

3. It is permissible for a menstruating woman to read Surah Fatiha, Ayatul Kursi, 4 'Quls' etc. with the intention of dua, not as it being a portion of the Qur'aan.
4. It is also permissible for her to read the Hizbul Azam, or any dua kitaab etc. as the Quranic aayats in it are read with the intention of dua.

Rules of Haiz and the Masjid

It is not permissible to enter a Masjid during haiz. She must leave the Masjid as soon as bleeding starts.

2. During haiz, she is allowed to either give something into or take something from a Masjid, by means of stretching her hand from outside the Masjid.⁹
3. During haiz she must not, under any circumstances, enter Masjidun Nabawi even for the purpose of conveying durood to Rasoolullah (sallallahu alayhi wa sallam). She may, however, offer salaah and salaam from the portion towards

⁹ According to the Shafi'ee math-hab women are allowed to walk through a Masjid or its courtyard, provided that there is no fear of contamination, but to remain therein or to sit down is prohibited.

Baabul Jibra'eel which has been made for Janaza Salaat (funeral prayer) as it is separate from the Masjid. She is allowed to read durood and salaam during haiz. (Janaaza Salaat is now performed in the Masjid. The section mentioned above is on the left side, just before entering the Masjid from the Baabul Jibra'eel).

4. During haiz she is allowed to enter an Eid-gaah due to some necessity or a place where the five times daily Salaat does not take place and which is not regarded as a Masjid. (Eidgaah is a piece of ground outside the village or town which is reserved for Eid Salaat). The laws regarding the Masjid are not applicable to the prayer room set aside in a house for Salaat etc.
5. If she is helpless and out of absolute necessity e.g. Allah forbid, if thieves break into her house or if there is a fire or flood and there is no other place of refuge or shelter besides the Masjid then she is allowed to stay in the Masjid in a state of haiz after performing tayammum. (To obtain cleanliness by sand).

Rules of Haiz and Miscarriage

If no part of the foetus has yet been formed but only thick blood or flesh-like substance is discharged as a result of miscarriage or an abortion performed only due to a condition allowed in Shariah, then this is not regarded as the birth of a child and whatever bleeding results from this is not regarded as nifaas (bleeding after childbirth). If a woman remained clean for fifteen days or more before this miscarriage or abortion and if this bleeding continued for three days or more, then it should be regarded as haiz and all laws concerning haiz will apply to her. If this bleeding stops within three days and does not appear again, then it should be regarded as istihaaza.

Rules of Nifaas (Bleeding after childbirth)

Bleeding from the vagina after childbirth is called Nifaas. Its maximum period is forty days and if bleeding continues for more than forty days, the extra days are not regarded as nifaas but istihaaza. **There is no minimum period for nifaas. It may last for either one day or a little while and sometimes a woman may not even bleed a single drop after a child is born.**

Rules:

1. It is, obligatory (waajib) under any circumstances to have a bath after childbirth. She must bath as soon as bleeding stops and if she did not bleed after childbirth, then she should bath as soon as the time of the next Salaah begins. If, during this time, there is fear that she may get sick by bathing or she has no strength to bath, then she must make tayammum with the intention of taking a bath and perform Salaat. However, she must still take a bath when she is fit and there is no fear of her falling ill.

Note: The general impression is that nifaas is for forty days only, whereas this is only the maximum period. Due to this wrong impression Salaat, etc. is unfortunately neglected¹⁰

2. The bleeding which commences after half or more of the infant has emerged in the process of birth, is called nifaas. Salaat at this time is forgiven. But bleeding which occurs after less than half the infant has emerged, is istihaaza. Salaat of that particular time remains compulsory.

¹⁰ For Shafi'ees too there is no minimum time for nifaas. The normal time is around forty days. The maximum time is sixty days. Any bleeding after this is considered to be istihaaza.

3. A woman who has already had nifaas previously and on the second occasion the bleeding pattern is different to her previous habit, e.g. she bled for twenty-five days the first time and the second time she bled for less or more, e.g. thirty-five days. All this is regarded as nifaas. If on the second occasion, she bled for more than forty days, then whatever extra days she bled beyond her habit is istihaaza, e.g. the first time she bled for twenty-five days and the second time she bled for more than forty days, then after the fortieth day she should take a bath and begin performing Salaat while the fifteen days, which are more than her habit of twenty-five days, are regarded as istihaaza. She must perform qadha Salaat for these fifteen days. Her bathing upon completion of the forty days makes her clean and whenever the bleeding stops after the forty days, it is not necessary to bath because it is istihaaza.¹¹

¹¹ As for Shafi'ees every childbirth is independent of the previous one. Therefore, she ends her nifaas when bleeding stops and starts her Salaat then, without any qadha, on condition that should the nifaas extend for more than sixty days, she should after sixty days perform her Salaat like one in istihaaza.

- 4 According to Imam Abu Hanifa (rahmatullahi alayh) in the case of the birth of twins, the bleeding which takes place after the first child is born, is regarded as nifaas. (If the second child is born within six lunar months of the first, then they would be regarded as twins).
- 5 If she notices blood within forty days after remaining in a state of purity, then the whole period of forty days is counted as nifaas, e.g. bleeding continued for twenty days and then stopped for ten days and again appeared for ten days, all of it is regarded as nifaas. She should, nevertheless, have a bath and start Salaat when bleeding stops after twenty days. If, however, bleeding appears again within forty days she should stop reading Salaat and when bleeding stops again, she should take a bath and start performing Salaat again.
6. If a woman experiences nifaas for the first time and it continues for a long period, then the first forty days are counted as nifaas and the remaining bleeding thereafter is regarded as istihaza. She should in any case take a bath after forty days and start performing Salaat.

7. After nifaas ends, there should be a minimum gap of fifteen clean days; any subsequent bleeding can be regarded as menstruation i.e. any further bleeding can only be regarded as menstruation if she remains clean for fifteen days after the nifaas has stopped. If bleeding starts again within fifteen days, then it is not haiz but istihaaza. Any bleeding within forty days is nifaas even if it may be after a gap of fifteen days from the first bleeding e.g. if she bleeds for a day and then again bleeds after thirty days then too all these days are of nifaas.

Rules of Nifaas and Salaat

1. Salaat is pardoned during nifaas, and no qadha Salaat is necessary thereafter.
2. If nifaas begins at the time of a Salaat, then that Salaat is pardoned. Note that such Salaat does not become pardoned in Imam Shafi'ees math-hab. If nifaas stops at the end of forty days and so little time remains that only Allahu Akbar could be said, then that Salaat becomes compulsory. She should have a bath and perform qadha of that Salaah. If the bleeding stops before forty days and there is time for a quick bath in which she confines herself to discharge the faraaidh

of ghusl only and time to say takbeer-e-tahrima, i.e. Allahu Akbar, then that Salaat becomes compulsory. She must take a bath and start her Salaat. If she has not time to do this, then that Salaat is pardoned. If Salaat has become compulsory, she should take her bath and start her Salaat. If there is time, then her Salaat is counted as qadha. There will be no difference in the intention of her qadha and adaa Salaat. If she had very little time and while reading Salaat, the time of that particular Salaat had expired and the time of the next Salaat had already begun, then too, there is no harm. Her Salaat will be deemed to have been completed. This law will apply in all Salaat, except Fajr Salaat, which breaks when the sun rises while she is still reading her Salaat. Therefore, she should perform her fardh of Fajr only if she has enough time to complete it before sunrise and leave out her sunnat. She can perform her sunnat after the sun rises and there would be no sin for it in this case. Qadha is necessary for fardh and witr only. If she has not enough time to perform her fardh before sunrise, then it should be performed after the sun rises, with the sunnat. This should be done before zawwal.¹²

¹² According to the Shafi'ees if she is able to complete one rakaat of any

Rules of Nifaas and Saum (fasting)

1. Saum should not be observed during nifaas. However, qadha saum should be kept afterwards as this fasting is not pardonable.
2. Saum breaks upon the birth of a child and the commencement of nifaas. It is necessary to make qadha of the saum later. She may take food and medicine, if necessary, otherwise she must remain and appear as if she is fasting.
3. If she becomes purified (paak) from nifaas after the dawn of day in Ramadhaan, she should not fast on that day but observe qadha later on. However, she should refrain from eating or drinking and be like those who are fasting. If she becomes paak before subh saadiq after having nifaas for full 40 days and if there is time for saying Allahu Akbar then she must make the intention and observe the fast on that day. It does not matter if she takes a bath after subhe saadiq. If nifaas stops within forty days, she should observe saum

Salaat before its time expires, then she may continue the Salaat and the whole Salaat will be considered to have been performed in its proper time. This applies to Fajr Salaat too.

because it becomes compulsory on that day so long as there is time for a quick bath and the saying of takbeer-e-tahrima. If she does not have so much time, then she should not fast on that day. If she fasts, then she will become a sinner. She should however, remain like those who are fasting and offer qadha later on.

4. When she is not fasting and she has been ordered to be like those who are fasting, if she eats and drinks on that day, then this will be improper. Nevertheless, there will be no kaffaara (expiation of penalty) and nothing will become waajib on her. She will only have to fulfill the qadha fast which is obligatory upon her.
5. If the life of a pregnant woman or the child is in danger, then she is allowed to break her fast.
6. If her life or the life of the infant of a pregnant or breast-feeding woman is in danger, then she should not fast. she must offer qadha later on.¹³

¹³ According to Imam Shafi'ee (rahmatullahi alayh) if a woman does not fast for fear of her own health then she must offer qadha. If, however, her fear is for the child or for her suckling infant, then she must repeat every fast

Rules of Nifaas and Miscarriage

If some form or shape of a child (finger, nail, hair etc) has already been formed, then the bleeding that follows miscarriage is regarded as nifaas and the laws concerning nifaas will now become applicable to her. A bath will become compulsory when bleeding stops and until then, Salaat, saum, tilaawat of the Qur'aan and sexual intercourse are forbidden.

Bath after Nifaas

A woman must have a bath after nifaas in the same way as a bath after menstruation. Wash the hands and then the vagina and surrounding area thoroughly with soap and water. After making Istinja (washing of the private parts), perform wudhu according to the Sunnah. It is fardh (compulsory) to gargle the mouth and to pour water in the nostrils till the fleshy part of the nose is made wet¹⁴, then wash the head and the body thoroughly with soap and water. Thereafter she will be regarded as paak. Although the nifaas may have stopped before forty days, quite often,

missed (the day she did not fast as well as give fidya for every days missed fast). Fidya works out to about one kilo of rice or flour which must be given to the poor.

¹⁴ According to Imam Shafi'ee (rahmatullahi alayh) it is not fardh to wash the inner part of the nose and gargle the mouth but it is compulsory to make the niyyat (intention) of cleansing oneself.

many women remain in this state of impurity up to forty days and regard themselves as impure. This is absolutely incorrect as it is not allowed. It is haraam (forbidden) to stay in this condition after bleeding has stopped. When bleeding stops and she feels she will not bleed again then she should take a bath and start with Salaat. It has become a custom that in many places it is regarded as absolutely necessary for another to give her the 'last bath' and some women do all sorts of strange things during this final bath. These are all senseless, superstitious and wrong customs. It is also senseless to bath daily and have the last bath with show. If the daily bath has been found to be beneficial through experience or is prescribed by some 'hakeem' or doctor, then it is a different matter altogether.

Istihaaza (Bleeding due to illness)

1. If a woman bleeds for less than three days and three nights and then remains clean for fifteen days, it is regarded as istihaaza. Bleeding beyond full ten days and ten nights during menstruation is also regarded as istihaaza.
2. Bleeding in the case of girls below nine years of age and of women above fifty five years of age is istihaaza, provided that the blood is not very red or black. It should be noted

that if after the age of fifty five years a woman gets yellow, green or muddy coloured blood, which is similar to that which she experienced during her normal periods, then this will be regarded as haiz, otherwise it will be istihaaza.

- 3 If a woman has a menstruating habit e.g., seven days and she menstruates in a particular month for more than ten days then bleeding beyond her habit period of seven days is counted as istihaaza. She should offer qadha Salaat for all the extra days after the seventh day.

Example 1

1.	Bleeding	
2.	Bleeding	
3.	Stops	Istihaaza
4.		
5.		
6.		
7.		
8.		
9.		
10.	Example 2	
11.	Bleeding	
12.	Bleeding	
13.	Bleeding	
14.	Bleeding	
15.	Bleeding	
16.	Bleeding	
17.	Bleeding	Haiz
18.	Bleeding	
19.	Bleeding	
20.	Bleeding	
21.	Bleeding	
22.	Bleeding	
23.	Bleeding	Istihaaza
24.	Bleeding	
25.		
26.		
27.		

4. Any bleeding during pregnancy is regarded as istihaaza [according to Imam Abu Hanifa (rahmatullahi alayh)].

5. Bleeding before child-birth and before half the infant is born is istihaaza. If half or more of the infant is born then it is nifaas.
6. Bleeding after forty days and forty nights due to nifaas is also istihaaza. If a mu'taada (woman who has a habit for nifaas) bleeds beyond her habit and it exceeds forty days, then the bleeding beyond her habit is istihaaza. She must have a bath after forty days and offer qadha Salaat for the days beyond her habit.

Rules for Istihaaza and Wudhu

1. It is waajib (obligatory) for a mustahaaza (a woman who is experiencing istihaaza) to visit the toilet and make istinja (obtain purification from the impurities excreted by the private parts) at the time of every Salaat.
2. A woman who is in istihaaza will have to make a fresh wudhu at the time of every fardh Salaat. For example, a woman is in istihaaza, made wudhu at the time of Asr Salaat and up till the time of Maghrib she did not break her wudhu in any way. Because she is still bleeding due to istihaaza, she cannot read her Maghrib Salaat with the wudhu she

made for Asr Salaat. She has to make fresh wudhu again for Maghrib Salaat. Her wudhu will now last till the time of this Salaat ends. She can, however, perform her Sunnah, Nafl and qadha Salaat before this time ends. Her wudhu will break when this time ends. She then has to make fresh wudhu. It must be remembered that besides this istihaza bleeding, the wudhu will definitely break through any other factors which normally break the wudhu. The above type of wudhu is allowed for one who is Ma'zoor (legally excused).

3. A ma'zoor is that person whose wudhu cannot remain because of certain factors which continually break it, e.g. continual drops of urine, continual passing of wind, continual oozing of blood or pus (matter) from anywhere on the body.

The condition for being regarded as a ma'zoor is that in the beginning one is not in a position to remain with wudhu for the time needed to complete only one fardh Salaat (i.e. the entire duration of a salaat time). The condition for terminating one to be a Ma'zoor is that an entire salaat duration passes by without the particular nullifying factor to occurring even once.

Example If a woman started bleeding before zawaal and the full time of Zuhr passed by in this state of bleeding, so much so that there is no time to make wudhu and perform the fardh Salaat, then this person is called a ma'zoor.

Thereafter, she bleeds even once at the time of every Salaat she will remain a ma'zoor. It is not necessary to bleed continually.

Whenever there is no bleeding during one full Salaat time, then one no longer remains a ma'zoor.

4. It should be remembered that quite often a woman can be a mustahaaza (in a state of istihaaza) and yet not be a ma'zoor because in istihaaza it is not necessary for her to bleed continuously, but for a ma'zoor, it is a condition to bleed continuously in the beginning and at least once in every complete Salaat time thereafter.
5. If a mustahaaza starts bleeding during a Salaat time and this bleeding continues, then she should make her wudhu towards the end of the mustahab time and perform her Salaat. If she kept on bleeding throughout the Salaat time, so much so that there was no time for her to perform her fardh Salaat, then she will be regarded as ma'zoor and she

must read her Salaat even if she is bleeding. If she did not bleed during the next Salaah time or she was bleeding but it stopped for a while in which there was enough time to make wudhu and perform fardh Salaat, then she no longer remains a ma'zoor; she will have to make qadha of any fardh and waajib Salaat which she may have performed in the foregoing or previous Salaat time. There is no qadha for Sunnah or Nafil Salaat, e.g. if Asr time sets in at 4.00p.m. and remains upto sunset, at 6.00p.m., but the mustahab time remains only until 5.30p.m. and the blood starts continuously flowing from 4.30p.m., then she should make wudhu and perform her Salaat just before 5.30p.m. If the bleeding continues and the whole Maghrib time passed by without the blood stopping, then she need not repeat her Asr Salaat; but if it stops during Maghrib time, even for a short while in which it is possible to make wudhu and perform the fardh Salaat, then she would have to repeat the fardh of Asr.

6. If one is afraid that drops of urine may drip involuntarily, then it is advisable to prevent it by putting cotton wool (or sanitary pad) on the opening of the private part. The wudhu will not break unless the effect of the urine shows out on the

cotton wool. In fact, people suffering from such diseases or those who are doubtful as to whether drops are coming out, should take these precautions.

7. If one's urine drips, then it is waajib (obligatory) to change the underwear or wash that portion with which the urine makes contact at the time of every Salaat.

Rules for Istihaaza and Ibaadat

1. All prayers are allowed during istihaaza. It is compulsory to perform Salaat. If bleeding is continuous a fresh wudhu is necessary at the time of every Salaat. If her clothes become impure (polluted) due to bleeding then she should keep a separate set of clean clothes which she must wear at the time of Salaat and remove them after Salaat. If the clothes are soiled during Salaat, then there is no harm and the Salaat will be completed. She must however, wash any blood-stain on the body or clothing before every Salaat. If any cotton wool (or sanitary pad), which is placed where the bleeding takes place, becomes soiled with blood, then she should remove it and replace it with clean cotton wool (or sanitary pad) for the next Salaat. After Salaat, it is not necessary to see whether she bled or not because even if she did bleed, her Salaat will still be regarded as complete.

2. Saum, Haj, Umrah, Tawaaf, Sa'ee, touching and reading the Qur'aan are allowed during istihaaza. Hence, there is no difference between a mustahaaza and a paak woman in the fulfillment of Allah's commandments.
3. It is better for her to use cotton wool etc, if this stops the blood from flowing out during Salaat. Similarly, it is necessary for her to sit than to stand and read Salaat if this prevents the blood from flowing out during Salaat.

Rules for Istihaaza and the Masjid

1. A mustahaaza is considered taahir (paak), therefore, she can enter Masjide-Haram and Masjide-Nabawi. She can also enter Rasoolullah (sallallahu alayhi wa sallam's) tomb for salaam and salaam. She should take care not to pollute (stain) any part of the Masjid with blood because one should at all times prevent the Masjid from being polluted. She should place cotton wool or sanitary pads etc. at the place of bleeding for safety.