

# The Laws of Janaazah

A Detailed Treatise Providing Insight into the  
Shar'ee Laws Pertaining to Janaazah

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The author, translators, editors and typesetters humbly request your duas for them, their parents, families, Mashaayikh and Asaatiza.

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# Contents

<b>Foreword – Hazrat Moulana Muhammad Ilyas Patel Saheb (Daamat Barakaatuhu) .....</b>	<b>1</b>
<b>Introduction .....</b>	<b>3</b>
<b>Chapter One – Showing Kindness towards the Creation .....</b>	<b>5</b>
Kindness in Islam.....	5
Taking Care of the Widows and Orphans .....	6
Fulfilling the Rights of Parents.....	7
Fulfilling the Rights of Family Members and the Muslims in General.....	8
The Need of the Time .....	9
<b>Chapter Two – Fulfilling of Responsibilities and Obligations.....</b>	<b>11</b>
Maintenance and Expenditure.....	11
Taking Care of People who are Terminally ill .....	13
Salaah.....	14
Istinja, Wudhu and Ghusal.....	16
Maintenance and Medical Expenses .....	17
Sunnats and Aadaab of Visiting the Sick.....	19
<b>Chapter Three – Throes of Death .....</b>	<b>23</b>
The Final Moments .....	23

Posture of the Muhtadhar.....	24
Talqeen at the time of death .....	24
Unknowingly Uttering Words of Kufr at the Time of Death.....	26
Final Moments of the Pious.....	26

## **Chapter Four – After Death .....27**

What Should be Done Immediately After Death?.....	27
Bringing Discomfort to the Dying person .....	29
As You live, So Shall You Die .....	29
How Should the Family Conduct?.....	30
Duas to be Recited by the Bereaved.....	32
The Incident of Hazrat Ummu Salamah <small>رضي الله عنها</small> .....	33
The Rewards of Exercising Patience at the time of a Calamity .....	33
The Reward of Exercising Patience at the Loss of One’s Child .....	34
Around the mayyit.....	36
A Few Guidelines for the Family to Follow after a Person Passes Away .....	37

## **Chapter Five – Ghusal of the Deceased.....39**

The Shar’ee Status of Ghusal of the Deceased .....	39
Reward for Carrying Out the Ghusal .....	39
Masaa’il Pertaining to those Performing the Ghusal.....	40
Ghusal Requirements.....	41
Preparation for the Ghusal.....	42
Method of Bathing the Deceased.....	43
Istinja.....	43
Wudhu .....	44
Ghusal .....	45
Common Mistakes Regarding Ghusal .....	47
Disclosing the Bad Signs or Good Signs of the Deceased .....	48

Incident of Accusation .....	49
Miscellaneous Masaa'il.....	50
Ruling of Ghusal for a Deceased Male When There are no Muslim Males Present.....	50
Ruling of Ghusal for a Deceased Female When There are no Muslim Females Present.....	51
The Difference in the Ruling between the Husband and Wife in regard to Ghusal.....	52
Ghusal and kafan of a Person Who Passed Away while in Ihraam.....	53
Ghusal for a Drowned Person.....	53
Ghusal of an Incomplete Body.....	54
Ghusal and Janaazah for Unidentifiable Bodies.....	54
Ghusal for a Kaafir Relative.....	56
Ghusal for Rebels and Renegades.....	57
Ghusal After Performing Tayammum.....	58
Q&A Pertaining to Ghusal .....	58
Will a Shaheed be Given Ghusal? .....	58
Ghusal for a Stillborn Child.....	59
Which Direction Should the Body Face while Giving Ghusal?.....	60
Washing the Thigh of the Mayyit without Gloves.....	60
Applying Camphor to the Deceased.....	60
Applying Itr in Place of Camphor.....	60
Applying Surmah for the Deceased.....	61
Ensuring that the Satar of the Deceased Remains Covered.....	61
Refraining from Touching the Knees of the Deceased with Bare Hands.....	61
Who Should Carry Out the Ghusal of the Deceased?.....	62
Khilaa and Masah During Ghusal.....	62
Wearing Gloves for Ghusal.....	62
Nail Polish and Hair Extensions on the Mayyit.....	63
Where to Begin Wudhu for the Mayyit.....	63
Using Soap for the Ghusal of the Deceased.....	64

Satar of the Female Mayyit.....	64
Which Direction Should the Feet of the Deceased Face During Ghusal? .....	64
Ghusal of Amputated Limbs.....	64
Can a non-Muslim Assist when Giving Ghusal to the Deceased? .....	65
How Should a Person who Drowned or Burned to Death be Given Ghusal? .....	65
Making Tayammum for the Deceased when Water is not Available .....	66
Carrying Out the Ghusal for the Deceased in a Ghusal Khana .....	66
Being in the State of Wudhu while Giving Ghusal to the Deceased .....	67
Making Zikr while Giving Ghusal to the Deceased .....	67
Will Ghusal be Repeated if the Body is Exhumed? .....	67
Non-mahram taking Thumbprints of the Deceased before Ghusal.....	68
Quraanic Inscriptions on the Janaazah Carriers .....	68

## **Chapter Six – Enshrouding the Deceased in the Kafan .....69**

Method of Laying Out the Kafan and Enshrouding the Male Deceased .....	71
The Kafan of Hazrat Mus’ab bin Umair <small>رضي الله عنه</small> and Hazrat Hamzah <small>رضي الله عنه</small> .....	72
Laying Out the Male’s Kafan .....	73
Enshrouding the Male Deceased .....	73
Method of Laying Out the Kafan and Enshrouding the Female Deceased .....	74
Laying Out the Female’s Kafan .....	75
Enshrouding the Female Deceased.....	75
Important Points to Consider Regarding the Kafan of Males and Females.....	76
Responsibility of the Funeral Expenses.....	76
Common Mistakes Regarding Enshrouding the Deceased .....	77
Placing Verses of the Quraan Majeed or Duas in the Kafan .....	78

Masaa'il Pertaining to Giving Ghusal and Enshrouding Deceased Children .....	78
Viewing the Face of the Deceased and Taking Photos of the Deceased .....	80

## **Chapter Seven - The Janaazah Salaah .....83**

The Janaazah Salaah is Among the Rights of a Muslim.....	83
The Method of Performing the Janaazah Salaah .....	84
The Faraa'idh and Sunan of Janaazah Salaah.....	88
Pertinent Masaa'il Pertaining to Janaazah Salaah.....	89
The Conditions for the Validity of Janaazah Salaah .....	93
Conditions Relating to the Salaah .....	93
Conditions Relating to the Deceased.....	94
Miscellaneous Masaa'il.....	96
Performing Janaazah Salaah in the Forbidden Times .....	96
Performing Janaazah Salaah with Shoes .....	97
Is Jamaat a Condition for Janaazah Salaah? .....	97
Performing Janaazah Salaah in the Musjid.....	98
The Janaazah Salaah is a dua.....	99
Arriving Late for the Janaazah Salaah .....	100
Janaazah Salaah of Rebels and Highway Robbers .....	101
Janaazah Salaah of a Person Who Killed One of His Parents .....	101
Janaazah Salaah of One Who Commits Suicide .....	102
Janaazah Salaah of a non-Baaligh Child who has one Muslim Parent and one Kaafir Parent.....	102
The Deceased being Buried without Ghusal and Janaazah Salaah .....	102
Janaazah Salaah of a Corpse that has Bloated and there is Fear of it Disintegrating.....	103
Delaying the Janaazah Salaah .....	104
Performing Janaazah Salaah whilst Seated in a Vehicle .....	105
Performing Several Janaazah Salaahs at One Time.....	105

Upon which Deceased Should Janaazah Salaah be Performed First.....	105
The Method of Placing the Janaazahs when Performing one Janaazah Salaah for Several Deceased .....	105
The Person Most Worthy for Leading the Janaazah Salaah in an Islamic Country.....	106
The Person Most Worthy of Leading the Janaazah Salaah in a non-Islamic Country .....	107
Repeating the Janaazah Salaah.....	108
The Child in the Womb of a Deceased, Pregnant Woman .....	109
Passing Away after Swallowing a Person’s Money .....	109
Finding the skeleton of the deceased.....	110
Passing Away Through Lightning or Getting Burned.....	110
Passing Away through an Accident or a Natural Disaster .....	110
Passing Away through an Earthquake.....	110
Passing Away at Sea.....	111
Passing Away by Drowning at Sea .....	111
Passing Away by Falling into a Well.....	112
The Burial of a Pregnant Christian or Jewess Woman in the Nikaah of a Muslim .....	112
Q&A.....	113
Where Should the Imaam stand when Performing the Janaazah Salaah? .....	113
Janaazah Salaah and burial of a Person who has Committed Suicide ...	113
Where Should the Musalli Look when Performing Janaazah Salaah? ...	114
Should the Janaazah Salaah be performed before the Sunnat-e-muakkadah Salaah? .....	114
Reciting “wa jalla thanauka” in Janaazah Salaah.....	115
The Position of Salaam in Janaazah Salaah.....	115
Janaazah Salaah in the Sehn or Graveyard? .....	115
Which Saff is Most Rewarding for Janaazah Salaah? .....	116
The Condition of the Imaam Leading the Janaazah Salaah .....	116
What Should One Recite if One does not know the Duas for Janaazah Salaah? .....	117



Performing Janaazah Salaah before the Nikaah .....	117
Who Should Perform the Janaazah Salaah? .....	117
Performing Janaazah Salaah of a Deceased who is not Present.....	117
Sajdah and Ruku' in Janaazah Salaah.....	118
Reciting the Takbeers Aloud in Janaazah Salaah.....	118
Forming an Odd Number of Saffs for Janaazah Salaah .....	118
Straightening the Saffs for Janaazah Salaah.....	118
Women Leading Men in Janaazah Salaah.....	119
Performing Janaazah Salaah in the Musjid.....	119
Performing One Janaazah Salaah for Several Mayyits .....	119
Delaying in Performing the Janaazah Salaah and Burying the Deceased .....	120
Transporting the Body of the Deceased to Another Town .....	121
Who is the Most Worthy Person for Performing the Janaazah Salaah?.....	122
Dua after Janaazah Salaah.....	122
Performing Janaazah Salaah while Wearing Shoes .....	123
Imaam Preventing the Janaazah of a Certain Person from being Performed in the Sehn of the Musjid .....	123
Performing Janaazah Salaah for a Deceased that is not Present.....	124

## **Chapter Eight - The Burial..... 125**

Hastening in the Burial .....	126
The Reality of the Grave .....	127
Laws Pertaining to the Burial.....	128
Laws pertaining to Transporting the Janaazah to the Graveyard .....	128
Method of Carrying the Janaazah .....	129
Reaching the Graveyard.....	131
Method of Burying the Deceased .....	132
The Method of Throwing Sand Over the Grave .....	136
The Grave of the Deceased.....	137
Length and depth of the grave.....	137

Two Types of Graves – Lahd and Shiq .....	138
Description of Lahd .....	138
Description of Shiq .....	138
Remaining at the Grave after the Burial .....	139
Pertinent Masaa'il regarding the Grave .....	141
Q&A .....	144
Carrying the Bier of One's Deceased Wife .....	144
What to Recite When Accompanying a Deceased Person to the Graveyard.....	144
Dua while Carrying the Janaazah.....	144
Transporting the Deceased to the Graveyard .....	144
At Which Side Should One Begin Laying the Planks? .....	145
Reusing Old Graves .....	145
Burying a Stillborn in One's Garden.....	145
Placing a Line of Bricks Around the Grave.....	146
Burying Two People in the Same Grave .....	146
Son in-law Going into the Grave to Bury His Mother in-law.....	146
Tombstones.....	146
Should the Face be Uncovered in the Grave? .....	147
Sprinkling Water on the Grave after Burial.....	147
Plants on a Grave .....	147
Placing a Plant or Twig on the Grave.....	148
What Should be Done with a Grave that Opens due to Rain?.....	148
Covering the Graves of Females with a Sheet.....	148
Which Direction Should One Face when Making Dua in the Graveyard? .....	148
Taking the Mayyit to the House before Burial .....	149
Carrying the Janaazah .....	150
Burying the Deceased in the Direction of the Qiblah .....	150
Forgetting to Bury the Deceased in the Direction of the Qiblah.....	151
Allowing People to View the Face of the Mayyit in the Qabrastaan .....	151

Placing Aayaat of the Quraan Majeed in the Grave.....	151
Can a non-Muslim go into the Qabar? .....	151
Can a non-Mahram Bury the Deceased Female if She does not have any Mahrams Present? .....	152
Calling out Azaan in the Qabrastaan .....	152
Owning a Grave in a Graveyard.....	152
Can a Muslim be Buried in a non-Muslim Graveyard?.....	153
What Should be Done After Burying the Deceased? .....	153
Where Should a Person who Committed Suicide be Buried? .....	153
Is an Affidavit required to Bury a new Muslim in a Muslim Graveyard .....	153
Can Shias be buried in the Muslim Graveyard? .....	154
Placing Flowers on the Grave .....	154
Planting and Sprinkling Water on the Grave .....	154
Smoking in the Graveyard .....	155
Burying Two or More People in One Grave .....	155
Burying Separated Body Parts .....	156
Bequest of the Deceased to be Buried in a Specific Place .....	156
Method of Placing the Planks in the Grave .....	156
At what Speed Should the Hearse be Driven when going to the Graveyard? .....	157
Who Should Sit in the Hearse with the Driver?.....	157
Burial Insurance.....	157
Burying the Deceased in a Coffin .....	158
What is a Guraba Fund? .....	158
Burial Services.....	159
Giving Zakaat Funds to the Family of the Deceased to Pay for Burial Expenses.....	159
Must the Gravedigger be a Muslim?.....	159
Reserving a Grave in a Public Graveyard .....	159
Building Toilets in the Graveyard.....	160

Deceased Buried in a non-Muslim Graveyard without Ghusal and Janaazah Salaah .....	160
Handing Over the Body of a Deceased Muslim to his non-Muslim Family Members .....	160
Burying a non-Muslim.....	161
Contributing Towards the Burial of a non-Muslim Child.....	162
Announcements Regarding Outstanding Debts of the Deceased .....	162

## **Chapter Nine – Visiting the Graveyard ..... 163**

Q&A .....	166
Visiting the Graveyard .....	166
Visiting the Graveyard on Auspicious Nights.....	166
Pouring Water Over the Graves when Visiting the Graveyard.....	167
Reciting Loud or Soft at the Graveside.....	167
Congregational Dua at the Gate of the Graveyard .....	167
Placing Incense Sticks on Graves.....	167
Reward for Maintaining a Cemetery .....	167
Walking in the Graveyard with Shoes .....	168
Women Visiting the Graveyard .....	168
Raising the Hands when Making Dua at the Graveyard.....	168
Making Dua for Oneself at the Graveyard .....	169
Placing Flowers on the Grave .....	169
Standing in Front of the Grave.....	169
Unfounded Practices .....	169

## **Chapter Ten – Esaal-e-Thawaab ..... 171**

Q&A .....	173
Gathering to Recite the Quraan Majeed and Convey the Reward to the Deceased.....	173
Placing a Sticker in the Quraan Majeed stating that it is for Esaal-e-thawaab.....	173
Conveying Thawaab to the Deceased.....	174
Feeding Poor People on Behalf of the Deceased.....	174

Conveying the Reward of Specific Surahs to the Deceased.....	174
Conveying the Reward of Umrah to the Deceased.....	175
Making Sadaqah-e-jaariyah for a non-Muslim Deceased.....	175
Gathering on the Fortieth Day After the Demise of a Deceased .....	176
Donating a Property for Esaal-e-Thawaab .....	176
Parents Receiving the Reward of Good Deeds Carried Out by their Children .....	176

## **Chapter Eleven – Ta’ziyat (Consoling the Bereaved)..... 179**

Sunnats and Aadaab of Visiting the Bereaved.....	180
Customary Practices .....	183
Q&A .....	184
Partaking of Meals Prepared at a Funeral House.....	184
Khatams and Partaking of Meals at the Home of the Deceased .....	184
Women Visiting the Funeral Home.....	185

## **Chapter Twelve – Iddah ..... 187**

What is Iddah?.....	187
Laws Pertaining to a Woman in Iddah.....	188
Prohibitions during Iddah.....	190

## **Chapter Thirteen – Shaheed (Martyr) ..... 193**

Types of Martyrs.....	194
Who is a Shaheed?.....	195
Conditions for a Person to Qualify as a Shaheed .....	195
Rules Pertaining to the Shaheed Duniyawi-wa-Ukhwawi and the Shaheed Duniyawi.....	200
Shaheed Ukhwawi.....	201
Q&A .....	206
Sins of the Shaheed .....	206

## **Chapter Fourteen – Miscellaneous Masaa'il.....207**

Q&A .....	207
Wasiyyat for Someone to Give Ghusal .....	207
Attending the Funeral of a non-Muslim .....	207
Non-Muslim Visiting a Person in Sakaraat .....	208
Attending a Thanksgiving Service for the Deceased Person at a Church .....	208
Inheriting from a Kaafir .....	208
Looking at the Deceased Wife's Face .....	209
Paying for the Missed Salaahs and Fasts of the Deceased .....	209
Passing Away in Ramadhaan.....	209
Virtue of Passing Away on a Friday .....	210
Wife or Daughter Looking at the Body of the Deceased when they are in Haidh or Nifaas.....	210
Taking One's Life due to Mental Illness .....	210
Taking a Photo of a Grave with the Intention of Showing the Close Family.....	211
Reciting <b>إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ</b> Upon Hearing the Death of a non-Muslim .....	211
Women Standing up when the Janaazah is Picked up from the House .....	211
Segregation between non-Mahram Males and Females .....	212

## **Chapter Fifteen - Inheritance, Islamic Wills and Wasiyyat (Bequests) .....213**

The Islamic Will.....	213
What is a Shar'ee Wasiyyat (Bequest)?.....	214
The Four Types of Wasiyyat.....	215
Miscellaneous Masaa'il of Wasiyyat.....	216
General Advice in the Islamic Will .....	222
Family Trusts .....	224
Waqf.....	226
Q&A Pertaining to Waqf.....	227

Setting up a Waqf Trust.....	227
Making Waqf with Attaching the Condition that One's Children will be the Beneficiaries of the Waqf .....	229
Using Masjid waqf items elsewhere .....	230
Maradhul Maut.....	231
Miscellaneous Masaa'il regarding Maradhul Maut .....	232







# Foreword – Hazrat Moulana Muhammad Ilyas Patel Saheb (Daamat Barakaatuhu)

It is only through the sheer grace and mercy of Allah تَبَارَكَ وَتَعَالَى, and His infinite compassion and kindness, that He blessed us with Islam – the most perfect way of life. Allah تَبَارَكَ وَتَعَالَى also sent the best and most perfect of all His creation, Sayyiduna Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, to teach and practically demonstrate this most perfect way of life.

Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ presented the ultimate and most exemplary example for all of mankind to follow in every facet of life – from birth to death. He thus taught the Ummah what should be done when a child is born, and also what are the rites to be observed when someone has passed away.

When a person has passed away, he becomes a lifeless body in the hands of others. They do with him as they wish. However, now that he is unable to do anything for himself, it is his right upon his near and dear ones, as well as those close to him, that all his matters pertaining to his last moments of life, as well as his ghusal, kafan, burial, winding of his estate and every other aspect relating to his death and after-death, be managed and undertaken in the most perfect way – the way of the sunnah of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. To neglect the laws of Deen and

the sunnah of Rasulullah ﷺ at this critical time in a person's journey to the Hereafter is indeed an injustice to the marhoom.

In order to conduct all the affairs at the time of death in the correct manner according to the sunnah, this excellent treatise adorned with detailed references, has been presented by Moulana Zakaria Makada Saheb, Ustaaz of Hadith and Fiqh at Madrasah Ta'leemuddeen, Isipingo Beach. May Allah ﷻ accept it and make it a means of tremendous benefit for the entire Ummah. Aameen.

*(Hazrat Moulana) Muhammad Ilyas Patel*

*Senior Ustaaz of Hadith*

*Madrasah Ta'leemuddeen*

*Isipingo Beach – South Africa*

# Introduction

كُلُّ نَفْسٍ ذَائِقَةُ الْمَوْتِ ط

*Every soul shall taste of death. (Surah Aal-e-Imraan 185)*

Death is an inevitable event which no man can escape. As such, the reality of death is something which is accepted by both the believer and disbeliever. As far as a disbeliever is concerned, he views death as a terminating point which brings an abrupt end to his existence. As for a believer, he does not consider death to be the end of life. Instead, he considers it to be the beginning of the second phase of the journey towards his ultimate abode – the Hereafter.

Death, in reality, is a gift for a believer as it is the means of uniting the lover with his beloved. With death, the lover reaches his ultimate goal for which he strove throughout his life and he is now released from the imprisonment of this earthly abode. Allah تَبَارَكَ وَتَعَالَى states:

يَا أَيَّتُهَا النَّفْسُ الطُّمَئِنَّةُ ﴿٢٤﴾ ارْجِعِي إِلَىٰ رَبِّكِ رَاضِيَةً مَّرْضِيَّةً ﴿٢٥﴾ فَادْخُلِي فِي عِبَادِي ﴿٢٦﴾ وَ

ادْخُلِي جَنَّاتِي ﴿٢٧﴾

*O contented soul! Return to your Rabb while you are pleased (with Him) and He is pleased (with you). Enter amongst My bondsmen and enter My gardens of Paradise. (Surah Fajr 27)*

Rasulullah ﷺ has mentioned:

تحفة المؤمن الموت

*Death is a gift for the believer.*

This book is a compilation of various laws which pertain to the person who is terminally ill, in his final illness or in his final stages, the masaa'il of ghusal, kafan, janaazah, etc. Every Muslim must equip himself with these relevant laws and masaa'il so that the correct procedure could be adopted upon the demise of any person. Often, due to us lacking in the knowledge of these aspects, we put the one who is in his final illness or the dying person through unnecessary difficulty and trouble.

May Allah تَبَارَكَ وَتَعَالَى accept this humble effort and allow it to be a means of benefit to one and all.

# Chapter One – Showing Kindness towards the Creation

## Kindness in Islam

Allah تَبَارَكَ وَتَعَالَى has sent Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ with Islam, the complete and perfect code of life. The prophethood of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ is universal and thus extends to all nations, through all eras, until the Day of Qiyaamah. Hence, the religion of Islam is a universal religion that will stand the tests and challenges of all times. The comprehensive guidance which Islam provides man with, to lead him through every moment in his life, is unparalleled and unprecedented. Among the salient features of Islam is showing compassion towards the creation. The Quraan Majeed and the Mubaarak Ahaadith of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ are replete with commands and exhortations regarding fulfilling the rights of the creation and showing kindness to them. Islam is second to none in sympathising with the orphans, widows, destitute and taking care of the old, the sick and all those in financial constraints and difficulties. Islam teaches us to pour out our hearts to the creation and assist – to the best of our ability – those who are in need, morally, financially or physically, regardless of whether they enjoy family ties with us or not. This aspect of kindness and compassion formed a prominent part of the noble character of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ and was among his sublime qualities throughout his Mubaarak life, even before prophethood.

After the first encounter with Hazrat Jibreel عَلَيْهِ السَّلَامُ, when prophethood was conferred to Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ was greatly concerned regarding how he would fulfil the

mission of prophethood. On that occasion, Hazrat Khadijah رَضِيَ اللهُ عَنْهَا comforted him and reassured him that the divine help of Allah تَبَارَكَ وَتَعَالَى was with him on account of the noble qualities and praiseworthy attributes he possessed. Hazrat Khadijah رَضِيَ اللهُ عَنْهَا said to him: “Nay! Accept the glad tidings (of Allah تَبَارَكَ وَتَعَالَى). By Allah! Allah تَبَارَكَ وَتَعَالَى will never ever disgrace you, for by Allah, you are the one who maintains good ties with your family, you always speak the truth, you carry the burden of the one in difficulty, you earn for the one who does not possess wealth, you extend hospitality to your guests and you always assist those who are afflicted with natural disasters and calamities.”<sup>2</sup>

## Taking Care of the Widows and Orphans

Special rewards have been promised in the Mubaarak Ahaadith for those who take care of the orphans and widows and fulfil their needs. Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said: “The best home is the home wherein an orphan child is taken care of with love and compassion, and the worst home is the home wherein an orphan child is ill-treated.”<sup>3</sup> In another Hadith, Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ mentioned: “The one who takes care and looks after the orphan will be this close to me in Jannah,” and he indicated by bringing his two fingers, the index finger and the middle finger, close to each other, showing the proximity they will enjoy with him in the Aakhirah.<sup>4</sup> In another Hadith, Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said: “The one who fulfils the needs of the widows and destitute will receive the reward of one striving in the path of Allah تَبَارَكَ وَتَعَالَى, or one who stands in salaah during the night and fasts during the day.”<sup>5</sup>

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<sup>2</sup> صحيح البخاري رقم ٤٩٥٣

<sup>3</sup> سنن أبي داود رقم ٣٦٧٩

<sup>4</sup> صحيح البخاري رقم ٦٠٠٥

<sup>5</sup> صحيح البخاري رقم ٥٣٥٣

## Fulfilling the Rights of Parents

As far as the rights that one owes towards his parents are concerned, Allah تَبَارَكَ وَتَعَالَى states in the Quraan Majeed: “Allah تَبَارَكَ وَتَعَالَى has ordained that you worship Him alone and show kindness to parents.”<sup>6</sup> In this verse, we notice that after commanding man to worship Allah تَبَارَكَ وَتَعَالَى, the Quraan Majeed immediately thereafter commands him to show kindness towards his parents. We thus understand that kindness towards parents has been afforded such a lofty position in Deen that it has been joined to the worship of Allah تَبَارَكَ وَتَعَالَى. It is reported in the Hadith that one’s parents are his Jannah or Jahannum.<sup>7</sup> By obeying them and showing kindness to them, he will earn Jannah, and by disobeying them and ill-treating them, he will earn Jahannum. Special mention is made in the Quraan Majeed regarding showing love and affection towards one’s parents when they reach old age and are unable to fend for themselves. Allah تَبَارَكَ وَتَعَالَى says: “If any one of them or both reach old age, do not say to them words of contempt, and do not scold them, and address them with words of honour. And lower your side of humility for them out of compassion, and say: My Rabb! Bestow mercy upon them as they have raised me (with mercy) in my childhood.”<sup>8</sup>

On one occasion, during the Mubaarak era of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, a Sahaabi رَضِيَ اللهُ عَنْهُ came to Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ seeking permission to go out in nafl jihaad. Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ asked him if he had parents and whether they were in need of his service. The Sahaabi رَضِيَ اللهُ عَنْهُ replied that he had aged parents whom he had left crying, due to them not wanting him to go in nafl jihaad as they were in need of his service. Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ instructed him to remain behind and serve his aged parents. Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said: “Make them happy as you had made them cry.”<sup>9</sup> In a similar narration, Rasulullah

<sup>6</sup> سورة الإسراء آية ٢٣

<sup>7</sup> سنن ابن ماجه رقم ٣٦٥٢

<sup>8</sup> سورة الإسراء آية ٢٣-٢٤

<sup>9</sup> سنن ابن ماجه رقم ٢٧٨٢

صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ said to another Sahaabi رَضِيَ اللَّهُ عَنْهُ who wanted to leave his parents and participate in nafl jihaad: “Serve them, for your jihaad lies in serving them.” (i.e. through serving them, Allah تَبَارَكَ وَتَعَالَى will grant you the reward of nafl jihaad).<sup>10</sup> Imagine the great rewards one will reap through participating in nafl jihaad. Yet, despite that, Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ informs the Sahaabi رَضِيَ اللَّهُ عَنْهُ that serving his aged parents who were in need of his service was more pleasing to Allah تَبَارَكَ وَتَعَالَى than participating in nafl jihaad.

## Fulfilling the Rights of Family Members and the Muslims in General

In the aforementioned verse, after commanding man to fulfil the rights he owes towards his parents, Allah تَبَارَكَ وَتَعَالَى commands him to fulfil the rights he owes to his family. Allah تَبَارَكَ وَتَعَالَى says: “Give your family their rights, and the poor and the traveller (who does not have provisions), and do not waste. Those who waste (their wealth) are in reality the brothers of Shaytaan.”<sup>11</sup> The commentators of the Quraan Majeed have explained that the link between both commands (i.e Allah تَبَارَكَ وَتَعَالَى commanding man to fulfil the rights he owes towards his family and thereafter cautioning him against wastage of wealth and calling such people who waste “the brothers of Shaytaan”) is that when Shaytaan encourages one to spend his wealth in amusement, entertainment and avenues that Allah تَبَارَكَ وَتَعَالَى did not allow, he begins to neglect his responsibility towards his parents, family members and the poor and needy of the Ummah and thus deprives them of their haqq (rights). As a result, he resembles Shaytaan who was ungrateful to Allah تَبَارَكَ وَتَعَالَى for the favours with which Allah تَبَارَكَ وَتَعَالَى had bestowed him.

If each person in the Muslim Ummah leads his life in accordance to the spirit of Islam, fulfilling the obligations that he owes towards Allah

<sup>10</sup> صحيح البخاري رقم ٣٠٠٤

<sup>11</sup> سورة الإسراء آية ٢٦



تَبَارَكَ وَتَعَالَى and the creation (his family and the Muslims in general), this world will be an abode of happiness, peace and comfort for one and all. During the reign of Hazrat Umar bin Abdul Aziz رَضِيَ اللهُ عَنْهُ, when Islam was followed and upheld throughout the length and breadth of the Islamic world, and the rights of each Muslim were respected and fulfilled with honour and dignity, people witnessed the wolves grazing with the sheep on account of the justice that prevailed in the land, and people would come out to pay their zakaat, yet they would struggle to find any recipient, as people would say that they have sufficient wealth and are not eligible for zakaat.<sup>12</sup>

## The Need of the Time

In this belated era, where every effort is directed towards worldly progress and material acquisition, we find Muslims drifting from the Mubaarak way of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ and the Sahaabah رَضِيَ اللهُ عَنْهُمْ. The rapid degeneration of Islamic values is being witnessed around the globe due to Muslims being consumed by the alien culture of the West. As a result, taking care of one's parents, grandparents or any old member of the family has become a major problem and is viewed as a burden. This lamentable situation has reached the point where people regard taking care of the old to be an obstacle in the path of their worldly pleasures and comforts. This becomes more evident during the vacation period when people embark on holiday trips and abandon the old to feel neglected and distraught, whereas taking care of the old and ill are among the great, blessed opportunities that Allah تَبَارَكَ وَتَعَالَى offers for one to earn His divine pleasure and the great rewards of the Hereafter. Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said: "You gain divine assistance and are blessed with sustenance from Allah تَبَارَكَ وَتَعَالَى on account of the weak (and old) among you."<sup>13</sup> On one occasion, Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ informed the Sahaabah رَضِيَ اللهُ عَنْهُمْ that he had seen a dream wherein he

<sup>12</sup> الطبقات الكبرى لابن سعد ٣٠١/٥

<sup>13</sup> صحيح البخاري رقم ٢٧٣٩

was taken to Jannah and shown the various bounties therein. Rasulullah ﷺ said: “While I was in Jannah, I heard the recitation of the Sahaabi, Hazrat Haarithah bin Nu'maan رَضِيَ اللهُ عَنْهُ”, whereas this Sahaabi رَضِيَ اللهُ عَنْهُ was still alive in this world. Rasulullah ﷺ thereafter mentioned that Allah تَبَارَكَ وَتَعَالَى had granted him this honour on account of his obedience and kindness to his mother.<sup>14</sup>

Many Muslims aspire to earn the pleasure of Allah تَبَارَكَ وَتَعَالَى and the great rewards that have been promised for serving the old and sick. However, if one is unaware of the responsibilities that he owes to these people and the manner in which he should fulfil these responsibilities, then instead of showing them kindness and earning the happiness of Allah تَبَارَكَ وَتَعَالَى, he will do them a disservice and neglect their rights, thus earning the displeasure of Allah تَبَارَكَ وَتَعَالَى.

Hence, in order for us to be able to correctly take care of those who are terminally ill, old, and others who are unable to care for themselves, it is necessary for us to understand who is responsible for their maintenance and expenses, what are the rights that these individuals have over us and what are some of the masaa'il that apply to them in their specific condition e.g. masaa'il of tahaarah, performing salaah, etc. In this regard, we will mention some of the relevant masaa'il pertaining to taking care of the old and the sick below.

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<sup>14</sup> مسند أحمد رقم ٢٤٠٨٠

# Chapter Two – Fulfilling of Responsibilities and Obligations

## Maintenance and Expenditure

**Question:** If a person is terminally ill and unable to earn for himself, who will be responsible for taking care of him?

**Answer:** In regard to providing maintenance for a person who is terminally ill or poor and unable to earn for himself, the Shar'ee ruling will differ according to the situation.

Below we will explain a few pertinent situations in regard to this mas'alah:

1. If the sick person has children, then the responsibility of looking after him will be shared by his children equally.
2. If the sick person has neither children nor grandchildren but has parents, then the responsibility will be borne by the father alone.
3. If the sick person has no children and his father as well as his grandparents, both maternal and paternal have passed away, and only the mother is alive, then the mother alone will bear the responsibility.
4. If the mother and father are not alive then the responsibility will be on the paternal grandparents and the maternal grandmother in proportion to their shares of the inheritance. The responsibility will not be placed upon the maternal grandfather as he is not an heir in the presence of these relatives.

5. If the sick person has neither children, parents nor grandparents, but has grandchildren, then all the grandchildren will bear the maintenance expenses equally i.e. the grandchildren from the sons and daughters, whether male or female, will all be equal in sharing the responsibility. If the sick person has no parents, grandparents, children nor any grandchildren, it will be the duty of the mahram relatives (siblings, uncles and aunts, etc.) to look after the sick person in proportion to their shares of inheritance from the sick person.<sup>15</sup>

### Note:

1. These laws pertain to the situation where the above-mentioned people are wealthy. In the situation where there is a poor person amongst them, he will not bear the responsibility. Rather, the responsibility will be shared by the remainder heirs.
2. This is merely a basic outline and the ruling can thus differ in certain situations. Therefore, one should refer to the Ulama for the ruling of one's exact situation.

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<sup>15</sup> مطلب ضابط في حصر أحكام نفقة الأصول والفروع واعلم أن مسائل هذا الباب، مما تحرير فيها أولو الألباب، لما يتوهم فيها من الاضطراب، وكثيرا ما رأيت من ضل فيها عن الصواب، حيث لم يذكرها لها ضابطا نافعا ولا أصلا جامعا، حتى وفقني الله تعالى إلى جمع رسالة فيها سميتها [تحرير النقول في نفقات الفروع والأصول] أعاني فيها المولى سبحانه على شيء لم أسبق إليه، ولم يحم أحد قبلي عليه، باختراع ضابط كلي مبني على تقسيم عقلي، مأخوذ من كلامهم تصريحاً أو تلويحاً، جامع لفروعهم جمعا صحيحا، بحيث لا تخرج عنه شاذة، ولا يغادر منها فاذة وبيان ذلك أن نقول: لا يخلو إما أن يكون الموجود من قرابة الولاد شخصا واحدا أو أكثر والأول ظاهر؛ وهو أنه تجب النفقة عليه عند استيفاء شروط الوجوب والثاني لا يخلو، إما أن يكونوا فروعاً فقط أو فروعاً وحواشي، أو فروعاً وأصولاً؛ أو فروعاً وأصولاً وحواشي، أو أصولاً فقط أو أصولاً وحواشي؛ فهذه ستة أقسام وبقي قسم سابع تنمة الأقسام العقلية وهو الحواشي فقط نذكره تنميماً للأقسام ... (رد المحتار

## Taking Care of People who are Terminally ill

**Question:** Is it permissible for a husband to prevent his wife from visiting her terminally ill parents who live near her home and are in need of her khidmat as there is no one else to make their khidmat? If she goes to make khidmat of her ailing parents against her husband's will, will she be sinful? What does Shari'ah command her to do in such a situation?

**Answer:** Islam is a religion of compassion and mercy. Islam has afforded exclusive huqooq (rights) to various people and commanded that their rights be fulfilled. Just as the wife has an obligation towards her husband and is commanded to fulfil his rights, similarly she has an obligation towards her ailing parents and is commanded to fulfil their rights as well. In the situation where her aged parents are in dire need of her khidmat and there is no one else to fulfil this need, then it is compulsory upon her to see to them. The Fuqahaa have written that even if one's aged parents are disbelievers and they are in dire need of one's khidmat, then in such a situation, it is compulsory upon one to take care of them. Therefore, it is not permissible for the husband to stop her from fulfilling the Shar'ee obligation that she owes towards her ailing parents. Hence, if she makes khidmat of her ailing parents and takes care of them, she will not be sinful, rather she will be rewarded.<sup>16</sup>

**Question:** If one's parents are not bed-ridden, but due to old age or sickness they are unable to take care of themselves, whose responsibility will it be to look after them and assist them?

**Answer:** The responsibility of looking after them will fall upon their children.<sup>17</sup>

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<sup>16</sup> امرأة لها أب زمن ليس له من يقوم عليه وزوجها يمنع عن الخروج اليه وتعااهده كان لها أن تعصي زوجها وتطيع الوالد مؤمنا أو كافرا لأن القيام بتعاهد الوالد فرض عليها فيقدم على حق الزوج (فتاوى خانبة ٤٤٣/١) انظر أيضا فتاوى اللكنوي ص ٤٢٢

<sup>17</sup> (وتجب النفقة بأنواعها على الحر (لطفله) يعم الأئني والجمع (الفقير) الحر قال الشامي: (قوله بأنواعها) من الطعام والكسوة والسكنى، ولم أر من ذكر هنا أجرة الطبيب وثن الأدوية، وإنما ذكروا عدم الوجوب للزوجة، نعم صرحوا بأن الأب إذا كان مريضا أو به زمانة يحتاج إلى الخدمة فعلى ابنه خادمه وكذلك الابن (رد المختار ٦١٢/٣)

**Question:** What should a person do in the situation where he needs to bring his ailing mother into his home so that he can look after her, but his wife is unhappy with this? He has explained to his wife that he will look after his mother and tend to her, yet she is still upset and refuses to speak to him. What does Shari'ah instruct in this situation?

**Answer:** He should not worry about his wife's attitude. He should bring his ailing mother to his home and take good care of her. He should continue to serve her and show kindness to her with the greatest love and respect.<sup>18</sup>

## Salaah

**Question:** Is salaah compulsory upon a person who is aged and is unable to perform his salaah correctly due to forgetting the number of rakaats he has performed and the sequence of the postures of salaah? If yes, how should he perform his salaah?

**Answer:** On account of old age or illness, one is not exempt from performing salaah. One is commanded to fulfil the obligation of salaah under all circumstances. It is recorded in the Hadith that if one is unable to perform the salaah standing, then he should sit and perform the salaah, and if he is unable to sit and perform the salaah, then he should perform the salaah while lying down with gestures. Similarly, if one is unable to make wudhu due to illness, one is commanded to make tayammum and perform the salaah. In regard to a person who is aged and finds difficulty in performing his salaah due to forgetfulness, the Fuqahaa have explained that the solution for such a person is for someone to remain at his side and guide him throughout his salaah by guiding him through the postures of salaah and informing him of what to do.<sup>19</sup>

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<sup>18</sup> الفصل الخامس في نفقة ذوي الأرحام قال ويجبر الولد للموسر على نفقة الأبوين المعسرين مسلمين كانا أو ذميين قدرا على الكسب أو لم يقدر بخلاف الحريين المستأمنين ولا يشارك الولد للموسر أحدا في نفقة أبويه المعسرين كذا في العنايية (الفتاوى الهندية ١/٥٦٤). انظر رقم ١٧

<sup>19</sup> الاستبشار : يجزيه ، لأن التلقين من الغير ، وإن كان مفسدا ، لكن الضرورات تبيح المحظورات في القنية : (شم) : أي شرف الأئمة المكّي : مريض يشبهه عليه أعداد الركعات والسجودات لا يلزمه الأداء ، ولو أداها بتلقين غيره ، ينبغي أن يجزيه ، (قع) : أي قاضي عبد الجبار : مصل

**Question:** Is it permissible for a person who is able to perform the entire salaah standing, together with making the ruku' normally and performing sajdah on the ground, to sit on a chair and perform salaah?

**Answer:** It is not permissible for one who is able to perform salaah standing, together with making ruku' and performing the sajdah on the ground, to sit on a chair. If the one who is able to perform the salaah in this manner sits on a chair and performs salaah, the salaah will not be valid. However, if a person cannot manage standing and is unable to perform sajdah on the ground, then it will be permissible for him to sit on a chair and perform the salaah.<sup>19</sup>

**Question:** A patient in hospital is put on drips. He is unable to perform wudhu and perform salaah facing the qiblah. How should he perform his salaah?

**Answer:** If he is unable to make wudhu due to his illness, then he should make tayammum. If he is unable to make tayammum by himself then he should ask someone to assist him in making the tayammum. When making the tayammum, it is necessary for the patient to make the niyyah of tayammum. After making tayammum, he should perform his salaah with gestures while facing whichever direction he is able to.<sup>20</sup>

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أقعد عند نفسه إنسانا ليخبره إذا سهي عن الركوع والسجود ، يجزيه إذا لم يمكنه إلا بهذا انتهى قلت : وهذا يخرج حكم جواز صلاة الشيخ الفاني الذي وصل إلى أرذل العمر ويشبهه عليه أعداد الركعات في الصلاة ، فينبغي أن تجوز بتلقين غيره (فتاوى اللكنوي ٣٢٧)

(العذر المبيح للتيمم) وهو على أنواع (كبعده) أي الشخص (ميلا) وهو ثلث فرسخ بغلبة الظن هو المختار للحرج بالذهاب هذه المسافة وما شرع التيمم إلا لدفع الحرج وثلث الفرسخ أربعة آلاف خطوة وهي ذراع ونصف بذراع العامة فيتيمم لبعده ميلا (عن ماء) طهور (ولو) كان بعده عنه (في المضر) على الصحيح للحرج (و) من العذر (حصول مرض) يخاف منه اشتداد المرض أو ببطء البرء أو تحركه كالحُموم والمبطون (حاشية الطحطاوي على مراقبي الفلاح ص ١١٥)

<sup>٢٠</sup> (تيمم) لهذه الأعدار كلها، حتى لو تيمم لعدم الماء ثم مرض مرضا يبيح التيمم لم يصل بذلك التيمم؛ لأن اختلاف أسباب الرخصة يمنع الاحتساب بالرخصة الأولى وتصير الأولى كأن لم تكن، جامع الفصولين فليحفظ (مستوعبا وجهه) حتى لو ترك شعره أو وتره منخره لم يجز (ويديه) فينزح الخاتم والسوار أو يحرك به يفتي (مع مرفقيه) فيمسحه الأقطع (بضريتين) ولو من غيره أو ما يقوم مقامهما قال الشامي: (قوله ولو من غيره) فلو أمر غيره بأن ييممه جاز بشرط أن ينوي الأمر بحرج قال ط: وظاهره أنه يكفي من الغير ضربتان، وهو خلاف ما يأتي عن القهستاني (رد المحتار ٢٢٧/١)

(وقبله العاجز عنها) لمرض وإن وجد موجهها عند الإمام أو خوف مال: وكذا كل من سقط عنه الأركان (جهة قدرته) ولو مضطجعا بإيماء لخوف رؤية عدو ولم يعد لأن الطاعة بحسب الطاقة قال الشامي: (قوله ولو مضطجعا إلخ) تعميم لقدرة: أي يتوجه العاجز إلى أي جهة قدر ولو كان مضطجعا قال الزيلعي: ويستوي فيه: أي في العجز الخوف من عدو أو سبع أو لص، حتى إذا خاف أن يراه إن توجه إلى القبلة جاز

**Question:** An individual is paralysed from the waist downwards. He is unable to make wudhu and there is no one present to help him make wudhu. How will such a person perform his salaah?

**Answer:** If there is no person present who will be able to assist him in making wudhu, he will not perform the salaah. Rather, he will imitate a person performing salaah by carrying out the postures of salaah without making niyyah of salaah and reciting anything during the salaah. Later on, when he is able to make wudhu, he should make qadha of the salaah.<sup>21</sup>

## Istinja, Wudhu and Ghusal

**Question:** What is the Shar'ee ruling regarding an old person who is unable to make istinja properly due to old age?

**Answer:** If he has a wife, she may assist him in making istinja. However, if he does not have a wife, then his son, brother or any other person may assist him to make istinja. If they assist him to make istinja, they should ensure that they do not look at his private parts nor touch it with their bare hands. They may pour the water for him and allow him to wash himself. If there is no one to assist him, then he should clean himself to the best of his ability. In this condition, istinja and cleaning himself properly will not be compulsory upon him. However, he will not be absolved of performing salaah. Hence, he should perform his salaah even if he is not entirely clean.<sup>21</sup>

له أن يتوجه إلى أي جهة قدر، ولو خاف أن يراه العدو إن قعد صلى مضطجعا بالإيماء، وكذا الهارب من العدو راكبا يصلي على دابته اه رد الحنابلة ٤٣٢/١

<sup>٢١</sup> الرجل المريض إذا لم يكن له امرأة ولا أمة وله ابن أو أخ وهو لا يقدر على الوضوء فإنه يوضئه ابنه أو أخوه غير الاستنجاء فإنه لا لمس فرجه وسقط عنه الاستنجاء كذا في المحيط المرأة المريضة إذا لم يكن لها زوج وعجزت عن الوضوء ولها ابنة أو أخت توضئها ويسقط عنها الاستنجاء كذا في فتاوى قاضي خان (الفتاوى الهندية ٥٠/١)

وفي فوائد الشيخ الإمام الزاهد أبي حفص الكبير رحمه الله: أنه سئل عن رجل شلت يده اليسرى، ولا يقدر أن يستنجي بها كيف يستنجي بنفسه؟ قال: إن لم يجد من يصب الماء عليه والماء في الإناء لا يستنجي، وإن قدر على الماء الجاري استنجي بيمينه، وإن كانت يدها كلتها قد شلتا ولا يستطيع الوضوء والتيمم، قال: يمسح يده على الأرض يعني ذراعيه مع المرفقين ويمسح وجهه على الخائط ويجزئ ذلك عنه، ولا يدع الصلاة على كل حال (المحيط البرهاني ١٧٢/١) انظر أيضا (فتاوى محمودية ٩٥/٨)



**Question:** If a person is bed-ridden, how should those attending to him clean him after he relieves himself or at the time of ghusal? Is it permissible for them to look at or touch his private parts while cleaning him? Also explain the ruling with regard to a woman who is bed-ridden.

**Answer:** If a man is bed-ridden and unable to clean himself at the time of istinja or ghusal, then if he has a wife who is able to clean him, she should do so. Similarly, if a woman is bed-ridden and she is unable to clean herself, then if she has a husband who is able to clean her, then he should do so. It will be permissible for the husband and wife to look at the private parts of one another and touch them while cleaning. If any other person is assisting besides the spouse, they should refrain from looking at or touching the private areas of the person while cleaning. They may use a glove or cloth to clean the bed-ridden person. However, it should be borne in mind that if the person bed-ridden is a male then he should be assisted by male attendants, and if the person bed-ridden is a female then she should be assisted by female attendants.<sup>21</sup>

**Question:** If a person is unable to make fardh ghusal on account of illness or extreme weakness, what should be done and how should he perform his salaah?

**Answer:** In such a situation, Shari'ah commands him to make tayammum and perform his salaah. The tayammum will suffice on behalf of the ghusal.<sup>22</sup>

## Maintenance and Medical Expenses

**Question:** Who will bear the medical expenses of the sick father?

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<sup>21</sup> (من عجز) مبتدأ خبره تيمم (عن استعمال الماء) المطلق الكافي لطهارته لصلاة نفوت إلى حلف (رد المختار ١/٢٣٢)  
 (أو لمرض) يشتد أو يمتد بغلبة ظن أو قول حاذق مسلم ولو يتحرك، أو لم يجد من توضئه، فإن وجد ولو بأجرة مثل وله ذلك لا يتيمم في ظاهر المذهب كما في البحر قال الشامي: (قوله أو لم يجد) أي أو كان لا يخاف الاشتداد ولا الامتداد، لكنه لا يقدر بنفسه ولم يجد من يوضئه  
 (رد المختار ١/٢٣٣) انظر أيضا فتاوى محمودية ٨/١٩٨

**Answer:** If he is wealthy, his medical bills will be paid from his wealth. If he is poor and has children, it will be the duty of the children to assist him pay for his medical bills.<sup>15</sup>

**Question:** Which parent is responsible for the maintenance of the children and till what age?

**Answer:** In the case of a daughter, the father is responsible for her maintenance till the time she marries. In the case of a son, the father is responsible for his maintenance till the time he becomes baaligh. This ruling applies in the case where the daughter and son do not possess wealth. If they have their own wealth, their needs will be fulfilled from their own wealth.<sup>23</sup>

**Question:** In the case where one's parents have reached old age and are terminally ill and the children do not wish to make khidmat of their aged parents, what should be done? Can the children leave their aged, sickly parents in an old age home?

**Answer:** Parents are among the greatest bounties of Allah تَبَارَكَ وَتَعَالَى in the world. The Ahaadith are replete with promises of the abundant rewards and blessings that one will receive for showing kindness to his parents. The Hadith explains that Jannah lies beneath the feet of the mother. In another Hadith it is reported, the pleasure of Allah تَبَارَكَ وَتَعَالَى lies in the pleasure of the father and the displeasure of Allah تَبَارَكَ وَتَعَالَى lies in the displeasure of the father. In yet another Hadith, it is mentioned that your parents are your Jannah or Jahannum (i.e. through fulfilling their rights, one will be blessed with Jannah and by not fulfilling their rights, one will earn Jahannum). One should reflect over the extent of sadness and grief that one will cause to the heart of

<sup>23</sup> (وتجِبُ النَّفَقَةُ بِأَنْوَاعِهَا عَلَى الْخَرِّ لِطِفْلِهِ يِعْمُ الْأَيْتَى وَالْجَمْعَ (الفقير) الخرق قال الشامي: (قوله الفقير) أي إن لم يبلغ حد الكسب، فإن بلغه كان للأب أن يؤجره أو يدفعه في حرفة ليكتسب وينفق عليه من كسبه لو كان ذكراً، بخلاف الأيتى كما قدمه في الحضائنة عن المؤيدية. قال الخيزر الرملي: لو استغنت الأيتى بنحو خياطة وغزل يجب أن تكون نفقتها في كسبها كما هو ظاهر، ولا نقول تجب على الأب مع ذلك، إلا إذا كان لا يكفيها فتجب على الأب كفايتها بدفع القدر المعجوز عنه، ولم أره لأصحابنا ولا بنافيه قولهم بخلاف الأيتى؛ لأن الممنوع إجبارها، ولا يلزم منه عدم إلزامها بحرفة تعلمها أه أي الممنوع إجبارها للخدمة ونحوها مما فيه تسليمها للمستأجر بدليل قولهم؛ لأن المستأجر يتخلو بما وذا لا يجوز في الشرع، وعليه فله دفعها لامرأة تعلمها حرفة كتطريز وخياطة مثلا (رد المحتار ٦١٢/٣) انظر أيضا أحسن الفتاوى ٤٦٣/٥

that sickly, aged mother or father who has been torn from their family and abandoned in an old age home. When they had raised their children with so much of love and care, without expecting any worldly remuneration, is this the reward they deserve from their children? On the contrary, if they remember the kindness they received from their parents in infancy and fulfil their rights with love and compassion, Allah تَبَارَكَ وَتَعَالَى will bless them with success in this world and the Hereafter. Respecting and taking care of the old is the way of Islam and neglecting the old is the way of the kuffaar.

**Question:** If a woman is ill, is it permissible for her to go to a male doctor for treatment? If permissible, then can she expose her body before the male doctor?

**Answer:** Hazrat Moulana Ashraf Ali Thaanwi رَحِمَهُ اللهُ has written in Baheshti Zewar, that if a woman requires medical treatment, she should go to a Muslim female doctor. If she is unable to find a qualified Muslim female doctor to treat her, then she should refer to a non-Muslim female doctor. If a non-Muslim female doctor is not available, then she may refer to a Muslim male doctor. If there are no Muslim male doctors available, then as a last resort, she may go to a non-Muslim male doctor. In the situation where a woman is forced to visit a male doctor for treatment, she should ensure that she does not remain in seclusion with the doctor at any time. As far as a woman exposing her body before a male doctor is concerned, then she should only expose that part of her body which requires medical treatment. Other parts of her body should not be exposed and extreme caution should be exercised in this regard.<sup>24</sup>

## Sunnats and Aadaab of Visiting the Sick

Visiting the sick is among the rights a Muslim owes to his Muslim brother. Great virtues and rewards have been recorded in the Ahaadith for visiting the sick. Through visiting the sick, one receives the

pleasure of Allah *تَبَارَكَ وَتَعَالَى*. Seventy thousand angels invoke the mercy of Allah *تَبَارَكَ وَتَعَالَى* for the person who visits the sick and he will receive a garden in Paradise. When a believer sets out to visit his sick brother, an angel calls out from the sky: “May you remain in ease and comfort. How excellent is your walking to meet your brother and through this action you have built a palace for yourself in Jannah.”<sup>25</sup> Below are some aadaab that one should adhere to when visiting the sick.

1. One should not prolong one’s stay by the sick, thereby causing him discomfort. Rather, one should leave after a short while.<sup>26</sup>
2. Console the sick and give him encouragement and hope of recovery.<sup>27</sup>
3. It is incorrect for the doctor to inform the patient that there is no hope left for him in any given situation.<sup>28</sup>
4. Whenever the opportunity arises to visit a Muslim who has fallen ill, one should do so, even though the sick may not be from one’s family or friends.<sup>29</sup>
5. When visiting the sick, one should recite the following dua:

لَا بَأْسَ طَهُورٌ إِنْ شَاءَ اللَّهُ<sup>٣٠</sup>

*Do not grieve (do not worry), Insha-Allah through this sickness you will obtain purity (from your sins)*

One may also recite the following dua seven times:

أَسْأَلُ اللَّهَ الْعَظِيمَ رَبَّ الْعَرْشِ الْعَظِيمِ أَنْ يَشْفِيكَ<sup>٣١</sup>

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<sup>25</sup> جامع الترمذي رقم ٩٦٩، سنن ابن ماجه رقم ١٤٤٣

<sup>26</sup> شعب الإيمان رقم ٨٧٨٦

<sup>27</sup> صحيح البخاري رقم ٣٦١٦

<sup>28</sup> سنن ابن ماجه رقم ١٤٣٨

<sup>29</sup> سنن أبي داود رقم ٣٠٩٩

<sup>30</sup> صحيح البخاري رقم ٣٦١٦

<sup>31</sup> سنن أبي داود رقم ٣١٠٨

*I beseech Allah تَبَارَكَ وَتَعَالَى, the Almighty, the Rabb of the great throne, to cure you.*

6. If it will not cause any inconvenience, then one may ask the sick person to make dua to Allah تَبَارَكَ وَتَعَالَى on his behalf.<sup>32</sup>
7. It is sunnah for one to make wudhu before visiting the sick.<sup>33</sup>

Now that we have understood some of the masaa'il pertaining to the old and terminally ill, we will proceed to discuss the masaa'il that pertain to the person who is in the throes of death.

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<sup>32</sup> سنن ابن ماجه رقم ١٤٤١

<sup>33</sup> سنن أبي داود رقم ٣٠٩٩



# Chapter Three – Throes of Death

## The Final Moments

When a person is on his deathbed and his breathing becomes difficult, the limbs of his body become loose, he is unable to stand, his nose becomes slightly bent and his temples begin to sink in, one should realise that the time of death has approached. In Shari'ah, such a person is known as a 'muhtadhar' (محتضر).<sup>34</sup>

We have been advised in the Mubaarak Ahaadith to recite Surah Yaaseen or Surah Baqarah near the dying person as it has been experienced that through the recitation of these Surahs, the pangs of death are lightened. If one is unable to recite it himself then he should ask someone else to recite it near the dying person.<sup>35</sup>

This is indeed a very crucial moment for the dying person. Hence, those seated around him should not speak of anything that will divert the attention of the dying person away from Allah تَبَارَكَ وَتَعَالَى towards the material things of the world. This is the time when the dying person is

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<sup>34</sup> وعلامات الاحتضار أن تسترخي قدماه فلا تنتصبان ويتعوج أنفه وينخسف صدغاه وتمتد جلدة الخضبة كذا في التبيين وتمتد جلدة وجهه

فلا يرى فيها تعطف هكذا في السراج الوهاج (الفتاوى الهندية ١٥٧/١)

<sup>35</sup> و يندب قراءة يسن والرعد قال الشامي : لقوله صلى الله عليه وسلم اقرءوا على موتاكم يسن صححه ابن حبان وقال المراد به من حضره الموت وروى أبو داود عن مجاهد عن الشعبي قال : كانت الأنصار إذا حضروا قرءوا عند الميت سورة البقرة إلا أن مجاهدا مضجع حلية (قوله والرعد) هو استحسان بعض المتأخرين لقول جابر رضي الله عنه إنما تحون عليه خروجه إمداد (رد المحتار ١٩١/٢)

about to leave the worldly abode and present himself in the court of Allah تَبَارَكَ وَتَعَالَى.<sup>36</sup>

## Posture of the Muhtadhar

When a person begins to experience the pangs of death (sakaraatul maut), it is sunnah that he be made to lie on his right side facing the qiblah. If this is difficult, he should be made to lie flat on his back with his feet facing towards the qiblah. His head will be slightly raised so that his face could also be towards the qiblah. If even this is difficult then he should be left in whichever position he is in.<sup>37</sup>

## Talqeen at the time of death

It is mustahab for those seated around the dying person to begin reciting the Kalimah aloud so that this will be an encouragement for him to also recite the Kalimah. This is called talqeen of the Shahaadatain to the dying person. Those around the dying person should not instruct him to recite the Kalimah as this is a very crucial

<sup>36</sup> عن أم سلمة قالت قال رسول الله صلى الله عليه وسلم إذا حضرتم المريض أو الميت فقولوا خيرا فإن الملائكة يؤمنون على ما تقولون قالت فلما مات أبو سلمة أتيت النبي صلى الله عليه وسلم فقلت يا رسول الله إن أبا سلمة قد مات قال قولي اللهم اغفر لي وله وأعقبني منه عقبى حسنة قالت فقلت فأعقبني الله من هو خير لي منه محمدا صلى الله عليه وسلم (صحيح مسلم رقم 919)

(وأعقبني) من الإعقاب أي أبدلي وعوضني (منه) أي في مقابلته (عقبى) كبشرى أي بدلا صالحا (حاشية السندهي عل سنن النسائي

(208/1)

ذكر الشيخ مولانا أشرف علي التهانوي رحمه الله هذا الأدب في "بمبشتي زيور" وعلق عليه المفتي محمود حسن الكنكوهي رحمه الله أن هذا الأدب يخرج من عموم لفظ الخير المذكور في هذه الرواية ونصه هذا قال : ومن الخير له ما ذكره المؤلف كما لا يخفى

<sup>37</sup> ( يوجه المختصر ) وعلامته استرخاء قدميه واعوجاج منخرن وانخساف صدغيه ( القبلة ) على يمينه هو السنة ( وجاز الاستلقاء ) على ظهره ( وقدماء إليها ) وهو المعتاد في زماننا ( و ) لكن ( يرفع رأسه قليلا ) ليتوجه للقبلة ( وقيل يوضع كما تيسر على الأصح ) صححه في المبتهني ( وإن شق عليه ترك على حاله ) والمرحوم لا يوجه معراج قال الشامي : قوله ( وجاز الاستلقاء ) اختاره مشايخنا بما وراء النهر لأنه أيسر لخروج الروح وتقبه في الفتح وغيره بأنه لا يعرف إلا نقلا والله أعلم بالأيسر منهما ولكنه أيسر لتغميضه وشد لحييه وأمنع من تقوس أعضائه بحر قوله ( ليتوجه للقبلة ) عبارة الفتح ليصير وجهه إلى القبلة دون السماء قوله ( ترك على حاله ) أي ولو لم يكن مستلقيا أو متوجها ( رد اختار

(189/2)



and difficult time and one does not know how the dying person will respond. However, they should prompt the dying person to recite the Shahaadatain by reciting it in an audible manner<sup>38</sup>

Once he recites the Kalimah, it is not necessary for those around him to prompt him to recite it again as the purpose has been achieved i.e. the last words uttered by the dying person should be the Kalimah or any zikr of Allah تَبَارَكَ وَتَعَالَى. However, if the dying person speaks of any worldly affair after having recited the Kalimah, then those around him should once again commence reciting the Kalimah in order to encourage him to repeat it.<sup>39</sup>

عن يحيى بن عمارة قال سمعت أبا سعيد الخدري رضي الله عنه يقول قال رسول الله صلى الله عليه وسلم لقنوا موتاكم لا إله إلا الله<sup>٤٠</sup>

*Hazrat Abu Sa'eed Khudri رَضِيَ اللهُ عَنْهُ reports that he heard Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ saying: "Encourage the dying person to recite لا إله إلا الله"*

عن معاذ بن جبل رضي الله عنه قال قال رسول الله صلى الله عليه وسلم من كان آخر كلامه لا إله إلا الله دخل الجنة<sup>٤١</sup>

*Hazrat Mu'aaz bin Jabal رَضِيَ اللهُ عَنْهُ reports that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said: "The one whose last words uttered are the Kalimah لا إله إلا الله will enter Paradise."*

<sup>38</sup> ولقن الشهداءتين وصورة التلقين أن يقال عنده في حالة النزح قبل الغرغرة جهرا وهو يسمع أشهد أن لا إله إلا الله وأشهد أن محمدا رسول الله ولا يقال له قل ولا يلح عليه في قولها بخافة أن يضحرك (الفتاوى الهندية ١٥٧/١)

<sup>39</sup> فإذا قالها مرة لا يعيدها عليه الملقن إلا أن يتكلم بكلام غيرها كذا في الجوهرة النيرة وهذا التلقين مستحب بالإجماع (الفتاوى الهندية

١٥٧/١)

<sup>٤٠</sup> صحيح مسلم رقم ٩١٦

<sup>٤١</sup> سنن أبي داود رقم ٣١١٨

## Unknowingly Uttering Words of Kufr at the Time of Death

While experiencing the pangs of death, if words of kufr were uttered by the dying person, then neither should any attention be paid towards it nor should it be publicised. Instead, it should be felt that the dying person, on account of the difficulty of death, was not in his normal state of mind and had thus unrealizingly uttered such words. It is well known that the person who utters words of kufr while he is not in his senses will be forgiven. Dua should continuously be made for the assistance and salvation of the dying person.<sup>42</sup>

## Final Moments of the Pious

When Hazrat Bilaal رَضِيَ اللهُ عَنْهُ was about to pass away, his wife began to say: “Ah, how sad! You are departing from this world.” Hazrat Bilaal رَضِيَ اللهُ عَنْهُ replied: “How pleasant and joyful it is that tomorrow we will meet our friends, we will meet Hazrat Muhammad صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ and his companions.”<sup>43</sup>

Abdullah bin Moosa says: “I was once on a journey when Ali bin Saalih رَضِيَ اللهُ عَنْهُ passed away. On my return, I visited his brother, Hasan bin Saalih, to pay my condolences and I was overtaken by weeping. His brother said: “First listen to his story before you weep. His story is unique and one of great pleasure. He asked me to bring water to him while he was in the throes of death. When I took the water to him, he said: “I have already drunk.” I asked him who had provided the drink. He replied: “Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ came with numerous rows of angels and provided me with water.” I asked him (to verify that he was in his senses), “How were the rows of angels formed?” He replied: “One above the other.”<sup>44</sup>

<sup>42</sup> وقالوا: إنه إذا ظهر منه ما يوجب الكفر لا يحكم بكفره حملا على أنه زال عقله واختار بعضهم زوال عقله عند موته لهذا الخوف (حاشية

الطحطاوي على مراقي الفلاح ص ٥٥٩)

<sup>43</sup> سير أعلام النبلاء ٢٢٣/٣

# Chapter Four – After Death

## What Should be Done Immediately After Death?

1. Once the person passes away, his eyes should be closed and his limbs should be straightened. His hands should be placed at his sides while his fingers and joints should be loosened. His mouth should be closed by tying a cloth from below the chin around both sides of his head. The cloth should be knotted so that the mouth does not open. The Fuqahaa explain that this should be done in order for the ghusal to take place correctly. At times, after the person's demise, the body becomes stiff and while giving ghusal, water does not reach all parts of the body. Therefore, straightening the limbs of the deceased upon his demise will ensure that at the time of ghusal, the water will reach the entire body easily.<sup>45</sup>

The following dua will be recited when closing the mouth and eyes of a male deceased:

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<sup>45</sup> ( وإذا مات تشد لحياه وتغمض عيناه ) تحسینا له ویقول مغمضه بسم الله وعلی ملة رسول الله اللهم یسر علیه أمره وسهل علیه ما بعده وأسعده بلقائک واجعل ما خرج إلیه خیرا مما خرج عنه ثم تمد أعضاؤه ویوضع علی بطنه سیف أو حدید لئلا ینتفخ ویحضر عنده الطیب (الدر المختار ۱۹۳/۲)

فإذا مات شدوا لحیبه وغمضوا عینیہ ویتولی أرقف أهله به إغماضه بأسهل مما یقدر علیه ویشد لحیاه بعصاة عریضة یشدھا فی لحیه الأسفل ویربطھا فوق رأسه کذا فی الجوهرة النيرة (الفتاوی الهندیة ۱/۱۵۷)

(وتوضع یداه بجنبیه) إشارة لتسلیمه الأمر لربه (ولا یجوز وضعهما علی صدره) لأنه صنیع أهل الكتاب وتلین مفاصله وأصابه بأن یرد ساعده لعضده وساقه لفخذہ وفخذہ لبطنه ویردها ملینة لیسهل غسله وإدراجه فی الکفن (حاشیة الطحطاوی علی مراقی الفلاح ص ۵۶۴)

اللَّهُمَّ اغْفِرْ لِفُلَانٍ وَأَرْفَعْ دَرَجَتَهُ فِي الْمَهْدِيِّينَ وَاخْلُفْهُ فِي عَقِبِهِ فِي الْعَابِرِينَ وَاعْفِرْ لَنَا وَلَهُ يَا رَبَّ  
الْعَالَمِينَ اللَّهُمَّ افسَحْ لَهُ فِي قَبْرِهِ وَنَوِّرْ لَهُ فِيهِ<sup>٤٦</sup>

*O Allah, forgive (so and so) and raise his rank among the rightly guided, and You be his guardian in seeing to the affairs of those he has left behind (his family). Forgive our sins and forgive the sins of the deceased O Rabb of the worlds. O Allah, expand his grave and illuminate it for him (through your mercy).*

The following dua will be recited when closing the mouth and eyes of a female deceased:

اللَّهُمَّ اغْفِرْ لِفُلَانٍ وَأَرْفَعْ دَرَجَتَهَا فِي الْمَهْدِيِّينَ وَاخْلُفْهَا فِي عَقِبِهَا فِي الْعَابِرِينَ وَاعْفِرْ لَنَا وَلَهَا يَا  
رَبَّ الْعَالَمِينَ اللَّهُمَّ افسَحْ لَهَا فِي قَبْرِهَا وَنَوِّرْ لَهَا فِيهِ

The following duas may also be recited at the time of closing the eyes of the mayyit:

بِسْمِ اللَّهِ وَعَلَى مِلَّةِ رَسُولِ اللَّهِ<sup>٤٧</sup>

*I begin in the name of Allah تَبَارَكَ وَتَعَالَى and upon the Deen of Rasulullah*

صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

بِسْمِ اللَّهِ وَعَلَى مِلَّةِ رَسُولِ اللَّهِ اللَّهُمَّ يَسِّرْ عَلَيْهِ أَمْرَهُ وَسَهِّلْ عَلَيْهِ مَا بَعْدَهُ  
وَأَسْعِدْهُ بِلِقَائِكَ وَاجْعَلْ مَا خَرَجَ إِلَيْهِ خَيْرًا مِمَّا خَرَجَ عَنْهُ<sup>٤٨</sup>

<sup>٤٦</sup> عن أم سلمة رضي الله عنها قالت دخل رسول الله صلى الله عليه وسلم على أبي سلمة وقد شق بصره فأغمضه ثم قال : إن الروح إذا قبض تبعه البصر فضج ناس من أهله فقال : لا تدعوا على أنفسكم إلا بخير فإن الملائكة يؤمنون على ما تقولون ثم قال : اللهم اغفر لأبي سلمة وارفع درجته في المهديين واخلفه في عقبه في الغابرين واغفر لنا وله يا رب العالمين وافسح له في قبره ونور له فيه (صحيح مسلم رقم ٩٢٠ ، الحصن الحصين ص ١٧٩)

<sup>٤٧</sup> عن بكر بن عبد الله قال: إذا غمضت الميت فقل: بسم الله، وعلى ملة رسول الله صلى الله عليه وسلم، وإذا حملته فقل: بسم الله، ثم سبح ما دمت تحمله (السنن الكبرى للبيهقي رقم ٦٦٠٩) ، قال النووي في الأذكار (رقم ٤٢٣) : رويها في سنن البيهقي بإسناد صحيح عن بكر بن عبد الله التابعي الجليل قال : إذا غمضت الميت فقل : بسم الله وعلى ملة رسول الله صلى الله عليه وسلم وإذا حملته فقل : بسم الله ثم سبح ما دمت تحمله

*I begin in the name of Allah تَبَارَكَ وَتَعَالَى and upon the Deen of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. O Allah! Grant him ease in his current condition and make the stages that follow easy for him. Favour him and bless him with the honour of meeting You, and make the abode of the Akhirah better than the world.*

2. Finally, the clothing will be removed and a sheet will be placed upon the entire body.<sup>49</sup>

## Bringing Discomfort to the Dying person

The eyes of the mayyit should only be closed once the rooh leaves the body and it is certain that he has passed away.

Abu Maysarah رَحِمَهُ اللهُ says: I closed the eyes of Ja'far Al-Mu'allim رَحِمَهُ اللهُ when he was on his deathbed. That same night, I saw him in a dream saying to me: 'Your closing my eyes before I could pass away caused me a great amount of discomfort and dissatisfaction.'<sup>50</sup>

## As You live, So Shall You Die

A person, throughout his life, should engage in righteousness and refrain from leading a life of sin. The Ulama explain that the manner in

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<sup>49</sup> ويقول مغمضه بسم الله وعلى ملة رسول الله صلى الله عليه وسلم اللهم يسر عليه أمره وسهل عليه ما بعده وأسعده بلقائك واجعل ما خرج إليه خيرا مما خرج عنه (البحر الرائق ٢/١٨٤)

<sup>50</sup> أقول لم نجد هذا الدعاء بهذه الألفاظ منقولا في أي كتاب من كتب الأحاديث ولعل الفقهاء أخذوه من معنى رواية أم سلمة رضي الله عنها حيث دعا رسول الله صلى الله عليه وسلم لأبي سلمة رضي الله عنه حين أغمض عينيه رضي الله عنه بعد موته وهذه الرواية قد مرت تحت الرقم

<sup>49</sup> ويستحب أن يتزع عنه ثيابه التي مات فيها ويسجى جميع بدنه بثوب (الفتاوى الهندية ١/١٥٧)

<sup>50</sup> قال أبو داود وتغميض الميت بعد خروج الروح سمعت محمد بن محمد بن النعمان المقرئ قال سمعت أبا ميسرة رجلا عابدا يقول غمضت جعفرًا المعلم وكان رجلا عابدا في حالة الموت فرأيتني في منامي ليلة مات يقول أعظم ما كان على تغميضك لي قبل أن أموت (سنن أبي داود

which a person lives is how he will pass away, and the manner in which he passes away is how he will be resurrected.<sup>51</sup>

Rabee' bin Bazah رَجَاءُ اللَّهِ was a pious person who used to live in Basrah. He says: "A person was once in the pangs of death. The people around him prompted him to recite the Kalimah, but instead the words that were continuously coming out from his mouth were 'Give me a glass of liquor and you also drink... Give me a glass of liquor and you also drink.'" Similarly, there was person in Ahwaz who was in the throes of death. The people around him prompted him to recite the Kalimah, but he was continuously saying, "Ten rupees, eleven rupees, twelve rupees..."<sup>52</sup>

## How Should the Family Conduct?

The family of the deceased should exercise patience at the time of the tragedy. They should remain steadfast and conduct themselves in accordance to the teachings of Islam. They should be pleased with the decree of Allah تَبَارَكَ وَتَعَالَى and understand that death is inevitable. Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ has taught us in his Mubaarak Hadith that upon the death of a believer, we should recite:

إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ<sup>53</sup>

*To Allah تَبَارَكَ وَتَعَالَى we belong and to Him is our return.*

This Hadith reminds us of the fact that everything belongs to Allah تَبَارَكَ وَتَعَالَى and everything will have to ultimately return to Him one day. It is permissible to express grief and sadness at the time of a calamity or the loss of a near one. It is even permissible to give vent to one's inner emotions and feelings through shedding tears. However, the family

<sup>51</sup> سنن ابن ماجه رقم ٤٢٦٨

(وعليه تبعث) يعني كما تعيش تموت وكما تموت تحشر إن شاء الله تعالى للترك أو للتحقيق كقوله تعالى إن شاء الله آمين (مرقاة ٣٦٤/١)

Fazaail Sadaqaat pg. 594<sup>52</sup>

<sup>53</sup> صحيح مسلم رقم ٩١٨

should refrain from uttering such statements which amount to disrespect or displeasure with the decree of Allah تَبَارَكَ وَتَعَالَى.

عن أنس بن مالك رضي الله عنه قال دخلنا مع رسول الله صلى الله عليه وسلم على أبي سيف القين وكان ظئرا لإبراهيم عليه السلام فأخذ رسول الله صلى الله عليه وسلم إبراهيم فقبله وشمه ثم دخلنا عليه بعد ذلك وإبراهيم يجود بنفسه فجعلت عينا رسول الله صلى الله عليه وسلم تذر فان فقال له عبد الرحمن بن عوف رضي الله عنه وأنت يا رسول الله فقال يا ابن عوف إنها رحمة ثم أتبعها بأخرى فقال صلى الله عليه وسلم إن العين تدمع والقلب يحزن ولا نقول إلا ما يرضى ربنا وإنا بفراقك يا إبراهيم لمحزونون<sup>٥٤</sup>

*Hazrat Anas reports, "We once went to (the home of) Hazrat Abu Saif, the blacksmith, with Rasulallah ﷺ. Hazrat Abu Saif was the foster father of Hazrat Ebrahim, the son of Rasulallah ﷺ. Rasulallah ﷺ (entered the home and) picked Hazrat Ebrahim up, kissed him and smelt him. We thereafter entered into the presence of Rasulallah ﷺ while Hazrat Ebrahim was in the throes of death, about to breathe his last. (On seeing his son in the throes of death,) tears began to roll down the blessed cheeks of Rasulallah ﷺ. Hazrat Abdur Rahmaan bin Auf asked, "O Rasulallah ﷺ, how is it that we see you crying?" (Whereas I was under the impression that crying at the time of a person's death is impermissible). Rasulallah ﷺ then said, "O Ibnu Auf, my shedding tears is out of compassion and mercy (over the difficulty that the child is going through)." He ﷺ then uttered the following statement, "The eyes shed tears and the heart is filled with grief and sorrow (over the demise). However, we will (be pleased with the decree of Allah تَبَارَكَ وَتَعَالَى and) not utter anything except that which is pleasing to our Rabb, and certainly O Ebrahim, we are grieved over your separation." "*

Though Islam permits one to express grief and sorrow at the time of a calamity and even permits shedding tears, Islam condemns wailing, shouting or crying aloud as this is emulating the ways of the kuffaar.

عن عبد الله رضي الله عنه عن النبي صلى الله عليه وسلم قال ليس منا من شق الجيوب  
وضرب الحدود ودعا بدعوة الجاهلية<sup>٥٥</sup>

*Hazrat Abdullah bin Mas'ood رَضِيَ اللهُ عَنْهُ reports that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "Those who (at the time of a calamity emulate the kuffaar and) tear their clothes, slap their cheeks and make statements similar to the statements of the time of ignorance are not from among us."*

## Duas to be Recited by the Bereaved

The family of the deceased should recite the following duas:

إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ ، اللَّهُمَّ أَجْرِي فِي مُصِيبَتِي وَأَخْلِفْ لِي خَيْرًا مِنْهَا<sup>53</sup>

*To Allah تَبَارَكَ وَتَعَالَى we belong, and to Him shall we return. O Allah, reward me in my calamity and grant me something better in place of it.*

اللَّهُمَّ اغْفِرْ لِي وَلَهُ وَاعْقِبْنِي مِنْهُ عَقْبِي حَسَنَةً<sup>36</sup>

*O Allah, forgive me and forgive the deceased, and bless me with a good substitute in place of him (the person I lost).*



## The Incident of Hazrat Ummu Salamah

رَضِيَ اللهُ عَنْهَا

Hazrat Ummu Salamah رَضِيَ اللهُ عَنْهَا reports that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, “Whenever a calamity befalls a Muslim, and he then recites what Allah تَبَارَكَ وَتَعَالَى has commanded him to recite i.e.

إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ ، اللَّهُمَّ أَجْزِنِي فِي مُصِيبَتِي وَأَخْلِفْ لِي خَيْرًا مِنْهَا

*To Allah تَبَارَكَ وَتَعَالَى we belong, and to Him shall we return. O Allah, reward me in my calamity and grant me something better in place of it.*

Allah تَبَارَكَ وَتَعَالَى will reward him and bless him with something better than what he had lost.”

Hazrat Ummu Salamah رَضِيَ اللهُ عَنْهَا further says, “When my husband (Hazrat Abu Salamah رَضِيَ اللهُ عَنْهُ) passed away, I recited the above-mentioned dua according to the instruction of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. However, I thought to myself, ‘Who could be better than my husband, Hazrat Abu Salamah رَضِيَ اللهُ عَنْهُ?’ Nevertheless, since it was the teaching of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ to recite this dua and beseech Allah تَبَارَكَ وَتَعَالَى to bless one with something better than the thing that one had lost, I complied with the command of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ and recited the dua. The outcome was such that Allah تَبَارَكَ وَتَعَالَى blessed me with the greatest husband, Hazrat Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ.”<sup>36 53</sup>

## The Rewards of Exercising Patience at the time of a Calamity

Allah تَبَارَكَ وَتَعَالَى has created the Hereafter as an abode of recompense. The believers will be blessed with Jannah and the disbelievers will be punished with Jahannum. Jannah is an abode of eternal bliss and enjoyment, and Jahannum is an abode of eternal misery and punishment. As far as this world is concerned, it is a combination of

enjoyment and difficulty. There are moments where one will enjoy ease and comfort and there are other moments where one will face trials and tribulations.

Allah تَبَارَكَ وَتَعَالَى has commanded the believers to exercise patience at the time of a trial and turn to Allah تَبَارَكَ وَتَعَالَى. Great rewards have been promised in the Quraan Majeed and Hadith for the one who exercises patience at the time of difficulty.

Allah تَبَارَكَ وَتَعَالَى says in the Quraan Majeed:

وَلَنَبْلُوَنَّكُمْ بِشَيْءٍ مِّنَ الْخَوْفِ وَالْجُوعِ وَنَقْصٍ مِّنَ الْأَمْوَالِ وَالْأَنْفُسِ وَالشَّرَاتِ ط وَبِشْيِ  
الضَّرِيبِ ۗ ۝۱۵۵ الَّذِينَ إِذَا أَصَابَتْهُمُ مُصِيبَةٌ قَالُوا إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ ۝۱۵۶ أُولَٰئِكَ عَلَيْهِمْ  
صَلَوَاتٌ مِّن رَّبِّهِمْ وَرَحْمَةٌ ۗ وَأُولَٰئِكَ هُمُ الْمُهْتَدُونَ ۝۱۵۷

*We shall certainly test you with some fear and hunger and loss in wealth and lives and fruit, and give glad tidings to those who patiently persevere.*

*They are those who say (in complete submission and obedience to the decree of Allah تَبَارَكَ وَتَعَالَى) when afflicted with a calamity “To Allah we belong, and to Him is our return”. Those are the ones upon whom blessings from Allah and Mercy (descend), and they are the rightly guided ones. (Surah Baqarah 155-157)*

## The Reward of Exercising Patience at the Loss of One's Child

عن أبي موسى الأشعري رضي الله عنه أن رسول الله صلى الله عليه وسلم قال إذا مات ولد العبد قال الله لملائكته قبضتم ولد عبدي فيقولون نعم فيقول قبضتم ثمرة فؤاده فيقولون نعم

فيقول ماذا قال عبدي فيقولون حمدك واسترجع فيقول الله ابنا لعبدي بيتا في الجنة وسموه بيت الحمد<sup>٥٦</sup>

*Hazrat Abu Moosa رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "When the child of a person passes away, Allah تَبَارَكَ وَتَعَالَى addresses the angels saying, 'Did you take away the soul of My servant's son?' The angels reply in the affirmative. Allah تَبَارَكَ وَتَعَالَى then asks, 'Did you take away the fruit of his heart?' The angels again reply in the affirmative. Allah تَبَارَكَ وَتَعَالَى then asks, 'How did My servant respond?' The angels reply, 'He praised You and recited 'Inna lillaahi...'. Allah تَبَارَكَ وَتَعَالَى then says, "Build for My servant a palace in Paradise, and name it 'Baytul Hamd'."*

عن أبي هريرة رضي الله عنه أن رسول الله صلى الله عليه وسلم قال يقول الله تعالى ما لعبدي المؤمن عندي جزاء إذا قبضت صفيه من أهل الدنيا ثم احتسبه إلا الجنة<sup>٥٧</sup>

*Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said that Allah تَبَارَكَ وَتَعَالَى says, "The reward kept in store for My servant when I take away from him his beloved from the people of the world, (and then he remains patient) and has hope for reward, is none other than Paradise."*

Hazrat Mu'aawiya bin Qurrah رَضِيَ اللهُ عَنْهُ relates that he heard his father saying, "Whenever Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ would sit (in the masjid or any other place), a group of his companions would gather and sit around him. Among them was a person who had a young son. The son used to come to his father from behind, and (out of love) he used to make him sit in front of him. Some time later, the son passed away. On account of the excessive grief which he underwent on the loss of his son, he remained aloof and stopped attending the gatherings of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ did not find this Sahaabi رَضِيَ اللهُ عَنْهُ present and thus enquired from the Sahaabah رَضِيَ اللهُ عَنْهُم regarding him. The Sahaabah رَضِيَ اللهُ عَنْهُم mentioned, "O Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, his son

<sup>٥٦</sup> جامع الترمذي رقم ١٠٢١

<sup>٥٧</sup> صحيح البخاري رقم ٦٤٢٤

which you would see (with him) passed away.” Rasulallah ﷺ went to meet him and asked him about his son. He informed Rasulallah ﷺ that his son had passed away. Rasulallah ﷺ consoled him on the loss of his son and thereafter said to him, “What will please you more? To remain with your son throughout your life and benefit from him or (for him to anxiously wait for you in the Hereafter so that when you reach Paradise,) whichever door of the doors of Jannah you come to tomorrow, you will find that he had preceded you to the door, waiting to open it for you. The Sahaabi رَضِيَ اللهُ عَنْهُ then says, “O Rasulallah ﷺ, his waiting for me in Paradise and opening the door of Paradise for me is more beloved to me (than his remaining with me in the world).” Rasulallah ﷺ then said, “Then Allah تَبَارَكَ وَتَعَالَى will bless you with this.”<sup>58</sup>

## Around the mayyit

- If possible, some incense should be burnt near the deceased. The reason for burning incense near the deceased is to remove any bad odour that may come out from the body of the deceased at the time of his demise or after his demise.<sup>59</sup>
- Women in the state of nifaa or haidh, people in the state of janaabat and disbelievers should not sit around the deceased.<sup>60</sup>

<sup>58</sup> سنن النسائي رقم ٢٠٨٨

<sup>59</sup> (فيوضع كما مات) الكاف للمفاجأة إذا تيقن في موته (على سرير مجمر) أي مبخر إخفاء لكرهه الرائحة وتعظيمها للميت قوله : (مجمر أي مبخر) بنحو عود ثم المتبادر أن فعل ذلك قبل وضعه عليه وقبل عند إرادة غسله إخفاء للرائحة الكريهة عيني (مراقبي حاشية الطحطاوي على مراقبي الفلاح ص٥٦٦)

<sup>60</sup> ويخرج من عنده الحائض والنفساء والجنب قال الشامي : قوله ( ويخرج من عنده الخ ) في النهر وينبغي إخراج الحائض الخ وفي نور الإيضاح واحتلف في إخراج الحائض (رد المحتار ١٩٣/٢)

( واحتلفوا في إخراج الحائض والنفساء ) والجنب ( من عنده ) وجه الإخراج امتناع حضور الملائكة محلا به حائض أو نفساء كما ورد ويحضر عنده طبيب

- It is makrooh to recite the Quraan Majeed near or around the deceased before he is given ghusal.<sup>61</sup> However, engaging in zikr is permissible.<sup>62</sup>

## A Few Guidelines for the Family to Follow after a Person Passes Away

1. The family should obtain a doctor's certificate.
2. They should obtain a burial order.
3. They should obtain a death certificate.
4. They should inform other relatives and friends of the death and of the time of the janaazah.
5. They should arrange for the qabr to be prepared.
6. They should give ghusal to the mayyit.
7. They should enshroud the mayyit in the kafan.
8. They should make arrangements for the mayyit to be transported to the cemetery if the cemetery is at a distance.
9. The heirs should hasten in settling the debts of the deceased before the estate is wound and distributed.

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قال الطحطاوي : قوله ( وجه الإخراج إلخ ) إخراجهم على سبيل الأولوية إذا كان عن حضورهم غنى فلا يباي ما ذكره الكاكي من أنه لا يمتنع حضور الجنب والحائض وقت الاحتضار ووجه عدم الإخراج أنه قد لا يمكن الإخراج للشفقة أو للاحتياج إليهن ونص بعضهم على إخراج الكافر أيضا وهو حسن (حاشية الطحطاوي على مراقي الفلاح ص ٥٦٣)

<sup>٦١</sup> ويكره قراءة القرآن عنده حتى يغسل كذا في التبيين (الفتاوى الهندية ١/١٥٧)

<sup>٦٢</sup> قلت : وليس في التنف إلى الغسل بل إلى أن يرفع فقط وفسره في البحر برفع الروح وعبارة الزيلعي وغيره تكره القراءة عنده حتى يغسل وعلمه الشرنبلالي في إمداد الفتاح تنزيها للقرآن عن نجاسة الميت لتنجسه بالموت قبل نجاسة نحيب وقيل حدث وعليه فينبغي جوازها كقراءة المحدث (الدر المختار ٢/١٩٣)

(ولا بأس) لحائض وجنب (بقراءة أدعية ومسها وحملها وذكر الله تعالى، وتسييح) (الدر المختار ١/٢٩٣) انظر أيضا فتاوى رحيمية ٦١/٧



# Chapter Five – Ghusal of the Deceased

## The Shar'ee Status of Ghusal of the Deceased

Giving ghusal to the deceased is fardh-e-kifaayah in Deen. Fardh-e-kifaayah refers to those obligatory actions which are compulsory upon all Muslims who have knowledge of the condition. However, through some Muslims fulfilling this fardh duty, all the Muslims will be absolved. If none of the Muslims fulfil the obligation then all will be sinful.<sup>63</sup>

## Reward for Carrying Out the Ghusal

وعن جابر بن عبد الله رضي الله عنه قال قال رسول الله صلى الله عليه و سلم من حفر قبراً بنى الله له بيتاً في الجنة ومن غسل ميتاً خرج من ذنوبه كيوم ولدته أمه ومن كفن ميتاً كساه الله من حلل الجنة ومن عزى حزيناً ألبسه الله التقوى وصلّى على روحه في الأرواح ومن عزى مصاباً كساه الله حلتين من حلل الجنة لا تقوم لهما الدنيا ومن اتبع جنازة حتى

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<sup>63</sup> مطلب في الفرق بين فرض العين وفرض الكفاية وحاصله: أن فرض الكفاية ما يكفي فيه إقامة البعض عن الكل؛ لأن المقصود حصوله في نفسه من مجموع المكلفين كتغسيل الميت وتكفينه ورد السلام بخلاف فرض العين؛ لأن المطلوب إقامته من كل عين أي من كل ذات مكلفة بعينها، فلا يكفي فيه فعل البعض عن الباقي، ولذا كان أفضل كما مر؛ لأن العناية به أكثر ثم إن فرض الكفاية إنما يجب على المسلمين العالمين به سواء كانوا كل المسلمين شرقاً ومغرباً أو بعضهم (رد المختار ٤/١٢٣)

يقضى دفنها كتب له ثلاثة قراريط القيراط منها أعظم من جبل أحد ومن كفل يتيما أو  
أرملة أظله الله في ظله وأدخله الجنة<sup>٦٤</sup>

*Hazrat Jaabir bin Abdillah رَضِيَ اللهُ عَنْهُ narrates that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "Whoever digs a grave, Allah تَبَارَكَ وَتَعَالَى will build for him a home in Jannah. Whoever gives ghusal to a deceased, he will be cleansed from his sins like the day his mother gave birth to him. Whoever enshrouds a deceased, Allah تَبَارَكَ وَتَعَالَى will clothe him with a garment from the garments of Jannah. Whoever consoles a person in grief (e.g. the bereaved), Allah تَبَارَكَ وَتَعَالَى will clothe him with the clothing of taqwa and shower His mercy upon his soul, among the other souls. Whoever consoles a person afflicted by a calamity, Allah تَبَارَكَ وَتَعَالَى will clothe him with two garments from the garments of Jannah, which are so valuable that the entire world cannot equal their value. Whoever follows a janaazah until its burial is complete, he will receive three qeeraat, of which just one qeeraat is greater than the Mountain of Uhud. Whoever supports an orphan or widow, Allah تَبَارَكَ وَتَعَالَى will grant him from His shade and admit him into Jannah."*

## Masaa'il Pertaining to those Performing the Ghusal

1. It is preferable for those giving the ghusal to be in the state of wudhu.<sup>65</sup>
2. It is makrooh for a woman in the state of haidh or nifaas to give ghusal to the deceased.<sup>65</sup>
3. It is preferable for the close relatives to give the ghusal. If they are not present or unable to give the ghusal, then any pious person should carry it out.<sup>66</sup>

<sup>٦٤</sup> رواد الطبراني في الأوسط وفيه الخليل بن مرة وفيه كلام (مجمع الزوائد رقم ٤٠٦٦)

<sup>٦٥</sup> وينبغي أن يكون غاسل الميت على الطهارة كذا في فتاوى قاضي خان ولو كان الغاسل جنباً أو حائضاً أو كافراً جاز ويكره كذا في معراج

الدرية ولو كان محدثاً لا يكره اتفاقاً هكذا في الفتاوى الهندية ١/١٥٩



4. However, it should be noted that only males should give ghusal to males and only females should give ghusal to females.<sup>67</sup>
5. If a male child passes away, then males should give him ghusal, and if a female child passes away, then females should give her ghusal. If the child (boy or girl) is extremely young (i.e. the child has not reached the age of speaking and understanding or the age at which a person will be attracted to the child), then the ghusal can be carried out by males or females.<sup>67</sup>

## Ghusal Requirements

The following items are required for the ghusal:

1. Clean, lukewarm water should be used for the ghusal.
2. A broad bench, stand or platform on which the mayyit will be placed at the time of giving ghusal.
3. One bucket of warm water to be used at the beginning, and one bucket of warm water mixed with camphor to be used at the end of the ghusal. If one needs to use more water for the ghusal, it will be permissible.
4. Two jugs for pouring water over the deceased.
5. If leaves of the lotus tree are available then one should mix it in lukewarm water. Otherwise one may use soap when washing the deceased. If leaves of the lotus tree and soap are not available then one may suffice on using lukewarm water to wash the deceased.
6. Cotton wool for cleaning the mayyit at the time of istinja.
7. Two pieces of material for covering the satar and gloves which will be used for the istinja so that one does not touch the private organs of the deceased with one's bare hands.

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<sup>66</sup> ويستحب للغاسل أن يكون أقرب الناس إلى الميت فإن لم يعلم الغسل فأهل الأمانة والورع كذا في الزاهدي (الفتاوى الهندية ١٥٩/١)

<sup>67</sup> ويغسل الرجال الرجال والنساء النساء ولا يغسل أحدهما الآخر فإن كان الميت صغيرا لا يشتهي جاز أن يغسله النساء وكذا إذا كانت صغيرة لا تشتهي جاز للرجال غسلها (الفتاوى الهندية ١٦٠/١)

8. Lobaan or any other paak incense to give the bench, stand or platform a good fragrance. (However if this is not available then there is no harm).
9. One clean sheet will be required to cover the body and satar of the deceased during the ghusal and another clean sheet will be required to cover the deceased before and after the ghusal.
10. One clean towel or a piece of material for drying the deceased.

## Preparation for the Ghusal

1. Once the necessary requirements for the ghusal and kafan are found, the deceased will be placed on a stretcher or bier and taken for the ghusal. If possible, incense sticks should be burnt one, three, five or seven times. The reason for burning incense near the deceased is to remove any bad odour that may come out from the body of the deceased.<sup>68</sup>
2. When the deceased is brought to the ghusal khana, his body will be laid on the place prepared for the ghusal. It is permissible to place the body in whichever position is easy.<sup>69</sup> His clothing will thereafter be removed. However, before removing his clothing, the area between his navel and knees will be covered with a thick, non-transparent cloth so that his satar will not be exposed.<sup>72</sup>

<sup>68</sup> (ويوضع) كما مات (كما تيسر) في الأصح (على سرير يجمر وترا) إلى سبع فقط فتح (ككفنه) وعند موته فهي ثلاث لا خلفه ولا في القبر. قال الشامي: قوله (كما مات) هذه الكاف الداخلة على ما تسمى كاف المبادرة مثل سلم كما تدخل كما في المغني أي أنه يوضع على السرير عقب عتب موته وقده القدوري بما إذا أرادوا غسله والأول أشبه كما في الزيلعي قوله (في الأصح) وقيل يوضع إلى القبلة طولا وقيل عرضا كما في القبر أفاده في البحر قوله (يجمر) أي مبخر وفيه إشارة إلى أن السرير يجمر قبل وضعه عليه تعظيما وإزالة للرائحة الكريهة منه نحر قوله (إلى سبع فقط) أي بأن تدار المحمّرة حول السرير مرة أو ثلاثا أو خمسا أو سبعا ولا يزداد عليها كما في الفتح و الكافي و النهاية وفي التبيين لا يزداد على خمسة قوله (ككفنه) فإنه يجمر وترا أيضا ط قوله (وعند موته) أفاده بقوله سابقا ويحضر عنده الطيب ط قوله (فهي ثلاث الخ) قال في الفتح وجميع ما يجمر فيه الميت ثلاث عند خروج روحه لإزالة الرائحة الكريهة وعند غسله وعند تكفينه ولا يجمر خلفه ولا في القبر لما روي لا تتبعوا الجنّارة بصوت ولا نار اهـ (رد المحتار ١٩٥/٢)

<sup>69</sup> فتاوى محمودية ٥١/١٣، امداد الفتاوى ٤٩٣/١، انظر أيضا ٦٨

3. One should ensure that the place in which the deceased is being given ghusal has a water outlet to allow the water to easily flow out.<sup>70</sup>

## Method of Bathing the Deceased

The following is the method of bathing the deceased:

### Istinja

One will commence the ghusal by making istinja (washing the private parts) for the deceased. While making the istinja, one should wear gloves. The private parts of the deceased should not be touched with one's bare hands. The istinja will be carried out by inserting the hands beneath the cloth which was placed over the satar. This will be done so that the satar of the mayyit does not get exposed. The satar of a male is the area from the naval to below the knees. The satar of a female before females is the same as the satar of a male. It is not permissible for the one carrying out the istinja or giving ghusal to a male or female to look at the private parts and satar area of the deceased.<sup>71</sup>

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Baheshti Zewar pg. 172 ۷۰

۷۱ (ويغسلها تحت خرقة) السرة (بعد لف) خرقة (مثلها على يديه) لحمة اللمس كالنظر (ويجرد) من ثيابه (كما مات) وغسله عليه الصلاة والسلام في قميصه من خواصه قال الشامي: قوله (لحمة اللمس كالنظر) يفيد هذا التعليل أن الصغير الذي لا عورة له لا يضر عدم ستره ط قوله (ويجرد من ثيابه) ليتمكنهم التنظيف لأن المقصود من الغسل هو التطهير والتطهير لا يحصل مع ثيابه لأن الثوب متى نتجس بالغسالة نتجس به بدنه ثانياً بنجاسة الثوب فلا يفيد الغسل فيجب التجريد كذا في العناية وظاهره أن الوجوب على ظاهره قوله (كما مات) لأن الثياب تحمي عليه فيسرع إليه التبغير بجر قوله (من خواصه) لما روى أبو داود أنهم قالوا نجده كما نجد موتانا أم نغسله في ثيابه فسمعوا من ناحية البيت اغسلوا رسول الله وعليه ثيابه قال ابن عبد البر روي ذلك عن عائشة من وجه صحيح فدل هذا أن عادتهم كانت تجريد موتاهم للغسل في زمنه صلى الله عليه وسلم شرح المنية زاد في المعراج وغسله ليس للتطهير لأنه كان طاهراً حياً وميتاً (رد المحتار ۱۹۵/۲) قال الشامي: تنبيه لم يذكر الاستنجاء للاختلاف فيه فعندهما يستنجي وعند أبي يوسف لا وصورته أن يلف الغاسل على يده خرقة ويغسل السواة لأن مسها حرام كالنظر جوهره (رد المحتار ۱۹۶/۲)

وتستر عورته بخرقه من السرة إلى الركبة كذا في محيط السرخسي وهو الصحيح كذا في المحيط ظاهر المذهب أن يستتر عورته الغليظة دون الفخذين كذا في الخلاصة هو الصحيح كذا في الهداية... ولا ينظر الرجل إلى فخذ الرجل عند الغسل وكذا المرأة لا تنظر إلى فخذ المرأة كذا

في التارخانية (الفتاوى الهندية ۱/۱۵۸)

## Wudhu

Wudhu will thereafter be made for the deceased. When carrying out the wudhu, one will begin by washing the face followed by washing the hands up to the elbows, then masah of the head will be made and lastly, the feet will be washed. The wudhu will be carried out in accordance to the normal method of wudhu, observing all the sunnats of the wudhu (e.g. khilaa of the beard, fingers and toes, masah of the ears, etc.). However, the only difference when making wudhu for the deceased is that the following three actions will not be carried out in the beginning of the wudhu; one will not commence the wudhu by washing the hands of the deceased till the wrists, gargling his mouth and putting water into his nostrils as is done by a living person. Rather, one will commence the wudhu by washing the face of the deceased.<sup>72</sup>

### Note:

- Some Fuqahaa have stated that it is permissible to wet some cotton wool and use it to clean the teeth and nostrils of the mayyit.<sup>73</sup>

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وأما بيان القسم الثاني فنقول نظر المرأة إلى المرأة كنظر الرجل إلى الرجل كذا في الذخيرة وهو الأصح هكذا في الكافي (الفتاوى الهندية ٣٢٧/٥)

انظر أيضاً أحسن الفتاوى ٢٤٧/٤

<sup>٧٢</sup> (ويوضأ) من يؤمر بالصلاة (بلا مضمضة واستنشاق) للحرص وقيل يفعلان بخرقه وعليه العمل اليوم ولو كان جنباً أو حائضاً أو نفساء فعلاً اتفاقاً تيمناً للظاهرة كما في إمداد الفتح مستمداً من شرح المقدسي ويبدأ بوجهه ويمسح رأسه قال الشامي: قوله (ويوضأ من يؤمر بالصلاة) خرج الصبي الذي لم يعقل لأنه لم يكن بحيث يصلي قاله الحلواني وهذا التوجيه ليس بقوي إذ يقال إن هذا الوضوء سنة الغسل المفروض للميت لا تعلق لكون الميت بحيث يصلي أو لا كما في الجنون شرح المنية ومقتضاه أنه لا كلام في أن الجنون يوضأ وأن الصبي الذي لا يعقل الصلاة يوضأ أيضاً على خلاف ما يقتضيه توجيه الحلواني من أنهما لا يوضئان (رد المحتار ١٩٥/٢) قال الشامي: قوله (ولو كان جنباً الخ) نقل أبو السعود عن شرح الكنز للشلبي أن ما ذكره الحلواني أي في شرح القُدوري من أن الجنب بمضمض ويستنشق غريب مخالف لعامة الكتب اه قلت وقال الرملي أيضاً في حاشية البحر إطلاقات المتن والشروح والفتاوى يشمل من مات جنباً ولم أر من صرح به لكن الإطلاق يدخله والعلّة تقتضيه اه وما نقله أبو السعود عن الزيلعي من قوله بلا مضمضة واستنشاق ولو جنباً صريح في ذلك لكي لم أره في الزيلعي قوله (اتفاقاً) لم أجده في الإمداد ولا في شرح المقدسي (رد المحتار ١٩٦/٢) قال الشامي: قوله (ويبدأ بوجهه) أي لا يغسل يديه أولاً إلى الرسغين كالجنب لأن الجنب يغسل نفسه بيديه فيحتاج إلى تنظيفهما أولاً والميت يغسل ييد الغاسل قوله (ويمسح رأسه) أي في الوضوء وهو ظاهر الرواية كالجنب بحر (رد المحتار ١٩٦/٢)

<sup>٧٣</sup> ومن العلماء من قال يجعل الغاسل على أصبعه خرقه رقيقة ويدخل الأصبع في فمه ويمسح بها أسنانه وشفتيه ولثته وينقيها ويدخل في منخره أيضاً كذا في الظهيرية قال شمس الأئمة الحلواني وعليه عمل الناس اليوم كذا في المحيط (الفتاوى الهندية ١٥٨/١)

- If the deceased was in the state of janaabat (impurity) or a woman was in the state of haidh or nifaas, then according to some Fuqahaa, it is better (though not obligatory) to put water in the mouth and nostrils. In this case water will be inserted into the mouth and nostrils by wetting some cotton wool and rubbing it in the mouth and nostrils.<sup>72</sup>

## Ghusal

After completing the wudhu, the ghusal of the mayyit will be carried out in the following manner:

1. The water used to wash the mayyit will be heated to a moderate temperature with lotus leaves or any other cleansing agent. In the absence of lotus leaves or any other cleansing agent, one may suffice on ordinary warm water.<sup>74</sup>
2. One will commence by washing the head and beard of the deceased. Soap or any other cleansing agent will be applied to the head and beard of the deceased when washing them.<sup>75</sup>
3. The mayyit will thereafter be made to lie on his left side so that his right side will be washed first.<sup>76</sup>
4. Water will be poured three times on the entire right side, from the top to the bottom i.e. starting from the shoulder till the feet in such a manner that the water reaches the left side.<sup>77</sup>

<sup>74</sup> والغسل بالماء الحار أفضل عندنا كذا في المحيط ويغلى الماء بالسدر أو بالحرض فإن لم يكن فالماء القراح كذا في الهداية (الفتاوى الهندية ١٥٨/١)

<sup>75</sup> ويغسل رأسه ولحيته بالخطمي وإن لم يكن فبالصابون ونحوه لأنه يعمل عمله هذا إذا كان في رأسه شعر اعتباراً بحالة الحياة كذا في التبيين فإن لم يكن فيكفيه الماء القراح كذا في شرح الطحاوي (الفتاوى الهندية ١٥٨/١)

<sup>76</sup> (ويضع على يساره) لبيدأ يمينه قال الشامي : قوله (ويضع الخ) هذا أول الغسل المرتب وأما قوله وصب عليه ماء مغلي الخ وقوله وإلا فالقراح وقوله وغسل رأسه بالخطمي يفعل قبل الترتيب الآتي وعبارة الشرنبلالية ويفعل هذا قبل الترتيب الآتي لينتقل ما عليه من الدرن اه ط قلت لكن صريح البحر والنهر وغيرهما أن قوله وصب عليه ماء مغلي الخ ليس خارجاً عن هذه الغسلات الثلاث الآتية بل هو إجمال لبيان كيفية الماء أي لبيان الماء الذي يغسل به وهو كونه مغلي بسدر لا بارداً ولا قراحاً وكذا قال في الفتح وإذا فرغ من الوضوء غسل رأسه ولحيته بالخطمي ثم يضعه الخ ومثله الخ في الجوهر (رد المختار ١٩٦/٢)

5. The mayyit will then be turned onto his right side after which the left side of his body will be washed thrice.<sup>78</sup>
6. The mayyit will then be made to sit up while leaning back slightly and his stomach will be rubbed gently. If any stool or urine comes out of the body, it will be washed off and the istinja will be made for the second time. The coming out of the urine or stool will not affect the wudhu or ghusal in any way. Hence, there will be no need to repeat the entire wudhu or recommence the ghusal.<sup>79</sup>
7. Finally, the mayyit will be made to lie on his left side once more and water mixed with camphor will be poured thrice on the entire right side from the head to the feet in such a manner that the water reaches the other side of the body. In this final washing, the mayyit will not be turned onto his right side and washed again.<sup>80</sup>
8. Thereafter, the mayyit will be dried with a cloth or towel before he is made to wear the kafan.<sup>81</sup>
9. Itr will be applied to the head and beard. Camphor will be applied to the places of sajdah i.e. forehead, nose, both palms

<sup>77</sup> ( يوضع ) الميت ( على يساره فيغسل ) شقه الأيمن ابتداءً لأن البداية بالميا من سنة ( حتى يصل الماء إلى ما ) أي الجنب الذي ( يلي التخت ) بالخاء المعجمة ( منه ) أي الميت قال الطحطاوي : ويسن أن يصب الماء عليه عند كل إقعاد ثلاثاً والزيادة جائزة للحاجة وإلا ينبغي أن يكون إسرافاً كحال الحياة أفاده السيد ( حاشية الطحطاوي على مراقي الفلاح ص ٥٦٩ )

<sup>78</sup> ( واضع على يساره فيغسل حتى يصل الماء إلى ما يلي التخت منه ثم على يمينه كذلك ) لأن السنة هي البداية من الميا من المراد بما يلي التخت منه الجنب المتصل بالتخت ... ثم اعلم أن المصنف ذكر غسله مرتين الأولى بقوله واضع على يساره فيغسل الثانية بقوله ثم على يمينه كذلك ( البحر الرائق ١٨٦/٢ )

<sup>79</sup> ثم يجلسه ويسنده إليه ويمسح بطنه مسحاً رقيقاً تحزراً عن تلويث الكفن فإن خرج منه شيء غسله ولا يعيد غسله ولا وضوءه ( الفتاوى الهندية ١٥٨/١ )

<sup>80</sup> والحاصل أن السنة أنه إذا فرغ من وضوئه غسل رأسه ولحيته بالخطمي من غير تسريح ثم يضعه على شقه الأيسر ويغسله وهذه مرة ثم على الأيمن كذلك وهذه ثانية ثم يقعد ويمسح بطنه كما ذكره ثم يضعه على الأيسر فيصب الماء عليه وهذه ثالثة لكن ذكر خواهر زاده أن المرة الأولى بالماء القراح والثانية بالماء المغلي فيه سدر أو حرص والثالثة بالماء الذي فيه الكافور ولم يفصل صاحب الهداية في مياه الغسلات بين القراح وغيره وهو ظاهر كلام الحاكم وفي فتح القدير والأولى أن يغسل الأوليان بالسدر ولم يذكر المصنف كمية الصب في الجنب يصب الماء عليه عند كل إضعاف ثلاث مرات وإن زاد على الثلاث جاز ( البحر الرائق ١٨٦/٢ )

<sup>81</sup> ثم ينشفه بثوب كيلا تبتل أكفانه ( الفتاوى الهندية ١٥٨/١ )

and knees and the toes of the feet. In the absence of camphor, itr could be applied to these places.<sup>82</sup>

### Note:

- The water used to wash the deceased will be heated to a moderate temperature. Extremely hot water should not be used to bath the deceased.<sup>83</sup>
- The above mentioned method of ghusal is the sunnah method (i.e washing the deceased three times). However, if the body is only washed once, the ghusal will be valid, since washing the body once is fardh. If there is a need to wash the body more than three times, it will be permissible. However, if there is no need to do so, it will be makrooh.<sup>84</sup>

## Common Mistakes Regarding Ghusal

1. At the time of ghusal and istinja, precaution is not exercised in concealing the satar due to which the satar sometimes becomes exposed. This must be totally avoided.

<sup>82</sup> ثم يوضع الخنوط على رأسه ولحيته لما روي أن آدم صلى الله عليه وسلم عليه لما توفي غسلته الملائكة وحنطوه ويوضع الكافور على مساحده يعني جبهته وأنفه ويديه وركبتيه وقدميه لما روي عن ابن مسعود رضي الله عنه أنه قال وتبع مساحده بالطيب يعني بالكافور ... ولا بأس بسائر الطيب غير الزعفران والورس في حق الرجل (بدائع الصنائع ٤٠/٢)

( قوله والكافور على مساحده ) يعني جبهته وأنفه وكفئيه وركبتيه وقدميه لفضيلتها لأنه كان يسجد بها لله تعالى فاختصت بزيادة الكرامة والرجل والمرأة في ذلك سواء (الجوهرة النيرة ١٣٤/١)

حدثنا وكيع عن سفيان عن منصور عن إبراهيم قال إذا فرغ من غسله تتبع مساحده بالطيب (مصنف ابن أبي شيبة رقم ١١١٣٢)

<sup>83</sup> قال الشامي : قوله ( وإلا فماء خالص مغلي ) أي إغلاء وسطا لأن الميت يتأذى بما يتأذى به الحي ط وأفاد كلامه أن الحار أفضل سواء كان عليه وسخ أو لا تحر (رد المحتار ١٩٦/٢)

<sup>84</sup> ( ويصب عليه الماء عند كل اضطجاع ثلاث مرات ) لما مر ( وإن زاد عليها أو نقص جاز ) إذ الواجب مرة قال الشامي : قوله ( ليحصل المسنون ) وهو تثليث الغسلات المستوعبات جسده إمداد قوله ( لما مر ) أي من قوله ليحصل المسنون ط قوله ( وإن زاد ) أي عند الحاجة لكن ينبغي أن يكون وترا ذكره في شرح مختصر الكرخي شرح المنية قوله ( قوله جاز ) أي صح وكره بلا حاجة لأنه إسراف أو تقتير (رد المحتار ١٩٧/٢)

2. Many people use a thin cloth to cover the body and satar of the deceased during the ghusal, resulting in the satar becoming visible due to the thinness of the cloth. This is impermissible. Therefore, a thick, non-transparent cloth should be spread over the deceased at the time of ghusal so that the satar beneath the cloth does not become visible.<sup>71</sup>

3. Those carrying out the ghusal should ensure that extremely hot water is not used when bathing the deceased.<sup>83</sup>

## Disclosing the Bad Signs or Good Signs of the Deceased

If the person giving the ghusal notices certain physical abnormalities or bad signs on the deceased, for example the face of the deceased is disfigured or blackened, etc., then he should not reveal this to anyone. However, if the deceased was an open sinner and violator of the commands of Deen, then mentioning these occurrences is permissible with the intention that others will abstain from such vices and repent to Allah **تَبَارَكَ وَتَعَالَى**. On the other hand, if one's intention is to disgrace the deceased and defame him, then one will be guilty of committing a major sin.

If the person giving the ghusal notices certain good signs on the deceased e.g. a noor on the face of the deceased or a smile, etc, then mentioning this is preferable (mustahab) with the intention that this be a means of encouragement and motivation for others to carry out good actions.<sup>85</sup>

عن عبد الله بن عمر رضي الله عنهما قال قال رسول الله صلى الله عليه وسلم اذكروا محاسن موتاكم وكفوا عن مساويهم<sup>86</sup>

<sup>85</sup> قال الشامي : ( خاتمة ) يندب الغسل من غسل الميت ويكره أن يغسله جنب أو حائض إمداد والأول كونه أقرب الناس إليه فإن لم يجسن الغسل فأهل الأمانة والورع وينبغي للغاسل ولمن حضر إذا رأى ما يجب الميت ستره أن يستتره ولا يحدث به لأنه غيبة وكذا إذا كان عيبا حادثا بالموت كسواد وجه ونحوه ما لم يكن مشهورا ببدعة فلا بأس بذكره تحذيرا من بدعته وإن رأى من أمارات الخير كوضاءة الوجه والتبسيم ونحوه استحباب إظهاره لكثرة الترحم عليه والحث على مثل عمله الحسن شرح المنية (رد المحتار ٢٠٢/٢)

<sup>86</sup> سنن أبي داود رقم ٤٩٠٢



Hazrat Abdullah bin Umar رضي الله عنه reports that Rasulullah صلى الله عليه وسلم said, “Speak of the good of your deceased and refrain from (discussing) their evils.”

## Incident of Accusation

It is related that a plague had once broken out in Madinah Tayyibah. On account of the plague, many people had passed away. During that time, a woman was brought to be given ghusal. While the women were washing her body, one of the women exclaimed (referring to the deceased), “You are an adulteress.” The body of the dead woman immediately stuck to the hand of the woman who uttered these words. A lot of effort was made to remove the hand from the deceased’s body, but to no avail. The case was reported to the governor of Madinah Tayyibah and he, without delay, consulted the Fuqahaa. Some of them said that her hand should be cut off, while others said that part of the dead person’s body should be cut, because the sanctity of the living is greater than the sanctity of the dead. The governor said, “I will not issue a command until I consult Abu Abdillah (i.e. Imaam Maalik رحمه الله.)” The case was presented before Imaam Maalik رحمه الله who issued the ruling, “Neither is the hand of this woman to be cut off nor is any part of the deceased woman’s body to be cut. I only think that the (deceased) woman is seeking her rights from the woman who had accused her.” After the woman had confessed to making the accusation which she had levelled against the deceased woman, it was decided that the hadd (the corporal punishment which was eighty lashes in the case of false accusations of zina) should be carried out upon the slanderer. The woman was given seventy nine lashes while her hand remained stuck. Upon receiving the eightieth lash, her hand was immediately released.<sup>87</sup>

عن أبي رافع مولى رسول الله صلى الله عليه وسلم أن رسول الله صلى الله عليه وسلم قال  
من غسل ميتا فكنتم عليه غفر الله له أربعين مرة<sup>٨٨</sup>

*Hazrat Abu Raafi' رَضِيَ اللهُ عَنْهُ, the freed slave of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ reports that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said: "The one who gives ghusal to a deceased and conceals his faults and sins, Allah تَبَارَكَ وَتَعَالَى will forgive forty of his sins."*

## Miscellaneous Masaa'il

### Ruling of Ghusal for a Deceased Male When There are no Muslim Males Present

If a man passes away and there are no Muslim males present to give him ghusal, rather there are only females present, then:

1. If he is married, his wife should give him ghusal. It is impermissible for any other female besides his wife to give him ghusal even if that female is his mahram.
2. If his wife is not present, but a non-Muslim male is present, he should be taught the method of giving ghusal to the Muslim male.
3. If his wife is not present, or he is not married, and there is no non-Muslim male present, then a woman will make tayammum for him. It should be noted that during the tayammum, the woman will not touch his body with her bare hands. Instead, she will use a glove to carry out the tayammum.
4. If the woman is a mahram of the deceased, it will be permissible for her to make tayammum for the deceased without a glove.<sup>89</sup>

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<sup>٨٨</sup> مستدرک للإمام حاکم رقم ١٣٠٧

**Note:** The tayammum for the ghusal is the same as the tayammum which is carried out for wudhu.

## Ruling of Ghusal for a Deceased Female When There are no Muslim Females Present

In the case where the wife passes away and there are no Muslim females present to give her ghusal, it will not be permissible for the husband to give her ghusal or touch her with his bare hands.<sup>90</sup>

1. If there is a non-Muslim female present, she should be taught the method of giving ghusal so that she could carry out the ghusal of the deceased.
2. If there are no females present, her mahram will make tayammum for her.
3. In the case where a mahram is not present, then the husband will make tayammum for her.

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<sup>89</sup> ويجوز للمرأة أن تغسل زوجها إذا لم يحدث بعد موته ما يوجب البيوتة من تقبيل ابن زوجها أو أبيه وإن حدث ذلك بعد موته لم يجز لها غسله وأما هو فلا يغسلها عندنا كذا في السراج الوهاج ... ولو مات رجل بين النساء تيممه ذات رحم محرم منه أو زوجته أو أمته بغير ثوب وغيرها بثوب كذا في معراج الدراية (الفتاوى الهندية ١/١٦٠)

عن عائشة رضي الله عنها : قالت لو كنت استقبلت من أمري ما استدبرت ما غسل النبي صلى الله عليه وسلم غير نسائه (سنن ابن ماجه رقم ١٤٦٤)

عن عبد الله بن أبي بكر أن أسماء بنت عميس غسلت أبا بكر الصديق حين توفي ثم خرجت فسألت من حضرها من المهاجرين فقالت إني صائمة وإن هذا يوم شديد البرد فهل علي من غسل فقالوا لا (موطأ للإمام مالك باب غسل الميت ص ٢٠٤)

ولو لم يكن فيهن امرأته ولكن معهن رجل كافر علمنه غسل الميت ويحلين بينهما حتى يغسله ويكفنه، ثم يصلين عليه ويدفنه؛ لأن نظر الجنس إلى الجنس أخف وإن لم يكن بينهما موافقة في الدين (بدائع ١/٣٠٥)

<sup>90</sup> (ويمنع زوجها من غسلها ومسها لا من النظر إليها على الأصح) منية ... (وهي لا تمنع من ذلك) ولو ذميمة بشرط بقاء الزوجية قال الشامي : قوله ( لا من النظر إليها على الأصح ) عزاه في المنع إلى التنية ونقل عن الحائنة أنه إذا كان للمرأة محرم بممها بيده وأما الأجنبي فيحرقه على يده ويغض بصره عن ذراعها وكذا الرجل في امرأته إلا في غض البصر اه ولعل وجهه أن النظر أخف من المس فجاز لشبهة الاختلاف والله أعلم (رد المختار ٢/١٩٨) قال الشامي : وفي البدائع المرأة تغسل زوجها لأن إباحة الغسل مستفادة بالنكاح فتبقى ما بقي النكاح والنكاح بعد الموت باق إلى أن تنقضي العدة بخلاف ما إذا ماتت فلا يغسلها لانتهاء ملك النكاح لعدم المخل فصار أحببنا وهذا إذا لم تثبت البيوتة بينهما في حال حياة الزوج فإن ثبتت بأن طلقها بانئا أو ثلاثاً ثم مات لا تغسله لارتفاع الملك بالإبانة الخ (رد المختار ٢/١٩٩)

وإن لم يكن هناك نساء مسلمات ومعهم امرأة كافرة علموها الغسل ويحلون بينهما حتى تغسلها وتكفنها، ثم يصل على الرجل ويدفونها لما ذكرنا (بدائع ١/٣٠٦)

4. If the husband is also not present, then any other person can make the tayammum for her. However, it should be noted that if the mahram makes the tayammum, he does not have to wear a glove. If the husband or any other person makes the tayammum, they will have to use a glove. It will not be permissible for them to touch the body of the deceased with their bare hands.<sup>91</sup>

## The Difference in the Ruling between the Husband and Wife in regard to Ghusal

We have seen above that in the case where the husband passes away, the wife is permitted to give him ghusal. On the contrary, if the wife passes away, the husband is not permitted to give her ghusal. What is the reason for the difference?

The reason for the difference in the ruling between both situations (i.e. the wife can give ghusal to the deceased husband but the husband cannot give ghusal to his deceased wife) is that when the wife passes away, the marriage immediately terminates. Hence, the husband is treated as a stranger to his wife in terms of certain laws. However, in the case of the husband passing away, the wife remains in the nikaah until the completion of the iddah. Nevertheless, though the husband is regarded as a stranger to his wife upon her demise, permission has been granted to him to look at the face of his deceased wife.<sup>90</sup>

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<sup>91</sup> ماتت بين رجال أو هو بين نساء بممه المحرم فإن لم يكن فالأجنبي بخرفة قال الشامي : قوله ( بممه المحرم الخ ) أي بمم الميت الأعم من الذكر والأنثى . قال الشامي : وكذا قوله فالأجنبي أي فالشخص الأجنبي الصادق بذلك وأفاد أن المحرم لا يحتاج إلى خرفة لأنه يجوز له مس أعضاء التيمم بخلاف الأجنبي إلا إذا كان الميت أمة لأنها كالرجل ثم اعلم أن هذا لم يكن مع النساء رجل لا مسلم ولا كافر ولا صبوية صغيرة فلو معهن كافر علمنه الغسل لأن نظر الجنس إلى الجنس أخف وإن لم يوافق في الدين ولومعهن صبوية لم تبلغ حد الشهوة وأطاعت غسله علمنها غسله لأن حكم العورة غير ثابت في حقيها وكذا في المرأة تموت بين رجال معهم امرأة كافرة أو صبي غير مشتهى كما بسطه في البدائع (رد المختار ٢٠١/٢)

## Ghusal and kafan of a Person Who Passed Away while in Ihraam

If a person passes away in the state of ihraam, whether he tied the ihraam for hajj or umrah, he will be treated as a normal person i.e. he will be given ghusal and kafan as normal.<sup>92</sup>

### Ghusal for a Drowned Person

If a person passes away through drowning then once he is removed from the water, it is fardh to give him ghusal. Merely being in the water will not suffice to fulfil the obligation of ghusal. The reason is that carrying out the ghusal for the mayyit is fardh (upon the living) and through the mayyit drowning in water, this fardh obligation will not be discharged, as it is dependant on them carrying it out.

However, if before removing the body from the water, those removing the body shook the body in the water and intended that this will be in place of the ghusal, the ghusal will be valid, though this will not conform to the sunnah method of ghusal.

In the abovementioned situation, if the mayyit was removed from the water after drowning and the Janaazah Salaah was performed upon him without ghusal being given to him, the Janaazah Salaah will be valid. The reason for the Janaazah Salaah being valid is that the entire body of the mayyit was washed after his demise. The validity of the Janaazah Salaah is subject to the body of the mayyit being washed after demise. Hence, the Janaazah Salaah will be valid, even though the people will be sinful for not discharging the obligation of giving ghusal to the mayyit.<sup>93</sup>

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<sup>92</sup> والحرم كالخلال قال الشامي : قوله ( والحرم كالخلال ) أي فيعطي رأسه وتطيب أكفانه خلافا للشافعي رحمه الله تعالى (رد المحتار ٢/٢٠٤) .  
<sup>93</sup> ( و ) لذا قال ( لو وجد ميت في الماء فلا بد من غسله ثلاثا ) لأننا أمرنا بالغسل فيحركه في الماء بنية الغسل ثلاثا فتح وتعليبه يفيد أهم لو صلوا عليه بلا إعادة غسله صح وإن لم يسقط وجوبه عنهم فتدبر قال الشامي : قوله ( ولذا ) أي لكون النية ليست شرطا لصحة الطهارة بل شرط لإسقاط الفرض عن المكلفين قوله ( فلا بد ) أي في تحصيل الغسل المسنون وإلا فالشرط مرة وكأنه يشير بلا بد إلى أنه بوجوده في الماء لم يسقط غسله المسنون فضلا عن الشرط تأمل قوله ( وتعليبه ) أي تعليل الفتح بقوله لأننا أمرنا الخ أي ولم يقل في التعليل لأنه لم يظهر ط (رد المحتار ٢/٢٠٠)

## Ghusal of an Incomplete Body

1. If the mayyit's head is found without the body, ghusal will not be waajib. Instead, the head will be buried.
2. If more than half of the mayyit's body is found, ghusal will be waajib, irrespective of whether it was with the head or not.
3. If half of the body is found, then ghusal will be waajib in the case where the body is found with the head. If the body is found without the head, ghusal will not be waajib.
4. If less than half of the body is found then irrespective of whether it is with the head or not, ghusal will not be waajib.<sup>94</sup>

## Ghusal and Janaazah for Unidentifiable Bodies

If the body of a deceased is discovered and it is not known whether he is a Muslim or a kaafir then:

1. If the body is found in an Islamic country (Darul Islam), ghusal will be given to him.
2. If the body is found in a non-Islamic country (Darul Harb), then if any signs of Imaan are visible on him, he will be regarded as a believer and ghusal will be given to him. If signs of kufr are visible on him, he will be regarded as a disbeliever and ghusal will not be given to him.

The signs of Imaan are the deceased wearing the clothing of the believers (e.g. topee, turban or kurta), the deceased being circumcised or the pubic hair being shaved.<sup>95</sup>

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<sup>94</sup> (وجد رأس آدمي) أو أحد شقيه (لا يغسل ولا يصلى عليه) بل يدفن إلا أن يوجد أكثر من نصفه ولو بلا رأس قال الشامي : قوله ( ولو بلا رأس ) وكذا يغسل لو وجد النصف مع الرأس بحر (رد المحتار ١٩٩/٢)

ولو وجد أكثر البدن أو نصفه مع الرأس يغسل ويكفن ويصلى عليه كذا في المضمرات وإذا صلي على الأكثر لم يصل على الباقي إذا وجد كذا في الإيضاح وإن وجد نصفه من غير الرأس أو وجد نصفه مشقوقا طولا فإنه لا يغسل ولا يصلى عليه ويلف في خرقة ويدفن فيها كذا في المضمرات (الفتاوى الهندية ١٥٩/١)

<sup>95</sup> فروع لو لم يدر أمسلم أم كافر ولا علامة فإن في دارنا غسل وصلي عليه وإلا لا قال الشامي : قوله ( فإن في دارنا الخ ) أفاد بذلك التفصيل في المكان بعد انتفاء العلامة أن العلامة مقدمة وعند فقدها يعتبر المكان الصحيح لأنه يحصل به غلبة الظن كما في النهر عن

If Muslims and non-Muslims pass away together e.g. in earthquakes, floods etc. and the Muslim bodies cannot be distinguished from the non-Muslim bodies then:

1. If in some way it is known that the Muslims at the scene were more in number than the non-Muslims, ghusal will be given to all the bodies and the normal kafan will be carried out. The Janaazah Salaah will also be performed upon all the bodies with the niyyah that the Janaazah Salaah is only for the believers, and they will be buried in a Muslim graveyard.<sup>96</sup>
2. If the non-Muslim bodies were more in number than the Muslim bodies, ghusal and kafan will not be carried out. However, all the bodies will be washed in the manner that an impure cloth is washed. Thereafter, the bodies will be wrapped in a cloth and buried in a non-Muslim graveyard. The Janaazah

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البدائع وفيها أن علامة المسلمون أربعة الختان والحضاب وليس السواد وحلق العانة اه قلت في زماننا لبس السواد لم يبق علامة للمسلمين (رد المختار ٢٠٠/٢). عن ركائة قال سمعت رسول الله صلى الله عليه وسلم يقول إن فرق ما بيننا وبين المشركين العمائم على القلائس (جامع الترمذي رقم ١٧٨٤)

<sup>96</sup> اختلط موتانا بكفار ولا علامة اعتبر الأكثر فإن استواوا غسلوا واختلف في الصلاة عليهم ومحل دفنهم كدفن ذمية حبل من مسلم قالوا والأحوط دفنها على حدة ويجعل ظهرها إلى القبلة لأن وجه الولد لظهرها (الدر المختار ٢٠٠/٢) قال الشامي: (قوله اعتبر الأكثر) أي في الصلاة بقرينة قوله في الاستواء واختلف في الصلاة عليهم قال في الحلية: فإن كان بالمسلمين علامة فلا إشكال في إجراء أحكام المسلمين عليهم وإلا فلو المسلمون أكثر صلى عليهم وينوي بالدعاء المسلمين ولو الكفار أكثر ففي شرح مختصر الطحاوي للإسبيحاني لا يصلى عليهم لكن يغسلون ويكفون ويدفنون في مقابر المشركين اه قال ط وكيفية العلم بالأكثر أن يحصى عدد المسلمين ويعلم ما ذهب منهم وبعد الموتى فيظهر الحال قوله (واختلف في الصلاة عليهم) فقيل لا يصلى لأن ترك الصلاة على المسلم مشروع في الجملة كاللباغ وقطاع الطرق فكان أولى من الصلاة على الكافر لأنها غير مشروعة لقوله تعالى ولا تصل على أحد منهم مات أبدا وقيل يصلى ويقصد المسلمين لأنه إن عجز عن التمييز لا يعجز عن القصد كما في البدائع قال في الحلية فعلى هذا ينبغي أن يصلى عليهم في الحالة الثانية أيضا أي حالة ما إذا كان الكفار أكثر لأنه حيث قصد المسلمين فقط لم يكن مصليا على الكفار وإلا لم تجز الصلاة عليهم في الحالة الأولى أيضا مع أن الاتفاق على الجواز فينبغي الصلاة عليهم في الأحوال الثلاث كما قالت به الأئمة الثلاث وهو أوجه قضاء لحق المسلمين بلا ارتكاب منهي عنه اه ملخصا قوله ( كدفن ذمية ) جعل الأول مشبها بهذا لأنه لا رواية فيه عن الإمام بل فيه اختلاف المشايخ قياسا على هذه المسألة فإنه اختلف فيها الصحابة رضي الله تعالى عنهم على ثلاثة أقوال فقال بعضهم تدفن في مقابرنا ترجيحاً لجانب الولد وبعضهم في مقابر المشركين لأن الولد في حكم جزء منها ما دام في بطنها وقال وائلة بن الأسقع يتخذ لها مقبرة على حدة قال في الحلية وهذا أحوط والظاهر كما أفصح به بعضهم أن المسألة مصورة فيما إذا نفع فيه الروح وإلا دفنت في مقابر المشركين قوله ( لأن وجه الولد لظهرها ) أي والولد مسلم تبعاً لأبيه فيوجه إلى القبلة بهذه الصفة ط (رد المختار ٢٠١/٢)

Salaah will not be performed upon them, and they will be buried in a kaafir graveyard.<sup>97</sup>

3. If the Muslim bodies and non-Muslim bodies were equal in number then ghusal and kafan will not be carried out. However, all the bodies will be washed as a dirty cloth is washed. Thereafter, the bodies will be wrapped in a cloth and buried. The Janaazah Salaah will not be performed upon them.<sup>96 97 100</sup>

In regard to this situation (the bodies of Muslims and non-Muslims were equal in number), there are three opinions of the Fuqahaa with regards to where the bodies will be buried. Practising upon any opinion is permissible.

1. The bodies will be buried in a non-Muslim graveyard.
2. The bodies will be buried in a Muslim graveyard.
3. The bodies will neither be buried in a non-Muslim graveyard nor a Muslim graveyard. Instead, they will be buried in a separate land.<sup>98</sup>

Some Fuqahaa are of the opinion that in all the above mentioned three situations (where the number of the Muslims are more than the non-Muslims, less than the non-Muslims or equal), all the bodies will be given ghusal and kafan, and Janaazah Salaah will be performed with the intention that the salaah is only for the believers.<sup>96</sup>

## Ghusal for a Kaafir Relative

If a Muslim's close relative who is a kaafir passes away, his body should be given to his non-Muslim family or those who are of the same religion. If no non-Muslim family can be found or the non-Muslims refuse to accept his body, then under dire necessity it will be

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<sup>97</sup> وإن كانت الغلبة للمشركين فإنه لا يصلح على الكل ولكن يغسلون ويكفنون ولكن لا على وجه غسل موتى المسلمين وتكفينهم ويدفنون في مقابر المشركين وإن كانا سواء فلا يصلح عليهم أيضا (الفتاوى الهندية ١/١٥٩). انظر أيضا ٩٩

<sup>98</sup> واختلف المشايخ في دفنهم قال بعضهم في مقابر المشركين وقال بعضهم في مقابر المسلمين وقال بعضهم يتخذ لهم مقبرة على حدة (الفتاوى



permissible for the Muslims to give ghusal to the non-Muslim. However, the ghusal should not be given in the normal sunnah manner. Instead, the body of the non-Muslim will be washed just as any impure cloth is washed. Similarly, there will be no Janaazah Salaah performed on the body.<sup>99</sup>

**Note:** By washing the body of the kaafir, the kaafir will not become pure.<sup>100</sup>

## Ghusal for Rebels and Renegades

1. If rebels are killed while fighting against the state or highway robbers are killed while involved in the crime of highway robbery, then in an Islamic country, ghusal will not be given to them. If rebels are killed while fighting against a non-Islamic state or highway robbers are killed while involved in the crime of highway robbery in a non-Muslim country, then ghusal will be given to them. If they are not killed while involved in the crime of rebelling or highway robbery, but rather pass away a natural death, then whether they pass away in an Islamic country or not, ghusal will be given to them.<sup>101</sup>
2. If a murtad (i.e. one who renounces Islam) is killed, ghusal will not be given to him. If the followers of the religion to which

<sup>99</sup> وإذا مات الكافر وله ولي مسلم فإنه يغسله ويكفنه ويدفنه بذلك أمر علي رضي الله عنه في حق أبيه أي طالب لكن يغسل غسل الثوب

النحس ويلف في خرقة وتحفر حفرة من غير مراعاة سنة التكفين والحد ولا يوضع فيه بل يلقى (الهداية ١/١٨١)

<sup>100</sup> ولا يكون الغسل تطهارة له حتى لو حمله إنسان وصلى لم تجز صلاته (البحر الرائق ٢/٢٠٥)

<sup>101</sup> (وهي فرض على كل مسلم مات خلا) أربعة (بغاة و قطاع الطريق) فلا يغسلوا ولا يصلى عليهم (إذا قتلوا في الحرب) ولو بعده صلي عليهم لأنه حد أو قصاص قال الشامي: قوله (بغاة) هم قوم مسلمون خرجوا عن طاعة الإمام بغير حق قوله (فلا يغسلوا الخ) في نسخة فلا يغسلون وهي أصوب وإنما لم يغسلوا ولم يصل عليهم إهانة لهم وزجرًا لغيرهم عن فعلهم وصرح بنفي غسلهم لأنه قيل يغسلون ولا يصلى عليهم للفرق بينهم وبين الشهيد كما ذكره الزيلعي وغيره وهذا القيل رواية وفيه إشارة إلى ضعفها لكن مشى عليها في الدرر والوقاية وفي التاريخانية وعليه الفتوى قوله (ولو بعده الخ) قال الزيلعي وأما إذا قتلوا بعد ثبوت يد الإمام عليهم فأختم يغسلون ويصلى عليهم وهذا تفصيل حسن أخذ به كبار المشايخ لأن قتل قاطع الطريق في هذه الحالة حد أو قصاص ومن قتل بذلك يغسل ويصلى عليه وقتل الباغي في هذه الحالة للسياسة أو لكسر شوكتهم فينزل منزلته لعود نفعه إلى العامة اه وقوله أو قصاص أي بأن كان ثم ما يسقط الحد كقطع على محرم ونحوه مما ذكر في بابه وقد علم من هذا التفصيل أنه لو مات أحدهم حنت أنفه قبل الأخذ أو بعده يصلى عليه كما بحثه في الحلية وقال ولم أر صريحاً قلت وفي الأحكام عن أبي الليث ولو قتلوا في غير الحرب أو ماتوا يصلى عليهم اه وهو صريح في المطلوب (رد المختار ٢/٢١٠)

the *murtad* converted request for the body, the body should not be given to them. His body will not be buried in a Muslim graveyard.<sup>102</sup>

## Ghusal After Performing Tayammum

A deceased was given *tayammum* due to the absence of water. Later on, water was found. If the *mayyit* was not yet buried, *ghusal* will be given to him. If the *Janaazah Salaah* was performed with the *tayammum*, it will not have to be repeated.<sup>103</sup>

## Q&A Pertaining to Ghusal

### Will a Shaheed be Given Ghusal?

**Question:** Is there *ghusal* for a person who is murdered, especially considering the following:

- Post mortem is conducted by non-Muslim doctors, etc.
- The surface used for the post mortem could be *napaak* since a number of post mortems are performed
- Ghusal* could have been *waajib* and this is unknown to family.

**Answer:** *Ghusal* is not *waajib* upon a *shaheed*. Hence, if a person was murdered, he will be buried with the blood that is on him and *ghusal* will not be *waajib* upon him even though post mortem was conducted

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<sup>102</sup> أما المرتد فيلقى في حفرة كالكلب قال الشامي : ( قوله فيلقي في حفرة ) أي ولا يغسل ولا يكفن ولا يدفح إلى من انتقل إلى دينهم (رد المختار ٢/٢٣٠)

<sup>103</sup> يم لفقد ماء وصلي عليه ثم وجدوه غسلوه وصلوا ثانيا وقيل لا قال الشامي : قوله ( يم لفقد ماء الخ ) قال في الفتح ولو لم يوجد ماء فيعم الميت وصلوا عليه ثم وجدوه غسلوه وصلوا عليه ثانيا عند أبي يوسف وعنه يغسل ولا تعاد الصلاة عليه ولو كفنوه وبقي منه عضو لم يغسل فإنه يغسل ذلك العضو ولو بقي نحو الأصبع لا يغسل اه قوله ( وقيل لا ) أي يغسل ولا يصلى عليه كما علمته قلت ولا يظهر الفرق بينه وبين الحي فإن الحي لو تيمم لفقد الماء وصلى ثم وجده لا يعيد ثم رأيت في شرح المنية نقلا عن السروجي أن هذه الرواية موافقة للأصول اه وفيه إشعار بتزحيحها لما قلنا (رد المختار ٢/٢٠١)

by non-Muslim doctors. However, if it is known that he passed away in the state of janaabat, then ghusal will be waajib upon him.<sup>104</sup>

## Ghusal for a Stillborn Child

**Question:** Should ghusal be given to a stillborn child and should Janaazah Salaah be performed upon it?

**Answer:** A stillborn child will be given a Shar'ee ghusal. Thereafter, it will be wrapped in a cloth and buried. Janaazah Salaah will not be performed upon it. Janaazah Salaah will only be performed upon a child that is born alive and thereafter passes away.<sup>105</sup>

<sup>104</sup> ( ويصلى عليه بلا غسل ويدفن بدمه وثيابه ) لحديث زملوهم بكلومهم (الدر المختار ٢/٢٥٠)

( فيكفن بدمه ) أي مع دمه من غير تغسيل لقوله صلى الله عليه وسلم زملوهم بدمائهم فإنه ليس كلمة تكلم في سبيل الله إلا تأتي يوم القيامة تدمي لونه لون دم والريح ريح المسك ( و ) يكفن مع ( ثيابه ) للأمر به في شهادة أحد ( ويصلى عليه ) أي الشهيد ( بلا غسل ) نص عليه تأكيداً وإن علم مما سبق لأن النبي صلى الله عليه وسلم وضع حمزة رضي الله عنه وجيء برجل من الأنصار فوضع إلى جنبه فصلى عليه ثم رفع وترك حمزة حتى صلى عليه يومئذ سبعين صلاة كما في مسند أحمد وصلى النبي صلى الله عليه وسلم على قتلى بدر والصلاة على الميت لإظهار كرامته حتى اختص به المسلم وحرم المنافق والشهيد أولى بهذه الكرامة (حاشية الطحطاوي على مراقبي الفلاح ص٦٢٦)

باب الشهيد ... ( هو كل مكلف مسلم طاهر ) فالخائض إن رأت ثلاثة أيام غسلت وإلا لا لعدم كونها حائضاً ولم يعد عليه السلام غسل حنظلة لحصوله بفعل الملائكة بدليل قصة آدم قال الشامي : قوله ( طاهر ) أي ليس به جنابة ولا حيض ولا نفاس ولا انقطاع أحدهما كما هو المتبادر فإذا استشهد الجنب يغسل وهذا عنده خلافاً لما إذا انقطع الحيض والنفاس واستشهدت فعلى هذا الخلاف وإن استشهدت قبل الانقطاع تغسل على أصح الروايتين عنه كما في المضمرات قهستاني وحاصله أنها تغسل قبل الانقطاع في الأصح كما بعده وفي رواية لا تغسل قبله لأن الغسل لم يكن واجباً عليها كما لو انقطع قبل الثلاث فإنها لا تغسل بالإجماع كما في السراج والمعراج قوله ( فالخائض ) المراد بما من كانت من ذوات الحيض لا من اتصفت بالحيض لثلاثين يوماً لعدوم كونها حائضاً فافهم واقتصر في التفرع على بعض أفراد المختزات لخفائه لما فيه من التفصيل ولم يفضل في النساء لأن النفاس لا حد لأقله قوله ( وإلا لا ) أي وإن لم تراه ثلاثة أيام لا تغسل بالإجماع كما نقلناه آنفاً عن السراج والمعراج فما في الإمداد من أن الخائض تغسل سواء كان القتل بعد انقطاع الدم أو قبل استمراره ثلاثة أيام فهو سهو أو سقط وضواحه أو قبله بعد استمراره الخ فتنبه (رد المختار ٢/٤٤٧)

<sup>105</sup> ومن استهل بعد الولادة سمي وصلى عليه ، وإن لم يستهل أدرج في حرقه ولم يصل عليه قوله : ( وإن لم يستهل أدرج في حرقه ولم يصل عليه ) وفيه إشارة إلى أنه لا يغسل وهو ظاهر الرواية وقال في الهداية : ويغسل في غير الظاهر من الرواية لأنه نفس من وجه وهو المختار قلت : وكذا السقط الذي لم تتم حلقة أعضائه نص عليه قاضي خان (التصحیح والترجيح على مختصر القدوري للعلامة قاسم بن قطلوبغا ص١٨٩)

## Which Direction Should the Body Face while Giving Ghusal?

**Question:** In which direction should the body of the deceased be made to face while performing the ghusal?

**Answer:** The mayyit will be placed in whichever direction it is easy to give the ghusal.<sup>106</sup>

## Washing the Thigh of the Mayyit without Gloves

**Question:** Can one wash the thigh of a mayyit with one's bare hand (without gloves)?

**Answer:** The thigh is part of the satar. Hence, it is impermissible to touch that area with the bare hands.<sup>71</sup>

## Applying Camphor to the Deceased

**Question:** Is it permissible to apply a camphor paste on the places of sajdah of the deceased when carrying out the ghusal? Nowadays we notice that some people apply a blob of camphor on the forehead and places of sajdah of the mayyit, is this correct?

**Answer:** It is preferred that camphor be applied and rubbed upon the forehead and the places of sajdah (hands, feet, nose and knees) of the deceased. However, making a paste with the camphor and applying a blob on the forehead and places of sajdah is incorrect as this is not in keeping to the sunnah and disfigures the face and limbs.<sup>82</sup>

## Applying Itr in Place of Camphor

**Question:** After giving the mayyit ghusal, it is reported in the Hadith that itr should be applied to the head and beard, and camphor should

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<sup>106</sup> ثم لم يذكر في ظاهر الرواية كيفية وضع التخت أنه يوضع إلى القبلة طولا أو عرضا فمن أصحابنا من اختار الوضع طولا كما يفعل في مرضه إذا أراد الصلاة بالإيماء ومنهم من اختار الوضع عرضا كما يوضع في قبره والأصح أنه يوضع كما تبسر لأن ذلك يختلف باختلاف المواضع (بدائع الصنائع ١/٣٠٠). انظر أيضا ٦٨

be applied to the places of sajdah. In place of camphor, is it permissible to apply itr as we see some people nowadays applying itr?

**Answer:** Yes, it is permissible.<sup>82</sup>

## Applying Surmah for the Deceased

**Question:** Is it permissible to apply surmah for the deceased?

**Answer:** Applying surmah for the deceased is a practice which has no basis in the sunnah. Hence, surmah should not be applied for the deceased.<sup>107</sup>

## Ensuring that the Satar of the Deceased Remains Covered

**Question:** In some places, we notice that when ghusal is given to the deceased, the satar of the deceased becomes exposed. Is this correct?

**Answer:** This is not correct. It is incumbent upon those carrying out the ghusal and kafan to ensure that the satar remains covered at all times with a cloth that is non-transparent.<sup>71</sup>

## Refraining from Touching the Knees of the Deceased with Bare Hands

**Question:** We notice that certain people, when applying itr to the knees of the mayyit, expose the knees and sometimes even touch the knees with their bare hands. Is this correct?

**Answer:** The area from beneath the navel to the knees (i.e. including the knees) of the mayyit is satar. This area should be covered at all times. Just as it is not permissible for one to look at the satar of another person, it is not permissible for him to touch it. Hence when applying

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<sup>107</sup> (ولا يسرح شعره) أي يكره تحريما (ولا يقص ظفره) إلا المكسور (الدر المختار ١٩٧/٢) قال الشامي: قوله (أي يكره تحريما) لما في القنية من أن التنزيين بعد موتها والامتنشاط وقطع الشعر لا يجوز ثم فلو قطع ظفره أو شعره أدرج معه في الكفن قهستاني عن العنابي (رد المحتار ١٩٨/٢) انظر أيضا فتاوى رحيمية (٦٢/٧)

camphor or itr to the knees of the mayyit, one should ensure that one does not look at the knees or touch them. Rather, one should apply the itr or camphor beneath the kafan.<sup>71</sup>

## Who Should Carry Out the Ghusal of the Deceased?

**Question:** Who should carry out the ghusal of the deceased? At times, people come in as spectators and the family members are not happy with this. Can they object and stop such people?

**Answer:** It is best that the family of the deceased take part in the ghusal. However, if for some reason they are not present or they require assistance from others, then others may assist in carrying out the ghusal. If the family of the deceased does not approve of people other than those taking part in the ghusal being present, then these people should be politely informed that they should not be present.<sup>85</sup>

## Khilaal and Masah During Ghusal

**Question:** When giving ghusal to the deceased, should one make khilaal of the deceased's fingers, toes and beard? Similarly, should one make masah of the head, ears, etc.?

**Answer:** Yes. One will carry out the wudhu for the deceased in the manner a living person performs wudhu, with carrying out all the sunnats of the wudhu. The only difference between the wudhu of a living person and the wudhu carried out for the deceased is that in the case of the deceased, when commencing the wudhu, the hands will not be washed until the wrists and water will not be inserted into the mouth and nostrils.<sup>72</sup>

## Wearing Gloves for Ghusal

**Question:** Is it mustahab for the person giving ghusal to wear gloves when washing those parts of the body which are besides the satar?

**Answer:** No. It is not mustahab. However, if the mayyit has some contagious disease, then gloves can be used.<sup>71</sup>

## Nail Polish and Hair Extensions on the Mayyit

### Question:

1. If the deceased has nail polish on their nails, should the person giving the ghusal remove the nail polish?
2. If the deceased has hair extensions (human or non-human) attached to their hair, should the person giving the ghusal remove them?

### Answer:

1. The ghusal can only be valid if the water reaches all the areas of the body. If water does not reach the nails because of the polish, the ghusal will be incomplete. Hence, nail polish remover should be used to remove the nail polish.
2. The hair extensions should be removed.<sup>108</sup>

## Where to Begin Wudhu for the Mayyit

**Question:** Should I start the wudhu of the mayyit by washing the hands till the wrists first or should I leave washing the hands and wash the face?

**Answer:** After carrying out the istinja of the mayyit, one will make wudhu for the mayyit by commencing with washing the face. One will neither wash the hands of the mayyit till the wrists, nor gargle the mouth nor insert water in the nose. However, if it is known that the mayyit had passed away in the state of janaabat, then according to some Fuqahaa, the mouth and nose of the deceased should be cleansed through rubbing wet cotton wool or any wet cloth inside the mouth and nose.<sup>72 73</sup>

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<sup>108</sup> لأن ما بعد الموت معتبر بحالة الحياة (خلاصة الفتاوى ٢١٨/١) انظر أيضا أحسن الفتاوى ٤/٢٣٧

## Using Soap for the Ghusal of the Deceased

**Question:** What type of soap should be used for the ghusal of the deceased? Is it necessary to use unscented soap or can scented soap also be used?

**Answer:** There is no restriction as to the type of soap that should be used for the ghusal. It is permissible for one to use any type of soap, regardless of whether it is scented or unscented.<sup>74 75</sup>

## Satar of the Female Mayyit

**Question:** What is the satar of the female mayyit that should be covered while giving ghusal?

**Answer:** The satar of a female mayyit for other females is from beneath the navel till the knee (i.e. including the knee).<sup>71</sup>

## Which Direction Should the Feet of the Deceased Face During Ghusal?

**Question:** When giving ghusal to the mayyit, should the head or feet of the deceased face the qiblah?

**Answer:** When giving ghusal, it is not necessary for the head or feet of the deceased to face the qiblah. In whichever position it is easy for one to give the ghusal, one may give the ghusal.<sup>68</sup>

## Ghusal of Amputated Limbs

**Question:** In certain cases, the deceased's limbs are separated from the body, e.g. in the case of an accident, etc. Will ghusal be given to these separated limbs and how will they be buried?

**Answer:** If certain limbs of the body have been separated, e.g. the hand, feet, etc., then ghusal will only be given to the body and will not



be given to the separated limbs. Instead, these limbs will be placed in a cloth and buried with the deceased.<sup>109</sup>

## Can a non-Muslim Assist when Giving Ghusal to the Deceased?

**Question:** Can a non-Muslim who is a family member of the deceased participate in the ghusal of the mayyit?

**Answer:** A non-Muslim should not participate in the ghusal.<sup>110</sup>

## How Should a Person who Drowned or Burned to Death be Given Ghusal?

### Question:

1. If a person's body was completely burned, how should one carry out the ghusal?
2. Similarly, how should ghusal be carried out in cases where it is difficult to perform the ghusal (e.g. advanced stages of decomposition or a person drowned and his body was recovered after many days, due to which the flesh and skin are coming apart)?

### Answer:

<sup>١٠٩</sup> إذا وجد طرف من أطراف الإنسان كيد أو رجل أنه لا يغسل لأن الشرع ورد بغسل الميت والميت اسم لكلمة ولو وجد الأكثر منه غسل لأن للأكثر حكم الكل وإن وجد الأقل منه أو النصف لم يغسل كذا ذكر القُدوري في شرحه مختصر الكرخي لأن هذا القدر ليس بميت حقيقة وحكما ولأن الغسل للصلاة وما لم يزد على النصف لا يصلح عليه فلا يغسل أيضا وذكر القاضي في شرحه مختصر الطحاوي أنه إذا وجد النصف ومعه الرأس يغسل وإن لم يكن معه الرأس لا يغسل فكأنه جعله مع الرأس في حكم الأكثر لكونه معظم البدن (بدائع الصنائع ٣٠٢/٢)

والسقط يلف ولا يكفن كالعضو من الميت قال الشامي : قوله ( والسقط يلف ) أي في خرقة لأنه ليس له حرمة كاملة وكذا من ولد ميتا بدائع قوله ( ولا يكفن ) أي لا يراعى فيه سنة الكفن وهل النفي بمعنى النهي أو بمعنى نفي اللزوم الظاهر الثاني فليتأمل قوله ( كالعضو من الميت ) أي لو وجد طرف من أطراف إنسان أو نصفه مشقوقا طولا أو عرضا يلف في خرقة إلا إذا كان معه الرأس فيكفن كما في البدائع قال وكذا الكافر لو له ذو رحم محرم مسلم يغسله ويكفنه في خرقة لأن التكفين على وجه السنة من باب الكراهة اهـ (رد المحتار ٢٠٤/٢)

<sup>١١٠</sup> ولو كان الغاسل جنباً أو حائضاً أو كافراً جاز ويكره كذا في معراج الدراية (الفتاوى الهندية ١٥٩/١)

1. If it is possible to give the ghusal then ghusal will be given. However, if there is fear that through giving the Shar'ee ghusal and rubbing the body, the body will begin to fragment and break up into pieces, then water should be gently poured on the entire body without rubbing it or washing it. This will suffice for the ghusal.

2. As above.<sup>111</sup>

## Making Tayammum for the Deceased when Water is not Available

**Question:** If there is no water available, how should one perform the ghusal of the deceased?

**Answer:** If water is not available for the distance of one Shar'ee mile, then tayammum will be performed for the deceased.<sup>112</sup>

## Carrying Out the Ghusal for the Deceased in a Ghusal Khana

**Question:** Many families live in flats where it is not possible or highly inconvenient to perform the ghusal for the deceased in the flats. Can the ghusal be performed in a purpose made ghusal khana?

**Answer:** Yes, the ghusal can be done in a ghusal khana or any other place where it is convenient.<sup>113</sup>

<sup>111</sup> والمتنفخ الذي تعذر مسه يصب عليه الماء (مراقي الفلاح ص ٥٦٩)

ولو كان الميت متفسخا يتعذر مسحه كفى صب الماء عليه كذا في التارخانية ناقلا عن العنابية (الفتاوى الهندية ١/١٥٨)

<sup>112</sup> وإذا مات الرجل في السفر وليس هناك ماء طاهر ييمم ويصلى عليه هكذا في المحيط رجل مات ولم يجدوا ماء فيمموه وصلوا عليه (الفتاوى الهندية ١/١٦٠)

يجوز التيمم لمن كان بعيدا من الماء ميلا هو المختار في المقدار سواء كان خارج المصر أو فيه وهو الصحيح وسواء كان مسافرا أو مقيما هكذا في التبيين (الفتاوى الهندية ١/٢٢)

<sup>113</sup> ( ووضعه على سرير محمر وترا ) لئلا يعتريه نداوة الأرض ولينصب عنه الماء عند غسله وفي التجمير تعظيمه وإزالة الرائحة الكريهة والوتر أحب إلى الله من غيره وكيفيته أن يدار بالجمرة حول السرير مرة أو ثلاثا أو خمسا ولا يزداد عليها كذا في التبيين وفي النهاية والكاظمي وفتح القدير أو سبعا ولا يزداد عليه (البحر الرائق ٢/١٨٥)

## Being in the State of Wudhu while Giving Ghusal to the Deceased

**Question:** Is it waajib that the the person giving ghusal and those assisting in giving ghusal to the deceased be in the state of wudhu?

**Answer:** It is not waajib for those taking part or assisting in the ghusal to be in the state of wudhu, however it is better for them to be in the state of wudhu. It is makrooh for a person in the state of janaabat or a woman in the state of haidh or nifaas to carry out the ghusal.<sup>114</sup>

## Making Zikr while Giving Ghusal to the Deceased

**Question:** Can one recite durood or make any zikr when performing the ghusal for the deceased?

**Answer:** It is not a sunnah practice to recite durood or any form of zikr in an audible manner while carrying out the ghusal. However, one should remember Allah تَبَارَكَ وَتَعَالَى in one's mind.<sup>115</sup>

## Will Ghusal be Repeated if the Body is Exhumed?

**Question:** If the body of the deceased is exhumed for the purpose of a post mortem, will the ghusal and Janaazah Salaah be repeated?

**Answer:** The ghusal and Janaazah Salaah will not be repeated.<sup>116</sup>

<sup>114</sup> وينبغي أن يكون غاسل الميت على الطهارة كذا في فتاوى قاضي خان ولو كان الغاسل جنباً أو حائضاً أو كافراً جاز ويكره كذا في معراج الدراية ولو كان محدثاً لا يكره اتفاقاً هكذا في القنية (الفتاوى الهندية ١٥٩/١)

<sup>115</sup> عن عائشة رضي الله عنها قالت قال رسول الله صلى الله عليه وسلم من أحدث في أمرنا هذا ما ليس فيه فهو رد (صحيح البخاري رقم ٢٦٩٧)

ويكره رفع الصوت بالذكر والقرآن وعليهم الصمت وقولهم كل حي سيموت ونحو ذلك خلف الجنازة بدعة (مراقي الفلاح ص ٦٠٦)

<sup>116</sup> ( ولا يعاد غسله ولا وضؤه بالخارج منه ) لأن غسله ما وجب لرفع الحدث لبقائه بالموت بل لتنجسه بالموت كسائر الحيوانات الدموية إلا أن المسلم يظهر بالغسل كرامة له وقد حصل بجر وشرح مجمع قال الشامي : قوله ( وما خرج منه يغسله ) أي تنظفها له بجر قال الرملي أي لا شرطاً حتى لو صلى عليه من غير غسله جاز وهذا مما لا يتوقف فيه اه وفي الأحكام عن المحيط بمسح ما سال ويكفن وفي كتاب الصلاة للحسن إذا سال قيل أن يكفن غسله وبعده لا اه ... قوله ( لبقائه بالموت ) أي لأن الموت حدث كالخارج فلما لم يؤثر الموت في الوضوء وهو موجود لم يؤثر الخارج بجر ولأنه خرج عن التكليف بنقض الطهارة شرح المنية (رد المختار ١٩٧/٢)

## Non-mahram taking Thumbprints of the Deceased before Ghusal

**Question:** When a person passes away, then one of the legal requirements is to take thumbprints. Generally, a lot of difficulty is experienced in taking the thumbprints. Hence, under the circumstance, can the thumbprint of a woman be taken by non-mahrams?

**Answer:** It is best that a mahram take the thumbprint of a woman. If it is not possible that mahrams take the thumbprint, then the thumbprint may be taken by a non-mahram.<sup>117</sup>

## Quraanic Incriptions on the Janaazah Carriers

**Question:** Some of the coverings of the janaazah carriers have Arabic/Quraanic inscriptions. Is this permitted?

**Answer:** It is not permissible that there be Quraanic inscriptions on the janaazah carriers, biers, etc.<sup>118</sup>

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( فإن صلى غيره ) أي الولي ( ممن ليس له حق التقدم ) على الولي ( ولم يتابعه ) الولي ( أعاد الولي ) ولو على قبره إن شاء لأجل حقه لا لإسقاط الفرض ولذا قلنا ليس لمن صلى عليها أن يعيد مع الولي لأن تكرارها غير مشروع ( وإلا ) أي وإن صلى من له حق التقدم كفاض أو نائبه أو إمام الحي أو من ليس له حق التقدم وتابعه الولي ( لا ) يعيد لأنهم أولى بالصلاة منه (الدر المختار ٢/٢٢٢)

<sup>١١٧</sup> ( ويسجى ) أي يغطي ( قبرها ) ولو حنثي ( لا قبره ) إلا لعذر كمطر قال الشامي : قوله ( ويسجى قبرها ) أي بثوب ونحوه استحبابا حال إدخالها القبر حتى يسوى اللبن على اللحد كذا في شرح المنية والإمداد ونقل الخيز الرملي أن الزيلعي صرح في كتاب الخنثى أنه على سبيل الوجوب قلت ويمكن التوفيق بحمله على ما إذا غلب على الظن ظهور شيء من بدنها تأمل قوله ( كمطر ) أي وبرد وحر وتلج قهستاني (رد المختار ٢/٢٣٦)

<sup>١١٨</sup> وقد أفنى ابن الصلاح بأنه لا يجوز أن يكتب على الكفن يس والكهف ونحوهما خوفا من صديد الميت والقياس المذكور ممنوع لأن القصد ثم التمييز وهنا التبرك فالأسماء المعظمة باقية على حالها فلا يجوز تعريضها للنجاسة والقول بأنه يطلب فعله مردود لأن مثل ذلك لا يحتاج به إلا إذا صرح عن النبي صلى الله عليه وسلم طلب ذلك وليس كذلك اهـ وقدمنا قبيل باب المياه عن الفتح أنه تكره كتابة القرآن وأسماء الله تعالى على الدراهم والخارِب والجدران وما يفرش وما ذلك إلا لاحترامه وحشية وطئه ونحوه مما فيه إهانة فالمنع هنا بالأولى ما لم يثبت عن المجتهد أو ينقل فيه حديث ثابت فتأمل نعم نقل بعض المحشين عن فوائد الشرحي أن مما يكتب على جبهة الميت بغير مداد بالأصبع المسبحة بسم الله الرحمن الرحيم وعلى الصدر لا إله الله محمد رسول الله وذلك بعد الغسل قبل التكفين اهـ والله أعلم (رد المختار ٢/٢٤٦) انظر أيضا فتاوى محمودية ٧٢/١٣ ، فتاوى محمودية ٧٧/١٣ ، أحكام ميت ص ٣٦٩ ، فتاوى محمودية ١٣/٧٧

## Chapter Six – Enshrouding the Deceased in the Kafan

The kafan is the clothing which the deceased will be made to wear before being placed in the grave. Just as it is fardh-e-kifaayah to give ghusal to the deceased, similarly it is fardh-e-kifaayah to enshroud him in a kafan. Hence, if among the Muslims, some fulfil this obligation, others will be absolved. However, if this obligation is not fulfilled by anyone then all those who had knowledge of the deceased's condition and did not fulfil this obligation will be sinful in the court of Allah <sup>119</sup>. تَبَارَكَ وَتَعَالَى.

<sup>119</sup> (وكفن من لا مال له علي من تجب عليه نفقته) فإن تعددوا فعلى قدر ميراثهم ... (وإن لم يكن ثمة من تجب عليه نفقته ففي بيت المال فإن لم يكن) بيت المال معمورا أو منتظما (فعلى المسلمين تكفينه) فإن لم يقدرُوا سألُوا الناس له ثوبا فإن فضل شيء رد للمصدق إن علم وإلا كفن به مثله وإلا تصدق به بحسبى وظاهره أنه لا يجب عليهم إلا سؤال كفن الضرورة لا الكفاية ولو كان في مكان ليس فيه إلا واحد وذلك الواحد ليس له إلا ثوب لا يلزمه تكفينه به ولا يخرج الكفن عن ملك المتبرع قال الشامي: قوله (من لا مال له) أما من له مال فكفنه في ماله يقدم على الدين والوصية والإرث إلى قدر السنة ما لم يتعلق به حق الغير كالرهن والمبيع قبل القبض والعبد الجاني بحر وزبلي وقد منا أن للغرباء منع الورثة من تكفينه بما زاد على كفن الكفاية قوله (على من تجب عليه نفقته) وكفن العبد على سيده والمهون على الراهن والمبيع في يد البائع عليه بحر قوله (فعلى قدر ميراثهم) كما كانت النفقة واجبة عليهم فتح أي فأعما على قدر الميراث فلو له أخ لأم وأخ شقيق فعلى الأول السدس والباقي على الشقيق أقول ومقتضى اعتبار الكفن بالنفقة أنه لو كان له ابن وبنت كان عليهما سوية كالنفقة إذ لا يعتبر الميراث في النفقة الواجبة على الفرع لأصله ولذا لو كان له ابن مسلم وابن كافر فهي عليهما ومقتضاه أيضا أنه لو كان للميت أب وابن كفنه الابن دون الأب كما في النفقة على التفاصيل الآتية في بابها إن شاء الله تعالى قال الشامي: قوله (فعلى المسلمين) أي العالمين به وهو فرض كفاية يأثم بتركه جميع من علم به ط قوله (فإن لم يقدرُوا) أي من علم منهم بأن كانوا فقراء قوله (وإلا كفن به مثله) هذا لم يذكره في المحتجب بل زاده عليه في البحر عن التنجيس والواقعات قلت وفي مختارات النوازل لصاحب الهداية فقير مات فجمع من الناس الدراهم وكفنه وفضل شيء إن عرف صاحبه يرد عليه وإلا يصرف إلى كفن فقير آخر أو يتصدق به قوله (وظاهره الخ) أي ظاهر قوله ثوبا وهذا بحث لصاحب النهر لكن قال في مختارات النوازل بعد ما نقلناه عنه ولا يجمع من الناس إلا قدر كفايته أو فتأمل ثم رأيت في الأحكام عن عمدة المفتي ولا يجمعون من الناس إلا قدر ثوب واحد اه قوله (لا يلزمه تكفينه به) لأنه محتاج إليه فلو كان الثوب للميت والحى وارثه يكفن به الميت لأنه مقدم على الميراث بحر إلا إذا كان الحى مضطرا إليه لبرد أو سبب يخشى منه التلف كما لو كان للميت ماء وهناك مضطر إليه لعطش قدم على غسله

It is desirable that the kafan be of medium quality and according to the height of the deceased. Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "Do not use expensive cloth in the kafan for it will very soon decay."<sup>120</sup>

The following are some pertinent masaa'il which relate to the kafan:

1. It is permissible for one to prepare one's kafan in advance.<sup>121</sup>
2. It is preferable to enshroud the deceased in a white kafan.<sup>122</sup>
3. It is mustahab to apply itr on the kafan.<sup>123</sup>
4. If possible, the kafan should first be scented with some incense an odd number of times before enshrouding the deceased in it.<sup>124</sup>

**Note:** It is preferable to burn incense on three occasions; immediately after a person passes away, at the time when giving ghusal to the deceased and before enshrouding the deceased in the kafan. The reason for burning incense near the deceased is to remove any bad odour that may come out from the body of the deceased at the time of his demise or after his demise.<sup>59 68 124</sup>

شرح المنية قوله ( ولا يخرج الكفن عن ملك المتبرع ) حتى لو افترس الميت سبع كان للمتبرع لا للورثة نحر أي إن لم يكن وهبه لهم كما في الأحكام عن المحيط (رد المحتار ٢/٢٠٦). انظر أيضا ٦٣

<sup>١٢٠</sup> سنن أبي داود رقم ٣١٥٤

<sup>١٢١</sup> ويحفر قبرا لنفسه وقيل يكره والذي ينبغي أن لا يكره تحمئة نحو الكفن بخلاف القبر قال الشامي : قوله ( ويحفر قبرا لنفسه ) في بعض النسخ ويحفر قبر لنفسه على أن لفظة حفر مصدر مجرور بالباء مضاف إلى قبر أي ولا بأس به وفي التاترخانية لا بأس به ويؤجر عليه هكذا عمل عمر بن عبد العزيز والربيع بن خيثم وغيرهما اه قوله ( والذي ينبغي الخ ) كذا قاله في شرح المنية وقال لأن الحاجة إليه متحققة غالبا بخلاف القبر لقوله تعالى ( وما تدري نفس بأي أرض تموت ) (رد المحتار ٢/ ٢٤٤) انظر أيضا فتاوى محمودية ١٣/ ٦٦، صحيح البخاري رقم

١٢٧٧، تاريخ الإسلام ٤/ ٢٢٠

<sup>١٢٢</sup> سنن الترمذي رقم ٩٩٤

<sup>١٢٣</sup> وصفة تكفين الرجل أن يبخر الكفن أولا بالبخور الطيبة ويرش عليه الخنوط إن وجد ويسيطر اللغافة ثم الإزار وهو من القرن إلى القدم ثم يجعل عليه حنوط إن وجد ويطلق بالكافور مساحده (رسائل الاركان ص ١٥٤). انظر أيضا فتاوى محمودية (١٣/٧٨)

<sup>١٢٤</sup> وتجمر الأكفان قبل أن يدرج الميت فيها وترا واحدة أو ثلاثا أو خمسا ولا يزداد على ذلك كذا في العيني شرح الكنز (الفتاوى الهندية

## Method of Laying Out the Kafan and Enshrouding the Male Deceased

1. It is sunnah to enshroud a man in three cloths i.e. a qamees (kurta), an izaar (loincloth), and a lifaafah (sheet).<sup>125</sup>
2. The izaar (loincloth) will be from the head to the toe. The lifaafah (sheet) should be slightly longer than that. The qamees (kurta) will be from the neck until the feet.<sup>126</sup>
3. Since the qamees will be worn by the deceased like a kurta, unlike the izaar and lifaafah which will be wrapped around him, it is important to note how the qamees will be prepared. The sheet that will be used as the qamees will be folded in half. The length of the folded sheet will equal the length from the shoulders to the feet of the deceased. An opening will then be cut into the sheet at the fold. It is through this opening that the head of the deceased will be inserted. When the mayyit is made to wear the qamees, half the sheet will cover the front of his body until the feet and the other half will cover the back of his body until the feet. The qamees (kurta) should not have any sleeves or pockets.<sup>126</sup>
4. If three cloths are not available or cannot be afforded, then sufficing on two cloths (izaar and lifaafah) will be permissible.<sup>127</sup>
5. Enshrouding the mayyit in two cloths is better than enshrouding him in one cloth. However, if this is not

<sup>125</sup> ( ويسن في الكفن له إزار وقميص ولفافة وتكره العمامة ) للميت ( في الأصح ) ( الدر المختار ٢/٢٠٢ )

<sup>126</sup> قال الشامي : قوله ( إزار الخ ) هو من القرن إلى القدم والقميص من أصل العنق إلى القدمين بلا دخريص وكمين ولفافة تزيد على ما فوق القرن والقدم ليلف فيها الميت وتربط من الأعلى والأسفل إمداد والدخريص : الشق الذي يفعل في قميص الحي ليتسع للمشي (رد المختار ٢/٢٠٢)

<sup>127</sup> ( وكفاية له إزار ولفافة ) في الأصح ( ولها ثوبان وحمار ) ويكره أقل من ذلك قال الشامي : قوله ( في الأصح ) وقيل قميص ولفافة زيلعي قال في البحر وينبغي عدم التخصيص بالإزار ولفافة لأن كفن الكفاية معتبر بأذن ما يلبسه الرجل في حياته من غير كراهة كما علل به في البدائع اهـ (رد المختار ٢/٢٠٣)

affordable then under dire circumstances, enshrouding the mayyit in one cloth will be permissible.<sup>128</sup>

## The Kafan of Hazrat Mus'ab bin Umair رَضِيَ اللهُ عَنْهُ and Hazrat Hamzah رَضِيَ اللهُ عَنْهُ

عن سعد عن أبيه قال أتى عبد الرحمن بن عوف رضي الله عنه يوما بطعامه فقال قتل مصعب بن عمير وكان خيرا مني فلم يوجد له ما يكفن فيه إلا بردة وقتل حمزة أو رجل آخر خير مني فلم يوجد له ما يكفن فيه إلا بردة لقد خشيت أن يكون قد عجلت لنا طبيباتنا في حياتنا الدنيا ثم جعل يبكي<sup>١٢٩</sup>

*Hazrat Abdur Rahmaan bin Auf رَضِيَ اللهُ عَنْهُ was once served with meals. Upon receiving the food, he said, "Hazrat Mus'ab bin Umair رَضِيَ اللهُ عَنْهُ was martyred and he was better than me. At the time of his burial, there was no cloth besides a shawl that was found to be used as his kafan. Hazrat Hamzah رَضِيَ اللهُ عَنْهُ (or another Sahaabi رَضِيَ اللهُ عَنْهُ) was also martyred, and he was better than me. At the time of his burial, there was no cloth besides a shawl that could be found to be used as his kafan. I fear that the rewards of our good deeds have been granted to us in our worldly life. (On account of being blessed with wealth)" He then began to weep.*

<sup>١٢٨</sup> (وكفن الضرورة لهما ما يوجد) وأقله ما يعم البدن قال الشامي : قوله ( وأقله ما يعم البدن ) ظاهره أنه لو لم يوجد له ذلك سألو الناس له ثوبا يعمه وأن ما دون ذلك بمنزلة العدم وإنه لا يسقط به الفرض عن المكلفين وإن كان ساترا للعودة ما لم يعم البدن لكن لا يخفى أن كفن الضرورة ما لا يصار إليه إلا عند العجز فلا يناسب تقييده بشيء ولذا عبر المصنف بما يوجد نعم ما يعم البدن هو كفن الفرض كما صرح به في شرح المنية فيسقط به الفرض عن المكلفين لا بقاء كونه عند الضرورة لأنها تقدر بقدرها ولذا لما استشهد مصعب بن عمير رضي الله عنه يوم أحد ولم يكن عنده إلا ثمرة أي كساء مخطط فكان إذا غطى بها رأسه بدت رجلاه وبالعكس أمر النبي بتغطية رأسه بها ورجليه بالإذخر إلا أن يقال إن ما لا يستر البدن لا يكفي عند الضرورة أيضا بل يجب ستر باقيه بنحو حشيش كالإذخر ولذا قال الزبلي بعد سوقه حديث مصعب وهذا دليل على أن ستر العودة وحدها لا يكفي خلافا للشافعي اه تأمل (رد المختار ٢/٢٠٤)

<sup>١٢٩</sup> صحيح البخارى رقم ١٢٧٤



## Laying Out the Male's Kafan

1. The lifaafah (sheet) will be spread out.
2. The izaar (loincloth) will be placed upon it (lifaafah).
3. The gamees (kurta) will be placed upon the izaar.<sup>130</sup>

## Enshrouding the Male Deceased

1. Lay down the deceased and put on the gamees (kurta).
2. Wrap the izaar (loincloth) around him.
3. The lifaafah (sheet) will be wrapped around him.

When enshrouding the deceased, one will first place the left side of the cloth (izaar and lifaafah) before the right side so that after folding, the right side of the cloth will be on top of the left side.<sup>130</sup>

After the mayyit is enshrouded in the kafan, a strip of cloth will be tied at the head side and another strip at the feet side to ensure that the kafan does not open. A third strip of cloth may also be tied around the stomach so that the kafan may not get loose whilst the mayyit is being carried.<sup>131</sup>

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<sup>130</sup> وكيفيته أن تبسط اللغافة أولاً ثم الإزار فوقها ويوضع الميت عليهما مقمصاً ثم يعطف عليه الإزار وحده من قبل اليسار ثم من قبل اليمين ليكون الأيمن فوق الأيسر ثم اللغافة كذلك (البحر الرائق ٢/١٩٠)

<sup>131</sup> (وعقد) الكفن (إن خيف انتشاره) صيانة للميت عن الكشف (مراقى الفلاح مع حاشية الطحطاوى ص٥٧٨). انظر أيضا ١٢٦

## Method of Laying Out the Kafan and Enshrouding the Female Deceased

1. It is sunnah to enshroud a woman in five cloths i.e. a gamees (kurta), an izaar (loincloth), an aurni (headband), a lifaafah (sheet) and a seenah-band (chest band).<sup>132</sup>
2. The izaar (loincloth) will be from the head to the toe. The lifaafah (sheet) should be slightly longer than that. The gamees (kurta) will be from the neck until the feet. However, it should not have any sleeves.<sup>126</sup>
3. The seenah-band (chest band) will be from the chest till around the knees in length. However, if it reaches up to the navel then it will suffice<sup>133</sup>
4. If five cloths are not available or are not affordable, then sufficing on three cloths will be permissible i.e. the izaar (loincloth), lifaafah (sheet) and the aurni (headband).<sup>134</sup>

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<sup>132</sup> (ولها درع) أي قميص ( وإزار وخمار ولقافة وخرقة تربط بها ثدياها ) وبطنها قال الشامي : قوله ( ولها ) أي ويسن في الكفن للمرأة قوله ( أي قميص ) أشار إلى ترادفهما كما قالوا وقد فرق بينهما بأن شق الدرع إلى الصدر والقميص إلى المنكب قهستاني (رد المختار ٢٠٣/٢)

<sup>133</sup> والأولى أن تكون الخرقه من التديين إلى الفخذ كذا في الجوهره النيرة (الفتاوى الهندية ١/١٦٠)

( تبسط اللقافة ) أولا ( ثم يبسط الإزار عليها ويقمص ويوضع على الإزار ويلف يساره ثم يمينه ثم اللقافة كذلك ) ليكون الأيمن على الأيسر ( وهي تلبس الدرع ويجعل شعرها ضفيرتين على صدرها فوقه ) أي الدرع ( والخمار فوقه ) أي الشعر ( تحت اللقافة ) ثم يفعل كما مر قال الشامي : قوله ( ويقمص ) أي الميت أي يلبس القميص بعد تنشيفه بخرقة كما مر قوله ( ويلف يساره ثم يمينه ) الضميران للإزار وأشار به إلى أن كلا من الإزار واللقافة يلف وحده لأنه أمكن في الستر ط قوله ( ليكون الأيمن على الأيسر ) اعتبار بحالة الحياة إمداد قوله ( تحت اللقافة ) الأوضح تحت الإزار قوله ( ثم يفعل كما مر ) أي بأن توضع بعد إلباس الدرع والخمار على الإزار ويلف يساره الخ قال في الفتح ولم يذكر الخرقه وفي شرح الكنز فوق الأكتاف كيلا تنتشر وعرضها ما بين ثدي المرأة إلى السرة وقيل ما بين الثدي إلى الركبة كيلا ينتشر الكفن على الفخذين وقت المشي وفي التحفة تربط الخرقه فوق الأكتاف عند الصدر فوق التديين اه وقال في الجوهره وقول الخندي تربط الخرقه على التديين فوق الأكتاف يحتمل أن يراد به تحت اللقافة وفوق الإزار والقميص وهو الظاهر اه وفي الاختيار تلبس القميص ثم الخمار فوقه ثم تربط الخرقه فوق القميص اه ومعناه هذه العبارات الاختلاف في عرضها وفي محل وضعها وفي زمانه تأمل (رد المختار ٢٠٤/٢)

<sup>134</sup> ( وكفاية له إزار ولقافة ) في الأصح ( ولها ثوبان وخمار ) قال الشامي : قوله ( ولها ثوبان ) لم يعينها كالحداية وفسرها في الفتح بالقميص واللقافة وعينهما في الكنز بالإزار واللقافة قال في البحر والظاهر كما قدمناه عدم التعيين بل أي قميص وإزار أو إزاران والثاني أولى لأن فيه زيادة في ستر الرأس والعنق (رد المختار ٢٠٣/٢)

5. It is makrooh to use less than three pieces of cloth except under dire circumstances.<sup>135</sup>

### Laying Out the Female's Kafan

1. The lifaafah (sheet) will be spread out.
2. The seenah-band (chest band) will be placed on the lifaafah.
3. The izaar (loincloth) will be placed upon it (seenah-band).
4. The qamees (kurta) will be placed upon the izaar.

### Enshrouding the Female Deceased

1. Lay down the deceased and put on the qamees (kurta).
2. The hair will be parted into two and then placed on the chest above the qamees (kurta). One part of the hair will be placed on the right side and the other part on the left side.
3. Place the aurni (headband) over the head and hair. It should not be tied nor wrapped.
4. Wrap the izaar (loincloth) around the qamees.
5. Then the seenah-band (chest band) will be wrapped around the izaar.
6. Lastly, the lifaafah (sheet) will be wrapped around the seenah-band (chest band).

**Note:** It is also permissible to tie the seenah-band (chest band) after the aurni (headband), before the izaar (loincloth). Similarly, if the seenah-band is tied at the end, after the lifaafah, it will be permissible.<sup>133</sup>

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<sup>135</sup> ويكره الاقتصار على ثوبين لها وكذا للرجل على ثوب واحد إلا للضرورة كذا في العيني شرح الكنز (الفتاوى الهندية ١/١٦٠)

## Important Points to Consider Regarding the Kafan of Males and Females

1. When folding the izaar and lifaafah, it is mustahab for one to fold the right side over the left side.<sup>133</sup>
2. After the mayyit is enshrouded in the kafan, a strip of cloth will be tied at the head side and another strip at the feet side to ensure that the kafan does not open. A third strip of cloth may also be tied around the stomach so that the kafan may not get loose whilst the mayyit is being carried.<sup>131</sup>
3. If a person passes away and does not leave behind any wealth through which the kafan could be purchased and the burial expenses be paid (i.e. transporting the body to the graveyard and the cost of the grave), then it is the Shar'ee obligation of the family (those who will inherit from him) to provide him with a kafan and to cover his burial expenses.<sup>119</sup>
4. In the situation where the person does not have any family members or he is in a foreign land and his family is not known, then the obligation of providing him with a kafan and burying him rests upon the shoulders of the Ummah at large i.e. it is fardh-e-kifaayah upon all those who have knowledge of this person's condition to enshroud him in a kafan and bury him. If some fulfil this obligation, then the others will be absolved. If the mayyit is abandoned and his body is left to decay without enshrouding and burying him, then all those who had knowledge of his condition will be sinful in the court of Allah *تَبَارَكَ وَتَعَالَى*.<sup>119</sup>
5. It is permissible for one to prepare his kafan in advance.<sup>121</sup>

## Responsibility of the Funeral Expenses

The funeral expenses refer to the cost incurred for ghusal, kafan, transporting the deceased and purchasing the grave which are all carried out in the prescribed Shar'ee manner. Any expenses incurred

which are customary or contrary to Shari'ah will not be regarded as the "funeral expenses".<sup>136</sup>

1. If the deceased left sufficient wealth to cover the funeral expenses then it will be paid out from his wealth.
2. It is permissible for a person, whether he is an heir or not, to voluntarily pay for the funeral expenses of the deceased provided he is sane and mature.
3. If a person passes away and does not leave any wealth through which the funeral expenses could be paid, then it is the Shar'ee obligation of his family (those who will inherit from him) to cover his funeral expenses.
4. If a person's wife passes away then the funeral expenses will be borne by the husband, irrespective of whether the wife left some wealth or not.<sup>119</sup>

## Common Mistakes Regarding Enshrouding the Deceased

1. Immersing a piece of cotton wool in perfume and placing it in the ears of the deceased is an unfounded practice and should be omitted.<sup>115</sup>
2. Combing the hair and beard of the deceased and clipping the nails is impermissible. If the nails are clipped, they will have to be buried with the deceased.<sup>107</sup>
3. Some people apply a thick paste (sandal) to the forehead of the deceased. This is incorrect as it spoils and disfigures the face. However, if it is rubbed on the face lightly and is not placed as a thick paste, it will be permissible.<sup>82</sup>

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<sup>136</sup> قال الشامي : قوله ( وإن تركت مالا الخ ) ... ثم اعلم أن الواجب عليه تكفينها وتجهيزها الشرعيان من كفن السنة أو الكفاية وحنوط وأجرة غسل وحمل ودفن دون ما ابتدع في زماننا من مهللين وقراء ومعتين وطعام ثلاثة أيام ونحو ذلك ومن فعل ذلك بدون رضا بقية الورثة البالغين يضمه في ماله (رد المحتار ٢٠٦/٢)

4. It is impermissible to place a Quraan Majeed or verses of the Quraan Majeed in the kafan. Similarly, it is impermissible to write verses of the Quraan Majeed on the kafan.<sup>118</sup>
5. Applying surmah to the deceased is an unfounded practice and hence should be omitted.<sup>107</sup>

## Placing Verses of the Quraan Majeed or Duas in the Kafan

It is impermissible to write an aayat of the Quraan Majeed or dua on a page and enclose it in the kafan. Similarly, it is impermissible to write an aayat, a dua or the Kalimah on the kafan itself or on the chest of the deceased with ink or with camphor etc.<sup>118</sup>

## Masaa'il Pertaining to Giving Ghusal and Enshrouding Deceased Children

1. A boy and girl who are close to the age of puberty will be enshrouded in the same manner that a baaligh male and female are enshrouded.<sup>137</sup>
2. As far as minors who are not close to the age of puberty are concerned, it is best to enshroud a minor boy in three cloths and a minor girl in five cloths, just as baaligh males and females are enshrouded. Enshrouding the boy in two cloths and the girl in three cloths is also permissible. The minimum number of cloths that a non-baaligh boy can be enshrouded in is one cloth, and the minimum number of cloths that a non-baaligh girl can be enshrouded in is two cloths.<sup>138</sup>

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<sup>137</sup> والصبي المراهق في التكفين كالبالغ والمراهقة كالبالغة (الفتاوى الهندية ١/١٦٠)

<sup>138</sup> (ومن لم يراهق الخ) هذا لو ذكرنا قال الزيلعي وأدنى ما يكفن به الصبي الصغير ثوب واحد والصبي ثوبان اه وقال في البدائع وإن كان صبيا لم يراهق فإن كفن في حرقتين إزار ورداء فحسن وإن كفن في إزار واحد جاز وأما الصغيرة فلا بأس أن تكفن في ثوبين اه أقول في قوله

3. An infant child who passes away immediately after birth or a while later will be given an Islamic name, ghusal will be given and he will be enshrouded in a kafan. One cloth can be used for the kafan. The Janaazah Salaah will also be performed upon him.<sup>139</sup>
4. A still-born child will be given an Islamic name. He will thereafter be given ghusal, wrapped in a cloth and buried without Janaazah Salaah.<sup>139</sup>
5. If a woman miscarries and only separate, individual limbs are seen (e.g. hands, feet, nose, mouth) which are not joined to a body, then these limbs will be wrapped in a cloth and buried.<sup>109</sup>
6. If a woman miscarries and the limbs and body of the foetus are intact but not fully formed (i.e. hands, feet, nose, mouth etc. are joined to the body, but the entire body with these limbs have not yet been fully formed) then the child will be named, washed, wrapped in a cloth and buried without Janaazah Salaah. The Shar'ee ghusal will not be carried out in this case.<sup>140</sup>
7. If the child dies during birth, before most of the body exits, then it will follow the law of the still-born child i.e. it will be

فحسب إشارة إلى أنه لو كفن بكفن البالغ يكون أحسن لما في الخلية عن الحائية والخلاصة للطفل الذي لم يبلغ حد الشهوة الأحسن أن يكفن فيما يكفن فيه البالغ وإن كفن في ثوب واحد جازاه وفيه إشارة إلى أن المراد بمن لم يراهق من لم يبلغ حد الشهوة (رد المختار ٢/٤٠٤) ومن استهل بعد الولادة سمي وغسل وصلى عليه وإن لم يستهل أدرج في خرقة ولم يصل عليه ويغسل في غير الظاهر من الرواية وهو المختار كذا في الهداية والاستهلال ما يعرف به حياة الولد من صوت أو حركة (الفتاوى الهندية ١/١٥٩)

<sup>140</sup> ( وإن لم يستهل غسل ) وإن لم يتم خلقه ( في المختار ) لأنه نفس من وجه ( وأدرج في خرقة ) وسمي ( ودفن ولم يصل عليه ) قال الطحطاوي : قوله ( وإن لم يستهل ) مثله ما إذا استهل فمات قبل خروج أكثره وأما الاستهلال في البطن فغير معتبر بالأولى قوله ( وإن لم يتم خلقه ) فيغسل وإن لم يراع فيه السنة وبهذا يجمع بين من أثبت غسله وبين من نفاه فمن أثبت أراد الغسل في الجملة ومن نفاه أراد الغسل المرعي فيه وجه السنة والمتبادر منه أنه ظهر فيه بعض خلق وأما إذا لم يظهر فيه خلق أصلاً فالظاهر أنه لا يغسل ولا يسمى لعدم حشره وحرره قوله ( في المختار ) وظاهر الرواية منع الكل وكذا لا يرث ولا يورث اتفاقاً لأنه كجزء الحي كما في الزيلعي والحاموي وحاصل ما في المصنف أنه بالنظر لكونه نفساً من وجه يغسل ويصلى عليه وبالنظر لكونه جزء آدمي لا ولا فاعملنا الشبهين فقلنا يغسل عملاً بالأول ولا يصلى عليه عملاً بالثاني ورحمنا خلاف ظاهر لرواية قوله ( لأنه نفس من وجه ) الأولى ما في ملتقى البحار حيث قال إكراماً لبني آدم وإنما كان نفساً لأنه يبعث وإن لم ينبفخ فيه الروح على أحد القولين قوله ( وسمي ) أي وإن لم يتم خلقه كما في الشرح عن الطحاوي (حاشية الطحطاوي على مراقبي الفلاح ص ٥٩٨)

given an Islamic name and Shar'ee ghusal, wrapped in a cloth and buried without Janaazah Salaah.<sup>141</sup>

8. If the child died during birth, after most of the body appeared, then it will be regarded as though he was born alive and then passed away. Therefore, he will be given an Islamic name and a Shar'ee ghusal, and the normal kafan will be carried out. The Janaazah Salaah will also be performed upon him.<sup>141</sup>

**Note:** The major portion of the child appearing will be determined in the following manner: If the head of the child exited first, then once the chest exits, it will be regarded as though the major portion of the child has appeared. If the child's feet exited first then by the navel becoming visible, it will be regarded as though the major portion of the child has appeared.<sup>141</sup>

## Viewing the Face of the Deceased and Taking Photos of the Deceased

1. It is only permissible for mahram women of a deceased male to see his face.
2. Similarly only the mahram males may view the face of a deceased female.<sup>142</sup>
3. It is not permissible to take photos of people who are living or people who have passed away. Hence, taking a photo of the deceased before he is buried is haraam. Severe, grave warnings have been sounded in the Mubaarak Hadith for those who are

<sup>141</sup> (ومن ولد فمات يغسل ويصلى عليه ) ويرث ويورث ويسمى ( إن استهل ) بالبناء للفاعل أي وجد منه ما يدل على حياته بعد خروج أكثره حتى لو خرج رأسه فقط وهو يصبح فدبحه رجل فعليه الغرة وإن قطع أذنه فخرج حيا فمات فعليه الدية ( وإلا ) يستهل ( غسل وسمى ) عند الثاني وهو الأصح فيفتى به على خلاف ظاهر الرواية إكراما لبني آدم كما في ملتقى البحار قال الشامي : قوله ( بعد خروج أكثره ) متعلق بوجود فلو خرج رأسه وهو يصبح ثم مات لم يرث ولم يصل عليه ما لم يخرج أكثر بدنه حيا بحر عن المبتغى حد الأكثر من قبل الرجل سرته ومن قبل الرأس صدره (رد المحتار ٢/٢٢٧)

<sup>142</sup> إذا كان الناظر إلى الرجل الأجنبي هو المرأة وفيما إذا كان الناظر إلى المرأة الأجنبية هو الرجل قال فليحتمب بجهدده وهو دليل الحرمة وهو الصحيح في الفصلين جميعا (الفتاوى الهندية ٥/٣٢٧) انظر أيضا فتاوى رحيمية ٥/ ١٢١



involved in the major sin of picture-making. It is reported in the Hadith that Rasulullah ﷺ said:

إن أشد الناس عذابا عند الله يوم القيامة المصورون<sup>١٤٣</sup>

*Those involved in picture-making will be subjected to the worst forms of punishment on the Day of Qiyaamah.*

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<sup>١٤٣</sup> صحيح البخاري ٨٨٠/٢ ، صحيح مسلم ٢٠١/



# Chapter Seven - The Janaazah Salaah

The religion of Islam advocates and commands that one fulfil the obligations he owes to Allah تَبَارَكَ وَتَعَالَى and the obligations he owes to the servants of Allah تَبَارَكَ وَتَعَالَى. Regarding the obligations and rights one owes the servants of Allah تَبَارَكَ وَتَعَالَى, these can be divided into two types of rights. The first type are those rights which are specific to each person individually e.g. the rights one owes towards his parents, kith and kin, neighbours, etc. The second type are those rights which relate to all Muslims in general. In regard to this type, Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ has explained in his Mubaarak Hadith that each Muslim has certain rights over his fellow Muslims. Among the rights that he has over his fellow Muslim brothers is that they take part in his Janaazah salaah.

## The Janaazah Salaah is Among the Rights of a Muslim

عن علي رضي الله عنه قال قال رسول الله صلى الله عليه وسلم للمسلم على المسلم ست  
المعروف يسلم عليه إذا لقيه ويحييه إذا دعاه ويشمته إذا عطس ويعوده إذا مرض ويتبع  
جنازته إذا مات ويجب له ما يجب لنفسه<sup>١٤٤</sup>

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<sup>١٤٤</sup> جامع الترمذي رقم ٢٧٣٦

*Hazrat Ali رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "A Muslim has six rights over his Muslim brother. When he meets him, he should greet him (with salaam); if he invites him, he should accept his invitation; when he sneezes (and says Alhamdulillah), he should reply to his sneeze by saying 'Yarhamukallah'; when he falls ill, he should visit him; when he passes away, he should attend his janaazah; and he should love for him what he loves for himself."*

From this Hadith, we understand that among the rights which one owes to his fellow Muslim brother is that he attend his Janaazah Salaah. Attending the Janaazah Salaah is fardh-e-kifaayah upon all those believers who have knowledge of the death of the deceased. If a group of believers perform the Janaazah Salaah, then all will be absolved of the obligation. If no one performs the Janaazah Salaah, then all will be sinful in the sight of Allah تَبَارَكَ وَتَعَالَى.<sup>145</sup>

## The Method of Performing the Janaazah Salaah

The sunnah method of performing the Janaazah Salaah is as follows:

1. The deceased should be placed in front of the imaam with his head on the right side of the imaam. The body of the deceased should be placed in the manner that his right side will face towards the qiblah.<sup>146</sup>

<sup>145</sup> ( والصلاة عليه ) صفتها ( فرض كفاية ) بالإجماع فيكفر منكرها لأنه أنكر الإجماع قبية ( كدفعه ) وغسله وتجهيزه فإنها فرض كفاية ( الدر المختار ٢/٢٠٧ ). انظر أيضا ٦٣

<sup>146</sup> ( ووضعه ) وكونه هو أو أكثره ( أمام المصلي ) وكونه للقبلة ... وصحت لو وضعوا الرأس موضع الرجلين وأساءوا إن تعمدوا قال الشامسي : ( قوله وصحت لو وضعوا الخ ) كذا في البدائع، وفسره في شرح المنية معزيا للتاريخانية بأن وضعوا رأسه مما يلي يسار الإمام اه فأفاد أن السنة وضع رأسه مما يلي يمين الإمام كما هو المعروف الآن، ولهذا علل في البدائع للإساءة بقوله لتغييرهم السنة المتوارثة، ويوافق قول الخاوي القدسي: يوضع رأسه مما يلي المستقبل، فما في حاشية الرحمتي من خلاف هذا فيه نظر فراجعهم (رد المختار ٢/٢٠٨).

2. The imaam will stand directly in line with the chest of the deceased.<sup>147</sup>
3. The intention for Janaazah Salaah will be made. One will make the intention that he is offering the Janaazah Salaah for the pleasure of Allah تَبَارَكَ وَتَعَالَى and as a dua for the deceased.<sup>148</sup>
4. The hands will then be raised up to the ears after which the takbeer will be recited.<sup>149</sup>
5. The hands will thereafter be tied below the navel as done in normal salaah.<sup>150</sup>
6. The thanaa will then be recited.<sup>151</sup>
7. The takbeer will be said for the second time without raising the hands.<sup>149</sup>
8. The Durood will then be recited. It is preferable to recite the same Durood that is recited in salaah, i.e. Durood-e-Ebrahim.<sup>152</sup>
9. The takbeer will be said for the third time without raising the hands.<sup>149</sup>

<sup>147</sup> وسنننا أربع ( الأولى قيام الإمام بخذاء ) صدر ( الميت ذكرًا كان ) الميت ( أو أنثى ) لأنه موضع القلب ونور الإيمان (مراقي الفلاح ص ٥٨٣)

<sup>148</sup> وفي صلاة الجنازة ينوي الصلاة لله تعالى والدعاء للميت (الفتاوى الهندية ١/٦٦)

<sup>149</sup> ( و هي أربع تكبيرات ) كل تكبيرة قائمة مقام ركعة ( يرفع يديه في الأولى فقط ) ( الدر المختار ٢/٢١٢ )

<sup>150</sup> ( ووضع ) الرجل ( يمينه على يساره تحت سرتة آخذًا راسها بخنصره وإبهامه ) وهو المختار ( الدر المختار ١/٤٨٦ ) قال الشامي : قوله بخنصره وإبهامه ( أي يخلق الخنصر والإبهام على الرسق ويبسط الأصابع الثلاث كما في شرح المنية ونحوه في البحر والنهر والمعراج والكفاية والفتح والسراج وغيرها وقال في البدائع ويخلق إبهامه وخنصره وينصره ويضع الوسطى والمسبحة على معصمه وتبعه في الحلية ومثله في شرح الشيخ إسماعيل عن المجتبي (رد المختار ١/٤٨٧)

<sup>151</sup> ( و يثني بعدها ) وهو سبحانك اللهم و بحمدك قال الشامي : قوله ( وهو سبحانك اللهم وبحمدك ) كذا فسر به التناء في شرح درر البحار وغيره وقال في العناية إنه مراد صاحب الهداية لأنه المعهود من التناء وذكر في النهر أن هذا رواية الحسن عن الإمام والذي في المبسوط عن ظاهر الرواية أنه بحمد الله اه أقول مقتضى ظاهر الرواية حصول السنة بأي صيغة من صيغ الحمد فيشمل التناء المذكور لاشتماله على الحمد (رد المختار ٢/٢١٢)

<sup>152</sup> ( و يصلي على النبي صلى الله عليه وسلم ) كما في التشهد (بعد الثانية) لأن تقديمها سنة الدعاء قال الشامي : قوله ( كما في التشهد ) أي المراد الصلاة الإبراهيمية التي يأتي بها المصلي في قعدة التشهد قوله ( لأن تقديمها ) أي تقدم الصلاة على الدعاء سنة كما أن تقدم التناء عليهما سنة أيضًا (رد المختار ٢/٢١٢)

10. Thereafter, the dua for the deceased will be recited. If the deceased is an adult, the following dua will be recited:

اللَّهُمَّ اغْفِرْ لِحَيِّنَا وَمَيِّتِنَا وَشَاهِدِنَا وَعَائِنَا وَصَغِيرِنَا وَكَبِيرِنَا وَذَكَرِنَا وَأُنثَانَا اللَّهُمَّ مَنْ أَحْيَيْتَهُ مِنَّا فَأَحْيِهِ عَلَى الْإِسْلَامِ وَمَنْ تَوَفَّيْتَهُ مِنَّا فَتَوَفَّهُ عَلَى الْإِيمَانِ<sup>١٥٣</sup>

*O Allah! Forgive our living and dead, present and absent, young and old, men and women. O Allah! Whoever amongst us is kept alive by You, keep him alive on Islam and whoever You give death, grant him death on Imaan.*

In some Ahaadith, the following dua has been recorded:

اللَّهُمَّ اغْفِرْ لَهُ وَارْحَمْهُ وَعَافِهِ وَاعْفُ عَنْهُ وَأَكْرِمْ نُزُلَهُ وَوَسِّعْ مَدْخَلَهُ وَاغْسِلْهُ بِالمَاءِ وَالتَّلْحِجِ وَالبَرْدِ وَنَقِّهِ مِنَ الخَطَايَا كَمَا يُنَقَّى التَّوْبُ الأَبْيَضُ مِنَ الدَّنَسِ وَأَبْدِلْهُ دَارًا خَيْرًا مِنْ دَارِهِ وَأَهْلًا خَيْرًا مِنْ أَهْلِهِ وَزَوْجًا خَيْرًا مِنْ زَوْجِهِ وَأَدْخِلْهُ الجَنَّةَ وَأَعِدْهُ مِنْ عَذَابِ القَبْرِ وَعَذَابِ النَّارِ<sup>١٥٤</sup>

*O Allah, forgive him, have mercy on him, give him peace and pardon him. Receive him honourably and make his grave spacious. Wash him with water, snow and hail. Cleanse him from his sins as a white garment is cleansed from dirt. Grant him an abode better than his (earthly abode), with a household better than his household and a wife better than his wife. Admit him into Paradise and protect him from the torment of the grave and the punishment of Jahannum.*

Apart from these two duas, there are other duas which have also been reported in the Mubaarak Ahaadith. The Fuqahaa have also recorded these duas in the books of Fiqh. One could therefore recite whichever dua one wishes.<sup>155</sup>

<sup>١٥٣</sup> جامع الترمذي رقم ١٠٢٤

<sup>١٥٤</sup> الحصن الحصين ص ١٨٣

<sup>١٥٥</sup> (ويدعو بعد الثالثة) بأمور الآخرة والمأثور أولى قال الشامي : قوله ( والمأثور أولى ) ومن المأثور اللهم اغفر لحينا وميتنا وشاهدنا وعائنا و صغيرنا وكبيرنا وذكرانا وأنثانا اللهم اغفر له وارحمه وعافه واعف عنه

11. If the deceased is an immature boy, the following dua should be recited:

اللَّهُمَّ اجْعَلْهُ لَنَا فَرَطًا وَاجْعَلْهُ لَنَا آجْرًا وَذُخْرًا وَاجْعَلْهُ لَنَا شَافِعًا وَمُسْتَفْعًا

*O Allah! Make him a means of preparing our Aakhirah (make him a means of us receiving benefit in the Hereafter through interceding for us), and make him a means of reward and a treasure for us, and make him an intercessor for us and accept his intercession.*

12. If the deceased is an immature girl, the same dua should be recited with the following changes:<sup>156</sup>

اللَّهُمَّ اجْعَلْهَا لَنَا فَرَطًا وَاجْعَلْهَا لَنَا آجْرًا وَذُخْرًا وَاجْعَلْهَا لَنَا شَافِعَةً وَمُسْتَفْعَةً

*O Allah! Make her a means of preparing our Aakhirah (make her a means of us receiving benefit in the Hereafter through interceding for us), and make her a means of reward and a treasure for us, and make her an intercessor for us and accept her intercession.*

13. Once this dua has been recited, the takbeer will be said for the fourth time without raising the hands. After this takbeer, the salaam should be made to the right and then to the left, just as it is made for any other salaah.<sup>157</sup>

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وأكرم نزله ووسع مدخله واغسله بالماء والثلج والبرد ونقه من الخطايا كما ينقى الثوب الأبيض من الدنس وأبدله دارا خيرا من داره وأهلا خيرا من أهله وزوجا خيرا من زوجته وأدخله الجنة وأعدّه من عذاب القبر وعذاب النار منح وثم أدعية أخر فانظرها في الفتح والإمداد وشروح المنية (رد المحتار ٢/٢١٢)

<sup>156</sup> ( ولا يستغفر بجنون أو صبي ) إذ لا ذنب لهما ( ويقول ) في الدعاء ( اللهم اجعله لنا فرطا ) الفرط بفتح الحاء الذي يتقدم الإنسان من ولده أي أجرا متقدما ( واجعله لنا أجرا ) أي ثوبا ( وذخرا ) بضم الذال المعجمة وسكون الحاء المعجمة الذخيرة ( واجعله لنا شافعا مستفعا ) بفتح الفاء مقبول الشفاعة ( مراقي الفلاح ص ٥٨٧ )

<sup>157</sup> ( ويسلم ) بلا دعاء ( بعد الرابعة ) تسليمتين ناويا الميت مع القوم ويسر الكل إلا التكبير زبلي وغيره لكن في البدائع العمل في زماننا على الجهر بالتسليم وفي جواهر الفتاوى يجهر بواحدة قال الشامي : قوله ( لكن في البدائع الخ ) قد يقال إن الزبلي لم يرد دخول التسليم في الكلية المذكورة والذي في البدائع ولا يجهر بما يقرأ عقب كل تكبيرة لأنه ذكر السنة فيه المخافتة وهل يرفع صوته بالتسليم لم يتعرض له في

14. There is neither at-tahiyyaat nor recitation of the Quraan Majeed in this salaah.<sup>158</sup>
15. If a person does not know the sunnah dua that is recited in the Janaazah Salaah, it is sufficient for him to recite the following dua:<sup>159</sup>

اللَّهُمَّ اغْفِرْ لِلْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ

*O Allah! Forgive the believing men and believing women.*

16. If one is a new Muslim and does not know any dua and only suffices on the four takbeers, his salaah will be valid. The reason is that the thanaa, Durood and dua in Janaazah Salaah is not fardh but is rather sunnah. However, one should make an effort to learn the relevant sunnah duas so that the Janaazah Salaah can be performed according to the sunnah.<sup>160</sup>

## The Faraa'idh and Sunan of Janaazah Salaah

### There are Two Faraa'idh in Janaazah Salaah:

1. To recite all the four Takbeers.

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ظاهر الرواية وذكر الحسن بن زياد أنه لا يرفع لأنه للإعلام ولا حاجة له لأن التسليم مشروع عقب التكبير بلا فضل ولكن العمل في زماننا على خلافه اهـ (رد المختار ٢/٢١٣)

<sup>١٥٨</sup> (ولا قراءة ولا تشهد فيها) وعين الشافعي الفاتحة في الأولى وعندنا تجوز بنية الدعاء وتكره بنية القراءة لعدم ثبوتها فيها عن عليه الصلاة والسلام قال الشافعي: قوله (وعين الشافعي الفاتحة) وبه قال أحمد لأن ابن عباس صلى على جنازة فجهر بالفاتحة وقال عمدا فعلت ليعلم أنها سنة ومذهبنا قول عمر وابنه وعلي وأبي هريرة وبه قال مالك كما في شرح المنية (رد المختار ٢/٢١٣)

<sup>١٥٩</sup> ومن لا يحسن الدعاء يقول اللهم اغفر للمؤمنين والمؤمنات كذا في المجتبى (البحر الرائق ٢/١٩٧)

<sup>١٦٠</sup> ثم يدعو للميت وللمؤمنين والمؤمنات لأنه المقصد منها وهو لا يقتضي ركنية الدعاء كما توهمه في فتح القدير لأن نفس التكبيرات رحمة للميت وإن لم يدع له (البحر الرائق ٢/١٩٧)



2. To stand and perform the Janaazah Salaah if one is able.<sup>161</sup>

## There are Three Sunnats in Janaazah Salaah:

1. To praise Allah تَبَارَكَ وَتَعَالَى
2. To send salutations upon Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ
3. To make dua for the deceased.<sup>162</sup>

## Pertinent Masaa'il Pertaining to Janaazah Salaah

1. In Janaazah Salaah, each takbeer is in place of one rakaat i.e. the position that each takbeer holds in a Janaazah Salaah is similar to the position that each rakaat holds in a four rakaat fardh salaah. Hence, if any takbeer is omitted, the Janaazah Salaah will be invalid.<sup>163</sup>
2. Just as it is compulsory to perform the fardh salaah standing when one is able to, similarly it is compulsory to perform the Janaazah Salaah standing. Thus, if a person performs the Janaazah Salaah sitting without a valid excuse, the salaah will not be valid.<sup>161</sup>

<sup>161</sup> (وركنها) شيئا (التكبيرات) الأربع فالأولى ركن أيضا لا شرط فلذا لم يجز بناء أخرى عليها (والقيام) فلم تجز قاعدا بلا عذر قال الشامي: قوله (فلم تجز قاعدا) أي ولا ركبها قوله (بلا عذر) فلو تعذر النزول لطين أو مطر جازت ركبها ولو كان الولي مريضا فصلى قاعدا والناس قياما أجزاءهم عندهما وقال محمد تجزي الإمام فقط حلية (رد المختار ٢/٩٠٢)

<sup>162</sup> (وستنها) ثلاثة (التحميم والثناء والدعاء فيها) ذكره الزاهدي قال الشامي: قوله (التحميم والثناء) كذا في البحر عن الخيط ومقتضى قول الشارح ثلاثة أن الثناء غير التحميم مع أنه فيما يأتي فسر الثناء بقوله سبحانه اللهم وبحمدك فعلم أن المراد بهما واحد على ما يأتي بيانه فكان عليه أن يذكر الثالث الصلاة على النبي صلى الله عليه وسلم (رد المختار ٢/٩٠٢)

<sup>163</sup> وركنهما التكبيرات والقيام لأن كل تكبيرة منها قائمة مقام ركعة (البحر الرائق ٢/١٨٣)  
وصلاة الجنازة أربع تكبيرات ولو ترك واحدة منها لم تجز صلاته هكذا في الكافي (الفتاوى الهندية ١/٦٤٤)

3. There is no ruku', sajdah or qa'dah in Janaazah Salaah.<sup>164</sup>
4. There are two important differences between Janaazah Salaah and normal salaah.
  - a) The Janaazah Salaah is not limited to any specific time unlike the five daily salaah. Hence, at whichever time the janaazah is brought, the Janaazah Salaah can be performed. The Janaazah salaah can also be performed after Fajr and after Asr Salaah. However, one should refrain from performing the Janaazah Salaah during the forbidden times i.e. at the time of sunrise, zawaal or sunset. Sunset refers to the time when the colour of the sun begins to change before the actual sunset (i.e. including the actual sunset.)<sup>165</sup>
  - b) If a person (besides the wali of the deceased) does not have wudhu and fears that if he has to engage in making wudhu, he will miss the Janaazah Salaah, then in such a situation it will be permissible for him to make tayammum and perform the Janaazah Salaah, contrary to the five daily salaah.<sup>166</sup> In the case of the five daily salaah, even if one fears missing the salaah, it will not be permissible for one to perform tayammum and perform the salaah. Instead it is necessary for him to make wudhu and perform the salaah.

<sup>164</sup> قال الشامي : قوله ( بنوي الصلاة لله الخ ) كذا في المنية قال في الحلية وفي المحيط الرضوي والتحفة والبدائع ينبغي أن بنوي صلاة الجمعة وصلاة العيدين وصلاة الجنازة وصلاة الوتر لأن التعيين يحصل بهذا اه وأما ما ذكره المصنف فليس بضربة لازب ويمكن أن يكون إشارة إلى أنه لا بنوي الدعاء للميت فقط نظرا إلى أنه لا ركوع فيها ولا سجود ولا قراءة ولا تشهد اه (رد المحتار ٤٢٣/١)

<sup>165</sup> فصل وأما بيان ما يكره فيها فنقول نكرو الصلاة على الجنازة عند طلوع الشمس وغروبها ونصف النهار لما روينا من حديث عقبة بن عامر أنه قال ثلاث ساعات تحانا رسول الله صلى الله عليه وسلم أن نصلي فيها وأن نقبر فيها موتانا والمراد من قوله أن نقبر فيها موتانا الصلاة على الجنازة دون الدفن إذ لا بأس بالدفن في هذه الأوقات فإن صلوا في أحد هذه الأوقات لم يكن عليهم إعادتها لأن صلاة الجنازة لا يتعين لأدائها وقت ففي أي وقت صليت وقعت أداء لا قضاء ومعنى الكراهة في هذه الأوقات يمنع جواز القضاء فيها دون الأداء كما إذا أدى عصر يومه عند تغير الشمس على ما ذكرنا فيما تقدم ولا تكره الصلاة على الجنازة بعد صلاة الفجر وبعد صلاة العصر قبل تغير الشمس لأن الكراهة في هذه الأوقات ليست لمعنى في الوقت فلا يظهر في حق الفرائض لما بينا فيما تقدم ولو أرادوا أن يصلوا على جنازة وقد غربت الشمس فالأفضل أن يبدأ بصلاة المغرب ثم يصلون على الجنازة لأن المغرب أكد من صلاة الجنازة فكان تقديمه أولى ولأن في تقديم الجنازة تأخير المغرب وأنه مكروه (بدائع الصنائع ٣١٦/١)

<sup>166</sup> قوله ( وخوف فوت صلاة جنازة ) أي يجوز التيمم لخوف فوت صلاة الجنازة (البحر الرائق ١٦٥/١)

If the time expires while he is making wudhu, then he should perform the salaah as qadha.<sup>167</sup>

عن ابن عباس قال : إذا خفت أن تفوتك الجنائزة وأنت على غير وضوء فتييم

وصل<sup>١٦٨</sup>

*Hazrat Ibnu Abbaas رَضِيَ اللهُ عَنْهُمَا is reported to have said, "If you fear missing the Janaazah Salaah whilst you are not in the state of wudhu, then make tayammum and perform salaah."*

5. The takbeers and duas of the Janaazah Salaah will be read by both the imaam and the muqtadi. The only difference between the imaam and muqtadi is that the imaam will make the takbeers and salaam aloud while the muqtadi will make them softly. The remainder portion of the salaah (i.e. the thanaa, Durood and dua) will be recited softly by the muqtadi as well as the imaam.<sup>157</sup>
6. It is mustahab to make at least three saffs for the Janaazah Salaah. Hence, if there are only seven people present for the Janaazah Salaah, it is mustahab for them to make three saffs in the following manner. One person will be made the imaam, three people will stand in the first saff, two people in the second saff, and one person in the third saff.<sup>169</sup>

<sup>١٦٧</sup> ( من عجز ) مبتدأ خبره تيمم ( عن استعمال الماء ) المطلق الكافي لطهارته لصلاة نفوت إلى خلف ( لبعده ... ميلا ... أو مرض ... أو برد ... أو خوف عدو ... أو عطش ... أو عدم آلة ... تيمم ) قال الشامي : قوله ( نفوت إلى خلف ) كالصلوات الخمس فإن خلفها قضاؤها وكالجمعة فإن خلفها الظهر واحتجز به عما لا يفوت إلى خلف كصلاة الجنائزة والعيد والكسوف والسنن والرواتب فلا يشترط لها العجز كما سيأتي , قوله ( لبعده ) ... لأنه عند عدمه لا يتيمم وإن خاف خروج الوقت في صلاة لها خلف (رد المختار ٢٣٢/١-٢٣٦)

<sup>١٦٨</sup> مصنف ابن أبي شيبة رقم ١١٥٨٦

<sup>١٦٩</sup> وأفضل صفوفها آخرها إظهارا للتواضع قال الشامي : قوله ( وأفضل صفوفها آخرها الخ ) كذا في القنية ويبحث فيه في الخلية بإطلاق ما في صحيح مسلم عنه خير صفوف الرجال أولها وشرها آخرها وبأن إظهار التواضع لا يتوقف على التأخر اهـ أقول قد يقال إن الحديث مخصوص بالصلاة المطلقة لأنها المتبادرة ولقوله من صلى عليه ثلاثة صفوف غفر له رواه أبو داود وقال حديث حسن والحاكم وقال صحيح على شرط مسلم ولهذا قال في المحيط ويستحب أن يصف ثلاثة صفوف حتى لو كانوا سبعة يتقدم أحدهم للإمامة ويقف وراءه ثلاثة ثم اثنان ثم واحدا اهـ فلو كان الصف الأول أفضل في الجنائزة أيضا لكان الأفضل جعلهم صفا واحدا ولكن قيام الواحد وحده كما كره في غيرها هذا ما ظهر لي (رد المختار ٢١٤/٢) انظر أيضا فتاوى محمودية (٢٠٤/١٣)

عن مرثد بن عبد الله اليزيني قال كان مالك بن هبيرة إذا صلى على جنازة فتقال  
الناس عليها جزاؤهم ثلاثة أجزاء ثم قال قال رسول الله صلى الله عليه و سلم  
من صلى عليه ثلاثة صفوف فقد أوجب<sup>١٧٠</sup>

*Whenever Maalik bin Hubairah رَضِيَ اللهُ عَنْهُ performed a Janaazah Salaah, he would split the congregation into three parts. He would then say that Rasululllah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "The janaazah upon whom three saffs of people performed salaah earns Jannah".*

7. Those factors that invalidate normal salaah invalidate Janaazah Salaah.<sup>171</sup> In regard to factors that invalidate the salaah, the only two differences between normal salaah and Janaazah Salaah are:
  - a) If one laughs aloud in normal salaah, the salaah as well as the wudhu will be invalidated. However, if one laughs aloud in Janaazah Salaah, only the salaah will be invalidated. The wudhu will not be invalidated.<sup>172</sup>
  - b) If a woman stands next to a man in normal salaah, the salaah of the man breaks. In Janaazah Salaah, if a woman stands next to a man, his salaah does not break.<sup>171</sup>
8. If the imaam makes more than four takbeers in the Janaazah Salaah, it is not permissible for the muqtadis to follow him. Instead, they should remain silent and complete the salaah when the imaam makes salaam. However, if they do not hear the extra takbeers from the imaam, but from the mukabbir (the person who says the takbeer in a loud voice in order for others to hear), then the muqtadis should follow the mukabbir in the

<sup>١٧٠</sup> جامع الترمذي رقم ١٠٢٨

<sup>١٧١</sup> وتفسد صلاة الجنازة بما تفسد به سائر الصلوات إلا محاذاة المرأة كذا في الزاهدي (الفتاوى الهندية ١/١٦٤)

<sup>١٧٢</sup> فلا تنقض التمهية في صلاة الجنازة وسجدة التلاوة لكن يطلان (البحر الرائق ١/٤٣)

extra takbeers since they do not know which is the takbeer of the imaam.<sup>173</sup>

## The Conditions for the Validity of Janaazah Salaah

There are two types of conditions for the validity of Janaazah Salaah:

1. Conditions that relate to the salaah.
2. Conditions that relate to the deceased.

### Conditions Relating to the Salaah

The conditions for the validity of the Janaazah Salaah are the same as normal salaah, viz. the one performing the Janaazah Salaah should 1) be in the state of wudhu, 2) cover those parts of his body which are necessary to cover in order for the salaah to be valid, 3) face the qiblah, 4) ensure that his body, clothing and the area upon which the salaah is performed are pure and 5) have the intention of Janaazah Salaah.<sup>174</sup>

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<sup>173</sup> ( فلو كبر الإمام خمسا لم يتبع ) لأنه منسوخ ولا متابعة فيه ولم يبين ماذا يصنع وعن أبي حنيفة روايتان في رواية يسلم للحال ولا ينتظر تحقيقا للمخالفة وفي رواية يمكث حتى يسلم معه إذا سلم ليكون متابعا فيما تجب فيه المتابعة وبه يفتي كذا في الواقعات ورجحه في فتح القدير بأن البقاء في حرمة الصلاة بعد فراغها ليس بخطأ مطلقا وإنما الخطأ في المتابعة في الخامسة وفي بعض المواضع إنما لا يتابعه في الروايات على الأربعة إذا سمع من الإمام أما إذا لم يسمع إلا من المبلغ فيتابعه وهذا حسن وهو قياس ما ذكره في تكبيرات العيدين اهـ (البحر الرائق ١٩٨/٢)

<sup>174</sup> ( وشرطها ) ستة ( إسلام الميت وطهارته ) قال الشامي : قوله ( وشرطها ) أي شرط صحتها وأما شروط وجوبها فهي شروط بقية الصلوات من القدرة والعقل والبلوغ والإسلام مع زيادة العلم بموته تأمل قوله ( ستة ) ثلاثة في المتن وثلاثة في الشرح وهي ستر العورة وحضور الميت وكونه أو أكثره أمام المصلي وزاد أيضا سابعا وهو بلوغ الإمام ثم هذه الشروط راجعة إلى الميت وأما الشروط التي ترجع إلى المصلي فهي شروط بقية الصلوات من الطهارة الحقيقية بدنا وثوبا ومكانا والحكمية وستر العورة والاستقبال والنية سوى الوقت (رد المحتار ٢٠٧/٢)

## Conditions Relating to the Deceased

The second type of conditions are those that relate to the deceased. There are six conditions that relate to the deceased which are as follows<sup>174</sup>:

1. The deceased has to be a Muslim.

If the deceased was a kaafir or murtad (renegade), Janaazah Salaah will not be performed upon him. If a Muslim is an open sinner or bid'ati, Janaazah Salaah will still be performed upon him.<sup>175</sup>

2. The body and kafan of the deceased must be purified from najaasat-e-haqeeqi (i.e. physical impurities such as urine, stool, etc.) as well as najaasat-e-hukmi (i.e. the deceased must be given ghusal or tayammum if water is not found).

Hence, if any of these impurities were not removed from the kafan before enshrouding the deceased in it or it was not removed from the deceased's body, or the deceased was not given ghusal, the Janaazah Salaah will not be valid.

However, if najaasat-e-haqeeqi (urine, stool, etc.) comes out of the body after the mayyit is given ghusal, the ghusal will not have to be repeated and the Janaazah Salaah will be valid. Similarly if the impurity comes out of the body of the deceased and soils the kafan, the Janaazah Salaah will be valid.

Some Ulama opine that just as it is a pre-condition for the validity of the Janaazah Salaah that the deceased be cleansed of najaasat-e-haqeeqi as well as najaasat-e-hukmi, similarly it is a pre-condition for the validity of the Janaazah Salaah that the area upon which the deceased is placed also be paak. This is in the case where the deceased was placed on the bare ground.

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<sup>174</sup> وأما بيان من يصلى عليه فكل مسلم مات بعد الولادة يصلى عليه صغيرا كان أو كبيرا ذكرا كان أو أنثى حرا كان أو عبدا إلا البغاة وقطاع الطريق ومن يمثل حالهم لقول النبي صلى الله عليه وسلم صلوا على كل بر وفاجر وقوله للمسلم على المسلم ست حقوق وذكر من جهتها أن يصلى على جنازته من غير فصل إلا ما خص بدليل والبغاة ومن يمثل حالهم مخصوصون لما ذكرنا (بدائع الصنائع ٣١١/١) انظر

أيضا السنن الكبرى للبيهقي رقم ٧٠٨٠

However, if the deceased was placed in a bier, then even though the ground was impure, the Janaazah Salaah will be valid since the bier upon which the janaazah was placed was paak.<sup>176</sup>

3. That portion of the deceased's body should be covered which is waajib for a living person to cover while performing normal salaah. Hence, if the deceased's body is left completely bare or any portion of his body is left exposed which has to be covered during normal salaah, the Janaazah Salaah will be not be valid.<sup>174 176</sup>
4. The deceased should be present at the place of the Janaazah Salaah. Hence if Janaazah Salaah is performed on a deceased in his absence, then since he is not present at the place where the Janaazah Salaah is being performed, the Janaazah Salaah will not be valid.<sup>177</sup>
5. To place the deceased in front of the imaam and those performing the Janaazah Salaah. Some portion of the mayyit's body should be directly in front of the imaam. If the body of

<sup>١٧٦</sup> ( و ) الثاني ( طهارته ) وطهارة مكانه لأنه كالإمام قوله ( والثاني طهارته ) عن نجاسة حكمية وحقيقية في البدن فلا تصح على من لم يغسل ولا على من عليه نجاسة وهذا الشرط عند الإمكان فلو دفن بلا غسل ولم يمكن إخراجة إلا بالنيش سقط الغسل وصلي على قبره بلا غسل للضرورة بخلاف ما إذا لم يهل عليه التراب بعد فإنه يخرج ويغسل ولو صلي عليه بلا غسل جهلا أو نسيانا ثم دفن ولا يخرج إلا بالنيش أعيدت على قبره استحسانا لفساد الأولى ويشترط طهارة الكفن إلا إذا شق ذلك لما في الخزانة أنه إن تنحس الكفن بنجاسة الميت لا يضر دفعا للحرص بخلاف الكفن المتنجس ابتداء اه قوله ( وطهارة مكانه ) قال في القنية الطهارة من النجاسة في الثوب والبدن والمكان وستر العورة شرط في حق الإمام يعني المصلي والميت جميعا اه وفي السيد وأما مكانه أي إذا كان نجسا فإن كان الميت على الجنائز تجوز الصلاة وإن كان على الأرض ففي الفوائد يجوز وحزم في القنية بعدمه اه نحر وجه الجواز أن الكفن حائل بين الميت والنجاسة ووجه عدمه أن الكفن تابع فلا يعد حائلا ثم المراد بالمكان الذي يشترط طهارته أما الجنائز أو الأرض إن لم يكن جنازة والحاصل أن طهارة الأرض إنما تشترط على ما في القنية إذا وضع الميت بدون جنازة أما بما فعدم اشتراط طهارة الأرض متفق عليه (حاشية الطحطاوي على مرقي الفلاح ص ٥٨١)

<sup>١٧٧</sup> من الشروط حضور الميت ووضعه وكونه أمام المصلي فلا تصح على غائب ولا على محمول على دابة ولا على موضوع خلفه هكذا في النهر الفائق (الفتاوى الهندية ١/١٦٤)

قال الشامي : (قوله: وكونه هو أو أكثره أمام المصلي) المناسب ذكر قوله هو أو أكثره بقوله حضوره لأنه احتراز عن كونه خلفه مع أنه يوهم اشتراط محاذاته للميت أو أكثره وليس كذلك، فقد ذكر القهستاني عن التحفة أن ركنها القيام ومحاذاته إلى جزء من أجزاء الميت اه لكن فيه نظر، بل الأقرب كون المحاذة شرطا فيزيد على السبعة المذكورة، ثم هذا ظاهر إذا كان الميت واحدا، وإلا فيحاذي واحدا منهم بدليل ما سيأتي من التخيير في وضعهم صفا طولاً أو عرضاً تأمل ثم رأيت في ط. ثم قال: إن هذا ظاهر في الإمام لأن صف المؤمنين قد يخرج عن المحاذة (رد المحتار ٢٠٨/٢) انظر أيضا بداية المجتهد ٥٠/٣

the mayyit was not in front of the imaam and no portion of his body was in line with the imaam, the Janaazah Salaah will not be valid. Similarly, if the deceased is placed behind the imaam and those performing the Janaazah Salaah, the Janaazah Salaah will be invalid.<sup>177</sup>

#### 6. To place the deceased on the ground.

If the Janaazah Salaah is being performed upon the deceased while he is being carried by people or while he is placed on an animal, the Janaazah Salaah will not be valid.<sup>177</sup>

However if the deceased is placed on an inanimate object (e.g. a table or bench) which is placed on the ground, the Janaazah Salaah will be valid.<sup>176</sup>

## Miscellaneous Masaa'il

### Performing Janaazah Salaah in the Forbidden Times

If the janaazah is brought after the forbidden time sets in, then performing the Janaazah Salaah in the forbidden time will be permissible. However, if the janaazah is brought before the forbidden time sets in, but the Janaazah Salaah is delayed till the forbidden time, then performing the Janaazah Salaah in the forbidden time will be impermissible (makrooh-e-tahreemi). The forbidden times are sunrise, zawaal and sunset. Sunset refers to the time when the colour of the sun begins to change before the actual sunset (i.e. including the actual sunset.)<sup>178</sup>

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<sup>178</sup> ثلاث ساعات لا تجوز فيها المكتوبة ولا صلاة الجنائز ولا سجدة التلاوة إذا طلعت الشمس حتى ترتفع وعند الانتصاف إلى أن تزول وعند احمرارها إلى أن تغيب إلا عصر يومه ذلك فإنه يجوز أدائه عند الغروب هكذا في فتاوى قاضي خان ... هذا إذا وجبت صلاة الجنائز وسجدة التلاوة في وقت مباح وأخرتها إلى هذا الوقت فإنه لا يجوز قطعاً أما لو وجبتنا في هذا الوقت وأدبنا فيه جاز لأنها أدبت ناقصة كما وجبت كذا في السراج الوهاج وهكذا في الكافي والتبيين لكن الأفضل لكن الأفضل في سجدة التلاوة تأخيرها وفي صلاة الجنائز التأخير مكروه هكذا في التبيين (الفتاوى الهندية ٥٢/١)



## Performing Janaazah Salaah with Shoes

If the Janaazah Salaah is performed with shoes then it will be necessary to ensure that the shoes as well as the ground that one stands on are paak. If one removes his shoes and stands on them, then in this case, it will only be necessary for the shoes to be paak (i.e. it is not a precondition that the ground be paak). If one's shoes are napaak, the Janaazah Salaah will be invalid.<sup>179</sup>

## Is Jamaat a Condition for Janaazah Salaah?

Performing Janaazah Salaah in jamaat is not a condition for the validity of the Janaazah Salaah. Hence, if only one person performs Janaazah Salaah on the deceased, the fardh obligation will be fulfilled, irrespective of whether the one performing the salaah is a male or female, baaligh person or a non-baaligh person.<sup>180</sup> However, there is more benefit for the deceased in the case where the Janaazah Salaah is performed in congregation. The reason is that a group of people collectively supplicating to Allah تَبَارَكَ وَتَعَالَى for the forgiveness of the deceased is certainly a greater means of attracting the mercy of Allah تَبَارَكَ وَتَعَالَى as compared to an individual supplicating for the forgiveness of the deceased.<sup>181</sup>

<sup>179</sup> وقد قدمنا في باب شروط الصلاة أنه لو قام على النجاسة وفي رجله نعلان لم يجز ولو افترض نعليه وقام عليهما جازت وبمذا يعلم ما يفعل في زماننا من القيام على النعلين في صلاة الجنائز لكن لا بد من طهارة النعلين كما لا يخفى (البحر الرائق ١٩٣/٢)

ولو قام على النجاسة وفي رجله نعلان أو جوربان لم تجز صلاته لأنه قام على مكان نجس ولو افترض نعليه وقام عليهما جازت الصلاة بمنزلة ما لو بسط الثوب الطاهر على الأرض النجسة وصلّى عليه جاز (البحر الرائق ٢٨٢/١)

<sup>180</sup> (ولا يصح اقتداء رجل بامرأة) وخشي (وصي مطلقاً) ولو في جنازة ونفل على الأصح قال الشامي: هل يسقط بفعل الصبي وحده قال الأسروشي: الصبي إذا أم في صلاة الجنائز... ومن هذا يظهر أنه لا تصح إمامته في الجنائز أيضاً وإن قلنا بصحة صلاته وسقوط الواجب بما عن المكلفين لأن الإمامة للبالغين من شروط صحتها البلوغ هذا ما ظهر لي في تقرير هذا المخل فاعتنمه فإنك لا تظفر به في غير هذا الكتاب والحمد لله الملك الوهاب (رد المختار ٥٧٧/١)

وستر العورة شرط في حق الميت والإمام جميعاً فلو أم بلا طهارة والقوم بما أعيدت وبعبارة لا كما لو أمت امرأة ولو أمة لسقوط فرضها بواحد وبقي من الشروط بلوغ الإمام تأمل قال الشامي: قوله (وبعبارة لا) أي لا تعاد لصحة صلاة الإمام وإن لم تصح صلاة من خلفه قوله (كما لو أمت امرأة) أي أمت رجلاً فإن صلاتها تصح وإن لم يصح الاقتداء بما (رد المختار ٢٠٨/٢)

<sup>181</sup> جامع الترمذي رقم ١٠٢٨

عن عائشة رضي الله عنها عن النبي صلى الله عليه و سلم قال لا يموت أحد من المسلمين فتصلي عليه أمة من المسلمين يبلغون أن يكونوا مائة فيشفعوا له إلا شفّعوا فيه<sup>١٨٢</sup>

*Hazrat Aaishah رَضِيَ اللهُ عَنْهَا reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said “There is no believer who passes away and a group of believers numbering a hundred perform Janaazah Salaah upon him and intercede on his behalf, except that their intercession will be accepted in the court of Allah تَبَارَكَ وَتَعَالَى.”*

## Performing Janaazah Salaah in the Musjid

It is compulsory to perform the Janaazah Salaah out of the musjid. Performing the Janaazah Salaah in the musjid is impermissible (makrooh-e-tahreemi).

عن أبي هريرة رضي الله عنه قال قال رسول الله صلى الله عليه وسلم من صلى على جنازة في المسجد فلا شيء له<sup>١٨٣</sup>

*Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said “The one who performs Janaazah Salaah in the musjid will receive no reward.”*

The impermissibility of performing the Janaazah Salaah in the musjid applies to all the following situations:

- a) The deceased as well as those performing the salaah are in the musjid.
- b) The deceased is in the musjid and the people are out of the musjid.
- c) The deceased is out of the musjid and the people are in the musjid.
- d) The deceased and some people are out of the musjid and some people are in the musjid.

<sup>١٨٢</sup> جامع الترمذي رقم ١٠٢٩

<sup>١٨٣</sup> سنن أبي داود مع تحقيق الشيخ محمد عوامة رقم ٣١٨٤ (رقم ٣١٩١)

It is impermissible to perform the Janaazah Salaah in the masjid. However, if there is a dire necessity to perform the Janaazah Salaah in the masjid e.g. in the event of rain, and there is no other place to perform the Janaazah Salaah except the masjid, then performing the Janaazah Salaah in the masjid will be permissible. However, in today's times, since the masajid have a sehn (demarcated area outside the masjid), there will be no need to take the janaazah into the masjid.<sup>184</sup>

**Note:** The above-mentioned law (i.e. impermissibility of performing the Janaazah Salaah in the masjid) conforms to the Hanafi and Maaliki mazhab. According to the Shaafi' and Hambali mazhab, performing Janaazah Salaah in the masjid is permissible.<sup>185</sup>

### The Janaazah Salaah is a dua

The Janaazah Salaah is in reality a dua to Allah تَبَارَكَ وَتَعَالَى for the deceased. Hence, there is no need for an additional dua after the completion of the Janaazah Salaah. The practice of making an additional dua after the Janaazah Salaah is not established from the Ahaadith of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. This practice never existed during the era of Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, the Sahaabah, the Taabi'een and the many centuries that followed. Hence, the additional dua after the Janaazah Salaah that is practised in many places is an innovation in Deen and must be omitted.<sup>186</sup>

<sup>184</sup> وصلاة الجنائز في المسجد الذي تقام فيه الجماعة مكروهة سواء كان الميت والقوم في المسجد أو كان الميت خارج المسجد والقوم في المسجد أو كان الإمام مع بعض القوم خارج المسجد والقوم الباقي في المسجد أو الميت في المسجد والإمام والقوم خارج المسجد هو المختار كذا في الخلاصة ولا تكروه بعذر المطر ونحوه هكذا في الكافي (الفتاوى الهندية ١/١٦٥)

<sup>185</sup> الدر المنضود على سنن أبي داود ٥/٢٥٩

<sup>186</sup> لا يقوم بالدعاء بعد صلاة الجنائز (الفتاوى البرازية على هامش هندية ٤/٨٠).

أي صلاة يكره الدعاء بعدها ؟ أقول هي صلاة الجنائز على رواية قال الزاهدي في القنية عن أبي بكر بن حامد الدعاء بعد الجنائز مكروه اه  
 (فتاوى اللكنوي ص ٥٠٥) فتاوى محمودية ١٣/١٩٤. أنظر أيضا ١٨٥ ، ١٤٨

## Arriving Late for the Janaazah Salaah

1. A person who joins the Janaazah Salaah at the time when one or more takbeers have been completed will be regarded as a masboq (a late comer).

The law of the masboq is that he will recite the takbeer and join the salaah immediately when he arrives. This takbeer will be regarded as his first takbeer (takbeer-e-tahreemah). If he has knowledge of which takbeer the imaam has made, then he should recite whatever the imaam will be reciting (e.g. if he knew it was the second takbeer, he will recite the Durood. If he knew it was the third takbeer, he will recite the dua). Otherwise, he will commence from the beginning (i.e. by reciting thanaa). When the imaam completes the Janaazah Salaah and makes salaam, he will not make salaam with the imaam. Instead, he will recite the missed takbeers and thereafter make salaam. If he wishes to recite the Durood and the dua after the respective takbeers, then it is permissible, provided the janaazah is not lifted. If he fears that the janaazah will be lifted, then he should suffice on merely reciting the takbeers and should thereafter make the salaam.<sup>187</sup>

2. If a person arrives when the imaam has already made the fourth takbeer, then he should immediately make the takbeer and join the salaah before the imaam makes salaam. When the imaam makes salaam, he should repeat the missed takbeers as explained above.<sup>187</sup>
3. If the imaam makes more than four takbeers in the Janaazah Salaah, it is not permissible for the muqtadis to follow him.

<sup>187</sup> (والمسبوq) ببعض التكبيرات لا يكبر في الحال بل (ينتظر) تكبير (الإمام ليكبر معه) للافتتاح لما مر أن كل تكبيرة كركعة، والمسبوq لا يبدأ بما فاتته وقال أبو يوسف: يكبر حين يحضر (كما لا ينتظر الحاضر) في (حال التحريمه) بل يكبر اتفاقاً للتحريمه، لأنه كالمدرک ثم يكبران ما فاتهما بعد الفراغ نسقاً بلا دعاء إن خشياً رفع الميث على الأعناق وما في الجتهى من أن المدرک يكبر الكل للحال شاذ نحر (فلو جاء) المسبوq (بعد تكبيرة الإمام لرابعة فاتته الصلاة) لتعذر الدخول في تكبيرة الإمام وعند أبي يوسف يدخل لبقاء التحريمه، فإذا سلم الإمام كبر ثلاثاً كما في الحاضر وعليه الفتوى، ذكره الحلبي وغيره قال الشامي: (قوله وعليه الفتوى) أي على قول أبي يوسف في مسألة المسبوq خلافاً لما مشى عليه في المتن (رد المحتار ٢١٧/٢) انظر أيضاً أحسن الفتاوى ٤/٢٠١

Instead, they should remain silent and complete the salaah when the imaam makes salaam. However, if they do not hear the extra takbeers from the imaam, but from the mukabbir (the person who says the takbeer in a loud voice in order for others to hear), then the muqtadis should follow the mukabbir in the extra takbeers since they do not know which is the takbeer of the imaam.<sup>188</sup>

## Janaazah Salaah of Rebels and Highway Robbers

Janaazah Salaah will not be performed upon Muslims who rebel against a just Muslim ruler (in an Islamic country) in the case where they were killed whilst fighting against the Muslim ruler. However, if the rebels are apprehended and killed after the battle or die a natural death, then Janaazah Salaah will be performed upon them. Likewise, Janaazah Salaah will not be performed upon highway robbers who are killed while committing the crime of highway robbery in an Islamic country.<sup>101</sup>

## Janaazah Salaah of a Person Who Killed One of His Parents

In an Islamic country, Janaazah Salaah will not be performed upon a person who intentionally kills his father or mother and is thereafter killed by the imaam (Muslim ruler) as punishment for the crime.<sup>189</sup>

**Note:** Despite the above-mentioned people being Muslims, the Janaazah Salaah is not performed upon them in order to impress the seriousness of the crime that they committed upon the Muslim Ummah.

<sup>188</sup> ( فلو كبر الإمام خمسا لم يتبع ) لأنه منسوخ ولا متابعة فيه ولم يبين ماذا يصنع وعن أبي حنيفة روايتان في رواية يسلم للحال ولا ينتظر تحفيقا للمخالفة وفي رواية يمحك حتى يسلم معه إذا سلم ليكون متابعا فيما تجب فيه المتابعة وبه يفتي كذا في الوقعات ورححه في فتح القدير بأن البقاء في حرمة الصلاة بعد فراغها ليس بمنظأ مطلقا إنما الخطأ في المتابعة في الخامسة وفي بعض المواضع إنما لا يتابعه في الروايات على الأربعة إذا سمع من الإمام أما إذا لم يسمع إلا من المبلغ فيتابعه وهذا حسن وهو قياس ما ذكره في تكبيرات العبيدين اهـ (البحر الرائق ١٩٨/٢)

<sup>189</sup> ( لا ) يصلى على ( قاتل أحد أبويه ) إهانة له وألحقته في النهر بالبعأة قال الشامي : قوله ( لا يصلى على قاتل أحد أبويه ) الظاهر أن المراد أنه لا يصلى عليه إذا قتله الإمام قصاصا أما لو مات حتف أنفه يصلى عليه كما في البعأة ونحوهم ولم أره صريحا فليراجع (رد المحتار

However, it should be borne in mind that this law does not apply in a non-Islamic country.<sup>101</sup>

## Janaazah Salaah of One Who Commits Suicide

Janaazah Salaah will be performed upon a person who commits suicide.<sup>190</sup> It is permissible for all the Muslims to participate in the Janaazah Salaah. However, if some of the leading Ulama do not participate in the Janaazah Salaah in order to impress the severity of the sin upon the people, it will be permissible.<sup>191</sup>

## Janaazah Salaah of a non-Baaligh Child who has one Muslim Parent and one Kaafir Parent

If an infant child who has not reached the age of understanding passes away and only one of the parents is a Muslim while the other is a kaafir, the child will be regarded as a Muslim. Hence, Janaazah Salaah will be performed upon him. However, if the child is of the age of understanding and accepted the religion of his non-Muslim parent, he will be regarded as a non-Muslim, and he will not be given ghusal, kafan, and neither will Janaazah Salaah be performed upon him.<sup>192</sup>

## The Deceased being Buried without Ghusal and Janaazah Salaah

If a person was buried without ghusal and Janaazah Salaah then the Janaazah Salaah will be performed at his grave, provided the body has not yet decomposed. If after performing the Janaazah Salaah and

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<sup>190</sup> (من قتل نفسه) ولو (عمدا يغسل و يصلى) به يفنى وإن كان أعظم وزرا من قاتل غيره ورحم الكمال قول الثاني بما في مسلم أنه عليه الصلاة والسلام أتى برجل قتل نفسه فلم يغسل عليه قال الشامي: قوله (به يفنى) لأنه فاسق غير ساع في الأرض بالفساد وإن كان باغيا على نفسه كسائر فساق المسلمين زيلعي (رد المحتار ٢/٢١١)

<sup>191</sup> فتاوى رحيمية ٢٦/٧

<sup>192</sup> قوله (كصبي سبي مع أحد أبويه) أي لا يصلى عليه لأنه تبع لهما للحديث كل مولود يولد على الفطرة فأبواه يهودانه إلى آخره وتقدم في غسل الجنابة معنى الفطرة وأفاد بقوله (إلا أن يسلم أحدهما) أنه يصلى عليه لإسلامه تبعا للمسلم منهما لأنه يتبع خيرهما ديناً (البحر الرائق

٢٠٣/٢)

burying the deceased, it was discovered that ghusal was not given to him, then the Janaazah Salaah will have to be repeated at the grave, provided the body has not yet decomposed.<sup>193</sup>

**Note:** The time that it takes for the body to decompose will be determined through the climatic condition and the nature of the soil of the area in which the deceased was buried. This will differ from place to place. Hence, it is not possible to specify any period of time. This is the most preferred opinion among the Fuqahaa.<sup>193</sup>

## Janaazah Salaah of a Corpse that has Bloated and there is Fear of it Disintegrating

If the corpse of the deceased bloated to such an extent that it is feared that the body will burst by touching it, then merely passing water over the body will suffice for the ghusal. The deceased will be enshrouded in the kafan in the normal manner and Janaazah Salaah will be performed. However, if the body bursts before the Janaazah Salaah can be performed then the Janaazah Salaah will not be performed upon the deceased. Instead, the burst body will be buried without Janaazah Salaah.<sup>194</sup>

If the body did not burst, but there is a bad odour emitting from it, Janaazah Salaah will still be performed on the body.<sup>191 194</sup>

<sup>193</sup> ( وإن دفن ) وأهيل عليه التراب ( بغير صلاة ) أو بما بلا غسل أو ممن لا ولاية له ( صلي على قبره ) استحسانا ( ما لم يغلب على الظن تفسخه ) من غير تقدير هو الأصح وظاهره أنه لو شك في تفسخه صلي عليه قال الشامي : قوله ( وأهيل عليه التراب ) فإن لم يهل أخرج وصلي عليه كما قدمناه بحر قوله ( أو بما بلا غسل ) هذا رواية ابن سماعه والصحيح أنه لا يصلى على قبره في هذه الحالة لأنها بلا غسل غير مشروعة كذا في غاية البيان لكن في السراج وغيره قيل لا يصلى على قبره وقال الكرخي يصلى وهو الاستحسان لأن الأول لم يعتد بما لترك الشرط مع الإمكان والآن زال الإمكان فسقطت فرضية الغسل وهذا يقتضي ترجيح الإطلاق وهو الأول غير تنبيه ينبغي أن يكون في حكم من دفن بلا صلاة من تردى في نحو بئر أو وقع عليه بنبان ولم يمكن إخراجهم بخلاف ما لو غرق في بحر لعدم تحقق وجوده أمام المصلي تأمل قوله ( هو الأصح ) لأنه يختلف باختلاف الأوقات حرا وبردا والميت سمننا وهزالا والأمكنة بحر وقيل بثلاثة أيام وقيل عشرة وقيل شهر ط عن الحموي (رد المختار ٢/٢٢٤)

<sup>194</sup> والمنفخ الذي تعذر مسه يصب عليه الماء (مراقي الفلاح ص ٥٦٩)

ولو لم يهل التراب يخرج فيغسل ويصلى عليه ( ما لم يتفسخ ) قال الطحطاوي : قوله ( ما لم يتفسخ ) أي تفرق أعضاؤه فإن تفسخ لا يصلى عليه مطلقا لأنها شرعت على البدن ولا وجود له مع التفسخ (حاشية الطحطاوي على مراقي الفلاح ص ٥٩٢)

## Delaying the Janaazah Salaah

It is makrooh to delay the Janaazah Salaah in the anticipation of a larger crowd. Similarly, if a person passed away on a Friday, then it is makrooh to delay the janaazah till after the Jumuah Salaah in anticipation of a larger crowd.<sup>195</sup> However, if due to being involved in the burial preparations and the burial, there is fear of missing the Jumuah Salaah, then it will be permissible to delay the Janaazah Salaah until after the Jumuah Salaah.

Rasulullah ﷺ had commanded us to hasten in burying the deceased and not to delay in this regard.

عن علي بن أبي طالب رضي الله عنه أن رسول الله صلى الله عليه وسلم قال له يا علي ثلاث لا تؤخرها الصلاة إذا أنت والجنائزة إذا حضرت والأيم إذا وجدت لها كفوا<sup>١٩٦</sup>

*Hazrat Ali رضي الله عنه reports that Rasulullah ﷺ once said to him, "O Ali! Do not delay in three things. Salaah when its time sets in, Janaazah Salaah when the bier is present and the nikaah of an unmarried girl when you find a compatible partner for her."*

عن الحصين بن حوح أن طلحة بن البراء مرض فأتاه النبي صلى الله عليه وسلم ويعوده فقال إني لا أرى طلحة إلا قد حدث فيه الموت فأذنوني به وعجلوا فإنه لا ينبغي لجيفة مسلم أن تجس بين ظهري أهله<sup>١٩٧</sup>

*Hazrat Husain bin Wahwah رضي الله عنه narrates that Hazrat Talhah bin Baraa رضي الله عنه was once sick, when Rasulullah ﷺ came to visit him. On seeing him, Rasulullah ﷺ said, "I feel that Talhah will pass away through this illness. Thus, inform me of his death if he has to*

<sup>١٩٥</sup> والأفضل أن يعجل بتجهيزه كله من حين يموت ولو مشوا به بالخيب كره لأنه ازدراء بالميت وإضرار بالميتعين وفي القنية ولو جهز الميت صبيحة يوم الجمعة يكره تأخير الصلاة ودفنه ليصلي عليه الجمع العظيم بعد صلاة الجمعة ولو خافوا فوت الجمعة بسبب دفنه يؤخر الدفن (البحر الرائق ٢/٢٠٦)

<sup>١٩٦</sup> جامع الترمذي رقم ١٧١

<sup>١٩٧</sup> سنن أبي داود رقم ٣١٥٩



*pass away and hasten in his burial, as it is not appropriate for the body of a Muslim to remain in his family after his death.”*

## Performing Janaazah Salaah whilst Seated in a Vehicle

It is impermissible to perform the Janaazah Salaah whilst seated on the ground or in a vehicle without a valid Shar'ee excuse.<sup>161</sup>

## Performing Several Janaazah Salaahs at One Time

If there are several janaazah's present at one time, performing a separate Janaazah Salaah on each deceased is better. However, if one Janaazah Salaah was performed on all the deceased, it will be permissible.<sup>198</sup> The dua of the children should be read after the dua of the adults.

## Upon which Deceased Should Janaazah Salaah be Performed First

If each Janaazah Salaah is performed individually, then the Janaazah Salaah of the one possessing the most Deeni virtue (the one possessing the highest rank in Deen) will be performed first, followed by the one who is second in rank, and so forth.<sup>198</sup>

## The Method of Placing the Janaazahs when Performing one Janaazah Salaah for Several Deceased

When there are several janaazahs present and the imaam wishes to perform one Janaazah Salaah upon all, then the method of performing the Janaazah Salaah will be that the first mayyit will be placed in front of the imaam. The second mayyit will be placed next to the first mayyit

<sup>198</sup> ( وإذا اجتمعت الجنازات فإفراد الصلاة ) على كل واحدة ( أولى ) من الجمع و تقدم الأفضل أفضل ( وإن جمع ) جاز ( الدر المختار ٢١٨/٢ ) قال الشامي : قوله ( أولى من الجمع ) لأن الجمع مختلف فيه فنية قوله ( وتقدم الأفضل أفضل ) أي يصلى أولاً على أفضلهم ثم يصلى على الذي يليه في الفضل وقبده في الإمداد بقوله إن لم يكن سبق أي وإلا يصلى على الأسبق ولو مفضولاً وسبأني بيان الترتيب قوله ( وإن جمع جاز ) أي بأن يصلى على الكل صلاة واحدة ( رد المختار ٢١٩/٢ )

in the manner that the left hand of the second mayyit is next to the right hand of the first mayyit and so forth (i.e. the chest of the imaam will be in line with the chest of all the janaazahs).

If among the deceased, there are men, women and children, then the saffs of the deceased will be made in the manner the saffs of salaah are made (i.e. the men will be closest to the imaam, then the immature male children, then the women and last will be the female immature children). They will all be placed in such a manner that the chests of all will be in line with the imaam.<sup>199</sup>

## The Person Most Worthy for Leading the Janaazah Salaah in an Islamic Country

In an Islamic country, the person most worthy for the imaamat of Janaazah Salaah is the Muslim ruler. Shari'ah has reserved the right of performing Janaazah Salaah for the ruler, despite there being people present in the gathering who are more pious than him. If the ruler is not present, then his deputy will be the next most worthy after him. If the ruler as well as his deputy is not present, then the judge of the city will be appointed. If the judge is also not present, then the ameer of the army will be most worthy. Thereafter, his deputy will be appointed.

In the presence of the above-mentioned people, according to the prescribed Shar'ee sequence, it is impermissible for anybody else to lead the Janaazah Salaah. However, if they permit anyone else to perform the Janaazah Salaah in their presence, it will be permissible.

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(رد المحتار ۲/۲۹۱) <sup>۱۹۹</sup>

Apart from the above-mentioned method, there are two other methods which are recorded in the books of Fiqh. They are as follows: The second method is where the first janaazah will be placed in front of the imaam. The head of the second janaazah will be placed at the feet of the first janaazah. The head of the third janaazah will be placed at the feet of the second janaazah, and so forth. The imaam will stand in-line with the chest of the first janaazah (which is closest to him) and thereafter perform the salaah.

The third method is where the janaazah's will be placed in-front of the imaam in this way that the imaam stands in-line with the chest of the first janaazah. The head of the second janaazah will be placed at the shoulder of the first janaazah. The head of the third janaazah will be placed at the shoulder of the second janaazah and so forth.

In the absence of the aforementioned individuals, the person most worthy for the imaamat of the Janaazah Salaah is the wali of the deceased. Though it is the right of the wali to perform the Janaazah Salaah, in the case where the imaam of the locality is more knowledgeable than him, the imaam of the locality will be more worthy of performing the Janaazah Salaah than him.<sup>200</sup>

## The Person Most Worthy of Leading the Janaazah Salaah in a non-Islamic Country

In a non-Islamic country, the person most worthy of performing the Janaazah Salaah is the wali. However, despite it being the right of the wali to perform the Janaazah Salaah, in the case where the imaam of the locality is more knowledgeable than him, the imaam of the locality will be more worthy of performing the Janaazah Salaah than him.

If the deceased did not pass away in his own locality, then the right of performing the Janaazah Salaah will be entrusted to his heirs who can inherit from him according to the sequence of the asabaat in the law of inheritance (The asabaat refer to the sequence of the paternal male relatives who have the potential to inherit from the deceased according to the law of inheritance). However, the only difference in the sequence of the asabaat is that the father of the deceased will receive the first right, before the son, unless the son is more knowledgeable than the father.<sup>200</sup>

If the Janaazah Salaah was performed without the permission of the wali (i.e. the one most worthy of performing the Janaazah Salaah from the family of the deceased) then the wali will have the right to repeat the Janaazah Salaah. In the case where the deceased is already buried, the wali who is worthy of performing the Janaazah Salaah can

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<sup>200</sup> ( ويقدم في الصلاة عليه السلطان ) إن حضر ( أو نائبه ) وهو أمير مصر ( ثم القاضي ) ثم صاحب الشرط ثم خليفته ثم خليفة القاضي ( ثم إمام الحي ) فيه إبهام وذلك أن تقدم الولاية واجب وتقدم إمام الحي مندوب فقط بشرط أن يكون أفضل من الولي وإلا فالولي أولى كما في المحتسب وشرح المجمع للمصنف وفي الدرابة إمام المسجد الجامع أولى من إمام الحي أي مسجد محله ثم ( ثم الولي ) بترتيب عصبوية الإنكاح إلا الأب فيقدم على الابن اتفاقا إلا أن يكون علما والأب جاهلا فالابن أولى فإن لم يكن ولي فالزوج ثم الميراث ... ( الدر المختار ٢١٩/٢ )

repeat the Janaazah Salaah at the graveside until such a time that the body has not yet begun to decompose.<sup>201</sup>

**Note:** The time that it takes for the body to decompose will be determined through the climatic condition and the nature of the soil of the area in which the deceased was buried. This will differ from place to place. Hence, it is not possible to specify any period of time. This is the most preferred opinion among the Fuqahaa.<sup>193</sup>

If the wali (i.e. the one most worthy for performing the Janaazah Salaah), performs the Janazaah Salaah in the absence of the other relatives, then the other relatives do not have the right to repeat the Janaazah Salaah.<sup>202</sup>

Similarly, if the wali of the deceased performed the Janaazah Salaah in the absence of the ruler or his deputies, then the ruler does not have the right to repeat the Janaazah Salaah, since the original right is the right of the wali. In fact, even if the wali performs the Janaazah Salaah in the presence of the ruler, the ruler does not have the choice to repeat the Janaazah Salaah. However, the wali will be sinful for not appointing the ruler to perform the Janaazah Salaah.<sup>203</sup>

## Repeating the Janaazah Salaah

Once the Janaazah Salaah is performed, it is impermissible to repeat the Janaazah Salaah, except in the situation where the wali was not present and the Janaazah Salaah was performed without his permission. In such a situation, the wali has the right to repeat the Janaazah Salaah. However, when the wali repeats the Janaazah Salaah,

<sup>201</sup> ( فإن صلى غيره ) أي غير من له حق التقدم بلا إذن ولم يقتد به ( أعادها ) هو ( إن شاء ) لعدم سقوط حقه وإن تأدى الفرض بما ( ولا ) يعيد ( معه ) أي مع من له حق التقدم قال الطحطاوي : قوله ( أعادها ) ولو على قبره كذا في الدر قوله ( هو ) إنما ذكر الضمير لأنه لو حذفه لتوهم عود الضمير في أعادها على الغير قوله ( إن شاء ) أي فالإعادة ليست بواجبة بقية قوله ( وإن تأدى الفرض بما ) أي بصلاة غيره أشار به وبالتخيير إلى ضعف ما في التقويم من أنه لو صلى غير ذي الحق كانت الصلاة باقية على ذي الحق والي ردما في الإتيان من أن الأمر موقوف إن أعاد ذو الحق تبين أن الفرض ما صلى وإلا سقط بالأولى ( حاشية الطحطاوي على مراقي الفلاح ص ٥٩١ )

<sup>202</sup> ولو صلى عليه الولي وللميت أولياء آخر بمنزلته ليس لهم أن يعيدوا كذا في الجوهرية النيرة ( الفتاوى الهندية ١/١٦٤ )

<sup>203</sup> ( وإن صلى هو ) أي الولي ( بحق ) بأن لم يحضر من يقدم عليه ( لا يصلي غيره بعده ) وإن حضر من له التقدم لكونها بحق قال الشامي : لو صلى السلطان أو القاضي أو إمام الحي ولم يتابعه الولي ليس له الإعادة لأنهم أولى منه ففيه نظر إذ لا يلزم من كونهم أولى من أن تثبت لهم الإعادة إذا صلى بحضورهم لأنه صاحب الحق وإن ترك واجب احترام السلطان ونحوه ( رد المختار ٢/٢٢٣ )

then those who had already performed the Janaazah Salaah the first time will not repeat it with him.<sup>204</sup>

## The Child in the Womb of a Deceased, Pregnant Woman

If a pregnant woman passes away and the foetus in the womb is still alive, the foetus will be removed through surgery. If the foetus has also passed away in the womb, then it will not be removed.<sup>205</sup>

## Passing Away after Swallowing a Person's Money

If a person passes away after swallowing another person's money, if he had swallowed the money deliberately and has left behind wealth in his estate, his body will not be cut and the amount swallowed will be paid from his estate. If he swallowed the money deliberately and did not leave behind wealth in his estate, if the one whose wealth was swallowed does not forgive him, his body will be cut and the money will be removed. If he swallowed the money unintentionally, then his body will not be cut in any situation. However, in the situation where he left behind wealth in his estate, the swallowed amount will be paid to the owner of the wealth.<sup>206</sup>

<sup>204</sup> ( فإن صلى غيره ) أي الولي ( ممن ليس له حق التقدم ) على الولي ( ولم يتابعه ) الولي ( أعاد الولي ) ولو على قبره إن شاء لأجل حقه لا إسقاط الفرض ولذا قلنا ليس لمن صلى عليها أن يعيد مع الولي لأن تكرارها غير مشروع ( وإلا ) أي وإن صلى من له حق التقدم كقضاء أو نائبه أو إمام الحي أو من ليس له حق التقدم وتابعه الولي ( لا ) يعيد لأهم أولى بالصلاة منه ( الدر المختار ٢/٢٢٢ )

<sup>205</sup> ( حامل ماتت وولدها حي ) يضطرب ( شق بطنها ) من الأيسر ( ويخرج ولدها ) ولو بالعكس وخيف على الأم قطع وأخرج لو ميتا وإلا لا كما في كراهة الاختيار قال الشامي : قوله ( ولو بالعكس ) بأن مات الولد في بطنها وهي حية قوله ( قطع ) أي بأن تدخل القابلة يدها في الفرج وتقطعه بألة في يدها بعد تحقق موته قوله ( لو ميتا ) لا وجه له بعد قوله ولو بالعكس ط قوله ( وإلا لا ) أي ولو كان حيا لا يجوز تقطيعه لأن موت الأم به موهوم فلا يجوز قتل آدمي حي لأمر موهوم (رد المختار ٢/٢٣٨)

<sup>206</sup> ولو بلغ مال غيره ومات هل يشق قولان والأولى نعم فتح قال الشامي : قوله ( ولو بلغ مال غيره ) أي ولا مال له كما في الفتح وشرح المنية ومفهومه أنه لو ترك مالا يضمن ما بلعه لا يشق اتفاقا قوله ( والأولى نعم ) لأنه وإن كان حرمة الأدمي أعلى من صيانة المال لكنه أزال احتزامه بتعديه كما في الفتح ومفاده أنه لو سقط في جوفه بلا تعد لا يشق اتفاقا كما لا يشق الحي مطلقا لإفضائه إلى الهلاك لا بمجرد الاحتزام

## Finding the skeleton of the deceased

If only the skeleton of the deceased is found then there will be no ghusal or Janaazah Salaah. Instead, it will just be wrapped in a cloth and buried.<sup>207</sup>

## Passing Away Through Lightning or Getting Burned

If a person passed away after being struck by lightning or by getting burned, then ghusal, kafan and the Janaazah Salaah will be carried out as normal, provided his body did not disintegrate. However, if the body disintegrated, then it will just be wrapped in a cloth and buried.<sup>194</sup>

If the body is intact and has not disintegrated, however there is fear that through moving the body, the body will disintegrate, then in such a case, merely passing water over the body will suffice. The body will not be washed thoroughly in the normal manner of ghusal.<sup>194</sup>

If a person's body was burned and most of the body turned into ash, then the ash together with the remainder of the body will be placed in a cloth and buried. There will be no ghusal, kafan or Janaazah Salaah. However, if only a portion of the body was burned and the major portion of the body remained intact, then ghusal, kafan and the Janaazah Salaah will be carried out as normal.<sup>94</sup>

## Passing Away through an Accident or a Natural Disaster

If a person had passed away through some natural disaster or accident and most of the body is intact, then the ghusal, kafan and Janaazah Salaah will be carried out as normal.<sup>94</sup>

## Passing Away through an Earthquake

After an earthquake, if bodies are found lying under rubble or in a place where it is difficult to remove the bodies, then the bodies will not

<sup>207</sup> ألا ترى أن العظام لا يصى عليها بالإجماع (بدائع الصنائع ١/٣٠٢)

لا يصى عليه بعد التفتيح لأن الصلاة شرعت على بدن الميت فإذا تفتيح لم يبق بدنه قائما (البحر الرائق ٢/١٩٦)

be removed and Janaazah Salaah will be performed at that very place. However, at the time of performing the Janaazah Salaah, one will make the intention that he is performing the Janaazah Salaah upon the Muslim bodies, not the kuffaar bodies. Since removing the bodies is not possible, ghusal and kafan will not be waajib. If it is possible to remove the bodies and the bodies are intact, then the ghusal, kafan and Janaazah Salaah will be carried out as normal. If the major portion of the body is burnt or disintegrated, then the bodies will be wrapped in a cloth and buried without Janaazah Salaah being performed.<sup>208</sup>

### Passing Away at Sea

If a person passes away in a ship and the coast is so far away that there is a fear of the corpse beginning to decompose before reaching the coast, then in such a case, ghusal and kafan should be given to him and he should thereafter be lowered into the sea. When lowering the body into the sea, the body will be tied to a heavy object (stone, etc.) so that the body sinks to the bed of the sea and does not float above the water. However, if the coast is near and there is hope of reaching land without the corpse decomposing, the corpse should be left aside so that it can be buried upon reaching land.<sup>209</sup>

### Passing Away by Drowning at Sea

If a person drowns in the ocean and there are no traces of the body, then there will be no ghusal, kafan or Janaazah Salaah.<sup>208</sup>

<sup>208</sup> وإن لم تكن علامة إن كانت الغلبة للمسلمين يرضى على الكل وينوى بالصلاة والدعاء للمسلمين ويدفنون في مقابر المسلمين (الفتاوى الهندية ١٥٩/١)

تنبه ينبغي أن يكون في حكم من دفن بلا صلاة من تردى في نحو بحر أو وقع عليه ببيان ولم يمكن إخراجهم بخلاف ما لو غرق في بحر لعدم تحقق وجوده أمام المصلي تأمل (رد المحتار ٢/ ٢٢٤). انظر أيضا ٩٤ ، ٩٦

<sup>209</sup> (ومن مات في سفينة وكان البر بعيدا وخيف الضرر) به (غسل وكفن) وصلى عليه (وألقي في البحر) وعن الإمام أحمد بن حنبل رحمه الله ينقل ليرسب وعن الشافعية كذلك إن كان قريبا من دار الحرب وإلا شد بين لوحين ليقذفه البحر فيدفن قال الطحطاوي: قوله (وخيف الضرر به) أي التغير أما إذا لم يخف عليه التغير ولو بعد البر أو كان البر قريبا وأمکن خروجه فلا يرمي كما يفيد مفهومه والظاهر عليه حرمة رميه وحرره نقلا قوله (وألقي في البحر) مستقبل القبلة على شقه الأيمن ويشد عليه كفته وقوله ليرسب أي ليثبت في قعر البحر وفي القاموس راسب في الماء كعصر وكرم رسوبا ذهب سفلا (حاشية الطحطاوي على مرافي الفلاح ص٦١٣)

## Passing Away by Falling into a Well

If a person fell in a well and passed away, then if the body can be retrieved, the ghusal, kafan and Janaazah Salaah will be carried out as normal. If the body cannot be retrieved, then there will be no ghusal or kafan. However, Janaazah Salaah will be performed at the well.<sup>208</sup>

## The Burial of a Pregnant Christian or Jewess Woman in the Nikaah of a Muslim

If a Christian or Jewess woman in the nikaah of a Muslim man passes away while she is pregnant, then if the foetus is alive, the child will be removed through surgery. If the foetus is not alive, then there will be one of two situations.

1. The woman passed away before four months of her pregnancy. Since there is no life that enters the foetus before four months, the woman will be buried in a non-Muslim graveyard.
2. The woman passed away after four months of pregnancy and the child in the womb also passed away. Since life entered the foetus, it will follow the religion of its Muslim father. In such a situation, there are three opinions recorded in the books of Fiqh in regard to where the woman with the foetus should be buried.
  - a) The woman should be buried in a kaafir graveyard, considering the fact that she is a kaafir.
  - b) The woman should be buried in a Muslim graveyard, considering the fact that the foetus is a Muslim.
  - c) The woman should be buried in a separate place, neither in a Muslim graveyard nor in a kaafir graveyard. The woman will be placed in the grave with her back facing towards the qiblah so that the face of the Muslim foetus faces the



qiblah. This view is the preferred view in the Hanafi mazhab.<sup>210</sup>

## Q&A

### Where Should the Imaam stand when Performing the Janaazah Salaah?

**Question:** Where should the imaam stand when performing the Janaazah Salaah? At the head or chest of the deceased?

**Answer:** The imam should stand at the chest of the deceased.<sup>147</sup>

### Janaazah Salaah and burial of a Person who has Committed Suicide

**Question:** Will Janaazah Salaah be performed for a person who has committed suicide? Will the person who has committed suicide be buried in a Muslim cemetery?

**Answer:** Janaazah Salaah will be performed on such a person and he will be buried in the Muslim cemetery.<sup>190 191</sup>

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<sup>210</sup> كذمية ماتت حبلى بمسلم قال الطحطاوي : قوله ( كذمية الخ ) هذه المسئلة اختلف فيها الصحابة رجع بعضهم جانب الولد فقال تدفن في مقابر المسلمين وبعضهم جانبها فإن الولد في حكم جزئها ما دام في بطنها فتدفن في مقابر المشركين وقال عقبه بن عامر يتخذ لها مقبرة على حدة أفاده في الشرح أي ويجعل ظهرها إلى القبلة لأن وجه الولد إليه (حاشية الطحطاوي على مراقي الفلاح ص ٦٣٠) اختلط موتانا بكفار ولا علامة اعتبر الأكثر فإن استووا غسلوا واختلف في الصلاة عليهم ومحل دفنهم كدفن ذمية حبلى من مسلم قالوا والأحوط دفنها على حدة ويجعل ظهرها إلى القبلة لأن وجه الولد لظهرها (الدر المختار ٢/٢٠٠) قال الشامي : ( كدفن ذمية ) جعل الأول مشيها بمذا لأنه لا رواية فيه عن الإمام بل فيه اختلاف المشايخ قياسا على هذه المسألة فإنه اختلف فيها الصحابة رضي الله تعالى عنهم على ثلاثة أقوال فقال بعضهم تدفن في مقابرنا ترجيحاً لجانب الولد وبعضهم في مقابر المشركين لأن الولد في حكم جزء منها ما دام في بطنها وقال وإالة بن الأسقع يتخذ لها مقبرة على حدة قال في الحلية وهذا أحوط والظاهر كما أفصح به بعضهم أن المسألة مصورة فيما إذا نفخ فيه الروح وإلا دفنت في مقابر المشركين قوله ( لأن وجه الولد لظهرها ) أي والولد مسلم تبعاً لأبيه فيوجه إلى القبلة بمذة الصفة ط (رد مختار ٢/٢٠١)

## Where Should the Musalli Look when Performing Janaazah Salaah?

**Question:** Where should the musalli look when performing Janaazah Salaah?

**Answer:** Janaazah Salaah is a dua. Just as a person lowers his gaze when making dua (i.e. he lowers his gaze and looks towards his hands), similarly when performing the Janaazah Salaah, one should keep his gaze lowered. However, we have not come across any clear text in regard to this mas'alah.<sup>148</sup>

## Should the Janaazah Salaah be performed before the Sunnat-e-muakkadah Salaah?

**Question:** Which should be given priority after the fardh Salaah, the Janaazah Salaah or the sunnat-e-muakkadah Salaah?

**Answer:** Since the Janaazah Salaah is fardh-e-kifaayah and the sunnat-e-muakkadah Salaah is sunnah, according to the principle, the Janaazah Salaah should be given preference over the sunnat-e-muakkadah Salaah. This is one view in the Hanafi Mazhab. However, the preferred view in the Hanafi mazhab is that the sunnat-e-muakkadah Salaah should be performed before the Janaazah Salaah as the sunnat-e-muakkadah Salaah are joined to the fardh Salaah and are part of it. Furthermore, if the Janaazah Salaah is performed immediately after the fardh Salaah, there is fear that people will not perform the sunnat-e-muakkadah Salaah after the Janaazah Salaah (due to them becoming engaged in carrying the janaazah and taking it to the qabrastaan).<sup>211</sup>

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<sup>211</sup> ( و ) تقدم ( صلاة الجنازة على الخطبة ) وعلى سنة المغرب وغيرها والعيد على الكسوف، لكن في البحر قبيل الأذان عن الحلبي الفتوى على تأخير الجنازة عن السنة وأقره المصنف كأنه إلحاق لها بالصلاة ... ( الدر المختار ١٦٧/٢ ) قال الشامي : ( قوله عن السنة ) أي سنة الجمعة كما صرح به هناك وقال فعلى هذا تؤخر عن سنة المغرب لأنها أكد اه فافهم ( قوله إلحاقاً لها ) أي للسنة بالصلاة أي صلاة الفرض ( رد مختار ١٦٧/٢ ) انظر أيضاً فتاوى محموديه ٥٦٥/٨

## Reciting “wa jalla thanauka” in Janaazah Salaah

**Question:** Is the extra wording “wa jalla thanauka’ in funeral prayers established from any Hadith?

**Answer:** The words “wa jalla thanauka” has not been established from the mash-hoor Ahaadith. Hence, it is better for one to recite the normal thanaa in Janaazah Salaah as one recites in normal salaah. However, if one had recited the words “wa jalla thanauka” in the thanaa of Janaazah Salaah, the salaah will be valid.<sup>212</sup>

## The Position of Salaam in Janaazah Salaah

**Question:** Are both salaams in Janaazah Salaah waajib, like in other salaah?

**Answer:** Yes, both salaams are waajib in Janaazah Salaah.<sup>213</sup>

## Janaazah Salaah in the Sehn or Graveyard?

**Question:** Where is it more rewarding to perform the Janaazah Salaah, in the sehn of the masjid or in the designated place of the graveyard where Janaazah Salaah is usually performed?

**Answer:** Both are equal in reward.<sup>214</sup>

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<sup>212</sup> ثم يقول سبحانه اللهم وبمحمدك وتبارك اسمك وتعالى جدك ولا إله غيرك سواء كان إماماً أو مقتدياً أو منفرداً هكذا ذكر في ظاهر الرواية وزاد عليه في كتاب الحج وجل ثناؤك وليس ذلك في المشاهير (بدائع الصنائع ٢٠٢/١)  
(وقراً) كما كبر (سبحانك اللهم تاركاً) وجل ثناؤك إلا في الجنائز (مقتصرًا عليه) (الدر المختار ٤٨٨/١) قال الشامي: قوله (سبحانك اللهم) شرح ألفاظه في البحر والإمداد وغيرها قوله (تاركاً إلخ) هو ظاهر الرواية بدائع لأنه لم ينقل في المشاهير كافي فالأولى تركه في كل صلاة محافظة على المروي بلا زيادة وإن كان ثناء على الله تعالى بحر وحلية وفيه إشارة إلى أن قوله في الهداية لا يأتي به في الفرائض لا مفهوم له لكن قال صاحب الهداية في كتابه مختارات النوازل وقوله وجل ثناؤك لم ينقل في الفرائض في المشاهير وما روي فيه فهو في صلاة التهجد اه قوله (إلا في الجنائز) ذكره في شرح المنية الصغير ولم يعزه إلى أحد ولم أره لغيره سوى ما قدمناه عن الهداية ومختارات النوازل (رد المختار ٤٨٨/١)

<sup>213</sup> (ولفظ السلام) مرتين فالثاني واجب على الأصح (الدر المختار ٤٦٨/١)

<sup>214</sup> بدائع الصنائع ٣٢٠/١

## Which Saff is Most Rewarding for Janaazah Salaah?

**Question:** Is it correct that performing the Janaazah Salaah in the last saff is most rewarding? If this is true, then what is the reason?

**Answer:** It is true that performing Janaazah Salaah in the last saff is most rewarding. The reason for this is that the Janaazah Salaah is in reality a dua (an intercession) to Allah **تَبَارَكَ وَتَعَالَى** to forgive the sins of the deceased. The intercession of the one who expresses the most humility receives the greatest reward. The one who stands in the last saff outwardly expresses the most humility.<sup>169</sup>

## The Condition of the Imaam Leading the Janaazah Salaah

**Question:**

1. Is it mustahab, sunnat-e-muakkadah, ghair muakkadah or waajib for the imaam who is leading the janaazah salaah to have a beard which is a full fist in length?
2. If the imaam does not have a fist-length beard, is it permissible for him to perform the salaah?

**Answer:**

1. It is compulsory for the imaam to have a fist-length beard.
2. It is not permissible to appoint such a person to perform the Janaazah Salaah who shaves or trims his beard before it reaches one fist in length.<sup>215</sup>

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<sup>215</sup> ودخلا على رسول الله صلى الله عليه وسلم وقد حلقا لحاهما وأغفيا شواربهما فكره النظر إليهما وقال ويلكما من أمركما بهذا قالوا أمرنا ربنا يعنينا كسرى فقال رسول الله صلى الله عليه وسلم ولكن ربي أمرني بأعفاء لحيتي وقص شاربي (البداية والنهاية ٤٨٦/٦). انظر أيضا صحيح البخاري رقم ٥٨٩٢

( و ) لذا كره إمامة ( الفاسق ) العالم لعدم اهتمامه بالدين فتجب إهانتة شرعا فلا يعظم بتقدمته للإمامة وإذا تعذر منعه ينتقل عنه إلى غير مسحده للجمعة وغيرها وإن لم يقم الجمعة إلا هو تصلى معه (حاشية الطحطاوي على مراقي الفلاح ص ٣٠٣)

## What Should One Recite if One does not know the Duas for Janaazah Salaah?

**Question:** If one does not know the duas which are recited in Janaazah Salaah, what should one recite?

**Answer:** He may recite any other dua which he knows.<sup>160</sup>

## Performing Janaazah Salaah before the Nikaah

**Question:** If there is both a janaazah and a nikaah to be performed, then which takes preference?

**Answer:** Since Janaazah Salaah is fardh-e-kifaayah and nikaah is sunnah, if the janaazah is present, then the Janaazah Salaah should be performed first.<sup>211</sup>

## Who Should Perform the Janaazah Salaah?

**Question:** In the presence of the mayyit's father who is a normal layman, does the grandson or brother of the mayyit who is a Mufti have more right to perform the Janaazah Salaah than the imaam of the locality who is not so learned?

**Answer:** In this case, the right of performing the Janaazah Salaah will be for the imaam of the locality.<sup>199</sup>

## Performing Janaazah Salaah of a Deceased who is not Present

**Question:** Is it permissible for a Hanafi to follow a Shaafi' imaam or Hambali imaam in Salaatul Janaazah alal ghaaib (performing salaah on a deceased who is not present at the place where the salaah is being performed)?

**Answer:** According to the Hanafi mazhab, it is a precondition for the deceased to be present at the place of the Janaazah Salaah. Hence, if Janaazah salaah is performed on a deceased in his absence, then since he is not present at the place where the Janaazah Salaah is being

performed, the Janaazah Salaah will not be valid. (This ruling also conforms to the Maaliki mazhab).<sup>177</sup>

## Sajdah and Ruku' in Janaazah Salaah

**Question:** Why is there no ruku' or sajdah in Janaazah salah?

**Answer:** There is no ruku' or sajdah in Janaazah Salaah as Janaazah Salaah, in reality, is a dua for the deceased.<sup>186</sup>

## Reciting the Takbeers Aloud in Janaazah Salaah

**Question:** During Janaazah Salaah, some musallis recite the takbeers aloud. Is this practice correct?

**Answer:** Reciting the takbeers in Janaazah Salaah is fardh. One should recite the takbeers in such a manner that one is able to hear oneself. Reciting the takbeers loudly is not correct.<sup>157</sup>

## Forming an Odd Number of Saffs for Janaazah Salaah

**Question:** During Janaazah Salaah, is it necessary to form an odd number of saffs, regardless of whether the gathering is small or big?

**Answer:** It is not compulsory. However, it is mustahab.<sup>169</sup>

## Straightening the Saffs for Janaazah Salaah

**Question:** During Janaazah Salaah, if there is a large crowd and space is limited, then very often there is no continuation in some of the saffs. In order to rectify this, the only way will be to request the musallis at the back to move out of this area and begin rectifying the saffs from the first saff. In such circumstances, will it be correct to leave rectifying the saffs and perform the salaah because of the difficulty and the time involved in rectifying the saffs?

**Answer:** Just as it is important to straighten the saffs for normal salaah, similarly it is important to straighten the saffs for Janaazah Salaah. Therefore, the saffs should be straightened before performing

the Janaazah Salaah, even if a little time is spent in straightening the saffs.<sup>216</sup>

## Women Leading Men in Janaazah Salaah

**Question:** Can women perform Janaazah Salaah?

**Answer:** If you are referring to a woman leading men in Janaazah Salaah, then though this is incorrect, the Janaazah Salaah will be valid and will not have to be repeated. As far as the salaah of the men behind her is concerned, then their salaah will not be valid since it is impermissible for a woman to lead men in salaah. If you are referring to a woman performing salaah behind the imaam, then her salaah will be valid.<sup>180</sup>

## Performing Janaazah Salaah in the Masjid

**Question:** Is it permissible to perform the Janaazah Salaah in the masjid? We notice that in Makkah Mukarramah and Madinah Munawwarah the Janaazah Salaah is performed in the Haram. What is the Shar'ee ruling in this regard?

**Answer:** According to the Hanafi and Maaliki mazhab, Janaazah Salaah should not be performed in the masjid. The Hadith has prohibited performing the Janaazah Salaah in the masjid. However, the Shaafi' and Hambali Mazhab hold the view that performing the Janaazah Salaah in the masjid is permissible. Since the people of Makkah Mukarramah and Madinah Tayyibah follow the Hambali mazhab, they perform the Janaazah Salaah in the masjid.<sup>183 184</sup>

## Performing One Janaazah Salaah for Several Mayyits

**Question:** When performing one Janaazah Salaah for several mayyits, how should all the janaazahs be placed, e.g. the janaazahs comprise of adult males, adult females, female and male children?

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<sup>216</sup> ( ويصف ) أي يصفهم الإمام بأن يأمرهم بذلك قال الشنخي وينبغي أن يأمرهم بأن يتراصوا ويسدوا الخلل ويسووا مناكبهم ويقف وسطا وخير صفوف الرجال أولها في غير جنازة ثم وتم ( الدر المختار ١/٥٦٨ )

**Answer:** If there are several janaazah's present at one time, performing a separate Janaazah Salaah on each deceased is better. However, if one Janaazah Salaah was performed on all the deceased it will be permissible.

In this case the method of performing the Janaazah Salaah will be that the first mayyit will be placed in front of the imaam. The second mayyit will be placed next to the first mayyit in the manner that the left hand of the second mayyit is next to the right hand of the first mayyit and so forth (i.e. the chest of the imaam will be in line with the chest of all the janaazahs).

If among the deceased, there are men, women and children, then the saffs of the deceased will be made in the manner the saffs of salaah are made (i.e. the men will be closest to the imaam, then the immature male children, then the women and last will be the female immature children). They will all be placed in such a manner that the chests of all will be in line with the imaam.<sup>198 199</sup>

## Delaying in Performing the Janaazah Salaah and Burying the Deceased

### Question:

1. What is the Shar'ee ruling in the situation where a foreigner passes away and his family from his home country makes a request for his body to be sent to them? In this case it is a legal requirement for a chemical to be injected into the veins of the deceased to keep the body from decomposing. Is this allowed in Shari'ah since it is a legal requirement?
2. If a foreigner passes away and his family from his home country makes a request for his body to be sent to them, then before sending the body overseas, do we have to carry out the ghusal, kafan and perform the Janaazah Salaah? Once the family receives the body, will they have to repeat the ghusal and Janaazah Salaah?

### Answer:

1. The Shar'ee ruling is that when a person passes away, the Janaazah Salaah and the burial should be done as quickly as possible and should not be delayed. Delaying in performing the Janaazah Salaah and



burying the deceased is against the sunnah, hence impermissible. Therefore the Fuqahaa have written that it is best to bury the deceased in the place where he had passed away. However, transporting the body to a nearby place in a short span of time is permissible provided there is no fear of the body decomposing. If the body is transported to a far of place and it is feared that the body will begin to decompose, it will not be permissible. Pumping chemicals in the veins to preserve the body in the case where the body is to be transported to a far of place is not correct and not in keeping to the sunnah. Therefore, if one is able to, then one should bury the deceased in the place where he had passed away.

2. Yes, the ghusal must be given to the deceased and the Janaazah Salaah must be performed. Once the ghusal has been given and the Janaazah Salaah has been performed, it should not be repeated.<sup>217</sup>

## Transporting the Body of the Deceased to Another Town

**Question:** What is the ruling if a city or town does not have a Muslim qabrastan? Can we transport the body to a city or town that has a Muslim qabrastan?

**Answer:** If there is fear that through transporting the body to a distant place, the body will begin to decompose, then the body should not be transported to another place. Rather the deceased should be buried in the land that he had passed away. The deceased will be buried in the property he owned or the property of any Muslim who volunteers to

<sup>217</sup> ( ويستحب الدفن في ) المقبرة ( محل مات به أو قتل ) لما روي عن عائشة رضي الله عنها أنها قالت حين زارت قبر أخيها عبد الرحمن وكان مات بالشام وحمل منها لو كان الأمر فيك إلي ما نقلتك ولدفتنتك حيث مت ( فإن نقل قبل الدفن قدر ميل أو ميلين ) ونحو ذلك ( لا بأس به ) لأن المسافة إلى المقابر قد تبلغ هذا المقدار ( وكرد نقله لأكثر منه ) أي أكثر من المليون كذا في الظهيرية وقال شمس الأئمة السرخسي وقول محمد في الكتاب لا بأس أن ينقل الميت قدر ميل أو ميلين بيان أن النقل من بلد إلى بلد مكروه وقال قاضيخان وقد قال قبله لو مات في غير بلده يستحب تركه فإن نقل إلى مصر آخر لا بأس به لما روي أن يعقوب صلوات الله عليه مات بمصر ونقل إلى الشام وسعد ابن أبي وقاص مات في ضيعة على أربعة فراسخ من المدينة ونقل على أعناق الرجال إلى المدينة قلت يمكن الجمع بأن الزيادة مكروهة في تغيير الرائحة أو خشيتها وتنتفي بانفائها لمن هو مثل يعقوب عليه السلام أو سعد رضي الله عنه لأنهما من أحياء الدارين (مراقي الفلاح ص ٦١٣). انظر ١١٦

bury the deceased in his private land. The area should be demarcated so that the grave of the deceased be known.<sup>217</sup>

## Who is the Most Worthy Person for Performing the Janaazah Salaah?

**Question:** Who's right is it to perform the Janaazah Salaah?

**Answer:** The person most worthy for performing the Janaazah salaah is the imaam of the locality, provided there is nobody more knowledgeable than him from the awliyaa of the deceased (relatives who will inherit from the deceased according to the sequence of the asabaat). If there is someone from the relatives of the deceased (who can inherit from him) who is more knowledgeable than the imaam and he is the wali of the deceased, he will be more deserving than the imaam of the locality.

If the deceased did not pass away in his own locality, then the right of performing the Janaazah Salaah will be entrusted to his heirs who can inherit from him according to the sequence of the asabaat in the law of inheritance (the asabaat refer to the sequence of the paternal male relatives who have the potential to inherit from the deceased according to the law of inheritance). However, the only difference in the sequence of the asabaat is that the father of the deceased will receive the first right, before the son, unless the son is more knowledgeable than the father.<sup>200</sup>

## Dua after Janaazah Salaah

**Question:**

1. We notice that in some places, the imaam makes dua immediately after the Janaazah Salaah. Is this correct and among the sunnah practices of Janaazah Salaah?
2. If dua after the Janaazah Salaah is not correct, then can it be done for the sake of keeping the peace?

**Answer:**

1. The Janaazah Salaah is in reality a dua to Allah تَبَارَكَ وَتَعَالَى for the deceased. Thus, there is no need for an additional dua after the completion of the Janaazah Salaah. The practice of making an additional dua after the Janaazah Salaah is not established from any narration from Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, the Sahaabah and Taab'ieen. Hence the additional dua after the Janaazah Salaah that is practised in many places is an innovation in Deen and must be omitted.
2. Effort should be made to educate the masses and teach them the sunnah in every facet of life.<sup>186</sup>

### Performing Janaazah Salaah while Wearing Shoes

**Question:** Can one perform Janaazah Salaah with shoes on?

**Answer:** It is permissible provided there is no impurity on the shoes.<sup>179</sup>

### Imaam Preventing the Janaazah of a Certain Person from being Performed in the Sehn of the Musjid

**Question:** Can the imaam of a musjid prevent a janaazah of a musalli being performed in the sehn of the musjid because the marhoom belonged to a different school of thought, for example the marhoom use to engage in bid'ah practices or the imaam knows that the family member or appointed imaam will be making a dua after the Janaazah Salaah?

**Answer:** If the marhoom subscribed to certain bid'ah practices, but belonged to the Ahlus Sunnah wal Jamaa'ah, then it will be incorrect for the imaam to prevent the Janaazah Salaah taking place in the sehn of the musjid. However, the imaam should make it clear to the family of the deceased that after the Janaazah Salaah, no bid'ah practices will take place around the musjid.<sup>175</sup>

## Performing Janaazah Salaah for a Deceased that is not Present

**Question:** Can Janaazah Salaah be performed for a deceased who passes away in a) another country, b) drowned or involved in a plane crash where the body has not been recovered?

**Answer:** Among the conditions for the validity of the Janaazah Salaah is that the deceased should be present at the place of the Janaazah Salaah. Hence in the case where the Janaazah Salaah is performed on a deceased who is not present, the Janaazah Salaah will not be valid.<sup>177</sup>

## Chapter Eight - The Burial

There are great virtues recorded in the Mubaarak Ahaadith for the one who accompanies the janaazah to the graveyard and takes part in the burial.

عن أبي هريرة رضي الله عنه أن رسول الله صلى الله عليه وسلم قال من اتبع جنازة مسلم إيمانا واحتسابا كان معه حتى يصلى عليها ويفرغ من دفنها فإنه يرجع من الأجر بقيراطين كل قيراط مثل أحد ومن صلى عليها ثم رجع قبل أن تدفن فإنه يرجع بقيراط<sup>٢١٨</sup>

*Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "The one that accompanies the janaazah of a Muslim with Imaan and with the hope of earning reward, and remains with it until the (Janaazah) Salaah is performed and the mayyit is buried, will return (home) with two qeeraat of thawaab. Each qeeraat is equal to Mount Uhud, and the person who only performs the Janaazah Salaah, and returns before the burial, will return with one qeeraat of thawaab."*

Aamir bin Sa'd bin Abi Waqqaas رَضِيَ اللهُ عَنْهُ narrates that he was once seated with Hazrat Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا when Hazrat Khabbaab رَضِيَ اللهُ عَنْهُ, the one who was residing in a certain room, appeared and addressed Hazrat Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا saying, "O Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا! Do you not hear what Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ is saying? He says that he heard Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ saying, 'The one who comes out with a janaazah from its home and performs the Janaazah Salaah on it, and thereafter follows it until it is buried, he will receive two qeeraat of reward, of which each qeeraat is equal to the

<sup>٢١٨</sup> صحيح البخاري رقم ٤٧

Mountain of Uhud. The one who performs salaah on the Janaazah and then returns, he will receive reward equal to the Mountain of Uhud.” Hearing this, Hazrat Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا sent Hazrat Khabbaab رَضِيَ اللهُ عَنْهُ to Hazrat Aishah رَضِيَ اللهُ عَنْهَا in order to ask her regarding this Hadith narrated by Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ, so that he could thereafter return and inform Hazrat Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا of her answer. (After Hazrat Khabbaab رَضِيَ اللهُ عَنْهُ had departed,) Hazrat Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا took some of the pebbles of the masjid and turned them over in his hand, until the messenger returned and said that Hazrat Aishah رَضِيَ اللهُ عَنْهَا replied, “Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ spoke the truth.” When he heard this, Hazrat Abdullah bin Umar رَضِيَ اللهُ عَنْهُمَا threw the pebbles to the ground and said, “We have indeed wasted many qeeraats (through not accompanying the janaazah to the graveyard).”<sup>219</sup>

## Hastening in the Burial

Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ has commanded us in the Hadith not to delay in the burial. On one occasion, Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ addressed Hazrat Ali رَضِيَ اللهُ عَنْهُ in the following manner, “O Ali رَضِيَ اللهُ عَنْهُ! Do not delay in three things. Salaah when its time sets in, Janaazah Salaah when the bier is present and the nikaah of an unmarried girl when you find a compatible partner for her.”<sup>220</sup>

Similarly, another Hadith explains that when a pious believer passes away, we should hasten in his burial so that he gains relief from this earthly abode and gains solace and peace through the comfort of the abode of the Hereafter. On the contrary, if he is an evil person, then we should hasten in his burial so that all may gain relief from carrying the corpse of such an evil person.

<sup>219</sup> صحيح مسلم رقم ٩٤٥

<sup>220</sup> جامع الترمذي رقم ١٠٧٥

Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ reports that, Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said<sup>221</sup>:

أسرعوا بالجنائز فإن يكن خيرا تقدموها إليه وإن يكن شرا تضعوه عن رقابكم

*“Hasten in performing the Janaazah Salaah. If there is good awaiting him, you will hasten in sending him towards his good abode. If there is evil (punishment) awaiting him, you will hasten in removing him from your shoulders.”*

## The Reality of the Grave

It is reported in the Hadith that the grave is either a garden from the gardens of paradise or a pit from the pits of Jahannum. As far as a pious believer is concerned, Allah تَبَارَكَ وَتَعَالَى blesses him with comfort in the grave. As far as a sinner is concerned, he is put through torment and punishment in the grave.

Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ once said, “There is no day that passes over the grave wherein it does not announce in a very clear and eloquent voice, ‘O son of Aadam, you have forgotten me. I am a house of solitude. I am a house of strangers. I am a house of horror. I am a house of insects. I am a very narrow house, except for that person for whom Allah تَبَارَكَ وَتَعَالَى causes me to expand.’ Thereafter, Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, “The grave is either a garden from the gardens of Paradise or a pit from the pits of Jahannum.”<sup>222</sup>

Whenever Hazrat Uthmaan رَضِيَ اللهُ عَنْهُ used to stand at the graveside, he used to cry so excessively that his blessed beard would become wet. Someone once asked him, “Why do you not cry so much when mention is made of Jannah and Jahannum as you cry when mention is made of the grave?” He replied, “I heard Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ mention, “The grave is the first stage from the stages of the Akhirah. Whoever passes it easily, then all the oncoming stages will be easy for him; and whoever is afflicted with punishment in it, then the oncoming stages

<sup>221</sup> جامع الترمذي رقم ١٠١٥

<sup>222</sup> جامع الترمذي رقم ٢٤٦٠

will be even more difficult for him.” I also heard Rasulullah ﷺ saying, “I have not seen any scene more severe than the scene of the grave.”<sup>223</sup>

## Laws Pertaining to the Burial

1. Just as the ghusal, kafan and Janaazah Salaah are fardh-e-kifaayah, similarly, burying the deceased is also fardh-e-kifaayah.<sup>224</sup>
2. It is mustahab to bury the corpse in the place where he/she has passed away. If the corpse is transported to another place in a very short while and there is no fear of the corpse decomposing, then though it is undesirable, it will be permissible. If there is fear of the body decomposing then transporting the body will be impermissible.<sup>217</sup>
3. Once the Janaazah Salaah has been performed, the deceased should immediately be taken to the graveyard for burial.<sup>195</sup>
4. It is impermissible for women to accompany the janaazah to the graveyard and take part in the burial.<sup>225</sup>

## Laws pertaining to Transporting the Janaazah to the Graveyard

1. If the deceased is a baby or slightly bigger (toddler), then he will not be carried on the bier. Instead, he will be carried by

<sup>223</sup> جامع الترمذي رقم ٢٣٠٨

<sup>224</sup> قال الطحطاوي : واعلم أن أصل الحمل والدفن فرض كفاية (حاشية الطحطاوي ص ٦٠٣). انظر أيضا ٦٣ ، ١١٩ ، ١٤٥

<sup>225</sup> ويكره خروجهن تحريما وتزجر النائحة ولا يترك اتباعها لأجلها قال الشامي : قوله ( ويكره خروجهن تحريما ) لقوله عليه الصلاة والسلام ارجعن مأزورات غير مأجورات رواه ابن ماجه بسند ضعيف لكن يعضده المعنى الحادث باختلاف الزمان الذي أشارت إليه عائشة بقولها لو أن رسول الله صلى الله عليه وسلم رأى ما أحدث النساء بعده لمنعهن كما منعت نساء بني إسرائيل وهذا في نساء زماننا فما ظنك بنساء زماننا وأما ما في الصحيحين عن أم عطية فحينما عن اتباع الجنائز ولم يعزم علينا أي أنه نهي تنزيهه فينبغي أن يختص بذلك الزمن حيث كان يباح له الخروج للمساجد والأعياد وتمامه في شرح المنية (رد المحتار ٢/٢٣٢) انظر أيضا مسند الإمام الأعظم ص ١٠٢



hand and passed from one person to another till they reach the graveyard.<sup>226</sup>

2. If the deceased is an adult, he should be carried on a bier. It should be carried by four people, each corner being supported by one person. The bier should be lifted and carried on the shoulders in a respectable manner.<sup>227</sup>
3. If the graveyard is far, then the body will be transported by a conveyance from the home till the graveyard, and thereafter carried by hand until the grave.<sup>228</sup>
4. It is makrooh to transport the deceased by a vehicle to the graveyard without any valid reason. However, if there is a valid reason, it will be permissible to transport it by vehicle e.g. the graveyard is at a far distance.<sup>228</sup>

### Method of Carrying the Janaazah

1. The mustahab method of carrying the deceased is as follows:
  - a) One should first lift the front left leg of the bier and place it on his right shoulder and walk for at least ten steps.
  - b) Thereafter, he should place the back left leg of the bier onto his right shoulder and walk for at least ten steps.

<sup>226</sup> وذكر الأسيحياني أن الصبي الرضيع أو العظيم أو فوق ذلك قليلا إذا مات فلا بأس بأن يحمله رجل واحد على يديه ويتداوله الناس بالحمل على أيديهم ولا بأس بأن يحمله على يديه وهو راكب وإن كان كبيرا يحمل على الجنازة اهـ (البحر الرائق ٢/٢٠٦)

<sup>227</sup> وضح أنه عليه الصلاة والسلام حمل جنازة سعد بن معاذ ويكره عندنا حمله بين عمودي السرير بل يرفع كل رجل قائمة باليد لا على العنق كالأمته ولذا كره حمله على ظهر ودابة قال الشامي : قوله ( ويكره عندنا الخ ) لأن السنة التبريع بحر وما نقل عن بعض السلف من الحمل بين العمودين إن ثبت فلعارض كضيق المكان أو كثرة الناس أو قلة الحاملين كما بسطه في فتح القدير قوله ( قائمة ) أي من قوائم السرير الأربع قوله ( باليد ) أي ثم يضع على العنق وقوله لا على العنق أي ابتداء كما أفاده شيخنا اهـ ح وفي الحلية أو يرفعونه أخذًا باليد لا وضعا على العنق كما تحمّل الأتقال ذكره الفقيه أبو الليث في شرح الجامع الصغير اهـ والمراد بالعنق الكتف كما قال ط قوله ( ولذا الخ ) علة لما استفيد من أن حمله كالأمته مكروه ط (رد المختار ٢/٢٣١)

<sup>228</sup> ( يسن لحملها ) حمل ( أربعة رجال ) تكررنا له وتخفيفا وتحاشيا عن تشبيهه بحمل الأمته ويكره حمله على ظهر دابة بلا عذر قال الطحطاوي : قوله ( بلا عذر ) أما إذا كان عذر بأن كان الخيل بعيدا يشق حمل الرجال له أو لم يكن الحامل إلا واحدا فحمله على ظهره فلا كراهة إذن (حاشية الطحطاوي على مراقي الفلاح ص ٦٠٣)

- c) Thereafter, he should place the front right leg of the bier onto his left shoulder and walk for at least ten steps.
- d) Lastly, he should lift the back right leg onto his left shoulder and walk for at least ten steps.

In this way, one will walk at least forty steps in total whilst carrying the deceased.<sup>229</sup> If this is not possible due to the crowds of people, then one should carry the bier for whatever duration possible.

2. It is sunnah to walk briskly with the janaazah. However, one should not jog or run, or move so fast that the body of the deceased is jostled (begins to move from side to side).<sup>230</sup>
3. It is makrooh for those who accompany the janaazah to sit before the janaazah can be placed onto the ground. However, if there is a valid excuse e.g. sickness or old age, then there is no harm in one sitting.<sup>231</sup>
4. If the janaazah is passing by a group of people, then upon seeing the janaazah, they should not stand up for the janaazah. In the beginning period of Islam, the Sahaabah رَضِيَ اللَّهُ عَنْهُمْ were commanded to stand whenever a janaazah passed by, but this law was later abrogated.<sup>232</sup>

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<sup>229</sup> ثم إن في حمل الجنازة شيئين نفس السنة وكما لها أما نفس السنة فهي أن تأخذ بقوائمها الأربع على طريق التعاقب بأن تحمل من كل جانب عشر خطوات وهذا يتحقق في حق الجمع وأما كمال السنة فلا يتحقق إلا في واحد وهو أن يبدأ الحامل بحمل يمين مقدم الجنازة كذا في التتارخانية فيحمله على عاتقه الأيمن ثم المؤخر الأيمن على عاتقه الأيمن ثم المقدم الأيسر على عاتقه الأيسر ثم المؤخر الأيسر على عاتقه الأيسر هكذا في التبيين (الفتاوى الهندية ١/١٦٢)

<sup>230</sup> (ويعجل به بلا حجب) وهو بمعجمة مفتوحة وموحدين ضرب من العدو وقيل هو كالرمل وحد التعجيل المسنون أن يسرع به بحيث لا يضطر الميت على الجنازة للحديث أسرعوا بالجنازة فإن كانت صالحة قربتموها إلى الخير وإن كانت غير ذلك فشر تضعونه عن رقابكم والأفضل أن يعجل بتجهيزه كله من حين يموت ولو مشوا به بالخيب كره لأنه ازدراء بالموت وإضرار بالمتبعين (البحر الرائق ٢/٢٠٦)

<sup>231</sup> قوله (وجلوس قبل وضعها) أي بلا جلوس لمتبعها قبل وضعها لأنه قد تقع الحاجة إلى التعاون والقيام أمكن منه فكان الجلوس قبله مكروها ولأن الجنازة متبوعة وهم أتباع والتبع لا يقعد قبل قعود الأصل قيد بقوله قبل وضعها لأنهم يجلسون إذا وضعت عن أعناق الرجال (البحر الرائق ٢/٢٠٦)

<sup>232</sup> (ولا يقوم من في المصلى لها إذا رأها) قبل وضعها ولا من مرت عليه هو المختار وما ورد فيه منسوخ زيلعي (الدر المختار ٢/٢٣٢)

5. It is mustahab and more rewarding for those who are accompanying the janaazah to walk behind the janaazah. Walking in front of the janaazah is also permissible. However, if everyone walks in front of the janaazah, it will be makrooh.<sup>233</sup>
6. It is mustahab for those accompanying the janaazah to travel to the graveyard on foot. However, if travelling on foot is difficult due to a valid reason e.g. old age, illness or the graveyard being at a distance, then travelling to the graveyard by vehicle will be permissible. If the janaazah is being transported to the graveyard on foot, then those travelling by vehicle should move behind the janaazah. Moving ahead of the janaazah will be makrooh for them.<sup>234</sup>
7. It is makrooh for those accompanying the janaazah to make any dua or zikr in a loud voice. However, they should remain silent and remember Allah تَبَارَكَ وَتَعَالَى in their hearts.<sup>235</sup>
8. While accompanying the janaazah, one should refrain from speaking of worldly affairs as well as laughing and joking.<sup>236</sup>

## Reaching the Graveyard

Upon entering the graveyard, one should make salaam to the dwellers of the graves in one of the following ways:<sup>237</sup>

<sup>233</sup> الأفضل للمشيح للمشيح خلفها ويجوز أمامها إلا أن يتباعد عنها أو يتقدم الكل فيكره ولا يمشي عن يمينها ولا عن شمالها كذا في فتح القدير (الفتاوى الهندية ١/١٦٢)

<sup>234</sup> ولا بأس بالركوب في الجنازة والمشي أفضل ويكره أن يتقدم الجنازة راكباً كذا في فتاوى قاضي خان (الفتاوى الهندية ١/١٦٢)

<sup>235</sup> وعلى متبعي الجنازة الصمت ويكره لهم رفع الصوت بالذكر وقراءة القرآن كذا في شرح الطحاوي فإن أراد أن يذكر الله يتكبر في نفسه كذا في فتاوى قاضي خان (الفتاوى الهندية ١/١٦٢)

<sup>236</sup> ويكره رفع الصوت بالذكر والقرآن وعليهم الصمت ... وليحذر عما لا فائدة فيه من الكلام فإن هذا وقت ذكر وموعظة فتقبح فيه الغفلة (حاشية الطحطاوي على مراقي الفلاح ص ٦٠٦)

السَّلَامُ عَلَيْكُمْ دَارَ قَوْمٍ مُؤْمِنِينَ وَإِنَّا إِن شَاءَ اللَّهُ بِكُمْ لَاجِحُونَ<sup>٢٣٨</sup>

*O (inmates of) the resting abode of the believers, may peace descend upon you from the side of Allah تَبَارَكَ وَتَعَالَى, Insha-Allah soon we will be joining you.*

السَّلَامُ عَلَيْكُمْ يَا أَهْلَ الْقُبُورِ يَغْفِرُ اللَّهُ لَنَا وَلَكُمْ أَنْتُمْ سَأَلْتُمْ سَلْفَنَا وَنَحْنُ بِالْآثَرِ<sup>٢٣٩</sup>

*O inmates of the grave, may peace descend upon you from the side of Allah تَبَارَكَ وَتَعَالَى, May Allah تَبَارَكَ وَتَعَالَى forgive us and you. You are our predecessors and we are still to follow.*

السَّلَامُ عَلَيْكُمْ أَهْلَ الدِّيَارِ مِنَ الْمُؤْمِنِينَ وَالْمُسْلِمِينَ وَإِنَّا إِن شَاءَ اللَّهُ لَلَاحِقُونَ أَسْأَلُ اللَّهَ لَنَا  
وَلَكُمْ الْعَافِيَةَ<sup>٢٤٠</sup>

*O inmates of the resting abode of the believers, may peace descend upon you from the side of Allah تَبَارَكَ وَتَعَالَى, Insha-Allah soon we will be joining you. I beg Allah تَبَارَكَ وَتَعَالَى for ease for ourselves and yourselves.*

## Method of Burying the Deceased

1. Once the grave is ready, the deceased should be lowered into the grave from the direction of the qiblah. The method of lowering the deceased into the grave is as follows:

The deceased should be brought from the side of the qiblah, and lowered into the grave in such a manner that those

<sup>٢٣٧</sup> فإذا بلغ المقبرة يخلع نعليه ثم يقف مستدير القبلة مستقبلاً لوجه الميت ويقول السلام عليكم يا أهل القبور ويغفر الله لنا ولكم أنتم لنا سلف ونحن بالآثر كذا في الغرائب وإذا أراد الدعاء يقوم مستقبل القبلة كذا في خزائنة الفتاوى وإن كان شهيداً يقول سلام عليكم بما صبرتم فنعمة عقي الدار وإذا كان قبور المسلمين مختلطة بقبور الكفار يقول السلام على من اتبع الهدى (الفتاوى الهندية ٣٥٠/٥)

<sup>٢٣٨</sup> صحيح مسلم رقم ٢٤٩

<sup>٢٣٩</sup> جامع الترمذي رقم ١٠٥٣

<sup>٢٤٠</sup> صحيح مسلم رقم ٩٧٥

receiving the body should be standing in the grave while facing towards the qiblah.<sup>241</sup>

2. There is no harm in whether an odd number or an even number of people go into the grave in order to lower the deceased.<sup>242</sup>
3. At the time of lowering the deceased in the grave, it is mustahab to recite:<sup>243</sup>

بِسْمِ اللَّهِ وَعَلَىٰ مِلَّةِ رَسُولِ اللَّهِ

*In the name of Allah تَبَارَكَ وَتَعَالَى, and upon the way of Rasulallah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ*

4. After placing the deceased into the grave, it is sunnah to turn him on his right side so that the entire body and face are towards the qiblah.<sup>244</sup>
5. After placing the deceased into the grave, the strings which were used to tie both ends of the kafan should be untied. While untying the strings, the following dua should be recited:<sup>245</sup>

اللَّهُمَّ لَا تَحْرِمْنَا أَجْرَهُ وَلَا تَقْتِنَّا بَعْدَهُ

<sup>241</sup> ويدخل الميت مما يلي القبلة وذلك أن يوضع في جانب القبلة من القبر ويحمل الميت منه ويوضع في اللحد فيكون الآخذ له مستقبل القبلة حالة الآخذ كذا في فتح القدير (الفتاوى الهندية ١/١٦٦)

عن ابن بريدة عن أبيه قال أخذ للنبي صلى الله عليه وسلم وأخذ من قبل القبلة ونصب عليه اللبن نصبا (مسند الإمام الأعظم ص ١٠٢) ولا يضر وتر دخل القبر أم شفع واختار الشافعي الوتر اعتبارا بعدد الكفن والغسل والإجمار ولنا أن النبي صلى الله عليه وسلم لما دفن أدخله العباس والفضل بن العباس وعلي وصهيب كذا في البدائع (البحر الرائق ٢/٢٠٨)

<sup>242</sup> ويقول واضعه بسم الله وعلى ملة رسول الله كذا في المتون (الفتاوى الهندية ١/١٦٦) انظر أيضا جامع الترمذي رقم ١٠٤٦  
<sup>243</sup> (ويوجه إليها) وجوبا وينبغي كونه على شقه الأيمن (الدر المختار ٢/٢٣٥) قال الشامي: قوله (وجوبا) أخذه من قول الهداية بذلك أمر رسول الله لكن لم يجده المخرجون وفي الفتح إنه غريب واستؤنس له بحديث أبي داود والنسائي أن رجلا قال يا رسول الله ما الكياتر قال هي تسع فلذكر منها استحلال البيت الحرام قبلتكم أحياء وأمواتا اه قلت ووجهه أن ظاهر التسوية بين الحياة والموت في وجوب استقباله لكن صرح في التحفة بأنه سنة كما يأتي عقبه (رد مختار ٢/٢٣٦)

<sup>244</sup> وتحل العقدة لأمر النبي صلى الله عليه وسلم سمره وقد مات له ابن أطلق عقد رأسه وعقد رجله لأنه آمن من الانتشار قال الطحطاوي: قوله (وتحل العقدة) ويقول الحال اللهم لا تحرمنا أجره ولا تقننا بعده (حاشية الطحطاوي على مرآة الفلاح ص ٦٠٩) انظر أيضا شرح معاني الآثار رقم ٢٨٩٥

*O Allah! Do not deprive us of his reward (the reward of making sabar upon his demise) and do not test us after him.*

6. After placing the deceased into a trench-grave, the opening above will be closed with unbaked bricks, timber or straw. Similarly, if it is an incised-grave, the recess will be closed with unbaked bricks, timber or straw. It is makrooh to place baked bricks or strips of timber around the deceased. However, if the ground is very soft and there is a fear of the grave collapsing, it will be permissible to place baked bricks or strips of timber around the deceased, or even to place the deceased into a box.<sup>246</sup> (The details of the incised-grave and trench-grave will be mentioned later)
7. If the mayyit is a female, it is desirable that her mahram relatives lower her into the grave.<sup>247</sup>
8. At the time of placing a woman in the grave, it is mustahab to place a covering/sheet above the grave in order to conceal the body from the eyes of non-mahrams (strangers). However, if there is a fear that the body of the deceased will become exposed, it will be waajib to cover the grave with a sheet.
9. Covering the grave with a sheet should not be done when placing a man in the grave. However, if there is a need to cover the grave of a man, (e.g. due to rain or snow etc.) then it will be permissible.<sup>117</sup>

<sup>246</sup> ( ويسوي اللبن عليه والقصب لا الأجر ) المطبوخ والخشب لو حوله أما فوفه فلا يكره ابن ملك فائدة عدد لبنات لحد النبي عليه الصلاة والسلام تسع بمنسي ( وجاز ) ذلك حوله ( بأرض رخوة ) كالتابوت قال الشامسي : قوله ( ويسوي اللبن عليه ) أي على اللحد بأن يسد من جهة القبر ويقام اللبن فيه حلية عن شرح المجمع قوله ( والقصب ) قال في الحلية وتسد الفرج التي بين اللبن والمدر والقصب كي لا ينزل التراب منها على الميت ونصوا على استحباب القصب فيها كاللبن اه قوله ( لا الأجر ) بمد الهمة والتشديد أشهر من التخفيف مصباح وقوله المطبوخ صفة كاشفة قال في البدائع لأنه يستعمل للزينة ولا حاجة للميت إليها ولأنه مما مسته النار فيكره أن يجعل على الميت تغاؤلاً كما يكره أن يتبع قبره بنار تغاؤلاً قوله ( لو حوله الخ ) قال في الحلية وكرهوا الأجر وألواح الخشب وقال الإمام الترمذاشي هذا إذا كان حول الميت فلو فوفه لا يكره لأنه يكون عصمة من السبع وقال مشايخ بخارى لا يكره الأجر في بلدتنا للحاجة إليه لضعف الأراضي قوله ( وعدد لبنات الخ ) نقله أيضاً في الأحكام عن الشمني عن شرح مسلم بلفظ يقال عدد الخ قوله ( وجاز ذلك ) أي الأجر والخشب (رد المحتار ٢/٢٣٦)

<sup>247</sup> وذو الرحم المحرم أولى بإدخال المرأة القبر وكذا الرحم غير المحرم أولى من الأجنبي فإن لم يكن فلا بأس للأحباب وضعها ولا يحتاج إلى النساء للوضع (البحر الرائق ٢/٢٠٨)

10. After burying the deceased, the grave should be slightly raised above the ground to the extent of one hand span.<sup>248</sup>
11. Once the deceased has been placed in the grave, the soil that was removed from the grave at the time of digging should be replaced in the grave. Adding more sand to the grave is permissible. However, it should not exceed one hand span.<sup>249</sup>
12. It is preferable to sprinkle a little water over the grave after covering the grave with soil in order to set the soil and prevent it from scattering/blowing away etc.<sup>250</sup>

وعن الحكم بن حارث السلمي رضي الله عنه أنه غزا مع رسول الله صلى الله عليه وسلم ثلاث غزوات قال قال لنا إذا دفنتموني ورششتم على قبري الماء فقوموا على قبري واستقبلوا القبلة وادعوا لي<sup>٢٥١</sup>

*Hazrat Hakam bin Haarith رَضِيَ اللهُ عَنْهُ mentions that he fought in jihaad against the kuffaar with Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ in three battles. He (Hazrat Hakam bin Haarith رَضِيَ اللهُ عَنْهُ) addressed us saying, "When you bury me and sprinkle water over my grave then stand by my grave side for a while, face the qiblah and make dua for me."*

**Note:** If one forgets to place the deceased facing towards the qiblah when burying him and only remembers this after burying him and filling the grave with sand, then it is not permissible to open the grave

<sup>٢٤٨</sup> ويسمى القبر قدر الشبر ولا يربع ولا يخصص ولا بأس برش الماء عليه (الفتاوى الهندية ١٦٦/١)

<sup>٢٤٩</sup> ( ويسمى القبر ) ويكره أن يزيد فيه على التراب الذي خرج منه ويجعله مرتفعا عن الأرض قدر شبر أو أكثر بقليل ولا بأس برش الماء حفظا له قال الطحطاوي : قوله ( ويسمى القبر ) ندبا وقيل وجوبا والأول أولى وهو أن يرفع غير مسطح كذا في المغرب وقوله بعد ويجعله مرتفعا الأولي تقديمه على قوله ويكره أن يزيد الخ وقوله قدر شبر هو ظاهر الرواية وقيل قدر أربع أصابع وتباح الزيادة على قدر شبر في رواية كما في القهستاني قوله ( ويكره أن يزيد فيه على التراب الذي خرج منه ) لأنها بمنزلة البناء بحر وهو رواية الحسن عن الإمام وعن محمد لا بأس بما (حاشية الطحطاوي على مراقبي الفلاح ص ٦١)

<sup>٢٥٠</sup> ( ولا بأس برش الماء عليه ) حفظا لزيادة عن الإندراس قال الشامي : قوله ( ولا بأس برش الماء عليه ) بل ينبغي أن يندب لأنه صلى الله عليه وسلم فعله بقبر سعد كما رواه ابن ماجه وبقبر ولده إبراهيم كما رواه أبو داود في مراسيله وأمر به في قبر عثمان بن مظعون كما رواه البزار فاتنقى ما عن أبي يوسف من كراهته لأنه يشبهه النطين حلية (رد المختار ٢/٢٣٧) انظر أيضا فتاوى محمودية ٤٠٩/١٣

<sup>٢٥١</sup> مجمع الزوائد رقم ٤٢٤٥

in order to turn him towards the qiblah. However, if only the wooden strips have been placed and no soil has been thrown into the grave as yet, it will be permissible to remove the timber and turn him towards the qiblah.<sup>252</sup>

## The Method of Throwing Sand Over the Grave

1. When throwing sand over the grave, it is mustahab to commence from the head side. Using both hands to throw soil over the grave is better than using one hand. It is also permissible to use a spade to fill the grave with sand.

عن أبي هريرة رضي الله عنه أن رسول الله صلى الله عليه وسلم صلى على جنازة ثم أتى قبر الميت فحشى عليه من قبل رأسه ثلاثاً<sup>٢٥٣</sup>

*Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ once performed Janaazah Salaah on the deceased. Thereafter, he proceeded to the grave of the deceased and threw sand over the grave three times, commencing from the head side.*

2. Throwing sand thrice at the time of burying the deceased is mustahab.
3. When throwing the first handful of sand, one should recite:<sup>254</sup>

مِنْهَا خَلَقْنَاكُمْ

*From it (soil) We have created you*

<sup>٢٥٢</sup> ولو وضع الميت لغير القبلة أو على شقه الأيسر أو جعل رأسه موضع رجله وأهيل عليه التراب لم ينبش ولو سوي عليه اللبن ولم يهل عليه التراب نزع اللبن وروعى السنة كذا في التبيين (الفتاوى الهندية ١/١٦٧)

<sup>٢٥٣</sup> سنن ابن ماجه رقم ١٥٦٥

<sup>٢٥٤</sup> ويستحب لمن شهد دفن الميت أن يمحو في قبره ثلاث حثيات من التراب بيديه جميعا ويكون من قبل رأس الميت ويقول في الحثية الأولى منها خلقناكم وفي الثانية وفيها نعيدكم وفي الثالثة ومنها نخرجكم تارة أخرى كذا في الجوهرة النيرة (الفتاوى الهندية ١/١٦٦)



When throwing the second handful of sand, one should recite:

وَفِيهَا نُعِيدُكُمْ

*And in it (soil) We will return you*

When throwing the third handful of sand, one should recite:

وَمِنْهَا نُخْرِجُكُمْ تَارَةً أُخْرَى

*And from it (soil) shall We resurrect you and bring you to life once again*

## The Grave of the Deceased

### Length and depth of the grave

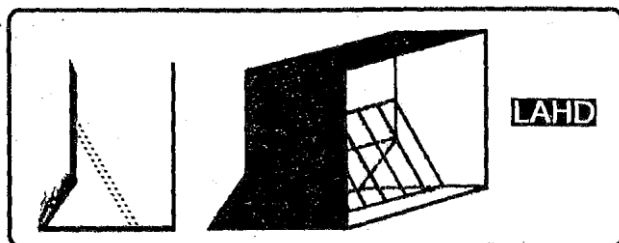
The length of the grave should be according to the height of the deceased. The depth of the grave should be to the extent of the height of a person and should not be less than half the height. It is permissible to bury the deceased in an incised-grave (lahd) and a trench-grave (shiq). However, the incised-grave (lahd) is better than the trench-grave (shiq). If due to the ground being soft, there is fear of the grave collapsing, digging a trench-grave (shiq) will be advisable.<sup>255</sup>

<sup>255</sup> والسنة هو اللحد دون الشق كذا في محيط السرخسي وصفة اللحد أن يحفر القبر بنمامه ثم يحفر في جانب القبلة منه حفيرة فيوضع فيه الميت كذا في المحيط ويجعل ذلك كالبيت المسقف كذا في البحر الرائق فإن كانت الأرض رخوة فلا بأس بالشق كذا في فتاوى قاضي خان وصفة الشق أن تحفر حفيرة كالنهر وسط القبر ويبني جانبا بالبن أو غيره ويوضع الميت فيه ويسقف كذا في معراج الدراية وينبغي أن يكون مقدار عمق القبر إلى صدر رجل وسط القامة وكلما زاد فهو أفضل كذا في الجوهرة النيرة وروى الحسن بن زياد عن أبي حنيفة رحمهما الله تعالى طول القبر على قدر طول الإنسان وعرضه قدر نصف قامته كذا في المضمرات (الفتاوى الهندية ١/١٦٥)

## Two Types of Graves – Lahd and Shiq

### Description of Lahd

When the ground and sides of the qabr are firm then a recess should be dug on the qiblah side of the grave. The mayyit will be placed in the recess and unbaked bricks should preferably be used to close the recess.



### Description of Shiq

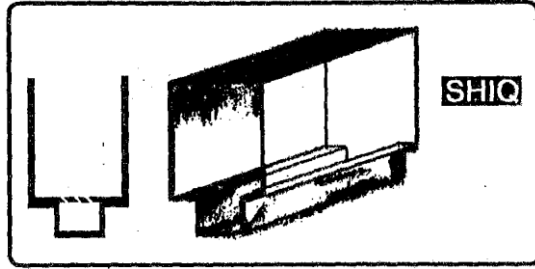
When the ground is soft and does not allow a lahd to be made then a shallow trench should be dug in the centre of the grave. The body will be placed in this trench and strips of timber should be used to cover the trench. If the ground is very soft, it will be permissible to bury the deceased in a box, regardless of whether the box is made of wood, stone or steel. However, in doing so, it is preferable to spread out some sand at the bottom of the box.<sup>256</sup>

<sup>256</sup> (ولا بأس باتخاذ تابوت) ولو من حجر أو حديد (له عند الحاجة) كرتحاوة الأرض (و) يسن أن يفرش فيه التراب (قال الشامي :

قوله) (ولا بأس باتخاذ تابوت الخ) أي يرخص ذلك عند الحاجة والإكراه كما قدمناه آنفا (رد المختار 2/234)

وحكي عن الشيخ الإمام أبي بكر محمد بن الفضل رحمه الله تعالى أنه جوز اتخاذ التابوت في بلادنا لرخاوة الأرض قال ولو اتخذ تابوت من حديد لا بأس به لكن ينبغي أن يفرش فيه التراب ويعطين الطبقة العليا مما يلي الميت ويجعل اللبن الخفيف على يمين الميت وعلى يساره ليصير

بمنزلة اللحد (الفتاوى الهندية 1/166)



## Remaining at the Grave after the Burial

1. After the burial, it is mustahab that the beginning verses of Surah Baqarah (till 'المفلحون') be recited softly<sup>257</sup> at the headside of the grave, and that the concluding verses of Surah Baqarah (from 'آمن الرسول') be recited at the legside.<sup>258</sup>

وعن ابن عمر رضي الله عنهما قال سمعت رسول الله صلى الله عليه و سلم يقول  
إذا مات أحدكم فلا تجسوه وأسرعوا به إلى قبره وليقرأ عند رأسه بفاتحة الكتاب  
وعند رجله بخاتمة سورة البقرة في قبره<sup>٢٥٩</sup>

*Hazrat Ibnu Umar رَضِيَ اللهُ عَنْهُمَا mentions that he heard Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ saying, "When any one of you passes away, then do not delay (in burying him) and hasten towards burying him. Thereafter, one should recite at the head side of the grave Surah Faatihah and at the feet side the ending of Surah Baqarah."*

<sup>257</sup> فتاوى محمودية ٣٩٧/١٣

<sup>258</sup> قوله ( وجلس الخ ) لما في سنن أبي داود كان النبي صلى الله عليه وسلم إذا فرغ من دفن الميت وقف على قبره وقال استغفروا لأخيكم وأسألوا الله له التثبيت فإنه الآن يسأل وكان ابن عمر يستحب أن يقرأ على القبر بعد الدفن أول سورة البقرة وخاتمتها (رد المختار ٢٣٧/٢)

<sup>259</sup> مجمع الزوائد رقم ٤٢٤٢

2. It is mustahab to stand at the grave for a little while. One should make dua for the forgiveness of the deceased, and ask Allah تَبَارَكَ وَتَعَالَى to make it easy for him to answer the questions in the grave.<sup>260</sup>

عن عثمان بن عفان رضي الله عنه قال قال كان النبي صلى الله عليه وسلم إذا فرغ من دفن الميت وقف عليه فقال استغفروا لأخيكم وسلوا له التثبيت فإنه الآن يسأل<sup>261</sup>

*Hazrat Uthmaan رَضِيَ اللهُ عَنْهُ reports that when Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ completed burying a deceased, he would stand by the graveside and say, "Seek forgiveness for your brother and beg steadfastness for him, for he will be questioned now."*

وعن عمرو بن العاص رضي الله عنه قال فإذا أنا مت فلا تصحبني نائحة ولا نار فإذا دفنتموني فشنوا علي التراب شنأ ثم أقيموا حول قبري قدر ما تنحر جزور ويقسم لحمها حتى أستأنس بكم وأنظر ماذا أراجع به رسل ربي<sup>262</sup>

*Hazrat Amr bin Aas رَضِيَ اللهُ عَنْهُ mentioned, "When I pass away, let neither a female mourner nor a fire accompany me. When you bury me, fill my grave with sand, then stand around my grave for the duration of time in which a camel is slaughtered and its meat is distributed so that I may gain some support from your presence and endeavour to answer the questions of the messengers (angels) of my Rabb."*

3. After completing the burial, it is mustahab for one to face the qiblah, raise the hands and make dua for the deceased.

<sup>260</sup> ويستحب إذا دفن الميت أن يجلسوا ساعة عند القبر بعد الفراغ بقدر ما ينحر جزور ويقسم لحمها يتلون القرآن ويدعون للميت كذا في الجوهرة البيرة قراءة القرآن عند القبور عند محمد رحمه الله تعالى لا تكره ومشأخنا رحمهم الله تعالى أخذوا بقوله وهل ينتفع والمختار أنه ينتفع

هكذا في المضمرة (الفتاوى الهندية ١/١٦٦)

<sup>261</sup> سنن أبي داود رقم ٣٢٢٣

<sup>262</sup> صحيح مسلم رقم ١٢١

وفي حديث بن مسعود رضي الله عنه رأيت رسول الله صلى الله عليه وسلم في قبر عبد الله ذي البجادين الحديث وفيه فلما فرغ من دفنه استقبل القبلة رافعا يديه أخرجته أبو عوانة في صحيحه<sup>٢٦٣</sup>

*Hazrat Abdullah bin Mas'ood رَضِيَ اللهُ عَنْهُ reports, "When Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ completed burying Hazrat Abdullah zul Bujaadain رَضِيَ اللهُ عَنْهُ, I saw him face the qiblah, raise his hands and make dua."*

4. One may recite some portion of the Quraan Majeed softly and individually and thereafter convey the reward of the recitation to the deceased.<sup>260</sup>

**Note:** Esaal-e-thawaab for the deceased can be made by reciting a portion of the Quraan Majeed, feeding the poor, giving sadaqah, making istighfaar on his behalf, or carrying out any good deed and conveying the reward to him.<sup>264</sup>

## Pertinent Masaa'il regarding the Grave

1. The deceased should not be buried in a house, irrespective of whether he is a minor or baaligh, a pious person or an impious person. Being buried in a house is the exclusive right of the Ambiyaa عَلَيْهِمُ السَّلَامُ.<sup>265</sup>
2. To shape the grave in a square form is makrooh. Raising the grave slightly, similar to the hump of a camel, is mustahab. The height of the grave should be one hand span or approximately one hand span.<sup>249 250</sup>
3. Raising the grave higher than a hand span is makrooh.
4. It is makrooh to plaster or cement the grave.<sup>249</sup>

<sup>٢٦٣</sup> فتح الباري ١١/١٤٨

<sup>٢٦٤</sup> رد المختار ٢/٢٤٣

<sup>٢٦٥</sup> وفي الواقعات لا ينبغي أن يدفن الميت في الدار وإن كان صغيرا لأن هذه السنة كانت للأنبياء (البحر الرائق ٢/٢٠٨)

5. Once the sand has been thrown over the grave, it is not permissible to reopen the grave and remove the deceased. However, while burying the deceased, if the wealth of some person had been left in the grave, then it will be permissible to reopen the grave in order to remove the wealth. Similarly, if some person's land was usurped and the deceased was unjustly buried in the land, thereafter the land was returned to the rightful owner, if the rightful owner did not give consent to the burial, the grave will be reopened and the deceased will be removed.<sup>266</sup>
6. Two or more people should not be buried in the same grave. Rather, each deceased should be buried in a separate grave. However, if there is a genuine need to bury two or more deceased in a single grave e.g. due to space restrictions, etc., then burying them in the same grave will be permissible, provided there is a barrier between the bodies (e.g. with sand, planks etc.) and the bodies do not touch.
7. When burying more than one deceased in one grave, if all the deceased are males, the most virtuous among them should be placed first. Thereafter, all the rest should be placed behind him in accordance to their Deeni status and rank. However, if there are baaligh males, baaligh females and male and female children, the baaligh males should be placed in front, followed

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<sup>266</sup> ( ولا يخرج منه ) بعد إهالة التراب ( إلا ) لحق آدمي ك ( أن تكون الأرض مغضوبة أو أخذت بشفعة ) ويخبر المالك بين إخراجها ومساواته بالأرض كما جاز زرعها والبناء عليه إذا بلي وصار تراباً زيلعي (الدر المختار ٢/٢٣٧) قال الشامي : قوله ( إلا لحق آدمي ) احتراز عن حق الله تعالى كما إذا دفن بلا غسل أو صلاة أو وضع على غير يمينه أو إلى غير القبلة فإنه لا ينبش عليه بعد إهالة التراب كما مر قوله ( كأن تكون الأرض مغضوبة ) وكما إذا سقط في القبر متاع أو كفن بثوب مغضوب أو دفن معه مال قالوا ولو كان المال درهماً بحر قال الرملي واستفيد منه جواب حادثة الفتوى امرأة دفنت مع بنتها من المصاغ والأمتعة المشتركة إرتاً عنها بغيبه الزوج أنه ينبش لحقه وإذا تلفت به تضمن المرأة حصته اه واحتراز بالمغضوبة عما إذا كانت وقفاً قال في التاترخانية أنفق مالاً في إصلاح قبر فحاه رجل ودفن فيه ميتة وكانت الأرض موقوفة يضمن ما أنفق فيه ولا يحول ميتته من مكانه لأنه دفن في وقف اه وعبر في الفتح بقوله يضمن قيمة الحفر فتأمل قوله ( أو أخذت بشفعة ) أي بأن اشترى أرضاً فدفن فيها ميتته ثم علم الشفيع بالشراء فتملكها بالشفعة (رد المختار ٢/٢٣٨)

by the non-baaligh males, thereafter the baaligh females, and lastly the non-baaligh females.<sup>267</sup>

8. Constructing a dome over the grave is not permissible.<sup>268</sup>
9. Placing a stone on the grave for identification purposes is permissible. Similarly, numbering the graves for identification purposes is also permissible.
10. It is permissible to write the name of the deceased or a number on the grave of the deceased so that one will be able to recognize the grave.
11. Writing the life details of the deceased e.g. his age at the time of his demise, date of birth, etc. is not established in Deen and hence should be omitted.<sup>269</sup>

<sup>267</sup> ولا يدفن اثنان أو ثلاثة في قبر واحد إلا عند الحاجة فيوضع الرجل مما يلي القبلة ثم خلفه الغلام ثم خلفه الخنثى ثم خلفه المرأة ويجعل بين كل ميتين حاجز من التراب كذا في محيط السرخسي وإن كانا رجلين يقدم في اللحد أفضلهما هكذا في المحيط وكذا إذا كانتا امرأتين هكذا في التتارخانية (الفتاوى الهندية ١٦٦/١)

<sup>268</sup> قال الشامي : وأما البناء عليه فلم أر من اختار جوازه وفي شرح المنية عن منية المفتي المختار أنه لا يكره التطيين وعن أبي حنيفة يكره أن يبني عليه بناء من بيت أو قبة أو نحو ذلك لما روى جابر نعى رسول الله عن تخصيص القبور وأن يكتب عليها وأن يبني عليها رواه مسلم وغيره (رد المختار ٢/٢٣٧)

<sup>269</sup> لا بأس بالكتابة إن احتيج إليها حتى لا يذهب الأثر ولا يمتنع قال الشامي : قوله ( لا بأس بالكتابة الخ ) لأن النهي عنها وإن صح فقد وجد الإجماع العملي بما فقد أخرج الحاكم النهي عنها من طرق ثم قال هذه الأسانيد صحيحة وليس العمل عليها فإن أئمة المسلمين من المشرق إلى المغرب مكتوب على قبورهم وهو عمل أخذ به الخلف عن السلف اهد ويتقوى بما أخرجه أبو داود بإسناد جيد أن رسول الله حمل حجرا فوضعه عند رأس عثمان بن مظعون وقال أتعلم بما قبر أخي وأدفن إليه من تاب من أهلي فإن الكتابة طريق إلى تعرف القبر بما نعم يظهر أن عمل هذا الإجماع العملي على الرخصة فيها ما إذا كانت الحاجة داعية إليه في الجملة كما أشار إليه في المحيط بقوله وإن احتيج إلى الكتابة حتى لا يذهب الأثر ولا يمتنع فلا بأس به فأما الكتابة بغير عذر فلا اهد حتى أنه يكره كتابة شيء عليه من القرآن أو الشعر أو اطراء مدح له ونحو ذلك حلية ملخصا (ردالمحتار ٢/٢٣٧)

## Q&A

### Carrying the Bier of One's Deceased Wife

**Question:** Is it permissible for the husband to carry the bier of his deceased wife?

**Answer:** Yes, it is permissible.<sup>90 228 229 247</sup>

### What to Recite When Accompanying a Deceased Person to the Graveyard

**Question:** What should the people do while waiting for the deceased to be buried in the grave yard?

**Answer:** They may make dua for his forgiveness and ask Allah تَبَارَكَ وَتَعَالَى to keep him steadfast when he is questioned in the grave.<sup>270</sup>

### Dua while Carrying the Janaazah

**Question:** Is there any specific dua to be recited while carrying the janaazah?

**Answer:** There is no sunnah dua that is reported in the Hadith to be recited at the time of carrying the janaazah. Instead, people should remain silent at this time. To make zikr in a loud tone or recite Quraan Majeed loudly while carrying the janaazah is makrooh.<sup>235</sup>

### Transporting the Deceased to the Graveyard

**Question:** Is it better to transport the deceased to the graveyard on foot or by vehicle?



**Answer:** If the grave yard is at a close distance, then it is better to transport the mayyit to the graveyard on foot. If the graveyard is at a distance, it is permissible to transport the mayyit by a vehicle.<sup>228</sup>

### At Which Side Should One Begin Laying the Planks?

**Question:** At which side of the grave should one begin laying the planks in the grave? Should one begin from the head side or the leg side? Also, is there any difference in the ruling for a man's grave and a woman's grave?

**Answer:** Just as one will commence pouring sand from the head side when closing the grave, similarly planks should be placed from the head side. This is for both men and women.<sup>254</sup>

### Reusing Old Graves

**Question:** Is it permissible to reuse a grave, despite there being sufficient vacant space available in the graveyard? If permissible, then after what period can a grave be reused?

**Answer:** Yes, it is permissible to reuse a grave despite sufficient vacant space being available in the graveyard. Once the body of the previous deceased has decomposed, the grave can be reused to bury another deceased. If the bones of the previous deceased are visible, it should be moved to one side of the grave and a barrier made between the bones and the new deceased.<sup>271</sup>

### Burying a Stillborn in One's Garden

**Question:** Is it permissible for one to bury his stillborn child in his garden or some similar place besides the cemetery?

**Answer:** A stillborn child should be buried in the cemetery.<sup>265</sup>

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<sup>271</sup> قال في الفتح ولا يخفى قبر لدفن آخر إلا إن بلي الأول فلم يبق له عظم إلا أن لا يوجد فنضم عظام الأول ويجعل بينهما حاجز من تراب

(رد المحتار 2/233)

## Placing a Line of Bricks Around the Grave

**Question:** Is it permissible for one to place bricks or stones around a grave for the purpose of demarcating the grave and alerting people of its presence?

**Answer:** In a public cemetery, this is not permissible as this is as though one is reserving the grave. The sunnah method is that the grave be raised slightly so that it can be identified.<sup>248 268 269</sup>

## Burying Two People in the Same Grave

**Question:** Can a mother and child who passed away together in an accident be buried in one grave?

**Answer:** Two people should be buried in separate graves. However, at the time of need, it is permissible to bury two people in the same grave. In this case, both the mother and the child should be buried in separate kafans and placed in such a manner that there is a layer of sand (i.e. a sand barrier) in between to separate one body from the other. If it is a male child, then the child will be placed first, towards the qiblah, and the mother will be placed behind. If it is a female child, then the mother will be placed first, towards the qiblah, and the child will be placed behind.<sup>267</sup>

## Son in-law Going into the Grave to Bury His Mother in-law

**Question:** Can a son in-law go into the grave to bury his mother in-law if there are few family members and they require his assistance?

**Answer:** Yes, it is permissible.<sup>247</sup>

## Tombstones

**Question:** Is it permissible to place a tombstone on the grave on which the name of the deceased and his date of birth and demise will be written?

**Answer:** Placing a stone on the grave for identification purposes is permissible. However, writing the life details of the deceased e.g. his age at the time of his demise, date of birth, etc. is not established in Deen and hence should be omitted.<sup>269</sup>

## Should the Face be Uncovered in the Grave?

**Question:** After placing the deceased (male or female) in the grave and untying the knots of the kafan, should one uncover the face of the deceased?

**Answer:** The knots should be untied. However, the kafan should be left as is without uncovering the face.<sup>245</sup>

## Sprinkling Water on the Grave after Burial

**Question:** Should one sprinkle water on the grave after burial?

**Answer:** It is preferable to sprinkle water on the grave in order for the soil of the grave to be settled.<sup>250</sup>

## Plants on a Grave

**Question:** If plants grow on the grave, should they be cut?

**Answer:** If they have grown on their own, they should be left, there is no need to cut them.<sup>272</sup>

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<sup>٢٧٢</sup> مطلب في وضع الجريد ونحو الآس على القبور تنمة يكره أيضا قطع النبات الرطب والحشيش من المقبرة دون اليابس كما في البحر والدرر وشرح المنية وعلله في الإمداد بأنه ما دام رطبا يسبح الله تعالى فيؤنس الميت وتنزل بذكره الرحمة اه ونحوه في الخاتمة أقول ودليله ما ورد في الحديث من وضعه عليه الصلاة والسلام الجريدة الخضراء بعد شقها نصفين على القبرين اللذين يعذبان وتعليله بالتخفيف عنهما ما لم يبسا أي يخفف عنهما بركة تسبيحهما إذ هو أكمل من تسبيح اليابس لما في الأخضر من نوع حياة وعليه فكراهة قطع ذلك وإن نبت بنفسه ولم يملك لأن فيه تفويت حق الميت ويؤخذ من ذلك ومن الحديث ندب وضع ذلك للاتباع ويقاس عليه ما اعتيد في زماننا من وضع أغصان الآس ونحوه، وصرح بذلك أيضا جماعة من الشافعية، وهذا أولى مما قال بعض المالكية من أن التخفيف عن القبرين إنما حصل بركة يده الشريفة - صلى الله عليه وسلم - أو دعائه لهما فلا يقاس عليه غيره. وقد ذكر البخاري في صحيحه أن بريدة بن الحصيب - رضي الله عنه - أوصى بأن يجعل في قبره جريدتان، والله تعالى أعلم (رد المحتار ٢ / ٢٤٥)

## Placing a Plant or Twig on the Grave

**Question:** Should one place a twig on the grave?

**Answer:** Placing a plants or twig on the grave was not the general practice of Rasullullah ﷺ and the Sahaabah رَضِيَ اللهُ عَنْهُمْ.<sup>272</sup>

## What Should be Done with a Grave that Opens due to Rain?

**Question:** If a grave opens e.g. due to rain, what should be done?

**Answer:** The grave should be refilled with soil.<sup>248 249</sup>

## Covering the Graves of Females with a Sheet

**Question:** Is it mustahab to cover the graves of females who are baaligh or close to the age of puberty with a sheet at the time of burial?

**Answer:** Yes, the same law will apply to females that are close to the age of puberty which applies to baaligh women. At the time when placing a woman in the grave, it is mustahab to place a covering/sheet over the grave in order to conceal the body from the eyes of non-mahrams (strangers). However, if there is a fear that the body of the deceased will become exposed, it will be waajib to cover the grave with a sheet.<sup>117 137</sup>

## Which Direction Should One Face when Making Dua in the Graveyard?

**Question:** At the time of visiting the graveyard, when making dua for the deceased, which direction should we face? Similarly, after burying a mayyit in the graveyard, which direction should we face when making dua for him? Should we face the grave, or should we have our backs towards the grave, or should we face the qiblah?

**Answer:** When one visits the graveyard and makes dua, it is permissible for one to face the grave as well as the qiblah, though facing the qiblah is better. However, as far as making dua at the time of

burying the deceased is concerned, it is reported in the Hadith that Rasulullah ﷺ faced towards the qiblah and made dua at the time of burying Hazrat Abdullah zul Bujaadain رَضِيَ اللهُ عَنْهُ. Therefore, after burying the deceased, one should face the qiblah and make dua. <sup>273</sup>

## Taking the Mayyit to the House before Burial

### Question:

1. When placing the janaazah in the house which direction must the body face?
2. Where must the janaazah be placed? Can it be placed on the floor or should it be placed on a bed?
3. If the person has no Muslim family can the janaazah be taken to his or her non-Muslim family home?
4. Are the non-Muslim family members allowed to view the face?

### Answer:

1. There are other opinions in this mas'alah. However, the preferred opinion is that the mayyit should be placed in whichever way is easy.
2. Both are permissible.
3. The janaazah should not be taken to his non-Muslim family's home. The Muslims of the locality should arrange for the janaazah to be kept at another Muslim's home or alternatively the janaazah should be taken to the masjid for the Janaazah Salaah to be performed. The Janaazah Salaah will not be performed in the masjid, rather it will be performed in the sehn of the masjid or any other place out of the masjid that has been designated for performing the Janaazah Salaah.

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<sup>273</sup> فتاوى محمودية ١٣/٢٧٧، انظر أيضا ٢٦٣

4. Non-Muslims should not be present around the mayyit, rather they should be kept at a distance.<sup>274</sup>

## Carrying the Janaazah

**Question:** When carrying the janaazah, which direction should the body face e.g. head in front or feet in front?

**Answer:** When carrying the janaazah, the head side will be at the front.<sup>229</sup>

## Burying the Deceased in the Direction of the Qiblah

**Question:** Which direction must the body of the deceased face when placed in the qabar, e.g. if the right side of the body faces the qiblah then must the body be made to lie on the front wall of the qabar or the back wall of the qabar?

**Answer:** It is mustahab to turn the mayyit on the right side so that the entire body and face are turned towards the qiblah. The Fuqahaa have written that a little sand should be placed behind or in front of the mayyit to keep the body secure and prevent it from falling. Hence, the mayyit could be made to face the front wall and some sand may be placed behind him or the mayyit could be placed at the back wall with some sand in front of him to prevent the body from falling or moving away from the qiblah.<sup>275</sup>

<sup>274</sup> عن أبي قلابة عن بعض آل أم سلمة قال كان فراش النبي صلى الله عليه وسلم نحواً مما يوضع الإنسان في قبره وكان المسجد عند رأسه

(سنن أبي داود رقم ٥٠٤٦). انظر أيضا ٣٧ ، ٦٠ ، ٦٨ ، ٢٤٤

<sup>275</sup> ( ويوجه إلى القبلة على جنبه الأيمن ) بذلك أمر النبي صلى الله عليه وسلم وفي حديث أبي داود البيت الحرام قبائلكم أحياء وأمواتا قال الطحطاوي : قوله ( بذلك أمر النبي صلى الله عليه وسلم ) عليا لما مات رجل من بني عبد المطلب فقال يا علي استقبل به القبلة استقبالا وقولوا جميعا باسم الله وعلى ملة رسول الله وضعوه لجنبه ولا تكبوه على وجهه ولا تلقوه على ظهره كذا في الجوهرة وفي الحلي ويسند الميت من ورائه بنحو تراب لئلا يتقلب اهـ (حاشية الطحطاوي علي مراقي الفلاح ص ٦٠٩)

## Forgetting to Bury the Deceased in the Direction of the Qiblah

**Question:** If the body was buried without being made to face the qiblah, what should be done?

**Answer:** If one forgets to place the deceased towards the qiblah when burying him and only realizes after filling the grave with sand, then it is not permissible to reopen the grave. However, if only the wooden strips have been placed and no soil has been thrown as yet, it will be permissible to remove the timber and place him towards the qiblah.<sup>252</sup>

## Allowing People to View the Face of the Mayyit in the Qabrastaan

**Question:** If a family member arrives late at the qabrastaan and requests to see the face of the deceased relative (male or female), can he be allowed to view the face?

**Answer:** This practice of allowing people to view the face of the mayyit in the qabrastaan should be omitted. However, if for some reason the face of a female deceased was opened, then caution should be exercised and the face should only be shown to relatives who are mahrams of the deceased.<sup>115 117</sup>

## Placing Aayaat of the Quraan Majeed in the Grave

**Question:** Can one put aayaat of the Quraan Majeed, Surah Yaaseen, etc. into the qabar?

**Answer:** This is not permissible and hence should be avoided.<sup>118</sup>

## Can a non-Muslim go into the Qabar?

**Question:** Can a non-Muslim go in the qabar to bury the deceased?

**Answer:** A non-Muslim should not go in the qabar. Only Muslims should be allowed to go in the qabar.<sup>276</sup>

## Can a non-Mahram Bury the Deceased Female if She does not have any Mahrams Present?

**Question:** If a female deceased has no mahram relatives present at the janaazah, can non-mahram relatives go in to the qabar in order to bury her? Similarly, if there are no family members of the female deceased present at the janaazah, can she be buried by other Muslims?

**Answer:** If there are no mahram relatives of the female deceased present, then non-mahram relatives should bury her. Similarly, if there are no family members of the female deceased present, then other Muslims may carry out the burial.<sup>247</sup>

## Calling out Azaan in the Qabrastaan

**Question:** Is it permissible to give azaan in the qabrastaan e.g. inside the qabar or after burial?

**Answer:** This practice is a bid'ah (innovatory practice) and is not established in the sunnah. Hence, it should be totally avoided.<sup>277</sup>

## Owning a Grave in a Graveyard

**Question:** Can one own a qabar in a graveyard?

**Answer:** Ownership cannot be claimed in a public graveyard. However, one can own a grave in a private graveyard.<sup>278</sup>

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<sup>276</sup> وليس للكافر غسل قريبه المسلم قال الشامي : قوله ( وليس للكافر الخ ) أي إذا لم يكن للمسلم قريب فيتولى تجهيزه المسلمون ويكره أن

يدخل الكافر في قبر قريبه المسلم ليدفنه بحر (رد المختار 2/231)

<sup>277</sup> قال الشامي : قوله ( وبالله ) ... تنبيه في الاقتصاد على ما ذكر من الوارد إشارة إلى أنه لا يسن الأذان عند إدخال الميت في قبره كما هو المعتاد الآن وقد صرح ابن حجر في فتاويه بأنه بدعة وقال ومن ظن أنه سنة قياسا على نديهما للمولود إلحاقا لخاتمة الأمر بابتدائه فلم يصب اهـ

(رد المختار 2/235) انظر أيضا فتاوى محمودية 13/269



## Can a Muslim be Buried in a non-Muslim Graveyard?

**Question:** What is the Shar'ee ruling regarding burying a Muslim in a non-Muslim graveyard?

**Answer:** A Muslim should not be buried in a non-Muslim graveyard.<sup>279</sup>

## What Should be Done After Burying the Deceased?

**Question:** What are we commanded to do after burying the deceased?

**Answer:** Make dua for him that Allah تَبَارَكَ وَتَعَالَى makes all the phases after death easy for him and forgives him for his shortcomings.<sup>263</sup>

## Where Should a Person who Committed Suicide be Buried?

**Question:** If a person had committed suicide, where should he be buried?

**Answer:** If he is a Muslim, then he will be buried in the Muslim graveyard.<sup>190</sup>

## Is an Affidavit required to Bury a new Muslim in a Muslim Graveyard

**Question:** A new Muslim has passed away. People in the community know him to be a Muslim. However, the trustees who are in charge of the qabrastaan request for an affidavit to confirm that the deceased is a Muslim. Is an affidavit required?

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<sup>278</sup> ( فإذا تم (أي الوقف) ولم لا يملك ولا يعار ولا يرهن ) ( الدر المختار ٣٥١/٤ ) قال الشامي : قوله ( لا يملك ) أي لا يكون مملوكا لصاحبه ولا يملك أي لا يقبل التملك لغيره بالبيع ونحوه لاستحالة تملك الخارج عن ملكه ولا يعار ولا يرهن لاقتضائهما الملك درر (رد المختار ٣٥٢/٤)

<sup>279</sup> قال الشامي : تمتة قال في الأحكام لا بأس بأن يقبر المسلم في مقابر المشركين إذا لم يبق من علاماتهم شيء كما في خزنة الفتاوى وإن بقي من عظامهم شيء تبنش وترفع الآثار وتتخذ مسجدا لما روي أن مسجد النبي كان قبل مقبرة للمشركين فنبشت كذا في الواقعات اهـ (رد المختار ٢٣٤/٢) ، انظر أيضا ٩٦

**Answer:** An affidavit is not required. If it is known that he was a believer, then he should be buried in the Muslim graveyard.<sup>279</sup>

## Can Shias be buried in the Muslim Graveyard?

**Question:** If a person is a Shia, can he or she be buried in a Muslim graveyard?

**Answer:** Shias and Muslims are poles apart in their beliefs and actions. Shias do not subscribe to the beliefs and actions of the Muslims. They regard the Quraan Majeed to be distorted and attribute false allegations to the Azwaaj-e-Mutahharaat رَضِيَ اللهُ عَنْهُنَّ (The pure wives of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ). They revile the Sahaabah رَضِيَ اللهُ عَنْهُمُ and believe that the Sahaabah رَضِيَ اللهُ عَنْهُمُ had turned apostate after the demise of Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ (Al-Iyaazubillah). Any person holding such beliefs will come out of the fold of Islam. Hence, neither will Janaazah Salaah be performed upon them nor will they be buried in the Muslim graveyard.<sup>280</sup>

## Placing Flowers on the Grave

**Question:** What is the ruling regarding placing flowers on the grave?

**Answer:** Placing flowers on the grave is an unestablished practice and hence should be omitted.<sup>281</sup>

## Planting and Sprinkling Water on the Grave

**Question:** What is the ruling regarding placing a branch or planting something on the grave? Similarly, what is the ruling regarding sprinkling water over the grave?

<sup>280</sup> قال الشامي : قوله ( وسب الرسول ) هكذا في غالب النسخ ورأيت كذلك في الخزانة بخط الشارح وفيه أن ساب الرسول كافر قطعاً فالصواب وسب أصحاب الرسول وقيدهم المحشي بغير الشيخين لما سيأتي في باب المرتد أن ساهما أو أحدهما كافر (رد المختار ١/٥٦١)

<sup>281</sup> فتى العامة يلقون الزهور على القبور، لا أصل لها في الدين ولا مستند لها من الكتاب والسنة (معارف السنن ١/٢٦٥) فتاوى محمودية

**Answer:** To place a branch or to plant something on the grave is not an established practice in Deen. If a plant grows on the grave on its own, then it should be left and should not be removed. It is not a sunnah practice to sprinkle water over the grave every time one visits the graveyard. However, after burying the deceased, it is permissible to sprinkle water over the grave in order for the soil to be settled.<sup>250</sup>

## Smoking in the Graveyard

**Question:** Is smoking allowed in the graveyard?

**Answer:** The Hadith encourages visiting the graveyard in order to remember death and the Hereafter. The graveyard is meant to serve as a reminder for one to realize that just as others have passed on, similarly he will also have to leave this world one day. The graveyard is not a place of amusement and entertainment. Hence, it is not in keeping with the spirit with which we are commanded to visit the graveyard that one smokes, laughs and jokes, etc. Therefore, it is better for one, at those moments, to fulfil the purpose for which one had come to the graveyard (i.e. to remember death, make dua for the inmates of the graves and take lesson from those that have passed on).<sup>282</sup>

## Burying Two or More People in One Grave

**Question:** Can a parent be buried with the child in the same grave if the child is stillborn or has passed away after birth?

**Answer:** Two or more people should not be buried in the same grave. Rather, each deceased should be buried in a separate grave. However, if there is a genuine need to bury two or more deceased in a single grave e.g. due to space restrictions, etc., then burying them in the same grave will be permissible, provided there is a barrier between the bodies (e.g. with sand, planks etc.) and the bodies do not touch.<sup>267</sup>

## Burying Separated Body Parts

**Question:** How does one bury separated body parts e.g. parts of the body which were separated from the body through an accident?

**Answer:** The body parts will be wrapped in a cloth and buried with the deceased.<sup>109</sup>

## Bequest of the Deceased to be Buried in a Specific Place

**Question:** If a person made a wasiyyat (bequest) to be buried in a specific graveyard, is it incumbent upon the family of the deceased to fulfill the wasiyyat? At times, it is difficult for the family to fulfil such a wasiyyat. Will the family be sinful if they do not honour and fulfil the wasiyyat of the deceased?

**Answer:** Making wasiyyat to be buried in a specific place or a specific graveyard is a wasiyyat that is not binding in Shari'ah. However, despite it not being binding, if it is possible for the heirs to fulfil the wish of the deceased, then it will be better for them to do so, on condition that the place the deceased wished to be buried in is not far from the place in which he passed away. If the place in which the deceased passed away is far from the place he wished to be buried in, then he will be buried in the place wherein he had passed away. Since the wasiyyat is not binding, the family will not be sinful for not fulfilling the wish of the deceased.<sup>283</sup>

## Method of Placing the Planks in the Grave

**Question:** Is there any order in placing the planks in the grave e.g. starting from head side for females and starting from the feet side for males?

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<sup>283</sup> والفتوى على بطلان الوصية بغسله والصلاة عليه قال الشامي : ( والفتوى على بطلان الوصية ) عزاه في الهدية إلى المضمرات أي لو أوصى بأن يصلي عليه غير من له حق التقدم أو بأن يغسله فلان لا يلزم تنفيذ وصيته ولا يبطل حق الولي بذلك كذا تبطل لو أوصى بأن يكفن في ثوب كذا أو يدفن في موضع كذا أو يدفن في موضع كذا كما عزاه إلى الغيظ (رد المختار ٢ / ٢٢١)

**Answer:** Just as one will commence pouring sand from the head side when closing the grave, similarly planks should be placed from the head side. This is for both men and women.<sup>254</sup>

### At what Speed Should the Hearse be Driven when going to the Graveyard?

**Question:** At what speed should the hearse be driven? Normally, the hearse is driven slowly at approximately 80km/h to the qabrastaan. However, when transporting the body from the hospital to the ghusal facility, or when traveling a long distance, the hearse is driven fast.

**Answer:** Those driving the hearse should ensure that they do not drive it at such a speed that causes the body of the deceased to be shaken about. The Hadith commands that respect and sanctity should be shown to the deceased as is shown to a living person.<sup>230</sup>

### Who Should Sit in the Hearse with the Driver?

**Question:** Is there any particular ruling as to who should sit in the hearse with the driver?

**Answer:** There is no specification in this regard. However, if the deceased is a female, then a mahram should be present in the hearse.<sup>276</sup>

### Burial Insurance

**Question:** Are insurance schemes for burial permitted? Is a saving scheme run by an organization permitted whereby every month you contribute an x amount and at the time of death, the organization will take care of burials, provide food, chairs etc.

**Answer:** All forms of insurance policies are haraam in Islam as the elements of gambling and interest are found in it. Hence it is not permissible to take out a burial insurance scheme.<sup>284</sup>

## Burying the Deceased in a Coffin

**Question:** In a case where a person is suffering from a communicable disease, the legal requirement is for the mayyit to be buried in a sealed coffin. How should the body be placed in the coffin? In some countries this is a normal requirement.

**Answer:** It is permissible to bury the deceased in a coffin if there is a genuine need and provided there are no kufr inscriptions upon it e.g. sign of a cross etc. Hence the mayyit will be placed in a coffin and buried. It is mustahab to turn the mayyit on the right side so that the entire body and face are towards the qiblah. The Fuqahaa have written that a little sand should be placed behind or in front of the mayyit to keep the body secure and prevent it from falling.<sup>256</sup>

## What is a Guraba Fund?

**Question:** What is the definition of guraba and what is a guraba fund? What can this money be used for?

**Answer:** A guraba fund refers to a fund which assists towards the burial of poor and needy Muslims. It is permissible for one to donate towards this fund provided the money one donates is not zakaat or interest money.<sup>285</sup>

٢٨٤ الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَتَغَيَّرُونَ إِلَّا أَلَّا يَتَغَيَّرُوا مِنَ الشَّيْطَانِ مِنَ الْمَسِّ ذَلِكِ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ وَمِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ

الرِّبَا قَبْلَ جَاءِهَا مَوْعِظَةٌ مِّنَ رَبِّهِ فَاتَّخَذُوا فِيهَا مَأْسِكًا وَأَمْرًا إِلَى اللَّهِ وَمِنَ عَادَةٍ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ﴿٢٧٥﴾ البقرة:

يَأْكُلُهَا الَّذِينَ آمَنُوا مِنَ الشَّجَرِ وَالتَّمِينِ وَالْأَنْصَابِ وَالْأَزْوَاجِ مَرَجَسٍ مِّنَ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿المائدة: ٩٠﴾

الربا فضل حال عن عوض شرط لأحد المتعاقدين في المعاوضة (فتح باب العناية بشرح النقاية ٢/٣٥٥) انظر أيضا رد المختار ٦/٤٠٣

٢٨٥ ويشترط أن يكون الصرف (تمليكا) لا إباحة كما مر (لا) يصرف (إلى بناء) نحو (مسجد)

قال الشامي: قوله (تمليكا) فلا يكفي فيها الإطعام إلا بطريق التمليك ولو أطعمه عنده ناوليا الزكاة لا تكفي ط وفي التمليك إشارة إلى أنه لا يصرف إلى مجنون وصبي غير مراهق إلا إذا قبض لهما من يجوز له قبضه كالأب والوصي وغيرهما ويصرف إلى مراهق يعقل الأخذ كما في المحيط

قهستاني (رد المختار ٢/٣٤٤)

## Burial Services

**Question:** Certain burial organizations run their service for burials as a business. What is the Shar'ee ruling?

**Answer:** In South Africa, there is a general practice that the community takes care of the burial needs. Hence, in these places where the communities are fulfilling these needs, there is no need to commence a business for such a noble work.<sup>144</sup>

## Giving Zakaat Funds to the Family of the Deceased to Pay for Burial Expenses

**Question:** Can zakaat funds be given to the family to pay for burial expenses? e.g. If the family is poor, zakaat is given to them and they are told to use it for the payment of the burial expenses.

**Answer:** The fundamental requirement in the discharging of zakaat is the aspect of tamleek. Tamleek means to transfer ownership of the wealth to someone who is eligible for zakaat. Hence, if one gives the family of the deceased zakaat and makes them the owners of the wealth and suggests to them that they may use the money for the burial expenses, then the zakaat will be discharged.<sup>285</sup>

## Must the Gravedigger be a Muslim?

**Question:** Must the gravedigger be a Muslim?

**Answer:** It is not a Shar'ee requirement that the gravedigger be a Muslim.<sup>286</sup>

## Reserving a Grave in a Public Graveyard

**Question:** If you are a trustee of a public qabrastaan, can you reserve burial sites for yourself or your family members?

**Answer:** People have equal rights in a public qabrastaan. Hence it is not permissible for the trustees of the qabrastaan to reserve a piece of land for themselves.<sup>287</sup>

## Building Toilets in the Graveyard

**Question:** Are you allowed to build a toilet in the qabrastaan or must it be built in a separate area?

**Answer:** If the one who had given the land as waqf allowed the building of toilets on the land, it will be permissible. However if it is not known then since there is a general practice that in the qabrastaans there are facilities for the Janaazah Salaah, wudhu and toilets, it will be permissible to construct a toilet on the land to facilitate the needs of Muslims.<sup>287</sup>

## Deceased Buried in a non-Muslim Graveyard without Ghusal and Janaazah Salaah

**Question:** If a Muslim was buried in a non-Muslim graveyard by his non-Muslims relatives, and ghusal and the Janaazah Salaah were not performed prior to the burial, can the body be exhumed for the ghusal and Janaazah Salaah to be performed?

**Answer:** If the Muslim has already been buried in a non-Muslim graveyard then the body will not be exhumed in order for ghusal and Janaazah Salaah to be performed upon him.<sup>266</sup>

## Handing Over the Body of a Deceased Muslim to his non-Muslim Family Members

**Question:** If an agreement is reached with the non-Muslim family that the Muslims will do the ghusal, kafan and Janaazah Salaah and thereafter hand over the body to the deceased's non-Muslim family. Will this be incorrect?

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<sup>287</sup> شرط الواقف كتحص الشارح أي في المفهوم والدلالة ووجوب العمل به (الدر المختار ٤/٤٣٣)



**Answer:** If he is a Muslim, then he should be given an Islamic burial. Handing over the body to the non-Muslims for burial is not permissible unless Muslims do not have control over the situation.<sup>276</sup>

## Burying a non-Muslim

### Question:

1. If a non-Muslim passes away and he does not have any relative to bury him besides one Muslim relative, will it be permissible for the Muslim relative to bury the non-Muslim deceased? Further, if the Muslim relative does not have wealth to pay for the burial, can one assist him by giving him some wealth to fulfill this need?
2. After a non-Muslim is buried, generally the family of the non-Muslim feed those who attended the burial. During this meal, alcohol is served. Will it be permissible for the Muslim relative to honour this custom by hosting it or contributing to it in any way? Similarly, if it is permissible for other Muslims to assist the Muslim relative financially, can the money that they give him be used for this meal?

### Answer:

1. In the case where there are no other non-Muslim relatives present to bury the non-Muslim then under the circumstance, Shari'ah allows the Muslim to bury his non-Muslim relative. However, in doing so, he should wash the body in the manner a dirty rag is washed and thereafter he will place the body in the grave without any respect and honour, in the manner one disposes of something which does not have any value. Since this is the responsibility of the Muslim relative, if he does not have wealth to fulfill this responsibility, it is permissible for other Muslims to financially assist him in fulfilling his responsibility. Hence, the Muslim relative can be assisted in whatever relates to the burial and its expenses.<sup>99</sup>
2. It is not permissible for the Muslim relative to host this meal, contribute to it or to even participate in it. If other Muslims assisted him financially for the burial, the money must only be

used to fulfill the expenses of burying the deceased. It is not permissible for him to use this money for assisting in these haraam customs. If he assists in any way towards these haraam customs, he will be sinful in the sight of Allah تَبَارَكَ وَتَعَالَى.

## Contributing Towards the Burial of a non-Muslim Child

**Question:** Can one contribute to the burial of a minor non-Muslim child considering that all children are born Muslims?

**Answer:** A child born to non-Muslim parents will be treated as a non-Muslim (unless the child is of the age of understanding and proclaims Imaan). Hence when a Muslim knows that the burial of this non-Muslim child will take place in an un-Islamic manner, then one should not donate and contribute to this cause.<sup>288</sup>

## Announcements Regarding Outstanding Debts of the Deceased

**Question:** Is it permissible to make announcements before and after the Janaazah Salaah for people to claim the money that the deceased owed them?

**Answer:** Yes, it is permissible to inform the people that any outstanding debts of the deceased will be paid by his heirs, and hence they should claim their rights from the heirs of the deceased.<sup>289</sup>

<sup>288</sup> مطلب الولد يتبع خير الأبوين ديناً قوله ( والولد يتبع خير الأبوين ديناً ) هذا يتصور من الطرفين في الإسلام العارض بأن كانا كافرين فأسلم أو أسلمت ثم جاءت بولد قبل العرض على الآخر والتفريق أو بعده في مدة يثبت النسب في مثلها أو كان بينهما ولد صغير قبل إسلام أحدهما فإنه بإسلام أحدهما يصير الولد مسلماً وأما في الإسلام الأصلي فلا يتصور إلا أن تكون الأم كتابية والأب مسلماً فتح ونهر (رد المختار ١٩٦/٣)

<sup>289</sup> ويستحب ... وجلس ساعة بعد دفنه لدعاء وقراءة بقدر ما ينحر الجزور ويفرق لحمه (الدر المختار ص ٢٣٦ ج ٢) قال الشامي : قوله ( وجلس الخ ) لما في سنن أبي داود كان النبي إذا فرغ من دفن الميت وقف على قبره وقال استغفروا لأخيكم واسألوا الله له التثبيت فإنه الآن يسأل وكان ابن عمر يستحب أن يقرى على القبر بعد الدفن أول سورة البقرة وخاتمها وروي أن عمرو بن العاص قال وهو في سياق الموت إذا أنا مت فلا تصحبي نائحة ولا نار فإذا دفنتوني فشنوا علي التراب شنأ ثم أقيموا حول قبري قدر ما ينحر جزور ويقسم لحمها حتى أستأنس بكم وأنظر ماذا أراجع رسل ربي جوهره (رد المختار ص ٢٣٧ ج ٢) ، انظر أيضاً جامع الترمذي رقم ١٠٦٩ ، سنن أبي داود رقم ٣٢٢٣

# Chapter Nine – Visiting the Graveyard

عن أبي هريرة رضي الله عنه قال قال رسول الله صلى الله عليه وسلم زوروا القبور فإنها تذكركم الآخرة<sup>282</sup>

*Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ reports that Rasulallah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "Visit the graveyard, for indeed it will remind you of the Akhirah."*

1. It is mustahab to visit the graveyard once a week. It is preferable that this day be a Friday.<sup>290</sup>
2. Upon entering the graveyard, one should make salaam to the inmates of the graves in the following words:<sup>291</sup>

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<sup>290</sup> مطلب في زيارة القبور قوله ( وزيارة القبور ) أي لا بأس بما بل تندب كما في البحر عن الجسبي فكان ينبغي التصريح به للأمر بما في الحديث المذكور كما في الإمداد وتزار في كل أسبوع كما في مختارات النوازل قال في شرح لباب المناسك إلا أن الأفضل يوم الجمعة والسبت والاثني والخميس فقد قال محمد بن واسع الموتى يعلمون بزوارهم يوم الجمعة ويوما قبله ويوما بعده فتحصل أن يوم الجمعة أفضل اهـ (رد المحتار ٢٤٢/٢)

<sup>291</sup> ويقول السلام عليكم دار قوم مؤمنين وإنا إن شاء الله بكم لاحقون قال الشامي : قوله ( ويقول الخ ) قال في الفتح والسنة زيارتها قائما والدعاء عندها قائما كما كان يفعل في الخروج إلى البقيع ويقول السلام عليكم الخ وفي شرح اللباب للمنلا علي القاري ثم من آداب الزيارة ما قالوا من أنه يأتي الزائر من قبل رجلي المتوفي لا من قبل رأسه لأنه أتعب لبصر الميت بخلاف الأول لأنه يكون مقابل بصره لكن هذا إذا أمكنه وإلا فقد ثبت أنه عليه الصلاة والسلام قرأ أول سورة البقرة عند رأس ميت وأخرها عند رجليه ومن آدابها أن يسلم بلفظ السلام عليكم على الصحيح لا عليكم السلام فإنه ورد السلام عليكم دار قوم مؤمنين وإنا إن شاء الله بكم لاحقون ونسأل الله لنا ولكم العافية ثم يدعو قائما طويلا وإن جلس يجلس بعيدا أو قريبا بحسب مرتبته في حال حياته اهـ قال ط ولفظ الدار مقحم أو هو من ذكر اللزوم لأنه إذا سلم على الدار فأولى ساكنها وذكر المشيئة للتبرك لأن الحقوق محقق أو المراد للحوق على أتم الحالات فتصح المشيئة (رد المحتار ٢٤٢/٢)

السَّلَامُ عَلَيْكُمْ دَارَ قَوْمٍ مُؤْمِنِينَ وَإِنَّا إِن شَاءَ اللَّهُ بِكُمْ لَاجِحُونَ<sup>238</sup>

*May peace be upon you, O (inmates of) the resting abode of the believers. Insha-Allah, we will soon be joining you.*

السَّلَامُ عَلَيْكُمْ يَا أَهْلَ الْقُبُورِ يَغْفِرُ اللَّهُ لَنَا وَلَكُمْ أَنْتُمْ سَلَفُنَا وَنَحْنُ بِالْآخِرِ<sup>239</sup>

*O inmates of the graves, may peace descend upon you (from the side of Allah تَبَارَكَ وَتَعَالَى), May Allah تَبَارَكَ وَتَعَالَى forgive us and you. You have preceded us (in going towards the Akhirah) and we will soon follow.*

السَّلَامُ عَلَيْكُمْ أَهْلَ الدِّيَارِ مِنَ الْمُؤْمِنِينَ وَالْمُسْلِمِينَ وَإِنَّا إِن شَاءَ اللَّهُ لَلَاحِقُونَ  
أَسْأَلُ اللَّهَ لَنَا وَلَكُمْ الْعَافِيَةَ<sup>240</sup>

*O inmates of the resting abode of the believers, may peace descend upon you from the side of Allah تَبَارَكَ وَتَعَالَى, Insha-Allah soon we will be joining you. I beg Allah تَبَارَكَ وَتَعَالَى for ease for ourselves and yourselves.*

3. When visiting the graveyard, it is sunnah to stand and make dua. However, one may sit if one will experience difficulty in standing.<sup>291</sup>
4. It is better to stand at the legside of the grave when visiting the deceased.<sup>292</sup>
5. One may recite any portion of the Quraan Majeed and convey the reward of the recitation to the deceased. However, the following surahs have been specifically mentioned for recitation at the graveyard:

a) Surah Yaaseen.

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فإذا بلغ المقبرة يخلع نعليه ثم يقف مستدبر القبلة مستقبلاً لوجه الميت ويقول السلام عليكم يا أهل القبور ويغفر الله لنا ولكم أنتم لنا سلف ونحن بالآخر كذا في الغرائب وإذا أراد الدعاء يقوم مستقبل القبلة كذا في خزانة الفتاوى وإن كان شهيداً يقول سلام عليكم بما صيرتم فنعيم عقبي الدار وإذا كان قبور المسلمين مختلطة بقبور الكفار يقول السلام على من اتبع الهدى (الفتاوى الهندية ٣٥٠/٥)

<sup>238</sup> فتاوى محمودية ١٣/٣٣٤، انظر أيضاً ٢٩١

- b) Surah Faatihah.
  - c) The beginning verses of Surah Baqarah and the concluding verses of Surah Baqarah.
  - d) Aayatul Kursi.
  - e) Surah Mulk.
  - f) Surah Takaathur.
  - g) Surah Ikhlaas.
  - h) Surah Zilzaal.<sup>293</sup>
6. One should then make dua for the forgiveness of the deceased.<sup>294</sup>
  7. One should not walk or sit upon any grave.<sup>295</sup>
  8. Nowadays, due to the abundant fitnah prevalent everywhere and one being unable to avoid the fitnah, women are discouraged from visiting the graveyards.<sup>296</sup>

<sup>293</sup> قال الشامي : قوله ( ويقرأ يس ) لما ورد من دخل المقابر فقرأ سورة يس خفف الله عنهم يومئذ وكان له بعدد من فيها حسنات بحر وفي شرح اللباب ويقرأ من القرآن ما تيسر له من الفاتحة وأول البقرة إلى المفلحون وآية الكرسي وأمن الرسول وسورة يس وتبارك الملك وسورة التكاثر والإخلاص اثني عشر مرة أو إحدى عشر أو سبعا أو ثلاثا ثم يقول اللهم أوصل ثواب ما قرأناه إلى فلان أو اللهم اه (رد المحتار ٢/٢٤٢)

<sup>294</sup> قالت عائشة ألا أحدنكم عني وعن رسول الله صلى الله عليه وسلم حتى جاء البقيع فقام فأطال القيام ثم رفع يديه ثلاث مرات (صحيح مسلم رقم ٩٧٤) ، انظر أيضا ٢٩١

<sup>295</sup> في التيممة سئل الخجندي عن رجل قبر والديه بين القبور هل يجوز له أن يمر بين قبور المسلمين بالدعاء والتسبيح ويروهما فقال له ذلك إن أمكنه ذلك من غير وطء القبور (الفتاوى الهندية ٣٥١/٥) انظر أيضا صحيح مسلم رقم ٩٧٠

<sup>296</sup> قوله ( ولو للنساء ) وقيل تحرم عليهن والأصح أن الرخصة ثابتة لمن بحر وحزم في شرح المنية بالكراهة لما مر في اتباعهن الجنازة وقال الخبير الرملي إن كان ذلك لتجديد الحزن والبكاء والندب على ما جرت به عادة فلا تجوز وعليه حمل حديث لعن الله زائرات القبور وإن كان للاعتبار والترحم من غير بكاء والتبرك بزيارة قبور الصالحين فلا بأس إذا كن عجائز ويكره إذا كن شواب كحضور الجماعة في المساجد اه وهو

توفيق حسن (رد المحتار ٢/٢٤٢)

## Q&A

### Visiting the Graveyard

**Question:** How often should a person visit the graveyard? What should be done at the graveyard?

**Answer:** There is no fixed time for visiting the graveyard. However, it is recorded in the books of Fiqh that it is preferable for one to visit the graves of his parents once a week.

At the time of entering the graveyard, one should recite the masnoon dua and recite some part of the Quraan Majeed and convey the reward to the deceased.<sup>297</sup>

The masnoon dua is:

السَّلَامُ عَلَيْكُمْ دَارَ قَوْمٍ مُؤْمِنِينَ وَإِنَّا إِن شَاءَ اللَّهُ بِكُمْ لَاجِفُونَ<sup>238</sup>

*O (inmates of) the resting abode of the believers, may peace descend upon you from the side of Allah تَبَارَكَ وَتَعَالَى, Insha-Allah soon we will be joining you.*

### Visiting the Graveyard on Auspicious Nights

**Question:** Is there any significance in visiting the graveyard on auspicious nights (e.g. Lailatul baraa'at, Lailatul Qadr, Eid, etc.)?

**Answer:** It is permissible to visit the graveyard on these nights. However, there is no special significance and virtue reported in the Ahaadith in regard to visiting the graveyard on these specific nights.<sup>298</sup>

<sup>297</sup> وعن محمد بن النعمان يرفعه من زار قبر أبويه أو أحدهما في كل جمعة غفر له وكتب برا رواه البيهقي (حاشية الطحطاوي على مراقي

الصلاح ٦١٩) انظر أيضا احسن الفتاوى ٤/٢٢٢، انظر أيضا ٢٣٨، ٢٩٣

<sup>298</sup> وأفضل أيام الزيارة أربعة يوم الاثنين والخميس والجمعة والسبت والزيارة يوم الجمعة بعد الصلاة حسن ويوم السبت إلى طلوع الشمس ويوم الخميس في أول النهار وقبل في آخر النهار وكذا في الليالي المتبركة لا سيما ليلة براءة وكذلك في الأزمنة المتبركة كعشر ذي الحجة والعيدين وعاشوراء وسائر المواسم كذا في الغرائب (الفتاوى الهندية ٥/٣٥٠)

## Pouring Water Over the Graves when Visiting the Graveyard

**Question:** Is it a sunnah to pour water over the graves when visiting the graveyard?

**Answer:** It is not a sunnah to pour water on the graves when one visits the graveyard.<sup>115</sup>

## Reciting Loud or Soft at the Graveside

**Question:** When reciting at the graveyard, should one recite softly or loudly (i.e. in a way that others will not be disturbed)?

**Answer:** Both are permissible.<sup>263</sup>

## Congregational Dua at the Gate of the Graveyard

**Question:** Some people, just before leaving the gate of the graveyard, turn around and face the graveyard. They then raise their hands and make a congregational, loud, dua. Is this correct?

**Answer:** This is not a sunnah practice.<sup>115</sup>

## Placing Incense Sticks on Graves

**Question:** Is it correct to place lit, incense sticks (agarbatti) on the graves?

**Answer:** This practice is not established and should be omitted.<sup>115</sup>

## Reward for Maintaining a Cemetery

**Question:** Is there reward in spending money on maintaining a cemetery?

**Answer:** Yes.<sup>299</sup>

## Walking in the Graveyard with Shoes

**Question:** Is it permissible to walk in the graveyard with shoes? What is the meaning of the Hadith that discourages from walking in the graveyard with shoes?

**Answer:** The Hadith wherein it is recorded that Rasulullah ﷺ instructed a Sahaabi رَضِيَ اللهُ عَنْهُ to remove his shoes was on account of there being some impurity on the shoes of that Sahaabi. Walking in the graveyard with shoes is permissible.<sup>300</sup>

## Women Visiting the Graveyard

**Question:** Can women (old or young) visit the graveyard?

**Answer:** Women are commanded to remain within the confines of their homes. Without any valid Shar'ee need, they should not leave their homes. Due to the abundant fitnah prevalent everywhere and the inability to avoid the fitnah, women are discouraged from visiting the graveyards.<sup>296</sup>

## Raising the Hands when Making Dua at the Graveyard

**Question:** Is it permissible to raise the hands when making dua at the graveyard?

**Answer:** Yes, it is permissible.<sup>294</sup>

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<sup>299</sup> والمقبرة في هذا بمنزلة المسجد على ما قيل لأنه لا متولى له عرفا وقيل هي بمنزلة السقاية والحان فيصح التسليم إلى المتولي لأنه لو نصب المتولي يصح وإن كان بخلاف العادة (هداية ٦٤٦/٢)

<sup>300</sup> والمشني في المقابر بتعلين لا يكره عندنا كذا في السراج الوهاج (الفتاوى الهندية ١/ ١٦٨) انظر أيضا بذل المجهود ٢١٣/٤



## Making Dua for Oneself at the Graveyard

**Question:** If a son visits his deceased father's grave and makes a dua for himself there, is this permissible?

**Answer:** Yes, it is permissible.<sup>294</sup>

## Placing Flowers on the Grave

**Question:** Is it permissible to place flowers on graves?

**Answer:** Flowers should not be placed on graves. Placing flowers on graves is an unestablished practice in Deen. Hence this practice should be omitted.<sup>281</sup>

## Standing in Front of the Grave

**Question:** When a person visits a grave, on which side should he stand?

**Answer:** He should stand in front of the deceased at the lower end of the grave (i.e. at the footside of the deceased).<sup>292</sup>

## Unfounded Practices

The following are some practices that are not established in Deen and should hence be avoided:

1. It is bid'ah to call out the azaan at the grave or at the time of lowering the deceased into the grave.<sup>277</sup>
2. To place a branch or to plant something on the grave is not an established practice in Deen. If a plant grows on the grave on its own, then it should be left and should not be removed.<sup>281</sup>
3. It is not a sunnah practice to sprinkle water over the grave every time one visits the graveyard. However, after burying the deceased, it is preferable to sprinkle water over the grave in order for the soil to be settled.

4. Lighting incense sticks or lobaan and placing it on the grave is not an established practice.<sup>68</sup>
5. It is impermissible to kiss the grave or make sajdah towards it.<sup>301</sup>
6. To sprinkle sandal water etc. over the grave is a bid'ah practice and is not permissible.<sup>115</sup>
7. Gathering at the home of the deceased on the third, seventh, eleventh or fortieth day is an unfounded practice and a bid'ah. These unestablished practices should be omitted.<sup>115</sup>

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<sup>301</sup> والمستحب في زيارة القبور إن يقف مستدبر القبلة مستقبلاً وجه الميت وأن يسلم ولا يمسه ولا يقبله ولا يمسه فإن ذلك من عادة النصارى كذا في شرح الشريعة (حاشية الطحطاوي على مراقبي الفلاح ص ٦٢١)

## Chapter Ten – Esaal-e-Thawaab

Esaal-e-thawaab refers to conveying the rewards of good deeds to the living as well as the deceased.

عن أبي هريرة رضي الله عنه أن رسول الله صلى الله عليه وسلم قال إذا مات الإنسان انقطع عنه عمله إلا من ثلاثة إلا من صدقة جارية أو علم ينتفع به أو ولد صالح يدعو له<sup>٢٠٢</sup>

*Hazrat Abu Hurairah رَضِيَ اللهُ عَنْهُ narrates that Nabi صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, “When a person passes away, all his actions come to an end (he is unable to carry out actions, thereby earning reward) except for three actions; sadaqah-e-jaariyah, knowledge from which people benefit and a pious child who makes dua for him.”*

عن عائشة رضي الله عنها أن رجلا قال للنبي صلى الله عليه وسلم إن أُمِّي افْتَلَتَتْ نَفْسَهَا وَأُظْنَهَا لَوْ تَكَلَّمْتَ تَصَدَّقْتَ فَهَلْ لَهَا أَجْرٌ إِنْ تَصَدَّقْتَ عَنْهَا قَالَ نَعَمْ<sup>٢٠٣</sup>

*Hazrat Aaishah رَضِيَ اللهُ عَنْهَا narrates that a person once asked Nabi صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, “My mother’s death occurred suddenly. I feel that if she had spoken (prior to her demise, she would have made a wasiyyat of some good deed), she would have given sadaqah (from a portion of her wealth). Will she receive the reward of sadaqah if I give it on her behalf?” Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ replied, “Yes.”*

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<sup>٢٠٢</sup> صحيح مسلم رقم ١٦٣١

<sup>٢٠٣</sup> صحيح البخاري رقم ١٣٨٨/صحيح مسلم رقم ١٠٠٤

Esaal-e-thawaab can be carried out in different ways. Below are some virtuous actions that can be carried out and their reward conveyed to the deceased:

1. Recitation of Quraan Majeed
2. Nafil salaah
3. Nafil fast
4. Nafil hajj and umrah
5. Sadaqah (charity)
6. Sadaqah-e-jaariyah (e.g. building a masjid or Islamic organization, digging a well, donating Quraans)
7. Teaching Deeni knowledge to people
8. Feeding the poor
9. Clothing the poor
10. Qurbaani
11. Tasbeeh
12. Making dua for the forgiveness of the deceased

**Note:** It is preferable for one who carries out nafl deeds to make an intention of conveying the reward of his nafl deeds to all the believing men and women. Through making the intention, all the believing men and women will receive from his good deeds and his reward will not depreciate in any way. One should merely make the intention: “O Allah, convey the reward of this good deed to all the believing men and women.”

However, in the case where one wishes to convey the reward to one or more specific deceased, then he should make the intention: “O Allah! Convey the reward of this good deed to so-and-so.”

The intention could be made prior to carrying out the action or even after carrying it out.<sup>304</sup>

## Q&A

### Gathering to Recite the Quraan Majeed and Convey the Reward to the Deceased

**Question:** Is it permissible for people to gather in the masjid or any other place to recite Surah Yaaseen or some portion of the Quraan Majeed for the purpose of conveying the reward to a deceased?

**Answer:** This should not be done collectively. Rather, it should be done individually. People may recite a portion of the Quraan Majeed in their own time and convey the reward to the deceased.<sup>115</sup>

### Placing a Sticker in the Quraan Majeed stating that it is for Esaal-e-thawaab

**Question:** Is it permissible to stick the following in the Quraan Majeed for esaal-e-thawaab? “This Quraan Majeed has been donated for the esaal-e-thawaab of the virtuous soul of our beloved Holy Prophet Muhammed ﷺ, to my father \_\_\_\_\_, my mother \_\_\_\_\_, brother \_\_\_\_\_ and sister \_\_\_\_\_ and all the Muslim men, women and children.”

**Answer:** Yes, it is permissible.<sup>293</sup>

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<sup>304</sup> مطلب في القراءة للميت وإهداء ثوابها له تنبيه صرح علماؤنا في باب الحج عن الغير بأن للإنسان أن يجعل ثواب عمله لغيره صلاة أو صوما أو صدقة أو غيرها كذا في الهداية بل في زكاة التاترخانية عن المخطط الأفضل لمن يتصدق نفلا أن ينوي لجميع المؤمنين والمؤمنات لأنها تصل إليهم ولا ينقص من أجره شيء اه هو مذهب أهل السنة والجماعة (رد المختار ٢/٢٤٣) ، انظر أيضا ٢٩٣

## Conveying Thawaab to the Deceased

**Question:** Is it permissible to recite the Quraan Majeed for people who have passed away and convey the reward to people who have passed away?

**Answer:** Yes, reciting a portion of the Quraan Majeed and conveying the reward to the deceased is permissible.<sup>304</sup>

## Feeding Poor People on Behalf of the Deceased

**Question:** Is it permissible to donate food to poor people or feed them with the intention of conveying the reward to people who have passed away?

**Answer:** Yes, it is permissible. You should make the intention that you are doing the charitable work for Allah تَبَارَكَ وَتَعَالَى and that the reward be passed on to the deceased or to whomsoever you intend.<sup>304</sup>

## Conveying the Reward of Specific Surahs to the Deceased

**Question:**

1. Is it true that if one recites Surah Yaaseen for a deceased, then any punishment that the deceased may be undergoing will be alleviated for that day?
2. Apart from asking for the forgiveness of the deceased, are there any specific surahs that can be recited to benefit the deceased?

**Answer:**

1. Reciting the Quraan Majeed and other good deeds have got their own effect. If Allah تَبَارَكَ وَتَعَالَى wills, the good deed may be a means of turning away punishments and difficulties.
2. Reciting any portion of the Quraan Majeed is recommended.<sup>304</sup>



## Gathering on the Fortieth Day After the Demise of a Deceased

**Question:** Is it correct to gather on the fortieth day after the demise of a deceased in order to recite the Quraan Majeed, etc. and convey the reward to him?

**Answer:** There is no basis for gathering on the fortieth day for the purpose of reciting the Quraan Majeed, feeding, etc. and conveying the reward to the deceased. The correct way is that people recite individually from wherever they are and convey the reward to the deceased. This is much more beneficial and rewarding.<sup>115</sup>

## Donating a Property for Esaal-e-Thawaab

**Question:** Is it permissible to donate a property to a charitable organisation or madrasah for the purpose of esaal-e-thawaab?

**Answer:** It is permissible to donate one's property to a charitable organisation or madrasah with the intention of esaal-e-thawaab.

## Parents Receiving the Reward of Good Deeds Carried Out by their Children

**Question:**

Is it correct that parents, after they pass away, continue to receive the reward of good deeds carried out by their children?

**Answer:**

Since parents are the means for introducing Deen into the lives of their children, as long as the children practise on what the parents had taught them, the parents will continue to receive the rewards of the good deeds carried out by their children. Rasulallah ﷺ mentioned:



من سن في الإسلام سنة حسنة فعمل بها بعده، كتب له مثل أجر من عمل بها، ولا ينقص من أجورهم شيء، ومن سن في الإسلام سنة سيئة فعمل بها بعده كتب عليه مثل وزر من عمل بها ولا ينقص من أوزارهم شيء<sup>٣٠٧</sup>

*Whoever commences a good practice in Islam (i.e. from the practices that Islam encourages and approves of), and others follow suit, then he receives the reward of all those who emulate him in carrying out the good practice without their reward being decreased in any way. Whoever commences an evil practice (i.e. from the practices that Islam does not approve of), and people follow suit, then he receives the sins of all those who emulate him in carrying out the evil practice without their sins being decreased in any way.*



## Chapter Eleven – Ta’ziyat (Consoling the Bereaved)

It is from the teachings of Rasulallah ﷺ that one should console and comfort a Muslim who is in distress.<sup>308</sup> Rasulallah ﷺ said:

عن عبد الله رضي الله عنه عن النبي صلى الله عليه وسلم قال من عزى مصابا فله مثل أجره<sup>309</sup>

*Hazrat Abdullah bin Mas’ood رَضِيَ اللهُ عَنْهُ reports that Rasulallah ﷺ said, “The one who consoles a person in distress will receive a reward similar to that of the bereaved.”*

عبد الله بن أبي بكر بن محمد بن عمرو بن حزم يحدث عن أبيه عن جده عن النبي صلى الله عليه وسلم أنه قال ما من مؤمن يعزي أخاه بمصيبة إلا كساه الله سبحانه من حلال الكرامة يوم القيامة<sup>310</sup>

*Hazrat Amr bin Hazm رَضِيَ اللهُ عَنْهُ reports that Rasulallah ﷺ said, “There is no believer who consoles his fellow Muslim brother at the time*

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<sup>308</sup> قوله ( ويتعزية أهله ) أي تصبيرهم والدعاء لهم به قال في القاموس العزاء الصبر أو حسنه وتعزى انتسب اه فلما رد هنا الأول وفيما قبله الثاني فافهم قال في شرح المنية وتستحب التعزية للرجال والنساء اللاتي لا يفتن لقلوبه عليه الصلاة والسلام من عزى أخاه بمصيبة كساه الله من حلال الكرامة يوم القيامة رواه ابن ماجه وقوله عليه الصلاة والسلام من عزى مصابا فله مثل أجره رواه الترمذي وابن ماجه والتعزية أن يقول أعظم الله أجرك وأحسن عزاءك وغفر لميتك اه (رد المحتار 2/239)

<sup>309</sup> جامع الترمذي رقم 1073

<sup>310</sup> سنن ابن ماجه رقم 1601

*of some difficulty except that Allah تَبَارَكَ وَتَعَالَى will clothe him in garments of honour on the Day of Qiyaamah.”*

## Sunnats and Aadaab of Visiting the Bereaved

1. Ta'ziat means sharing condolences with the bereaved and sympathizing with them over the loss of their near and dear one. This will be done by making dua for the deceased in the presence of the family. Similarly, this will be done by making dua for the the family, that Allah تَبَارَكَ وَتَعَالَى bless them with patience during this test.
2. One may make dua in the following words, “May Allah تَبَارَكَ وَتَعَالَى grant the deceased (brother, father, etc.) the highest stages in Jannah and forgive his sins.” or, “May Allah تَبَارَكَ وَتَعَالَى grant the family sabr-e-jameel (a beautiful patience).”<sup>308</sup>
3. It is desirable for the family and friends of the deceased to comfort the relatives of the deceased. However the laws of purdah should be maintained between men and women at the time of ta'ziyat.
4. When making ta'ziyat, one should ensure that he does not cause any inconvenience to the breaved.
5. One should not add to the sorrows of the family by making improper statements or asking improper questions such as enquiring from the close family members regarding the details of the final illness or circumstances of death.<sup>311</sup>
6. One should express his grief and should not laugh and joke.

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<sup>311</sup> والعزاء بالمد الصبر أو حسنه وعزى يعزى من باب تعب صبر على ما نابه وعزيتة تعزية قلت له أحسن الله تعالى عزاءك أي رزقك الصبر الحسن كما في القاموس والمصباح ووقتها من حين يموت إلى ثلاثة أيام وأولها أفضل وتكره بعدها لأنها تجدد الحزن وهو خلاف المقصود منها لأن المقصود منها ذكر ما يسلي صاحب الميت ويخفف حزنه ويحضه على الصبر كما نبهنا الشارع على هذا المقصود في غير ما حديث (حاشية الطحطاوي على مرافي الفلاح ص ٦١٨)

7. It is permissible to praise the deceased. However, when praising him, one should ensure that one does not exaggerate or praise him for characteristics that were not found in him. Similarly, one should not adopt the styles and ways of the kuffaar in praising him.<sup>312</sup>
8. The period of ta'ziyat is three days. After the third day, it is makrooh to go for ta'ziyat. However, if a person could not present himself for ta'ziyat within the three days, due to being out on a journey, then when he returns from the journey, he may go for ta'ziyat, even though the three days have elapsed.<sup>313</sup>
9. It is makrooh for a person to make ta'ziyat for a second time when he has already made it before.
10. It is preferable to make ta'ziyat after the burial. However, it is permissible to make ta'ziyat before the burial.
11. If a person cannot present himself for ta'ziyat due to certain circumstances, then he may write a letter or send a message of condolence to the family of the deceased.<sup>314</sup>
12. Nabi ﷺ comforted the bereaved in the following manner:<sup>315</sup>

<sup>312</sup> ولا بأس بمثوية الميت شعرا كان أو غيره ... وفي التحنين ويكره الإفراط في مدح الميت عند جنازته لأن الجاهلية كانوا يذكرون في ذلك ما هو شبه الخيال وفيه قال عليه الصلاة والسلام من تعزى بعزاء الجاهلية فأعضوه بمن أبيه ولا تكنوا اهـ (البحر الرائق ٢/٢٠٧)

<sup>313</sup> لا بأس ... بالجلوس لها في غير مسجد ثلاثة أيام وأولها أفضل وتكره بعدها إلا لغائب وتكره التعزية ثانيا وعند القبر وعند باب الدار قال الشامي : قوله ( وبالجلوس لها ) أي للتعزية واستعمال لا بأس هنا على حقيقته لأنه خلاف الأولى كما صرح به في شرح المنية وفي الأحكام عن خزانة الفتاوى الجلوس في المصيبة ثلاثة أيام للرجال جاءت الرخصة فيه ولا تجلس النساء قطعا اهـ ... ( وأولها أفضل ) وهي بعد الدفن أفضل منها قبله لأن أهل الميت مشغولون قبل الدفن بتجهيزه ولأن وحشتهم بعد الدفن لرفاقه أكثر وهذا إذا لم ير منهم جزع شديد وإلا قدمت لتسكينهم جوهرة قوله ( وتكره بعدها ) لأنها تجدد الحزن منح والظاهر أنها تنزيهة ط قوله ( إلا لغائب ) أي إلا أن يكون المعزى أو المعزى غائبا فلا بأس بما جوهرة قلت والظاهر أن الحاضر الذي لم يعلم بمنزلة الغائب كما صرح به الشافعية قوله ( وتكره التعزية ثانيا ) في التاترخانية لا ينبغي لمن عزى مرة أن يعزى مرة أخرى رواه الحسن عن أبي حنيفة اهـ إمداد قوله ( وعند القبر ) عزاه في الحلية إلى المتبغى بالغين المعجمة وقال ويشهد له ما أخرج ابن شاهين عن إبراهيم التعزية عند القبر بدعة اهـ قلت لعل وجهه أن المطلوب هناك القراءة والدعاء للميت بالتثبيت (رد المحتار ٢/٢٤١)

<sup>314</sup> (الحصن الحصين ص ١٨١)

<sup>315</sup> وأحسن ذلك تعزية رسول الله صلى الله عليه وسلم إن الله ما أخذ وله ما أعطى وكل شيء عنده بأجل مسمى (الفتاوى الهندية ١/١٦٧)

إِنَّ لِلَّهِ مَا أَخَذَ وَلَهُ مَا أُعْطِيَ وَكُلُّ إِلَىٰ أَجَلٍ مُّسَمًّى فَلْتَصْبِرْهُ وَلْتَحْتَسِبْ<sup>٣١٦</sup>

*To Allah تَبَارَكَ وَتَعَالَى alone belongs that which He takes, and to Him alone belongs that which He gives. Everything is until an appointed time (after which it will be taken from this world). Therefore, adopt patience and hope for reward from Allah تَبَارَكَ وَتَعَالَى.*

13. It is not permissible for one to go to the home of a kaafir who has passed away for ta'ziyat while the funeral proceedings are underway. However, on meeting his kaafir neighbour or any other kaafir who has lost a family member e.g. a child, he may console him in the following words:

أَخْلَفَ اللَّهُ عَلَيْكَ خَيْرًا مِنْهُ وَأَصْلَحَكَ<sup>٣١٧</sup>

*May Allah تَبَارَكَ وَتَعَالَى grant you something better (bless you with the taufeeq of accepting Islam) in exchange of the person you have lost, and May Allah تَبَارَكَ وَتَعَالَى improve your condition.*

14. One should assist the bereaved by sending food to their home. Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ has taught the Sahaabah رَضِيَ اللَّهُ عَنْهُمْ to express sympathies with the bereaved and assist them at the time of their grief and sorrow. Nabi صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ encouraged the Sahaabah رَضِيَ اللَّهُ عَنْهُمْ to prepare food and send it for the family, as they have been struck with a tragedy and would not be able to see to their own needs.

عن عبد الله بن جعفر رضي الله عنه قال لما جاء نعي جعفر قال النبي صلى الله عليه وسلم إصنعوا لأهل جعفر طعاما فإنه قد جاءهم ما يشغلهم<sup>٣١٨</sup>

<sup>٣١٦</sup> صحيح البخاري رقم ١٢٨٤

<sup>٣١٧</sup> وإذا مات الكافر قبل لوالده أو لقربيه في تعزيتيه " أخلف الله عليك خيرا منه، وأصلحك ورزقك ولدا مسلما (البحر الرائق ٢٣٢/٨)

<sup>٣١٨</sup> جامع الترمذي رقم ٩٩٨

Hazrat Abdullah bin Ja'far رَضِيَ اللهُ عَنْهُ narrates, "When the news of the demise of Hazrat Ja'far رَضِيَ اللهُ عَنْهُ arrived, Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ (said to the Sahaabah), 'Prepare food for the family of Hazrat Ja'far رَضِيَ اللهُ عَنْهُ, as a tragedy has befallen them that has preoccupied them (from seeing to their needs)'".

## Customary Practices

1. The Shari'ah has not specified any particular type or colour of clothing that should be worn by those that are bereaved.<sup>115</sup>
2. The practice of visitors coming on the seventh day, tenth day and fortieth day for "khatam" etc. are innovations and should be discarded.<sup>319</sup>
3. Meals should not be served at the home of the deceased to those who come for ta'ziyah. Serving meals at the home is an innovatory practice.<sup>320</sup>
4. It is impermissible to hire a person to recite a portion of the Quraan Majeed and convey the reward to the deceased.<sup>470</sup>

<sup>319</sup> قال الشامي : مطلب في كراهة الضيافة من أهل الميت وقال أيضا ويكره اتخاذ الضيافة من الطعام من أهل الميت لأنه شرع في السرور لا في الشور وهي بدعة مستقبحة وروى الإمام أحمد وابن ماجه بإسناد صحيح عن جرير بن عبد الله قال كنا نعد الاجتماع إلى أهل الميت وضعهم الطعام من النباحة اه وفي البرازية ويكره اتخاذ الطعام في اليوم الأول والثالث وبعد الأسبوع ونقل الطعام إلى القبر في المواسم واتخاذ الدعوة لقراءة القرآن وجمع الصلحاء والقراء للختيم أو لقراءة سورة الأنعام أو الإخلاص والحاصل أن اتخاذ الطعام عند قراءة القرآن لأجل الأكل يكره وفيها من كتاب الاستحسان وإن اتخذ طعاما للفقراء كان حسنا اه وأطال في ذلك في المعراج وقال وهذه الأفعال كلها للسمعة والزياء فيحتز عنها لأنهم لا يريدون بما وجه الله تعالى اه (رد المحتار ٢/٢٤٠)

<sup>320</sup> وأخذ الأجرة على الذكر وقراءة القرآن، وغير ذلك مما هو مشاهد في هذه الأزمان، وما كان كذلك فلا شك في حرمة وبطلان الوصية به

(رد المحتار ٢/٢٤١)، انظر أيضا ٣١٩

## Q&A

### Partaking of Meals Prepared at a Funeral House

**Question:** Is it permissible for the local people to partake of meals prepared at a funeral house?

**Answer:** Partaking of meals prepared at a funeral house is an innovation in Deen and hence impermissible. In the Mubaarak Ahaadith of Rasulullah ﷺ, we are taught that when a person passes away then the neighbours and people of the town should share condolences with the bereaved and assist them in their hardship and difficulty. Expecting the bereaved to feed on this sad occasion is against the teachings of the Mubaarak Ahaadith. Furthermore, in many cases, the wealth that is spent for the feeding is the wealth of the heirs and among them are na-baaligh children. Utilising the wealth of na-baaligh children for such purposes is impermissible in Shari'ah. Even if they (the na-baaligh children) consent to this, due to them being under-age, their permission is invalid.<sup>321</sup>

### Khatams and Partaking of Meals at the Home of the Deceased

**Question:**

1. Could you please explain the permissibility or impermissibility of khatams after death e.g. if one goes to the house of someone who passed away, there are often Quraans there. Is it permissible to participate in the khatam? If someone passes away in your home, can you provide Quraans for visitors to read with the aim of finishing maximum khatams? Is it permissible to tell people to read certain paras in their own time with the aim of finishing a khatam?

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<sup>321</sup> فتاوى محمودية ٣٨٥/١٣، انظر أيضا ١١٥، ٣١٩



2. If ones goes to the home of a deceased and meals are provided, is it permissible to eat? Is it permissible to send food to the home of the deceased for the people of the home and visitors?

**Answer:**

1. It is best that the khatam be done in your own time and space. There is no basis for coming to the house of the deceased and reciting Quraan.
2. This is also a baseless custom. Death is a time for reflection and taking lesson, not an occasion for celebrating and rejoicing.<sup>319</sup>

## Women Visiting the Funeral Home

**Question:** I wish to inquire what is the mas'alah with regards to women attending the funeral home of the deceased on the day of the janaazah. Please enlighten us with regards to the following:

1. Is it permissible for the general women of the community who are not the close family of the deceased to attend the home of the mayyit on the day of the janaazah as is the practice nowadays?
2. The mayyit house gets pact to capacity with women of the community (not necessarily the close family members but the general women). Will this be considered as causing takleef to the berieved women of the house or not?
3. Which women are regarded as the close family members of the deceased?
4. Please explain the proper Shar'ee procedure for women to follow with regards to attending funeral homes?

**Answer:**

1. It is permissible. Ta'ziyat (consoling the bereaved) is sunnah.
2. The purpose of ta'ziyat is to share condolences with the bereaved and give them moral support at the time of a

calamity. Hence it is permissible for the women to remain with the bereaved for a little while. Each person should engage in individual zikr, recitation of the Quraan Majeed, etc. and convey the reward to the deceased. However, if one feels that the bereaved will be inconvenienced by the crowds of people in the house, then he/she may meet the bereaved and thereafter leave.

3. The sunnah of ta'ziyat is not confined to the immediate family, even the extended family and those who are not the family of the deceased should make ta'ziyat.
4. There should be segregation between the non-mahram males and females at the funeral home and they should refrain from unfounded practices e.g. making a collective dua (faatihah), women viewing the face of a non-mahram male deceased or vice versa, partaking of meals at the funeral home, engaging in futile talks and discussions, etc. <sup>308 319</sup>

# Chapter Twelve – Iddah

## What is Iddah?

Iddah refers to the waiting period of a woman who is given talaq or whose husband passes away.<sup>322</sup> There are certain pertinent masaa'il in regard to the iddah of such women.

1. The iddah period of a woman (baaligh or not baaligh) whose husband passes away is four months and ten days irrespective of whether the nikaah was consummated or not.<sup>323</sup>
2. The iddah period of a woman whose husband passes away and she does not experience haidh is also four months and ten days.<sup>323</sup>
3. The iddah period of a pregnant woman is till the delivery of the child. Upon the delivery of the child the iddah will terminate irrespective of whatever period it may be.<sup>324</sup>

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<sup>322</sup> الباب الثالث عشر في العدة هي انتظار مدة معلومة يلزم المرأة بعد زوال النكاح حقيقة أو شبهة المتأكد بالدخول أو الموت كذا في شرح الفقاية للبرجدي (الفتاوى الهندية ٥٢٦/١)

<sup>323</sup> عدة الحرة في الوفاة أربعة أشهر وعشرة أيام سواء كانت مدخولا بها أو لا مسلمة أو كناية تحت مسلم صغيرة أو كبيرة أو آيسة وزوجها حر أو عبد حاضت في هذه المدة أو لم تحض ولم يظهر حملها كذا في فتح القدير هذه العدة لا تجب إلا في نكاح صحيح كذا في السراج الوهاج المعتر عشر ليال وعشرة أيام عند الجمهور كذا في معراج الدراية (الفتاوى الهندية ٥٢٩/١)

<sup>324</sup> وعدة الحامل أن تضع حملها كذا في الكافي سواء كانت حاملا وقت وجوب العدة أو حبلت بعد الوجوب كذا في فتاوى قاضي خان وسواء كانت المرأة حرة أو مملوكة قنة أو مدبرة أو مكاتبة أو أم ولد أو مستسعاة مسلمة أو كناية كذا في البدائع وسواء كانت عن طلاق أو وفاة أو متاركة أو وطء بشبهة كذا في النهر الفائق (الفتاوى الهندية ٥٢٨/١)

4. If a husband issued a talaq-e-raj'ee (revocable talaq) to his wife during his final illness and before the completion of the iddah, the husband passed away, the iddah period of the wife will change from three haidh to four months and ten days.
5. If the husband issued a talaq-e-baain (irrevocable talaq) to his wife during his final illness and before the completion of the iddah, the husband passed away, it would be seen whether four months and ten days exceeds the period of three haidh or not. If four months and ten days ends before the period of three haidh completes, then the iddah will terminate upon the completion of three haidh. If the period of three haidh ends before four months and ten days, then the iddah will terminate upon the completion of four months and ten days.

**Note:** This ruling is in the case where the husband issued the talaq-e-baain (irrevocable talaq) in his final illness without the wife seeking the talaq. If he issued the talaq-e-baain (irrevocable talaq) upon the wife's request, the iddah period will remain three haidh even if the husband passed away during the iddah period.<sup>325</sup>

## Laws Pertaining to a Woman in Iddah

1. If a woman's husband passed away out of his hometown, it will be not permissible for her to travel to the place where the janaazah and burial will take place since her iddah commenced immediately upon the demise of her husband.<sup>326</sup>
2. A woman's husband passes away at home whilst she had been out of the house (e.g. visiting her parents, relatives, etc).

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<sup>325</sup> (وفي حق امرأة الفار من) الطلاق (البائن) إن مات وهي في العدة (أبعد الأجلين من عدة الوفاة وعدة الطلاق) احتياطاً. قال الشامي: قلت: وهو صريح في أنه لو أبانتها في مرضه برضاها بحيث لم يصر فاراً تعبد عدة الطلاق فقط وهي واقعة الفتوى فلتحفظ. وخرج أيضاً ما لو طلقها بائناً في صحته ثم مات لا تنتقل عدتها ولا تترت اتفاقاً صرح به في الفتح لأنه ليس فاراً (رد المختار ٥١٣/٣)

<sup>326</sup> (ومبدأ العدة بعد الطلاق و) بعد (الموت) على الفور (الدر المختار ٥٢٠/٣) انظر أيضاً أحسن الفتاوى ٤٣٠/٥

She should immediately return to her husband's home and sit in iddah since her iddah commences upon the demise of her husband.<sup>327</sup>

3. Iddah commences immediately after the demise of the husband, irrespective of whether the wife knew about the demise or not. Hence, in the case where the wife received the news after the iddah period terminated (i.e. after four months and ten days), the wife will not be obligated to sit for another iddah nor will she be sinful for leaving the home during the iddah period, since she had no knowledge of the demise of her husband. In the case where the wife received the news of the demise before the iddah period terminated, she will be obligated to sit in iddah for the remainder period. The period that had passed without her knowledge will be counted as part of the iddah.<sup>328</sup>
4. It is compulsory for a woman to spend her iddah in her husband's home. However, in the case where a woman is overcome by fear of theft, burglary, etc. Shari'ah grants her concession to spend her iddah elsewhere. She should complete her iddah at that place without moving to any other place.<sup>329</sup>
5. A woman in iddah is not permitted to leave the home to earn a living during the iddah period. However, if there is nobody to support her then she is permitted to leave the home and

<sup>327</sup> ( طلقت ) أو مات و هي زائرة ( في غير مسكنها عادت إليه فوراً ) لوجوبه عليها (الدر المختار ٥٣٦/٣)

<sup>328</sup> ابتداء العدة في الطلاق عقيب الطلاق وفي الوفاة عقيب الوفاة فإن لم تعلم بالطلاق أو الوفاة حتى مضت مدة العدة فقد انقضت عدتها

كذا في الهداية (الفتاوى الهندية ٥٣١/١)

<sup>329</sup> ( وتعدان ) أي معتدة طلاق وموت ( في بيت وجبت فيه ) ولا يخرجان منه ( إلا أن تخرج أو يهدم المنزل أو تخاف ) اغدامه أو ( تلف

مالها أو لا تجد كراء البيت ) ونحو ذلك من الضرورات فتخرج لأقرب موضع إليه قال الشامي : قوله ( إلا أن تخرج ) الأولى الإتيان بضمير التثنية فيه وفيما بعده ط ونحو إخراج الزوج ظلماً أو صاحب المنزل لعدم قدرتها على الكراء أو الوارث إذا كان نصيبها من البيت لا يكفيها بحر أي لا يكفيها إذا قسمته لأنه لا يجبر على سكنها معه إذا طلب القسمة أو المهالبة ولو كان نصيبها يزيد على كفايتها قوله ( أو لا تجد كراء البيت ) أفاد أنها لو قدرت عليه لزمها من مالها وترجع به المطلقة على الزوج إن كان بإذن الحاكم كما مر قوله ( ونحو ذلك ) منه ما في الظهيرية لو خافت بالليل من أمر الميت والموت ولا أحد معها لها التحول والخوف شديداً وإلا فلا قوله ( فتخرج ) أي معتدة الوفاة كما دل

عليه ما بعده ط (رد المختار ٥٣٦/٣) انظر أيضاً احسن الفتاوى ٤٤٠/٥

earn, on condition that she returns home before the night and spends the night at home. Other than the necessity of earning, she is commanded not to leave the home. Hence, it is impermissible for a woman to attend any programme or transport the children to school, etc.<sup>330</sup>

6. During iddah, a woman is not restricted to sitting in one room. Rather, she is permitted to move around the house freely.<sup>331</sup>
7. A woman is permitted to enter the backyard of the home provided it is within one's property (i.e. outsiders will not be able to see her).<sup>331</sup>
8. It is impermissible for a woman sitting in iddah to entertain marriage proposals and to attend any functions, weddings, walemahs, etc.<sup>332</sup>
9. The monthly expenditure during the iddah period of a woman whose husband has passed away will be borne by the woman herself. Her husband's family will not be responsible for the expenses. If she is unable to fulfil her needs then her family should assist her in fulfilling her needs.<sup>333</sup>

## Prohibitions during Iddah

A woman whose husband has passed away is prohibited from the following during iddah:

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<sup>330</sup> قوله ( ومعتدة الموت تخرج يوما وبعض الليل ) لتكتسب لأجل قيام المعيشة لأنه لا نفقة لها حتى لو كان عندها كفايتها صارت كال المطلقة فلا يحل لها أن تخرج لزيارة ولا لغيرها ليلا ولا نهارا والحاصل أن مدار الحل كون خروجها بسبب قيام شغل المعيشة فيتقدر بقدره فمضى انقضت حاجتها لا يحل لها بعد ذلك صرف الزمان خارج بيتها كذا في فتح القدير وأقول لو صح هذا عمم أصحابنا الحكم فقالوا لا تخرج المعتدة عن طلاق أو موت إلا للضرورة لأن المطلقة تخرج للضرورة بحسبها ليلا كان أو نهارا والمعتدة عن موت كذلك (البحر الرائق ٤/١٦٦)

<sup>331</sup> للمعتدة أن تخرج من بيتها إلى صحن الدار وتبيت في أي منزل شاءت إلا أن يكون في الدار منازل لغيره فلا تخرج من بيتها إلى تلك المنازل (الفتاوى الهندية ١/٥٣٥)

<sup>332</sup> (و المعتدة ... تحرم خطبتها) (تنوير الألبصار ٣/٥٣٣-٥٣٤) فتاوى محمودية ٤٩/٢٠ ، إمداد المفتين ص ٧٠٠. انظر أيضا ٣٣٠

<sup>333</sup> لا نفقة للمتوفى عنها زوجها سواء كانت حاملا أو حائلا (الفتاوى الهندية ١/٥٥٨ح)

- a) Applying perfume
- b) Surmah
- c) Dyeing the hair
- d) Oiling the hair
- e) Beautifying herself with silken or bright and attractive clothing
- f) Adorning herself with jewellery and any other form of adornment during the iddah period.<sup>334</sup>

<sup>334</sup> على المبتوتة والمتوفى عنها زوجها إذا كانت بالغة مسلمة الحداد في عدتها كذا في الكافي والحداد الاجتناب عن الطيب والدهن والكحل والحناء والحضاب ولبس المطيب والمعصفر والتوب الأحمر وما صبغ بزعفران إلا إذا كان غسिला لا ينفض ولبس القصب والخز والحير ولبس الحلبي والتزين والامتشاط كذا في التتارخانية قال شمس الأئمة المراد من الثياب المذكورة ما كان جديدا منها تقع به الزينة أما إذا كان خلقا لا تقع به الزينة فلا بأس به كذا في المحيط إن امتشطت بالطرف الذي أسنانه منفرجة لا بأس به وإنما يكره الامتشاط بالطرف الآخر لأن ذلك يكون للزينة كذا في فتاوى قاضي خان وإنما يلزمها الاجتناب في حالة الاختيار أما في حالة الاضطرار فلا بأس بها إن اشكت رأسها أو عينها فصبت عليها الدهن أو اكتحللت لأجل المعالجة فلا بأس به ولكن لا تقصد به الزينة كذا في المحيط لو اعتادت الدهن فخافت وجعا يحل بها لو لم تفعل فلا بأس به إذا كان الغالب هو الحلول كذا في الكافي ولا تلبس الحير لأن فيه زينة إلا للضرورة مثل أن يكون بها حكة أو قملة ولا يحل لها لبس المشق وهو المصبوغ بالمشق ولا بأس بلبس المصبوغ أسود كذا في التبيين إذا كانت المرأة فقيرة وليس لها إلا ثوب واحد مصبوغ فلا بأس بأن تلبسه من غير إرادة الزينة كذا في شرح الطحاوي (الفتاوى الهندية ١/٥٣٣)





# Chapter Thirteen – Shaheed (Martyr)

The martyr holds an extremely high status and position in the sight of Allah تَبَارَكَ وَتَعَالَى on account of him acquiring martyrdom. Allah تَبَارَكَ وَتَعَالَى says in the Quraan Majeed:

وَلَا تَحْسَبَنَّ الَّذِينَ قُتِلُوا فِي سَبِيلِ اللَّهِ أَمْوَاتًا بَلْ أَحْيَاءٌ عِنْدَ رَبِّهِمْ يُرْزَقُونَ ﴿١٦٩﴾

*Never think those killed in the way of Allah تَبَارَكَ وَتَعَالَى to be dead. Rather, they are alive by their Rabb, provided with sustenance. (Surah Aal-e-Imraan 169)*

عن المقدم بن معد يكرب رضي الله عنه قال قال رسول الله صلى الله عليه وسلم للشهيد عند الله ست خصال يغفر له في أول دفعة ويرى مقعده من الجنة ويجار من عذاب القبر ويأمن من الفزع الأكبر ويوضع على رأسه تاج الوقار الياقوتة منها خير من الدنيا وما فيها ويزوج اثنتين وسبعين زوجة من الحور العين ويشفع في سبعين من أقاربه<sup>٣٣٥</sup>

Hazrat Miqdaam bin Ma'dikarib رَضِيَ اللهُ عَنْهُ narrates that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said, "The martyr enjoys six priveleges from the side of Allah تَبَارَكَ وَتَعَالَى; he is forgiven as soon as his blood is shed, he is shown his abode in Jannah, he is protected from the punishment of the grave, he is saved from the great fear (on the Day of Qiyaamah), a crown of honour will be placed on his head, of which just one gem is more valuable than the world and all that it contains, he will be married to seventy two damsels of

<sup>٣٣٥</sup> جامع الترمذي رقم ١٦٦٣

*Jannah, and he will be allowed to intercede for seventy of his family members.”*

Apart from this, there are many other virtues reported in the Ahaadith regarding the martyr. Although the martyr outwardly seems to be like any other deceased person, some of the rules which relate to a normal deceased person do not apply to him. Rather, there are special laws that pertain to the martyr.

## Types of Martyrs

There are three types of martyrs:

1. The first type of martyr is the shaheed in this world and the next (dunyawi-wa-ukhrawi). This refers to the person who was killed while fighting in the battlefield for the sake of Allah تَبَارَكَ وَتَعَالَى, or any person who was killed unjustly. Such a person will be regarded as a martyr in this world and the next. There are special laws regarding ghusal, kafan, burial, etc. that apply to this type of martyr.
2. The second type of martyr is the shaheed of this world (dunyawi). This refers to one who is killed while fighting on the battlefield for worldly motives or for show, not for the pleasure of Allah تَبَارَكَ وَتَعَالَى. If such a person is killed, the worldly laws of a shaheed regarding ghusal, kafan, burial, etc. will apply to him. However, he will not enjoy the reward and status of a martyr in the Hereafter.
3. The third type of martyr is the shaheed of the Hereafter (ukhrawi) and not of this world. This refers to the person who passes away through illness, natural disasters, accidents, etc. The special laws of a shaheed regarding ghusal, kafan,

burial, etc. will not apply to him. However, he will enjoy the reward and status of a martyr in the Hereafter.<sup>336</sup>

## Who is a Shaheed?

A shaheed is a sane baaligh Muslim who is pure (not in the state of janaabat, haidh or nifaas) and is killed oppressively with an instrument that is generally used for killing and diyat (blood money) does not become waajib through the killing. Rather, qisaas (corporal punishment) becomes waajib through the killing and he does not derive any worldly benefit after he is afflicted.<sup>343</sup>

## Conditions for a Person to Qualify as a Shaheed

The special laws of Deen which relate to a shaheed regarding ghusal, kafan, burial, etc. will only apply if the following seven conditions are met:<sup>337</sup>

### First Condition

He has to be a Muslim. A kaafir cannot receive the position of shahaadah.<sup>338</sup>

<sup>336</sup> قال الشامي : مطلب في تعداد الشهداء قوله ( في الشهيد الكامل ) وهو شهيد الدنيا والآخرة وشهادة الدنيا بعدم الغسل إلا لنجاسة أصابته غير دمه كما في أبي السعود وشهادة الآخرة بنيل الثواب الموعود للشهيد أفاده في البحر ط والمراد بشهيد الآخرة من قتل مظلوماً أو قاتل لإعلاء كلمة الله تعالى حتى قتل فلو قاتل لغرض ديني فهو شهيد دنيا فقط تجري عليها أحكام الشهيد في الدنيا وعليه فالشهداء ثلاثة (رد المختار ٢/٢٥٢)

<sup>337</sup> قال الشامي : قوله ( وكل ذلك ) أي ما تقدم من الشروط وهي ست كما في البدائع العقل والبلوغ والقتل ظلماً وأن لا يجب به عوض مالي والطهارة عن الحدث الأكبر وعدم الارتناث ط (رد المختار ٢/٢٥٢)

<sup>338</sup> ومنها كون المقتول مسلماً فإن كان كافراً كالذمي إذا خرج مع المسلمين للقتال فقتل يغسل لأن سقوط الغسل عن المسلم إنما ثبت كرامة له والكافر لا يستحق الكرامة (بدائع الصنائع ١/٣٢٢)

## Second Condition

He has to be a baaligh and sane person.<sup>339</sup> If a child is killed on the battlefield or was killed unjustly, the normal laws of a deceased will apply to him and the special laws of a martyr will not apply to him.

## Third Condition

He has to be pure from janaabat. Hence, if a person is killed while he is in the state of janaabat (in need of a fardh ghusal), or a woman is killed while she is in her haidth or nifaas, then the rules of a martyr will not apply to them.<sup>340</sup>

## Fourth Condition

He has to be killed oppressively. Thus, if a person is killed due to a crime which he committed against the Shari'ah, the rules of the martyr will not apply to him, as he was killed in exchange of a Shar'ee haqq.<sup>341</sup>

## Fifth Condition

If he is killed by a Muslim or a Zimmi (a non-Muslim citizen residing in an Islamic state), then an additional condition has to be met i.e. he must be killed with an instrument which is normally used for killing. If a Muslim or Zimmi kills him with any other object such as a stone or something not normally used for killing, then the rules of a martyr will not apply to him and he will have to be given ghusal. Steel is regarded as an object for killing, even if it is not sharp, and one will be regarded as a shaheed if killed through an object made of steel.

If a Muslim was killed by a non-Muslim Harbi (i.e. a non-Muslim who does not reside in an Islamic state), then he will be regarded as a

<sup>339</sup> ومنها كون المقتول مكلفا هو شرط صحة الشهادة في قول أبي حنيفة فلا يكون الصبي والمجنون شهيدين عنده وعند أبي يوسف ومحمد

ليس بشرط ويلحقهما حكم الشهادة (بدائع الصنائع ٣٢٢/١)

<sup>340</sup> ومنها الطهارة عن الجنابة شرط في قول أبي حنيفة وعندهما ليس بشرط حتى لو قتل جنبا لم يكن شهيدا عنده بخلافهما (بدائع الصنائع

٣٢٢/١)

<sup>341</sup> ومنها أن يكون مظلوما حتى لو قتل بحق في قصاص أو رجم لا يكون شهيدا لأن شهداء أحد قتلوا مظلومين (بدائع الصنائع ٣٢٠/١)

martyr, regardless of the instrument used to kill him, and regardless of whether the killing took place in an Islamic state or a non-Islamic state.<sup>342</sup>

Similarly, if a person is killed by renegades, highway robbers (thieves), or he is found killed in the battlefield, then the condition of him being killed with an “instrument of killing” will not apply. In fact, even if they do not inflict harm to him directly, but were the direct cause of his death, he will still be regarded as a martyr (provided they had the intention of killing him). This ruling applies in a Muslim and non-Muslim state.<sup>343</sup> Examples which illustrate this are as follows:

1. A kaafir trampled over a Muslim with his animal in the battle field while the kaafir was riding the animal.
2. A Muslim was riding his animal when a kaafir gave chase to the animal. As a result of this, the Muslim fell off his animal and died.
3. A kaafir set fire to a Muslim's house or possessions as a result of which the Muslim burned to death.<sup>344</sup>

<sup>342</sup> (قتل ظلما) بغير حق (بجراحة) أي بما يوجب القصاص قال الشامي : قوله (قتل ظلما) لم يقل قتله مسلم كما في الكنز لأن الذمي كذلك وقيد بالقتل لأنه لو مات حتف أنفه أو ابتدأ أو غرق أو هدم لم يكن شهيدا في حكم الدنيا وإن كان شهيدا الآخرة كما سيأتي ويقول ظلما لما يأتي من أنه لو قتل بحد أو قصاص مثلا لا يكون شهيدا فيغسل ودخل فيه المقتول مدافعا عن نفسه أو ماله أو المسلمين أو أهل الذمة فإنه شهيد لكن لا يشترط كون قتله بمحدد كما في البحر عن المحيط واستشكله في النهر ويأتي جوابه قوله (بغير حق) تفسير لقوله ظلما (رد المختار ٢/٢٤٨)

<sup>343</sup> الشهيد ... (هو كل مكلف مسلم طاهر) ... (قتل ظلما) بغير حق (بجراحة) أي بما يوجب القصاص (ولم يجب بنفس القتل مال) بل قصاص (الدر المختار ٢/٢٤٨)

(والشهيد) شرعا هو (من قتله أهل الحرب) مباشرة أو تسبيبا بأي آلة كانت ولو بماء أو نار وموها بين المسلمين (أو) قتله (أهل البيعة) (أو) قتله (قطاع الطريق) (بأي آلة كانت) (أو) قتله (المصوص في منزله ليلا أو بمنقل) (أو) غارا (أو) وجد في المعركة) سواء كانت معركة أهل الحرب أو البيعة أو قطاع الطريق (وبه أثر) كجرح وكسر وحرق وخروج دم من أذن أو عين لا من فم وأنف ومخرج (مراقي الفلاح ص ٦٢٥)

<sup>344</sup> (وكذا) يكون شهيدا (لو قتله باغ أو حربي أو قاطع طريق ولو) تسبيبا (أو) بغير آلة جارحة) فإن مقتولهم شهيد بأي آلة قتلوه لأن الأصل فيه شهداء أحد ولم يكن كلهم قتيلا سلاح قال الشامي : قوله (ولو تسبيبا) لأن موته يكون مضافا إليهم فلو أوطؤوا دابتهم مسلما أو نفروا دابة مسلم فرمته أو رموا نارا في سفينة فاحتزقت ونحو ذلك فهو شهيد أما لو قتل بانفلات دابة مشترك ليس عليها أحد أو دابة مسلم أو برميها إليهم فأصابه أو نفر المسلمون منهم فألقوههم إلى خندق أو نار أو نحو فمات لم يكن شهيدا خلافا لأبي يوسف لأن فعلة يقطع النسبة إليهم وتامه في البحر (رد المختار ٢/٢٤٩)

## Sixth Condition

As a punishment of the killing, no diyat (blood money) must be stipulated by the Shari'ah for the actual killing. Instead, qisaas (corporal punishment) must be made waajib for the killing. If any diyat (blood money) was stipulated by Shari'ah for the killing, the rules of a martyr will not apply to the person who was killed. Examples which illustrate this are as follows:

1. A Muslim kills another Muslim in an Islamic country with an instrument that is not normally used for killing.
2. A Muslim kills another Muslim in an Islamic country with an instrument of killing, but kills him mistakenly, e.g. he was pointing at an animal or some other target but the bullet hit a Muslim.
3. A person is found murdered in any place other than the battlefield and his killer is not known.

Since diyat (blood money) becomes waajib in all these cases and qisaas does not become waajib, the rules of a martyr will not apply. The condition of diyat (blood money) being stipulated from the side of Shari'ah in exchange of the killing has been attached because: if qisaas (corporal punishment) had been stipulated from the side of Shari'ah for the actual killing and later on, qisaas was forgiven and in place of it, some monetary compensation was later agreed upon between both parties (the killer and the wali of the killed person) as a compromise, then in such a case, the rules of a martyr will apply and the killed person will not be given ghusal. Examples of this are as follows:

- a) A person was intentionally killed with an instrument used for killing. However, a monetary compromise was made between the killer and the wali of the person killed. In such a case the rules of a martyr will apply because qisaas was waajib through the killing. The monetary compensation only became waajib after a compromise was reached.
- b) A father kills his son with a weapon generally used for killing, the son will be regarded as a shaheed and he will not be given ghusal. The reason is that qisaas generally becomes waajib in exchange of such a killing, however on account of the killer

being the father of the one who was killed, Shari'ah has exempted him from qisaas, though he will be sinful for the killing. In such a case, diyat (blood money) will become waajib on the father.<sup>345</sup>

## Seventh Condition

If a person is killed in the battlefield, but he takes some worldly benefit before passing away, he will be excluded from the category of a martyr and the law of a martyr will not apply to him, rather he will be given ghusal:

- a) Eating
- b) Drinking
- c) Sleeping
- d) Take any medication or medical treatment
- e) He should not live to the extent of one salaah time passing while he is conscious and in his senses
- f) He should not be carried from the battlefield or the place where he was injured while he is in a state of consciousness. However, if he is carried away from the battlefield out of fear of being trampled upon by animals, the laws of a shaheed will still apply to him and he will not be given ghusal
- g) If a person makes a bequest, the laws of a martyr will not apply to him if the bequest is related to any worldly matter.

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<sup>345</sup> ( ولم يجب بنفس القتل مال ) بل قصاص حتى لو وجب المال بعارض كالصلح أو قتل الأب ابنة لاتسقط الشهادة ، قال الشامي : قوله ( حتى لو وجب الخ ) تفرع على مفهوم قوله بنفس القتل فإن المال لم يجب بنفس القتل العمد لأن الواجب به القصاص وإنما سقط بعارض وهو الصلح أو شبهة الأبوّة فلا يغسل في الرواية المختارة كما في الفتح فالخاصل أنه إذا وجب بقتله القصاص وإن سقط لعارض أو لم يجب بقتله شيء أصلا فهو شهيد كما علمته أما إذا وجب به المال ابتداء فلا وذلك بأن كان قتله شبه العمد كضرب بعضا أو خطأ كرمي غرض فأصابه أو ما جرى مجراه كسقوط ناظم عليه وكذا إذا وجب به القسامة لوجوب المال بنفس القتل شرعا وكذا لو وجد مذبوحا ولم يعلم قاتله سواء وجبت فيه القسامة أو لا هو الصحيح لاحتمال أنه لم يقتل ظلما كما سيأتي وهو الذي حققه في شرح الدرر اه ملخصا من القهستاني وشرح المنية (رد المختار ٢/٢٤٨)

However, if the bequest is made for a Deeni matter, he will be regarded as a martyr

- h) Carrying out trade by buying and selling
- i) If a person speaks considerably after being injured, he will not be regarded as a martyr, since talking a lot is an attribute of those who are living.<sup>346</sup>

However, if he carries out any of the abovementioned acts while the battle is still taking place, he will be regarded as a martyr.

## Rules Pertaining to the Shaheed Dunyawi-wa-Ukhrawi and the Shaheed Dunyawi

1. The martyr who fulfils all the above conditions will not be given ghusal nor will any blood be cleansed from his body. He will be buried as he is.<sup>347</sup>
2. The clothes which he was wearing will not be removed from his body and he will be buried in the clothing that he was wearing. However, if his clothes are less than the stipulated number for the kafan, more clothes could be added in order to

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<sup>346</sup> (أو جرح وارث) وذلك (بأن أكل أو شرب أو نام أو تداوى) ولو قليلا (أو أوى خيمة أو مضى عليه وقت صلاة وهو يعقل) ويقدر على أدائها (أو نقل من المعركة) وهو يعقل سواء وصل حيا أو مات على الأيدي وكذا لو قام من مكانه إلى مكان آخر بدائع (لا لخوف وطء الخيل أو أوصى بأمور الدنيا وإن بأمور الآخرة لا) يصير مرتثا (عند محمد وهو الأصح) جوهره لأنه من أحكام الأموات (أو باع أو اشتري أو تكلم بكلام كثير) وإلا فلا وهذا كله إذا كان (بعد انقضاء الحرب ولو فيها) أي في الحرب (لا) يصير مرتثا بشيء مما ذكر (الدر المختار ٢٥١/٢-٢٥٢) قال الشامي: (قوله وهو يعقل) فلو لم يعقل لا يغسل وإن زاد على يوم وليلة (قوله ويقدر على أدائها) كذا قيده الزيلعي وقال حتى يجب عليه القضاء بتكفها فيكون بذلك من أحكام الدنيا كما في الدرر، قال في الفتوح: والله أعلم بصحته، وتامه في البحر (رد المحتار ٢٥١/٢)

<sup>347</sup> (ويصلى عليه بلا غسل ويدفن بدمه وثيابه) لحديث زملوهم بكلومهم (الدر المختار ٢٥٠/٢) قال الشامي: (قوله (لحديث الخ) أي لقوله في شهداء أحد زملوهم بكلومهم ودمائهم رواه أحمد كذا في شرح المنية ثم ذكر دليل الصلاة عليه أنه عليه الصلاة والسلام صلى على شهداء أحد وساق أحاديث وقال كل منها إن سلم أنه لم يرتق إلى درجة الصحة فليس بنازل عن درجة الحسن ومجموعها مرتق إليها قطعاً فتعارض ما في البخاري عن جابر وترجح عليه بأنها مثبتة وهو ناف وتامه فيه والترميل للفظ والكلام جمع كلم بفتح فسكون الجرح (الدر المختار ٢٥٠/٢)



complete the stipulated number. In the same way, if he is wearing more than the stipulated number, the extra pieces of clothing should be removed. If he is wearing clothing which is not suitable to serve as a kafan, such as leather or fur, these should also be removed if he is wearing other clothes that can serve as a kafan. If he is not wearing anything else, these should not be removed.<sup>348</sup>

3. His hat, shoes, khuffain (leather socks), weapons will have to be removed under all conditions.<sup>348</sup>
4. All the other rules that are applicable to the normal deceased person, such as performing Janaazah Salaah, etc. will also apply to the martyr.<sup>347</sup>
5. If any of the above conditions are not met in a martyr, he will be given ghusal and will be enshrouded in the normal kafan.
6. If a post mortem was carried out on a martyr, then on account of his clothing being removed, he will be enshrouded in the normal kafan.<sup>348</sup>

## Shaheed Ukhrawi

In various Ahaadith, Nabi صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ has mentioned certain people who will receive the reward of a shaheed (martyr) in the Hereafter, though in this world, the special laws of the martyr regarding burial, ghusal, etc., do not apply to them. Some of these martyrs are<sup>349</sup>:

1. The person who is killed unjustly, however the above-mentioned conditions are not met (e.g. the person killed is a child, or in the state of impurity, or insane, etc.).

<sup>348</sup> ( فينزع عنه ما لا يصلح للكفن ويزاد ) إن نقص ما عليه عن كفن السنة ( وينقص ) إن زاد ( ل ) أجل أن ( يتم كفنه ) المسنون قال الشامي : قوله ( فينزع عنه الخ ) شروع في أحكامه والمراد بما لا يصلح للكفن مثل الفرو والحشو والقلنسوة والخف والسلاح والدرع لا السراويل فلا ينزع في الأشبه كما في الهندية عن الهنداوي وكذا لا ينزع الفرو الحشو إذا لم يوجد غيره كما أفاده في الإمداد قوله ( ويزاد إن نقص ) في المحيط قيل إن قولهم يزداد وينقص معناه يزداد ثوب جديد تكريماً وينقص ما شأؤوا وإن كان عليه ما يبلغ السنة وقيل يزداد إذا قل وينقص إذا كثر حتى يبلغ السنة وهذا أنسب بقوله ليم كفنه فهستانى قال في البحر وأشار إلى أنه يكره أن ينزع عنه جميع ثيابه ويجدد الكفن ذكره الإسيبحاى اهـ ( الدر المختار ٢/٢٥٠ )

<sup>349</sup> رد المحتار ٢/٢٥٢، حاشية الطحطاوي على مراقي الفلاح ص ٦٢٨، أوجز المسالك ٤/٥٤٢

2. The person who attempts to attack the enemy. However, he accidentally kills himself.
3. The person who drowns to death.
4. The person who burns to death.
5. The person who passes away in a foreign land.
6. The person who passes away due to a wall or building collapsing on him.
7. The person who passes away due to a stomach illness (e.g. diarrhoea, etc.).
8. The person who passes away in a plague. Similarly, the person who is not afflicted by the plague but passes away due to some other cause during the plague also receives the reward of a martyr. This is provided that he is pleased with the decree of Allah *بِأَرْكَوَعَالٍ* and does not move from the place of the plague. Rather, he remains in that place and has complete conviction that nothing can affect him unless Allah *بِأَرْكَوَعَالٍ* destined it to happen
9. The woman who passes away due to the difficulty of childbirth or in the state of nifaas (post-natal bleeding).
10. The woman who passes away due to a miscarriage.
11. The person who passes away on a Thursday night or Friday.
12. The person who passes away due to pleurisy (Zaatul Jamb).
13. The person who passes away while seeking Deeni knowledge, in whichever way it may be viz. learning, teaching, compiling books, etc. even though it may be only one lesson daily.
14. The person who passes away due to tuberculosis (sill).
15. The person who passes away due to epilepsy.
16. The person who passes away due to fever.
17. The person who is killed while protecting himself, his family, his wealth, his Deen or due to injustice carried out against him.

18. The person who passes away while overcome by haraam love, but continued to protect his chastity and save himself from displeasing Allah تَبَارَكَ وَتَعَالَى.
19. The person who passes away through choking.
20. The person who is killed by a predatory animal.
21. The person who passes away while unjustly imprisoned by the governor of the land.
22. The person who passes away while being unjustly beaten.
23. The person who is killed while in hiding from an unjust ruler or an enemy.
24. The person who passes away due to being stung or bitten by a venomous creature.
25. The muazzin who gives azaan solely for the pleasure of Allah تَبَارَكَ وَتَعَالَى and hoping for reward.
26. The honest and truthful businessman.
27. The man who sees to the needs of his wife and children, feeds them halaal and upholds the commands of Allah تَبَارَكَ وَتَعَالَى in the home.
28. The person who experiences nausea on a ship and passes away due to the vomiting.
29. The woman who is patient over her husband taking another wife and passes away while making sabr over the grief and sadness she experiences.
30. The person who recites 25 times daily:

اللَّهُمَّ بَارِكْ لِي فِي الْمَوْتِ وَفِي مَا بَعْدَ الْمَوْتِ

31. The person who performs Salaatud Duhaa (Chaasht), fasts for 3 days every month and does not omit the Witr Salaah, even when he is on a journey.
32. The person who holds firmly to the sunnah at a time when most people have abandoned the sunnah.

33. The person who recites the following dua 40 times in his illness and thereafter passes away from that illness. However, if he recovers from the illness, then he will be forgiven.

لَا إِلَهَ إِلَّا أَنْتَ سُبْحَانَكَ إِنِّي كُنْتُ مِنَ الظَّالِمِينَ

34. The person who passes away while guarding the Muslim borders.
35. The person who recites Surah Yaaseen every night.
36. The person who falls off his animal and passes away (the same law will apply to the person who passes away in a motor vehicle accident).
37. The person who sleeps in the state of wudhu and passes away in his sleep.
38. The person who leads a life of piety without compromising any Deeni matter for anyone.
39. The person who recites Durood 100 times daily upon Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ.
40. The person who sincerely makes dua to pass away in the path of Allah تَبَارَكَ وَتَعَالَى, but passes away a natural death.
41. The person who sends food to any needy Muslim town.
42. The person who takes a bath (fardh ghusal) with icy water (as there is no warm water), and as a result, falls ill and passes away.
43. Hazrat Ma'qil bin Yasaar رَضِيَ اللَّهُ عَنْهُ reports that Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ mentioned: Whoever recites:

أَعُوذُ بِاللَّهِ السَّمِيعِ الْعَلِيمِ مِنَ الشَّيْطَانِ الرَّجِيمِ

3 times every morning and thereafter recites the last 3 verses of Surah Hashr, Allah تَبَارَكَ وَتَعَالَى appoints 70 000 angels to make istighfaar for him until the evening. If he passes away during the day then he will receive the reward of a martyr. Similarly, the one who recites the above in the evening will receive the

same reward until the morning, and if he passes away during the night, he will receive the reward of a martyr.

44. The person who passes away a natural death whilst out in the path of Allah تَبَارَكَ وَتَعَالَى.
45. The person who suddenly passes away on his bed without any apparent cause.
46. The person who falls off a mountain peak.
47. The person who gives respite to the debtor.
48. The person who passes away due to a sickness.
49. The person who hopes for the mercy of Allah تَبَارَكَ وَتَعَالَى over all conditions that afflict him.
50. The person who passes away in the state of wudhu.
51. The person who comes out in the path of Allah تَبَارَكَ وَتَعَالَى and is afflicted with a skin disease.
52. The person who passes away on his bed while out in the path of Allah تَبَارَكَ وَتَعَالَى and fearing the enemy.
53. Once, Hazrat Abu Ubaidah bin Jarraah رَضِيَ اللَّهُ عَنْهُ asked Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ as to which of the shuhadaa are the most noble in the court of Allah تَبَارَكَ وَتَعَالَى. Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ replied that it is the person who is killed by the tyrant ruler when he stands up against the tyrant ruler, instructing him to do good and preventing him from evil.
54. Hazrat Abdullah bin Mas'ood رَضِيَ اللَّهُ عَنْهُ reports that Rasulullah صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ said, "Allah تَبَارَكَ وَتَعَالَى has created the quality of possessiveness within women and the quality of striving in the path of Allah تَبَارَكَ وَتَعَالَى within men. Therefore, whichever woman is patient (at the time her husband remarries) will receive the reward of a shaheed."

## Q&amp;A

## Sins of the Shaheed

**Question:** Will a shaheed also be punished for his sins or will Allah تَبَارَكَ وَتَعَالَى forgive all his sins?

**Answer:** All those sins that pertain to huqooqullah (the rights of Allah تَبَارَكَ وَتَعَالَى) and are such that mere taubah (repentance) will suffice for their forgiveness, will be forgiven on account of shahaadat (martyrdom). However, those sins that pertain to huqooqullah (the rights of Allah تَبَارَكَ وَتَعَالَى) and are such that mere taubah will not suffice for their forgiveness, rather one will be obligated to also make qadha of them (e.g salaah, fasting, zakaat, hajj, etc.), will not be forgiven on account of shahaadat. Similarly, the sins that pertain to huqooqul ibaad (the rights of creation) will not be forgiven through shahaadat.<sup>350</sup>

<sup>350</sup> (باب في من يستشهد وعليه دين) قوله (كيف قلت) أعاد عليه السؤال دفعا لتوهم الغلط ولعلمهم لو لم يعد عليهم السؤال فهموا أن هذا الاستثناء لغیر الشهيد لأنه أجابه مطلقا فدفعه.

قوله (نعم وأنت صابر) فالبعض من تلك القيود المذكورة ههنا مما توقف عليه أمر الشهادة كالاتسباب وبعضها لا تتوقف عليه الشهادة، نعم يدور عليه تقليل الأجر وتكثيره كالصبر والاقبال، فقوله نعم وأنت، بيان لأعلى مراتب الشهادة وهي المكفرة لجميع الذنوب الصغيرة والكبيرة ثم إن استثناء الدين، لعله منقطع إذ السائل إنما سأل خطاياهم وليس الدين منها وإنما أوردته دفعا لما عسى أن يتوهم أن الشهادة كما هي مكفرة حقوق الله تعالى وأثامه فكذا ذلك هي كافية في حقوق العباد وليس المقصود إنه يتغير كل ما سوى الدين لما ذكرنا فهو تنبيه على بعض حقوق العباد ليعلم الحال في بقيتها ولا يبعد إرجاع جملة تلك الحقوق المالية والبدنية وغيرها إلى الدين فإنه الواجب في الذمة ولا شك في وجوب هذه الأمور عليه، غاية ما في الباب أن الديون تقضي بأمثاله وههنا بأجزئتها ولاضير فيه فإن للجزاء ماثلة بالخزى عليه في علم الله تعالى قوله: (ولا يبعد إرجاع جملة تلك الحقوق المالية والبدنية وغيرها إلى الدين فإنه الواجب في الذمة) قال الشيخ زكريا الكاندهلوي رحمه الله في حاشيته على الكوكب: ويؤيد ذلك ما في جمع الفوائد برواية كبير عن ابن مسعود رفعه (القتل في سبيل الله يكفر الذنوب كلها إلا الأمانة والأمانة في الصلاة والأمانة في الصوم والأمانة في الحديث وأشد ذلك الودائع) انتهى (الكوكب الدرّي ٤٤٣/٢)

# Chapter Fourteen – Miscellaneous Masaa'il

## Q&A

### Wasiyyat for Someone to Give Ghusal

**Question:** If someone made wasiyyat for so and so to give him ghusal, to enshroud him in the kafan, to perform his Janaazah Salaah, etc. should the wasiyyat be fulfilled, whereas the wali has more right to carry out these responsibilities?

**Answer:** Performing the Janaazah Salaah, giving ghusal and kafan is the right of the wali. Through fulfilling the wasiyyat, the wali will be deprived of his right. Hence, the wasiyyat will be invalid. However, if the wali permits then it will be permissible.<sup>283</sup>

### Attending the Funeral of a non-Muslim

**Question:** Is it permissible for a Muslim to attend the funeral of a non-Muslim?

**Answer:** It is not permissible.<sup>306</sup>

## Non-Muslim Visiting a Person in Sakaraat

### Question:

1. Is it permissible to let a non-Muslim visit a person who is about to pass away or come and see the body of the deceased?
2. Is the law of those who are in janaabat similar to the non-Muslim in approaching the mayyit before and after his death?

### Answer:

1. A non-Muslim should not be present at the time the person passing away is in the throes of death (sakaraat) or after his death.
2. Yes<sup>60</sup>

## Attending a Thanksgiving Service for the Deceased Person at a Church

**Question:** Is it permissible for a Muslim to attend a thanksgiving service for the deceased person at a church?

**Answer:** It is not permissible.<sup>351</sup>

## Inheriting from a Kaafir

**Question:** A certain person's grandmother is a non-Muslim and is on her death bed. She would like to know if her mother can accept and use inheritance from her non-Muslim mother?

**Answer:** A Muslim cannot inherit from a kaafir. However, the kaafir grandmother can make a bequest for her Muslim daughter.<sup>352</sup>

<sup>351</sup> صحيح البخاري رقم ٤٣٤ ، انظر أيضا ٣٠٦

<sup>352</sup> (وموانعه) على ما هنا أربعة (الرق) ... (واختلاف الدين) وإسلاما وكفرا قال الشامي: قوله (وموانعه) المانع لغة الخائل واصطلاحا ما ينتفي لأجله الحكم عن شخص لمعنى فيه بعد قيام سببه ويسمى محروما فخرج ما انتفى لمعنى في غيره فإنه محجوب أو لعدم قيام السبب كالأجنبي والمراد بالمانع ها هنا المانع عن الوراثية لا المورثية وإن كان بعضها كاختلاف الدين مانعا عنهما كما حررته في الرحيق المختوم (رد المختار ٦/٧٦٦)



## Looking at the Deceased Wife's Face

**Question:** Does a husband become ghair mahram when his wife dies due to which he cannot see her face?

**Answer:** After the demise of the wife, the husband is allowed to look at the face of his wife. However, he is not allowed to touch her body.<sup>90</sup>

## Paying for the Missed Salaahs and Fasts of the Deceased

**Question:** My mother passed away a few days ago. Is there a kaffarah to be paid for missed salaahs or fasts? If so, how do we calculate it?

**Answer:** If the deceased did not make a bequest, then money cannot be spent from the estate. However, if the heirs willfully wish to spend from their own respective shares on behalf of the mayyit's missed salaah or fast, they may do so. In this case the amount of sadaqatul fitr (fidyah) should be given to a poor Muslim for each missed salaah or fast.<sup>353</sup>

## Passing Away in Ramadhaan

**Question:** Is there any virtue reported in the Hadith for passing away during the month of Ramadhaan?

**Answer:** Hazrat Abdullah bin Mas'ood رَضِيَ اللهُ عَنْهُ reports that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said:

<sup>353</sup> ( فيخرج عنه عليه ) أي من له التصرف في حاله لوراثة أو وصاية ( من ثلث ما ترك ) الموصي لأن حقه في ثلث ماله حال مرضه وتعلق حق الوارث بالثلثين فلا ينفذ قهرا على الوارث إلا في الثلث إن أوصى به وإن لم يوص لا يلزم الوارث الإخراج فإن تبرع جاز (مراقي الفلاح ص ١٩١)

وفي فتاوى الحجة وإن لم يوص لورثته وتبرع بعض الورثة يجوز ويدفع عن كل صلاة نصف صاع حنطة منون ولو دفع جملة إلى فقير واحد جاز بخلاف كفارة اليمين وكفارة الظهار وكفارة الإفطار وفي الولوالجية ولو دفع عن خمس صلوات تسع أمانان لفقير واحد ومنا لفقير واحد اختار الفقيه أنه يجوز عن أربع صلوات ولا يجوز عن الصلاة الخامسة (هندية ١٢٥/١)

من وافق موته عند انقضاء رمضان دخل الجنة ومن مات عند انقضاء عرفة دخل الجنة<sup>٣٥٤</sup>

*The one who passes away before the completion of Ramdhaan will enter Jannah, and the one who passes away on the Day of Arafah, before its termination, will enter Jannah.*

## Virtue of Passing Away on a Friday

**Question:** What is the virtue of passing away on a Friday?

**Answer:** Hazrat Abdullah bin Amr رَضِيَ اللهُ عَنْهُ narrates that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ said:

ما من مسلم يموت يوم الجمعة أو ليلة الجمعة إلا وقاه الله فتنة القبر<sup>٣٥٥</sup>

*There is no Muslim who passes away during the day of Jumuah or the night of Jumuah except that Allah تَبَارَكَ وَتَعَالَى saves him from the punishment of the grave.*

## Wife or Daughter Looking at the Body of the Deceased when they are in Haidh or Nifaas

**Question:** If a father passes away and his daughter is in haidh or nifaas then can she see the body and should she attend the funeral?

**Answer:** It is permissible for her to attend the funeral and see the body.

## Taking One's Life due to Mental Illness

**Question:** What is the ruling in Shari'ah regarding people who take their own life due to mental illness?

<sup>٣٥٤</sup> جامع الأحاديث للسيوطي رقم ٢٤٠٨٩

<sup>٣٥٥</sup> جامع الترمذي رقم ١٠٧٤

**Answer:** If they were insane or they were not in their senses, they will not be held responsible.<sup>356</sup>

## Taking a Photo of a Grave with the Intention of Showing the Close Family

**Question:** Is it permissible to take a photo of the grave in order to show the female relatives of the deceased?

**Answer:** We are encouraged in the Hadith to visit the graveyard in order to take a lesson from the graves of those who left the world. The graveyard is meant to serve as a reminder for one to realize that just as others have passed on, similarly he will also have to leave this world one day. Hence one should prepare in advance for the life of the Hereafter as death is inevitable. The graveyard is not a place of amusement and entertainment. Thus it is not in keeping with the spirit with which we are commanded to visit the graveyard that one takes photos of the graves to show others.<sup>282</sup>

## Reciting *إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ* Upon Hearing the Death of a non-Muslim

**Question:** Is it permissible to recite *إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ* when learning of the demise of a non-Muslim?

**Answer:** This dua should not be recited upon the demise of a non-Muslim.<sup>306</sup>

## Women Standing up when the Janaazah is Picked up from the House

**Question:** I have attended many funerals where I see that when the men of the house carry the janaazah in order to take it to the masjid

for Janaazah Salaah, all the ladies in the house stand up. Is this just a custom or is this practice established in Deen.

**Answer:** This is not a sunnah practice.<sup>115</sup>

## Segregation between non-Mahram Males and Females

**Question:** Is it permissible for non-mahram males and females to gather in one room when the janaazah is present?

**Answer:** There should be segregation between non-mahram males and females. All should not be present together in the same room, neither at the place where the janaazah is present nor at any other place.<sup>357</sup>

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<sup>357</sup> يَا أَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكَ وَبَنَاتِكَ وَنِسَاءِ الْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ مِنْ جَلَابِيقِهِنَّ ذَلِكَ أَدْنَى أَنْ يُعْرَفْنَ فَلَا يُؤْذَيْنَ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا (سورة الأحزاب ٥٩) انظر أيضا مجمع الزوائد #١٥٢٠٠ ، سنن أبي داود رقم ٤١١٤ ، بذل المحمود باب في الحرمه تعطي وجهها ١٢١/٣ ، سنن أبي داود رقم ١٨٣٥

# Chapter Fifteen - Inheritance, Islamic Wills and Wasiyyat (Bequests)

The laws of inheritance form an integral branch of Deen which has been referred to as “half of Islamic knowledge” by none other than Rasulullah ﷺ.<sup>358</sup> The reason for this is that wealth plays a vital role in a person’s life and assists him greatly in fulfilling many of his ibadaat. If the laws of inheritance are not learnt properly and practiced correctly, it will lead to great corruption being created in the Ummah. The lamentable outcome, as commonly witnessed nowadays, is that widows and orphans are subdued and deprived of their due shares of the inheritance on account of certain individuals being in power and control. It is imperative for one to equip himself with the relevant masaa’il that pertain to Islamic inheritance, Islamic wills and wasiyyat (bequests), etc. so that he may practise Deen correctly and save himself from falling into sin.

## The Islamic Will

At the outset, it should be understood that the Islamic will has nothing to do with stipulating the shares of one’s heirs after one’s demise, as Shari’ah has already predetermined and stipulated the share of each heir. The purpose of preparing an Islamic will is to inform one’s heirs

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٣٥٨ سنن ابن ماجه رقم ٢٧١٩

of the outstanding obligations one has regarding the huqooq of Allah تَبَارَكَ وَتَعَالَى or the huqooq of the creation. Even in the case where one does not have any outstanding obligations which he owes to Allah تَبَارَكَ وَتَعَالَى or the creation, it is still extremely important for him to prepare his Islamic will – especially in non-Muslim countries – in order to avoid legal problems and complications that may occur when winding up the estate. The most important component of the will is the directive that the estate must be wound up and distributed according to Shari’ah. One may also include some Deeni advice (naseehah) in the will for his heirs, advising them to remain firm upon Deen after his demise. Since preparing an Islamic will relates to making bequests, it is of paramount importance for us to be acquainted with the relevant masaa’il that pertain to Shar’ee wasiyyats (bequests).

## What is a Shar’ee Wasiyyat (Bequest)?

In Shari’ah, a wasiyyat (bequest) means for a person to suspend the transfer of his ownership of wealth (whether cash or kind) to someone, not in lieu of any exchange, until after his demise.<sup>359</sup>

When a person passes away, the wealth he leaves behind will be used to pay for his burial expenses (i.e. his kafan, transporting the body to the graveyard and purchasing the grave). After paying for the burial expenses, all debts of the deceased will be settled from the estate. Only after all the debts have been settled will the wasiyyats (bequests) of the deceased be fulfilled. The wasiyyats (bequests) will be fulfilled from one third of the wealth that remains after paying for the burial expenses and settling the debts.<sup>360</sup> Lastly, after fulfilling the bequests

<sup>359</sup> (هي تملك مضاف إلى ما بعد الموت) عينا كان أو دينا قلت يعني بطريق التبرع ليخرج نحو الإقرار بالدين فإنه نافذ من كل المال كما سيبيح ولا ينافيه وجوبها لحقه تعالى فتأمله قال الشامي : (قوله ولا ينافيه إلخ) جواب سؤال يرد على قوله يعني بطريق التبرع تقريره ظاهر، وأشار بقوله فتأمله إلى دقة الجواب، وذلك لأن الواجب لحقه تعالى لما سقط بالموت أشبه التبرع ولم يكن كديون العباد اهـ ح (رد المختار ٦٤٨/٦)

أقول : هذا مبني على أن المراد بالتبرع ما إن شاء فعله وإن شاء تركه وعلى ما قدمناه يرد به ما كان مجانا لا بمقابلة عوض وبه يندفع السؤال (رد المختار ٢٤٨/٦)

<sup>360</sup> (وتجوز بالثلث للأجنبي) عند عدم المانع (وإن لم يجز الوارث ذلك لا الزيادة عليه إلا أن تجيز ورثته بعد موته) (رد المختار ٦٥٠/٦)

from one third of the estate, the remaining wealth will be distributed among the heirs of the deceased according to the stipulated shares of inheritance.<sup>361</sup>

## The Four Types of Wasiyyat

Wasiyyat can be categorized into four types<sup>362</sup>:

1. The first type of wasiyyat is waajib wasiyyat (compulsory wasiyyat). Waajib wasiyyat refers to the wasiyyat one makes regarding unfulfilled obligations which are due to Allah تَبَارَكَ وَتَعَالَى or the servants e.g. qadha salaah, qadha fasts, outstanding zakaat, unsettled debts, amaanah (trusts) of people that are in one's possession, etc. It is compulsory upon one to make wasiyyat for the abovementioned obligations to be fulfilled or trusts to be returned to their respective owners after his demise. Fidyah will be discharged on behalf of each qadha salaah or each qadha fast from one third of the estate. Similarly, the outstanding zakaat will be paid from one third of the estate.

It is in regard to this type of wasiyyat that Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ mentioned: "It does not befit a Muslim who has

<sup>361</sup> يبداء من تركه الميت بتجهيزه ثم بدينه ثم وصيته ثم يقسم بين ورثته (البحر الرائق ٣٦٥/٩)

<sup>362</sup> (وهي) على ما في المجتبى أربعة أقسام (واجبة بالزكاة) والكفارة (و) فدية (الصيام والصلاة التي فرط فيها) ومباحة لغني ومكروهة لأهل فسوق (وإلا فمستحبة) قال الشامي : (قوله وهي على ما في المجتبى) عبارته والوصية أربعة أقسام واجبة كالوصية برد الدائع والديون المجهولة، ومستحبة كالوصية بالكفارات وفدية الصلاة والصيام ونحوها ومباحة كالوصية للأغنياء من الأحناب والأقارب، ومكروهة كالوصية لأهل الفسوق والمعاصي اه وفيه تأمل لما قاله في البدائع الوصية بما عليه من الفرائض والواجبات كالحج والزكاة والكفارات واجبة اه شرنبلالية. ومشى الزبلي على ما في البدائع، وفي المواهب تجب على مديون بما عليه لله تعالى أو للعباد، وهذا ما مشى عليه المصنف خلافا لما في المجتبى من التفرقة بين حقوقه تعالى، وحقوق العباد وما مر من سقوط ما وجب لحقه تعالى بالموت لا يدل على عدم الوجوب لأن المراد سقوط أدائها، وإلا فهي في ذمته فقول الشايع على ما في المجتبى: أي من حيث التقسيم إلى الأربعة تأمل (قوله ومباحة لغني) لعل المراد إذا لم يقصد القرية أما لو أوصى له لكونه من أهل العلم أو الصلاح إعانة له أو لكونه رحما كاشحا أو ذا عيال فينبغي ندبها تأمل (قوله ومكروهة لأهل فسوق) يرد عليه ما في صحيح البخاري لعل الغني يعتبر فينصق والسارق يستغني بما عن السرقة والزانية وعن الزنا وكان مراده ما إذا غلب على ظنه أنه يصرفها للفسوق (الفجور اه رحمتي) (رد المختار ٦/٦٤٨)

something to bequest, to pass even two nights without his wasiyyat being written.”<sup>363</sup>

2. The second type of wasiyyat is a mustahab wasiyyat. Mustahab wasiyyat refers to the wasiyyat that one makes regarding wealth to be given to masaajid, Deeni institutes, or to be spent on the needy, orphans, widows, or in any other avenue of virtue. Making this type of wasiyyat is mustahab.
3. The third type of wasiyyat is a mubaah wasiyyat (permissible wasiyyat). Mubaah wasiyyat refers to the wasiyyat that is made for a wealthy person who is not in need of the wasiyyat. Making this type of wasiyyat for a wealthy person is regarded as a permissible wasiyyat.
4. The fourth type of wasiyyat is a makrooh wasiyyat. Makrooh wasiyyat refers to the wasiyyat that a person makes for someone, knowing that the person will use the wealth for haraam purposes. Making this type of wasiyyat is not permissible (makrooh-e-tahreemi).

## Miscellaneous Masaa'il of Wasiyyat

The following are some masaa'il that pertain to wasiyyat:

1. It is not permissible for one to make wasiyyat for an heir. Rasulullah ﷺ said, “There is no wasiyyat for an heir.”<sup>364</sup> If the deceased made a wasiyyat for any relative, then at the time of the death of the one who made the wasiyyat, it will be seen whether that relative for whom the wasiyyat was made is an heir or not. If he is an heir, the wasiyyat will not

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<sup>363</sup> صحيح البخاري رقم ٢٧٣٨

<sup>364</sup> سنن أبي داود رقم ٢٨٧٢



be valid.<sup>365</sup> Therefore, if the husband made a wasiyyat that his house should be given to his wife upon his demise, or his car should be given to his son upon his demise, the wasiyyat will not be valid since the wife and son are heirs, and the house and car will form part of the estate of the deceased which will have to be distributed among the heirs according to the stipulated shares of inheritance.

2. In the situation where wasiyyat is made for an heir, it will not be valid, unless the other heirs consent to the wasiyyat and are pleased to give the heir from their share of the inheritance after the estate is distributed among them.<sup>365</sup> With regards to the heirs consenting, there are two important points that should be noted. The first is that the heirs' consent will only be considered after the demise of the one who made the wasiyyat. If the heirs consented before the demise of the one who made the wasiyyat, their consent will not be considered. The second is that the consent of an immature child is not valid. If there are any immature children among the heirs, they must be given their full share. Thereafter, the other heirs may give whatever they wish from their respective shares of the inheritance after they receive their shares.<sup>366</sup>
3. The wasiyyat will be restricted to one third of the estate. If the deceased made wasiyyat that exceeded one third of the estate, the wasiyyat will not be valid and only one third will be used to fulfil the wasiyyat (e.g. the deceased made wasiyyat that fidyah be given on behalf of his missed salaah during his life and after the heirs calculated the missed salaah, they found that it amounted to more than one third of the estate, or the deceased made wasiyyat that half his wealth

<sup>365</sup> (وشرائطها...) (و) كون الموصى له حيا وقتها) ... (و) كونه (غير وارث) وقت الموت قال الشامي : (قوله وقت الموت) أي لا وقت الوصية حتى لو أوصى لأخيه وهو وارث ثم ولد له ابن صحت الوصية للأخ ولو أوصى لأخيه وله ابن ثم مات الابن قبل موت الموصي بطلت الوصية زيلعي (رد المختار ٦/٦٤٩)

<sup>366</sup> (ولا لوارثه وقائله مباشرة) لا تسببها كما مر (إلا بإجازة ورثته) لقوله عليه الصلاة والسلام لا وصية لوارث إلا أن يجيزها الورثة يعني عند وجود وارث آخر كما يفيد آخر الحديث وسنحقيقه (وهم كبار) عقلاء فلم تجز إجازة صغير ومجنون وإجازة المريض كابتداء وصية ولو أجاز البعض ورد البعض جاز على المجيز بقدر حصته (رد المختار ٦/٦٥٤)

be given in charity, the wasiyyat will only be valid till one third). However, if any heir (or all the heirs) wishes to fulfill the wasiyyat of the deceased that is over one third from his own wealth, he may do so, provided there is no coercion and force placed upon him and he is not an immature child.<sup>367</sup>

4. In the case where the deceased made many wasiyyats which exceed one third of the estate, and some of the wasiyyats pertain to faraa'idh, waajibaat and mustahabbaat, then the faraa'idh will be fulfilled first, then the waajibaat, and finally the mustahabbaat till one third of the estate. An example of this is where the deceased had missed salaah and missed qurbaani and he made wasiyyat that a certain amount of his wealth be given in charity. In such a case, the heirs will commence with giving fidyah on behalf of the missed salaah, as this relates to the faraa'idh. Thereafter, if any wealth remains from the one third, it will be used to fulfill the missed qurbaani (i.e. the value of a sacrificial animal or animals will have to be given in charity), since this relates to waajibaat. Lastly, if there is any amount remaining from the one third, it will be spent in charity, as this relates to mustahab wasiyyat. If the one third is insufficient to fulfill the wasiyyat regarding the specified amount for the charity, the charity will be fulfilled to the amount possible. If there is no wealth remaining from the one third for the charity, the charity will be left out.<sup>368</sup>
5. With regard to mustahab wasiyyats, although it is permissible for one to make wasiyyat of up to one third of the estate (e.g. to be given in charity, etc.), it will be better for one to make wasiyyat for less than one third. The reason is that two thirds

<sup>367</sup> (وتجوز بالثلث للأجنبي) عند عدم المانع (وان لم يجز الوارث ذلك لا الزيادة عليه إلا أن تجيز ورثته بعد موته) (رد المحتار ٦/٦٥٠) ، انظر

أيضا ٣٦٦

<sup>368</sup> (وإذا اجتمع الوصايا قدم الفرض وإن أخرج الموصي وإن تساوت) قوة (قدم ما قدم إذا ضاق الثلث عنها) قال الشامي: (قوله وإذا اجتمع الوصايا إلخ) اعلم أن الوصايا إما أن تكون كلها لله تعالى أو للعباد، أو يجمع بينهما، وأن اعتبار التقديم مختص بحقوقه تعالى لكون صاحب الحق واحدا، وأما إذا تعدد فلا يعتبر فما للعباد خاصة لا يعتبر فيها التقديم كما لو أوصى بثلثة لإنسان، ثم به لآخر إلا أن ينص على التقديم، أو يكون البعض عتقا أو محاباة على ما سيأتي ... (رد المحتار ٦/٦٦١)

of the estate have been stipulated from the side of Shari'ah as the shares of the heirs. Hence, the deceased cannot deal in this portion. The only portion that Shari'ah has given him control over is one third of the estate. Thus, one third of the estate is his full haqq and it will be better for him to leave some portion from his haqq for his heirs, rather than giving his whole portion in charity. Furthermore, if the heirs are poor, then it will be better for him not to make any mustahab wasiyyat at all and leave the entire estate for his heirs. Nabi ﷺ said to Hazrat Sa'd bin Abi Waqqaas رَضِيَ اللهُ عَنْهُ, "It is better for you to leave your heirs financially stable and independent than for you to leave them in need, stretching their hands before people."<sup>369</sup>

6. If one had made wasiyyat that a certain wealth be given to a certain charitable cause after one's demise or to a certain person who is a non-heir, and later on, he wishes to cancel his wasiyyat, he has the right to do so and he will not be sinful.<sup>370</sup>
7. Upon the demise of the one who had made the wasiyyat, the wealth will be presented to the person for whom wasiyyat was made. Such a person has the right to accept the wealth or reject it. If he rejects it, he will not be forced to accept it.<sup>371</sup>

<sup>369</sup> (وندبت بأقل منه) ولو (عند غنى ورثته أو استغنائهم بحصتهم كتركها) أي كما نذب تركها (بلا أحدهما) أي غنى واستغناء لأنه حينئذ صلة وصداقة قال الشامي: (قوله ولو عند غنى ورثته الخ) أشار بزيادة لو الوصية إلى أن الوصية بما دون الثلث عند عدم الغنى أو الاستغناء مستحبة أيضاً، وهو كذلك لما قال في الهداية، ويستحب أن يوصى بدون الثلث، سواء كانت الورثة أغنياء أو فقراء، لأن في التقيص صلة القريب بترك ماله عليهم، بخلاف استكمال الثلث لأنه استيفاء تمام حقه فلا صلة ... (رد المختار ٦٦١/٦)

<sup>370</sup> (وله) أي للموصى (الرجوع عنها بقول صريح) أو فعل يقطع حق المالك عن العصب (بأن يزيل اسمه) وأعظم منافعه كما عرف في العصب (أو) فعل (يزيد في الموصى به ما يمنع تسليمه إلا به كالتسويق) الموصى به (بسم والبناء) في الدار الموصى بما بخلاف تخصيصها وهدم بنائها لأنه تصرف في التابع (وتصرف) عطف على بقول صريح وعطف ابن كمال تبعاً للدرر بأو وعليه فهو أصل ثالث في كون فعله يفيد رجوعه عنها كما يفيد من الدرر فتدبر قال الشامي: (قوله وله الرجوع عنها) لأن تمامها يموت الموصى، ولأن القبول يتوقف على الموت والإيجاب المفرد يجوز إبطاله في المعاوضات كالبيع، ففي التبرع أولى عناية (رد المختار ٦٥٨/٦)

<sup>371</sup> (وإنما يصح قبولها بعد موته) لأن أوان ثبوت حكمها بعد الموت (فيطلب قبولها وردها قبله) وإنما تملك بالقبول قال الشامي: (قوله وإنما تملك بالقبول) دخول على المان فإن لم يقبل بعد الموت فهي موقوفة على قبوله، وليست في ملك الوارث ولا في ملك الموصى له حتى يقبل أو يموت اتفاقاً عن مختصر الكرخي (رد المختار ٦٥٧/٦)

8. If the person for whom wasiyyat was made passes away after the demise of the one who made the wasiyyat for him, but before accepting the wasiyyat, then the wasiyyat wealth will form part of the estate of the one for whom it was made and will be distributed among his heirs according to the stipulated laws of inheritance.<sup>372</sup>
9. If the person for whom the wasiyyat was made accepts or rejects the wasiyyat during the lifetime of the one who made the wasiyyat, then his acceptance or rejection will not be considered. His acceptance and rejection will only be considered after the demise of the one who made the wasiyyat. Hence, if he rejected the wasiyyat during the lifetime of the one who made the wasiyyat (and the wasiyyat was not subsequently cancelled), he (the one for whom the wasiyyat was made) can still accept it after the one who made the wasiyyat passes away.<sup>373</sup>
10. When the person for whom wasiyyat was made accepts the wasiyyat after the demise of the one who made the wasiyyat, he immediately becomes the owner of the wealth or item of which wasiyyat was made (even though he did not take possession of the item or wealth).<sup>374</sup>
11. If one had made a wasiyyat that upon one's death, a certain debtor should be absolved of his debt, then this is regarded as a form of charity (tabarru'). Hence, it will only be valid from one third of the estate. If it exceeds one third of the estate, it will not be valid, unless the heirs consent to the wasiyyat and are pleased to forego a portion of their share of the

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<sup>372</sup> (إلا إذا مات موصيه ثم هو بلا قبولها فهو) أي المال الموصى به (لورثته) بلا قبول استحسانا كما مر (رد المختار ٦/٦٥٨)

<sup>373</sup> قبول الوصية إنما يكون بعد الموت فإن قبلها في حال حياة الموصي أو ردها فذلك باطل وله القبول بعد الموت كذا في السراجية (الفتاوى الهندية ٦/٩٠)

<sup>374</sup> والموصى به يملك بالقبول فإن قبل الموصى له الوصية بعد موت الموصي يثبت الملك له في الموصى به قبضه أو لم يقبضه (الفتاوى الهندية ٦/٩٠)

inheritance, and provided that an immature child is not deprived of his full share.<sup>375</sup>

12. If one had made a wasiyyat that upon his demise, half of his estate should go to his wife in accordance to the C.O.P marriage contract (community of property), such a wasiyyat will be invalid as it contravenes the law of Shari'ah regarding inheritance. Hence, it is impermissible for the wife to inherit half of the estate of the husband. Rather, each heir will inherit according to the Shar'ee stipulated laws of inheritance.<sup>365 366</sup>
13. If one had made a wasiyyat that upon his demise, a certain property should be given as waqf, the wasiyyat will be valid from one third of his estate. If it exceeds one third, it will only be valid till one third.<sup>376</sup>
14. Making wasiyyat to be buried in a specific place or a specific graveyard is a wasiyyat that is not binding in Shari'ah. However, despite it not being binding, if it is possible for the heirs to fulfil the wish of the deceased, then it will be better for them to do so, on condition that the place the deceased wished to be buried in is not far from the place in which he passed away. If the place in which the deceased passed away is far from the place he wished to be buried in, then he will be buried in the place wherein he had passed away. Since the wasiyyat is not binding, the family will not be sinful for not fulfilling the wish of the deceased.<sup>377</sup>

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<sup>375</sup> (وإبرأؤه مديونه وهو مديونه غير حائز) أي لا يجوز (إن كان أجنبيا وإن) كان (وارثا فلا) يجوز (مطلقا) سواء كان المريض مديونا أو لا للتهمة قال الشامي: قوله: وإبرأؤه مديونه وهو مديون) قيد به احترازا عن غير المديون فإن إبراءه الأجنبي نافذ من الثلث كما في الجوهرة سائحاني (رد المختار ٦١١/٥)

<sup>376</sup> و (لا يصح تبرعه إلا من الثلث ...) قال الشامي: (قوله ولا يصح تبرعه إلا من الثلث) أي كوقفه ومحاباته وتبرجه بأكثر من مهر المثل (رد المختار ٣٨٦/٣)

<sup>377</sup> الفتوى على بطلان الوصية بغسله والصلاة عليه قال الشامي: (قوله: والفتوى على بطلان الوصية) عزاه في الهندية إلى المضمرات: أي لو أوصى بأن يصلي عليه غير من له حق التقدم، أو بأن يغسله فلان لا يلزم تنفيذ وصيته، ولا يبطل حق الولي بذلك. وكذا تبطل لو أوصى بأن يكفن في ثوب كذا أو يدفن في موضع كذا كما عزاه إلى الخياط (رد المختار ٢٢١/٢)

## General Advice in the Islamic Will

Advice given in one's lifetime is technically termed as naseehah. If one writes down such advice as part of his will, it is called wasiyyat. Thus it is understood that wasiyyat is not restricted to making bequests of money and properties. Rather, an important part of the wasiyyat is advice to one's family, relatives, friends, etc. This may be called the parting advice of a person. At the time that he has passed away and can no longer communicate with anybody, his family and relatives will read his will. Hence when they find some advice therein, they will treasure it greatly. Often, a person cites the reason for doing some good action as, "It was my father's/mother's wasiyyat!" Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ also made several wasaayaa (plural of wasiyyat) prior to his demise. The Quraan Majeed relates the following wasiyyat of Nabi Ebrahim عَلَيْهِ السَّلَام and Nabi Ya'qoob عَلَيْهِ السَّلَام to their sons, "O my beloved sons, verily Allah تَبَارَكَ وَتَعَالَى has chosen the Deen of Islam for you, thus do not die except that you are Muslims."<sup>378</sup> Hence, it was the practice of all the pious predecessors to make a wasiyyat of this nature. Below are some aspects that one may include in his wasiyyat.

I hereby make wasiyyat of the following to my family and relatives:

1. At the time of my death, no customs and practices which are contrary to the sunnah should be practised.
2. After performing my ghusal etc. in the sunnah manner, my burial must not be delayed.
3. Wind up my estate and give all the heirs their shares according to the Shari'ah as quick as possible. Ensure that everybody is given the total amount that is due to them.
4. If I have wronged anybody by having spoken ill of them, having hurt their feelings, etc., I humbly beseech you to forgive me. I have forgiven everybody who may have wronged me in any way.

5. Guard your Imaan and that of your children. It is your most valuable asset. Make the environment of the home such that it is conducive to the strengthening of Imaan. Conduct ta'leem regularly with your families. Be punctual on your own salaah and ensure that the children do the same. Please, have mercy on yourselves and upon your children – throw out the T. V. from the home if you have one.
6. I request my family and relatives to recite Surah Ikhlâas at least three times daily and convey the reward to me. Those who can recite more should do so. If possible, give some sadaqah and pass on the rewards to me as well. These are the gifts that will benefit me. Do not gather people for the purpose of esaal-e-thawaab for me. Whoever wishes may individually, in their own time, recite whatever they can and convey the thawaab to me.
7. My wife, daughters and other relatives are urged to observe the laws of hijab at all times.
8. I greatly wish that my son should become a Hafiz and Aalim.
9. Be mindful of your duties to Allah تَبَارَكَ وَتَعَالَى as well as your duties to fellow men. Do not usurp the rights of any one.
10. I urge my family to live within their means. Do not attempt to keep up with the trend. Maintain simplicity in all things. Do not be extravagant, nor accustom yourself to luxuries. Cast aside all the fashions and styles of the West. Adopt the sunnah at all times.
11. Refrain from debts for unnecessary things. Never involve yourself in loans on interest.
12. The marriage of my sons and daughters must be conducted with the least amount of troubles and expense. Do not try to impress people on these occasions, nor be concerned about their criticism. Rather, seek the pleasure of Allah تَبَارَكَ وَتَعَالَى and His Rasul صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ and be concerned of refraining from their displeasure.

13. Maintain unity among one another at all times, even if you have to humble yourself for this purpose. The one who will humble himself for the sake of Allah تَبَارَكَ وَتَعَالَى, Allah تَبَارَكَ وَتَعَالَى will elevate him.
14. Forgive the faults of others. Do not seek revenge against anybody.
15. This world is a passing phase. Your destiny is the Akhirah. Do not devote all your energies for this temporary place. Devote more time for the service of Deen. Also seek knowledge of Deen until the grave.

Many other points of this nature could be added. Perhaps one may not have succeeded in implementing many aspects of Deen in his family during his lifetime. It is very possible that he may succeed in doing so upon his death by means of his wasiyyah. As a result, he could even possibly gain salvation in the Hereafter.

## Family Trusts

The forming of family trusts is becoming a fairly common practice among Muslims today. Therefore, it is vitally important for one to acquaint himself with the relevant masaa'il in regard to forming a trust.

After following the necessary procedures to form the trust, properties and other assets, etc., are transferred into the name of the trust. The "donor" specifies various beneficiaries who will become the eventual owners of all that the trust owns when it is dissolved.

In most cases these "trusts" are formed as a tax-saving exercise and to avoid exorbitant estate duties. Neither does the "donor" intend giving away his property, nor does he in reality wish to make the specified beneficiaries the immediate owners. If this is the case, there is no problem with what clauses may be written into the trust deed, provided that it does not necessitate the violation of any aspect of the Shari'ah. In terms of the Shari'ah, since this "trust" was not formed with the intention of gifting the assets of the "trust" to the people who have been included as beneficiaries of the trust, rather it was done for



tax purposes, this trust will be regarded as the complete ownership of the one who had formed the trust. Hence, it will be regarded as part of the estate of the “donor” upon his death. However the trust deed is a valid legal document according to South African law. Here again, problems could arise among the heirs if any one party intends to take wrongful advantage of this “trust” which is meaningless in terms of the Shari’ah. It is thus imperative that a clear note be addressed to one’s executors informing them of the reality of this “trust”. Likewise, all the eventual heirs of the “donor” as well as all those who have been specified as beneficiaries in this so called “trust” must be clearly made aware of the true reality of the “trust”. It will be best if the true position of the “trust” be documented and all the heirs as well as those named as beneficiaries are made to sign that document stating that they have been made aware of the fact that the “trust” is non-existent in terms of the Shari’ah and that the sole owner is the “donor”.

If one truly wishes to make the “trust” valid and binding according to the Shari’ah, it is imperative that the laws of the Shari’ah be fully adhered to. If it is indeed meant to be made waqf, the laws of waqf must be adhered to. If it is in reality meant to be an immediate gift to the beneficiaries, the laws of hibah (gifts) will be applicable. If the conditions of waqf or hibah are not fulfilled, the gifted property or item will not become the property of the beneficiaries. It will remain the property of the “donor”. If the “donor” passes away with the situation remaining unchanged, the “gifted” property will devolve upon the “donor’s” heirs according to the laws of inheritance. Therefore, if one intends to form a “family trust” which is valid according to the Shari’ah, it is imperative that guidance be taken from Ulama who are experienced in this field before any trust deed is finalised.

Nevertheless, whatever the situation may be, the reality of the “trust” must be clearly known and recorded in order to enable the executors to wind-up the estate correctly.

## Waqf

It has already been mentioned that a person is entitled to make a wasiyyat to the maximum of one third. However, it is best in all cases that the total wasiyyat should be less than a third.<sup>379</sup> Besides this, the very wealthy who have several properties, etc. should take advantage of the opportunity that Allah تَبَارَكَ وَتَعَالَى has given them, to earn thawaab-e-jaariyah (perpetual rewards) by making some property or some of the properties, etc. waqf for Deeni purposes. The property could be bequeathed to a masjid, madrasah, an organisation doing charitable work, etc. So long as that property, etc. is being used for that Deeni purpose, one will continue to receive the reward. One's children may forget one after a few months (as happens in many cases) and only remember to convey reward for their deceased father on certain occasions in the year. However, in the case of making something waqf, one will continuously receive the tremendous rewards for the good that accrues from that waqf. In this waqf, one could make the intention of esaal-e-thawaab for Rasulullah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, for one's parents, etc. They, together with the one who made it waqf, will continue to receive the rewards. There is much leniency in this aspect. If one intends to make something waqf, he should do so in his lifetime, and a clause could be added that one will personally benefit from the income as long as one is living. Thereafter, it will devolve upon the Deeni cause specified. There are various others clauses that one could write into the waqf deed.<sup>380</sup> Details regarding the clauses of the waqf should be obtained from the Ulama.

<sup>379</sup> (وندبت بأقل منه) ولو (عند غنى ورثته أو استغنائهم بحصتهم كتركها) أي كما ندب تركها (بلا أحدهما) أي غنى واستغناء لأنه حينئذ صلة وصدقة (رد المحتار ٢/٢٢١)

<sup>380</sup> قال الشامي: فإن شرائط الواقف معتبرة إذا لم تخالف الشرع وهو مالك، فله أن يجعل ماله حيث شاء ما لم يكن معصية (رد المحتار ٤/٣٤٣)

وكذا جعل الولاية لنفسه يصح عند أبي يوسف رحمه الله تعالى وهو ظاهر المذهب ولم يصح عند محمد رحمه الله تعالى (الفتاوي الهندية ٢/٣٥١)  
 (و) جاز (شرط الاستبدال به) أرضاً أخرى حينئذ (أو) شرط (بيعه ويشترى بشمنه أرضاً أخرى إذا شاء فإذا فعل صارت الثانية كالأولى في شرائطها وإن لم يذكرها ثم لا يستبدلها) بثلاثة لأنه حكم ثبت بالشرط والشرط وجد في الأولى لا الثانية (وأما) الاستبدال ولو للمساكين آل (بدون الشرط فلا يملكه إلا القاضي). قال الشامي: مطلب في استبدال الوقف وشروطه (قوله: وجاز شرط الاستبدال به إلخ) اعلم أن الاستبدال على ثلاثة وجود: الأول: أن يشرطه الواقف لنفسه أو لغيره أو لنفسه وغيره، فالاستبدال فيه جائز على الصحيح وقيل اتفاقاً. والثاني:

## Q&A Pertaining to Waqf

### Setting up a Waqf Trust

**Question:** Kindly advise me on the following and how do I go about setting up a trust.

1. I have a few properties which I wish to make waqf and wish to have full control of. I wish to distribute funds (rental) to charitable institutions but if need be so then I should be able to utilize the funds for myself (for instance I must be able to use the funds for myself in certain months and certain months for distribution. On my demise, the trustees should take full control and use it fully for charity.
2. Will I be able to sell the property should I feel the need, that property A is not performing well and I could dispose of it and with the funds purchase property B. Will property B automatically become waqf or will it be necessary for me to start the process all over again?
3. In the event of my demise, what control will the trustees have? Will they be able to sell and buy more properties in the benefit of the waqf?

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أن لا يشترطه سواء شرط عدمه أو سكت لكن صار بحيث لا ينتفع به بالكلية بأن لا يحصل منه شيء أصلاً، أو لا يفي بمؤنته فهو أيضاً جائز على الأصح إذا كان بإذن القاضي ورأيه المصلحة فيه. والثالث: أن لا يشترطه أيضاً ولكن فيه نفع في الجملة وبدله خير منه ريعاً ونفعاً، وهذا لا يجوز استبداله على الأصح المختار كذا حرره العلامة قنالي زاده في رسالته الموضوعية في الاستبدال، وأُتنب فيها عليه الاستدلال وهو مأخوذ من الفتح أيضاً كما سنذكره عند قول الشارح لا يجوز استبدال العاقر إلا في أربع ويأتي بقية شروط الجواز... وأفاد صاحب البحر في رسالته في الاستبدال أن الخلاف في الثالث، إنما هو في الأرض إذا ضعفت عن الاستغلال بخلاف الدار إذا ضعفت بخراب بعضها، ولم تذهب أصلاً فإنه لا يجوز حينئذ الاستبدال على كل الأقوال قال: ولا يمكن قياسها على الأرض فإن الأرض إذا ضعفت لا يرغب غالباً في استئجارها بل في شرائها أما الدار فيرغب في استئجارها مدة طويلة لأجل تعميرها للسكنى على أن باب القياس مسدود في زماننا وإنما للعلماء النقل من الكتب المعتمدة كما صرحوا به... قال الشامي: مطلب في اشتراط الإدخال والإخراج (قوله: ثم لا يستبدلها بثالثة) قال في الفتح: إلا أن يذكر عبارة تفيد له ذلك دائماً، وكذلك ليس للقيم الاستبدال إلا أن ينص له عليه، وعلى وزن هذا الشرط لو شرط لنفسه، أن ينقص من المعاليم إذا شاء، ويزيد ويخرج من شاء، ومن استبدل به كان له ذلك، وليس لقيمه أن يجعله له وإذا أدخل وأخرج مرة، فليس له ثانياً إلا بشرطه ولو شرطه للقيم ولم يشترطه لنفسه كان له أن يستبدل بنفسه اهـ وذكر في البحر فروعاً مهمة فلتراجع (رد المختار ٤/٣٨٤-٣٨٤)

رجل قال أرضي هذه صدقة موقوفة على ولدي كانت الغلة لولد صلبه يستوي فيه الذكر والأنثى (الفتاوي الهندية ٢/٣٧٣)

4. Is it necessary to give the waqf a name because I like to remain anonymous. Should it be necessary to give the trust a name? Would you kindly suggest a name?

**Answer:** The institution of waqf has been created in Deen in order to allow one to perpetually earn rewards. Upon a person's demise, all good deeds come to an end. One is unable to continue obtaining rewards through one's efforts. Therefore, Shari'ah has instituted the avenue of sadaqah-e-jaariyah whereby one's investments will continue to yield profits even after one's demise. For example, one digs a well or borehole for people to drink water. As long as people continue benefiting from the water, one will continue to receive rewards. The institution of waqf is among the various ways for one to earn sadaqah-e-jaariyah.

Waqf means to transfer the ownership of something (e.g. a property) to Allah تَبَارَكَ وَتَعَالَى. The law of Shari'ah with regards to waqf is that after the property is made waqf, the donor will no longer retain ownership of it. Hence, it will not be permissible for him to sell or gift it to someone. Similarly, upon his demise, it will not form part of his estate and will not be distributed amongst his heirs. After making the property waqf, if one had handed over the property to an Islamic body or organisation, one will no longer have control over the waqf and its affairs and it will no longer be permissible for one to benefit from it. Nevertheless, if the donor made the condition at the time of making the property waqf that he will be in charge of the affairs of the waqf and will benefit from its proceeds during his lifetime, it will be permissible for him to manage the affairs of the waqf and benefit from its proceeds during his lifetime. He should appoint a trustee to take control of the waqf and run its affairs after his demise. He should also state that after his demise, the trustee should give the proceeds in charity. Below are the answers to the questions posed:

1. It is permissible for you to reserve the right of managing the affairs of the waqf and benefiting from its proceeds during your lifetime. The proceeds of the waqf will be owned by yourself and you may use it in whichever way you wish. If you wish to give a portion of it to charitable organisations, you may do so.

2. In principle, after a property is made waqf, it will not be permissible for the donor or for anyone else to sell the waqf property. However, in the situation where one had attached the condition at the time of making the property waqf that one has the right to sell the waqf property and replace it with another property if one wishes to do so in the future, then it will be permissible for one to do so. If the condition was not attached at the time of making the property waqf, it will not be permissible to sell the waqf property for this purpose. In the case where one had attached the condition of selling the waqf property and replacing it with another property, then upon purchasing the second property, it will immediately become waqf. One will not have to repeat the process of making it waqf.
3. At the time of making the property waqf, if one had attached the condition that the trustees of the waqf will have the right to sell the waqf property and replace it with another property if they deem it appropriate, it will be permissible for them to do so. However, if one did not attach this condition at the time of making the property waqf, it will not be permissible for them to do so.
4. It is not necessary to give the waqf a name. However, it is permissible to do so.<sup>542</sup>

## Making Waqf with Attaching the Condition that One's Children will be the Beneficiaries of the Waqf

### **Question:**

1. Does the income of waqf alal awlaad (making one's children the beneficiaries of the waqf) have to be distributed equally between the male and female children or it will be in accordance to the law of inheritance that the male will receive two shares and the female one share?
2. Can the donor or the trustees, after the death of the donor of such a waqf specify different avenues for the entire income or portion thereof to be spent on, besides the awlaad. E.g. He

says all the income is to be given to a certain masjid or organisation. If this is permissible, does any of the donees have a right to object to this and ask for his share?

3. Our madrasah property is waqf alal awlaad. The madrasah takes fees and accepts donations which is spent only on the madrasah.
  - a) Are the awlaad entitled to a portion of this as it is a source of income to the waqf (although none of the donees asked for anything as they have accepted that the income will go to the madrasah)?
  - b) Does the madrasah have to pay the waqf rent or can the trustees have the right to allow the madrasah to use it without a charge?

**Answer:**

1. The male and female children will be equal beneficiaries.
2. Once he has made it waqf for the awlaad, then the income that is accruing must go to the awlaad.
3.
  - (a) Fees are charged to facilitate education in a conducive comfortable environment. Hence, the fees will be primarily used for ta'leem and related matters. The correct thing is to find out from the donors as to their explicit intention in respect to their contributions.
  - (b) They have a right to charge a rental for the use of their property.<sup>380</sup>

### Using Masjid waqf items elsewhere

**Question:** Can items given to a Masjid as waqf be removed and used elsewhere?

**Answer:** Items given to a Masjid as waqf cannot be removed and used elsewhere.<sup>381</sup>

## Maradhul Maut

The final illness of a person, commonly known as maradhul maut, refers to such an illness which generally continues and ends with the death of the person. This is regardless of whether the illness is such that it immediately makes one bed-ridden and unable to fulfil his needs and responsibilities, or it does not make him immobile immediately, but rather causes his health to progressively deteriorate until it eventually leads to his death. In the second case, despite the fact that one is able to fulfil his daily needs and responsibilities, whether in the home or out of the home, since one's health is deteriorating and the sickness is progressive, one will be regarded as a person in the state of maradhul maut and the laws of maradhul maut will apply to him. The Fuqahaa have stated that such an illness could last for approximately a year. It should be borne in mind that if one is afflicted with an illness which generally leads to death, but the sickness does not affect his health seriously and nor is it found to be progressive, rather one continues to live with the sickness for an extended period (e.g. for a few years), then in such a case, one's maradhul maut will commence from the time one's health seriously deteriorates and leads to his death.<sup>382</sup>

<sup>381</sup> وفي الدرر وقف مصحفًا على أهل مسجد للقراءة إن يحصون جاز وإن وقف على المسجد جاز ويقرأ فيه. قال الشامي: قوله (ولا يكون محصورًا على هذا المسجد) فإن ظاهره أنه يكون مقصورًا على ذلك المسجد وهذا هو الظاهر حيث كان الواقف عين ذلك المسجد (رد المحتار ٣٦٥/٤)

<sup>382</sup> (من غالب حالة الهلاك بمرض أو غيره بأن أضناه مرض عجز به عن إقامة مصالحه خارج البيت) هو الأصح كعجز الفقيه عن الإتيان إلى المسجد وعجز السوقي عن الإتيان إلى دكانه وفي حقه أن تعجز عن مصالحها داخله كما في البرازية، ومفاده أنها لو قدرت على نحو الطبخ دون صعود السطح لم تكن مريضة (الدر المختار ٣٨٤/٣) والصحيح أن من عجز عن قضاء حوائجه خارج البيت فهو مريض وإن أمكنه القيام بما في البيت إذ ليس كل مريض يعجز عن القيام بما في البيت كالقيام للبول والغائط كذا في التبيين (الفتاوى الهندية ٦٤٣/١)

If one was afflicted with an acute sickness which generally leads to death, but one had thereafter recovered from the sickness, the sickness will not be regarded as *maradhul maut* and the laws of *maradhul maut* will not apply to it.<sup>383</sup>

If a person is in *maradhul maut*, but he passes away from some other cause besides the illness (e.g. he was in the final stages of cancer, but passed away through an accident), then his sickness will still be regarded as *maradhul maut*.<sup>384</sup>

## Miscellaneous Masaa'il regarding Maradhul Maut

There are numerous laws that pertain to a person who is in his final illness. Below, we will mention few relevant masaa'il which the Fuqahaa have mentioned regarding a person who is in the state of *maradhul maut*:

1. When a person is in the state of *maradhul maut*, Shari'ah only gives him permission to deal in one third of his wealth. The reason for this is that his heirs have become entitled to the remainder two thirds of his wealth. In other words, when he enters *maradhul maut*, the haqq (rights) of his heirs become attached to the wealth and it is not permissible for him to deal in their haqq. Therefore, the charitable works, donations, making waqf of something, or gifts which he gives to people in the state of *maradhul maut* will all be treated as bequests and will only be valid from one third of his estate. Hence, upon his demise, after paying for his burial expenses

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<sup>383</sup> ولو أعيد المخرج للقتل إلى الحبس أو رجع المبارز بعد المبارزة إلى الصف صار في حكم الصحيح كالمريض إذا برئ من مرضه كذا في البدائع (الفتاوى الهندية ٤٦٣/١)

<sup>384</sup> قوله إن مات في ذلك الوجه أو قتل دليل على أنه لا فرق بين ما إذا مات بذلك السبب أو بسبب آخر كالمريض إذا قتل وفيه خلاف عيسى بن أبان هو يقول إن مرض الموت ما يكون سببا للموت ولما مات بسبب آخر علمنا أن مرضه لم يكن مرض الموت قلنا الموت اتصال بمرضه حيث لم يصح حتى مات وقد يكون للموت سببان فلم يتبين أن مرضه لم يكن الموت (تبيين الحقائق ٢٤٨/٢)

(قوله أو بسبب آخر كالمريض إذا قتل) وهذا ظاهر الرواية عن أصحابنا اهـ أتقاني (حاشية الشلبي ٢٤٨/٢)



and settling his debts and liabilities, if it is found that the donations, gifts, etc., that he had given in his *maradhul maut* exceeded one third of his estate, then it will only be valid till one third. The remainder wealth (e.g. gifted to someone besides the heir), over and above the one third should be returned to the estate.<sup>367 376</sup>

2. It is not permissible for him to gift anything to an heir while in the state of *maradhul maut*. If he gifts something of his wealth to an heir while he is in the state of *maradhul maut*, the gifting will not be valid and the gifted item will have to be returned to the estate so that upon the demise of the person, it will be distributed among his heirs with his other wealth according to the stipulated shares of inheritance.<sup>385</sup>
3. It is not permissible for the one in the state of *maradhul maut* (or for any other person) to make a bequest for an heir that upon his demise, the heir should be given a certain amount of wealth from his estate before the estate is wound and distributed among the heirs. If he makes a bequest for an heir, that the heir be given something exclusive from the estate before the estate is wound and distributed, the bequest will be invalid.<sup>386</sup>
4. It is not permissible for the person in *maradhul maut* to purchase anything for an heir or pay for something the heir had purchased as this is also a type of gifting to the heir. However, if all the heirs are *baaligh* and they permit the gifting after the demise of the *marhoom*, it will be valid.<sup>385</sup>

<sup>385</sup> إذا وهب أحد في مرض موته شيئا لأحد ورثته وبعد وفاته لم تجز الورثة الباقيون لا تصح تلك الهبة أما لو وهب وسلم لغير الورثة فإن كان ثلث ماله مساعدا لتنام الموهوب تصح وإن لم يكن مساعدا ولم تجز الورثة الهبة تصح في المقدار المساعد ويكون الموهوب له مجبورا برد الباقي (مجلة الأحكام المادة ٨٧٩)

<sup>386</sup> (وتبطل هبة المريض ووصيته لمن نكحها بعدهما) أي بعد الهبة والوصية لما تقرّر أنه يعتبر لجواز الوصية كون الموصى له وارثا أو غير وارث وقت الموت لا وقت الوصية. قال الشامي: (قوله وتبطل هبة المريض ووصيته إلخ) لأن الوصية إيجاب عند الموت وهي وارثة عند ذلك ولا وصية للوارث والهبة، وإن كانت منجزة صورة فهي كالمضاف إلى ما بعد الموت حكما لأن حكمها يتقرر عند الموت، ألا ترى أنها تبطل بالدين المستغرق وعند عدم الدين تعتبر من الثلث هداية (رد المختار ٦/٦٥٩)

5. A sale of a commodity to an heir in the state of *maradhul maut* is not permissible, even if it is in accordance to the normal market value. However, if all the heirs are *baaligh* and they permit the sale after the demise of the marhoom, it will be valid.<sup>387</sup>
6. A sale of a commodity to a non-heir in the state of *maradhul maut* for the normal market value is valid. However, if the sale is less than the market value (e.g. an item worth R200 being sold for R20), then the discounted amount (R180) will be considered to be a gift to the purchaser and will thus be regarded as a bequest. Hence, if the discounted amount is equivalent to one third or less than one third of the estate, it will be valid. If the discounted amount exceeds one third of the estate, it will not be valid and the surplus amount will have to be returned to the estate.<sup>388</sup>
7. It is not permissible for the person in *maradhul maut* to confess to a debt that he owes to an heir without evidence. The reason for the confession not being accepted is that the sick person could be suspected of trying to favour the heir. However, if all the other heirs approve of the debt after the demise of the sick person, it will be permissible, since they are prepared to forgo a portion of their right of the inheritance for the heir. Similarly, this will only be permissible provided no heir is forced to approve of the debt and no non-*baaligh* heir is being deprived of his full share of the inheritance (as a non-*baaligh*'s approval is not considered). If there is evidence to establish the debt owed to the heir by the sick person, the confession will be accepted.<sup>389</sup>

<sup>387</sup> إذا باع شخص في مرض موته شيئا من ماله لأحد ورثته يعتبر ذلك موقوفا على إجازة سائر الورثة فإن أجازوا بعد موت المريض ينفذ البيع وإن لم يجيزوا لا ينفذ (مجلة الأحكام المادة ٣٩٣)

<sup>388</sup> إذا باع المريض في مرض موته شيئا لأجنبي بثمن المثل صح بيعه وإن باعه بدون ثمن المثل وسلم المبيع كان بيعه محاباة يعتبر من ثلث ماله فإن كان الثلث وافيا بما صح وإن كان الثلث لا يفي بما لزم المشتري إكمال ما نقص من ثمن المثل وإعطاؤه للورثة فإن أكمل لزم البيع وإلا كان للورثة فسخه (مجلة الأحكام المادة ٣٩٤)

<sup>389</sup> فأما إقراره بالدين لغيره فلا يخلو من أحد وجهين إما أن أقر به لأجنبي أو لوارث فإن أقر به لوارث فلا يصح إلا بإجازة الباقيين عندنا (بدائع

8. It is permissible for the person in *maradhul maut* to confess to a debt that he owes to a non-heir regardless of whether there is evidence to establish the debt or not. The reason for the confession being accepted in this situation is that the sick man is not suspected of trying to favour one heir as in the case mentioned above.<sup>390</sup>
9. Leasing out one's belongings or property in the state of *maradhul maut* is valid, regardless of the rate at which they are leased.<sup>391</sup>
10. Lending one's belongings to people or one's family is valid in the state of *maradhul maut*.<sup>391</sup>
11. If one divorces his wife, the divorce is valid. If he passes away during the duration of her *iddah*, she will inherit from the estate. If he passes away after the *iddah* period terminates, she will not inherit.<sup>392</sup>

<sup>390</sup> هذا إذا أقر لوارث فإن أقر لأجنبي فإن لم يكن عليه دين ظاهر معلوم في حالة الصحة يصح إقراره من جميع التركة استحسانا (بدائع

٦/٦٥٨)

<sup>391</sup> إيجار المريض : لا تشتط صحة المؤجر ولذلك لو أجر وهو في مرض موته مالا له من آخر بأقل من أجرة المثل فالإجارة نافذة في كل ذلك

المال لا في ثلثه فقط ; لأن إعارته وهو في مرض موته جائزة فكنا إجارته (درر الأحكام شرح مجلة الأحكام ١/٤٥٠)

<sup>392</sup> الباب الخامس في طلاق المريض قال الخندي الرجل إذا طلق امرأته طلاقا رجعيا في حال صحته أو في حال مرضه برضاها أو بغير رضاها

ثم مات وهي في العدة فإنهما يتوارثان بالإجماع ... ولو طلقها طلاقا بائنا أو ثلاثا ثم مات وهي في العدة فكذلك عندنا ترث ولو انقضت

عدتها ثم مات لم ترث وهذا إذا طلقها من غير سؤالها فأما إذا طلقها بسؤالها فلا ميراث لها كذا في المخطط (الفتاوى الهندية ١/٤٦٢)

